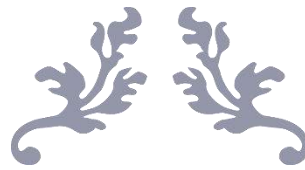




ISLAMIC REPUBLIC OF AFGHANISTAN  
MINISTRY OF MINES AND PETROLEUM



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# RESETTLEMENT POLICY FRAMEWORK (RF)

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Afghanistan Gas Project (AGASP)



**September 2019**

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## **List of Abbreviations and Acronyms**

AGASP	Afghanistan Gas Project
AGE	Afghan Gas Enterprise
AMA	Afghanistan Mining Authority
APA	Afghanistan Petroleum Authority
ARTF	Afghanistan Reconstruction Trust Fund
CDC	Community Development Council
CoC	Code of Conduct
DEW	Directorate of Energy and Water
DAIL	Directorate of Agriculture, irrigation and livestock
EMA	External Monitoring Agency
ESIA	Environmental and Social Impact Assessment
ESM	Environment and Social Management
ESMU	Environmental and Social Management Unit
ESS	Environmental and Social Standard
GoA	Government of Afghanistan
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
IDA	International Development Association
Jerib	0.2 Hectares/2000 Square Meters
KM	Kilometer
LAC	Land Acquisition Committee
LAL	Land Acquisition Law
LMLA	Law on Managing Land Affairs
MAIL	Ministry of Agriculture Irrigation and Livestock
MIS	Management Information System
MoEW	Ministry of Energy and Water
MoF	Ministry of Finance
MoIA	Ministry of Interior Affairs
MoMP	Ministry of Mines & Petroleum
MRRD	Ministry of Rural Rehabilitation and Development
NEPA	National Environment Protection Agency
NGO	Non-Governmental Organization
OP	Operational Policy
PA	Project-Affected Person
PAF	Project Affected Families
PMU	Project Management Unit

PPIAP	Public Private Investment Advisory Project
RPF	Resettlement Policy Framework
RAP	Resettlement Action Plan
SESA-EI	Strategic Environmental and Social Assessment for the Extractives Industry
SIA	Social Impact Assessment
SDNRPII	Sustainable Development of Natural Resources Project Phase 2
TAPI	Turkmenistan-Afghanistan-Pakistan-India pipeline project
ToR	Terms of Reference
TPM	Third Party Monitoring
UN	United Nations
USAID	United States Agency for International Development
USD	United States Dollar
WB	World Bank

## **Definition of Important Terms under this Framework**

**Project Affected Persons (PAPs):** means all the people directly affected by project-related land acquisition that leads to their physical relocation or loss of assets, or access to assets, with adverse impacts on livelihoods. This includes any person, household (sometimes referred to as project affected family), firms, or public or private institutions who on account of project-related land acquisition would have their:

- (i) standard of living adversely affected;
- (ii) Right, title or interest in all or any part of a house, land (including residential, commercial, artisanal mining, agricultural, plantations, forest and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or
- (iii) Business, occupation, place of work or residence, or habitat adversely affected, with or without displacement.

PAPs therefore include;

- i) Persons affected directly by the acquisition or clearing of the right of-way or construction work area;
- ii) Persons whose agricultural land or other productive assets such as mining, trees or crops are affected;
- iii) Persons whose businesses are affected and who might experience loss of income due to project-related land acquisition impacts;
- iv) Persons who lose work/employment as a direct result of project-related land acquisition; and
- v) People who lose access to community resources/property as a result of project-related land acquisition.

**Census means** the complete and accurate count of the population that will be affected by land acquisition and related impacts. The population census will provide the basic information necessary for determining eligibility for compensation.

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

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

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

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

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

**Livelihood Restoration** means the measures required to ensure that PAPs have the resources to at least restore, if not improve, their livelihoods. Restoration of livelihood of all PAPs is one of the key objectives of the World Bank's resettlement policy. It requires that people are given the means and assistance

necessary for them to improve, or at least restore, their livelihood and living conditions to pre-project levels.

**Inventory of Losses** means the pre-appraisal inventory of assets as a preliminary record of affected or lost assets.

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

**Land Acquisition** means the process whereby the state can use its sovereign force to acquire land (i.e. eminent domain) for public purposes under the legally mandated procedures for eminent domain. National law establishes which public agencies have the prerogative to exercise eminent domain, whereby a person is compelled 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. Land acquisition may also include:

(a) Acquisition of unoccupied or unutilized land;

(b) Repossession of public land that is occupied or used by individuals or households; and

(c) Project impacts that result in lands being submerged or otherwise rendered unusable or inaccessible. "Land" here implies anything grown on or permanently affixed to land, such as crops and building or other improvements, and appurtenant water bodies.

