

Final version

Resettlement and Compensation
in connection with South Asia Regional Electricity Trade Project (CASA-1000)

Resettlement Policy Framework

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ABBREVIATIONS AND ACRONYMS

AC Alternative Current

ADB Asian Development Bank

AFN Afghani (currency)

AIB Afghanistan International Bank

APA Assistant Political Agent

AP Affected Persons

ARDS Afghanistan Reconstruction and Development Services

AREU Afghanistan Research & Evaluation Unit

BAT Best Available Techniques

BP Bank Procedures of the World Bank

CASA Central Asia-South Asia

CASAREM Central Asia-South Asia Regional Electricity Market

CBD Convention on Biological Diversity

CITES Convention on International Trade of Endangered Species

COI Corridor of Impact

CRM Conflict/ Complaints Resolution Mechanism

CSE Construction Supervision Engineer

dB Decibel

DC Direct Current

DEM Digital Elevation Model

DFI Direct Foreign Investment

DMC Developing Member Countries

EA Executing Agency

EC European Commission

EBRD European Bank for Reconstruction and Development

EIA Environmental Impact Assessment

EMA External Monitoring Agency

EMMP Environmental Management and Monitoring Plan

EMMM Environmental Mitigation Management Matrix

EMP Environmental Management Plan

EMF Electro-magnetic Field

EMI Electro-magnetic Interference

EMO Environmental Management Organization

EMS Environmental Management System

EPA Environmental Protection Agency

E&SE Environmental and Social Expert

E&W Energy and Water

E&WD Energy and Water Department

ESIA Environmental and Social Impact Assessment

ESMP Environmental and Social Management Plan

FI Financial Intermediary

GoA Government of Afghanistan

GB Gigabyte

GDP Gross Domestic Product

GIS Geographical Information System

GoA Government of Afghanistan

GoT Government of Tajikistan

GW Giga Watt

GPS Global Positioning System

GRC Grievance Redress Committee

ha Hectares

HDI Human Development Index

HH Household

HPP Hydro Power Plant

HVAC High Voltage Alternate Current

HVDC High Voltage Direct Current

IAP International Advisory Panel

IC International Consultant

IDP Internal Displacement Policy

IEE Initial Environmental Examination

IEIA Initial Environmental Impact Assessment

IFC International Finance Corporation

IFIs International Financial Institutions

IGC Inter-governmental Council

ILO International Labour Organisation

IMC Inter Ministerial Committee

IOL Inventory of Losses

IPPs Independent Power Producers

IRA Islamic Republic of Afghanistan

IRP Involuntary Resettlement Policy

IsDB Islamic Development Bank

ISIA Initial Social Impact Assessment

Kg Kilograms

Km Kilometers

kV Kilo volts

LARP Land Acquisition Resettlement Plan

LARF Land Acquisition and Resettlement framework

LLE Law on Land Expropriation

LML Land Management Law

m Meters

MASL Mean above Sea Level

MCWG Multi Country Working Group

MEW Ministry of Energy and Water

MOU Memorandum of Understanding

MMM Mitigation Management Matrix

MW Mega Watt

NEB National Energy Board

NEPA National Environmental Protection Agency

NEQS National Environmental Quality Standards

NGO Non-Governmental Organization

NRP National Resettlement Policy

NTDC National Transmission & Dispatch Company

OD Operational Directive

OM Operational Manual

OP Operational Procedures of the World Bank

OMS Operational Manual Statements

OD Operational Directives of the World Bank

PAC Project Affected Committee

PAPs Project Affected Persons or People

PC/C Proponent Contractor/ Consultant

PEO Project Environmental Officer

PIP Participant Involvement Plan

PIU Project Implementation Unit

PMU Project Management Unit

PPE Personal Protective Equipment

PPP Public-Private Partnership

PS Performance Standard

RAP Resettlement Action Plan

RoW Right of Way

RP Resettlement Plan

RPF Resettlement Policy Framework

RTE Rare, Threatened or Endangered

SES Safety Environment Supervisor

SEO Site Environmental Officer

SIA Social Impact Assessment

SME Small and Medium Enterprises

SNC SNC Lavalin

TOR Terms of Reference

T/L Transmission Line

TSS Total Suspended Solids

TSP Total Suspended Particles

UN United Nations

UNEP United Nations Environment Programme

UNESCO United Nations Education Scientific and Cultural Organization

UXO Unexploded Ordinance

WB World Bank

WHO World Health Organization

Definitions of words and phrases used in the RPF

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

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

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

Cut-off-date means the date after which people will not be considered eligible for compensation, if they are not included in the list of APs as defined by the census. Normally, the cut-off date for

the titleholders is the date of the detailed measurement survey. **Displacement** means either physical relocation or economic displacement directly caused by project-related land acquisition.

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

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

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

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

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

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

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

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

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

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

Replacement Cost means the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot

easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to mining, fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

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

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

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

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

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

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

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

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

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

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This Resettlement Policy Framework (RPF) sets out the general principles and steps to be followed in connection with any land acquisition and resultant resettlement which will occur

during the implementation of CASA 1000 by or with the co-operation of the Ministry of Energy and Water (MEW). It has drawn on the extensive work of Integrated Environments (2006) Ltd. (IEL) of Canada which prepared an Environmental and Social Impact Assessment and Environmental and Social Management Plan (ESIA/ESMP) of the Central Asia South Asia Electricity Transmission Project (CASA 1000).

This RPF has also drawn on the Resettlement Policy Framework prepared by the consultant in connection with the Irrigation Restoration and Development Project (IRDP) of the Ministry of Energy and Water in 2010, which was developed through a consultative process and cleared by an interministerial councils

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

It should however be emphasised that this RPF is designed solely for resettlement in connection with CASA 1000. It may have wider uses but these are a by-product of and not the main purpose of this framework.

Resettlement Policy Framework

1. Outline of the activity

1.1 Project Context

The Kyrgyz Republic, Tajikistan, Afghanistan and Pakistan are pursuing the development of electricity trading arrangements and the establishment of a Central Asia - South Asia Regional Electricity Market (CASAREM). Since 2005, these four countries have intensified their internal cooperation and engaged with International Financial Institutions (IFIs), comprising the Asian Development Bank (ADB), the European Bank for Reconstruction and Development (EBRD), the International Finance Corporation (IFC), the Islamic Development Bank (IsDB) and the World Bank (WB).

One of the key components of the CASAREM initiative is the proposed development of a cross-border electrical interconnection linking the four countries to facilitate the transfer of surplus power that would be made available in the Kyrgyz Republic and Tajikistan, southwards to Afghanistan and Pakistan. The first phase of CASAREM is to establish the necessary transmission and trading infrastructure and systems to enable a trade of 1000 to 1300 MW of electricity between Central Asia and South Asia, and referred to as “CASA-1000”. It is envisaged that the major share of the export will be used by Pakistan, while a

relatively smaller quantity of power (up to 300 MW) will be imported by Afghanistan. Pakistan has expressed interest in increasing electricity imports over the medium to long term.

1.2. CASA 1000 at a Glance

The CASA 1000 Project consists of two components:

- ♣ A 450 km 500 kV HVAC transmission link between Kyrgyz Republic (425 km) and Tajikistan (25 km) to supply Kyrgyz electricity to South Asia via Tajikistan. The route begins at the Datka substation in the Kyrgyz Republic and terminates at the Khoudjand substation in Tajikistan. In the Kyrgyz Republic, about 40% of the route runs within 2000 meters above sea level (masl) altitude. The remaining line route ranges between 2000-2300 masl. In Tajikistan, the line route runs at an altitude ranging from 500 masl to about 900 masl. Population centers have been avoided as much as possible, as are enclaves of Uzbekistan and Tajikistan located within Kyrgyz Republic boundaries.

