

# **Islamic Republic of Afghanistan**

**Ministry of Finance (MOF),**

## **Resettlement Policy Framework (RPF)**

for

### **Public-Private Partnerships and Public Investment Advisory Project**

*This resettlement policy framework is a document of the borrower. The views expressed herein do not necessarily reflect those of the World Bank's Board of Directors, or staff, and may be preliminary in nature.*

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## **Abbreviations and Acronyms**

AP	Affected Person
ARAZI	Afghanistan Independent Land Authority
CDC	Community Development Council
CPPPA	Central Public Private Partnership Authority
EMA	External Monitoring Agency
ESIA	Environmental and Social Impact Assessment
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
LGU	Local Government Unit
LLE	Law on Land Expropriation
M&E	Monitoring and Evaluation
MOF	Ministry of Finance
NGO	Non Governmental Organization
PAP	Project Affected Person
PPP	Public Private Partnership
PPPIAP	Public-Private Partnerships and Public Investment Advisory Project
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
TAT	Technical Assistance Team
WB	World Bank

## **Definitions of words and phrases used in the RPF**

**Project Affected Persons (PAPs)**, for the purposes of this RPF, mean all the people directly affected by project-related land acquisition that leads to their physical relocation or loss of assets, or access to assets, with adverse impacts on livelihoods. This includes any person, household (sometimes referred to as project affected family), firms, or public or private institutions who on account of project-related land acquisition would have their (i) standard of living adversely affected; (ii) right, title or interest in all or any part of a house, land (including residential, commercial, artisanal mining, agricultural, plantations, forest and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement. PAPs therefore include; i) persons affected directly by the acquisition or clearing of the right of-way or construction work area; (ii) persons whose agricultural land or other productive assets such as mining, trees or crops are affected; (iii) persons whose businesses are affected and who might experience loss of income due to project-related land acquisition impacts; (iv) persons who lose work/employment as a direct result of project-related land acquisition ; and (v) people who lose access to community resources/properly as a result of project-related land acquisition.

**Census** means the pre-appraisal population record of potentially affected people, which is prepared through a count based on village or other local population data or census.

**Compensation** means payment in cash or kind for an asset to be acquired or affected by a project at replacement costs.

**Cut-off-date** means the date after which people will not be considered eligible for compensation, if they are not included in the list of PAPs as defined by the census. Normally, the cut-off date for the titleholders is the date of the detailed measurement survey.

**Displacement** means either physical relocation or economic displacement directly caused by project-related land acquisition.

**Detailed Measurement Survey** means the detailed inventory of losses that is completed after detailed design and marking of project boundaries on the ground.

**Encroachers** mean those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

**Entitlement** means the range of measures comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to /business restoration which are due to PAPs, depending on the type and degree nature of their losses, to restore their social and economic base.

**Livelihood Restoration** means the measures required to ensure that PAPs have the resources to *at least* restore, if not improve, their livelihoods. Restoration of livelihood of all PAPs is one of the key objectives of the World Bank's resettlement policy. It requires that people are given the means and assistance necessary for them to improve, or at least restore, their livelihood and living conditions to pre-project levels. **Inventory of Losses** means the pre-appraisal inventory of assets as a preliminary record of affected or lost assets.

**Jerib** means the traditional unit of measurement of Afghanistan. One Jerib is equivalent to 2,000 square meters of land. One hectare is equivalent to 5 jeribs.

**Land Acquisition** means the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns, possesses, or uses, to the ownership and possession of that agency, for public purposes, in return for prompt and fair compensation. This includes direct acquisition and easement.

**Non-titled** means those who have no recognizable rights or claims to the land that they are occupying and includes people using private or state land without permission, permit or grant.

**Poor** Those falling below the UN poverty line of 1 dollar per person per day or equivalent to 52 Afghanis..

**Relocation** means the physical shifting of PAPs from his/her pre-project place or residence, place for work or business premises.

**Rehabilitation** means the assistance provided to severely affected PAPs to supplement payment of compensation for acquired assets in order to improve, or at least achieve full restoration of, their pre-project living standards and quality of life to pre-project level.

**Replacement Cost** means the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to mining, fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

**Resettlement** means all social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of the project.

**Resettlement Plan** means the time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, actions, responsibilities, monitoring and evaluation.

**Severely Affected PAPs** means PAPs that are affected by significant impacts within the meaning of the definition below.

**Significant Impact** means PAPs are (i) being physically displaced from housing, or (ii) losing ten per cent or more of their productive assets (income generating).

**Sharecropper and/or Tenant cultivator** is a person who cultivates land they do not own for an agreed proportion of the crop or harvest.

**Structures** mean all structures affected, or to be acquired, by the project such as living quarters, wells, hand pumps, agricultural structures such as rice bins, animal pens, stores/warehouses, commercial enterprises including roadside shops and businesses.

**Squatters** mean the same as non-titled person i.e. those people without legal title to land and/or structures occupied or used by them. World Bank policy explicitly states that such people cannot be denied assistance to restore livelihoods and living conditions based on the lack of title.

**Temporary displacement** means displacement where an occupier or owner of land is required to vacate land for a limited period to enable public works to be carried out on the land but can then return to the land and use it as before the displacement.

**Vulnerable** means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e; (i) single household heads with dependents; (ii) disabled household heads; (iii) poor households; (iv) elderly households with no means of support; (v) the landless or households without security of tenure; and (vi) ethnic minorities.

The RPF of the PPPIAP draws on recently approved RPFs developed by the line ministries for the World Bank- funded CCAP, IRDP AF , CASA 1000 and THRCP projects

The present RPF was carefully reviewed and consulted within MOF which adopted it to align with existing RPFs in line ministries, several of which will be Sponsoring Ministries for future PPP investment, in order to have a consistent policy across major investment projects. Any RAPs to be developed under the PPIAP and anticipated future investment projects will all be subject to extensive consultations with the affected peoples.

Common standards and approaches to land acquisition and resettlement across government increase efficiency and effectiveness in the administration of such programmes. Officials can more easily grasp what is required; capacity can be enhanced and affected persons (PAPs) in all projects will have greater confidence that they are being treated fairly, so reducing the likelihood of grievances and legal and other challenges to resettlement which can delay the implementation of projects. Common standards in practice will also make it easier to develop a national law on resettlement as and when the government decides to move in that direction.

It should however be emphasised that this RPF is designed solely for land acquisition and resettlement in connection with the PPIAP and anticipated future investments of this project. It may have wider uses but these are a by-product of, and not the main purpose, of this fraMOFork.

## Executive Summary

### Public-Private Partnerships and Public Investment Advisory Project (PPIAP)

#### Project Context

**Project Background:** Public Private Partnership (PPP) provides a mechanism for the Government of Afghanistan (GoIRA) to attract private investment and leverage private sector efficiencies and innovation, by transferring responsibility for technical and financial aspects of project implementation to the private sector. This allows GoIRA to focus on overseeing and regulating project implementation. In the absence of a robust enabling environment, PPP experience to date in Afghanistan has been mixed. The PPIAP project will, therefore, take account of lessons learned and the GoIRA's limited PPP experience and capacity and adopt a flexible approach to private sector investment opportunities that may enable private sector development (PSD) and private sector-led growth.

The proposed PPIAP has been rated Category B under the World Bank Operational Policy on Environmental Assessment (OP4.01).

**Project Objective:** The Project Development Objective is to develop a pipeline of feasible private and publicly funded projects.

**Project Components:** The proposed project has 3 components: Component 1, *Strengthening institutional and technical capacity of MoF and other relevant agencies*, has 2 sub components; (a) Improving and integrating the PIM-PPP framework, (b) Strengthening GoIRA institutional and technical PIM-PPP capacity and awareness; Component 2, *Establishing the Infrastructure Preparation Facility to ensure efficient and sustainable preparation of infrastructure projects*, has 2 sub components (a) Design and creation of the Appraisal Window; (b) Seed capitalization of the PPP Project Development Fund Window; Component 3, *Project Management*.

**Project Area:** The PPIAP is national in coverage and will respond to priorities identified in the GoIRA's National Infrastructure Plan (2017 -2021).

#### The Resettlement Policy Framework (RPF)

**Purpose of the RPF:** The main purpose of the RPF is to clarify resettlement principles, eligibility criteria, compensation entitlements and organizational arrangements for land acquisition, asset loss and resettlement of people that may be necessary during future PPIAP investments.

**Guiding Principles of the RPF:** (i) avoid or minimise adverse impacts on persons and families likely to be affected by the project (PAPs); (ii) All PAPs will be consulted throughout the operation ;(iii) All PAPs are eligible for compensation for losses resulting from project intervention irrespective of possession of title to land; (iv) All compensation for land or lost assets will be at replacement value:

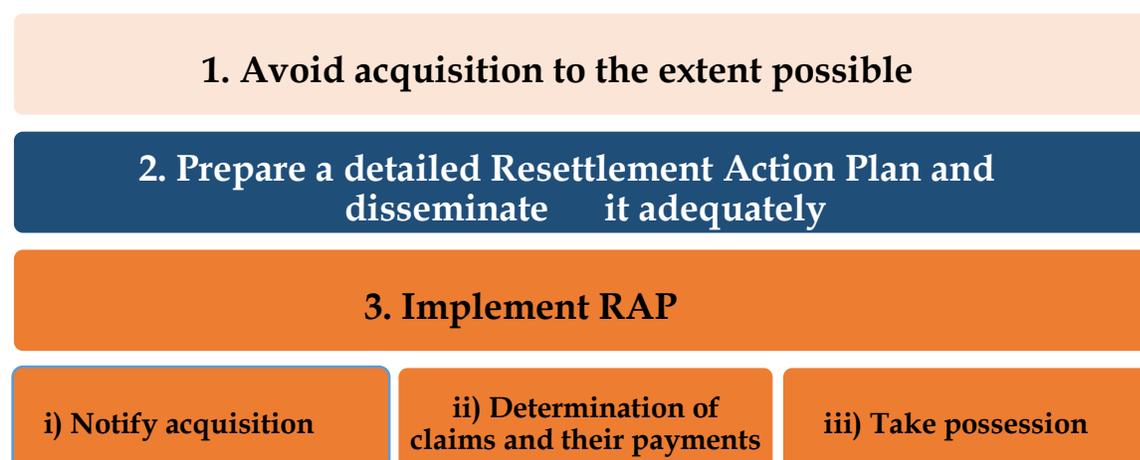
**Contents of the RPF:** The RPF provides guidelines for preparation of Resettlement Action Plans. This will not only ensure consistency in resettlement planning but also develop the capacities of the implementing and supervising agencies gradually and simultaneously.

## **Legal and Policy Framework for land acquisition, resettlement and rehabilitation:**

*Afghan Law and Policy:* There is as yet no country specific resettlement regulation in Afghanistan. A comprehensive land policy was approved in 2007 by the cabinet; however it has not been fully operationalized. A working group, formed to review and amend this policy, will shortly submit an amended Land Policy for review to the High Council for Land and Water. Ratified in early 2004, the Constitution of Afghanistan has three articles that closely relate to compensation and resettlement. For public interest purposes, such as the establishment/construction of public infrastructure or for acquisition of land with cultural or scientific values, land of higher agricultural productivity, large gardens, the Law on Land Acquisition (2017) replaces the Law on Land Expropriation (2009) in providing the legal basis for land acquisition and compensation.

*World Bank OP 4.12:* This policy deals with the issues and concerns related to land/assets acquisition, their compensation for all categories of affected persons and affected assets, relocation, resettlement, loss of livelihood, access and related issues. It requires, *inter alia*, that appropriate and accessible Grievance Redress Mechanisms are established for those losing land/assets or being resettled.

## **PPIAP's RPF Approach**



## **Eligibility for Compensation**

General eligibility is defined as, “people who stand to lose land, houses, structures, trees, crops, businesses, income and other assets as a consequence of the project, as of the formally recognized cut-off date, will be considered as project affected persons (PAPs)”. For purposes of this RPF, the concepts of ‘general eligibility’ for compensation and who is a PAP will be extended to include persons who may be temporarily displaced, but who may be entitled to some compensation through loss of land by the sub-projects.

Although it is unlikely that many PAPs will be entitled to compensation or rehabilitation, on the grounds that they are losing a substantial amount of land under the PPIAP, it is as well to set out the full picture on who PAPs could include and what they are entitled to under a project:

- (i) All PAPs losing land, with or without title, formal land-use rights, or traditional land use rights;
- (ii) Owners of buildings, crops, plants, or other objects attached to the land; and
- (iii) PAPs losing business, income and salaries.

The PAPs in the project are entitled to various types of compensation and resettlement assistance that will assist in the restoration of their livelihoods, at least to the pre-project standards. They are entitled to a mixture of compensation measures and resettlement assistance, depending on the nature of lost assets and scope of the impact, including social and economic vulnerability of the affected persons.

**Unit Compensation Rates and Budget:** In order to comply with the World Bank’s OP. 4.12, rates used to compensate for lost land and assets must be *replacement cost at current market value*, in order to meet the policy objective of “at least” restoring people’s livelihoods and ensuring that people affected by a project are not left worse off. According to OP 4.12, “replacement cost” is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs.

