



Ministry of  
**Urban Development and Housing**  
Islamic Republic of Afghanistan



## **URBAN DEVELOPMENT SUPPORT PROJECT**

# **Environmental and Social Management Framework (ESMF) & Resettlement Policy Framework (RPF)**

**Date: February 3, 2017**

## Acronyms

ARAP	Abbreviated Resettlement Action Plan
CHMP	Cultural Heritage Management Plan
CUP	Community Upgrading Plan
EIA	Environmental Impact Assessment
ESMP	Environmental & Social Management Plan
SIA	Social Impact Assessment
ESIA	Environmental & Social Impact Assessment
ESMF	Environmental Social Management Framework
ESMP	Environmental & Social Management Plan
ESSO	Environmental Social Safeguard Officer
FGM	Focal Group Meeting
FO	Focal Officer
GRM	Grievance Redress Mechanism
ICR	Implementation Completion Report
IDA	International Development Association
IRA	Islamic Republic of Afghanistan
MUDH	Ministry of Urban Development and Housing
NGO	Non-Government Organizational
NEPA	National Environmental Protection Agency
OP/BP	Operation Procedures/Bank Policy
O&M	Operation and Maintenance
PAP	Project Affected Person
PCT	Project Core Team
PPG	Project Preparation Grant
RAP	Resettlement Action Plan
TA	Technical Assistance
ToR	Terms of References
UDSP	Urban Development Support Project
UN	United Nations
UXO	Unexploded Ordinance
WB	World Bank
WHO	World Health Organization

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## EXECUTIVE SUMMARY

The Islamic Republic of Afghanistan, with the aim to improve the functioning of its cities from the perspective of livability and contribution toward economic growth, is planning to implement the Urban Development Support Project. The project is to be financed from funds made available by the International Development Association (IDA) and Afghanistan Reconstruction Trust Fund (ARTF), administered by the World Bank / IDA.

The Ministry of Urban Development and Housing (MUDH) is entrusted with the implementation of the project and will do so in cooperation with participating local governments. A dedicated Project Core Team (PCT) has been setup to manage the Project and fulfill the role of the Client for contracts and consultants planned.

The primary objective of UDSP is to create an enabling policy framework and capacity at the national and local levels to strengthen city planning, management and service delivery.

### **Environmental and Social Issues Relevant to the Project**

The potential environmental and social impacts of the likely investments are not currently known, even though they are likely to be minor. No infrastructure or civil works of any kind will be financed under UDSP. As such, the Project does not have any environmental footprint. However, the downstream impacts of Component 3 (Spatial Planning) and Component 4 (Investment Project Feasibility and Design Studies) will have both social and environmental implications on the ground and when they are subsequently implemented will require environmental and social safeguard considerations. For this reason, UDSP is required to prepare this Environmental and Social Management Framework (ESMF) to ensure that all spatial planning work and investments projects that are prepared at the design stage are adequately screened for their potential environmental and social impacts, and that correct procedures to be followed, depending on the types of investments to be carried out, and these will be reflected in the ESMF document.

In pursuant to the requirements of the World Bank, including OP 4.01, this ESMF, is prepared.

### **Objectives of the ESMF**

The objective of the assignment is to prepare an ESMF which will:

- (i) Establish the legal framework, procedures, and methods for environmental and social planning, review, approval and implementation investments to be financed;
- (ii) Identify roles and responsibilities, including reporting procedures and monitoring and evaluation;
- (iii) Identify capacity/or training needs for different stakeholders to ensure better implementation of the provisions in the ESMF and also in the sub-project EIA.SIAs and ESMFs, as and when they are implemented after the project's completion, and;
- (iv) Identify funding requirements and resources to ensure effective implementation of the framework.

## PROJECT Components

The proposed project will have five components,

**Component 1: Building an Urban Management Information System (UMIS, US\$1.50 million).** The component will finance: (i) technical assistance to create the database and web architecture for the UMIS, including survey work; (ii) goods for information technology hardware and software to

support the management and facilitated access to information within the database; (iii) contract staff for the analysis and the production of reports from the data sets for four years; and (iv) data update on a yearly basis and UMIS hardware and software maintenance.

**Component 2: Institutional Development for MUDH and the eight participating municipalities (US\$4.50 million.)** This component will finance: (i) technical assistance to conduct a functional review of the Ministry in general and the Urban Planning Department in particular, as well as the five participating municipalities; (ii) preparation of a series of policy notes and strategy papers for the newly formed Urban Commission, including *inter alia*, housing policy, land management, land pooling/readjustment, disaster risk management/resilience, infrastructure surveys and service delivery needs, financing strategies, and urban public-private partnerships; (iii) in-country structured training programs and custom-designed out-of-country group and individualized training programs; and (iv) technical assistance and advisory services for capacity development in the MUDH core departments and eight participating municipalities.

**Component 3: Strengthening Territorial Planning at the National and Local Levels (US\$7 million).** This component will integrate urban planning and development supported by technical consultancies, goods, and information technology-related hardware and software, including training, for: (i) preparation of territorial planning technical studies, guidelines/guides, manuals, tools and systems for MUDH in supporting local administrations in carrying out local planning functions; (ii) procurement of pending satellite imagery for primate and secondary cities to complement and update satellite imagery already provided by UN-Habitat; (iii) consultancy services for technical assistance to prepare local strategic plans, capital investment plans, develop GIS systems linked to the UMIS (under Component 1) and other strategic and statutory documents and outputs in up to eight cities.

**Component 4: Feasibility and Design Studies for Urban Infrastructure (US\$5 million).** This Component would support: preparation of feasibility and design studies for critical infrastructure and services linked to high priority and catalytic projects (including roads to reduce congestion, drainage to reduce flooding, among other municipal infrastructure and mobility improvements that are incorporated in approved urban plans.

**Component 5: Project Management and Administration (US2 million).** This Component would provide financing for project management staff, upgrading of office equipment and furnishings, project vehicles and incremental operating costs

## Environment and Social Safeguards Issues

Project activities are expected to have positive environmental impacts both during implementation and over the long-term, through measures to be adopted for environmental protection, zoning regulations, and other regulatory and environmental mitigation procedures. Sub-projects having significant environmental impacts will not be financed. A list presenting ineligibility attributes is provided in Annex 1.

Urban plans, feasibility studies, and infrastructure investment designs financed under the Project would all have an environmental dimension to ensure that Bank environmental safeguards policies are applied and environmental impacts are carefully considered with environmental management plans put in place wherever relevant. Provisions will be made in relevant TORs with a dedicated

consultant task to identify potential environmental risks and appropriate mitigation measures, including the preparation of an Environmental and Social Management Plan (ESMP) in accordance with Bank guidelines.

It is not anticipated that the current TA activities will have major adverse social impacts but future urban infrastructure investments in the proposed project areas may have moderate social impacts. Potential impacts would be caused by temporary and/or permanent loss of land and other assets, and resettlement of people. Selection of urban infrastructure projects will be screened for land disputes in order to avoid the situation where investments would fuel such disputes. A Resettlement Policy Framework (RPF) has been developed for this project and sets out procedures for managing land acquisition, asset loss and resettlement (see RPF below). The ESMF also includes guidelines for identifying and assessing the impacts of potential investments on existing heritage structures and sites (see in Annex 3). ToR for assessing impact on heritage sites and for preparing a CHMP are included as annex 7.

Systematic involvement of local people throughout the planning and implementation of sub projects will underpin the identification and implementation of any mitigation measures to be included in ESMPs and RAPs. The sub-project activities are expected to improve local people's living standards through providing employment opportunities.

#### **ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK (ESMF)**

Environmental and Social Management Framework (ESMF) sets a technical guidance in organizing and handling environmental assessment and social management for the projects that are not yet to be defined. The structure of ESMF is to present the needed compliance requirements in order to provide an insight for prospect investments to achieve approval of national laws as well as the provisions of the World Bank Operational Policy 4.01. Since the portfolio of the project is not definite (in terms of location, dimension and design), the detailed assessment of potential environmental and social impacts of its activities, products and services are not achievable before project execution.

ESMF will present updated and revised version of the existing environmental review framework of the UDSP. Consistent with existing national legislation and the World Bank Operational Policies on environmental and social safeguard, the objective of the Framework is to help ensure that activities under the project would:

- Protect human health;
- Prevent or compensate any loss of livelihood;
- Prevent environmental degradation as a result of either individual subprojects or their cumulative effects;
- Minimize impacts on cultural property;
- Enhance positive environmental and social outcomes, and
- Comply with the National and World Bank Safeguards policies

### Grievance Redress Mechanism

UDPS has a Grievance Redress Mechanism (GRM). The GRM provides a formal avenue for affected groups or stakeholders to engage with the project implementing agency on issues of concern or unaddressed impacts of the interventions. Grievances are any complaints or an issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. They may take the form of specific complaints for damages/injury, concerns about routine project activities, or perceived incidents or impacts. Identifying and responding to grievances supports the development of positive relationships between projects and affected groups/communities, and other stakeholders. In cases of land acquisition and resettlement that may take downstream from the Project but related to the Spatial Plans and Feasibility/Design Studies for the municipal infrastructure, the GRM will be comprised of members from relevant stakeholders and Project Affected Person (PAPs) to address community and individual concerns related to land acquisition issues.

### Resettlement Policy Framework

In addition to the ESMF, the Project has adopted within this document a Resettlement Policy Framework. This section of the document reviews the current legal and regulatory framework relating to involuntary resettlement and puts forth a framework with procedures, guidance and responsibilities for the respective parties to follow in the event that involuntary resettlement will be required once the precise nature of the spatial plans for cities and the prepared investments are known.

### CONSULTATION AND DISCLOSURE

The Government of Afghanistan intends to make all project documentation publicly available to the relevant stakeholders. Once specific city spatial plans or city infrastructure investments are prepared and known, those that trigger environmental or social safeguards will require preparation of an ESMP. In cases where involuntary resettlement is required RAPs will be prepared, if required, and then disclosed, discussed with the affected communities, finalized, and implemented by the Government prior to commencement of works in the specific sites.

**SECTION TO BE INSERTED WHEN ESMF HAS BEEN FULLY DISCLOSED  
REFERENCING DATE AND PARTICIPANTS AND ANY NEXT STEPS AGREED.**

# Urban Development Support Project

## PART 1: Environmental & Social Management Framework (ESMF)

### I Introduction

#### I.1 Project Description

1. The Urban Development Support Project (UDSP) aims to support the Government's vision expressed in ANPDF and its long-term objective of reducing poverty, while strengthening the relationship between local governments and their citizens. The Project Development Objective (PDO) of UDSP is to create an enabling policy framework and capacity at the national and local levels to strengthen city planning, management and service delivery. UDSP will achieve this by helping to develop strategies and policies to promote affordable housing; improving land use planning at the local level, which in turn is expected to promote public investment and the delivery of essential infrastructure services to cities where 29 percent of the population is poor. To achieve this higher objective, the Project would promote active engagement between local governments in the five participating provincial cities and their constituents in strategic development and land use planning with public consultations across all phases.
2. The Project is consistent with the World Bank Group's Interim Strategy Note (ISN) for Afghanistan, covering the period 2012-15. The ISN has the overarching aim of supporting the Government's National Priority Programs, and particularly those efforts aimed at building legitimacy and capacity of government institutions. A new Urban National Priority Program (U-NPP) has been elaborated by the Government in early 2016 and the urban development agenda has been elevated to one of the Government's foremost priorities. The Systematic Country Diagnostic (SCD) for the 2017-20 Country Partnership Framework (CPF) identifies weak state institutions as among the most persistent and critical constraints. Improvements in service delivery and prioritization of investments in infrastructure within a stressed fiscal environment are also highlighted as critical needs, along with demographic pressures that will further burden cities with both on-going rapid rural-urban migration and an anticipated refugee influx from outside the country.
3. The Project design consists of five components to be implemented by the MUDH in close collaboration with the 4 participating Provincial Capital Cities (PCCs) of *Herat, Jalalabad, Kandahar, and Mazar-e-Sharif*. This Project design builds on the premise that spatial planning, urban development and service provision require sound transversal management and strong vertical and horizontal coordination among various stakeholders concerned. This is essential in a context where major cities in Afghanistan are facing mounting socio-economic challenges coupled with tight fiscal constraints. The total estimated project cost is US\$20.00 million focusing on building the 4 Urban "I"s (*i.e. Urban Information, Urban Institutions, Urban Integration and Urban Infrastructure*), as follows:
4. **Component 1: Building an Urban Management Information System (UMIS, US\$1.50 million).** The component will finance: (i) technical assistance to create the database and web architecture for the UMIS, including survey work; (ii) goods for information technology



hardware and software to support the management and facilitated access to information within the database; (iii) contract staff for the analysis and the production of reports from the data sets for four years; and (iv) data update on a yearly basis and UMIS hardware and software maintenance.

5. **Component 2: Institutional Development for MUDH and the eight participating municipalities (US\$4.50 million.)** This component will finance: (i) technical assistance to conduct a functional review of the Ministry in general and the Urban Planning Department in particular, as well as the five participating municipalities; (ii) preparation of a series of policy notes and strategy papers for the newly formed Urban Commission, including *inter alia*, housing policy, land management, land pooling/readjustment, disaster risk management/resilience, infrastructure surveys and service delivery needs, financing strategies, and urban public-private partnerships; (iii) in-country structured training programs and custom-designed out-of-country group and individualized training programs; and (iv) technical assistance and advisory services for capacity development in the MUDH core departments and eight participating municipalities.
6. **Component 3: Strengthening Territorial Planning at the National and Local Levels (US\$7 million).** This component will integrate urban planning and development supported by technical consultancies, goods, and information technology-related hardware and software, including training, for: (i) preparation of territorial planning technical studies, guidelines/guides, manuals, tools and systems for MUDH in supporting local administrations in carrying out local planning functions; (ii) procurement of pending satellite imagery for primate and secondary cities to complement and update satellite imagery already provided by UN-Habitat; (iii) consultancy services for technical assistance to prepare local strategic plans, statutory master/detailed plans, capital investment plans, develop GIS systems linked to the UMIS (under Component 1) and other strategic and statutory documents and outputs in up to eight cities.
7. **Component 4: Feasibility and Design Studies for Urban Infrastructure (US\$5 million).** This Component would support: preparation of feasibility and design studies for critical infrastructure and services linked to high priority and catalytic projects (including roads to reduce congestion, drainage to reduce flooding, among other municipal infrastructure and mobility improvements) that are incorporated in approved urban plans;.
8. **Component 5: Project Management and Administration (US2 million).** This Component would provide financing for project management staff, upgrading of office equipment and furnishings, project vehicles and incremental operating costs

## II Potential Adverse Social and Environmental Impacts

9. Project activities are expected to have positive environmental impacts both during implementation and over the long-term, through measures to be adopted for environmental protection, zoning regulations, and other regulatory and environmental mitigation procedures. Sub-projects having significant environmental impacts will not be financed. A list presenting ineligibility attributes is provided in Annex 1.
10. Urban plans, feasibility studies, and infrastructure investment designs financed under the Project would all have an environmental dimension to ensure that Bank environmental

safeguards policies are applied and environmental impacts are carefully considered with environmental management plans put in place wherever relevant. Provisions will be made in relevant TORs with a dedicated consultant task to identify potential environmental risks and appropriate mitigation measures, including the preparation of an Environmental and Social Management Plan (ESMP) in accordance with Bank guidelines.

11. It is not anticipated that the current TA activities will have major adverse social impacts but future urban infrastructure investments in the proposed project areas may have moderate social impacts. Potential impacts would be caused by temporary and/or permanent loss of land and other assets, and resettlement of people. Selection of urban infrastructure projects will be screened for land disputes in order to avoid the situation where investments would fuel such disputes. A Resettlement Policy Framework (RPF) has been developed for this project and sets out procedures for managing land acquisition, asset loss and resettlement (see RPF below). The ESMF also includes guidelines for identifying and assessing the impacts of potential investments on existing heritage structures and sites (see in Annex 3). ToR for assessing impact on heritage sites and for preparing a CHMP are included as annex 7. Systematic involvement of local people throughout the planning and implementation of sub projects will underpin the identification and implementation of any mitigation measures to be included in ESMPs and RAPs. The sub-project activities are expected to improve local people's living standards through providing employment opportunities.