- ♣ A 750 km 500 kV High Voltage Direct Current (HV DC) transmission system between Tajikistan (117 km) through Afghanistan (562 km) to Pakistan (71 km). The HVDC line begins

at the Sangtuda Hydropower Plant in Tajikistan and extends south via Kurgan-Tyube and Dusti (both in Tajikistan) and crosses into Afghanistan near Nizhny. From there, the corridor proceeds via Kunduz, Pul-e-khumri, Dowshi, Khanjan, the Salang Pass and Charika to the outskirts of Kabul. From Kabul the corridor goes east to Peshawar (Pakistan) via Jalalabad (Afghanistan). The proposed ROW has difficult terrain for approximately 160 km with a maximum altitude of 3750 masl. Key population centers along the route includes Kabul, as well as the towns of Kunduz, Baghlan, Pul-e-Khumri, Raqi, Mehtar Lam and Jalalabad. Wherever possible, population centers will be avoided. HVDC Converter stations are proposed at Sangtuda-1 (1300 MW), Kabul (300 MW) and Peshawar (1000 MW).

1.4 Right of Way (ROW)

The RoW is the strip of land along either side of the centerline. Vegetation within the RoW is not allowed to grow to a height above 3 m and no permanent structures shall be constructed within the RoW. Proper clearance to ground and other structures has to be maintained. The total width of this RoW will be 50 to 60 m (25 to 30 m on both sides). The RoW is not to be used for public road access. Any maintenance road access should be on the edge of the RoW so as not to encroach on the design clearances required.

1.5 Conductors and Line Configuration

A DC Transmission Line has two conductors, with each conductor called a “pole.” The proposed T/L is a +/- 500 kV DC line with each pole consisting of a bundle of four ACSR “Falcon” conductors, as required to meet the Electro-Magnetic Interference (EMI), also called Radio Interference Voltage (RIV) and Electrical Fields. Sky wires may be employed for high isokronic levels. The Electrode line will also use two conductors and may use steel poles instead of wood for reliability reasons. The electrode line conductors will likely be different than the main transmission line because of lesser field effects at lower voltages. Two poles are supported by insulators attached to cross-arms of the tower.

1.6 Towers

A minimum of five tower types are required for the line:

- ♣ Tangent Suspension Tower -used for no line angle/small line angle up to 2 deg.
- ♣ Small Angle Suspension Tower-used for line angles from 2 deg. to approx. 10 deg.

- ♣ Medium Angle Tension Tower-used for line angles from approx. 10 deg. to approx. 45 deg.
- ♣ Heavy Angle Tension Tower-used for line angles from 45 deg. to 90 deg.
- ♣ Terminal Tower-used at the line terminals and as anti-cascade towers at intervals along the line.

The distance between towers will be between 350 m and 400 m. The average height will be about 35 m.

The average “foot print” of each tower will be 10 m X 10 m.

1.7 Physical Environment

The proposed T/L from Tajikistan to the Afghanistan border crosses rivers, relatively level and barren agricultural areas, sub-mountainous terrain, and desert.

CLIMATE:

Afghanistan has four distinct seasons. Winters are generally harsh and summers are hot and dry. Kabul’s winter temperatures reach lows of -10°C and summers reach highs of 35°C. Whereas, in Jalalabad the average winter temperature is 4°C and summer is 46°C. Rainfall in Kabul is less than 1 m a year and Jalalabad’s average rainfall is 30 to 35 cm a year.

SOIL AND GEOLOGY:

Approximately 75% of the COI traverses mountainous terrain with various types of exposed rocks and no soil cover. In particular the portion of the line near the Kabul-Jalalabad road has fertile soils appropriate for agricultural operations. The geology of the area is suitable for transmission line construction.

The major part of the COI in Afghanistan runs through the mountainous terrain of the Hindu Kush Range and Salang hills. The exposed rocks include sedimentary and metamorphic formations of the Carboniferous to Pre-Cambrian periods. Among the major rock types are sandstones, silt, shales, phyllites, marbles, quartzites, and schists and carbonate rocks.

LAND USE:

Except for the segment near the Kabul-Jalalabad road, the COI is very dry and poorly vegetated with low biological diversity due to the limited rainfall, poor soil and decades of over exploitation. Wherever there are shrubs and bushes they are trimmed for fodder and fuel wood. Fuel wood is short in supply pushing people to work intensely in agricultural spaces. There are few trees in the COI and the majority of the trees that do exist are fruit trees. Biodiversity in Afghanistan is generally low because of water shortages, minimal rainfall and poor soil.

Vegetation is also sparse due to excessive exploitation in the vicinity of the COI. There are no reserve forests or protected areas in the COI.

AGRICULTURE:

The most valuable trees that are found in the COI are fruit trees. The following fruit trees are found along the COI: almond, apple, apricot, banana, berry, citron, date, fig, grapes, loquat, melon, mulberry, olive, orange, peach, pear, pistachio, plum, pomegranates, quince, rhubarb, vine, and walnut. Poppy production for illicit drug use and trade is one of the largest crops grown for profit in Afghanistan.

The majority of the land in the COI is rough and mountainous with very little vegetation and generally unused. Flat areas near water resources support agricultural activities. Between Jabulseraj and Kabul, and between Surkh Dewaland Torkham. The average yield of wheat is 2,721 kg/ha and 1,217 kg/ha for maize. However, a lot of agricultural lands have become unusable because of destroyed irrigation systems and land mines. An average household owns 1.2 ha of agricultural land.

The common sources of income for local residents in the COI are agriculture, daily wage labour, transportation and small businesses. The average annual household spends over 75 percent of their annual income on basic food needs. More than 67 percent of residents live in mud houses, the remainder of the population lives in homes that are built with various amounts of concrete. The water sources include nearby streams, springs, and rivers that are heavily contaminated by land mines. Approximately 50 percent of the population has access to electricity but not to health facilities, schools and paved roads.

WATER:

There are seven perennial rivers along the proposed T/L route in Afghanistan. The Kabul River is used for agricultural activities. There are two irrigation canals in the COI, one is near the Tajikistan border and the other is near Jalalabad. Groundwater quality is poor due to the contamination from mines but it is used for agricultural activities.

1.8

2.1 Proposed objective

Resettlement Policy Framework CASA 1000

Census and survey procedures for projects with linear resettlements differ from those in most other projects in one important respect: because final technical designs often cannot be known over hundreds of kilometers by appraisal, final designs or the precise corridors of impact are impossible to determine. The remedy is either to deliberately extend the census and surveys to include the maximum envelope of impact or to estimate the resettlement impact in the areas where the route has yet to be finalized and conduct the census and socio-economic census at a later date.

Construction of the transmission line does not require purchase of much land, but construction of associated works, such as power substations, might entail displacement. Building or widening access roads to towers can also affect property use, and restrictions on land use can affect incomes. As with compensation for pipelines, an easement fee, combined with payment for any crop damage, may be appropriate way to compensate for periodic access. Such easement fees range from 5 to 20 percent of the replacement cost of the affected land. In most cases, no compensation is paid for a decrease in property value as a result of construction of transmission lines.