In the absence of any conclusion about the estimated land prices, this RPF provides guidance on the methods of valuation of assets and the development of a Resettlement Action Plan (RAP) to be prepared for each subproject that may involve land acquisition, before the beginning of the construction activity in the subproject. The budget would be part of each RAP which will be prepared after the RPF had been accepted and the final identification of PAPs. The GoIRA is responsible for all costs associated with RAP implementation.

**Institutional Arrangements:** The primary institutions that are involved in the land acquisition and resettlement process in the PPIAP are;

1. Ministry of Finance (MoF)
2. Centre for Public Private Partnership Authority (CPA) within the MOF
3. Technical Assistance Team (TAT) within the CPA
4. Sponsoring Ministries (SMs)
5. National Focal Teams within Sponsoring Ministries
6. Implementing Non-Governmental Organization (NGO)
7. Focal Teams within Regional Departments of Sponsoring Ministries
8. Local Government Units (LGUs)
9. Afghanistan Independent Land Authority- Arazi

Whilst the MoF will have overall responsibility for ensuring compliance with RPF procedures the Executing agencies will be the Sponsoring Ministries which will be responsible for the planning and implementation of resettlement and rehabilitation programs through designated safeguards staff in national and regional focal teams and in close liaison with private sector partners. At the regional level Sponsoring Ministries will act in close coordination with relevant Provincial and District governments. National focal teams will be responsible for ensuring that the SM’s private partner is kept informed and updated regularly on RAP development and implementation.

The MOF through the CPA and the TAT will be responsible for submitting Resettlement Action Plans (RAPs) to the World Bank for approval and clearance.

**Public Consultation and Participation:** The formal consultation process at sub project level will be ongoing and will be managed by the focal teams in the relevant sponsoring ministry through village/neighbourhood meetings as well as meetings with provincial and district government officials. The findings of pre feasibility and full feasibility studies will be shared with communities for their comment and feedback. A series of meetings will be held with communities to explain/discuss the aims and objectives of a sub project, the census survey of displaced persons and how it will be carried out as well as the processes of any resettlement or temporary displacement. Separate consultations will be organized with women to make sure that they are made full aware of the processes and their entitlements. Staff from the focal teams within the sponsoring ministry will meet with provincial and local officials to ensure that they are fully appraised about the sub project including the formulation of and details on the implementation of the RAP.

Sub -Project specific information materials will be prepared and distributed to PAPs. Separate meetings will be held with each PAP regarding entitlements and compensation payment procedures as well as the grievance redress mechanism.

The RPF will be disclosed to the PAPs through village and neighbourhood/*gozar/villages* meetings, and interaction between the PAPs and safeguards staff from the sponsoring ministries.

# **1. Project Overview**

## **1.1. Project Context**

Public Private Partnership (PPP) provides a mechanism for the Government of Afghanistan (GoIRA) to attract private investment and leverage private sector efficiencies and innovation, by transferring responsibility for technical and financial aspects of project implementation to the private sector. This allows GoIRA to focus on overseeing and regulating project implementation. In the absence of a robust enabling environment, PPP experience to date in Afghanistan has been mixed. Afghanistan has some experience of private sector participation in infrastructure. There has been notable success in the telecommunications sector with contracts competitively tendered and overseen by the Afghanistan Telecom Regulatory Authority, Afghanistan has had less success with mining concessions, where inadequate procurement procedures and contract oversight has led to poor performance and a loss of potential GoIRA revenue.

The preparation of a PPP regulatory framework (PPP Policy, PPP Law and PPP Regulations), and the establishment of a Central PPP Authority within the Ministry of Finance are positive indications of GoIRA's intent to develop a robust and sustainable PPP program that is able to attract and manage private participation and investment.

For the purposes of PPIAP, given lessons learned, Afghanistan's limited PPP experience and capacity, and the challenging investment environment, it is deemed prudent to adopt a flexible approach to private sector investment opportunities that may enable private sector development (PSD) and private sector-led growth.

The First Public-Private Partnerships Project (PPIAP) will be the first in a Series of Projects (SOP).

## **1.2. PPIAP Objective**

The Project Development Objective is to develop a pipeline of feasible private and publicly funded projects.

## **1.3. Project Components**

The proposed PPIAP will be implemented over 5 years beginning in 2018 through the following 3 components: Component 1 will strengthen the institutional framework and technical capacity to plan, prioritize, and implement infrastructure and other projects including in public service

delivery. Component 2 will capitalize an IPF to support project appraisal and preparation. Component 3 will cover project management.

## **2 Why a Resettlement Policy FraMOFork (RPF)**

The PPIAP will finance preparatory TA activities including feasibility studies and ESIA's of potentially significant investments in areas such as agribusiness, logistics and other opportunities with a strong value chain and growth. Whereas the TA support will not finance these investments, ESIA's will be conducted in parallel with feasibility studies for investment projects to be selected. Some of the ESIA's' findings may identify the need for some acquisition of land and/or loss of assets from people living, farming or carrying out other work near these proposed investments. The location of the specific investment activities cannot be finalised at this stage so it is not possible to develop any site-specific resettlement plan with full details of all affected people who may suffer adverse impacts from project-related land acquisition or asset loss. The purpose of the RPF, therefore, is to clarify resettlement principles and compensation, as well as organizational arrangements, to be applied as and when future investment sub projects reach that stage. This will not only ensure consistency in resettlement planning but also develop the capacities of the implementing and supervising agencies gradually and simultaneously. Lessons learnt during the course of implementation can easily be integrated in improving the various issues related to resettlement planning and its monitoring.

### **2.1. The guiding principles of this fraMOFork are:**

- first, avoid or minimise adverse impacts on persons and families likely to be affected by the project (PAPs)
- All PAPs will be consulted throughout the operation
- All PAPs are eligible for compensation for losses resulting from project intervention irrespective of possession of title to land.
- All compensation for land or lost assets will be at replacement value

This RPF spells out how these principles will be met in the PPIAP. It should be said at the outset that while the relevant laws of Afghanistan might not cover these matters in any detail there would appear to be nothing in the laws to stop these principles being given effect to in practice.

## **3 Legal & Policy FraMOFork for Resettlement**

### **3.1 Afghan Law & Policy on Land Acquisition**

(i) There is no country specific resettlement policy in Afghanistan. There is as yet no country specific resettlement regulation in Afghanistan. A comprehensive land policy was approved in 2007 by the cabinet; however it has not been fully operationalized. A working group, formed to review and amend this policy, will shortly submit an amended Land Policy

for review to the High Council for Land and Water. Ratified in early 2004, the Constitution of Afghanistan has three articles that closely relate to compensation and resettlement. For public interest purposes, such as the establishment/construction of public infrastructure or for acquisition of land with cultural or scientific values, land of higher agricultural productivity, large gardens, the Law on Land Acquisition (2017) replaces the Law on Land Expropriation (2009) that provide the legal basis for land acquisition and compensation. The acquisition of a plot or portion of a plot for public purpose is decided by the Council of Ministers and is compensated at fair value based on current market rates (Section 2);

(ii) 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 difficulty arises, the whole property will be acquired (Section 4);

(iii) The right of the owner or land user will be terminated three months prior to the start of civil works on the project and after the proper reimbursement to the owner or person using the land has been made. The termination of the right of the landlord or the person using the land would not affect their rights on collecting their last harvest from the land, except when there is emergency evacuation (Section 6);

(iv) In cases of land acquisition, the following factors shall be considered for compensation:

(a) Value of land;

(b) Value of houses and buildings on the land;

(c) Value of trees, orchards and other assets on land (Section 8);

(v) The value of land depends on the category and its geographic location (Section 13) (and see too proposed new clause 45 of the Land Management Law published in December 2012);

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

(vii) If a landowner so wishes his/her affected plot can be swapped with unaffected government land and if this is valued less than the plot lost, the difference will be calculated and reimbursed to the affected plot owner (Section 15);

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

(ix) A property is valued at the current rate at the locality concerned. The owner or his/her representative must be present at the time of measuring and valuing of property.

Compensation is determined by the Council of Ministers. The decision is based on the recommendation of a “committee” consisting of the following:

- (i) The landlord or person who uses the land or their representatives;
- (ii) Official representative of agency who needs to acquire the land (i.e MOF);
- (iii) Representative of local municipality;
- (iv) Representative of Ministry of Finance;
- (v) Representative of Ministry of Justice.

### **3.2 World Bank OP 4.12**

The fundamental principles of policy which inform the Bank’s position on resettlement and land acquisition and which will be followed under this RPF for PPIAP are :

- Involuntary resettlement should be avoided where feasible or minimized by exploring other viable alternatives;
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development program, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits;
- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least restore to the extent of pre-displacement levels.
- Displaced persons may be classified and include:
  - i. Those with formal legal rights to land, including customary and traditional rights recognized under the law of the country;
  - ii. Those who do not have formal legal rights to land at the time the survey begins but have a claim to such land or assets, provided that such claims are recognized under the law or become recognized through a process identified in the resettlement plan; and
  - iii. Those who have no recognizable legal right or claim to the land they are occupying.
- Compensation for losses will be delivered at replacement costs and compensation payments must be received prior to taking possession of the required land or other assets.

The objectives of the World Bank’s policy can be clearly achieved by following the principles described therein however, this RPF provides for a more detailed fraMOFork which not only justifies the WB policy’s objectives but also the inherent spirit of it which entails a sensitive, transparent and inclusive process of acquisition, displacement and resettlement.

To what extent does law and practice in Afghanistan conform to the model of land acquisition and resettlement provided for by OP. 4.12? The following table compares the two systems suggesting ways of reconciling them. Notwithstanding the differences between the national laws and World Bank's Operational policies, in all cases of PAPs between the two, the World Bank's

Operational Policy will apply , unless the local requirement sets a higher standard or benefit for the Affected Person.

### 3.3. A table of comparison between the Law on Land Expropriation and OP 4.12 with proposals for reconciliation

Afghan Laws	WB OP 4.12	GAPs	Possible solutions to GAPs	RPF provides for
<b>PROVISION FOR A STRUCTURED RESETTLEMENT ACTION PLAN</b>				
No special provision in Afghan Laws for a resettlement plan or any special arrangements for resettlement.	A detailed Resettlement Action Plan to include Involvement of and ensure PAPs their rights to (i) Compensation (ii) Relocation assistance (iii) Development assistance in new location. Distinction drawn between short and full plans, depending on numbers to be resettled.	Major gap of substance	The Afghan Law is silent on resettlement but there is nothing in the law to suggest that a resettlement plan or action to implement a resettlement plan would be illegal. Solution could be to provide for a resettlement action plan administratively but backed up by some regulations to ensure it implementation	A detailed resettlement action plan guided by RPF will be prepared
<b>PARTICIPATION OF PAPs IN THE PROCESS OF ACQUISITION</b>				
No legal opportunities provided to potential PAPs and others to challenge or discuss proposed acquisition and resettlement or for any public debate and approval on proposals. In practice early discussions do take place.	Principle that involuntary resettlement to be avoided where possible implies discussion of necessity for and alternatives to acquisition and resettlement	The principle behind OP 4.12 can be followed however the law is silent on the matter.	This can be incorporated in the RPF, Potential PAPs can be consulted, their views may not be decisive	Potential PAPs must be able to discuss need for acquisition and alternatives with officials from the PIU and the Ministry
By article 6 of LLE, the right to own or use land is terminated three months prior to the actual start of the project. So information on land to be acquired is sent to PAPs three months before	Resettlement plan on how project is to be implemented and resettlement issues are provided for therein. Emphasis on participation by PAPs in preparation for resettlement process and in	LLE does not provide for what OP 4.12 requires. Some pre-planning of projects will exist and informal discussions with PAPs involve participation. 3 months' notice may be too little where	There is nothing in LLE to prevent a more participative approach to acquisition as is called for in OP 4.12. The three month rule could be interpreted to mean "not less than three months" which	A participatory approach to acquisition and resettlement planning and implementation is provided.
Afghan Laws	WB OP 4.12	GAPs	Possible solutions to gAPs	RPF provides for

acquisition. Informal discussions and negotiations occur both on land to be acquired and on compensation.	project implementation Early information to be given to potential PAPs of possible resettlement	relocation is likely but not rigidly adhered to.	would allow for discussions on acquisition and its consequences.	
The Council of Ministers approves expropriation of land. Unlike the former law, there is no provision for the owner/user and or agent to be present throughout all stages of acquisition. It follows that acquisition may proceed whether the owner is present or not. However under article 5 LLE, a commission is to be formed “by the Municipality” on which the owner is represented to “determine damage incurred due to land expropriation” which is differentiated from compensation. Damage is explained in article 18 LLE. Under article 22, the owner is obliged to hand over all documentary evidence relating to land to the acquiring authority	No specific procedures required by OP 4.12 but content of resettlement plan implies PAPs will be involved in all stages of acquisition	The spirit of OP 4.12 conflicts with LLE’s nonprovision of involvement of the owner apart from that provided for in article 5. Though it is confined to “the Municipality”. It can be assumed to be applicable to all authorities acquiring the assets or implementing the project. There are some absentee owners, it may be unavoidable to allow absentee acquisition.	Spirit of OP 4.12 could be met by more protective provisions and or practice on dealing with absentee acquisition. The silence of LLE on the details of acquisition may be taken quite legitimately as providing a gap which can be filled by appropriate participatory arrangements. There is no reason why the provisions of article 18 shouldn’t equally apply to all acquisitions of land.	Involvement of owners present on the land to be acquired and greater protection for absentee owners should be provided by a legal fraMOFork developed as part of the RPF which could also serve as a prototype for regulations made under article 22(5) of the new law.