## **II.1 Environmental and Social Management Framework (ESMF)**

12. Environmental and Social Management Framework (ESMF) sets a technical guidance in organizing and handling environmental assessment and social management for the projects that are not yet to be defined. The structure of ESMF is to present the needed compliance requirements in order to provide an insight for prospect investments to achieve approval of national laws as well as the provisions of the World Bank Operational Policy 4.01. Since the portfolio of the project is not definite (in terms of location, dimension and design), the detailed assessment of potential environmental and social impacts of its activities, products and services are not achievable before project execution.
13. ESMF will present updated and revised version of the existing environmental review framework of the UDSP. Consistent with existing national legislation and the World Bank Operational Policies on environmental and social safeguard, the objective of the Framework is to help ensure that activities under the project would:
  - Protect human health;
  - Prevent or compensate any loss of livelihood;
  - Prevent environmental degradation as a result of either individual subprojects or their cumulative effects;
  - Minimize impacts on cultural property;
  - Enhance positive environmental and social outcomes, and
  - Comply with the National and World Bank Safeguards policies

### **II.1.1. Environmental Impact Assessment Regulations of Afghanistan**

14. The regulation on Environmental Impact Assessment (EIA) of Afghanistan is based on the Environmental Law of Islamic Republic of Afghanistan. The National Environmental Protection Agency (NEPA), as an independent institutional entity, is responsible for coordinating and monitoring conservation and rehabilitation of the environment, and for implementing this law. Environmental Law describes the process of preparing a preliminary assessment, an environmental impact statement and a comprehensive mitigation plan to be conducted by the proponent of each project. The law also mentions public consultation is required for all the projects. Furthermore, the law describes the approval procedure of environmental impact assessment. The NEPA will appoint an EIA Board of Experts to review, assess and consider applications and documents submitted by the proponent. Acting on the advice of the EIA Board of Experts, NEPA shall either grant or refuse to a grant permit in respect of the project.
15. As per the National EIA Policy guideline of National Environmental Protection Agency (NEPA), the upgrading work projects can be categorized as “Category 1” and “Category 2” depending on capacities and characteristics of the projects. Additionally, the guideline covers i) activities located at sensitive areas which are also considered as the activities likely to have significant adverse impact, and (ii) other activities which are not already included defined in EIA but they may have a significant adverse effect on the environment.
16. It is important to note that sub-projects expected in the UDSP are capacity building, planning and feasibility projects. Therefore, these projects are not included National EIA Policy Guideline, and these projects are not subject to “certificate of compliance”. On the other hand, some of the sub-project regarding feasibility and design studies for critical infrastructure and services linked to high priority and catalytic projects may necessitate the official view of NEPA. For these project, PCT will ensure the “certificate of compliance” from NEPA after making application and fulfilling the statutory requirements.

### **II.1.2. Environmental and Social Safeguards**

17. The ESMF is based upon the World Bank Operational Policies (OP/BP 4.01) which provides general policies, guidelines, codes of practice and procedures to be integrated into the implementation of the proposed operation for providing assistance, while at the same time ensuring due diligence in managing potential environmental and social risks. The ESMF is compliant with the national Environmental Law, its National EIA Policy guidelines and other relevant national laws and regulations, such as Law on Land Management (LLM) and Land Expropriation Law (LEL).
18. Compliance with the safeguard provisions and the negative list will be ensured through a preliminary environmental, social and risk evaluation by using the checklists provided in Annex 2. The sub-projects selected in the scope of UDSP will be reviewed and cleared by Project Core Team (PCT) to ensure compliance with the bank safeguard policies as well as ineligibility criteria defined in the ESMF.
19. It has the overall objective of ensuring that sup-projects supported by the Bank are environmentally and socially sustainable. In this respect, UDSP is defined as Category B with

respect to OP 4.01. Other relevant safeguards triggered for UDSP are provided in Table 1 and summarized below;

**Table 1.** Safeguard Policies Triggered by the Project

Safeguard Policies	Yes	No
Environmental Assessment (OP/BP 4.01)	✓	
Natural Habitats (OP/BP 4.04)		✓
Pest Management (OP 4.09)		✓
Physical Cultural Resources (OP/BP 4.11)	✓	
Involuntary Resettlement (OP/BP 4.12)	✓	
Indigenous Peoples ( OP/BP 4.10)		✓
Forests (OP/BP 4.36)		✓
Safety of Dams (OP/BP 4.37)		✓
Projects in Disputed Areas (OP/BP 7.60)		✓
Projects on International Waterways (OP/BP 7.50)		✓

20. **Physical Cultural Resources (OP/BP 4.11):** The feasibility and design studies for critical infrastructure in the selected cities will cover the old city areas, which are rich in physical cultural resources. At this stage, it is very well known that the historic gozars or settlements in all 5 participating municipalities have the sites of significant physical cultural resources. These physical cultural resources are mostly immovable structures that include mosques, khanaqa, temples, hamams, residential buildings etc. The ESMF includes screening provisions for evaluating potential impacts and provides specific guidance (see in Annex 3) for the preparation of requisite cultural heritage management plans. A guideline for Chance Find Procedure (CFP) is also provided in Annex 3. Specific CFP's for each sub-project will be prepared in accordance to National Laws and regulations before implementation phase that is not included in the scope of UDSP. PCT will ensure project specific CFP's to be ready before implementation.
21. **Involuntary Resettlement OP 4.12:** Technical Assistance (TA) activities under components 2, 3 & 4 are likely to involve downstream implications that could impact individuals and/or communities in different ways. Therefore, sub-projects may necessitate a Social Assessments (SA) or Resettlement Action Plans (RAPs). SAs and RAPs that may be needed subsequently outside the UDSP framework. On the other hand, the Government will carry out a Social Assessment (SA) of sector specific regulations, policies and strategy notes of the urban sector to assess downstream impacts. Also, the participating municipalities, with the support of technical consultants, will conduct SAs and RAPs (where needed) as part of UDSP. A guideline for the SAs and RAPs is provided in Annex 4.
22. The Project is designed to enhance social engagement on aspects of strategic and physical land use planning at the local level. As such, its impact is expected to be positive to the extent that the mechanisms are put in place in the city level planning consulting services to be financed under the Project. It will encourage and build-in community consultations at the city level at each of the planning stages. This will be assured by incorporating several stages of public/community consultations in the Terms of Reference (TOR) of the consultants who

prepare the city-level strategic development and land use plans. In addition, TORs for feasibility and design studies will include a distinct task for the consultants to identify any potential social safeguard risks or triggers in the feasibility studies and shall be required to propose a mitigation plan to address such potential risks.

23. **Citizen Engagement (CE):** The citizen engagement component for this project includes consultations, a grievance redress mechanism (GRM) and beneficiary feedback on draft feasibility and design studies for critical infrastructure under component 4. The client will also seek public feedback on the TA activities under component-2 for developing of regulations, policies and strategy notes of the urban sector. Consultation with project beneficiaries and downstream potentially affected families will take place during appropriate stages of the TA activities, particularly for components 2, 3 and 4. The ESMF/RPF includes a detailed mechanism for consultation to make sure there is a two-way interaction between citizen and government (MUDH and all 4 participating PCCs). The urban communities in all selected municipalities, including stakeholders will have a chance to review draft feasibility studies and other TA activities under component 2, 3 and 4.
24. The ESMF includes a detailed mechanism for grievance handling (see Annex 5), including responsibilities of key stakeholders to address public concerns. The MUDH will establish an effective GRM, which would include: (i) public awareness among beneficiaries how to use GRM services, (ii) establishing of multiple channels and locations for submitting of grievances, and (iii) proper registration of all grievances related to project activities to enable tracking and review.

## II.2 Environmental and Social Assessment

25. A screening process, selection and evaluation of UDSP sub-projects are required to manage environmental and social aspects of these activities. The stages of screening process can be defined as given below;
- **Screening:** to identify actions that have negative environmental and social impacts;
  - **Project Categorization:** to define project category with respect to WB Safeguards
  - **Preparation of Relevant Environmental and Social documents:** to prepare project specific ESMP's and or abbreviated RAP (or ESIA if required);
  - **Review and Approval of Documentation:** to review the environmental and social documentations in terms of WB Safeguard Policies as well as national laws and regulations.
  - **Public Participation and Information Disclosure:** to make documents publicly available for their view and opinion. (such as ESMPs, etc.)
  - **Supervision and monitoring:** to prepare a supervision and monitoring program to measure and increase the effectiveness of project in terms of Environmental and Social Sustainability.
26. The extent of environmental/Social assessment that might be required prior to the commencement of the projects will depend on the outcome of the screening process as per

the NEPA guideline. The stages of the environmental and social screening process leading to the review and approval of the KMDPs sub-project activities to be implemented are described below.

**Step 2: Screening**

27. The purpose of the screening process is to determine whether sub-projects are likely to have potential negative environmental and social impacts; to determine appropriate mitigation measures for activities with adverse impacts; to incorporate mitigation measures into the sub-projects design; to review and approve sub-projects proposals and to monitor environmental parameters during implementation. The extent of environmental and social work that might be required for the sub-projects prior to implementation will depend on the outcome of the screening process. This process should include screening for possible resettlement impacts.
28. One of the objectives of the screening process is to rapidly identify those sub-projects which have little or no environmental or social issues so that they can move to implementation in accordance with pre-approved standards or codes of practices or other pre-approved guidelines for environmental and social management.
29. For each relevant sub-project proposal the UDSP, led by the PCT will carry out a screening process. PCT will complete the Environmental and Social Screening Form (Annex 2) and submit to the Bank Team for review as part of the project package. Completion of this screening form will facilitate the identification of potential environmental and social impacts, determination of their significance, assignment of the appropriate environmental category, proposal of appropriate environmental mitigation measures, or recommend the execution of an Environmental and Social Impact Assessment (ESIA/SIA) or an Environmental and Social Management Plan (ESMP), if necessary.

**Step 2: Project Categorization**

30. Based on screening results, the environmental and social risk Category for the UDSP proposed activity will initially be determined by the PCT with the help of the screening form provided in Annex 2. Under the WB's Operational Policy for Environmental Assessment (O.P. 4.01) projects are classified under Categories A, B and C according to the level of their likely impact on the environment:
31. **Category A.** A proposed project is classified as Category A if it is likely to have significant adverse environmental impacts (based on type, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts). These impacts are generally large-scale, irreversible, sensitive, diverse, cumulative or precedent setting and may affect an area broader than the sites or facilities financed by the project. For example, Category A projects have one or more of the following attributes: large-scale conversion or degradation of natural habitats; extraction, consumption, or conversion of substantial amounts of forest, mineral and other natural resources; direct discharge of pollutants resulting in degradation of air, water or soil; production, storage, use or disposal of hazardous materials and wastes; measurable changes in hydrologic cycle; risks associated with the proposed use of pesticides..
32. **Category B.** A proposed project is classified as Category B if the potential impacts on the environment are typically site-specific, reversible in nature; less adverse than those of Category

A subprojects and for which mitigatory measures can be designed more readily. Projects in Category B sometimes differ only in scale from Category A projects of the same type. For example, large irrigation and drainage projects are usually categorized as A; however, small-scale projects of the same type may be categorized as B. Similarly, projects that finance rehabilitating or maintaining an existing infrastructure may have adverse impacts, but are likely to be less significant compared to a Category A project, and would be categorized as B. Indicative examples include: Rehabilitation or construction of water supply and/or sewerage network, water treatment plants, wastewater treatment plants which does not include an expansion or new construction, construction of small-scale water treatment plants, urban transport and energy efficiency.

33. **Category C.** A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts. For example, technical assistance projects in institutional development, computerization and training fall in Category C.
34. PCT, in consultation with WB, will carry out the screening of subprojects in terms of Category A or, B or C. In this process, PCT will use the checklist given in Annex 2. PCT will classify a subproject as Category A if even one of the criteria is assessed to carry “high risk”. If none of the criteria is found to carry high risk but at least one has “modest risk”, then the subproject will be classified as Category B. If all of the criteria of a subproject are found to carry “minor or no risk”, then the project is classified as Category C. In this process PCT may ask consultants preparing the subproject feasibility reports to carry out an initial assessment of these risks to reach more informed decisions.
35. In screening stage, sub-projects that may require ESIA, which has significant environmental impacts, are considered as ineligible, and therefore, these projects will not be financed in the scope of UDSP. Category B projects, PCT will assess whether there are site-specific issues necessitating a site-specific environmental assessment in addition to an ESMP. A guidance on ESMP preparation, including matrix and sample TORs are attached as an Annex to this Report. In addition to ESMP, some of sub-projects may require preparation of additional specific plans and procedures like Resettlement Action Plan (RAP), Cultural Heritage Management Plan (CHMP) etc.
36. Ideally, the EA carried out in a subproject should combine all the components to be implemented under the subproject since this will generate a comprehensive overview on the environmental impact. However, the EAs of the activities may be prepared separately and works may commence at separate times as long as the components are independent of each other in terms of impact on the environment. When in doubt, PCT will consult with the WB Environmental Specialist assigned to the project.

### ***Step 3. Preparation of Relevant Environmental and Social Documents***

37. An ESMP will include the potential environmental and social impacts; appropriate mitigations measures; appropriate monitoring indicator; frequency of monitoring the mitigation measures; person responsible for the task and cost implications. This determination will be made in consultation with the community and persons likely to be impacted by the sub-project’s activities.
38. For low-risk construction projects, an alternative approach has been developed by World Bank

safeguard teams. With this approach, it aimed to provide an opportunity for a more streamlined approach to mainstreaming the World Bank's environmental safeguards requirements into projects which (a) are small in scale or by the nature of the planned activities have a low potential environmental impact, (b) are located in countries with well-functioning country systems for environmental assessment and management. The checklist-type format has been developed to ensure that basic good practice measures are recognized and implemented, while designed to be both user friendly and compatible with the World Bank's safeguards requirements. The intention of this checklist is that it offers practical, concrete and implementable guidance to contractors and supervising engineers for simple civil works contracts. It should be completed during the final design phase and, either freestanding or in combination with any environmental documentation produced under national law (e.g. EIA reports), constitute an integral part of the bidding documents and eventually the works contracts. Checklist is provided in Annex 7.

39. The ESMP checklist-type format attempts to cover typical core mitigation approaches to civil works contracts with small, localized impacts. It is accepted that this format provides the key elements of an Environmental and Social Management Plan (ESMP) to meet World Bank Environmental Assessment requirements under OP 4.01. The intention of this checklist is that it would be applicable as guidelines for the small works contractors and constitute an integral part of bidding documents for contractors carrying out small civil works under Bank-financed projects.

40. The checklist has three sections:

**Part 1** includes a descriptive part that characterizes the project and specifies in terms the institutional and legislative aspects, the technical project content, the potential need for capacity building program and description of the public consultation process. This section could be up to two pages long. Attachments for additional information can be supplemented when needed.

**Part 2** includes an environmental and social screening checklist, where activities and potential environmental issues can be checked in a simple Yes/No format. If any given activity/issue is triggered by checking "yes", a reference is made to the appropriate section in the following table, which contains clearly formulated management and mitigation measures.

**Part 3** represents the monitoring plan for activities during project construction and implementation. It retains the same format required for ESMPs proposed under normal Bank requirements for Category B projects. It is the intent of this check-list that Part 2 and Part 3 be included into the bidding documents for contractors, priced during the bidding process and diligent implementation supervised during works execution.

41. WB safeguards require an evaluation of the proposed planning project through a Social Impact Assessment (SIA). Government will be responsible for presenting the SIA to identify the effects of the proposed sub-project on the physical and social environment and to propose alternative solutions when necessary. The SIA is a necessary tool for decision making, social management that will able the UDSP to design and implement socially friendly project. In order to hold accountability and transparency, the WB policy as stated in OP 4.01, public disclosure will be also be required for SIA in timely manner to consult and inform project affected groups and



local non-governmental organizations (NGOs). SIA will also include social impacts as follows,

- Involuntary economical and physical displacement,
- Health and safety,
- Historical and cultural sites; and,
- Land use

42. Government will prepare a Resettlement Action Plan (RAP) or Abbreviated Resettlement Action Plan (ARAP) in compliance with the Bank policy and relevant laws and regulations in case of any sub-projects involves land acquisition or any kind of economic displacement. For this purpose, a guideline, named as “*Guidelines for Land and Asset Acquisition, Entitlements and Compensation*”, is provided in Annex 4.

**Step 4: Review and Approval of Documentation**

43. PCT will review and clear the environmental and social documentations after approving to fund the sub-project. During this review PCT will be in coordination with the WB’s safe guard team.
44. Sub-loan agreement must include requirement to implement the ESMP. In this respect, the ESMP will also be attached to the procurement documents and be part of the contract with the contractor selected to carry out the subproject works. These sections include potential impacts that may occur during the set of works in question and measures that the contractor needs to take to mitigate them.

**Step 5: Public Participation and Information Disclosure**

45. UDSP team will consult project-affected people about the project's environmental and social aspects, and will take their views into account. MUDH will initiate such consultations as early as possible, and for meaningful consultations, will provide relevant material in a timely manner prior to consultation, in a form and language that are understandable and accessible to the groups being consulted.
46. MUDH will ensure that hard copies of the final ESMPs and other environmental and social documents (in Dari Language) are available in public place. MUDH will post the final documents on its website. Prior to subproject approval, IMUDH will also submit English versions of the final ESMPs and other environmental and social documents to the World Bank for posting on Info Shop.
47. Prior to appraisal of the UDSP, the ESMF will be disclosed by the MUDH in Dari and English languages on the MUDH’s website. Public notice in the media should be served for that purpose. The English version of the ESMF will be disclosed at the World Bank’s InfoShop.