**Non-titled** means those who have no recognizable, formal 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 75 Afghanis (as of November 2018). Also, those families who are lacking sufficient money to live at a standard considered comfortable or normal in a society.

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

**Rehabilitation** means the assistance provided to PAPs to supplement payment of compensation for acquired land, assets and affected livelihood 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.

**Transaction Costs** are expenses that occur during the purchase or sell of a good or service.

**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 because of the project.

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

**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 and encroachers** 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 and encroachments** 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
- (vi) Ethnic minorities; and
- (vii) Women headed households.



## Executive Summary

The objective of the World Bank supported Afghanistan Gas Project (AGASP) is to facilitate a sustainable supply of gas through targeted investments in gas infrastructure and enhanced gas sector governance, which entails social impacts including resettlement concerns at various levels. The project has three components as follows:

- **COMPONENT A: SUSTAINING GAS SUPPLY.** The objective of this component is to support the sustained supply of commercial quality natural gas for Sheberan and Mazar IPP power generation and industrial uses through (a) targeted technical assistance and transaction support to hydrocarbons related investments in the near and mid-term, and (b) support to the construction and installation of natural gas infrastructure, including a pipeline and gas processing facility.
- **COMPONENT B: STRENGTHENING GAS SECTOR GOVERNANCE.** The objective of this component is to address the institutional, contractual and regulatory gaps that persist in the management of Afghanistan's mineral and hydrocarbon resources, thereby improving predictability, transparency and functionality of the sectors. Emphasis will be given to the MoMP upstream role as policy-maker, in accordance with the Mining Sector Roadmap, as well as establishment of sector regulatory bodies such as the AOGRA (created 2018). Geographic focus will include field offices responsible for licensing, regulatory monitoring including occupational health, safety and environment.
- **COMPONENT C: PROJECT MANAGEMENT, MONITORING AND EVALUATION.** This component will provide support at implementation to the undertake project management, in accordance with the World Bank's fiduciary and other guidelines, including incremental operating costs, equipment, training on fiduciary and project management issues, project audits, and engagement of technical advisers to provide technical expertise on project performance monitoring and planning. This component will also finance the cost of recruiting a project management firm to support the MoMP in the effective management and implementation of the project. The firm is expected to focus on the job training and capacity building to project staff.

The overall environmental and social risk rating for this project is Substantial. The World Bank ESF applies also to all TA activities. The key land related risks include; (1) resettlement issues associated with the construction of the Sheberghan Mazar Gas Pipeline (SMPL), and (2) the downstream TA gas activities of the project may cause risks associated with land acquisition.

Purpose of the RPF. The purpose of the resettlement framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects or project components to be prepared during project implementation.

The RPF clarifies resettlement principles, eligibility criteria, entitlement matrix, livelihood restoration and organizational arrangements for land acquisition, land and asset loss, compensation, rehabilitation and resettlement of people that may be necessary while supporting extractive industry investments. The guiding principles of this RPF are:

- (i) avoid (as first option) or minimize (as alternate) adverse impacts on persons and families (PAPs/PAFs) likely to be affected by the project;
- (ii) all PAPs will be consulted throughout the operation;

(iii) all PAPs are eligible for compensation for losses resulting from project intervention irrespective of possession of formal title to land;

(iv) all compensation for land or lost assets will be at replacement value.

Additionally, the RPF provides guidelines for preparation of Resettlement Action Plans. This will not only ensure consistency in resettlement planning but also develop the capacities of the implementing and supervising agencies while implementing project.

RPF developed earlier for the Sustainable Development of Natural Resources Project II (SDNRPII) forms the basis for the present RPF and has been reviewed and updated where necessary by considering guiding principles and recommendations of SESA-EI and changes to the Afghan Land Acquisition Law in 2017 as well as the WB transition from safeguards policies to Environmental and Social Standards (ESS) under the Environmental and Social Framework (ESF). The RPF includes resettlement and rehabilitation principles and approach to be followed in minimizing and mitigating the adverse impacts likely to be caused by this project. All the applicable acts and policies of Government of Afghanistan and relevant World Bank ESSs in the context of this project are discussed in this RPF. Hence, MoMP will ensure that project implementation is consistent with the local laws and so World Bank policies particularly WB ESS5 on Land Acquisition, restrictions on Land Use and Involuntary Resettlement.