The partial land acquisition characteristic of many linear projects also makes it difficult to carry out accurate surveys. Often, the feasibility of making a living in the remaining area is difficult to assess. Although categories of impact (such as more than 20 percent of a plot taken) can be useful in devising entitlements, case-by-case assessment is highly recommended to ensure that households with particular vulnerabilities are not overlooked.

The Ministry of Energy and Water has prepared this Resettlement Policy Framework for CASA 1000: this sets out the general principles and policies to be followed in connection with any land acquisition and resultant resettlement that will occur under the auspices of the Ministry. This RPF is designed to tackle the specific issues noted above and set out a clear framework for the , assessment, mitigation and compensation and, where necessary, the settling of disputes arising out of such activities with respect to resettlement, albeit temporary on occasions, and compensation

2.2 Why a Resettlement Policy Framework?

The components of transmission line activity for which a Resettlement Policy Framework (RPF) are required are some purchases of land, easement imposition, and some temporary displacement in the areas through which the transmission line is likely to pass. The transmission line has not and cannot be finalised at this stage so it is not possible at this stage to develop any site-specific resettlement plan with the full details of all Affected Persons who are likely to have to be relocated or who are going to suffer adverse impacts from project-related land acquisition. The purpose of the RPF is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to specific transmission line activities as and when they take place. In this way a consistent approach to resettlement practice will be ensured for all activities involving land acquisition and displacement.

In addition, an RPF can contribute to the development of technical capacity within the Ministry of Energy and Water (MEW) in the following ways:

(i) **Provision of technical assistance to the Project Coordination Unit (PCU)** within the Ministry and its regional offices involved in project implementation, including project management, procurement, contract management, financial management, survey construction supervision and quality control, and environmental and social management.

(ii) **Support for building capacity in MEW in various technical fields** in procurement, contract management, financial management, internal audit, monitoring and evaluation, and management of environmental and social issues.

(iii) **Support for building capacity of local institutions** including community groups, university faculties, and local construction industry.

(iv) **Support for the continuation and strengthening of monitoring and evaluation activities** including input, output, process, and outcome monitoring. Progress of various components would be monitored as an integral part of project implementation. The PCU will be responsible for monitoring physical progress and collation of progress reports. Monitoring of Results/Outcomes would be carried out by an M&E Unit independent of the PCU. This Unit will be responsible for collection and analysis of panel data, conducting a limited number of case studies, and for providing continuous feedback to the PCU. The M&E Unit would be strengthened through training and provision of specialists and field staff.

There are several interlinked issues that must be addressed by way of introduction to the policy. First, the resettlement policy framework is required to be consistent both with the World Bank's Operational Policy 4.12 which deals with Involuntary Resettlement and with existing local laws and policies. Where there is inconsistency between the two the WB policy prevails, unless the local requirement sets a higher standard or benefit for the Affected Person.

Second, before the details of the RPF can be outlined and explained, the basic principles and objectives of the RPF may 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, as amended (including proposed amendments) 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.

The principles of the RPF are:

- first, avoid or minimise 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.

3. Legal & Policy Framework for Resettlement

3.1 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 operationalised. 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 13) (and see too proposed new clause 45 of the Land Management Law published in December 2012);

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

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

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

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

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

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

The Law on Land Acquisition is undergoing a thorough review and amendment process but as of November 2013??, no final decisions had been taken on any amendments. It may also be noted that as the law now stands, two difficulties present themselves with respect to this RPF. First, there are no provisions in the law dealing with short-term temporary displacement such as easement from land which will be a feature of the creation of the transmission line with particular reference to the erection of towers (hereafter referred to as temporary displacement). Once the towers are erected, land occupiers and owners will be able to go back on to the land and use it with some restrictions (apart from the land where the tower is located). Second, a relatively minor problem with respect to pastoralists who may temporarily lose grazing land that they have traditionally used for the depasturing of their livestock. These two difficulties will be dealt with below.

3.2 Principles of World Bank OP 4.12 on acquisition, resettlement and compensation

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 and will be followed under this RPF for CASA 1000, 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.
- (e) Lack of title would not bar the affected population from resettlement and compensation benefits.
- (f) Compensation for losses will be delivered at replacement costs;
- (g) Compensation payments must be delivered before taking possession of the required assets;

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 RPF, this step will have to be taken many times over with respect to each specific erection of a tower or location of a substation. There will be a risk that there may be some speculative encroaching as word gets out unofficially about likely projects in the future. This will need careful handling.

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 project-related land acquisition.

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, 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;
- (ii) provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities;
- (iii) provided with retraining or training opportunities so that they can either take up a new form of livelihood or by virtue of being trained to a higher skill standard

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 projects for it is regarded as a part of the 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 resettlers and any host communities should be preserved and resettlers' preferences with respect to relocating in preexisting communities and groups honoured.

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, MEW local staff, and other stakeholders. The more formal consultation process in the sub-project areas will be through: (a) one-on-one meetings with directly affected households/companies; (b) village and community meetings; and (b) public consultations with government officials. Informative materials will have to be prepared and distributed within the sub-project areas before the meetings. This is set out in more detail below.

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 summarised, 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 and in particular the assessment of compensation (if any) for temporary displacement
 - the manner and timing of claiming and paying compensation
 - the process of decision-making and appeals on compensation
- with respect to resettlement and displacement
 - process and procedures on resettlement and displacement
 - financial assistance with resettlement and displacement (in the case of displacement this will be assistance in moving temporarily from the land and then returning to the land)
 - assistance with retraining or development of new livelihoods
- 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. In the case of temporary displacement, full explanation of the circumstances of such displacement – how long for; where will occupiers be temporarily located and in what form of accommodation; whether compensation will be paid – will be needed.

LAND DONATIONS

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 a 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. In the past, reports have 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.

land is donated there must be documented evidence that:

-The person donating the land was not subject to pressure to donate and that he/she could have opted not to donate

-That the donor has clear title over the land and such land is not being used by a third party who could be affected

- That livelihood impact of land donation does not exceed 10% livelihood impact and is below 100 sqm.
- The use of donated land does not disrupt productivity of remaining land

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

ELIGIBILITY CRITERIA/OCCUPIERS

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, PAPs without recognized (legal or customary) title, 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. While this group does not have legal rights over the land, as part of the efforts to restore their livelihoods and living conditions, it is good practice, in relevant

cases, to provide solutions that help ensure that those affected have security of tenure at their new relocation site, in the case of those being physically displaced or being offered land for land.

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 plus transaction costs (e.g. registration fees, selling/buying taxes, etc)
- alternative land of the same quantity and quality so far as possible
- compensation for 'injurious affection'^[i] of land not taken
- resettlement expenses (which for these purposes includes temporary displacement) 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, displacement and resettlement.

Assistance with resettlement and displacement will include

- assistance with packing up and moving including moving back on to the land after temporary displacement
- 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.

This is an appropriate place to draw attention to the nature of the communities likely to be affected by the project. About 26 settlements are located along the project corridor. The majority of the residents live in rural settlements with populations of 500-9000.

There are eight settlements located within the COI that can be avoided with judicious route selection. The settlements within the COI are: Omar Khel, Bamyan, Top Dara area, Qarabagh, Cheshma-e-Dogh, Qala-e-Morad Beg, Mahipar, and Marko Bazar.

Seven main ethnic groups and six main tribes reside along the COI. Each tribe has their own traditions and customs. Dari and Pashto are the common languages spoken in the area. Official land registries are unreliable. This will impact the length of time involved in negotiating land acquisition and resettlement action planning. Lacking any specific knowledge about local contexts (lacking household and community data) project proponents must move forward acknowledging that their presence in these economically and socially devastated urban and rural areas is intense.