<b>ASCERTAINING TITLE AND OWNERSHIP OF ASSETS</b>				
The bulk of LLE deals with	Fundamental principle of OP	Major gap of substance in the	Accommodate OP 4.12 by	Given huge numbers of

<b>Afghan Laws</b>	<b>WB OP 4.12</b>	<b>GAPs</b>	<b>Possible solutions to GAPs</b>	<b>RPF provides for</b>
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<p>compensation but says nothing about who is entitled to compensation. The assumption is that “owners” are entitled to compensation but the law does not define “owners”. The old law drew a clear distinction between those with legal title and those with customary title or no title with respect to the payment of compensation. Practice in rural areas was quite accommodating to those with customary titles.</p>	<p>4.12 is that all those on land are to be entitled to fair compensation and assistance with resettlement irrespective of their title to land.</p>	<p>law but given practice in rural areas, it is not unbridgeable.</p>	<p>changing practices where necessary. Advantage may be taken of absence of legal definition of “owner” to accommodate those with customary titles which is likely to be the majority in project areas.</p>	<p>people not having and not going to get formal legal titles to their land in the foreseeable future, LLE should be interpreted so those living and or working on land at the census date receive fair compensation and resettlement assistance. This is the one major area where there is considerable divergence between LLE and OP 4.12. It will be necessary to comply with OP 4.12. The RPF provides for compensation to occupants also, but defined with limitation on who is eligible and who is not.</p>
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<b>VALUATION AND ASSESSMENT OF COMPENSATION AMOUNTS</b>				
<p>Officials visit area before any official action to assess land values; values so assessed are the basis of compensation. This is practice as the LLE is completely silent on preacquisition procedures and processes.</p>	<p>Land values assessed as at pre-project or predisplacement value whichever is higher</p>	<p>No real gaps; just different approaches to the same need to limit claims and compensation.</p>	<p>No gaps</p>	<p>RPF provide for valuation and market rates at a cut of date, application of principles of equity with a common rate applicable for all PAPs.</p>
<p>Efforts are made to determine those entitled to compensation and</p>	<p>Census conducted of persons in the area to determine eligibility for assistance, and</p>	<p>No real gap here.</p>	<p>No issues with adopting OP 4.12 as the practice and to be followed in this RPF</p>	<p>RPF will require an identification of all eligible PAPs to be undertaken at the</p>

<b>Afghan Laws</b>	<b>WB OP 4.12</b>	<b>GAPs</b>	<b>Possible solutions to GAPs</b>	<b>RPF provides for</b>
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resettlement	to limit inflow of people ineligible for assistance			immediate pre-project stage, subject to cut-off date.
<p>The Constitution provides for payment of prior and just compensation. The LLE at article 2 provides for the payment of prior and adequate compensation. If there is a distinction between just and adequate, then the constitutional provision of just compensation prevails.</p> <p>Article 8 provides that compensation shall be “the price” of land or houses or trees etc and article 10 provides that the Council of Ministers shall determine the price. But article 15 provides that the municipality and the administration for agriculture determine the compensation for trees etc. Article 13 sets out detailed provisions for obtaining residential plots where a person has had land acquired; the more land acquired the more residential plots are paid as compensation.</p> <p>Disturbance compensation</p>	<p>OP 4.12 requires prompt and effective cash compensation sufficient to replace the lost land and other assets at full replacement cost in local markets.</p> <p>Compensation for lost livelihoods required</p> <p>Disturbance compensation required</p> <p>Land for land compensation encouraged.</p> <p>Resettlement costs and ‘start up’ expenses required.</p>	<p>There does appear to be a gap between the LLE and OP 4.12. The LLE has a lot of gaps in it. Sensible not to insist on market value in the absence of reliable functioning markets.</p> <p>Biggest gap is compensation for squatters and even their best practice does provide some compensation to those with no legal title.</p>	<p>The lack of any detail in LLE on how to assess compensation and the content of compensation (apart from article 13) allows for the creation of a clear comprehensive and fair code on compensation applicable to all acquisitions including resettlement and retraining costs which can be a part of the RPF without being contrary to the existing law(s).</p>	<p>RPF has provisions describing the process of valuation and assessment of compensation amounts.</p>

<b>Afghan Laws</b>	<b>WB OP 4.12</b>	<b>GAPs</b>	<b>Possible solutions to GAPs</b>	<b>RPF provides for</b>
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not provided for. Compensation can be land for land Unlike the former law which provided for compensation may be paid into a bank, LLE is silent on the mechanics of paying compensation. No assistance for PAPs to access bank for their compensation.				
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**GRIEVANCE REDRESS MECHANISM**

LLE provides for administrative agencies to manage acquisition processes and deal with compensation. PAPs are part of some committees dealing with compensation. No provision for courts to be involved or for appeals. In practice, committees may act to solve grievances No provisions for e.g. legal aid to assist PAPs to make claims.	OP 4.12 silent on judicial and administrative arrangements. It requires appropriate and accessible grievance mechanisms to be established for those being resettled. Logic of OP 4.12's references to 'meaningful consultation' with PAPs and making use of CBOs and NGOs suggests preference for decisionmaking process which is not just part of the administration.	A major gap on grievance mechanisms and current administrative arrangements in LLE difficult to reconcile with the participative approach of OP 4.12. Earlier laws involved payment of compensation in the presence of a judge and allowed an appeal albeit from the judge to a Minister.	Develop grievance handling practices but keep them administrative rather than legal. Make legal provision for appeals from administrative decisions and decisions on compensation to an independent body.	Grievances redress mechanism to provide for cooperation with <i>shuras</i> and community councils.
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**MONITORING AND EVALUATION**

LLE does not provide for any external monitoring body or process	OP 4.12 states that the borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement	Major gap on procedures but arguably, monitoring is not part of land acquisition so no legal impediment to providing for same.	Provide monitoring for WB projects as required by OP 4.12 Establish specialist monitoring agency for all	External monitoring agency and monitoring by PMU is provided for.
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<b>Afghan Laws</b>	<b>WB OP 4.12</b>	<b>GAPs</b>	<b>Possible solutions to GAPs</b>	<b>RPF provides for</b>
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	instrument.		projects involving acquisition and resettlement Empower provincial and local institutions to monitor projects.	
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#### 4. Key elements of a Resettlement Policy FraMOFork

The fraMOFork for resettlement and rehabilitation of the affected persons by the project will be adopted in the following approach

### 1. Avoid acquisition wherever possible

### 2. Prepare a detailed Resettlement Action Plan (RAP) and disseminating it adequately

### 3. Implementation of a RAP

i) Notify acquisition

ii) Determination of claims and their payments

iii) Take possession

#### First Step: Avoid acquisition wherever possible

The first step addressed by the OP 4.12 is avoidance of land acquisition and resettlement, wherever possible. Land acquisition and resettlement should not be seen as the easy first option; rather it should be seen as a last resort.

In order to meet this requirement a comprehensive Environmental and Social Impact Assessment (ESIA) and financial analysis of each proposed investments needs to be carried out which will include assessment of alternatives to avoid acquisition and the financial implications to it.

A participatory consultative process should be put in place to allow people likely to be affected by the project (PAPs) and other interested parties, to have an opportunity to contribute to, or comment on, the location of the proposed project and the necessity of acquiring the proposed land for the project. This involvement is separate and distinct from PAPs participating in the planning of any resettlement that has to take place.

A cut-off date will be determined and announced at the start of the household census after which no one coming into and obtaining land or a house in the potential project area will be entitled to any compensation. There will be a risk that there may be some speculative encroaching as word gets out unofficially about likely sub-projects in the future. This will need careful management.

#### Second Step: Prepare a detailed Resettlement Action Plan and disseminate it adequately

The next step is to develop a detailed Resettlement Action Plan (RAP) guided by the principles established in this fraMOFork document. This should include measures to ensure that PAPs:

- (i) Are informed about their options and rights pertaining to resettlement and compensation;

- (ii) are advised about the offered choices and provided with technically and economically feasible resettlement alternatives;
- (iii) provided prompt and effective compensation at full replacement cost for loss of assets attributable directly to project-related land acquisition.

In case of physical relocation or displacement of the affected persons, the resettlement plan must include measures to ensure that the displaced persons are:

- (i) Provided adequate and timely assistance (such as moving allowances) during relocation; and
- (ii) Provided with residential housing, or housing sites, or, as required, sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages they had at the previous site.

In addition, where necessary, the RAP should also make provision to provide to the affected persons:

- (iii) Sufficient financial assistance for a reasonably estimated transition period so as to enable them to restore their livelihood and standards of living;
- (iv) Appropriate development assistance in addition to the compensation measures such as land preparation, training, or job opportunities;
- (v) Capacity building and training opportunities so that they can either take up a new form of livelihood by virtue of being trained to a higher skill standard.

The above provisions require a very judicious estimation of financial and other assistance and need to be dealt with very carefully. The RAP should also establish clear and transparent processes to provide for just, fair and equitable distribution of assistance to minimize discretionary and biased approach in the decision making processes.

**The RAP document and the arrangements to implement it effectively should have structured and clear information on the following aspects:**

- i. The land to be acquired.
- ii. List of project affected persons including all detailed socio-economic information of the household.
- iii. Entitlement matrix and eligibility criteria
- iv. Details of persons who will be required to move
- v. Detailed information about the place to which displaced people will be moved to the circumstances of the place to which persons are to be moved to , including whether the land is occupied and by whom and what the land is presently being used for and the condition of the land and its facilities.
- vi. All necessary arrangements made by the project implementing agency to facilitate resettlement and disbursement of moving allowances etc.
- vii. The manner and form in which compensation amounts with clear definitions of categories of land to be acquired and mechanisms to decide on land prices.
- viii. The heads of compensation payable.
- ix. An estimate of compensation payable and resettlement expenses

- x. The procedures to be followed in executing the plan
- xi. Participation of PAPs in the design, execution and monitoring of RAP implementation. There will be informal day-to-day meetings among PAPs, MOF local staff, and other stakeholders. The more formal consultation process in the sub-project areas will be through: (a) one-on-one meetings with directly affected households; (b) village and community meetings; and (b) public consultations with government officials. Informative materials will have to be prepared and distributed within the sub-project areas before the meetings.
- xii. The arrangements for PAPs to be involved in execution of the plan.
- xiii. The arrangements to challenge plan execution and compensation (establishment of a Grievance Redressal Mechanism for PAPs and other stakeholders).
- xiv. Appropriate Institutional arrangements to implement the RAP

### **Third Step: Implementation of RAP**

The third and final step is the execution of the RAP: that is the acquisition of the land and the resettlement of those persons displaced by the acquisition. This is the central part of the process of acquisition and resettlement and is divided into three sub sets:

**i. Acquiring the land:** This requires informing all the qualified owners and occupiers of the land of the intention to acquire the land and pay compensation for any land so acquired. This process will involve intensive personal contact with owners and occupiers of land and oral explanations of what is happening and what owners and occupiers should do in order to ensure that they obtain recognition for their occupation of land and compensation for same. Acquisition of land will also necessitate full and clear documentation of what is happening.

#### ***Land Donation***

There must be very clear documentation that any person who ‘donates’ land to the project is made fully aware of his or her right to receive compensation for any land which he or she is losing to the project and specifically waived that right. It is essential to make certain that such donations are genuinely voluntary and that the giver of the land does not expect some special benefit or treatment from the project as a result of the donation. Where there is any possibility of such special treatment or the expectation of same, the donor of the land should receive compensation under the resettlement plan rather than obtain special treatment outside the plan; in other words, a donor will be treated as if he or she had had their land acquired compulsorily.

Wherever land is donated there will be documented evidence that:

- The person donating the land was not subject to pressure to donate and that he/she could have opted not to donate
- That the donor has clear title over the land and such land is not being used by a third party who could be affected.
- That the livelihood impact of land donation does not exceed 10% and is below 100 square meter.
- The use of donated land does not disrupt productivity of remaining land.

The bottom line is that no livelihood or living condition of the land owner and/or user should be adversely affected without having the corresponding mitigation measures.

### *Eligibility Criteria/Occupiers*

These embrace:

- Those who have formal legal rights to land (including customary and traditional rights recognized under Afghan law);
- Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under Afghan law or become recognized through a process identified in the resettlement plan; and
- Those who have no recognizable legal right or customary claim to the land they are occupying.

The first two categories of occupiers are entitled to receive compensation for loss of their land. The third category is entitled to receive resettlement assistance. The rationale for this assistance is that people in this group are usually the poorest members of a community and those most likely to be the hardest hit by having to move. While this group does not have legal rights over the land, as part of the efforts to restore their livelihoods and living conditions, it is good practice, in relevant cases, to provide solutions that help ensure that those affected have security of tenure at their new relocation site, in the case of those being physically displaced or being offered land for land.

However, people who encroach on the project area after the cut-off date, which will be the completion of the census, will not be entitled to any compensation or other assistance.

**(ii) Determination of claims and their payments:** To determine the claim amounts payable to each affected person and their speedy disbursements. OP 4.12 distinguishes between compensation and assistance, financial or otherwise, in connection with resettlement. This is perfectly logical as it makes clear that persons are entitled to compensation for lost assets etc. whether they are being relocated or not. However, if compensation is understood as money, money's worth or land and/or other assistance to put a person back into the position as close as may be as he/she was prior to having his/her land (including buildings and natural resources on the land) acquired and or the value of retained land diminished and or having vacate his/her land and move elsewhere, then we can deal with monetary compensation for loss of assets along with what may be called resettlement expenses.