**Step 6: Monitoring**

48. PCT will carry out regular supervision of subprojects during preparation and implementation to ensure that the ESMP is being duly carried out. When PCT notices any problems in ESMP implementation, it will inform the relevant authority and agree with them on steps to rectify these problems. PCT will report its findings to the WB in its biannual project progress report or more frequently, as needed to bring issues to the attention of the World Bank. The WB project team will on occasion, and as required, also visit projects as part of project supervision.

### **III Environmental and Social Monitoring and Grievance Mechanism**

#### **III.1. Environmental and Social Monitoring**

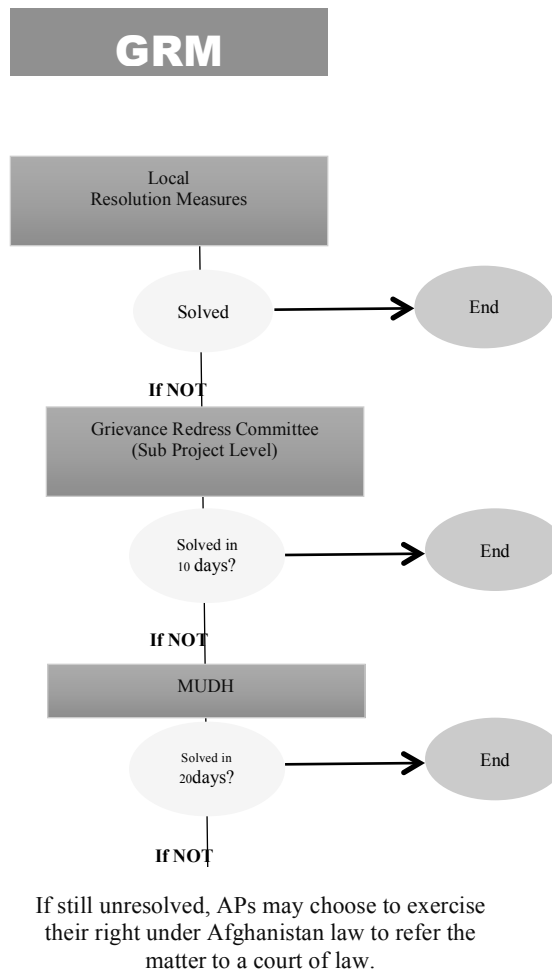
49. The environmental and social issues included within the mitigation measures are monitored and supervised by the appointed specialists through MUDH. Although the environmental and social impacts are expected to be quite low, the potential negative environmental impacts are planned to be prevented or mitigated during the implementation stage.
50. Environmental and social monitoring system starts from the implementation phase of the project through the operation phase in order to prevent negative impacts of the project and observe the effectiveness of mitigation measures. This system helps the WB and the borrower to evaluate the success of mitigation as part of project supervision, and allows to take an action when needed. The monitoring system provides,
- \_ Technical assistance and supervision when needed,
  - \_ Early detection of conditions related to mitigation measures,
  - \_ Follow up on mitigation results,
  - \_ Provide information of the project progress.

#### **III.2. Grievance Redress Mechanism**

51. The Grievance Redress Mechanism (GRM) is a process that enables any stakeholder to make a complaint or a suggestion about the way a project is being planned, constructed or implemented. MUDH will establish a transparent and comprehensive GRM before Project implementation in order to receive and resolve the affected communities concerns, queries, complaints and grievances about the environmental and social aspects of the Project that could be encountered during the TA implementation as well as to address other social issues pertaining to social cohesion and integration once the sub-projects implemented. Some means of communicating information on MUDH's GRM includes,
- Distribution of leaflets to the public places
  - Notice Boards
  - MUDH Website
  - Telecommunication Tools
52. Due to the nature of the sub-project, project affected communities may have concerns regarding the planning and implementation of UDSP. Similarly, the mechanism will allow community to express their concerns and requests. MUDH should recruit GRM unit manager/ and the GRM Technology officers to be responsible for addressing community concerns related to project activities .

#### **GRM process**

53. The Project Director within the MUDH will be responsible for ensuring that each sub project establishes an effective multi-level GRM to handle all grievances, related to sub project activities. The GRM will function at 3 levels: at community level where every effort will be made to resolve the issue; at sub project level where Grievance Redress Committee will be established and as an appeal mechanism at National Level.



54. Where an individual has a grievance with regard to a specific investment activity she or he should, in the first instance, be encouraged to make use of existing local-level structures (e.g. in rural areas CDCs and neighborhood or gozar level to try to resolve quickly any concerns or grievances related to project development and implementation. If intermediation at local level is unsuccessful, the individual or Affected Person (AP) can take his or her complaint to a formal Grievance Redress Committee (GRC) at sub project level which will record the grievance and try and resolve issues relating specifically to the implementation of a sub project. A GRC will include the Affected Person (AP), the sponsoring agency's representative at Provincial Level, a representative from local government, a representative from the AP's community CDC/gozar which may be a representative from a women's CDC, a local NGO representative and the contractor.

55. The AP (or his/her representative) may submit his/her complaint in a number of ways e.g. by written letter, phone, sms messages and email to the GRC or, alternatively, raise his/her voice in a public or individual meeting with project staff. A very simple grievance form in local language will also be available at each project site to be filled in by the complainant. The GRC will meet to try and resolve the matter at community level and make a recommendation usually within 7-10 working days from receipt of complaint. If there is no decision after 10 days the AP can refer the complaint to the Minister of MUDH. The Minister or his designated

person will chair an Appeals Committee, which will then examine and address the complaint within 20 days. It is recognized that some complaints may take longer to resolve due to their complexity. For example, those related to land disputes.

56. All submitted complaints and grievances will be registered at sub project level and added to a database in the MUDH which will be updated regularly by designated UDSP staff. Each complaint and grievance should be ranked, analysed and monitored according to type, accessibility and degree of priority. The status of grievances submitted and grievance redress will be reported to the Project Manager of the UDSP through the monthly report.

57. Project management as well as staff in the UDSP will be trained on the development and effective implementation of GRMs.

Key indicators for monitoring the implementation of a GRM include:

- Number of complaints/grievances registered
- Percentage of grievances resolved within stipulated timeframe
- Percentage of complainants satisfied with response and grievance redress process
- Percentage of project beneficiaries that have access to a GRM.

58. Although there is no obligation, a Public Grievance Form has been prepared for convenience. All the complaints and concerns through the Grievance system to achieve and attempt to solve or mitigate related issues within a reasonable timeframe. The borrower should report the statistics of grievances to the WB. A sample of Grievance Form and Grievance Closeout Form are given in Annex 5.

#### **IV Implementation Arrangements**

59. Training and briefing of UDSP Core Team has already commenced on the Bank's environmental and social safeguards policies and good practices through the PPG launch mission and workshop organized in October 2016. Follow up dedicated training sessions and provision of relevant safeguard documents was planned for November-December 2016 and will be further assessed at appraisal. Even though there is limited potential negative environmental and social safeguards triggered under this TA Project, a dedicated safeguards specialist on the team will be recruited and serve as the focal point for all environmental and social safeguard issues. Such staffperson shall be called the Environmental and Social Safeguard Officer (ESSO) Wherever warranted, an NGO and/or other consultants may be recruited for detailed due diligence. In such cases the ESSO would be required to prepare the TOR and to oversee the performance of the consultant

60. Responsibilities of PCT will be as follows:

- Carry out screening of the subprojects with regard to EA categorization according to WB requirements.
- Provide municipality EA consultants guidance on preparation of environmental and social documents in accordance with WB requirements
- Provide municipality officials/municipality EA consultants with guidance on World Bank EA

procedures, notably consultation and disclosure requirements.

- Provide municipality officials/municipality EA consultants with guidance on WB safeguard requirements (documentation and procedures) for cultural properties.
- Review EA documentation, provide written comments to municipality EA consultants, ultimately provide formal approval of EA documentation and procedures in accordance with WB safeguard requirements
- Ensure that sub-loan documentation includes agreements to implement the ESMP and any other environment or social safeguard requirements;
- Perform supervision of ESMP implementation by the municipality and document performance, recommendations and any further actions required as part of overall project supervision reporting to the WB;
- Be open to comments from affected groups and local environmental authorities regarding environmental aspects of subproject implementation. Meet with these groups during site visits, as necessary;
- Coordinate and liaise with WB supervision missions regarding environmental safeguard aspects of subproject implementation

## **V Budget and Schedule**

The preparation of the project specific ESMP Checklist and ESMP is estimated to require a time period of about 2 - 3 months for each site. This period also includes Bank review and approval, disclosure, consultations and finalization

## Annex 1-Negative List of Subproject Attributes

Subprojects with any of the attributes listed below will be ineligible for support under the proposed emergency reconstruction operations.

**Table: Ineligible sub-projects**

<b>Attributes of Ineligible Subprojects</b>
<b>General Characteristics</b>
Concerning significant conversion or degradation of critical natural habitats.
Damages cultural property, including but not limited to, any activities that affect the following sites: Archaeological and historical sites; and Religious monuments, structures and cemeteries.
Requiring pesticides that fall in WHO classes IA, IB, or II.
<b>Sanitation</b>
New wastewater treatment plants to serve 10,000 or more households.
<b>Solid Waste</b>
New disposal site or significant expansion of an existing disposal site.
<b>Irrigation</b>
New irrigation and drainage schemes.
<b>Dams</b>
Construction of dams more than 5 meters high. Rehabilitation of dams more than 15 meters high.
<b>Power</b>
New power generating capacity of more than 10 MW.
<b>Income Generating Activities</b>
Activities involving the use of fuelwood, including trees and bush. Activities involving the use of hazardous substances.

## Annex 2-Sub-project Checklist

### I. Subproject Related Issues

S No	ISSUES	YES	NO	Comment
<b>A.</b>	<b>Zoning and Land Use Planning</b>			
1.	Will the subproject affect land use zoning and planning or conflict with prevalent land use patterns?			
2.	Will the subproject involve significant land disturbance or site clearance?			
3.	Will the subproject land be subject to potential encroachment by urban or industrial use or located in an area intended for urban or industrial development?			
<b>B.</b>	<b>Utilities and Facilities</b>			
4.	Will the subproject require the setting up of ancillary production facilities?			
5.	Will the subproject require significant levels of accommodation or service amenities to support the workforce during construction (e.g., contractor will need more than 20 workers)?			
<b>C</b>	<b>Water and Soil Contamination</b>			
6.	Will the subproject require large amounts of raw materials or construction materials?			
7.	Will the subproject generate large amounts of residual wastes, construction material waste or cause soil erosion?			
8.	Will the subproject result in potential soil or water contamination (e.g., from oil, grease and fuel from equipment yards)?			
9.	Will the subproject lead to contamination of ground and surface waters by herbicides for vegetation control and chemicals (e.g., calcium chloride) for dust control?			
10.	Will the subproject lead to an increase in suspended sediments in streams affected by road cut erosion, decline in water quality and increased sedimentation downstream?			
11.	Will the subproject involve the use of chemicals or solvents?			
12.	Will the subproject lead to the destruction of vegetation and soil in the right-of-way, borrow pits, waste dumps, and equipment yards?			
13.	Will the subproject lead to the creation of stagnant water bodies in borrow pits, quarries, etc., encouraging for mosquito breeding and other disease vectors?			
<b>D.</b>	<b>Noise and Air Pollution Hazardous Substances</b>			
14.	Will the subproject increase the levels of harmful air emissions?			
15.	Will the subproject increase ambient noise levels?			
16.	Will the subproject involve the storage, handling or transport of hazardous substances?			
<b>E.</b>	<b>Fauna and Flora</b>			
18.	Will the subproject involve the disturbance or modification of existing drainage channels (rivers, canals) or surface water bodies (wetlands, marshes)?			
19.	Will the subproject lead to the destruction or damage of terrestrial or aquatic ecosystems or endangered species directly or by induced development?			
20.	Will the subproject lead to the disruption/destruction of wildlife through interruption of migratory routes, disturbance of wildlife habitats, and noise-related problems?			
<b>F.</b>	<b>Destruction/Disruption of Land and Vegetation</b>			
21.	Will the subproject lead to unplanned use of the infrastructure being developed?			
22.	Will the subproject lead to long-term or semi-permanent destruction of soils in cleared areas not suited for agriculture?			
23.	Will the subproject lead to the interruption of subsoil and overland			

	drainage patterns (in areas of cuts and fills)?			
24.	Will the subproject lead to landslides, slumps, slips and other mass movements in road cuts?			
25.	Will the subproject lead to erosion of lands below the roadbed receiving concentrated outflow carried by covered or open drains?			
26.	Will the subproject lead to long-term or semi-permanent destruction of soils in cleared areas not suited for agriculture?			
27.	Will the subproject lead to health hazards and interference of plant growth adjacent to roads by dust raised and blown by vehicles?			
<b>G.</b>	<b>Cultural Property</b>			
28.	Will the subproject have an impact on archaeological or historical sites, including historic urban areas?			
29.	Will the subproject have an impact on religious monuments, structures and/or cemeteries?			
30.	Have Chance Finds procedures been prepared for use in the subproject?			
<b>H.</b>	<b>Expropriation and Social Disturbance</b>			
31.	Will the subproject involve land expropriation or demolition of existing structures?			
32.	Will the subproject lead to induced settlements by workers and others causing social and economic disruption?			
33.	Will the subproject lead to environmental and social disturbance by construction camps?			

## II. Site Characteristics

S No	ISSUES	YES	NO	Comments
1.	Is the subproject located in an area with designated natural reserves?			
2.	Is the subproject located in an area with unique natural features?			
3.	Is the subproject located in an area with endangered or conservation-worthy ecosystems, fauna or flora?			
4.	Is the subproject located in an area falling within 500 meters of national forests, protected areas, wilderness areas, wetlands, biodiversity, critical habitats, or sites of historical or cultural importance?			
5.	Is the subproject located in an area which would create a barrier for the movement of conservation-worthy wildlife or livestock?			
6.	Is the subproject located close to groundwater sources, surface water bodies, water courses or wetlands?			
7.	Is the subproject located in an area with designated cultural properties such as archaeological, historical and/or religious sites?			
8.	Is the subproject in an area with religious monuments, structures and/or cemeteries?			
9.	Is the subproject in a polluted or contaminated area?			
10.	Is the subproject located in an area of high visual and landscape quality?			
11.	Is the subproject located in an area susceptible to landslides or erosion?			
12.	Is the subproject located in an area of seismic faults?			
13.	Is the subproject located in a densely populated area?			
14.	Is the subproject located on prime agricultural land?			
15.	Is the subproject located in an area of tourist importance?			
16.	Is the subproject located near a waste dump?			
17.	Does the subproject have access to potable water?			
18.	Is the subproject located far (1-2 kms) from accessible roads?			
19.	Is the subproject located in an area with a wastewater network?			
20.	Is the subproject located in the urban plan of the city?			
21.	Is the subproject located outside the land use plan?			



## **Annex 3-Protection of Cultural Property**

### **Protection of Cultural Property**

Physical cultural Property includes monuments, structures, works of art, or sites of "outstanding universal value" from the historical, aesthetic, scientific, ethnological, or anthropological point of view, including unrecorded graveyards and burial sites. Within this broader definition, cultural property is defined as sites and structures having archaeological, paleontological, historical, architectural, or religious significance, and natural sites with cultural values.

The proposed project is unlikely to pose a risk of damaging cultural property, as the sub-projects will largely consist of repair and reconstruction of existing secondary and tertiary rural access infrastructure. Further, the negative list of attributes, which would make a subproject ineligible for support, includes any activity that would significantly damage non-replicable cultural property. Nevertheless, the following procedures for identification, protection from theft, and treatment of chance finds should be followed and included in standard bid documents.

### **Chance Find Procedures**

Chance find procedures are defined in the law on Preservation of Afghanistan's Historical and Cultural Heritage (Official Gazette, No. 828, 1383/2004), specifying the authorities and responsibilities of cultural heritage agencies if sites or materials are discovered in the course of project implementation. This law establishes that all moveable and immovable historical and cultural artifacts are state property, and further:

1. The responsibility for preservation, maintenance and assessment of historical and cultural monuments rests with the Archaeological Committee under the Ministry of Information and Culture, which has representation at provincial level.
2. Whenever chance finds of cultural or historical artifacts (moveable and immovable) are made the Archaeological Committee should be informed. Should the continuation of work endanger the historical and cultural artifacts, the project work should be suspended until a solution is found for the preservation of these artifacts.
3. If a moveable or immovable historical or cultural artifact is found in the countryside of a province, the provincial governor (Wali) or district incharge (Woluswal) should be informed within two weeks, and they should inform the Archaeological Committee. In case the immovable historical or cultural artifact is found in a city, the provincial branch of the Department of Maintenance of Historical Values of the Ministry of Information and Culture should be informed within two weeks (art. 18). If the find is made within the center, the Archaeological Committee must be informed directly within one week (art. 25).
4. Failure to report a chance find within the stipulated time limit will be punished with a fine or imprisonment for a period of one week or up to one month (art. 72).
5. If someone intentionally damages a historical or cultural artifact, the culprit shall pay compensation in accordance with the value of the artifact plus be imprisoned for a period of one month to ten years depending on the gravity of the crime (art. 71).