Thus, it will be necessary in developing RAPs on the basis of this RPF to deal with each community as a distinct and separate entity, with its own concerns and its own approaches to resettlement and temporary displacement.

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. Notwithstanding the differences between the national laws and World Bank's Operational policies, in all cases of gaps between the two, the World Bank's Operational Policy will apply, unless the local requirement sets a higher standard or benefit for the Affected Person as reflected in this RPF will apply.

A table of comparison between the Law on Land Expropriation and OP 4.12 with proposals for reconciliation^[1]

Law on Land Expropriation (LLE)	WB Operating Procedure 4.12 (OP 4.12)	Gaps between LLE and OP 4.12 with comments	Possible solutions to gaps
PART	ONE:	PRE	ACQUISITION
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 practice early discussions do take place.	Principle that involuntary resettlement to be avoided where possible implies discussion of necessity for and alternatives to acquisition and resettlement	The principle behind OP 4.12 is followed in practice in Kabul but the law is silent on the matter.	No reason why practice in Kabul could not be applied in other areas
2. Officials visit area <i>before</i> 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 procedures and processes.	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
3. As a matter of practice in Kabul efforts are made to determine those entitled to compensation and resettlement	Census conducted of persons in the area to determine eligibility for assistance, and to limit inflow of people ineligible for assistance; encroachers	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 this RPF
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 acquisition. Informal discussions and negotiations occur both on land to be acquired and on compensation. It is at this point that	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 to potential APs of possible resettlement	LLE does not provide for what OP 4.12 requires. Some pre-planning of projects will exist and informal discussions with APs involves 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 and its consequences.

donations of land may be ‘invited’.			
5. No special provision in LLE for a resettlement plan or any special arrangements for resettlement.	<p>Prepare resettlement plan: contents to include –</p> <p>Involvement of and ensure APs their rights to</p> <p>(i) compensation</p> <p>(ii) relocation assistance</p> <p>(iii) development assistance</p> <p>in new location.</p> <p>Distinction drawn between short and full plans, depending on numbers to be resettled.</p>	Major gap of substance	<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.</p> <p>2. Provide for resettlement plan administratively but</p> <p>3. Backed up by some regulations</p>
PART	TWO:	ACQUIRING	THE
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 Municipality” on which the owner is represented to “determine damage incurred due to land expropriation” which is differentiated from	No specific procedures required by OP 4.12 but content of resettlement plan implies APs will be involved in all stages of acquisition	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.	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 article 18 shouldn’t equally apply to all acquisitions of land.

<p>compensation. Damage is explained in article 18 LLE.</p> <p>Under article 22, the owner etc is obliged to hand over all</p> <p>documentary evidence relating to land to the acquiring authority</p>			
<p>7. Under article 6 LLE after transfer of ownership, owner may enter acquired land and harvest crops except where urgent use of land prevents this</p>	Not mentioned	LLE ahead of OP 4.12 on this:	A good provision. It does however make plain that the LLE is about taking agricultural land and does not deal with the issues of grazing land or pastoralism.
PART	THREE:	COMPENSATION	PAYMENT
<p>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.</p> <p>Practice in rural areas was quite accommodating to those with customary titles.</p> <p>Practice in Kabul is to acquire documentary evidence for a claim for compensation.</p>	<p>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.</p>	<p>Major gap of substance in the law but given practice in rural areas, it is not unbridgeable.</p>	<p>Accommodate OP 4.12 by changing practices where necessary.</p> <p>Advantage may be taken of absence of legal definition of “owner” to accommodate those with customary titles which is likely to be the majority in project areas.</p>
<p>9. The Constitution provides for payment of prior and just compensation. (English translation).The</p>	<p>OP 4.12 requires prompt and effective cash compensation sufficient to replace the lost land</p>	<p>There does appear to be a gap between the LLE and OP 4.12. The LLE has a lot of gaps in it. Sensible not to</p>	<p>1. OP 4.12 must be accommodated. Other resettlement plans developed in connection</p>

<p>LLE at article 2 provides for the payment of prior and adequate compensation. If there is a distinction between just and adequate, then the constitutional provision of just compensation prevails.</p> <p>Article 8 provides that compensation shall be “the price” of land or houses or trees etc and article 10 provides that the Council of Ministers shall determine the price. But article 15 provides that the municipality and the administration for agriculture determine the compensation for trees etc. Article 13 sets out detailed provisions for obtaining residential plots where a person has had land acquired; the more land acquired the more residential plots are paid as compensation.</p> <p>Disturbance compensation not provided for.</p> <p>Compensation can be land for land</p> <p>Unlike the former law which provided for compensation may be paid into a bank, LLE is silent on the mechanics of paying compensation. No assistance for APs to access bank for their compensation.</p>	<p>and other assets at full replacement cost in local markets.</p> <p>Compensation for lost livelihoods required</p> <p>Disturbance compensation required</p> <p>Land for land compensation encouraged.</p> <p>Resettlement costs and ‘start up’ expenses required. All these provisions can be used to provide for compensation to pastoralists and artisanal miners</p>	<p>insist on market value in the absence of reliable functioning markets.</p> <p>Biggest gap is compensation for squatters and even their best practice does provide some compensation to those with no legal title.</p> <p>Practice of paying compensation into a bank even when APs not absentee difficult to reconcile with prompt payment of compensation.</p>	<p>with ADB projects more or less ignore the LLE and provide detailed frameworks for assessment and payment of compensation.</p> <p>3. The lack of any detail in LLE on how to assess compensation and the content of compensation (apart from article 13) allows for the creation of a clear comprehensive and fair code on compensation applicable to all acquisitions including resettlement and retraining costs which can be a part of the RPF without doing violence to the existing law.</p>
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Practice on the ground is careful and painstaking.			
10. No provision in the law on resettlement support. Practice seems a little haphazard and tends to turn on legality of occupation of APs who are to be relocated	OP 4.12 requires implementation of resettlement plan the contents of which are noted at 4 above	Major gap of substance as noted in 4 above.	If preferred option at 4 above accepted, resettlement plan implementation is issue. Choice is between formal top-down and participative involvement of APs which OP 4.12 requires.
PART	FOUR:	ADMINISTRATIVE	& JUDICIAL
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 No provisions for e.g. legal aid to assist APs to make claims. Practice at least in Kabul does appear to try and help PAPs.	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 administration.	A major gap on grievance mechanisms and current administrative arrangements in LLE difficult to reconcile with the participative approach of OP 4.12. Earlier laws involved payment of compensation in the presence of a judge and allowed an appeal albeit from the judge to a Minister.	Develop grievance handling practices but keep them administrative rather than legal. Make legal provision for appeals from administrative decisions and decisions on compensation to an independent body.
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 projects.

4. Eligibility for compensation

4.1 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)”. For purposes of this RPF, the concepts of ‘general eligibility’ for compensation and who is an AP will be extended to include persons who may be temporarily displaced but who may be entitled to some compensation through loss of land by the erection of a tower or substation.

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

- (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. 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.

4.2 Land Tenure and Compensation Entitlements

In the case of all 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 summarise 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 2012 proposed amendments to the Land Management Law define ownership of land as *State-owned land; private land; special land of village or villages, and public land*. Public land includes Mar'aa land which is divided into special Mar'aa land and general Mar'aa land. A fifth category of land is endowed land (Waqf land). Written evidences of land ownership under the formal system of property rights are different kinds of deeds or legal documents with copies in the Court Registries. Other formal written documentation may also be utilised for this purpose. Details are to be found in Chapter 3 of the Law on Land Management.