In order to comply with OP 4.12, the content of this sub-step should include:

- making claims for compensation
- provision of assistance to PAPs in making claims
- assessment of claims
- determining claims and dealing with appeals
- the payment of compensation

Compensation will include

- full replacement cost of land taken at its market value plus transaction costs (e.g. registration fees, selling/buying taxes, etc.)
- alternative land of the same quantity and quality if possible

- resettlement expenses (which for these purposes includes temporary displacement) which in turn may include
  - financial and other assistance in provision of housing
  - Training & Capacity Building for livelihood replacement

**ii. Taking possession:** To ensure a peaceful and sensitized approach towards taking over of the land – the entering into possession of the land by the acquiring authority – and the departure and resettlement of PAPs.

Assistance with resettlement and displacement will include

- assistance with packing up and moving including moving back on to the land after temporary displacement
- working with and providing additional resources for the ‘host’ community
- advice and assistance to those being resettled
- preparation of land, provision of accommodation and facilities

## **5. Eligibility for compensation**

### **5.1 General eligibility**

General eligibility is defined as, “people who stand to lose land, houses, structures, trees, crops, businesses, income and other assets as a consequence of the project as of the formally recognized cut-off date will be considered as project affected persons (PAPs)”. For purposes of this RPF, the concepts of ‘general eligibility’ for compensation and who is an PAP will be extended to include a group of people losing social and community facilities such as a cemetery and mosque.

Although it is unlikely that many PAPs will be entitled to compensation or rehabilitation on the grounds that they are losing a substantial amount of land and/or assets under the project, it is as well to set out the full picture on who PAPs are and what they are entitled to under a project:

- (i) All PAPs losing land with or without title, formal land-use rights or traditional land use rights;
- (ii) Owners of buildings, crops, plants, or other objects attached to the land; and
- (iii) PAPs losing business, income, and salaries.

Compensation eligibility will be limited by the cut-off date. MOF and Sponsoring Ministries will inform local communities regarding this cut-off date through their regional offices and through the relevant local government agencies. Those that settle after the cut-off date however will be given sufficient advance notice to vacate premises/dismantle affected structures prior to project implementation. Their dismantled structures will not be confiscated and they will not pay fines or sanctions.

## 5.2 Land Tenure and Compensation Entitlements

The largest number of PAPs in the case of the PPIAP are likely to be those who will lose a part or whole of their land due to construction of infrastructure as part of sub project investments or whose livelihood might be affected by construction activities. (see annex 1 for a summary of the different types of formal and informal land ownership/possession in Afghanistan.)

**The following categories of the PAPs will be entitled to compensation for loss of land:**

1. **Legal Title Owners:** Owners having written evidences of land ownership under the formal system of property rights including different kinds of deeds or legal documents with copies in the Court Registries or any other official documentation issued by or on behalf of the government, establishing their right as an owner of the land in question.
2. **Titles with Customary documents:** Owners having documents recognized by both official and customary law as giving rise to ownership rights
3. **Occupiers of Land for a long period:** Persons who with oral and other evidence with probative value can prove that they or their family have been in occupation of the land for at least 35 years.
4. **Other Occupants of land:** Limited to only those persons who have had open, continuous and uninterrupted possession of land over a very long time which effectively vests in them legal rights over the lands they occupy through acquisitive prescription.

**The following categories of persons will NOT be entitled for compensation for loss of land:**

1. **Other occupants of lands or Squatters:** Persons outside of the classifications of legal ownership and occupancy or possession mentioned above, will not be entitled for compensation for the lands that they occupy, but will be compensated for the permanent improvements or structures they may have introduced or built in the affected lands before the cut-off date.
2. **Encroachers:** “Persons who extend their property beyond that for which they hold a title are encroachers and would not be eligible for compensation for land for which they do not possess a title”.

## 5.3 Entitlements to Compensation & Livelihood Restoration

The PAPs in the project are entitled to various types of compensation and resettlement assistance that will assist in the restoration of their livelihoods, at least, to the pre-project standards. They are entitled to a mixture of compensation measures and resettlement assistance, depending on the nature of lost assets and scope of the impact, including social and economic vulnerability of the affected persons. All PAPs are equally eligible for cash compensation and rehabilitation assistance (albeit with differences in entitlements), irrespective of their land ownership status, to ensure that those affected by the project shall be

at least as well off, if not better off, than they would have been without the project. The compensation packages shall reflect replacement costs for all losses (such as land, crops, trees, structures, etc.) as detailed below:

1. **Loss of Agricultural land:** Compensation at replacement value of land in cash based on current market rates. MOF will shoulder all transaction costs such as fees, taxes, and other charges, as applicable under relevant laws.
2. **Severe Agricultural Land Impacts:** In case of an AP losing more than 10% of his/her total agricultural landholding, PAPs (owners and other occupiers defined as eligible herein), in addition to the compensation explained above, will be entitled to get an additional amount for severe impacts equal to the market value of a year's net income crop yield of the land lost. Also, these PAPs will be having access to the capacity building and training program on a priority basis for development of an alternative sustainable livelihood.
3. **Loss of Residential/commercial land:** These impacts will be compensated at replacement value in cash at current market rates free of deductions for transaction costs.
4. **Loss & damages to Houses, buildings, structures and settlement utilities:** These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions. Compensations will include the cost of lost water supply, electricity or telephone connections. Renters/leaseholders will receive an allowance of geared to the rent they are paying .for 3 months to cover emergency rent costs.
5. **Income from crops losses:** These losses be compensated at current market rates for the full harvest of 1 agricultural season. In case of share cropping, crop compensation will be paid to landowners and tenants based on their specific sharecropping arrangements.
6. **Tree losses:** These impacts will be compensated in cash based on the principle of income replacement. Fruit trees will be valued based on age of the tree in two categories: (a) not yet productive; and (b) productive. Productive trees will be valued at gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees will be valued based on the multiple year's investment they have required. Non-fruit trees will be valued at dry wood volume basis output and its current market rates.
7. **Business losses:** Compensation for business losses, including fishing, will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise based on business loss allowance computed as xx Afghanis per month. Permanent business losses will be based on actual income loss or in cash for the period deemed necessary to re-establish the business (6 months). Compensation for temporary business losses will be cash covering the income of the interruption period up to 6 months based on a monthly

allowance of xx Afghanis. Business loss is computed at xx Afghani per day as average net income of typical road businesses such as small stores, repair and vulcanizing shops and small food establishments. The details should be part of the RAP.

In the absence of any substantial and verifiable system to calculate incomes of such small businesses in the rural areas of Afghanistan, the compensation for business losses cannot be ascertained. However these businesses will be entitled to compensation for any loss of asset similar to as described above, such affected persons or members of their families will also be entitled to avail the capacity building and training opportunities made available to the others PAPs as mentioned in 2 above.

**8. *Income losses for agricultural workers and employees:*** These PAPs shall be entitled to an indemnity for lost wages for the period of business interruption up to a maximum of 3 months and given priority in employment in project- related activities.

**9. *Agricultural land leaseholders, sharecroppers, and workers*** -- Affected leaseholders will receive cash compensation corresponding to one year's crop yield of land lost. Sharecroppers will receive their share of harvest at market rates plus one additional crop compensation. Agricultural workers, with contracts which are interrupted, will get an indemnity in cash corresponding to their salary in cash and/or kind or both as applicable, for the remaining part of the harvest. Duration to be determined in RAP.

**10. *House owners:*** House owners/renters who are forced to relocate their houses will be assisted with finding alternative accommodation provided with a monthly relocation allowance for a period not exceeding 3 months or till they move to an alternative accommodation, whichever is earlier. The monthly amount payable will be clarified in the RAP.

**11. *Community Structures and Public Utilities:*** Will be fully replaced or rehabilitated so as to satisfy their pre-project functions.

**12. *Vulnerable Households:*** Vulnerable people ,especially women household heads, mentally challenged headed households will be given assistance in the form of a one-time allowance for vulnerable PAPs and priority in employment in project related activities.

**13. *Impacts on irrigation canals:*** Project will ensure that any irrigation channels are diverted and rehabilitated to previous standards.

**14. *Temporary Impacts:*** Landowners who lose use of their land temporarily as a result of project activities will be compensated in cash covering the period of interruption based on an agreed monthly allowance.

**15. *Transitional Livelihood Allowances:*** PAPs forced to relocate will receive a livelihood allowance of xx Afghanis for the duration of the livelihood interruption. Transitional livelihood allowance is computed based on the prevailing wage rate of xx Afghanis per day times duration of interruption of their livelihood activities. This is also the basis for cash compensation on lost wages.

**16. Land Replacement Values:** will be assessed based on a survey of land sales in project areas over the last 3 years. Land values and compensation for other assets, will be negotiated between PAPs and competent authorities if concrete data on land market rates are unavailable.

## **6. Unit Compensation Rates and Budget**

### **6.1 Establishing Rates for Land Acquisition & Resettlement**

The Law on Land Expropriation (LLE) refers to prompt and adequate compensation but is silent on the details of compensation. In the absence of detailed rules, it will not be in conflict with the LLE for details to be developed in the context of this RPF and applied to the project. Also in order to comply with the World Bank's OP. 4.12, rates used to compensate for lost land and assets must be *replacement cost at current market value*, in order to meet the policy objective of "at least" restoring people's livelihoods and ensuring that people affected by a project are not left worse off. According to OP 4.12, "replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs.

In applying this method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot easily be valued or compensated for in monetary terms, attempts will be made to establish access to equivalent and culturally acceptable resources and earning opportunities.

In the absence of any survey of any likely investment project -affected community or any consultations carried out with potential stakeholders under the proposed PPIAP, the figures which follow are drawn from a Resettlement Planning Document prepared in October 2009 for the North-South Corridor Project Mazar-i-Sharif-Pul-e-Baraq Road Section by the Ministry of Public Works in respect of a contract to be funded by the ADB. These figures would not necessarily be the same for the PPIAP but the principles are the same and the methods of calculation of the rates of compensation are, it is suggested, sound and may be followed in this RPF.

A further point must be made about the rates. In the PPIAP related investments, there would have been, as part of the process of putting a project document together, at the very least a preliminary survey of the land to be affected by the project and the numbers of PAPs likely to be affected and the way in which they would be affected; e.g. loss of land, loss or diminution of assets, loss of livelihood etc. Discussions would have taken place with such persons so a reasonable estimate could be made of what they would be likely to claim as compensation. So alongside an explanation of the rates that are to be applied to the determination of compensation, a budget would be developed showing the amount of money that would be needed at the proposed rates to satisfy the requirements of compensation for the PAPs in the project area.

But a RPF is different. A RPF is prepared "when it is not possible to identify precise siting alignments or specific impacts/affected population during project preparation (financial intermediary operations, and projects with multiple subprojects)" and "a Resettlement Action Plan (RAP) is [then] prepared for each subproject that may involve land acquisition, before the subproject is accepted for Bank financing." So a RPF cannot be accompanied by a budget

showing the probable total project costs of the rates of compensation which the RPF is suggesting should be applied. The budget would be a part of each RAP which would come forward once the RPF had been accepted and the project had started. However, the budgeting agency (MOF) needs to ensure that funds are available for any resettlement costs, including not only compensation to the PAPs, but also cost of consultations throughout the process, sustaining a grievance redress mechanism, M&E and independent consultants as required (e.g. for final review of RAP implementation).

The rates for land, structures, crops and trees that have been used in the cost estimates prepared in the MPW plan were derived through rapid appraisal and consultation with affected parties through the census and inventory of loss survey and relevant local authorities. The affected households were asked about their personal valuation of the affected lands and other assets. This would be an essential preliminary aspect of a RAP.

## **6.2 Valuation of Land**

The location of the land influences the actual price per square meter: the nearer the land to a build-up area (e.g. a village), the higher the valuation and perception of the affected households. Hence, the valuation of the land is pegged on an average, the actual value depending on the nearness to a build-up area. In the valuation of agricultural land, the availability of water is very important to determine the fair value or market rates. Residential and commercial lands are largely dictated by the existing road alignment for accessibility rather than crop potential. The land prices are based on the district land prices in the district government. The prices follow the trend that the nearer the land to a population center, the higher the price of the land.

## **6.3 Valuation of Structures**

The classification of structures (temporary, semi-permanent and permanent) refers to the materials used in construction. The valuation of structures into class 1 (mud/brick/wood walls, mud/tin roof), 2 (tiled roof and normal cement floor) and 3 (RCC, single/double story building) will be determined after various consultations with some owners who recently build their houses, local contractors and some engineers in the government.

## **6.4 Valuation of Crops and Trees**

The estimation of valuation of crops was quite problematic because of lack of reliable data in terms of yield. The results of the socio-economic survey were not considered reliable because many respondents could not provide the exact size of their land holdings and quantity produced. Hence, in computing crop losses, a combination of four major crops was used to get the average yield and price. The unit price for crop losses for a square meter of land devoted to the four main crops was estimated at AFx per sqm, but will be fine-tuned in the preparation of a RAP document.