In case of a chance find of moveable or immovable historical or cultural artifact, the implementing agency is responsible for securing the artifact from theft, pilferage and damage

until the responsibility has been taken over by the relevant authorities as specified above.

These procedures must be referred to as standard provisions in construction contracts, when applicable. During project supervision, the ESSO/Site Engineer shall monitor that the above regulations relating to the treatment of any chance find encountered are observed.

Relevant findings will be recorded in World Bank Implementation Status Reports (ISRs), and Implementation Completion Reports (ICRs) will assess the overall effectiveness of the project's cultural resources mitigation, management, and capacity building activities, as appropriate.

## Annex 4- Codes of Practice for Prevention and Mitigation of Environmental Impacts

### SAMPLE OF GRIEVANCE FORM

<b>Reference No</b>	
<b>Full Name</b>	
Please mark how you wish to be contacted (mail, telephone, e-mail).	Please mark how you wish to be contacted
<b>Province/Town/Settlement</b>	
<b>Date</b>	
<b>Category of the Grievance</b>	
1. On abandonment (public housing)	
2. On assets/properties impacted by the project	
3. On infrastructure	
4. On decrease or complete loss of sources of income	
5. On environmental issues (ex. pollution)	
6. On employment	
7. On traffic, transportation and other risks	
9-Other (Please specify):	
<b>Description of the Grievance</b> What did happen? When did it happen? Where did it happen? What is the result of the problem?	
<b>What would you like to see happen to resolve the problem?</b>	

**Signature:**

**Date:**

**SAMPLE OF GRIEVANCE CLOSEOUT FORM**

Grievance closeout number:	
Define immediate action required:	
Define long term action required (if necessary):	
Compensation Required?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>CONTROL OF THE REMEDIATE ACTION AND THE DECISION</b>	
Stages of the Remediate Action	Deadline and Responsible Institutions
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

**COMPENSATION AND FINAL STAGES**

This part will be filled and signed by the complainant after s/he receives the compensation fees and his/her complaint has been remediated.

Notes:

Name-Surname and Signature

Date.../.../....

Of the Complainant:

Representative of the Responsible Institution/Company

Title-Name-Surname and Signature

## Annex 5- Draft Terms of Reference for Sub-Project Requiring an ESMP/SIA

### Environmental and Social Management Plan

(a) **Responsible Party:** The authors who prepared the ESMP along with the date of preparation.

(b) **Project Description:** Present a brief description of the subproject. Include the nature of the investment, the location, and any characteristics of the area that are of particular interest (e.g. near a protected area, area of cultural or historical interest). Also, include a brief description of the socio-economic conditions in the area. One or more simple maps showing project location and relevant neighboring features should be included unless there is compelling reason not to.

(c) **Mitigation Plan:** This should include a description of the steps to be taken to mitigate the major potential impacts on land, water, air and other media during the planning, design, construction and operation phases and specify cost estimates and institutional responsibilities. Particular attention should be paid to the specification of emission limits (e.g. for wastewater discharge) and design standards (e.g. for solid waste disposal sites) and how these compare to Turkish laws (which at a minimum must be met) and any other relevant guidelines such as those in directives of the European Union or limits suggested by the World Bank Pollution Prevention and Abatement Handbook (1998) or other relevant international norms. Attachment 1 to this Annex provides the format for a mitigation plan.

(d) **Monitoring Plan:** This should include a description of the key parameters to be monitored (including monitoring locations, schedules and responsible entities) to ensure that the construction and operation of the project is in conformance with Turkish law and other relevant norms and standards. If such details are covered by permits or construction or monitoring contracts these can be referenced as attachments. Attachment 2 to this Annex provides the format for a monitoring plan.

(e) **Institutional Arrangements:** There should be a narrative discussion briefly presenting how the monitoring data is going to be used for sound environmental performance - who collects the data, who analyzes it, who prepares reports, who are the reports sent to and how often, what is done by the responsible authorities after they receive the information; and how is non-compliance with the ESMP treated.

(f) **Consultations with Affected Groups and Non-governmental Organizations:** The following should be included:

- Date(s) of consultation(s);
- Location of consultation(s);
- Details on attendees (as appropriate)
- Meeting Program/Schedule: What is to be presented and by whom;
  - Summary Meeting Minutes (Comments, Questions and Response by Presenters)
  - Agreed actions.

### **Introduction and Context**

This part will be completed at a time and will include necessary information related to the context and methodology to carry out the study.

### **Objectives of the Study**

This section will indicate (i) the objectives and the project activities; (ii) the activities that may cause environmental and social negative impacts and needing adequate mitigation measures.

### **Mission/Tasks**

The Consultant should realize the following:

- Describe the biophysical characteristics of the environment where the project activities will be realized; and underline the main constraints that need to be taken into account at the field preparation, during the implementation of the project.
- Assess the potential social impacts related to project activities and recommend adequate mitigation measures, including costs estimates;
- Review political, legal and institutional framework, at national and international level, related to social, identity constraints and suggest recommendations for reinforcement;
- Identify responsibilities and actors for the implementation of proposed mitigation measures;
- Access the capacity available to implement the proposed mitigation measures, and suggest recommendation in terms of training and capacity building, and estimate their costs;
- Develop a Social Management Plan (ESP) for the project. The ESP should underline (i) the potential social impacts resulting from project activities; (ii) The proposed mitigation measures; (iii) the institutional responsibilities for implementation; (iv) the monitoring indicators; (v) the institutional responsibilities for monitoring and implementation of mitigation measures; (vi) the costs of activities; and (vii) the schedule of implementation.

### **Public consultations**

The SIA results and the proposed mitigation measures will be discussed with local communities, NGOs, local administration and other organizations mainly involved by the project activities. Recommendations from this public consultation will be included in the final SIA report.

### **Plan of the SIA Report**

- Cover page
- Table of Contents
- List of Acronyms
- Executive Summary
- Introduction
- Description of project activities
- Description of the project area
- Description of policy, legal and Institutional Framework
- Description of the methodology and techniques used in assessment and analysis of the project impacts
- Description of social impacts for project activities

- Social Management Plan (ESP) for the project including the proposed mitigation measures;
- Institutional responsibilities for monitoring and implementation; Summarized table for ESP.
- Recommendations
- References
- List of Persons/Institutions met

**Qualification of the Consultant**

The Consultant firm to conduct the SIA studies will be based on their past performances and quality of the deliverables.

**Duration of Study**

The Duration of study will be determined according to the type of activity

**Production of final Report**

The Consultant firm will produce the final report one (1) week after receiving comments from MUDH and WB. The final report will include comments from these institutions.

A. MITIGATION PLAN

Phase	Impact	Mitigating Measure	Cost to:		Institutional Responsibility to:		Comments (e.g. secondary or cumulative impacts)
			Install	Operate	Install	Operate	
Pre-construction phase	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>						
Construction phase	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>						
Operation phase	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>						
Decommissioning phase	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>						



B. MONITORING PLAN

Phase	What parameter is to be monitored?	Where is to be monitored?	How is it to be monitored/ type of monitoring equipment?	When is it to be monitored - frequency or continuous?	Why <u>is the parameter to be monitored (optional)?</u>	Cost to:		Responsibility to:	
						Install	Operate	Install	Operate
Baseline									
Construct									
Operate									
Decommission									

## Annex 6- Project Checklists

### PART 1: GENERAL PROJECT AND SITE INFORMATION

<b>INSTITUTIONAL &amp; ADMINISTRATIVE</b>	
Country	<b>Turkey</b>
Project title	
Scope of project and activity	
<b>SITE DESCRIPTION</b>	
Name of site	
Describe site location	Attachment 1: Site Map [ ]Y [ ]N
Who owns the land?	
Description of geographic, physical, biological, geological, hydrographic and socio-economic context	
Locations and distance to nearest sensitive receptors such as hospitals, health care units, schools, houses?	
Locations and distance for material sourcing, especially aggregates, water, stones?	
<b>LEGISLATION</b>	
Identify the infrastructures used by the project such as sewer system, electricity, water network etc.	
Identify national & local legislation & permits that apply to project activity (i.e. 1/1000 or 1/5000 scaled master plan arrangements, construction permit building permit etc.)	
<b>PUBLIC CONSULTATION</b>	
Identify when / where the public consultation process took place	<b>ESMP Checklist document will be made publicly available at the construction site offices and the site manager will be responsible for recording and answering any questions/comments raised by public.</b>
<b>INSTITUTIONAL CAPACITY BUILDING</b>	
Will there be any	[ ] N or [ ]Y if Yes, Attachment 2 includes the capacity building program

capacity building?

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## PART 2: SAFEGUARDS INFORMATION

ENVIRONMENTAL /SOCIAL SCREENING			
	Activity	Status	Triggered Actions
Will the site activity include/involve any of the following??	A. Building rehabilitation	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section A below
	B. Minor new construction	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section A below
	C. Individual wastewater treatment system	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section B below
	D. Historic building(s) and districts	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section C below
	E. Acquisition of land <sup>1</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section D below
	F. Hazardous or toxic materials <sup>2</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section E below
	G. Impacts on forests and/or protected areas	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section F below
	H. Handling / management of medical waste	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section G below
	I. Traffic and Pedestrian Safety	<input type="checkbox"/> Yes <input type="checkbox"/> No	See Section H below

<sup>1</sup> Land acquisitions includes displacement of people, change of livelihood encroachment on private property this is to land that is purchased/transferred and affects people who are living and/or squatters and/or operate a business (kiosks) on land that is being acquired.

<sup>2</sup> Toxic / hazardous material includes but is not limited to asbestos, toxic paints, noxious solvents, removal of lead paint, etc.

## PART 3: MITIGATION MEASURES

ACTIVITY	PARAMETER	MITIGATION MEASURES CHECKLIST
0. General Conditions	Notification and Worker Safety	<ul style="list-style-type: none"> <li>(a) The local construction and environment inspectorates and communities have been notified of upcoming activities</li> <li>(b) The public has been notified of the works through appropriate notification in the media and/or at publicly accessible sites (including the site of the works)</li> <li>(c) All legally required permits have been acquired for construction and/or rehabilitation</li> <li>(d) The Contractor formally agrees that all work will be carried out in a safe and disciplined manner designed to minimize impacts on neighboring residents and environment.</li> <li>(e) Workers' PPE will comply with Turkish Legislation (always hardhats, as needed masks and safety glasses, harnesses and safety boots)</li> <li>(f) Appropriate signposting of the sites will inform workers of key rules and regulations to follow.</li> </ul>
A. General Rehabilitation and /or Construction Activities	Air Quality	<ul style="list-style-type: none"> <li>(a) In case demolition, debris-chutes shall be used above the first floor</li> <li>(b) Demolition debris shall be kept in controlled area and sprayed with water mist to reduce debris dust</li> <li>(c) In case pneumatic drilling during excavation dust shall be suppressed by ongoing water spraying and/or installing dust screen enclosures at site</li> <li>(d) The surrounding environment (sidewalks, roads) shall be kept free of debris to minimize dust</li> <li>(e) There will be no open burning of construction / waste material at the site</li> <li>(f) There will be no excessive idling of construction vehicles at sites</li> </ul>
	Noise	<ul style="list-style-type: none"> <li>(a) Noise during demolishing and construction will be limited to restricted times agreed to in the permit</li> <li>(b) During operations, the engine covers of generators, air compressors and other powered mechanical equipment shall be closed, and equipment placed as far away from residential areas as possible</li> </ul>
	Water Quality	<ul style="list-style-type: none"> <li>(g) The site will establish appropriate erosion and sediment control measures such as e.g. hay bales and / or silt fences to prevent sediment from moving off site and causing excessive turbidity in nearby streams and rivers.</li> </ul>
	Waste management	<ul style="list-style-type: none"> <li>(a) Waste collection and disposal pathways and sites will be identified for all major waste types expected from demolition and construction activities.</li> <li>(b) Mineral construction wastes will be separated from general refuse, organic, liquid and chemical wastes by on-site sorting and stored in appropriate containers.</li> <li>(c) Construction waste will be collected and disposed properly by licensed collectors</li> <li>(d) The records of waste disposal will be maintained as proof for proper management as designed.</li> <li>(e) Whenever feasible the contractor will reuse and recycle appropriate and viable materials (except asbestos)</li> </ul>
B. Individual wastewater treatment system	Water Quality	<ul style="list-style-type: none"> <li>(a) The approach to handling sanitary wastes and wastewater from building sites (installation or reconstruction) must be approved by the local authorities</li> <li>(b) Before being discharged into receiving waters, effluents from individual wastewater systems must be treated in order to meet the minimal quality criteria set out by national guidelines on effluent quality and wastewater treatment</li> <li>(c) Monitoring of new wastewater systems (before/after) will be carried out</li> <li>(d) Construction vehicles and machinery will be washed only in designated areas where runoff will not pollute natural surface water bodies.</li> </ul>

<b>C. Historic building(s)</b>	<b>Cultural Heritage</b>	<p>(a) If the building is a designated historic structure, very close to such a structure, or located in a designated historic district, notification shall be made and approvals/permits be obtained from local authorities and all construction activities planned and carried out in line with local and national legislation.</p> <p>(b) It shall be ensured that provisions are put in place so that artifacts or other possible “chance finds” encountered in excavation or construction are noted and registered, responsible officials contacted, and works activities delayed or modified to account for such finds.</p>
<b>D. Acquisition of land</b>	<b>Land Acquisition Plan/Framework</b>	<p>(a) If expropriation of land was not expected but is required, or if loss of access to income of legal or illegal users of land was not expected but may occur, that the Bank’s Task Team Leader shall be immediately consulted.</p> <p>(b) The approved Land Acquisition Plan/Framework (if required by the project) will be implemented</p>
<b>E. Toxic Materials</b>	<b>Asbestos management</b>	<p>(a) If asbestos is located on the project site, it shall be marked clearly as hazardous material</p> <p>(b) When possible the asbestos will be appropriately contained and sealed to minimize exposure</p> <p>(c) The asbestos prior to removal (if removal is necessary) will be treated with a wetting agent to minimize asbestos dust</p> <p>(d) Asbestos will be handled and disposed by skilled &amp; experienced professionals</p> <p>(e) If asbestos material is being stored temporarily, the wastes should be securely enclosed inside closed containments and marked appropriately. Security measures will be taken against unauthorized removal from the site.</p> <p>(f) The removed asbestos will not be reused</p>
	<b>Toxic / hazardous waste management</b>	<p>(a) Temporarily storage on site of all hazardous or toxic substances will be in safe containers labeled with details of composition, properties and handling information</p> <p>(b) The containers of hazardous substances shall be placed in a leak-proof container to prevent spillage and leaching</p> <p>(c) The wastes shall be transported by specially licensed carriers and disposed in a licensed facility.</p> <p>(d) Paints with toxic ingredients or solvents or lead-based paints will not be used</p>
<b>F. Affected forests, wetlands and/or protected areas</b>	<b>Protection</b>	<p>(a) All recognized natural habitats, wetlands and protected areas in the immediate vicinity of the activity will not be damaged or exploited, all staff will be strictly prohibited from hunting, foraging, logging or other damaging activities.</p> <p>(b) A survey and an inventory shall be made of large trees near the construction activity, large trees shall be marked and cordoned off with fencing, their root system protected, and any damage to the trees avoided</p> <p>(c) Adjacent wetlands and streams shall be protected from construction site run-off with appropriate erosion and sediment control feature to include by not limited to hay bales and silt fences</p> <p>(d) There will be no unlicensed borrow pits, quarries or waste dumps in adjacent areas, especially not in protected areas.</p>
<b>G. Disposal of medical waste</b>	<b>Infrastructure for medical waste management</b>	<p>(a) In compliance with national regulations the contractor will insure that health care facilities include sufficient infrastructure for medical waste handling and disposal; this includes and not limited to:</p> <ul style="list-style-type: none"> <li>• Special facilities for segregated healthcare waste (including soiled instruments “sharps”, and human tissue or fluids) from another waste disposal; and</li> <li>• Appropriate storage facilities for medical waste are in place; and</li> <li>• If the activity includes facility-based treatment, appropriate disposal options are in place and operational</li> </ul>
<b>H Traffic and Pedestrian Safety</b>	<b>Direct or indirect hazards to public traffic and</b>	<p>(b) In compliance with national regulations the contractor will insure that the construction site is properly secured and construction related traffic regulated. This includes but is not limited to</p> <ul style="list-style-type: none"> <li>• Signposting, warning signs, barriers and traffic diversions: site will be clearly visible and the public</li> </ul>

	pedestrians by construction activities	<p>warned of all potential hazards</p> <ul style="list-style-type: none"> <li>• Traffic management system and staff training, especially for site access and near-site heavy traffic. Provision of safe passages and crossings for pedestrians where construction traffic interferes.</li> <li>• Adjustment of working hours to local traffic patterns, e.g. avoiding major transport activities during rush hours or times of livestock movement</li> <li>• Active traffic management by trained and visible staff at the site, if required for safe and convenient passage for the public.</li> </ul>
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#### **PART 4: MONITORING PLAN**

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<b>Phase</b>	<b>What</b> (Is the parameter to be monitored?)	<b>Where</b> (Is the parameter to be monitored?)	<b>How</b> (Is the parameter to be monitored?)	<b>When</b> (Define the frequency / or continuous?)	<b>Why</b> (Is the parameter being monitored?)	<b>Cost</b> (if not included in project budget)	<b>Who</b> (Is responsible for monitoring?)
During activity <b>preparation</b>							
During activity <b>implementation</b>							

## **ANNEX 7: Generic TOR for Cultural and Historical Assessment and Management Plan**

### **1. Introduction**

#### **1.1 Description of the Sub Project**

#### **1.2 Cultural Landscape & Archaeological Remains at Sub Project Location**

### **2. Objective of the CHMA & Plan**

The objectives of the proposed study to

- (i) identify and describe the potential impacts of the sub project on existing heritage structures/ sites and cultural values and
- (ii) develop appropriate strategies and management regimes consistent with the provisions of relevant national <sup>3</sup>legislation and WB policy on physical cultural resources (PCR) to avoid/mitigate potential impacts

### **3.Scope of the Assessment**

The scope of work of the assignment is as follows:

#### **3.1 Description of the location of the sub-project and extent of property and ownership(s)**

- Include a description of the general location and geographical context.
- Identify the relevant communities and authority areas (e.g. district, CDCs).
- Give the area (in hectares and acres, for cross-reference with modern and historic documents) of the designated heritage property (and identify any other areas included in the CHMP on a voluntary basis).
- Explain the ownership(s).
- Include map of designated property, CHMP area and ownership(s) (in separate volume if preferred).