Land 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.

Village land is land verified by Afghan Land Authority located and linked with respective village or villages, and the residents of the same village or villages as a legal person may commonly get the use of it for their own interests for their specified purposes, and which is not under the ownership of State. Special land of village or villages shall never be purchased, sold, donated, bequeathed, exchanged, mortgaged and leased, unless CEO of Afghan Land Authority agrees and the President approves otherwise. Protection and maintenance of special land of village or villages is the common responsibility of the residents of respective village or villages, particularly the respective elected land commission.

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.

Mar'aa Land meaning “dead land”. In practice, this term refers to land which is not suitable for cultivation. The concept of *mar'aa* 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 *mar'aa* land as property neither owned by a private individual nor by the state and which could be acquired through renovation. Consistent with this, *mar'aa* land is recognized under the laws, but whoever wants to acquire *mar'aa* land must first secure permission from the President. In theory then, private property may be acquired in accordance with this concept. If *mar'aa* land is in the process of being legally acquired or have been acquired by an individual but some formal legal requirements have not been complied with, the possessor/owner is entitled to compensation for his/her affected land.

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

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

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

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

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

4.3 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 (albeit with differences in entitlements), irrespective of their land ownership status, to ensure that those affected by the project shall be at least as well off, if not better off, than they would have been without the project. The compensation packages shall reflect replacement costs for all losses (such as land, crops, trees, structures, businesses, mining activities incomes, etc.) as detailed below:

- ***Agricultural land impacts*** -- These impacts will be compensated at replacement value of land in cash based on current market rates plus an additional indemnity for 3 months as transitional livelihood allowance. MEW will shoulder all transaction costs such as fees, taxes, and other charges, as applicable under relevant laws incurred in the relocation and resource establishment.

- ***Severe Agricultural Land Impacts*** -- When >10% of an AP's agricultural land is affected, APs (owners, leaseholders and sharecroppers), in addition to the compensation explained above, they 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.

- ***Residential/commercial land impacts*** -- These impacts will be compensated at replacement value in cash at current market rates free of deductions for transaction costs.

- ***Houses, buildings, structures (fixed assets) 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 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.

• ***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.

• ***Business 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 x 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 . Compensation for temporary business losses will be cash covering the income of the interruption period based on a monthly allowance of AF x . Business loss is computed at AF x per day as average net income of typical road businesses such as small stores, repair and vulcanizing shops and small food establishments. The details should be part of the RAP.

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

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

• ***House owners/renters*** -- House owners/renters who are forced to relocate their houses will be provided with relocation allowance equivalent to AF x for the time necessary 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 x and priority in employment in project-related jobs.

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

- ***Transitional Livelihood allowance*** -- APs forced to relocate will receive a livelihood allowance of AF x for the duration of the livelihood interruption time.. Transitional livelihood allowance is computed based on the prevailing wage rate of AF x per day times for the duration needed This is also the basis for cash compensation on lost wages. Where there is temporary displacement which lasts for less than three months, a livelihood allowance will be paid only for the period of temporary displacement.

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

Easements. An easement may, for the purpose of the RPF, be described as a right of way which one person (the owner/occupier or user of the ‘superior’ or ‘dominant’ land) has over the land of another person (as specified above) of ‘inferior’ or ‘servient’ land. The occupier of the servient land is under an obligation to allow the occupier of the dominant land to come on to the servient land and the occupier of the dominant land is obliged to keep to a defined path or right of way across the servient land. It is quite possible for an easement to be limited in its scope; that is to say, an easement or right of way could be limited to be used only for a specific purpose or benefit and not confer a general right of way for the dominant occupier over the servient land.

An easement is a species of land right which may be the subject of a market transaction; that is the occupier of the servient land can sell a right of way to the owner of the dominant land. There is nothing in the law which would prevent one person (A) from obtaining or buying a right of

way similar to an easement over the land of another person (B) even though A did not own land which could be benefited from the use of an easement over the land of B.

It will be necessary for the managers and operators of the transmission line – MEW or a public or private sector entity which is operating the electricity supply system in Afghanistan – to have a right of way on to land on which a tower or substation is located so that they can go on to the land at any time to inspect and or to repair the towers and substations. The usefulness of using the term easement to describe this right of way is that it emphasises that the occupier of the land over which the right of way is to be acquired is being disadvantaged and is losing the full use of a small portion of his/her land. For this such a person must be compensated. However rather than receiving a lump sum for the loss of land, it is more appropriate that an annual payment in the nature of a rent or annual fee is paid for the use of the land set aside as a right of way. This ‘rent’ should be a percentage of the value of the land over which the right of way exists. Even allowing for the fact that some rights of way may be longer than others, it is recommended that in order to keep costs down, only two categories of easement are provided for; an easement to enter land to inspect and repair etc. towers and an easement to enter land to inspect and repair etc. substations. The first easement could attract an annual fee of 5% of the value of the land; the second an annual fee of 10% of the value of the land.

5. Unit Compensation Rates and Budget

5.1 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 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 or mining assets), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

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

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

But an RPF is different. An RPF is prepared “when it is not possible to identify precise siting alignments or specific impacts/affected population during project preparation (financial intermediary operations, and projects with multiple subprojects)” and “a Resettlement Action Plan (RAP) is [then] prepared for each subproject that may involve land acquisition, before the subproject is accepted for Bank financing.” So an RPF cannot be accompanied by a budget showing the probable total project costs of the rates of compensation which the RPF is suggesting should be applied. The budget would be a part of each RAP which would come forward once the RPF had been accepted and a particular section of the project had started.

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.

The overall budget of resettlement can not with any certainty be determined at this stage. There are about 26 settlements located along the project corridor, of which eight settlements are located within the COI, which however can be avoided with judicious route selection. The settlements within the COI were: Omar Khel, Bamyar, Top Dara area, Qarabagh, Cheshma-e-Dogh, Qala-e-Murad Beg, Mahipar, and Marko Bazar.

However, the budgeting agency needs to ensure that funds are available for the resettlement costs, including not only compensation to PAPs, but also cost of consultations throughout the process, sustaining a grievance redress mechanism, M&E, and independent consultants as required (e.g. for final review of RAP implementation).

5.2 Valuation of Land

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

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

5.4 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, but would be fine tuned at the time of the RAP.

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 else is doing so During off-season months, the prices of tree crops quadrupled. The compensation rate for a fruit bearing tree is the average yield per tree times the age of the tree.

For the non-fruit bearing trees, the usual propagation method is grafting. Farmers buy these saplings and these are ready to be transferred in the fields after two years. On the fourth year of the tree, the tree starts to produce fruits. Hence, it is on this basis that the valuation of non-bearing fruit trees 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.

5.5 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 specific sharecropping agreements.

Income Restoration Allowance for Business Losses -- compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (x months). Permanent business will receive AF x a month for x months. Compensation for temporary business losses will be cash covering the income of the interruption period based on a monthly allowance of AF x

Income Restoration Allowance for Business workers and employees -- Indemnity for lost wages for the period of business interruption. .

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. This will be unlikely to occur in this project.