The compensation for productive trees is normally based on the gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees are to be valued based on the multiple years' investment they

have required. However, during interviews on trees, the fluctuation of the value of tree products was influenced largely by the supply and demand and the absence of post-harvest facilities. Farmers are forced to sell tree crops when everyone else is doing so during off-season months, the prices of tree crops quadrupled. The compensation rate for a fruit bearing tree is the average yield per tree times the age of the tree. For the non-fruit bearing trees, the usual propagation method is grafting. Farmers buy these saplings and these are ready to be transferred in the fields after two years. On the fourth year of the tree, the tree starts to produce fruits. Hence, it is on this basis that the valuation of non-bearing fruit trees can be determined. The compensation for non-productive fruit bearing tree is the cost of the sapling plus the cost of maintaining the tree up to the time that the tree was cut because of the project.

## **6.5 Livelihood Restoration Support**

The resettlement strategy is to provide compensation for all lost assets at replacement cost in order that PAPs' incomes and livelihoods are not adversely affected and where possible improved. All PAPs whose livelihoods are affected will be supported for building their capacities for livelihood restoration measures (including allowances and interventions for severely affected, poor and vulnerable PAPs).

***Income Restoration Allowance for Crops Losses*** -- These impacts will be compensated through cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.

***Income Restoration Allowance for Business Losses*** -- compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (6 months). Permanent business will receive xx Afghanis each month for 6 months. Compensation for temporary business losses will be cash covering the income of the interruption period based on a monthly allowance of xxx Afghanis. The duration to be determined in the RAP.

***Income Restoration Allowance for Business workers and employees*** -- Indemnity for lost wages for the period of business interruption. Duration to be determined in a RAP.

***Income Restoration Allowance for Severe Agricultural Land Impacts*** -- When >10% of an AP of the agricultural land is affected, AP (owners, leaseholders and sharecroppers) 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.

***Vulnerable Group Allowance*** -- Vulnerable people (PAPs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable PAPs equivalent to xxAfghanis and priority in employment in project-related jobs.

***Transitional Livelihood Allowance*** -- PAPs losing land or losing a house and forced to relocation will receive a livelihood allowance of XX Afghanis per month until relocation and livelihood restoration is completed.

***Rental Allowance*** – House Renters forced to relocate will receive a rental allowance equivalent to at the prevailing market rate) until suitable accommodation has been found and will be assisted in identifying alternative accommodation.

Project-related employment (for unskilled and semi-skilled tasks during construction) - severely affected and vulnerable groups will be given priority for project-related employment opportunities as drivers, carpenters, masons, clearing and digging work, and if possible as clerks or basic administration support staff.

## 6.6. Matrix of Compensation Entitlements and Rates

<b>ELIGIBILITY</b>	<b>CRITERIA</b>	<b>FOR</b>	<b>IDENTIFYING</b>	<b>PAPs</b>
<b>Who is eligible</b>	<b>What are they eligible for</b>	<b>How to determine eligibility and compensation levels</b>	<b>What's the objective</b>	<b>Comments</b>
Landowners	Loss of land and rights to land	<ol style="list-style-type: none"> <li>1. Official documentation issued by or on behalf government</li> <li>2. Customary documents; i.e. documents recognised by both official and customary law as giving rise to ownership rights</li> <li>3. Oral and other evidence with probative value that the claimant and his/her family have been in occupation of the land for at least 35 years.</li> <li>4. Open, continuous and interrupted possession of persons over a very long time which effectively vests in them legal rights over the lands they occupy through acquisitive prescription.</li> </ol>	The aim of OP. 4.12 is to compensate all those who have lost 'their' land. OP 4.12 goes beyond technical rules of law or evidence which in part are designed to bring disputes over land to an end and ensure security to title. OP 4.12 aims at simple and substantive justice: "if you've been on this land for a long time and there is good evidence of that then you should be compensated for losing it"	As the matrix on the comparison of the LLE and OP 4.12 shows, there is nothing in LLE which prevents the approach of 4.12 being adopted here
Squatters	Permanent improvements they have made to the land the have occupied	Observance of permanent improvements; questioning the squatter and neighbours on when improvement made;	The objective here is to compensate the squatter for expenditure on the land	Ditto to above.

		consulting PAPs and other relevant documents	but not for the value of the land itself	
Agricultural tenants	Loss of income	cash compensation corresponding to one year's crop yield of land lost.	A fair approximation of loss of income	Ditto
Sharecroppers	Loss of income	their share of the harvest at market rates plus one additional crop compensation.	Ditto to above	Ditto
House owners/renters	Costs of relocation to other accommodation	relocation allowance equivalent to xxAfghanis per month until suitable accommodation established.	This is a very standard element of compensation in all systems	Not specifically provided for in LLE but nothing to stop is being paid
Loss of livelihoods by agriculturalists	Replacement costs for all losses	<p>1. losses will be compensated at replacement value in cash based on current market rates plus an additional .indemnity for x months as transitional livelihood allowance.</p> <p>2. When &gt;10% of an AP's agricultural land is affected, PAPs will get an additional allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land.</p>	The aim is to provide a reasonable measure of compensation for loss of livelihoods but on the assumption that PAPs will make a go of things on their new land. It provides temporary relief but not an amount which invites future indolence	This is already an approach which has been accepted in Afghanistan
Residential/commercial land impacts	Replacement costs for all losses	Replacement value in cash at current market rates free of deductions for transaction costs	See above. The same reasoning applies	Ditto

Those who lose or have buildings damaged	Replacement costs	These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions. Renters/leaseholders will receive an allowance geared to the rent they are paying . for 3 months to cover emergency rent costs.	See above.	Ditto
Those who lose income from crop losses	Replacement of lost income	These impacts will be compensated through cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.	See above	Ditto
Those who have lost income from loss of trees	Replacement of lost income	Income replacement based on types of trees lost.	See above	Ditto
Those who have suffered business losses	Replacement of lost income	Compensation for business losses will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise based on business loss allowance. Duration to be	See above	Ditto

		determined in RAP		
Those who have suffered loss of wages	Replacement of lost wages for a limited period	Compensation based on actual income loss for time duration until income source re-established.	See above	Ditto
Vulnerable households	Additional compensation over and above strict loss of income	Vulnerable people (PAPs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable PAPs equivalent to xx Afghanis and priority in employment in project-related jobs.	This is a recognition that those classified as vulnerable households will likely suffer losses over and above income loss and will find it especially hard to get started again soMOFhere else.	Ditto
Transitional living allowance for PAPs forced to relocate	Disturbance compensation	PAPs forced to relocate will receive a livelihood allowance of xx Afghanis per month for x months. Transitional livelihood allowance is computed based on the prevailing wage rate of x Afghanis per day times during transition time..	This is a standard head of compensation in most systems of compensation.	Ditto
<b>ESTABLISHING</b>	<b>VALUATION</b>	<b>RATES</b>	<b>FOR</b>	<b>ACQUISITION</b>
<b>What is being valued</b>	<b>How is valuation conducted</b>	<b>Input of PAPs</b>	<b>Indicative figures</b>	<b>Comments</b>
Matters common to all specific types of	Rapid appraisal; consultation with PAPs; information derived from	Yes but not necessarily decisive	Where figures are given they are indicative only being based on a	None

valuation	census and from local authorities		2009 valuation exercise. They will almost certainly be changed when budgets for RPAPs are developed under the PPPP1	
Land	Valuation of the land is pegged on an average, the actual value depending on the nearness to a build up area. Land prices are based on the district land prices in the district government	Land values are so far as possible determined on the basis of 'objective' factors but it is not possible to ignore the assumptions of PAPs about land values which do play a part in valuation	None	Land values are dealt with after a fashion in the LLE.. The Council of Ministers determines values but there is a local process that valuation goes through.
Structures	Structures may be classified (temporary, semi-permanent and permanent) based on the materials used in construction. They may be classified into class 1(mud/brick/wood walls, mud/tin roof), 2 (tiled roof and normal cement floor) and 3 (RCC, single/double storey building)	In the project from which these classifications are based, they were arrived at after various consultations with some owners who recently build their houses, local contractors and some local civil engineers.	None	This approach to structures seems a good one to adopt. Some PAPs considered that the length of time a structure had been standing should affect value but this was not a factor used in valuation
Crops	in computing crop losses, a combination of four main crops was used to get the average yield and price..		The unit price for crop losses for a square meter of land devoted to the four main crops was estimated at xx Afghanis per sqm.	Valuation was problematic because of lack of reliable data in terms of yield. The results of the socio-economic survey were not reliable because the majority of the respondents

				were not aware of size of their land holdings.
Trees	<p>Compensation for productive trees is based on the gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree.</p> <p>Non-productive trees are valued based on the multiple years investment they have required.</p> <p>Compensation for non-productive fruit bearing tree is the cost of the sapling plus the cost of maintaining the tree up to the time that the tree was cut because of the project.</p>	<p>During interviews with PAPs on trees, it was pointed out that the fluctuation of the value of tree products was influenced largely by the supply and demand and the absence of post harvest facilities. Fruit was sold when all other farmers sold their fruit. In the off-season, prices were higher but few farmers could store their crops until then</p>	<p>The compensation rate for a fruit bearing tree is the average yield per tree (xx Afghanis) times the age of the tree.</p>	<p>The same point as above applies here too</p>
<p>Restoration of income</p> <p>1. Crop losses</p>	<p>cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping</p>	<p>No apparent input from PAPs. But there may be disputes between owners and sharecroppers which officers from the implementing NGO and possibly from ESS might become involved in</p>	<p>No figures can be given</p>	<p>As noted in column 3 this may not be as straightforward as it seems. Inter-AP disputes may erupt and the GRC called into action.</p>

	agreements.			
2. Business losses	compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business ( Compensation for temporary business losses will be cash	The figures in the next column do not seem to admit of negotiation but there will be an issue of whether a business is permanent or temporary on which PAPs will wish to be consulted and have their views taken on board	Permanent business will receive xxAfghanis a month for x months.  Temporary business losses will be paid for a limited time period at xxAfghanis per month. Duration to be determined in RAP	This is another area where disputes could arise but between those offering and those receiving compensation.
3. Income restoration for workers and employees	Indemnity for lost wages for the period of business interruption up to a maximum of 3 months	This does not admit of much negotiation although there may be differences of opinion of what count as wages	No figures because wages differ depending on the work being done	Ditto but in addition, there could be disputes between employer and employee on wages which the project will have to arbitrate on.
Income Restoration Allowance for Severe Agricultural Land Impacts	When >10% of the agricultural land of a AP is affected, PAPs will get an additional allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land lost.	Given the problems of measurement of PAPs' holdings – see above column 5 on crop losses – this may be difficult to compute and careful negotiations with the PAPs will be necessary	No figures because the exact sums of money involved will depend on the use to which the land is being put	Although this has the appearance of objectivity for reasons noted in column 3 there may be disputes which will need to be handled sympathetically.
Vulnerable group allowance	Vulnerable people (PAPs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance.	There will need to be careful and sympathetic consultation and negotiation with these PAPs	A one-time allowance for vulnerable PAPs equivalent to at least xxAfghanis and priority in employment in project-related jobs.	Whether this will be seen as adequate will depend on the income forgone. It might be advisable to build in some flexibility here hence the 'at least'.

<p>Transitional livelihood allowance</p>	<p>PAPs losing land or losing a house and forced to relocate will receive a livelihood allowance.</p>	<p>Disturbance is a standard head of compensation but it will need a willingness to be flexible on rates as disturbance is not an objective matter.</p>	<p>At least xxAfghanis per month for transitional period.</p>	<p>This is very much a 'guesstimate'. It may be the best that can be done in the circumstances. Here too the words 'at least' have been added to provide for some flexibility</p>
<p>Rental allowance</p>	<p>House renters forced to relocate will receive a rental allowance and will be assisted in identifying alternative accommodation</p>	<p>Negotiations with PAPs central to the operation of this head of compensation</p>	<p>xx months' rent at the prevailing market rate in the project area.</p>	<p>What the prevailing market rent is must differ from place to place. It is probably not worth while trying to create a 'shadow' market. As with other heads of 'allowances' some flexibility must be built into the outcome.</p>

## **7. Institutional Arrangements**

### **7.1 General**

The resettlement and rehabilitation program described in this RPF involves distinct processes, dynamics and different agencies. This section deals with the roles and responsibilities of different institutions for the successful implementation of the project. The primary institutions that are involved in the land acquisition and resettlement process are the following;

10. Ministry of Finance (Mof)
11. Centre for Public Private Partnership Authority (CPPPA) within the MOF
12. Technical Assistance Team (TAT) within the CPPPA
13. Sponsoring Ministries
14. National Focal Teams within Sponsoring Ministries
15. Implementing Non-Governmental Organization (NGO)
16. Focal Teams within Regional Departments of Sponsoring Ministries
17. Local Government Units (LGUs)
18. Afghanistan Land Authority- Arazi

The agencies involved in the planning and implementation of a resettlement and rehabilitation program are MOF as the overall authority together with the relevant sponsoring ministry as the executing agency (EA) and the Provincial and District governments together with the appointed NGO referred to above. The MOF will be acting in the project through the CPPPA. At sub project or investment level the sponsoring ministry will act primarily through the designated safeguards staff within the regional focal teams and/or with an NGO recruited as a consultant to implement a RAP. They will be supported by the safeguards staff within the sponsoring ministry and within the TAT who will co-ordinate all activities related to resettlement implementation. The designated safeguards staff in the national focal team will be responsible for ensuring that the Ministry's private partner is kept fully informed and updated at all stages of RAP implementation. All activities will be coordinated with the relevant local government agencies and community *shuras/CDCs*.