#### **3.2 Map of the sub project area identifying significant features (buildings, roads, drainage systems etc)**

This section identifies and explains the outstanding interest of those key aspects and features for which the property has been designated. It will include:

- A brief description of features/elements within exempt area – photographs or maps can be helpful; and
- An assessment of significance including statement of outstanding interest – explain why the property and each feature is significant, e.g. its association with a national figure.

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<sup>3</sup> Law on the Preservation of Afghanistan's Historical and Cultural Artefacts



For each key feature:

- provide a brief description;
- explain why it is significant in its own right;
- explain its contribution to the outstanding interest of the designated property;
- assess its potential vulnerability and state
- What is required to retain the heritage qualities (significance) for which the property was designated.

### **3.3 Summary description of the statutory designations, assessments and policy context**

Include:

- landscape, historic environment or nature conservation designations;
- published landscape assessments;
- relevant planning policies;
- designated historically associated objects (cross-reference to inventory kept separate from CHMP for security);
- Existing public rights of way and permissive access including access to interiors of outstanding buildings and to historically associated objects and regular events.
- Cross-refer to:
- maps where helpful;

### **3.4 A detailed, but concise, description (written with accompanying photographs) of the cultural and heritage structures contained within and adjacent to the subproject area.**

#### ***Cross-refer to:***

- key features of historic significance (historic buildings, archaeology, designed landscapes, wider historic environment); maps where helpful

### **3.5 Impact of the proposed sub project activities on the cultural and heritage structures and values**

Once the significance of cultural heritage in a project area has been evaluated, the next step is to assess the potential impacts of the project, including the extent and economic costs of any damage.

The assessment should rank potential impacts on heritage according to:

- the significance of the heritage
- the level of irreversibility of the impact; and
- The extent of potential damage.

This should include assessment of both the direct impacts and the indirect impacts. The assessment should cover cultural heritage values of both major and minor significance as they may be subject to different types of impacts within the same project.

### **3.6 Alternatives and mitigation measures considered**

The most important single strategy for heritage protection is site avoidance: redirecting activities so that they do not endanger a site. If the site cannot be avoided, the assessment should consider design and construction alternatives for the project facilities as well as alternative methods and approaches for protection and mitigation. The alternatives should be ranked according to effectiveness, cost, difficulty, length of time required, and monitoring needs. Decisions should be made by weighing these rankings against the cultural significance and economic value of the site.

### **3.7 Recommendations for project design and implementation**

### **3.8 Development of stand-alone site-specific CHMP for cultural heritage accessibility project.**

#### **1. Stakeholder Workshop on Cultural Heritage Plan**

The consulting firm will arrange a consultation workshop with stakeholder agencies, including communities to seek their input on draft CHMP report. Draft report (English and Dari or Pashtu versions) needs to be shared with all stakeholders at least two weeks prior to stakeholder workshop.

The proposed consultation with stakeholder agencies aims to receive input from stakeholder agencies, on their views of important cultural and historical issues. It will also help clarify values and the trade-offs associated with different alternatives for managing cultural heritage.

#### **2. CHMP report structures and Contents**

The following are contents of the proposed Cultural Heritage Management Plan (CHMP)

- Introduction & background
- Purpose of the CHMP
- The policy, legal and institutional framework
- Baseline data
  - Description of the location of the sub-project
  - Map of the sub project area identifying significant features (building, roads, drainage systems etc).
  - A detailed, but concise, description (written with accompanying photographs) of the cultural and heritage structures contained within and adjacent to the subproject area.
- Assessment of significance and current condition
- Impact of the proposed sub project activities on the cultural and heritage structures and values
- Analysis of alternatives and mitigation measures considered
- Recommendations for project design and implementation

- Management of identified places and values
- Environmental and social Management Plan (ESMP)- the consulting firm will have to develop a stand-alone site-specific ESMP for this sub-project).
- Monitoring and review of CHMP plan
- Appendices and maps
- Conclusions and Recommendation

### **3. Deliverables**

The design firm will deliver the following:

- Inception report outlining incl. overview of methodology and work plan which should include a stakeholder engagement plan
- Preliminary CHMP Report, which describes any relevant issues on archaeological remains based on analysis of existing bibliographical and imagery data under (i-ii) above, and implications for detailed plan of field work;
- Conduct stakeholder workshop to discuss draft CHMP;
- Final ESMP Report, comprising a detailed description and interpretation of results obtained from the archeological survey, and indicating any further requirements to ensure archaeological sites, e.g. under future Environmental and Social Assessment

### **4. Timeframe**

The assignment shall be concluded within [five] months upon agreed starting date.

### **5. Team composition and qualification**

The consultant firm will include as a minimum the following expertise:

- Senior archaeologist, who has a graduate degree in archaeology or closely related field, and at least [ten] years of professional experience or equivalent in archaeological research or management;
- Archaeologist, who has at least [five] years of field and analytic experience in archaeology, and present professional ability to conduct research through related studies, articles, or other publications within the area of archaeology.

This may require the services of a landscape architect/GIS or site planner with experience in planning archaeological and historic sites

## URBAN DEVELOPMENT SUPPORT PROJECT

### PART 2: Resettlement Policy Framework

#### 1 Why a Resettlement Policy Framework?

UDSP is a technical assistance and capacity building project that is designed to develop tools and instruments to enhance urban planning and infrastructure development in Afghanistan's growing cities. No investments will be financed under the project and there is no physical footprint to the project. The elements of the project for which a Resettlement Policy Framework (RPF) is required are Components 3 and 4, which downstream (outside the project financing) may involve acquisition of land and/or loss of assets from persons living or carrying out business within areas of the spatial plans financed under Component 3; or land acquisition for infrastructure investments prepared under Component 4. UDSP investment sub-projects that will be prepared under Component 4 will be identified in a demand-driven approach and feasibility and design studies prepared accordingly, so that it is not possible at this stage to prepare a resettlement plan, should one be required, without the full details of affected persons who may be affected due to relocation, or who may suffer some losses or diminution of the value of land and other assets which will entitle them to compensation.

The purpose of the RPF is to set out and clarify resettlement principles, organizational arrangements, and design criteria and compensation framework to be applied to sub-projects that may be financed in the future, but not under the project. In this way a consistent approach to resettlement practice will be ensured, including beyond the project scope.

The RPF is prepared in compliance with OP 4.12, which deals with Involuntary Resettlement and with existing local laws and policies. Where there is inconsistency between the two, then if creative interpretation of the local law cannot reconcile the differences, the practice in Afghanistan, at least in relation to inconsistencies between the law and World Bank (WB) equivalent policies on involuntary resettlement, is to apply the World Bank policies. The first step however is to analyze and compare OP 4.12 and relevant laws before making any judgment on incompatibilities.

Second, before the details of the RPF can be outlined and explained, the basic principles and objectives of the RPF must be set out. But whereas OP 4.12 contains such principles and objectives, no laws or policies in Afghanistan deal with resettlement. There are relevant laws that will be discussed later – principally a Law on Managing Land Affairs of 2008 and a Law on Land Expropriation of 2009 but neither deal with involuntary resettlement. So setting out the principles of an RPF at the outset of developing one is unavoidably to give priority to World Bank policies on resettlement. Notwithstanding the difference between the national laws and Bank Operational Policies, in all cases of divergence between the two, the Bank Operational Policies as laid out in the RPF will apply.

The World Bank summarizes the principles of an RPF as being to

- first, avoid or minimize adverse impacts on persons and families likely to be affected by the project (APs)
- second, ensure that where land acquisition is unavoidable, APs are
  - consulted on the operation of the project
  - compensated for lost assets at replacement costs
  - Provided with assistance to improve/restore livelihoods and standards of living to pre-displacement levels in the event of displacement.

The RPF spells out how these principles will be met. 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.

## **2. LEGAL & POLICY FRAMEWORK FOR RESETTLEMENT**

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

There is no country specific resettlement policy in Afghanistan. A comprehensive land policy was approved in 2007 by the cabinet; however it has yet to be fully operationalized. 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 Expropriation (LLE) enacted in 2009 provides that:

(i) 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 11);

(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 (viz., MEW);
- (iii) Representative of local municipality;
- (iv) Representative of Ministry of Finance; and
- (v) Representative of Ministry of Justice.

## **2.2 Principles of World Bank OP 4.12 on acquisition, resettlement and compensation**

### **2.2.1 Introduction**

This part of the RPF will discuss the World Bank's Operating Policies 4.12 rather than attempting to repeat OP 4.12 verbatim, it will be more helpful to attempt to set out the requirements of OP 4.12 in a form in which they might be provided for in any set of legal provisions or how they might be addressed by an administrative agency following a logical approach to land acquisition.

The fundamental principles of policy which inform the Bank's position on resettlement and land acquisition are :

- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs
- (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable

the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

- (c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

### **Step 1: Preliminary issues: is acquisition necessary**

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

From the point of view of what governmental action might be necessary to meet this first step, it is necessary that alongside an environmental impact assessment, a social impact assessment and a financial analysis of the proposed project that is required to be undertaken,

- a preliminary investigation and assessment of the land that may be acquired must be undertaken;
- Persons likely to be affected by the project (APs) and other interested parties should be given 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 APs participating in the planning of any resettlement that has to take place;
- A cut-off date for any ultimate assistance and compensation for APs must be determined and announced. After that date, no one coming into or obtaining land or a house in the potential project area will be entitled to compensation. In the case of this particular project, this step will have to be taken several times over with respect to each sub-project. 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 handling. The best way forward will be to plan



for sub-projects to take place in a specific area or district and for the cut-off date to apply to the whole district even if specific sub-projects within the district are executed over a period of time.

## **Step 2: Preparing an acquisition and resettlement plan**

The second step in the process is to prepare a land acquisition and resettlement plan which must include measures to ensure that APs are, in the words of OP 4.12:

- (i) informed about their options and rights pertaining to resettlement;
- (ii) Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
- (iii) Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.

If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

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

Where necessary to achieve the objectives of the policy, the resettlement plan should also include measures to ensure that displaced persons are

- (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
- (ii) Provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities.

In terms of what must be contained in either or both law and administrative

arrangements to ensure that these requirements are met, the following would need to be in any land acquisition and resettlement plan:

- the land to be acquired
- the persons who will be suffering any losses of assets, income, sources of livelihoods
- the persons to be required to move
- the place or places to which such persons are to be moved to
- the circumstances of the place to which persons are to be moved to: viz
  - whether the land is occupied and by whom
  - what the land is presently being used for
  - the condition of the land and its facilities
- the arrangements to be made to facilitate resettlement and integration
- the manner and form in which compensation is to be assessed and paid
- the heads of compensation payable
- an estimate of the compensation payable and of the resettlement expenses
- the procedures to be followed in executing the plan
- the arrangements for the involvement of APs in plan execution
- what opportunities there will be to challenge plan execution and compensation

In practice, the preparation of this plan should commence as part of the exercise of developing sub-projects for it is regarded as a part of the sub-project but in terms of process, it is sensible to keep separate the issue of whether any land acquisition and resettlement is necessary from the issue of what resettlement will take place and how it will be conducted.

This second step however is also to involve APs in participation in the preparation of the plan and not just in being given a chance to object to a plan made by officials. OP 4.12 spells this out very clearly as follows:

- (a) Displaced persons and their communities, and any host communities receiving them, are to be provided with timely and relevant

information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are to be established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are to be provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances must be based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettles and any host communities should be preserved and resettles' preferences with respect to relocating in preexisting communities and groups honored.

The preparation of a plan must be preceded by and involve in its development meetings with potential APs and more general public consultation. There will be informal day-to-day meetings among APs, MUDH officials, municipality staff, and other stakeholders. The more formal consultation process in the sub-project areas will be through: (a) 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.

### **Step 3: Paying compensation, resettling the dispossessed, acquiring the land**

The third step is the execution of the plan: 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 must be broken down into several sub-steps. Not all these sub-steps are set out specifically in OP 4.12; they are however a necessary part of land acquisition and resettlement and must be written into the RPF to take place.

Before each sub-step is summarized, a general point about the legal framework must be made. There will need to be in place a set of clear rules on the whole of step 3. This code will need to cover –

- the empowerment of institutions to execute, regulate and monitor the process
- which officials are empowered to take actions and give orders
- what actions and orders must or may these officials take or give
- the processes and institutions of participation and consultation
- to which APs and others will these actions and orders apply
- what must APs do to comply with orders and take required actions
- what must APs do to gain benefits and assert rights under the law
- with respect to compensation
  - the scope and form of compensation
  - the manner of assessment of compensation
  - the manner and timing of claiming and paying compensation
  - the process of decision-making and appeals on compensation
- with respect to resettlement
  - process and procedures on resettlement
  - financial and other assistance with resettlement
- Processes and institutions relating to challenging and contesting decisions.

The ensuing discussion of the sub-steps assumes that such a code will be in place.

### **Sub-step 1**

The first sub-step is the process of acquiring the land; 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 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.

This is especially relevant where some land may be donated 'by PAPs. There must be

very clear documentation that any person who has ‘donated’ land to the project was made fully aware of his or her right to receive compensation for any land which he or she is losing to a project and specifically waived that right. The Social Safeguards report indicated that there had been inadequate documentation of this practice and that there have been some disputes arising out of the practice.

While not going so far as to suggest that voluntary donations should be rejected or banned, it will be essential to make certain that they 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 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.

With respect to references to occupiers of land OP 4.12 states that these embrace

- (a) Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);
- (b) 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 the laws of the country or become recognized through a process identified in the resettlement plan;
- (c) Those who have no recognizable legal right or claim to the land they are occupying.

OP 4.12 states that 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. However, this provision must be read in the light of the requirement in OP 4.12 that at the time of the identification of the project area, a census must be carried out within the area of those who will be affected by the project and will be eligible for assistance. Persons 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.

OP 4.12 thus makes clear that squatters must receive some compensation and assistance with resettlement. The rationale for this is that such persons are usually the poorest members of the community and those most likely to be the hardest hit by having to move. OP 4.12 is not making any policy statement about whether such persons should be given property rights; indeed it is making clear that such persons are not regarded as having any rights in any land in the project area.

## **Sub-step 2**

The second sub-step involves determining claims to compensation, assessing amounts of compensation and paying compensation. 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 near 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 to 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 APs 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 so far as possible
  - Alternative land of the same quantity and quality so far as possible

- Compensation for ‘injurious affection’ of land not taken
- Resettlement expenses which in turn may include
  - costs of moving (disturbance compensation)
  - financial and other assistance in provision of housing
  - income support and livelihood replacement including retraining

The issue of replacement cost is dealt with in OP 4.12 which states:

—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 (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

The details of how to calculate various heads of compensation are dealt with below

### **Sub-step 3**

The third sub-step involves the actual taking of the land – the entering into possession of the land by the acquiring authority – and the departure and resettlement of APs. This will need to be handled sensitively with plenty of notice given to APs. OP 4.12 does not specifically deal with this sub-step but it is a necessary part of the process of acquisition and resettlement.