ESS5 deals with the issues and concerns related to land/assets acquisition, their compensation for all categories of affected persons and affected assets, relocation, resettlement, loss of livelihood, access and related issues. Project activities causes physical and economic displacement will not commence until such plans have been finalized, approved and implemented. The RPF requires, inter alia, that appropriate and accessible Grievance Redress Mechanisms are established for those losing land/assets or being resettled. While considering national and WB legislations, the approach for managing resettlement related issues, identification of eligible persons for compensation, compensation rates identification methods, institutional setup, and public consultation methods, monitoring mechanism are elaborated.

## 1. Project Description

1. AGASPAGASP incorporates the MoMP Roadmap priorities that facilitate institution strengthening and regulatory restructuring and building technical skills for resource development. The project design relies heavily upon citizen engagement and investors input. The following is a detail description of project activities
  - a. AGASP
2. **COMPONENT A: SUSTAINING GAS SUPPLY** The objective of this component is to support the sustained supply of commercial quality natural gas for Sheberghan and Mazar IPP power generation and industrial uses through (a) targeted technical assistance and transaction support to hydrocarbons related investments in the near and mid-term, and (b) support to the construction and installation of natural gas infrastructure, including a pipeline and gas processing facility. The IPPs are not part of the AGASP.
3. **Subcomponent A1. Operationalizing private sector gas development opportunities.** The Bank is not investing in upstream field development, rather this subcomponent will provide transaction and technical advisory support to the GoA on preparation of the tender process and award of contracts for the development of the Totimaidan gas block. This sub-component will support the following activity: (i) Provide technical, legal, financial, environmental and social, and transaction support on contractual issues related to private investment in gas sector development, including support for the international tender of the Totimaidan gas block; (ii) support the MoMP and

AOGRA build capacity to monitor the contractual and regulatory compliance associated with Totimaidan gas blocks; and iii) support the MoMP and other relevant stakeholders to building their capacity to monitor and report on the implementation of environmental and social management plans associated with gas development activities at Totimaidan. It is expected that most capacity building efforts under this activity will focus on practical on the job training, which may have broader applications across the sector.

- 4. Subcomponent A2. Gas Infrastructure.** The objective of this subcomponent is to provide technical support to MoMP and AGE to ensure sustainable natural gas deliverability including the development and optimization of upstream field facilities, midstream transport and downstream distribution value chain, initially in compliance with supply commitments assumed by the government with the Sheberghan and Mazar IPPs and, eventually, for the use of domestic natural gas for industrial, commercial, residential and transport use. The IPPs are not part of the AGASP. The activities of this component should comply with the Environmental, Health and Safety Guidelines (EHSGs) for Onshore Oil and Gas development. Specific activities under this sub-component will include:
- a. **A2.1. Technical assistance and equipment for the construction of New SMGP**, will finance the following activities: i) Procurement of equipment necessary for the construction of the pipeline based on an assessment carried out by the supervision engineer during project preparation; (ii) Engineering survey and detailed design in accordance with international standards and engineering practices; iii) Quality Assurance / Quality Control (QA/QC) and supervision engineer in the construction and maintenance of the gas line; and iv) Capacity building to MoMP, AGE and other relevant stakeholder on environmental and social management and monitoring associated with the gas-line. The civil works aspects of the gas line construction will be undertaken by Afghan Gas Enterprise who have been assessed to have the skills and the resources to carry-out this role. As such this proposed project will not finance civil works for the construction of the gas line. Rather, this subcomponent will focus on providing technical assistance, capacity building, and equipment to ensure that the SMGP is built and maintained in compliance with quality and safety assurance standards.
  - b. **A2.2. Equipment, TA, and Capacity Building for the Operations and Maintenance of Gas Processing Field Facilities.** This activity will finance the following sub-activities: i) Procurement, installation, and commissioning of the new Amine Plant in Yatimtaq gas field; ii) Technical assistance to AGE, through international experts, to optimize existing field facilities, including gathering, dehydration, compression, processing (existing amine plant); iii) Trainings and capacity building to AGE, including assessment of technical skills gaps in field facility and pipeline construction, operations, maintenance and control, and gas metering and processing systems; iv) Procurement and installation of metering equipment, Supervisory Control and Data Acquisition (SCADA) Systems. This activity will finance procurement of consultants (for technical assistance and capacity building), equipment, civil works, and training.
  - c. **A2.3. Technical Assistance and Capacity Building to AGE on Yatimtaq Gas Fields, to supply Sheberghan and Mazar IPPs.** This activity provides capacity building and technical assistance to AGE to prepare and assess field development plans, focusing on the Yatimtaq gas field, where AGE already has a program to drill wells to sustain existing gas supply, but is doing so without proper data and planning. Support will also address environmental and social issues associated with field development planning, including the preparation of an ESIA or environmental audit of existing impacts if necessary. Field development planning will allow AGE to optimize the use of government funds.