### **7.2 Overall Organization – Ministry of Finance (MOF)**

The Ministry of Finance will have overall oversight of resettlement activities and responsible for ensuring that the guidelines and procedures set out this RPF are adhered to by each sponsoring ministry. The relevant sponsoring ministry of proposed investments will be the executing agency (EA).

The minister and deputy minister of the sponsoring ministry will be responsible for the overall policy level decision, planning, implementation and coordination of investment activities. The EA will have proper coordination with other departments of the Government of Afghanistan to resolve the following issues:

1. *Land Records and Ownership.* To resolve issues related to land records and ownership, a land management committee will be formed at the central level and will include members from the sponsoring Ministry, Ministry of Finance, Ministry of Justice and the Afghan Independent Land Authority (ARAZI).

2. *Assets Valuation.* Values of land and other assets for compensation is determined by the Council of Ministers under the LLE on the basis of the principles set out in this RPF. The decisions are based on the recommendation of a committee consisting of the following :

- (i) the landlord or person who uses the land or their representatives,
- (ii) an official representative of the agency that needs to acquire the land (e.g. Ministry of Public Works),
- (iii) a representative of the local CDC,
- (iv) a representative of the Ministry of Finance
- (v) a representative of the Ministry of Justice.

## **7.3 Project Implementation**

### **7.3.1 Ministry of Finance (MOF)**

The MOF, through the CPPPA and project management unit (PMU) will be responsible for submitting Resettlement Action Plans (RAPs) to the World Bank for approval and clearance. The MoF will have overall responsibility for ensuring the effective implementation of a Resettlement Action Plan (RAP). The provision of the RAP compensation finances will be the responsibility of MOF and the physical delivery of compensation to the PAPs will be assigned to a committee selected by the MOF which will include members such as the local governments but under the supervision of the MOF and of the Supervision consultants.

### **7.3.2. Sponsoring Ministries**

The designated safeguards staff within the national and regional focal teams of the sponsoring ministries will be involved in the implementation of the RAP. The national focal teams will be primarily responsible for overseeing effective compliance with social safeguard requirements. National focal teams will be responsible for ensuring that the SM's private partner is kept informed and updated regularly on RAP development and implementation.

The regional focal team, through the regional offices of the sponsoring ministry, will be responsible for the daily field level activities, getting all the necessary clearances required to initiate and implement all resettlement works. The regional focal team will be also be responsible for ensuring that all stages of the processes of resettlement, determining and paying compensation, and acquiring land are fully documented and that hard and soft copies of the records are at all times kept in a safe and secure environment.

Regional focal teams , in close liaison with their colleagues at national level, will be responsible for coordinating activities in the field including the organization of surveys, consultation meetings, and the fixing of specific compensation rates based on the principles set out in the RPF. As necessary, the regional focal team will coordinate with other relevant government bodies including ARAZI and local Governorates as well as NGOs and women's and men's CDCs.

### **7.3.3 Implementing NGO**

The specific tasks of the implementing NGO will be as follows:

1. Work under close coordination with safeguards staff in the regional focal team, other staff within the sponsoring ministry and relevant local government units to implement the RAP.
2. Assist the designated safeguards staff in both the regional and national focal teams to disseminate information about the RAP and other related issues.
3. Generate awareness about livelihood restoration activities and assist the PAPs to make informed choices including participating in government development program.
4. Identify training needs of PAPs for income generation activities and provide/conduct such trainings.
5. Provide counselling and awareness generation to resolve RAP related grievances and assist in seeking redress to unresolved grievances from land acquisition and resettlement disputes with the Grievance Committee.
6. Assist the PAPs in claims for just compensation including the collection of timely and complete payments.
7. Submit periodic implementation reports on RAP.
8. Conduct and/or undertake any other activities that may be required in the successful implementation of the RAP.

The implementing NGO must be a non-profit organization; be legally registered as an NGO in Afghanistan; have operated for at least 3 years; have a minimum of five paid staff; be committed to the principles of gender equality in terms of its own staffing; have a management or advisory board; maintain a proper accounting and financial system; have a long term presence and credibility in districts relevant to the project area; have work with government focal agencies; and must be willing to undergo training in resettlement work for project implementation.

### **7.3.4 Local Government**

The cooperation and coordination of local government units (LGUs) are vital in RAP implementation. These are the provincial government, district provincial government, CDCs at

village and neighbourhood levels. Issues relating from land records and ownership and assets valuation originate from this level and will only be taken to the Council of Ministers if these issues are not resolved locally. The provincial government, in cases of disputes on valuation of land will constitute a land valuation committee to determine the disputes on rates.

In cases of disputes regarding land ownership, land records goes through 3 offices at district level, (1) District administrator, (2) Revenue collector (Mustowfiet) and (3) the District Court. These offices have the jurisdiction on any matters related with land acquisition and verification of land entitlements. Staff of the Revenue Department (Mustowfiet), with the local municipality will carry out the tasks of identifying the titles and verification of ownership. The Office of Wloswal (the appointed District head) is expected to play a coordinating role.

### **7.3.5 Gender**

It is essential to draw special attention to gender issues within the context of sub project implementation. Using established community structures to involve women meaningfully in the proposed investment sub projects will be a challenge and will need to be approached with sensitivity to cultural norms and imagination. Working with women can be done only with female staff. Women's CDCs should be explored as a possible vehicle for increasing women's participation in proposed sub projects and especially in implementing RPAPs.

In the project, special attention will be paid to female-headed households, both those with and without land, as they are generally amongst the most vulnerable in communities and risk having their rights ignored. Although women's ownership of land is not widespread it is important to ensure that their land rights receive equal recognition in the project and in any resettlement activities. Thus, the designated safeguards staff within the regional focal teams will have special responsibility to

- Ensure that the PPIAP actively promotes outreach to women's CDCs
- Examine incentives in order to attract women to work in RAP implementation and in other capacities at regional level.
- Ensure implementing NGOs have female project officers

## **8. Public Consultation and Participation**

### **8.1 General Public Consultation**

This section describes the mechanisms for public consultation process with the PAPs, disclosure of the RPF and corresponding RPAPs through distribution of informative material to create awareness among the PAPs regarding their entitlements and compensation payment procedures and grievances redress mechanism.

## **8.2 Public Consultation**

In addition to informal day-to-day meetings among PAPs, staff from regional focal teams, and other stakeholders, the formal consultation process in the project will be ongoing and will be managed by the regional focal teams through village and neighbourhood meetings as well as public consultations with government officials. The findings of pre feasibility and full feasibility studies will be shared with communities for their comment and feedback. All these mechanisms and approaches will also be used during the collection of baseline socioeconomic data from the PAPs and the preparation of RAP and disclosure of RAP to the PAPs, as explained below.

## **8.3 Village and Neighbourhood Meetings**

A series of community-level meetings will be held, where the census and socio-economic surveys will be explained and later carried out. The aims and objectives of a proposed PPP investment will be explained as will the necessity for, processes and outcomes of any resettlement or temporary displacement. The village elders and stakeholders meetings will be scheduled at a time to which allows the participation of the maximum number of stakeholders based on the availability of the participants. Separate meeting will be held with women to ensure that they have an understanding of the sub project content and processes. The regional focal team will be responsible for conducting village consultations.

In the socio-economic survey, the project will list the names of the owners/users of assets likely to be acquired, temporarily used or damaged for which compensation will be payable and the MOF/CPPPA will ensure that the relevant sponsoring ministry prepares a Resettlement Action Plan (RAP) for each defined section of a proposed investment that will ensure that all affected assets are justly compensated. The approved RAP will be presented and explained to all affected households and persons and other interested parties. The census survey will be conducted in the affected lands. Individual meetings will be held with each PAP regarding entitlements and compensation payment procedures as well as the grievance redress mechanism.

## **8.4 Consultations with Government Officials and Other Stakeholders**

Staff from the regional and national focal teams will meet provincial and local officials to ensure that they are fully apprised about the proposed investment activities including the formulation and details on the implementation of the RAP. The national focal team, supported as necessary by the CPPPA, will coordinate with land valuation committees. There will be coordination with the district governors, which have jurisdiction over the areas where investment activities will be implemented as well as community leaders. Information about the entitlement provisions and compensation packages will be shared with these government officials and other stakeholders.

## 8.5 Preparation of Sub Project Specific Informative Material

Sub Project specific informative materials will be prepared and distributed to the PAPs to create awareness among the PAPs regarding their entitlements and compensation payment procedures and grievances redress mechanism. They will cover the following:

- After this RPF has been cleared by the World Bank, it will be translated into local languages and disclosed to the stakeholders especially affected persons by the proposed project through social safeguards staff and consultants and at village meetings. RPAPs for proposed investment sub-projects will be made available to the concerned district governments and village leaders, directly affected households and regional offices of the sponsoring agency. This RPF will also be disclosed on the websites of MOF and all sponsoring agencies.
- A summary of this RPF will be prepared specifically for this purpose and will be translated into local languages and presented to all PAPs in the form of a pamphlet/ brochure, to enable the PAPs and local communities to read it by themselves and be aware of the benefits/compensations to be made available for various types of PAPs. Social safeguards staff and other members of the focal teams will distribute the brochures through community meetings and will explain the mechanisms and procedures of the consultation program and how PAPs will be engaged in resettlement activities and the overall process.
- A cheque disbursement schedule – or preferably transfer of compensation to AP's bank accounts, explaining the date, time and venue for disbursement of compensation cheques of each AP will be prepared in local languages and distributed to all PAPs. This will also be disclosed in the village and neighbourhood meetings.
- A package containing following information material will be prepared for each AP.
  - Inventory of AP's losses
  - Schedule for compensation cheque disbursement explaining the date, time and venue for receiving cheque, vacating land and demolition of structures
  - Pamphlet/ brochure in local languages
  - Grievance redress mechanism
  - Any other relevant information for the AP

## 8.6 Disclosure

Consultations on the first draft RPF and ESMF took place on January 25, 2017 which were attended by the line-ministries, private sector companies, academia and NGOs. MoF conducted a second round of consultation with all these stakeholders which were held on December 17, 2017. The updated ESMF and RPF was shared with stakeholders to seek their feedback and comments.

These updated RPF and ESMF were cleared by the World Bank on January 9th, 2018 and re-disclosed in country on the MoF website and on the MoF website and on the WB's external website on January 10th, 2018.

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## **9. Preparatory Actions and RAP Implementation Schedule**

### **9.1 Preparation Actions**

MOF/CPPPA and the respective sponsoring ministry will begin the implementation process after its approval by the World Bank. They will initiate tasks regarding implementation of the RAP as follows:

- Establishment of official cut-off date as per need
- A series of public consultative meetings and workshops with PAPs and local representatives and active involvement PAPs for the preparation of the full RAP or Abbreviated RAP
- Endorsement of the full RAP, or abbreviated RAP, by the Minister of the Sponsoring Ministry and the Director General of the CPPPA and its submission to World Bank for clearance
- Establishment of criteria, requirements and procedure for disbursement of compensation payments by the CDCs/CCDCs/GAs (as applicable)
- Development of internal monitoring indicators and procedures
- Identification of external monitoring agency to undertake independent monitoring

MOF through the Sponsoring Ministry is also committed to provide adequate advance notice to the PAPs and pay their due compensation based on the eligibility criteria defined in this RPF for resettlement including relocation and income restoration/assistance prior to start of construction work. The PAPs of affected structures/assets (houses, shops, etc.) will be paid their due compensations at least three months (90 days) prior to demolition of any structures. This time will allow them to dismantle and remove all salvageable material for rebuilding of houses and reestablishment of businesses.

Payment of compensation of assets other than structures (land, crops, and trees) will be made at least 90 days prior to actual possession of the space being utilized by the PAPs. However, in case of a dispute regarding the compensation amount, up to 70% of the assessed/allocated amount of compensation will be paid to PAPs and the rest pledged in an escrow account in the names of the concerned PAPs, pending the resolution of the dispute. In case of dispute over rightful ownership, the compensation would be deposited in an escrow account awaiting the court resolution of rightful ownership. In such an exceptional case, the sponsoring ministry may possess the land without full payment of compensation. Grievances or objections (if any) will be redressed as per grievance redress procedure adopted in this RPF. However, all activities related to land acquisition and resettlement will be completed prior to initiation of road construction activity. In case of absentee owners (e.g. conflict displaced persons), the compensation amount would be deposited in an escrow account and issued to the rightful AP upon verification of identity and claim. The government will take all appropriate means (through electronic and

written media, words of mouth through community relations) to identify/locate absentee landowners and provide documentation of these efforts.

## 9.2 Process of RAP Implementation

The following paragraphs explain in detail how compensation will be delivered to PAPs and the prerequisites needed in triggering the release of financial resources to the ultimate beneficiaries. These steps are formulated in the light of the assumed availability of finance, the security situation, and travelling time. No account is taken of the likely situation in any province or district where sub-projects might take place.