Assistance with resettlement will include

- Assistance with packing up and moving
- Provision of transport for those being resettled
- 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

The whole process of leaving one's land, moving to another area, relating to a new community, getting started again is likely to be extremely stressful. There will need to be constant contact with APs both individually and via their representatives where there are substantial numbers of APs involved. A consensual rather than a confrontational approach must be taken to decision-making on awards of compensation.

To what extent does law and practice in Afghanistan conform to the model of land acquisition and resettlement provided for by OP. 4.12? It is to this matter this report now turns via a table which compares the two systems suggesting ways of reconciling them.



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

<b>Law on Land Expropriation</b>	<b>WB Operating Procedure 4.12 (OP 4.12)</b>	<b>Gaps between LLE and OP</b>	<b>Possible solutions to gaps</b>	<b>What RPF should provide</b>
<b>PART</b>	<b>ONE:</b>	<b>PRE</b>	<b>ACQUISITION</b>	<b>PROCEDURES</b>
1. No legal opportunities provided to potential APs and others to challenge or discuss proposed acquisition and resettlement or for any public debate and approval on proposals. In	Principle that involuntary resettlement to be avoided where possible implies discussion of necessity for and alternatives to acquisition and	The principle behind OP 4.12 is followed in practice in Afghanistan but the law is silent on the matter.	No reason why practice in Afghanistan could not be applied in the project areas	Potential APs must be able to discuss need for acquisition with officials from the PIU and the Ministry
2. 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 pre-acquisition	Land values assessed as at pre-project or pre-displacement value whichever is higher	No real gaps; just different approaches to the same need to limit claims and compensation.	No gaps	A date set prior to the commencement of acquisition should be fixed for land values. This should be the cut- off date
3. As a matter of practice in Afghanistan efforts are made to determine those entitled to compensation	Census conducted of persons in the area to determine eligibility for assistance, and to limit inflow of people ineligible for assistance;	No real gap here.	Given the practice in Kabul, there would be no problem in adopting OP 4.12 as the practice to be followed in the project.	A legal framework will require a census of eligible APs to be undertaken at the immediate pre-project stage.
4. 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 APs three months before acquired	Prepare resettlement plan on how project to be implemented and resettlement etc. provided for. Emphasis on participation by APs in preparation of process and in project implementation Emphasis on early information to be given	LLE does not provide for what OP 4.12 requires. Some pre- planning of project will exist and informal discussions with APs involve participation. 3 months' notice may be too little where relocation is likely but not rigidly adhered to.	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 would allow for discussions on acquisition	A legal framework within the RPF allowing for a participatory approach to acquisition and resettlement planning and implementation would not contradict the LLE and is the best

<p>5. No special provision in LLE for a resettlement plan or any special arrangements for resettlement</p>	<p>Prepare resettlement plan: contents to include involvement of and ensure APs their rights to compensation relocation assistance development assistance in new location. Distinction drawn between short and full plans, depending on numbers to be resettled.</p>	<p>Major gap of substance</p>	<p>1. The LLE 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. 2. Provide for resettlement plan administratively but 3. Backed up by some regulations</p>	<p>2 and 3 the preferred option.</p>
<p><b>PART</b></p>	<p><b>TWO:</b></p>	<p><b>ACQUIRING</b></p>	<p><b>THE</b></p>	<p><b>LAND</b></p>
<p>6. 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 etc. is present or not. However under article 5 LLE ,a commission is to be formed -by the</p>	<p>No specific procedures required by OP 4.12 but content of resettlement plan implies APs will be involved in all stages of acquisition</p>	<p>The spirit of OP 4.12 conflicts with LLE's non-provision of involvement of the owner apart from that provided for in article 5. it is not clear why that is confined to the Municipality. Given many absentee owners, it may be unavoidable to allow absentee acquisition.</p>	<p>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 damage provisions of</p>	<p>Involvement of owners present on the land to be acquired and greater protection for absentee owners should be provided by a legal framework developed as part of the RPF which could also serve as a prototype for regulations made under article 22(5) of the new law.</p>

obliged to hand over all documentary evidence relating to land to the				
7. Under article 6 LLE after transfer of ownership, owner may enter acquired land and harvest	Not mentioned	LLE ahead of OP 4.12 on this:	A good provision	No change
<b>PART</b>	<b>THREE:</b>	<b>COMPENSATION</b>	<b>PAYMENT</b>	<b>PROCEDURES</b>
8. The bulk of LLE deals with 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	Fundamental principle of OP 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.	Major gap of substance in the law but given practice in rural areas, it is not unbridgeable.	Accommodate OP 4.12 by 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.	Given huge numbers of 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. As with 6 above, the RPF can develop a legal framework for compensating all those on the land and this can be a model for future regulations to be made under LLE. This is the one major
9. The Constitution provides for payment of prior and just compensation. (English translation).The LLE at article 2 provides for the payment of prior and	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. Compensation for lost	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. Biggest gap is compensation	1. OP 4.12 must be accommodated. Other resettlement plans developed in connection with ADB projects more or less ignore the LLE and provide detailed frameworks for assessment	Article 40 of the Constitution suggests that option 3 should be the preferred one. It should be supplemented by guidance on how to apply the code in practice.

<p>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 not provided for.</p>	<p>livelihoods required</p> <p>Disturbance compensation required</p> <p>Land for land compensation encouraged.</p> <p>Resettlement costs and startup expenses required.</p>	<p>for squatters and even their best practice does provide some compensation to those with no legal title.</p> <p>Practice of paying compensation into a bank even when APs not absentee difficult to reconcile with prompt payment of compensation.</p>	<p>and payment of compensation.</p> <p>3. The ADB models should be adapted for use in the project. 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 costs which can be a part of the RPF without doing violence to the existing law.</p>	
<p>10. No provision in the law on resettlement</p>	<p>OP 4.12 requires implementation of resettlement plan the</p>	<p>Major gap of substance as noted in 4 above.</p>	<p>If preferred option at 4 above accepted,</p>	<p>The RPF should provide for the making of a resettlement plan (5</p>

haphazard and tends to turn on legality of occupation of APs who are to be relocated	noted at 4 above		Choice is between formal top-down and participative involvement of APs which OP	be based on a guided participative approach to implementation.
<b>PART</b>	<b>FOUR:</b>	<b>ADMINISTRATIVE</b>	<b>&amp; JUDICIAL</b>	<b>PROCEDURES</b>
11. LLE provides for administrative agencies to manage acquisition processes and deal with compensation. APs 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	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 APs and making use of CBOs and NGOs suggests preference for decision-making process which is not just part of the	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.	A combination of law and practice guidance would be the best way forward. Grievance mechanisms to provide for co-operation with <i>Shuras</i> and community councils in areas where APs are. RPF to provide for these
12. 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 instrument.	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 projects involving acquisition and resettlement. Empower provincial and local institutions to monitor	Meaningful monitoring is required by OP 4.12. New institutions should be kept to a minimum. Consideration should be given to use provincial authorities and NGOs. Regular reports should be made and published

### **3. Eligibility for compensation**

#### **3.1 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 (APs).

APs who will be entitled to compensation or at least rehabilitation under the project are:

- (i) All APs losing land with or without title, formal land-use rights or traditional land use rights;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, plants, or other objects attached to the land; and
- (iv) APs losing business, income, and salaries.

Compensation eligibility will be limited by the cut-off date. All APs who settle in affected areas after this date and who cannot prove that they are displaced users of affected plots will not be eligible for compensation. MEW will inform local communities regarding this cut-off date through their local 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.

#### **3.2 Land Tenure and Compensation Entitlements**

In the case of all the sub-projects, persons who may principally be entitled to compensation will be those who may lose small amounts of land. It is necessary therefore to consider the types of interests in land that such persons may have and whether those interests would entitle them to compensation. It is important to understand the prevailing land relationships and the documents and/or declarations that evince these rights over land and the various assets. The following paragraphs summaries the different types of formal and informal land ownership/possession in Afghanistan. This will be the basis for the land impacts and the more important question of who are entitled for compensation of land affected by the project.

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 utilized 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 means —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

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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 recognized 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 is de facto owners of property who have bought land or a house from legal owners but did not fulfill 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 neighbors, 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

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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.

### **3.3 Entitlements to Compensation & Livelihood Restoration**

The APs 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 APs are equally eligible for cash compensation and rehabilitation assistance, 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, businesses, incomes, etc.) as detailed below:

- ***Agricultural land impacts*** -- These impacts will be compensated at replacement value in cash based on current market rates plus an additional. Indemnity for 3 months as transitional livelihood allowance. Municipalities for which urban plans are prepared and infrastructure project designs will shoulder all fees, taxes, and other charges, as applicable under relevant laws incurred for any future relocation and resource establishment both at the construction phase and post completion. This is not likely to be an issue under UDSP.
  - ***Severe Agricultural Land Impacts*** -- When >10% of an AP's agricultural land is affected, APs (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. (NA)
  - ***Residential/commercial land impacts*** -- These impacts will be compensated at replacement value in cash at current market rates free of deductions for transaction costs.
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- **Houses, buildings, structures damages** -- 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.

- **Income from 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. (NA)

- **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 years' investment they have required. Non-fruit trees will be valued at dry wood volume basis output and its current market rates.

- **Businesses losses**—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 computed as AF 6, 000 a 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 AF 6,000. Business loss is computed at AF 200 per day (AF 6,000/month) as average net income of typical road businesses such as small stores, repair and vulcanizing shops and small food establishments.

- **Income losses for agricultural workers and employees** -- Indemnity for lost wages for the period of business interruption up to a maximum of 3 months. (NA)

- **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 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 up to a maximum of 3-months. (NA)

- **House owners/renters** -- House owners/renters who are forced to relocate their houses will be

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provided with relocation allowance equivalent to AF 5,000 for 3 months and will be assisted in identifying alternative accommodation.

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

- **Vulnerable Households** -- Vulnerable people (APs 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 APs equivalent to AF 5,200 and priority in employment in project-related jobs.

- **Impacts on irrigation canals** -- Project will ensure that irrigation channels are diverted and rehabilitated to previous standards. (NA)

**Temporary impact:** 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.

- **Transitional Livelihood allowance** -- APs forced to relocate will receive a livelihood allowance of AF 5,200 a month for three months. Transitional livelihood allowance is computed based on the prevailing wage rate of AF 200.00 per day times 26 days or AFs 5,200 per month. This is also the basis for cash compensation on lost wages.

Land replacement values will be assessed based on a survey of land sales in project areas over the last 3 years and of government rates (if any) as per local revenue papers. Land values and compensation for other assets, will be negotiated between APs and competent authorities if concrete data on land market rates are unavailable.

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

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

As noted in the table above at paragraphs 9 and 10, the Law on Land Expropriation refers to prompt and adequate compensation but is silent on the details of compensation, has no specific provisions on resettlement and provides for the Council of Ministers to make decisions on compensation. These provisions fall some way short of what is required by OP 4.12 but it was suggested in the table that the absence of detail could be used to the advantage of developing rules and principles of compensation. The Law does not forbid the development of detailed rules on compensation and the fact that regulations may be made under the Law suggests that that is where details may ultimately be developed. In the absence of detailed rules, it does not do violence to the Law for details to be developed in the context of this RPF and applied to the

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project.

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 (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

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 an RAP.

#### **4.2 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. community), the higher is 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 buildup 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 centre, the higher the price of the land.

#### **4.3 Valuation of Structures**

In the study area of the MPW project, almost all structures were made of mud or mud and bricks except for some government-owned structures that used cement as the binder in lieu of mud, straw and lime. 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 storey building) were determined after various consultations with some owners

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who recently build their houses, local contractors and some local civil engineers.

#### **4.4 Valuation of Crops and Trees**

This was quite 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. Their measurements of farm lots are determined on the basis on the amount of seeds they use in sowing. Hence, they know that a certain parcel will require one kilogram of seeds and expected to yield a certain amount. Hence, 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 AF 5.00 per sqm.

The 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. Non-productive trees will 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 one 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 (AF 1,500) 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 was 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.

#### **4.5 Income Restoration Allowances**

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

**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

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specific sharecropping agreements. (NA)

**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 AF 6,000 a month for 6 months. Compensation for temporary business losses will be cash covering the income of the interruption period up to 3 months based on a monthly allowance of AF 6,000.

**Income Restoration Allowance for Business workers and employees** -- Indemnity for lost wages for the period of business interruption up to a maximum of 3 months.

**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. (NA)

**Vulnerable Group Allowance** -- Vulnerable people (APs 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 APs equivalent to AF 5,200 and priority in employment in project-related jobs.

**Transitional Livelihood Allowance** -- APs losing land or losing a house and forced to relocation will receive a livelihood allowance of AF 5,200 a month for 3 months.

**Rental Allowance** – House Renters forced to relocate will receive a rental allowance equivalent to three (3) months' rent at the prevailing market rate (AF 5,000/month) 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.

## **5. Institutional Arrangements**

### **5.1 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

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institutions for the successful implementation of the project. The primary institutions that are involved in the land acquisition and resettlement process are the following;

- Islamic Republic of Afghanistan (IRA)
- Kabul Municipality
- Project Management Unit PMU)
- Safeguards staff
- Environment and Social Consultants (consultant firm for design review and supervision)
- Local district office KM Amlak Department

### 3. Implementing Non-Government Organization (NGO)

The agencies involved in the planning and implementation of resettlement and rehabilitation program under UDSP are the relevant municipalities in coordination with the Ministry of Urban Development and Housing (MUDH) as the EA and with the appointed NGO. MUDH will be acting under UDSP through the Project Core Team (PCT) within which is situated the Safeguards Specialist for the Project. All activities will be coordinated with the relevant local district offices and community shura in which the package will be implemented.

## **5.2 Overall Organization – Ministry of Urban Development and Housing (MUDH)**

The Ministry of Urban Development and Housing (MUDH) will be the executing agency (EA). Mayors and their technical staff will be responsible for the overall policy level decision, planning, implementation and coordination of project 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 in the central level and will include members from the concerned municipality, Ministry of Finance, and the Afghanistan 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. Municipal Official), (iii) a representative of the local district office, (iv) a representative of the Ministry of Finance, and (v) a representative of the Ministry of Justice.

## **5.3 Project Implementation**

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### **5.3.1 Ministry of Urban Development and Housing & Municipalities**

MUDH's Project Core Team (PCT) will be responsible for the implementation of the LARP in conjunction with the relevant municipality in the case of investment project design. The PCT will be responsible to co-ordinate activities jointly with the relevant municipality 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. The provision of the LARP compensation finances will be the responsibility of MUDH and the respective municipality, and the physical delivery of compensation to the APs will be assigned to a committee selected by the respective Municipality which will include members such as the local district office but under the supervision of the PCT and of the Supervision consultants.

The Environmental and Social Safeguards Officer (ESSO) will be primarily responsible for the social safeguard issues. She/he will also be responsible for the daily field level activities, getting all the necessary clearances required to initiate and implement all resettlement works. He will coordinate with the consultant firm in the implementation of the project. As necessary, the safeguards officer will coordinate with ARAZI, NGOs and the community shuras, and local representatives and business community. The safeguards officer will 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.

A consultant firm for design review and supervision will be recruited as an advisor to the safeguards officer for resettlement issues. The consultant firm will have overall responsibility for ensuring/monitoring compliance with safeguards. The international adviser would be responsible for mentoring/building the capacity of safeguards officer to (i) work with local district offices' teams to ensure adherence to safeguard requirements at each stage of sub-project development and (ii) facilitate outreach to other development agencies.

### **5.3.2 Implementing NGO**

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

1. Work under close coordination with the Safeguards Officer, local district offices and Kabul Municipality local staff to implement the LARP.
  2. Assist the Safeguards Officer in dissemination of the LARP and other resettlement related information.
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3. Generate awareness about livelihood restoration activities and assist the APs to make informed choices including participating in government development programs.
4. Identify training needs of APs for income generation activities and ensure that these are properly funded.
5. Provide counseling and awareness generation to resolve LARP related grievances and assist in seeking redress to unresolved grievances from land acquisition and resettlement disputes with the Grievance Committee.
6. Assist the APs in claims for just compensation including the collection of timely and complete payments.
7. Submit periodic implementation reports on LARP.
8. Conduct and/or undertake any other activities that may be required in the successful implementation of the LARP.

The implementing NGO must be a non-profit organization; be legally registered (at least years) 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 for the project area; have work with government focal agencies; and must be willing to undergo training in resettlement work for project implementation.

### **5.3.3 Gender**

It is appropriate to draw special attention to gender issues within the context of project implementation.