**COMPONENT B: STRENGTHENING GAS SECTOR GOVERNANCE.** The objective of this component is to address the institutional, contractual and regulatory gaps that persist in the management of Afghanistan’s hydrocarbon resources, thereby improving predictability, transparency and functionality of the sectors. Emphasis will be given to the MoMP upstream role as policy-maker, as well as establishment of sector regulatory bodies such as the AOGRA (created 2018).

5. **Subcomponent B1 Strengthening the MoMP.** Building on support provided under SDNRP2 and its lesson learned, this subcomponent will provide advisors to the MoMP, support capacity building of staff, improve licensing processes, sharpen technical skills, build IT infrastructure including systemization of contracts management, and administration. This component will provide ongoing support to MoMP as needs are further identified. Specific activities financed through Subcomponent C1 include the following:
  - a. **B1.1. Sustainable administration and management of the MoMP,** leveraging to the Ministry in its participation of the Tackling Afghanistan’s Government HRM and Institutional Reforms (P166978, TAGHIR) program this activity will provide i) limited human resource capacity building initiatives aimed at facilitating the development and sustainability of staff and skills, including through initiatives such as the establishment of a gender-balanced young professional’s program within the MoMP; iv) capacity building to the Gender Unit of the MoMP to develop a gender policy for the ministry that aims to ensure gender equity in the recruitment and management of its staff; and iii) ad hoc requirement of specialized advisors with in the Ministry as necessary.
  - b. **B1.2 Building capacity for the environmental and social management of the sector,** to ensure that sector development is guided by (a) good international industry practices and applicable performance standards, and (b) technical capacities to implement, review, and monitor E&S instruments under the ESF. Activities may include i) establishment, functioning and staffing of an Environmental and Social Unit within the MoMP; ii) design and implementation of an Environmental and Social Management system (with a long-term objective to link to the Transparency Portal), iii) completing implementation of key recommendations from the 2014 Strategic Environmental and Social Assessment (SESA); iv) support to the Gender unit of the MoMP to develop code of conduct for resource developers to implement gender-based violence prevention in the extractives sector; v) Establishment and implementation of Grievance Redress Mechanism (GRM) related to the gas infrastructure development, and for broader implementation of the AGASP, including capacity building, training and social mobilization activities for GRM Committee members, relevant communities, and the relevant ministries..
  - c. **B1.3 Implementing a transparency and accountability initiatives,** the activity will primarily focus on providing support to the Afghanistan Extractives Industry Transparency Initiative (AEITI) secretariat.
  
6. **Subcomponent (B2). Strengthening regulatory and monitoring institutions governing sector activities.** As set out in the Government Mining Sector Roadmap, the regulatory functions of the MoMP in the hydrocarbons sector have been devolved to the newly established Afghan Oil and Gas Regulatory Authority AOGRA is new and require significant technical assistance and capacity building for effective implementation. This subcomponent will support the following:
  - a. **B2.1. Technical assistance and capacity building to AOGRA and MoMP to regulate the hydrocarbons sector.** This subcomponent will provide support to: i) preparation and finalization of regulations for the hydrocarbons sector according to the new Hydrocarbons Law

(2018); ii) design of a private-sector-enabling regulatory and contractual framework that progressively leads to an integrated sector development approach; and iii) operationalization of AOGRA, with clear staffing criteria and regulatory parameters, (vi) monitoring of gas investments, contractual compliance, and sustaining gas infrastructure. This activity may finance consulting services and advisors as necessary, small equipment supporting establishment of the office, and training.