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 x 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 x a month until relocation and livelihood restoration is completed

Rental Allowance – House Renters forced to relocate will receive a rental allowance at the prevailing market rate until a suitable accommodation has been found and will be assisted in identifying alternative accommodation. Similar payments will be made to those who suffer temporary displacement from their land or house during the erection of a tower or a substation.

Project-related employment (for unskilled and semi-skilled tasks during construction) -

severely affected and vulnerable groups will be given priority for project-related employment opportunities as drivers, carpenters, masons, clearing and digging work, and if possible as clerks or basic administration support staff.

6. Institutional Arrangements

6.1 General

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

1. Islamic Republic of Afghanistan (IRA)
2. Ministry of Energy and Water (MEW)
3. Project Management Unit (PMU)
4. Environment and Social Safeguards Unit (ESSU) at PMU level
5. Project Implementation Unit (PIU)
6. Implementing Non Governmental Organization (NGO)
7. Local level MEW
8. Local Government Units (LGUs)

The agencies involved in the planning and implementation of a resettlement and rehabilitation programme are MEW as the executing agency (EA) and the Provincial and District governments together with the appointed NGO referred to above . MEW will be acting in the project through the project management office. In the field, it will act and implement through the PIU with the support of a consulting engineer and the implementation consultant who will co-ordinate all

activities related to resettlement implementation. All activities will be coordinated with the relevant local government agencies and community *shura* in which the package will be implemented.

6.2 Overall Organization – Ministry of Energy and Water (MEW)

The Ministry of Energy and Water will be the executing agency (EA). The minister and deputy minister 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 MEW, Ministry of Finance, and the Geology and Cartography Department.

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. MEW), (iii) a representative of the local municipality, (iv) a representative of the Ministry of Finance, and (v) a representative of the Ministry of Justice.

6.3 Project Implementation

6.3.1 Ministry of Energy and Water (MEW)

MEW, through the project management unit (PMU) will be responsible for the approval and implementation of a Land Acquisition and Resettlement Plan (LARP). Within the PMU, LARP tasks will be handled by two units described below. Local MEW office and local governments will be responsible for co-ordinating activities in the field including the organization of surveys, consultation meetings, and the fixing of specific compensation rates based on the principles set out in the RPF. The provision of the LARP compensation finances will be the responsibility of MEW and the physical delivery of compensation to the APs will be assigned to a committee

selected by the MEW which will include members such as the local governments but under the supervision of the PMU and of the Supervision consultants.

There will be two units within the PMU that will be involved in the implementation of the LARP, namely the Environment and Social Safeguards Unit (ESSU) and the Project Implementing Unit (PIU). The ESSU will be primarily responsible for the social safeguard issues. The PIU will be responsible for the daily field level activities, getting all the necessary clearances required to initiate and implement all resettlement works. It will coordinate with the ESSU in the implementation of the project. As necessary, the ESSU/PIU will coordinate with MAIL, Cadastre Survey Department, local Governorates, NGOs and the community shuras, locally elected councils . The PIU 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.

An international social safeguards and resettlement specialist will be retained as an advisor to the ESSU for resettlement issues. In addition, a national safeguards officer will be appointed and local safeguards officers will be located in each of the regional offices. The international safeguards adviser will have overall responsibility for ensuring/monitoring compliance with safeguards. The international adviser would be responsible for mentoring/building the capacity of regional safeguards officers to (i) work with regional technical teams to ensure adherence to safeguard requirements at each stage of sub-project development and (ii) facilitate outreach to other development agencies.

6.3.2 Implementing NGO

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

1. Work under close coordination with the ESSU/PIU, local government units and MEW local staff to implement the LARP.
2. Assist the ESSU/PIU in dissemination of the LARP and other resettlement related information.
3. Generate awareness about livelihood restoration activities and assist the APs to make informed choices including participating in government development programmes.
4. Identify training needs of APs for income generation activities and ensure that these are properly funded.

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

6.3.3 Local Government

The cooperation and coordination of the local government units (LGUs) are vital in LARP implementation. These are the provincial government, district provincial government, villages and local community Shuras. Issues relating from land records and ownership and assets valuation originate from this level and will only be taken to the Council of Ministers if these issues are not resolved locally. The provincial government, in cases of disputes on valuation of land will constitute a land valuation committee to determine the disputes on rates.

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

6.3.4 Gender

It is appropriate to draw special attention to gender issues within the context of project implementation. What follows draws heavily on the report of the Social Safeguards Requirements Review for MEW's EIRP from 2010, which reflects on gender norms and gendered division of labor in rural areas

Discussions with women in projects/villages visited as part of the Social Safeguards Requirements Review confirmed that they have important, although varying, roles in agriculture which is the main activity which will be encountered during the project. Factors such as absence of male family members from the village, ethnicity and local cultural norms all affect women's role in agriculture. For example, in Herat the consultant heard that women had primary responsibility for cultivating vegetables and fruit trees as well as looking after sheep. Women considered sheep the second most important household asset after land. In some Mazar villages it was also accepted practice for women to carry out agricultural work in the fields (e.g. weeding and harvesting) where their husbands or other male family members were absent from the village. In Jalalabad women said they have responsibility for looking after animals and poultry close to their home although examples were given of poor women and widows working in the fields away from the immediate household.

Representatives from women's Community Development Councils (CDCs) in villages visited said that they had some knowledge of schemes and projects through their husbands or other family members. In Mamizal (Turkmani) and Shahara Khiz (Tajik) women CDC members expressed the view that if projects were beginning in their villages now, they would be consulted from the outset and much better informed about the project's progress as a result of membership of the CDC. In both villages women CDC members said that the head of the men's CDC regularly consulted the head of the women's CDC on planned projects for the village and that women were able to influence the prioritisation of these projects.

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 the projects 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 . Women's CDCs should be explored as a possible vehicle for increasing women's participation in projects and especially in implementing LARPs.

The current consultation approach tends to assume that communities are essentially homogenous. Specific efforts are not made to seek the views of those groups within communities who are not usually involved in decision-making processes, particularly women. In projects under the MEW, special attention will be paid to female-headed households, both those with and without land, as they are generally amongst the most vulnerable in communities and risk having their rights ignored. Although women's ownership of land is not widespread it is important to ensure that their land rights receive equal recognition in the project and in any resettlement activities. Thus, the ESSU within the PMU will have special responsibility to

- Ensure that MEW uses women's CDCs to enhance outreach to women.
- Revisit incentives in order to attract women to work in LARP and in other capacities at regional level.
- Identify NGOs working with women in locality and consider whether/how to 'piggy-back' on their work in order to increase the effectiveness of projects.
- Ensure implementing NGOs have female project officers

7. Public Consultation and Participation

7.1 General Public Consultation

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

7.2 Public Consultation

In addition to informal day-to-day meetings among APs, MEW local staff, and other stakeholders, the formal consultation process in the project will be ongoing and will be managed by the PMU through village 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.

7.3 Village Meetings

A series of village meetings will be held, where the census and socio-economic surveys will be explained and later carried out. The aims and objectives of a project will be explained as will the necessity for, processes and outcomes of any resettlement or temporary displacement. The village elders and stakeholders meetings will be scheduled based on the availability of the participants. The ESSU will be responsible for conducting village consultations .

In the socio-economic survey, the project will list the names of the owners/users of assets likely to be acquired, temporarily used or damaged for which compensation will be payable and the MEW will prepare a land acquisition and resettlement plan (LARP) for each defined section of the 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.

7.4 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 PIU will coordinate with land valuation committees. There will be coordination with the district governors which have jurisdiction over the sub-project areas as well as village leaders. Information about the entitlement provisions and compensation packages will be shared with these government officials and other stakeholders.