The government's commitment to addressing gender equality principles in social and economic development is evident in the Afghan National Development Strategy (ANDS). Using established community structures to involve women meaningfully in developing RAP will be a challenge and will need to be approached with renewed effort and imagination. Working with women can be done only with female staff. The contracting of a local NGO will be required to have women as staff members, familiar with the proposed area, who can reach women in the affected communities.

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Specific efforts should be made to seek the views of groups within the community who are usually not involved in decision-making, in particular women. UDSP, as implemented by MUDH, will pay special attention 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 ESSO within the PCT will have special responsibility to

- Ensure that UDSP uses existing women's groups to enhance outreach to women.
- Identify NGOs working with women in locality and consider whether/how to
- Piggy-back on their work in order to reach women affected by the project

## **6. Public Consultation and Participation**

### **6.1 General Public Consultation**

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

### **6.2 Public Consultation**

In addition to informal day-to-day meetings among APs, MUDH and municipality local staff, and other stakeholders, the formal consultation process in the project area will be ongoing and will be undertaken by supervising consultants and the PMU through Districts meetings, and public consultations with government officials. All these mechanisms and approaches will also be used during the collection of baseline socio-economic data from the APs; and the preparation of LARP and disclosure of LARP to the APs, as explained below.

### **6.3 District Meetings**

A series of district meetings will be held, where the census and socio-economic surveys will be explained and later carried out. The aims and objectives of the UDSP will be explained as will the necessity for, processes and outcomes of any resettlement. The neighborhood elders and stakeholders meetings will be scheduled based on the availability of the participants. The safeguards officer will be responsible for conducting district consultations.

The project will conduct an inventory of losses of affected assets and socio-economic survey. In the socio-economic survey, the project will list the names of the owners/users of assets likely to be acquired or damaged for which compensation will be payable and MUDH and/or the

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relevant municipality will prepare a land acquisition and resettlement plan (LARP) for each sub-project that will ensure that all these affected assets are justly compensated. The approved LARP 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

At all times, all people will be encouraged to express their own options about resettlement. These will be relevant to the resettlement options of the APs themselves. The primary purpose of these meetings will be to provide the affected households and persons and host communities the opportunities to air and ventilate their issues, concerns and opinions about the project while on the side of the supervision consultants, it is also an opportunity to clarify and elucidate initial results of surveys as well as inquire on subject matters that were not sufficiently covered by questionnaires.

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

The supervising consultants will meet with provincial and local officials to ensure that they are fully apprised about the project including the formulation and details on the implementation of the LARP. The PCT will coordinate with land valuation committees. There will be coordination with the district manager which have jurisdiction over the sub-project areas as well as neighborhood (Gozar) leaders. Information about the entitlement provisions and compensation packages will be shared with these government officials and other stakeholders.

#### **6.5 Preparation of Project Specific Informative Material**

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

- After approval of this RPF by the World Bank, it will be translated into local languages and disclosed to the stakeholders especially affected persons by MUDH and relevant municipalities through consultants and at district meetings. LARPs for sub-projects will be made available to the concerned district offices and community leaders as an official public document. This RPF will also be disclosed on the MUDH and relevant municipality websites.
  - A summary of this RPF will be prepared specifically for this purpose and will be translated into local languages and presented to all APs in the form of a pamphlet/ brochure, to enable the APs and local communities to read it by themselves and be aware of the benefits/compensations to be made to available for various types of APs, as given in the entitlement matrix'. MUDH and/or municipality field staff/consultant will distribute the brochures through the district meetings and will explain the mechanisms and procedures of the consultation program and how APs will be engaged in resettlement activities and the overall process.
  - A cheque disbursement schedule explaining the date, time and venue for disbursement of compensation cheques of each AP will be prepared in local languages and
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distributed to all APs. This will also be disclosed in the village 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
  - Any other relevant information for the AP

## **6.6 Disclosure**

Key features of this RPF will be disclosed to the APs through the community meetings, and informal interaction between the APs, PCT/Municipality staff. After its approval by the World Bank, the disclosure plan will be followed:

- Provision of the RPF in local languages and English to PCT, MUDH and/or municipality field offices, APs, other local and district level offices of the concerned agencies.
- Disclosure of the RPF in district meetings
- The RPF will be available in all public institutions for general public information
- Posting of RPF on MUDH and municipality websites
- Publicity will be given to the RPF through all forms of media
- Provision of information packet to all APs

The safeguards officer will again conduct meetings with the district staff, and other government agencies as part of the disclosure process to acquaint them of the substance and mechanics of the RPF. The safeguards officer will be responsible to return to the affected communities once this RPF is approved by MUDH and the World Bank and conduct disclosure activities through community meetings to ensure that affected households will be familiar with this plan before the actual implementation commences.

## **7. Preparatory Actions and Implementation Schedule**

### **7.1 Preparation Actions**

Each municipality, in conjunction with the MUDH PCT will begin the implementation process of each sub-project immediately after its approval by the World Bank. It will initiate some actions as groundwork and certain preparatory talks regarding implementation of the LARP as follows:

- Establishment of a Project Focal Point (PFP)
  - Appointment of resettlement specialists (consultants)
  - Establishment of Affected Persons Committees (APCs)
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- Establishment of official cut-off date for the first sub-project
- A series of public consultative meetings and workshops with APs and local representatives and active involvement APs in preparing a final RP
- Endorsement of the first LARP by PCT and its submission to World Bank for approval
- The process for developing the budget for compensation of land, trees, and crops will have already been coordinated with the Ministry of Finance
- Establishment of criteria, requirements and procedure for disbursement of compensation cheques
- Identification of the implementing consultant that will assist PCT/Municipality in LARP implementation
- Identification of external monitoring agency who will undertake independent monitoring

MUDH and municipalities are also committed to provide adequate advance notice to the APs 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 APs of affected structures/assets (houses, shops, etc. will be paid their due compensations at least three months (90 days) prior to demolition of the 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 APs. However, in case of a dispute, up to 70% of the assessed/allocated amount of compensation will be paid to APs and the rest pledged in the names of the concerned APs, pending the resolution of the dispute. In such an exceptional case, the municipalities 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 civil works for irrigation infrastructure rehabilitation and dam building with resettlement impacts.

## **7.2 Process of LARP Implementation**

The following paragraphs explain in detail how compensation will be delivered to APs 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

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where sub-projects might take place.

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

- I. Obtain financial resources based on the final budget of each LARP. MUDH PCT 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 APs: MUDH PCT through the implementing consultant will verify the list of APs provided in the LARP to ensure that all eligible APs will be properly compensated and non-eligible APs will be excluded. To ensure that identification and qualifications are guaranteed, community elders and community Shuras will be consulted to resolve issues rising from the list.
  - III. Notification of a detailed compensation package: MUDH PCT/municipality through the implementing consultant will prepare and provide each APs with a detailed breakdown of affected assets, and the unit cost of each asset affected and the total compensation that they will receive.
  - IV. iv. Final conciliation/expropriation: APs 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 consultant facilitating this meeting. In the event that PCT/municipality and the APs still cannot agree, the PCT/municipality will file expropriation proceedings in the appropriate court, asking that MEW be permitted to take possession of the affected asset. The MUDH PCT/municipality 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 municipality/MUDH PCT through the implementing consultant 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 APs will be prepared by PMU/Implementing consultant. This document entitles each of the APs to receive the amount
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indicated in the invoice.

- VIII. Delivery of the money to local bank: the money from municipality /MoF will be remitted to a local bank in the nearest town to the sub-project site. However, the municipality/ MUDH PCT may remit the money for compensation to any bank of its choice. The bank account will be opened by MUDH PCT/municipality which will receive from Kabul the compensation on behalf of the APs.
- IX. Payment: the APs will each receive a cheque for the whole amount of compensation from the municipality/PCT. 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.
- X. 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.

APs 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 saving account will be part of the information to be provided by the implementing consultant.

## **8. 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 relevant Municipality,
  - Representative from MUDH PCT;
  - Representative of the Ministry of Finance,
  - Representative of the Ministry of Justice, and
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- Representative of the local district office,

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 inquires 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 MEW/PCT 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 respective municipality;
- Representative from MUDH PCT;
- 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 of the part of the AP.

As the concept of just compensation for affected assets for public works such as dams is new to Afghanistan, the Safeguards Officer and the implementing consultant (NGO) will assist in disseminating this concept to APs, its procedures and prerequisites in filing the proper

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complaints. The process of grievance redress has been made simple to hasten the process of decision-making and facilitate getting on with the works. 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 framework.

## **9. Monitoring & Evaluation**

### **9.1 General**

Project activities will undergo both internal and external monitoring. Internal monitoring will be conducted by the PCT, assisted by the Supervision Consultant.

### **9.2 Internal Monitoring**

Internal monitoring will be carried out routinely by the UDSP environmental and social safeguards officer (ESSO) and results will be communicated to World Bank 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 UDSP Project Director to assess the progress and results of LARP 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 APs;
- Status of land acquisition and payments on land compensation;
- Entitlement matrix
- Compensation for affected structures and other assets;
- Relocation of APs;
- Payments for loss of income;
- Income restoration activities.

### **9.4 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 APs, compensation and entitlements, payments and relocation will be collected by the implementing consultant. This data bank would form the basis of information for RAP implementation, monitoring and reporting purposes and facilitate efficient resettlement management.

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## 10.1 Matrix of Actions under the RPF

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

ACTIONS	TO	IMPLEMENT	THE	KUTEI
Who	What	Whe	Why (Objective)	Comments
MUDH/PCT	Establish liaison arrangements with other Ministries and all UDSP Municipalities which will necessarily be involved in UDSP.	Assuming these arrangements already exist with respect to EIRP, they can be utilized as soon as possible to bring these Municipalities and relevant line ministries up to date on UDSP	To facilitate the smooth implementation of the beginning and operation of the UDSP	The vital first step in the process of developing UDSP
MUDH/PCT and participating municipalities	Establish institutional arrangements for ensuring safeguards compliance.	On approval of RPF by World Bank	Creation of the internal Ministry arrangements to implement RPF	Preparatory work to be done before approval of RPF
MUDH/PCT	Appoint UDSP safeguards officer	Desirable to appoint this officer well before the commencement of UDSP	Creation of internal Ministry arrangement to implement RPF	Early appointment will facilitate training of this officer. Training organized by safeguards officer
MUDH/PCT	Commence the preparation of materials on the RPF for distribution to probable APs	In January/February 2017	To give as much advance publicity to UDSP as possible and to alert probable APs of resettlement	No need to wait for approval of RPF by World Bank. This work should start as soon as possible
MUDH/PCT	Prepare terms of reference for Environmental and social safeguards officer (ESSO)	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

MUDH/PCT	Appoint the implementing NGO which is going to carry out the processes of resettlement	Initial work on appointment terms of reference; basic requirements for an NGO to be qualified to apply; vetting applicants – can start in early 2011. Appointment would not be made until RPF approved	The implementing NGO will have an important role to play in all significant resettlement exercises.	For sub-projects where no or very small-scale resettlement will take place, the ESSO and the regional safeguards officer could be the implementers but anything over that and the implementing NGO would be involved.
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MUDH/PCT with relevant municipalities	Continue with process of locating sites and preparing technical plans etc. for sub- projects under the IRDP	Be ongoing	To ensure no delay in beginning implementation of UDSP	No comment needed. Self-evident action.
Kabul Municipality	Where likely resettlement will be involved in a site located for action under UDSP begin preparation of RAP under the RPF	This action should begin to be incorporated into plans developing the sites for action under UDSP	To ensure no delay in beginning of implementation of UDSP	Processes for preparing RAP set out in the text of RPF
MUDH/PCT	Census of residents and probable APs within sub- project area	As early as possible once sub- project site identified	An essential first step in the process of resettlement	Explanation of the importance of this in the RPF
MUDH/PCT and relevant municipalities	Begin the processes of publicity and consultation with APs.	Alongside taking the census of APs	An essential first step in the process of planning resettlement and developing a resettlement action plan	Consultation must be genuine. As much information as possible must be given to APs. Utilise village meetings
MUDH/PCT	Consult and liaise with local governments and regional offices of associated Ministries on	Alongside consultation with APs	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 APs.
MUDH/PCT	Undertake the process of inviting APs to submit claims for compensation; assessing discussing and settling claims with APs	Part of the process of consultation and preparing an RAP as an RAP must contain precise details of the compensation and	Compensation and the process of resettlement is at the heart of an RAP and its implementation.	ESSU and NGO will be involved here
MUDH/PCT	The GRC will be involved in attempting to settle any grievances which APs 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	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-
MUDH/PCT	Finalize RAP	Preparation of RAP is a continuous process commencing with consultation in connection with census	A necessary step to commencing action on the ground	RAP must be approved by World Bank for any subprojects that will use WB financing in the future.



MUDH/PCT	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 provided and the	This is a vital component of an RAP. The details of what must be in the information pack are contained in the RPF
MUDH/PCT	Implement the compensation and resettlement processes of the RAP	Everything should be ready to be rolled out once the RAP is approved	Once the APs have been paid their compensation and been resettled, infrastructural activities on the ground may commence	It is absolutely vital to bear in mind that all APs 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
Implementing NGO	<ol style="list-style-type: none"> <li>1. Work closely with ESSU in generating awareness of all aspects of resettlement and compensation</li> <li>2. Work closely with APs 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</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 APs 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.	As with the implementing NGO, a GRC is a	Another key element on the RPF. Important that the members of

		Meet regularly and settle disputes within 10 days.	guarantee to APs that the process is both substantively (a second and independent opinion on compensation) and procedurally ( an AP can have a hearing and put	The GRC see themselves as independent and operate accordingly. They are not there to save government money.
MUDH	Internal monitoring conducted by PMU	Throughout the process of the implementation of an RAP with regular reports to the World Bank	The PMU is responsible for managing the UDSP. 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 officers of MEW in the field	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 UDSP



## 10.2 Matrix of Compensation Entitlements and Rates

ELIGIBILITY	CRITERIA	FOR	IDENTIFYING	
Who is eligible	What are they eligible for	How to determine eligibility and compensation levels	What's the objective	
1. Landowners	Loss of land and rights to land	<ol style="list-style-type: none"> <li>1. Official documentation issued by or on behalf of government</li> <li>2. Customary documents; i.e. documents recognized 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 uninterrupted 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.	
2. Squatters	Permanent improvements they have made to the land they have occupied	Observance of permanent improvements; questioning the squatter and neighbors on when improvement made; consulting maps and	The objective here is to compensate the squatter for expenditure on the land but not for the value of the land itself	
3. Agricultural tenants	Loss of income	cash compensation corresponding to one year's	A fair approximation of loss of income	

4. Sharecroppers	Loss of income	Their share of the harvest at additional compensation market rates plus one	Ditto to above	
5. House owners/renters	Costs of relocation to other accommodation	relocation allowance equivalent to AF5,000 for 3 months and assistance in identifying alternative accommodation	This is a very standard element of compensation in all systems	
6. Loss of livelihoods by agriculturalists	Replacement costs for all losses	1. losses will be compensated at replacement value in cash based on current market rates plus an additional . Indemnity for 3 months as transitional livelihood allowance. 2. When >10% of an AP's agricultural land is affected, APs will get an additional allowance for severe impacts equal to	The aim is to provide a reasonable measure of compensation for loss of livelihoods but on the assumption that APs will make a go of things on their new land. It provides temporary relief but not an amount which invites future indolence	
7. Residential/commercial land impacts	Replacement costs for all losses	Replacement value in cash at current market rates free of deductions for	See above. The same reasoning applies	
8. 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.	
9. Those who lose income from crop losses	Replacement of lost income	These impacts will be compensated through	See above	

		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.		
10. Those who have lost income from loss of trees	Replacement of lost income	Income replacement based on types of trees lost.	See above	
11. 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 computed as AF 6, 000 a month	See above	
12. Those who have suffered loss of	Replacement of lost wages	Up to three months wages	See above	
Vulnerable households	Additional compensation over and above strict loss of income	Vulnerable people (APs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time	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 somewhere else.	