7. Designed as an umbrella project AGASP is aimed to enhance administration of gas development by strengthening the capacities of key government. The overall environmental and social risk rating for this project is substantial, which requires appointment of an independent social expert - individual or independent consulting firm(s) to conduct SIA and other social development studies. The RAP will be prepared and implemented prior to beginning of any physical works.

### **1.1 Objectives of the Resettlement Policy Framework**

8. The objective of this RPF is to outline the principles of resettlement and compensation thereof as and when the project reaches that stage. This will not only ensure consistency in resettlement planning but also develop the capacities of the implementing and supervising agencies gradually and simultaneously. Lessons learnt during the course of implementation can easily be integrated in improving the various issues related to resettlement planning and its monitoring. The resettlement policy needs to be consistent with both of the following policies:
  - Existing national laws and policies related to land acquisition and compensation and;
  - World Bank's Environmental and Social Standard 5 which deals with Land Acquisition, restrictions on Land Use and Involuntary Resettlement.

### **1.2 Rationale for Developing Resettlement Policy Framework**

9. The Resettlement Policy Framework (RPF) is a standard instrument used to clarify resettlement principles, eligibility criteria, compensation entitlement, organizational arrangements and guidelines for carrying out census surveys and Resettlement Action Plan (RAP). The RPF will be applied in cases where the impacts and physical location of a project-related activity are not known in advance. It is important to notice that the proposed Project provide direct financing support to rehabilitation and construction of gas infrastructure and technical assistance in targeted transactions of gas related investment in the near and mid-term. The nature, type and physical locations of the targeted transactions of gas related investment to be supported in the near and mid-term under component A & B are not known. Once individual activities are defined, and the necessary information becomes available, should resettlement activities become necessary, this framework will be expanded into specific RAP(s) proportionate to potential risks and impacts. Project activities that will cause physical and/or economic displacement will not commence until such specific plans have been finalized and approved by the World Bank (WB). In this way a consistent approach to resettlement practice will be ensured for all activities involving displacement.
10. The guiding principles of this framework are the following:
  - Avoid or minimize adverse impacts on persons and families likely to be affected by the project (Project-Affected Persons [PAPs]).
  - All PAPs will be consulted throughout the operation.

- All PAPs are eligible for compensation for losses, including restrictions of access and land use resulting from project intervention irrespective of possession of formal title to land.
  - All compensation for land or lost assets will be at replacement value.
  - Acquisition of land and related assets may take place only after compensation has been paid, and where applicable, resettlement sites and moving allowances have been provided.
  - Functional multi-tier GRM will be made available to all PAPs to lodge complaints and suggestions regarding resettlement, compensations and other issues (including GBV) related to the project.
11. This RPF spells out how these principles will be considered in the preparation of feasibility studies, including safeguards documents, and tender documents in the Public Private Investment Advisory Project (PPIAP). It should be said at the outset that while the relevant laws of Afghanistan might not cover these matters in any detail, there would appear to be nothing in the laws to stop these principles being applied in practice.

### **1.3 Guidelines for carrying out census surveys and RAPs**

12. The requiring ministry (MoMP of Afghanistan) will conduct the census of all Displaced Persons (DP) and inventory of assets, in close coordination with the acquiring agency (Ministry of Urban Development- MUDL and provincial valuation team/local government officials)- Annex 3 provides procedures for conducting land clearance survey and land valuation). To prepare for the census, the requiring ministry will verify that the census instruments are reliable; personnel are well trained, and enough personnel and resources are available to conduct the census quickly.
13. The census will include a complete inventory of all losses to be incurred by each PAF. This information will include at a minimum: (a) number of persons, main occupation and level of income; (b) number, type, and dimension of the houses; (c) number, quality, and area of all the residential plots; (d) number, category, type, and area of agricultural land held and to be lost by each PAF; (e) tenure status of agricultural land and, amount of rent paid by tenant/lessee, where applicable; (e) quantity, category, and dimension of all rent other fixed assets adversely affected; (g) productive assets lost as a percentage of total productive assets; (h) temporary damage to productive assets; (i) quantity, category, and quality of non-agricultural livelihood adversely affected; (j) quantity, type, and quality of community resources to be acquired.
14. The census needs to be undertaken as soon as possible to ensure accurate determination of eligibility for entitlement.
15. The date of completion of the baseline survey will be considered the cut-off date for eligibility; those in the areas before the census begin are eligible for compensation and assistance, as relevant, and those who arrive after the cutoff date are not. The cutoff date should be widely communicated at the area ahead of census survey through local media channels such as radio, television, social media and through public awareness to CDC, local social society etc.
16. The RAP(s) where applicable, will be prepared prior to invitation of bids for the corresponding civil works.