The steps for the delivery of compensation for all eligible PAPs will be the following:

- i. **Obtain financial resources:** Based on the final budget of each RAP. The national focal team in the sponsoring ministry shall obtain the needed money for its counterpart to fund the land acquisition component from the Ministry of Finance.
- ii. **Verification of the list of qualified PAPs:** The national focal team of the sponsoring ministry, through the Implementing NGO ,will verify the list of PAPs provided in the RAP to ensure that all eligible PAPs will be properly compensated and non-eligible PAPs will be excluded. To ensure that identification and qualifications are guaranteed, village elders and community CDCs will be consulted to resolve issues rising from the list.
- iii. **Notification of a detailed compensation package:** The national focal team, through the Implementing NGO, will prepare and provide each AP with a detailed breakdown of affected assets, and the unit cost of each asset affected and the total compensation that they will receive.
- iv. **Final conciliation/expropriation:** PAPs who disagree with the amount of the detailed compensation package and how it was arrived at will be provided with a last or final chance to settle these issues with the Implementing NGO facilitating this meeting. In the event that national focal team of the sponsoring ministry and the PAPs still cannot agree, the sponsoring ministry will file expropriation proceedings in the appropriate court, asking that it be permitted to take possession of the affected asset. The sponsoring ministry will pay the AP 70% of the contested sum and deposit the remaining amount in an escrow account in a bank.
- v. **Locate absentee owners:** The national and regional focal teams of sponsoring ministries, through the Implementing NGO and village leaders, shall try to locate absentee owners of affected assets. There are some cases where owners are residing or working in other places and every effort must be undertaken to locate these absentee owners.
- vi. **Notification to the public:** available media and community bulletin boards will be utilized to inform the public that lands with the corresponding owners will be affected

by the project. These will provide sufficient time for any adverse claimants on lands that will be affected to raise their opposition or claims over the affected lands.

- vii. **Preparation of invoices:** Invoices for each of the eligible PAPs will be prepared by National focalteam/Implementing NGO. This document entitles each of the PAPs to receive the amount indicated in the invoice.
- viii. **Delivery of the money to local bank:** the money from MOF/sponsoring ministry will be remitted to a local bank in the nearest town to the sub-project site. However, the MOF/sponsoring ministry may remit the money for compensation to any bank of its choice. The bank account will be opened by regional focal team of the sponsoring ministry which will receive from Kabul the compensation on behalf of the PAPs.
- ix. **Payment:** The PAPs will each receive a cheque for the whole amount of compensation from the regional focal team of the sponsoring ministry. The AP will sign a document acknowledging the receipt of the whole compensation and a waiver attesting that he/she has no longer any pending claim over the affected property. A photograph shall be taken with the AP receiving the cheque as part of project documentation. The AP will cash the cheque by presenting their national identification card (NIC) and/or election registration card to the bank. Persons without NICs will have to explain to the pertinent authorities the reasons why they are not in possession of the NIC. PAPs will be encouraged to open a bank account in any bank and only carry necessary money to their respective villages to avoid unnecessary exposure to those who might wish illegally or with force to relieve them of their cash. The benefits of having a savings account will be part of the information to be provided by the Implementing NGO.

## 10. Complaints and Grievance Redress

Based on the LLE when private landholdings are acquired for public purposes such as dam building, compensation is paid to the owner based on the category and location of the affected land and the values of land for compensation are determined by the Council of Ministers. The decision is based on the recommendation of a land acquisition committee (LAC) consisting of the following members:

- Affected person who uses the land or his/her representative,
- Representative of the relevant Sponsoring Ministry,
- Representative of the Ministry of Finance,
- Representative of the Ministry of Justice, and
- Representative of the CDC

The land acquisition process is initiated with the constitution of the land acquisition committee. As land and other assets are acquired for a public purpose, the law does not permit any objection to the acquisition of an individual's property by the state. Usually, there are dissatisfactions that arise with these acquisitions, mostly relating to the value of compensation. The LAC inquiries into the matter and reviews the valuation and tries to arrive at a win-win solution. The whole

process is based on a negotiated approach and as the AP or his/her representative is a member of this legally constituted LAC, a consensus is reached on the replacement value of the land and assets lost. The LAC thus also performs the tasks of a grievance redress committee.

However, if after this negotiated approach, the issue remains unresolved, the affected person may elevate the matter to a Grievance Redress Committee (GRC) to try to resolve the issue. It should be pointed out however, that this committee does not possess any legal mandate or authority to resolve land issues but rather acts as an advisory body or facilitator to try to resolve issues between the affected household and the sponsoring ministry/national focal team who would implement the valuation based on the decision of the LAC. The GRC will be composed of the following members:

- Affected person or his/her duly appointed representative,
- Representative of the local administration (from the office of the governor),
- Representative from regional focal team of the Sponsoring Ministry,
- Representative from the local legal department,
- Representative of the implementing NGO

The Grievance Redress Committee will register the unresolved matter and meet to try to resolve the issue. A recommendation should be made within 7–10 working days. In the case of the absence of any of the members during the decision-making process, an appropriate candidate will be nominated by the original representative. If no decision has been promulgated after 10 working days from the last meeting of the grievance redress committee, the affected person may take the issue to the next level. The AP always has the final recourse to seek redress through the legal system. However, every effort must be exerted to avoid this alternative because it entails loss of time and expenses on the part of the AP.

The process of grievance redress has been made simple to expedite the process of decisionmaking and facilitate effective implementation. The grievance redress committee includes a representative from the local administration and the affected individual. Grievances are expected to be redressed locally within the existing fraMOFork.

Communities and individuals who believe that they are adversely affected by a World Bank (WB) supported project may submit complaints to existing project-level grievance redress mechanisms or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address project-related concerns. Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB noncompliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. The process to submit complaints to the World Bank's

corporate Grievance Redress Service (GRS) is provided at <http://www.worldbank.org/GRS>. The process on how to submit complaints to the World Bank Inspection Panel is provided at <http://www.inspectionpanel.org>.

## **11. Monitoring & Evaluation**

### **11.1 General**

Project activities will undergo both internal and external monitoring. Internal monitoring will be conducted by the focal teams within the Sponsoring Ministry, assisted by the Supervision Consultant. External monitoring will be assigned to an independent External Monitoring Agency (EMA) to be hired by sponsoring ministry, and approved by the World Bank.

### **11.2 Internal Monitoring**

Internal monitoring will be carried out routinely by the sponsoring ministry through the national and regional focal teams and results will be communicated to World Bank and the MOF through the regular project implementation reports. Indicators for the internal monitoring will be those related to process, immediate outputs and results. This information will be collected directly from the field and reported monthly to the national focal team to assess the progress and results of RAP implementation, and to adjust the work program, if necessary. The monthly reports will be consolidated every quarter in standard supervision reports and submitted to the World Bank. Specific monitoring benchmarks will be:

- Information campaign and consultation with PAPs;
- Status of land acquisition and payments on land compensation;
- Compensation for affected structures and other assets;
- Temporary displacement of PAPs
- Relocation of PAPs; • Payments for loss of income;
- Income restoration activities.
- Grievances received and status of redress

### **11.3 External Monitoring**

The implementation of an investment sub project might take several years. It will therefore be necessary that external Third Party monitoring is carried out on a regular basis with the results communicated to the national focal team of the Sponsoring Ministry, the MOF/CPPPA and the World Bank through a bi-annual compliance report. (The ToR for the Third Party Monitoring will be part of the RAP). The EMA will be responsible for the preparation of the compliance report confirming that all compensation and related resettlement assistance in cash or kind are being delivered to the affected households. Based on the results of the compliance report, the EMA will recommend to the sponsoring Ministry, the MOF/CPPPA and the World Bank if the

necessary civil engineering works can commence. A copy of the compliance report and its recommendations will be submitted to the national focal supervising consultant and the World Bank simultaneously.

The EMA will also assess the status of project affected vulnerable groups such as female-headed households, disabled/elderly and poor families. The following will be considered as the basis to develop the indicators for monitoring and evaluation of the project:

- Socio-economic conditions of the PAPs in the post-resettlement period;
- Communications and reactions from PAPs on entitlements, compensation, options, alternative developments and relocation timetables etc.;
- Changes in housing and income levels;
- Effectiveness of arrangements for temporary displacements;
- Rehabilitation of squatters (if any);
- Valuation of property;
- Grievance procedures and outcomes;
- Disbursement of compensation; and
- Level of satisfaction of PAPs in the post resettlement period.

For each sub-project, the EMA will carry out a post-implementation evaluation of the RAP about 1 year after its implementation to find out whether the RAP objectives were attained or not. The socio-economic survey base-line will be used to compare pre- and post- project conditions. The EMA will recommend supplemental assistance for the PAPs in case the outcome of the study shows that the objectives of the RAP have not been attained.

#### **11.4 Management Information Systems**

All information concerning resettlement issues related to land acquisition, socio-economic information of the acquired land and affected structures, inventory of losses by PAPs, compensation and entitlements, payments and relocation will be collected by the Implementing NGO. This data bank would form the basis of information for RAP implementation, monitoring and reporting purposes and facilitate efficient resettlement management.

#### **11.5 Reporting Requirements**

The Implementing NGO will be responsible for supervision and implementation of RAP and prepare monthly progress reports on resettlement activities and submit to the national focal team in the sponsoring ministry for review. The Implementing NGO will also monitor RAP implementation and submit quarterly reports to the sponsoring ministry/ MOFCPPA and the World Bank. The external monitoring agency (EMA) will submit bi-annual reviews directly to the World Bank and determine whether or not resettlement goals have been achieved; more importantly whether livelihoods and living standards restored/enhanced and suggest suitable recommendations for improvement.

## 11.6 ACTIONS, MEASURES, COMPENSATION ENTITLEMENTS AND CATEGORIES IN THE RPF

ACTIONS	TO	IMPLEMENT	THE	IRDP-AF
Who	What	When	Why (Objective)	Comments
MOF/CPPPA	Establish liaison arrangements with Ministries which will necessarily be involved in the PPIAP: MOPW, MAIL, MOJ	Assuming these arrangements already exist (MOF) , they can be utilised as soon as possible to bring these Ministries up to date on the proposed PPIAP	To facilitate the smooth implementation of the planning and operation of the PPIAP	The vital first step in the process of developing the PPIAP
MOF/CPPPA/TAT Sponsoring Ministry	Establish institutional arrangements for ensuring safeguards compliance.	On approval of RPF by World Bank	Creation of the internal CPPPA/sponsoring ministry/private partner arrangements to implement RPF	Preparatory work to be done before approval of RPF
MOF/CPPPA/TAT Sponsoring Ministries	Appoint national safeguards officers within the TAT and sponsoring ministries	Desirable to appoint these officers well before the commencement of PPIAP	Creation of internal CPPPA/ sponsoring ministries arrangements to implement RPF	Early appointment will facilitate training of these officers. Training organised by WB
MOF/CPPPA/TAT	Commence the preparation of materials on the RPF for distribution to probable PAPs	At commencement of 2017	To give as much advance publicity to PPIAP as possible and to alert probable PAPs of resettlement	No need to wait for approval of RPF by World Bank. This work should start as soon as possible
MOF/CPPPA/TAT Sponsoring Ministries	Prepare terms of reference for international social safeguards consultant	At commencement of 2017 advertisements can go out before RPF approved but appointment would be dependent on RPF approval	To ensure rapid recruitment processes once RPF approved	There will need to be considerable consultation on this post so action needs to start early on
TAT/Sponsoring	Appoint the implementing NGO/consultant who is	Initial work on appointment – terms of reference; basic	The implementing NGO will have an important	where only very small-scale land acquisition and