13. Transitional living allowance for APs forced to relocate	Disturbance compensation	APs forced to relocate will Receive 0a livelihood allowance of AF 5,200 a month for three months. Transitional livelihood allowance is computed based on the prevailing wage rate of AF 200.00 per day times 26 days or AF 5,200 per month.	This is a standard head of compensation in most systems of compensation.	
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### 10.3 Principle of Valuation

What is being valued	How is valuation	Input of APs	Indicative figures	Comments
Matters common to all specific types of valuation	Rapid appraisal; consultation with APs; information derived from census and from local authorities	Yes but not necessarily decisive	Where figures are given they are indicative only being based on a 2009 valuation exercise. They will almost certainly be changed when budgets for RAPs are developed under the	none
Land	Valuation of the land is pegged on an average, the actual value depending on the nearness to a buildup 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 APs 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 APs 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 were estimated at AF5.00 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
Trees	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. Non-productive trees are valued based on the multiple year's investment they have required. Compensation for non-productive fruit bearing tree is the cost of the	During interviews with APs 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	The compensation rate for a fruit bearing tree is the average yield per tree (AF 1, 500) times the age of the tree.	The same point as above applies here too

Restoration of income 1. Crop losses	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.	No apparent input from APs. But there may be disputes between owners and sharecroppers which officers from the implementing NGO and possibly from ESSU might become involved in	No figures can be given	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.
2. Business losses	Compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (6 months). 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 APs will wish to be consulted and have their views	Permanent business will receive AF 6,000 a month for 6 months. Temporary business losses will be paid for up to 3 months at AF 6,000 a month	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, APs 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 APs' holdings – see above column 5 on crop losses – this may be difficult to compute and careful negotiations with the APs 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 (Aps 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 APs	A one-time allowance for vulnerable APs equivalent to at least AF 5,200 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'.
Transitional livelihood allowance	APs losing land or losing a house and forced to relocate will receive a livelihood allowance.	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.	At least AF 5,200 a month for 3 months	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
Rental allowance	House renters forced to relocate will receive a rental allowance and will be assisted in identifying alternative accommodation	Negotiations with APs central to the operation of this head of compensation	3 months' rent at the prevailing market rate which in the project area from which these figures are taken was AF 5,000/mo	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.

**11.1 A draft Resettlement Code made under the authority of article 22(5) of the Law on Land Expropriation and based on the principles and processes set out in this RPF.**

**1. Duty to resettle**

The duty to resettle requires that an acquiring authority make all necessary arrangements whether through a plan or otherwise to ensure that project affected persons who are to be relocated as a consequence of the acquisition of their land are –

- Informed about their options and rights to be resettled;
- Consulted on and offered choices and provided with realistic and feasible resettlement alternatives;
- Assisted to resettle; and
- Provided with compensation at full replacement cost in accordance with the Code for losses attributable directly to the acquisition of their land.

**2. Project affected person not obliged to accept resettlement under this Code**

1. A project affected person who has a right to be resettled under this code is under no obligation to accept resettlement under and in accordance with this code but may instead apply to receive compensation in lieu of resettlement under this code.

2. A project affected person may decide not to avail him- or herself of resettlement under this code at the commencement of, or at any time during the preparation of, or on the completion of a resettlement plan.

3. The acquiring authority shall, after satisfying itself that the project affected person is making an informed decision on the matter and has considered the needs and interests of any dependents, pay such compensation as that project affected person is entitled to in lieu of resettlement under this code.

4. A project affected person who is paid compensation under this article shall on receipt of the compensation sign a disclaimer of any entitlement to resettlement under this code.

**3. Circumstances when resettlement plan required**

1. Where the numbers of project affected persons required evacuating certified land and move to some other land exceeds two hundred persons, the acquiring authority shall be under a duty to prepare in accordance with the provisions of this code a resettlement plan.



2. In determining the number of project affected persons required to leave certified land, the acquiring authority shall calculate the number taking into account the entirety of the project notwithstanding that the project may be planned to be implemented in several sub-projects over a number of years.

#### **4 . Resettlement committee**

1. An acquiring authority shall, in any case specified in regulation 3 and after consulting with and taking account of the advice of the provincial and local authorities having jurisdiction within the area of certified land, arrange for and assist in the establishment of a resettlement committee consisting of not less than seven nor more than twenty project affected persons for each sub-project.

2. The functions of a resettlement committee shall be to –

- be involved in the preparation and implementation of a plan;
- represent to the acquiring authority and all persons and organizations working with the acquiring authority the concerns and interests of all project affected person
- Undertake such other activities as are calculated to further the interests of project affected persons.

3.

MUDH shall make rules providing for the mode of establishing a committee and the rules shall be designed to ensure that the members of a committee shall be

#### **5. Preparation of plan**

1. The acquiring authority shall cause to be prepared a plan in any case referred to in regulation 3 where it is necessary for a plan to be prepared.

2. A plan shall be prepared by any person or organization with the necessary social and technical skills and knowledge from the public or private sector, including a non- governmental organization or an association of persons from the area concerned and such a person or organization shall be referred to in this code as the planner’.

3. The planner shall;
- prepare a plan within three months of being appointed to prepare a
  - comply with the provisions of sub-articles 4 to 10 in preparing a
  - comply with the provisions of paragraphs 4 and 7 to 10 in preparing
- and shall be responsible for arranging public meetings, village meetings, water associations meetings and meetings of the resettlement committee referred to in sub- regulations 4 to 10 with such timings so as to comply with the time-scales for the preparation of the plan or guide.
4. The planner shall conduct a survey of the certified land, the project affected people and any land which may be used for purposes of resettlement to ascertain the conditions, circumstances and wishes of the project affected persons and the persons already in occupation of the land which may be used for resettlement in relation to any resettlement.
5. The planner may hold such public meetings with project affected persons and persons in areas which may be used for resettlement as will in its opinion contribute to he understanding of the circumstances and needs of such persons.
6. The survey, together with a report of any public meetings referred to in sub-article 4, shall be placed before and considered by the resettlement committee.
7. The planner shall prepare a draft of a plan or guide on the basis of the survey, other relevant information, the views of the acquiring authority and any comments made at any meetings referred to in paragraph 3 and by the resettlement committee.
8. A draft plan shall be placed before one or more public meetings on or near to the certified land and any land planned to be used for resettlement to enable the project affected persons and other persons to comment on and suggest additions and amendments to that draft plan or guide.
9. The draft plan or guide together with a report of the public meetings referred to in paragraph 8 shall be placed before and considered by the resettlement committee.

10. The planner shall have regard to any comments and suggestions for changes to the plan or guide made at any public meetings and by the resettlement committee and shall amend the plan accordingly.

11. The planner shall submit the plan or guide to the acquiring authority which shall be responsible for its implementation.

12. The acquiring authority shall hold regular meetings with the resettlement committee in connection with the implementation of the plan.

## **6. Content of plan and guide**

1. A resettlement plan prepared to give effect to the duty referred to in regulation 4 shall include measures to ensure that project affected persons are provided with –

- financial and practical assistance during relocation;
- housing, or housing sites, or, as required, agricultural sites or sites for commercial premises which are at least equivalent to the advantages of the place which the project affected persons are leaving;
- where necessary, income and other support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
- where; necessary, development assistance in addition to compensation measure including but not limited to land preparation, credit facilities, training, and job opportunities.

2. A plan which requires that project affected persons shall be resettled in places which are already occupied shall include measures to assist the existing occupiers of the land to adjust to and not be disadvantaged by the arrival of project affected persons and such measures may include or be similar to the measures specified in paragraph 1.

3. A plan shall include a detailed program for the phased relocation and resettlement of project affected persons.

## **7. Assessment of cost of plan or guide**

1. The planner shall, as part of the plan, prepare an estimate, to be known as a compensation assessment, of the cost of implementing that plan.

A compensation assessment shall include:

- the rights and interests in land which all project affected persons have or claim to have, including rights and interests to use land in common;
- the rights and interests in plants and trees which all project affected persons have or claim to have;
- the livestock and other moveable property which project affected persons will be taking with them when they are resettled;
- the income and the sources of income which project affected persons have;
- the preferences which project affected persons have for the nature of the compensation which they may receive;
- an estimate of the value of each claim and of the amount of compensation and the nature of the compensation which will be required to meet the claims set out in the assessment;
- an estimate of the costs of providing such other services and facilities to mitigate the costs of, and provide assistance for, relocation and resettlement;
- Such other matters as in the opinion of the planner should be the subject of a compensation assessment or as may be directed to be included by the acquiring authority.

3. A compensation assessment shall not affect any claim to compensation made by a project affected person or the amount of compensation that may be awarded to such a person.

## **8. Implementation of plan**

The implementation of a plan shall involve all or any of the following actions depending on the nature of the resettlement and the numbers of persons to be

resettled:

- Where the land to which project affected persons (in this regulation referred to as -settlers) are to be relocated is already occupied by existing occupiers, regular meetings shall be arranged between the resettlement committee and settlers and existing occupiers to settle any disputes and ensure a harmonious atmosphere prevails during and after resettlement;
- The acquiring authority shall cause to be prepared sites and houses for settlers and basic services of water and electricity in such time that such sites and housing are usable before settlers move in;
- Notice of not less than ninety days shall be given to settlers before they are required to move to their new sites and houses;
- Assistance is provided to settlers to dismantle any structures on their existing land which they wish to re-erect on their new sites;
- Transport is provided for the movement of settlers, their possessions, building materials if any, and livestock, if any, in sufficient quantity so that settlers are not required to wait on the day scheduled for their relocation for a period in excess of six hours before being transported to their new sites;
- Advice and assistance from local safeguards officers from the area from which settlers are being relocated and from other persons with qualifications relevant to resettlement are available both at the site from which settlers are being relocated and at the new site at the time of relocation and from time to time thereafter at the new site to deal with any problems and disputes arising out of resettlement;
- Settlers are paid any lump sum compensation due to them before the time of relocation;
- Arrangements are in place and have been explained to settlers for the payment of any sums of money or other things as compensation on a regular basis for a specific period of time;
- Such other matters are provided for as may be agreed upon between the acquiring

- Authority and the resettlement committee after good faith negotiations on such matters.

## **9. Grievance Redress Committee**

1. There shall be established a Grievance Redress Committee (the Committee) for the project.

2. The Committee shall be composed of

- the project affected person or his/her duly appointed representative,
- A representative of the local district office
- Safeguard Officer,
- A Representative from the legal department of the province or district
- A Representative of the implementing NGO

3. The Committee shall register any complaint made by a project affected person on any matter connected with a resettlement plan and its implementation as it affects him or her.

4. The Committee shall consider any registered complaint and shall have power to call for any documentation relating to the resettlement plan.

5. The Committee may permit the complainant and a representative of the acquiring authority or any organization carrying out functions connected with the implementation of the resettlement plan on behalf of the acquiring authority to appear before it and participate in discussions and negotiations about the complaint.

6. The Committee shall issue its recommendation on the complaint within ten days of the complaint being made to it.

7. If a complainant is not satisfied with the recommendation of the Committee he or she may take the complaint to a local court.

## **11. Commentary on the draft Resettlement Code**

This code deals with resettlement: the relocation of PAPs from their land which is being acquired to other land. This code builds on practice in Afghanistan as evidenced

by existing resettlement plans and on international best practice as set out in World Bank OP 4.12

**Regulation 1: Duty to Resettle**

Establishes the duty to resettle PAPs that have to be moved and sets out the content of the duty; basically, to involve PAPs in the preparation and execution of any plan of resettlement, to pay compensation and to assist PAPs in their move and in their resettlement.

**Regulation 2: Project affected person not obliged to accept resettlement under this code**

This regulation provides that a PAP is not obliged to accept resettlement but can take his or her compensation and go it alone. 'If he/she does that then when receiving compensation, they must sign a disclaimer to the effect that they accept the State is under no obligation to resettle them once they have received their compensation.

**Regulation 3: Circumstances when resettlement plan required**

This regulation provides that a resettlement plan will be required where more than 200

PAPs are to be resettled. There is no particular magic in the number 200 but its used in OP 4.12 and given that the figure is used in an influential statement of international best practice, it is sensible to follow it.

**Regulation 4: Resettlement committee**

Establishes a resettlement committee of PAPs and provides for its functions. If participation is the key to successful and co-operative resettlement, it is clearly sensible to provide for a committee of PAPs with whom the acquiring authority, its officials and resettlement planners can work. The committee must itself keep in touch with the PAPs and be involved in the planning and implementation of a resettlement plan.

**Regulation 5: Preparation of plan**

Sets out the process for the making the plans: The acquiring authority is responsible for the plan but may appoint a firm or some other body (the planner), e.g. an NGO to prepare a plan. The regulation provides a fairly simple straightforward process of

plan making: survey; public meetings; report on same to committee; draft plan; public meetings on draft; committee to consider draft plan in light of views of public meetings; revised plan to acquiring authority which is responsible for implementing it.

**Regulation 6: Content of plan**

Sets out the content of the plan: Financial and other assistance during relocation; provision of sites in the relocation area for housing and other activities; income and other support during a transitional phase and compensation for losses. Where the relocation area is already occupied, the plan must contain measures to assist existing occupiers and to assist in the integration of newcomers into the existing community. A program of implementation must also be included.

**Regulation 7: Assessment of cost of plan**

Provide for the financial aspects of a plan: The plan must contain an assessment of the costs and this regulation sets out what any such assessment must contain. It is basically the value of what PAPs will be losing; the costs of moving; the costs of resettlement; the costs of income support in the new location; the costs of compensation and general administrative costs. This paragraph puts the onus on the planner who has to go round to the project affected persons (PAP), discuss with them what their likely losses are and what type and form of compensation they would want. The exercise is a co-operative exercise in which the PAP is to play an important part putting forward their ideas and requirements.

**Regulation 8: Implementation of plan**

Sets out the steps required for the implementation of a plan or guide: These involve regular meetings with PAPs and existing occupiers of the relocation land; help to PAPs to dismantle moveable buildings and pack up; transport of livestock (if any); of the PAPs with due and fair notice; help with resettlement; payment of compensation; and arrangements in place for income support to be provided once PAPs have moved.

**Regulation 9: Grievance Redress Committee**

This regulation establishes a Grievance Redress Committee which provides a semi-formal avenue for a project affected person who considers that he or she has not been treated fairly in the resettlement process to make a complaint about the treatment received. The GRC will adopt a conciliatory and negotiating approach to the



grievance and try to ensure that the matter is not taken further. It has the powers to call for any documentation and will usually invite both sides to its meeting to try and reach an acceptable resolution to the complaint. A project affected person still dissatisfied by the recommendation of the GRC may take the matter further to a local court.

**Regulation 10: Monitoring  
resettlement**

Create a duty on the acquiring authority to monitor resettlement: Monitoring will be both internal and external. This regulation deals with external monitoring and gives an external monitor all necessary powers to monitor and check on the resettlement plan and its implementation by being able to interview PAPs, by accessing documents; visiting relocation sites. The external monitor must produce regular reports for the acquiring authority which must also be made available to the public.

## **Guidelines for Land and Asset Acquisition, Entitlements and Compensation**

### **(i) Framework for Abbreviated Resettlement Action Plan**

In compliance of the Bank's Operational Policy 4.12, in case of less than 200 Project Affected People (PAPs), the following abbreviated Resettlement Framework shall be followed in order to restore housing and issue economic compensation for loss of land and livelihood through a consultative and mutually agreeable process.

#### **Principles**

- All land should be surveyed and mapped and agreement reached with government on explicit eligibility cut-off date.
- Where land is disputed or land ownership is not clear, the land will be surveyed and a map hereof issued to the affected families. In case of land disputes, attempts should be made to settle disputes prior to project start.
- Customary and collective rights, e.g. to grazing land and commons, should be verified and documented through community-level consultations and local authorities. Customary and collective rights are also subject to compensation.
- Compensation for land, housing and assets are based on principles of replacement cost and mutually agreeable solutions based on consultative approach with PAPs.
- where affected land provide income, the equivalent to the value of the crop lost will be given in compensation, based on the value of the harvests lost until the replacement crop (e.g. fruit trees) come into full production.
- if land forms basis for other income, the value of the income hereof will be subject to third party assessment
- If PAPs are squatters/informal settlers on the land, they will receive economic/material compensation to re-establish themselves elsewhere (e.g. on government land) without suffering damage to their livelihood or living standard.

#### **Process**

1. Survey of land and assets & census of Project Affected Peoples, including squatters and informal settlers:

- The surveyed land and assets should be identified, marked and photographed, and by the defined eligibility cut-off date the areas should be secured against encroachers.
- the Project Affected People should be identified and registered with full data and photographs
- a compensation package should be developed (categories of impacts and appropriate entitlements to formal and informal settlers landholders and squatters), and
- Initial consultations should be conducted to identify any salient issues or concerns impacting on affected people. Gender separate consultations should be conducted in order to properly ascertain the views of the women.

2. Calculation of individual entitlements. There should be continued consultations with the affected people regarding the project, land acquisition and compensation package in order to reach mutually agreeable solution to land/asset acquisition and/or shifting of house. In case any PAP refuses to shift, an abbreviated Resettlement Plan, compliant to OP 4.12, should be developed.

#### **Outline of an Abbreviated Resettlement Plan**

An abbreviated plan covers the following minimum elements:

- a. A census survey of displaced persons and valuation of assets;
- b. Description of compensation and other resettlement assistance to provided;
- c. Consultations with displaced people about acceptable alternatives;
- d. Institutional responsibility for implementation and procedures for grievance redress;
- e. Arrangements for monitoring and implementation; and
- f. A timetable and budget.

3. The compensation package and abbreviated Resettlement Plan should be submitted to the Bank for approval, using the formats included in the Safeguards Framework **(Annex 2 (ii-iv))**

4. The acquisition process is only completed with the actual payment of compensation to Project Affected People and settlement of any grievances they may hold.