7.5 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 the MEW through consultants and at village meetings. LARPs for sub-projects will be made available to the concerned district governments, village leaders and directly affected households and MEW's field offices as an official public document. This RPF will also be disclosed on the MEW website.
- 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'. MEW field staff/consultant will distribute the brochures through the village meetings and will explain the mechanisms and procedures of the consultation programme and how APs will be engaged in resettlement activities and the overall process.
- A cheque disbursement schedule – or preferably transfer of compensation through e-paisa to PAP bank accounts, explaining the date, time and venue for disbursement of compensation cheques of each AP will be prepared in local languages and distributed to all 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

7.6 Disclosure

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

- Provision of the RPF in local languages and English to PIU, MEW field offices, APs, provincial officers and district provincial offices, other local and district level offices of the concerned agencies.

- Disclosure of the RPF in village meetings
- The RPF will be available in all public institutions for general public information
- Posting of RPF on MEW website
- Publicity will be given to the RPF through all forms of media
- Provision of information packet to all APs

The local safeguards officers will again conduct meetings with the PIU staff, local government units and other government agencies as part of the disclosure process to acquaint them of the substance and mechanics of the RPF. They will be responsible to return to the affected villages and communities once this RPF is approved by MEW and the World Bank and conduct disclosure activities through village meetings and meetings with water users' associations to ensure that affected households will be familiar with this plan before the actual implementation commences.

8. Preparatory Actions and Implementation Schedule

8.1 Preparation Actions

MEW/PMU will begin the implementation process of each section of the project immediately after its approval by the World Bank. It will initiate some actions as groundwork and certain preparatory tasks regarding implementation of the LARP as follows:

- Establishment of a Project Management Unit (PMU) and Project Implementation Unit (PIU)
- Creation of post of National Safeguards Officer (NSO)
- Creation of posts of regional safeguards officers (RSOs)
- Appointment of two types of resettlement specialists (consultants)
- Establishment of Affected Persons Committees (APCs)
- Conduct socio-economic survey/census
- Establishment of official cut off date for the first selection of first section of project

- A series of public consultative meetings and workshops with APs and local

representatives and active involvement APs for the preparation of the final LARP

- Endorsement of the first LARP by PMU and PIU 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 MEW in LARP implementation
- Development of internal monitoring indicators and procedures
- Identification of external monitoring agency who will undertake independent monitoring

MEW is 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 any structures. This time will allow them to dismantle and remove all salvageable material for rebuilding of houses and reestablishment of businesses.

Payment of compensation of assets other than structures (land, crops, and trees) will be made at least 90 days prior to actual possession of the space being utilized by the APs. However, in case of a dispute regarding the compensation amount, up to 70% of the assessed/allocated amount of compensation will be paid to APs and the rest pledged in an escrow account in the names of the concerned APs, pending the resolution of the dispute. In case of dispute over rightful ownership, the compensation would be deposited in an escrow account awaiting the court resolution of rightful ownership. In such an exceptional case, the MEW 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 in connection with the transmission line, the erection of towers and substations with resettlement and temporary displacement impacts. In case of absentee owners (e.g. conflict displaced persons), the compensation amount would be deposited in an escrow account and issued to the rightful PAP upon verification of identity and claim. The government will take all appropriate means (through electronic and written media, words of mouth through community relations) to identify/locate absentee landowners and provide documentation of these efforts.

8.2 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 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. PMU 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: PMU 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, village elders and community Shuras will be consulted to resolve issues rising from the list.
- iii. Notification of a detailed compensation package: PMU 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. 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 PMU and the APs still cannot agree, the PMU will file expropriation proceedings in the appropriate court, asking that MEW be permitted to take possession of the affected asset. The PMU 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 PMU 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 indicated in the invoice.

viii. Delivery of the money to local bank: the money from MEW/MoF will be remitted to a local bank in the nearest town to the sub-project site. However, the MEW/PMU may remit the money for compensation to any bank of its choice. The bank account will be opened by PMU which will receive from Kabul the compensation in behalf of the APs.

ix. Payment: the APs will each receive a cheque for the whole amount of compensation from the PMU. 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.

9. 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 Ministry of Energy and Water,
- Representative of the Ministry of Finance,
- Representative of the Ministry of Justice, and
- Representative of the local municipality,

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

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

However, if after this negotiated approach, the issue remains unresolved, the affected person may elevate the matter to a Grievance Redress Committee (GRC) to try to resolve the issue. It should be pointed out however, that this committee does not possess any legal mandate or authority to resolve land issues but rather acts as an advisory body or facilitator to try to resolve issues between the affected household and the MEW/PMU 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 MEW - ESSU,
- 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 or for major commercial or infrastructural activities such as development of electricity transmission lines is new to Afghanistan, the ESSU and the implementing consultant (NGO) will assist in disseminating this concept to APs, its procedures and prerequisites in filing the proper 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.

10. Monitoring & Evaluation

10.1 General

Project activities will undergo both internal and external monitoring. Internal monitoring will be conducted by the PIU, assisted by the Supervision Consultant. External monitoring will be assigned to an independent External Monitoring Agency (EMA) to be hired by MEW/PMU, and approved by the World Bank.

10.2 Internal Monitoring

Internal monitoring will be carried out routinely by the PMU through the PIU and results will be communicated to World Bank and the MEW 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 PMU 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;
- Compensation for affected structures and other assets;
- Temporary displacement of APs
- Relocation of APs;
- Payments for loss of income;
- Income restoration activities.
- Grievance received and status of redress

10.3 External Monitoring

The implementation of the CASA 1000 project will take several years. It will therefore be necessary that external Third Party monitoring is carried out on a regular basis with the results communicated to the PMU and the World Bank through a bi-annual compliance report. (The ToR for the Third Party Monitoring will be part of the LARP). The EMA will be responsible for the preparation of the compliance report confirming that all compensation and related resettlement assistance in cash or kind are being delivered to the affected households. Based on the results of the compliance report, the EMA will recommend to MEW/the World Bank if the necessary civil engineering works can commence. A copy of the compliance report and its recommendations will be submitted to the PMU, supervising consultant and the World Bank simultaneously.

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

- Socio-economic conditions of the APs in the post-resettlement period;
- Communications and reactions from APs on entitlements, compensation, options,

alternative developments and relocation timetables etc.;

- Changes in housing and income levels;
- Effectiveness of arrangements for temporary displacements;
- Rehabilitation of squatters (if any);
- Valuation of property;
- Grievance procedures and outcomes;
- Disbursement of compensation; and
- Level of satisfaction of APs in the post resettlement period.

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

10.4 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.