Ministry	going to carry out the processes of resettlement	requirements for an NGO/consultant to be qualified to apply; vetting applicants – can start in 2017. Appointment would not be made until RPF approved	role to play in all significant resettlement exercises.	resettlement will take place, the national and regional focal teams within the sponsoring ministries could be the implementers but anything over that and the implementing NGO would be involved.
MOF/CPPPA Sponsoring Ministry	Continue with process of locating sites and preparing technical plans etc for sub-project investments under the PPIAP	Ongoing	To ensure no delay in beginning implementation of PPIAP	No comment needed. Self-evident action.
MOF/CPPPA Sponsoring Ministry Afghan Land Authority (ARAZI)	Where likely resettlement will be involved in a site located for investment under PPIAP begin preparation of RAP under the RPF	This action should begin to be incorporated into plans developing the sites for action under PPIAP	To ensure no delay in beginning of implementation of PPIAP	Processes for preparing RAP set out in the text of RPF
ARAZI Sponsoring Ministries	Census of residents and probable PAPs within project area	As early as possible after studies completed.	An essential first step in the process of resettlement	Explanation of the importance of this in the RPF
CPPPA/TAT/National and regional focal teams within the	Begin the processes of publicity and consultation	Alongside taking the census of PAPs	An essential first step in the process of planning resettlement and	Consultation must be genuine. As much information as possible must

sponsoring ministries	with PAPs.		developing a resettlement action plan	be given to PAPs. Utilise village and other meetings
CPPPA/TAT/ Sponsoring Ministry	Consult and liaise with local governments and regional offices of associated Ministries on above actions.	Alongside consultation with PAPs	Essential to ensure that Ministries and local governments know of what is happening	These bodies will be needed to assist with village meetings and consultation with PAPs.
CPPPA/TAT/ Sponsoring Ministry ARAZI	Undertake the process of inviting PAPs to submit claims for compensation; assessing discussing and settling claims with PAPs	Part of the process of consultation and preparing an RAP as an RAP must contain precise details of the compensation and resettlement payments	Compensation and the process of resettlement is at the heart of an RAP and its implementation.	Safeguards staff within focal teams and NGO will be involved here
GRC	The GRC will be involved in attempting to settle any grievances which PAPs may have over the compensation that they are being offered	The GRC should be ready to be involved from the commencement of the process of assessing and determining the compensation payable to PAPs	To assist in the process of settling claims to compensation	The GRC must be prepared to work speedily and flexibly so as to ensure that a sub-project does not get bogged down in never-ending disputes about compensation.
Focal teams within sponsoring ministry/ CPPPA/TAT	Finalise RAP	Preparation of RAP is a continuous process commencing with consultation in connection with census taking	A necessary step to commencing action on the ground	RAP must be approved by World Bank
Focal teams within sponsoring ministry	Prepare information pack for each AP	The information pack to be distributed when RAP approved	The pack provides all the basic information which an AP will need to know. What is to occur on resettlement; how much compensation will be provided; how the compensation will be	This is a vital component of an RAP. The details of what must be in the information pack are contained in the RPF

			provided and the opportunities for complaints and settling same.	
Sponsoring Ministry/MOF/ ARAZI	Implement the compensation and resettlement processes of the RAP	Everything should be ready to be rolled out once the RAP is approved	Once the PAPs have been paid their compensation and been resettled, infrastructural activities on the ground may commence	<i>It is absolutely vital to bear in mind that all PAPs claims must be settled (subject to the limited exception of payment of only part of compensation if a dispute is going to court as set out in the RPF) before entry may be made on to land from which PAPs have been moved and infrastructural activities may commence.</i>
Implementing NGO	<ol style="list-style-type: none"> <li>1. Work closely with safeguards officers in generating awareness of all aspects of resettlement and compensation</li> <li>2. Work closely with PAPs in assisting in making, negotiating and if necessary taking to the GRC claims for compensation</li> <li>3. Submit regular reports on the process to focal teams within the sponsoring ministry and the monitors</li> </ol>	Throughout the execution of the RAP	The presence of an independent agency whose prime function is to act on behalf of and support PAPs in their claims for compensation is designed as a guarantee that the process complies with principles of substantive and procedural (administrative) justice	This is a key element in the RPF. It will be important that a reputable and effective NGO is appointed and that the external monitoring body has terms of reference that embrace the monitoring on the NGO

GRC	Handle AP grievances over compensation	During the process of determining compensation. Meet regularly and settle disputes within 10 days.	As with the implementing NGO, a GRC is a further guarantee to PAPs that the process is both substantively (a second and independent opinion on compensation) and procedurally ( an AP can have a hearing and put his/her case) fair	Another key element on the RPF. Important that the members of the GRC see themselves as independent and operate accordingly. They are not there 'to save government money'.
National and regional focal teams within the sponsoring ministry	Internal monitoring conducted by safeguards staff within focal teams	Throughout the process of the implementation of an RAP with regular reports to the World Bank	The focal teams within the sponsoring ministry will be responsible for managing the site specific investment under the PPIAP It will not have the major hands-on role which will be that of the implementing NGO. So it is in a good position to monitor and report on what is happening and will do that via safeguard officers.	An essential aspect of the RPF as it provides an element of project assurance to the World Bank with respect to the implementation of the PPIAP and future anticipated investments.
The External Monitoring Agency (EMA) must be independent of all bodies involved in the implementation of the	External monitoring conducted by the EMA.	Throughout the process of the implementation of the PPIAP with regular reports to CPPPA and the World Bank and guaranteed access to the project site.; PAPs; documents;	An independent overview of the implementation of PPIAP investments	The independence of the EMA must be assured in the contract between it and the MOF. The World Bank has a substantial interest in the EMA and its outputs so will

<p>PPIAP and with independent standing in its own right. Could be a University department or a consortium of departments.</p>		<p>officials in the sponsoring ministry and other relevant public and private bodies</p>		<p>likely be involved in the selection process.</p>
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## **Annex 1: Summary of different types of formal and informal land ownership and possession in Afghanistan**

The system of Afghan property rights is broadly divided into two categories: formal and informal. Under the *formal system*, the land law defines ownership of immovable property as *private, public and Mawat lands*. Written evidences of land ownership under the formal system of property rights are different kinds of deeds or legal documents with copies in the Court Registries. Other formal written documentation may also be utilised for this purpose. Details are to be found in article 5 of the Law on Land Management.

Immovable property owned by an individual is considered as private property. According to Shari'a, private property can be owned individually or collectively. Private ownership may be acquired through (a) purchase, (b), allocation from a municipality, (c) transfer of ownership of which the most common form is inheritance. In addition, private land can be acquired through the principle of "dead land" or "*zameen-e-Bayer*." This classification entitles all legal owners to compensation for affected land.

Public land is classified as (a) owned by the state, (b) owned by public juridical persons, (c) allocated for public interests, and (d) recognized by law as public property. In addition to the above, cultivable land which has no owner is deemed to be public land. The law prohibits acquisition of such land without the permission of the government. The state has recently strengthened its grip over land based on a statute of limitation which states that all individual claims to land that has been held by the state for a period exceeding 37 years shall be barred and the state shall be considered the owner of the property. The decree provides that all land in which the ownership of individuals is not established legally shall be considered the property of the state. This classification does not entitle an occupant to compensation for the affected land but such a person is entitled to compensation for all immovable assets which are permanently fixed on the land.

*Mawat Land* meaning "dead land". In practice, this term refers to land which is not suitable for cultivation. The concept of *mawat* requires three elements: 1) the ownership history of the land is not known; 2) it has not been cultivated and constructed, and 3) currently the land is not owned by any person. Even barren land (*zameen-e-bayer*) that does not have an owner may only be acquired with the permission of the government. The person who acquires and develops barren land with the permission of the government shall own the land. Shari'a generally recognizes *mawat* land as property neither owned by a private individual nor by the state and which could be acquired through renovation. Consistent with this, *mawat* land is recognized under the laws, but whoever wants to acquire *mawat* land must first secure permission from the President. In theory then, private property may be acquired in accordance with this concept. If *mawat* land is in the process of being legally acquired or have been acquired by an individual but some formal legal requirements have not been complied with, the possessor/owner is entitled to compensation for his/her affected land.

Informal System of Property Rights – There are two types of owners/possessors under the informal system that will be entitled for compensation over land affected by the project. The first group entitled for compensation is the customary or traditional owners of land and their heirs. These are individuals who inherited land that their ascendants occupied for more than fifty years. The original owners were either individuals who received royal land grants (*Firman*) in the form of decrees or legal letters, etc from the ruler of the time, or the original settlers of the land or their survivors who peacefully occupied the land for many generations. In the rural areas, these occupants may have (1) tax receipts or are included in the tax records, (2) unofficial land deeds and (3) been declared or recognised as legitimate users of lands by community development councils, jirgas or local elders. Households or persons who hold customary or traditional deeds for their properties are people who acquired *de facto* ownership of their land through purchase from customary or traditional owners of land.

The second type of owners/possessors under the informal system entitled to compensation are *de facto* owners of property who have bought land or a house from legal owners but did not fulfil the legal formalities required to formalize ownership. The transaction was legal but the legal formalities required to obtain a legal deed from the competent court were not completed. In many instances, buyers and sellers conclude customary agreements based on good faith and traditional norms and disregard the need to formalize the sales transaction in a competent court. Many persons perceive that a customary deed suffices to prove ownership of their property, especially when the original owner holds a formal document.

The two types of ownership/possession under the informal system of property rights have customary documents called “*orfi*” to prove their ownership/possession. These documents are usually witnessed by their neighbours, and especially local village and/or religious leaders. These documents include bills of sale and purchase, pawn agreements, wills subdivision agreements, etc. These two types of informal ownership/possession will receive compensation for land affected by the project.

These two types of land rights under the informal system cannot be classified any more as public land. In the customary or traditional rights, the adverse, open, continuous and interrupted possession of owners over a very long time has effectively vested in them legal rights over the lands they occupy through acquisitive prescription. In the second type of land rights under the informal system, the lands involved have been effectively segregated from the classification of public land because the lands have been titled by the former owners and the failure of the new owners to comply with the formal requisites to register the lands under their names do not change the private character of these lands. Hence, the two types of land under the formal system are by their very nature private lands and as a consequence, owners will be compensated.

The other occupants of lands outside of the classifications of legal and legalisable occupancy or possession such as squatters will not be compensated for the lands that they occupy but will be compensated for the permanent improvements they may have introduced in the affected lands and restoration assistance. The other type of land occupants are encroachers. These are people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

## **Annex 2: RESETTLEMENT ACTION PLAN CONTENT**

The scope and level of detail of a resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant it should be noted in the resettlement plan.

### **1. Description of the Project Area**

General description of the project and description of the project area

### **2. Potential Impacts**

Identification of:

- The project component or activities that give rise to resettlement
- The zone of impact of such component or activities
- The alternatives considered to avoid or minimize resettlement
- The mechanisms established to minimize resettlement to the extent possible during project implementation

### **3. Objectives**

The main objectives of the resettlement program

### **4. Socio-economic studies:**

The findings of socio-economic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including

- The results of a census survey covering: (a) Current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance; (b) Standard characteristics of displaced households, including a description of production systems, labor and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population; (c) The magnitude of the expected loss – total or partial- of assets, and the extent of displacement, physical or economic; (d) Information on vulnerable groups or persons as provided for in OP/BP4.12. para. 8, for whom special provision may have to be made; and (e) Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

- Other studies describing the following: (a) Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based systems including fishing, grazing, or use of forest area) governed by local recognized land allocation mechanisms and any issues raised by different tenure systems in the project area; (b) The patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; (c) Public infrastructure and social services that will be affected; and (d) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

## **5. Legal Framework**

The RAP is based on the RPF which sets out the legal and regulatory framework governing resettlement, land acquisition and asset loss for the IRDP-AF. ( See section 2 of the RPF)

## **6. Institutional Framework**

The findings of an analysis of the institutional framework covering:

- The identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation.
- An assessment of the institutional capacity of such agencies and NGOs
- Any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for the resettlement implementation.

## **7. Eligibility**

Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

## **8. Valuation of and compensation for losses**

The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law, and such supplementary measures as are necessary to achieve replacement cost for lost assets.

## **9. Resettlement Measures**

A description of the packages of compensation and other resettlement measures, including an entitlement matrix, that will assist each category of eligible displaced persons to achieve the objectives of the policy (see.0p4.12. para. 6). In addition to being technically and economically

feasible the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

## **10. Site Selection, Site Preparation and Relocation**

Alternative relocation sites considered and explanation of those selected covering:

- Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites with an estimate of the time needed to acquire and transfer land and ancillary resources.
- Any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites.
- Procedures for physical relocation under the project, including timetables for site preparation and transfer and
- Legal arrangements for regularizing and transferring titles to resettlers.

## **11. Housing, infrastructure and social services**

Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services (e.g. schools, health services) – plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

## **12. Environmental protection and management**

A description of the boundaries of the relocation area and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement)

## **13. Community participation, involvement of resettlers and host communities**

- A description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of the resettlement activities.
- A summary of the views expressed and how these views were taken into account in preparing the resettlement plan.
- A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization and to retaining access to cultural property ( e.g. places of worship, pilgrimage centers, cemeteries)

- Institutionalized arrangements by which displaced persons can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

#### **14. Integration with host populations**

Measures to mitigate the impact of resettlement on nay host communities including:

- Consultations with host communities and local governments
- Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers.
- Arrangements for addressing any conflict that may arise between resettlers and host communities
- Any measures necessary to augment services (e.g. education, water, health and production services) in host communities to make them at least comparable to services available to resettlers.

#### **15. Grievance Procedures**

Grievances and complaints raised during the implementation of the RAP will be dealt with in accordance with the Grievance Redress Mechanism set out in Section 8 of the RPF. The Land Acquisition Committee (LAC) established by the Council of Ministers under the LLE, also performs the duties of a grievance redress committee in relation to the value of land and/or assets acquired. The LAC will use a negotiated approach to reach a consensus on the replacement value of lands and assets. If this approach fails an AP may bring the matter to a Grievance Redress Committee which will try and resolve the issue and make a recommendation within 7- 10 days. If no decision is reached after 10 days, the AP may seek recourse through the legal system as a last resort.

#### **16. Organizational responsibilities**

The organizational fraMOFork for implementing resettlement , including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; any measures ( including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

#### **17. Implementation schedule**

An Implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and

hosts and termination of the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

### **18. Costs and budget**

Tables showing itemised cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies, timetables for expenditures, sources of funds, and arrangements for timely flow of funds and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

### **19. Monitoring and Evaluation**

Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process, evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent activities.

### **ABBREVIATED RESETTLEMENT ACTION PLAN**

An abbreviated RAP must contain a minimum of the following elements:

- (i) A census survey of displaced persons and valuation of assets
- (ii) Description of compensation and other resettlement assistance to be provided
- (iii) Consultation with displaced people about acceptable alternatives
- (iv) Compensation Matrix w. all PAPs and their complete entitlements etc
- (v) Institutional responsibilities for implementation and procedures for grievance redress
- (vi) Arrangements for monitoring and evaluation
- (vii) A timetable and budget