10.5 Reporting Requirements

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

11.1 Matrix of Actions under the RPF

ACTIONS, MEASURES, COMPENSATION ENTITLEMENTS AND CATEGORIES IN THE RPF

ACTIONS Who	TO What	IMPLEMENT When	THE Why (Obj)
MEW	Establish liaison arrangements with other Ministries which will necessarily be involved in the CASA 1000 project: MAIL; MOF; MOJ;	Assuming these arrangements already exist with respect to earlier or existing projects involving MEW they can be utilised as soon as possible to bring Ministries up to date on future projects	To facilitate the s implementation o beginning and op project
MEW	Establish PMU in two divisions: 1. ESSU 2. PIU	On approval of RPF by World Bank	Creation of the in Ministry arrange implement RPF
MEW	Appoint national safeguards officer and regional safeguards officers	Desirable to appoint these officers well before the commencement of the project	Creation of intern arrangement to in RPF
MEW	Commence the preparation of materials on the RPF for distribution to probable APs	As soon as possible and not later than end 2013	To give as much publicity to any p possible and to al APs of resettleme
MEW	Prepare terms of reference for international social safeguards	As soon as possible and mot later than end 2013.	To ensure rapid r processes once R

	consultant	Advertisements can go out before RPF approved but appointment would be dependent on RPF approval	
MEW	Appoint the implementing NGO/consultant which is going to carry out the processes of resettlement	Initial work on appointment – terms of reference; basic requirements for an NGO/consultant to be qualified to apply; vetting applicants – can start in early 2013. Appointment would not be made until RPF approved	The implementing have an important in all significant exercises.
MEW	Continue with process of fixing the route of the transmission line and location of substations and preparing technical plans	ongoing	To ensure no delay of erecting the transmission lines
MEW	Where likely resettlement will be involved in a site located for a power substation begin preparation of RAP under the RPF	This action should begin to be incorporated into plans developing the sites for action.	To ensure no delay beginning of implementation
MEW	Census of residents and probable APs within sub-project area	As early as possible once project site identified	An essential first process of resettlement
MEW	Begin the processes of publicity and consultation with APs.	Alongside taking the census of APs	An essential first process of planning resettlement and resettlement actions
MEW	Consult and liaise with local governments and regional offices of associated Ministries on above actions.	Alongside consultation with APs	Essential to ensure Ministries and local governments know what is happening
MEW	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 resettlement payments	Compensation and of resettlement and of an RAP and its implementation.
GRC	The GRC will be involved in attempting to settle any grievances which APs may	The GRC should be ready to be involved from the commencement of the process	To assist in the settling claims to compensation

	have over the compensation that they are being offered	of assessing and determining the compensation payable to APs	
MEW	Finalise RAP	Preparation of RAP is a continuous process commencing with consultation in connection with census taking	A necessary step commencing action on the ground
MEW	Prepare information pack for each AP	The information pack to be distributed when RAP approved	The pack provides information which APs need to know. Work to occur on resettlement and much compensation provided; how the compensation will be provided and the opportunity for complaints and so
MEW	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 received their compensation and resettled, infrastructure activities on the ground can commence
Implementing NGO/consultant	<ol style="list-style-type: none"> 1. Work closely with ESSU in generating awareness of all aspects of resettlement and compensation 2. Work closely with APs in assisting in making, negotiating and if necessary taking to the GRC claims for compensation 3. Submit regular reports on the process to MEW and the monitors 	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 of the process compliance with the principles of substantive and procedural (administrative) justice

GRC	Handle AP grievances over compensation	During the process of determining compensation. Meet regularly and aim to settle disputes within 10 days.	As with the implementation of an NGO, a GRC is a guarantee to APs. The process is both substantively (a fair independent opinion on compensation) and procedurally (an open hearing and put forward a fair
MEW	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 project activities. They will have the major responsibility for which will be the responsibility of implementing NGOs. It is in a good position to report on what is going on and will do that with the help of MEW in the field.
EMA. Must be independent of all bodies involved in the implementation of CASA 1000 and with independent standing in its own right. Could be a University department or a consortium of departments.	External monitoring conducted by the EMA.	Throughout the process of the implementation of the IDRP with regular reports to the World Bank and guaranteed access to sites; APs; documents; officials in MEW and other relevant public and private bodies	An independent organization for the implementation of CASA 1000

11.2 Matrix of Compensation Entitlements and Rates

ELIGIBILITY	CRITERIA	FOR	IDENTIFICATION
Who is eligible	What are they eligible for	How to determine eligibility and compensation levels	What's the aim
Landowners	Loss of land and rights to land	1. Official documentation issued by or on behalf of government 2. Customary documents; :i.e.	The aim of OP is to compensate all those who have lost 'their' land. 4.12 goes beyond the rules of law or

		<p>documents recognised by both official and customary law as giving rise to ownership rights</p> <p>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.</p> <p>4. Open, continuous and interrupted possession of persons over a very long time which effectively vests in them legal rights over the lands they occupy through acquisitive prescription.</p>	<p>which in part a bring disputes end and ensure title. OP 4.12 a and substantive you've been on long time and t evidence of the should be com losing it"</p>
Squatter	Permanent improvements they have made to the land they have occupied	Observance of permanent improvements; questioning the squatter and neighbours on when improvement made; consulting maps and other relevant documents	The objective is to compensate the squatter for expenditure on improvements but not for the value of the land itself
Agricultural tenants and tenants of artisanal mines	Loss of income	Cash compensation corresponding to one year's crop yield of land lost.	A fair approximation of income
Sharecroppers	Loss of income	Their share of the harvest at market rates plus one additional crop compensation.	Ditto to above
House owners/renters	Costs of relocation to other accommodation	relocation allowance of Afs x per months until suitable accommodation established, and assistance in identifying alternative accommodation	This is a very sensitive element of compensation in all systems
Loss of livelihoods by agriculturalists	Replacement costs for all losses	<p>1. losses will be compensated at replacement value in cash based on current market rates plus an additional . Indemnity for x months as transitional livelihood allowance.</p> <p>2. When >10% of an AP's agricultural land is affected, APs will get an additional</p>	The aim is to provide a reasonable measure of compensation for loss of livelihoods but on the assumption that people will make a go of the new land. It provides for temporary relief in the amount which is not an indemnity or indolence

		allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land.	
Residential/commercial land impacts	Replacement costs for all losses	Replacement value in cash at current market rates free of deductions for transaction costs	See above. The reasoning appl
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.
Those who lose income from crop losses	Replacement of lost income	These impacts will be compensated through cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.	See above
Those who have lost income from loss of trees	Replacement of lost income	Income replacement based on types of trees lost.	See above
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.	See above
Those who have suffered loss of wages	Replacement of lost wages for a limited period	Compensation, based on actual income loss for time duration	See above

	mud/tin roof), 2 (tiled roof and normal cement floor) and 3 (RCC, single/double storey building)		
Crops	in computing crop losses, a combination of four main crops was used to get the average yield and price..		The unit price for a square meter devoted to the crops
Trees	<p>Compensation for productive trees is based on the gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree.</p> <p>Non-productive trees are valued based on the multiple years investment they have required.</p> <p>Compensation for non-productive fruit bearing tree is the cost of the sapling plus the cost of maintaining the tree up to the time that the tree was cut because of the project.</p>	<p>During interviews with 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</p>	The compensation for fruit bearing trees is based on the average yield per tree multiplied by the age of the tree
Restoration of income	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 provided
1. Crop losses			
2. Business losses	compensation for permanent business losses will be in	The figures in the next column do not seem to admit of	Permanent business losses will be received as AF x a

	cash for the period deemed necessary to re-establish the business Compensation for temporary business losses will be cash	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 taken on board	months. Temporary bus will be paid for number of mo x a month
3. Income restoration for workers and employees	Indemnity for lost wages for the period of business interruption	This does not admit of much negotiation although there may be differences of opinion of what count as wages	No figures bec differ dependin being done
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 bec sums of money depend on the the land is bein
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 all vulnerable APs at least AF x a employment in related jobs.
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 xa transitional per
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	x months' rent prevailing mar project area

[\[1\]](#) Gap Analysis of OP 4.12 and Afghan Legal Framework, Prof. McAuslan (2007)