## **2. Legal and Policy Framework for Resettlements**

### **2.1 General Background on Afghan Law/Policy on Land Acquisition**

17. A Resettlement Policy Framework had been developed by the MoMP for the SDNRP II which included resettlement and rehabilitation principles and approach to be followed in minimizing and mitigating the adverse impacts likely to be caused by that project. The present RPF is based on the SDNRP II RPF but has been reviewed and updated where necessary by considering guiding principles and recommendations of SESA-EI and changes to the Afghan Land Acquisition Law in 2017 as well as the WB transition from safeguards policies to Environmental and Social Standards (ESS) under the Environmental and Social Framework (ESF). All the applicable acts and policies of Government of Afghanistan and relevant World Bank policies in the context of this project are discussed below. The MoMP will ensure that project implementation is consistent with the local laws together with World Bank policies.
18. There is no country specific resettlement policy in Afghanistan, however Law on Land Acquisition approved in 2017 which provides the legal basis for land acquisition and compensation. The Law entitle the Government of Afghanistan to acquire private property for public purposes upon payment of fair market value. According to these laws, compensation is based on rates determined by the legally constituted resettlement committee. If a land and property are acquired by the government for public purposes, the owner is entitled to receive (i) the value of land; (ii) the value of residential houses and buildings; and (iii) the value of trees and orchards and other assets on the land.
19. The Constitution of Afghanistan (ratified in 2004) has three articles that closely relate to compensation and resettlement. In accordance with the Constitution of Afghanistan, acquisition of a person's property, in return for a prior and just compensation within the bounds of law, is permitted only for securing public interests in accordance with provisions of law (Article 19 of the Constitution).

### **2.2 The Land Acquisition Law (2017)**

20. The Law on Land Acquisition (2017) replaces the Law on Land Expropriation (2009) that provides the legal basis for land acquisition and compensation particularly 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, and large gardens.
21. 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).
22. 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);
23. 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 to collect their last harvest from the land, except when there is emergency evacuation (Section 6);
24. In cases of land acquisition, the following factors shall be considered for compensation:
  - Value of land;

- Value of houses and buildings on the land;
  - Value of trees, orchards and other assets on land (Section 8);
25. The value of land depends on the category and its geographic location (Section 13)
26. 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);
27. 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);
28. 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
29. 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.
30. Compensation is determined by the Council of Ministers. The decision is based on the recommendation of a “committee” consisting of the following:
- The landlord or person who uses the land or their representatives;
  - Official representative of agency who needs to acquire the land (i.e. MOF);
  - Representative of local municipality;
  - Representative of Ministry of Finance;
  - Representative of Ministry of Justice.

### **2.3 World Bank ESS5**

31. The mine extraction activities involve displacement of persons living at the vicinity of mining site. Therefore, ESS5 addressing project-related land acquisition and restrictions on land use applies. The objectives of the World Bank’s Environmental and Social policy can be clearly achieved by following the principles described within ESS5. However, this RPF provides for a more detailed framework which not only complies with the WB policy’s objectives where in all cases, a clear basis for calculation of compensation will be documented by following transparent and inclusive procedures during resettlement. In accordance with the fundamental principles of policy, entitlements for compensation in responses to the adverse impacts due to project implementation are:
- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs;
  - 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;



- 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;
  - Compensation for losses will be delivered at replacement costs and compensation payments must be received prior to taking possession of the required land or other assets.
32. In order to understand the extent of similarities and differences between the national law and WB ESS5 on land acquisition and resettlement a comparison between both is provided in Table 1 below. The table compares the two systems suggesting ways of reconciling them. Notwithstanding the differences between the national laws and World Bank's Environmental and Social Standard, in all cases of discrepancies between the two in compensation to PAPs, the World Bank's ESS will apply, unless the local requirement sets a higher standard or benefits for the PAPs.

**Table 1: Comparison between the Law on Land Expropriation and ESS5 with Proposals for Reconciliation**

<b>Law on Land Expropriation (LAL)</b>	<b>WB Environmental and Social Standards ESS5</b>	<b>Gaps between LAL and ESS5 with comments</b>	<b>Strategy to address the gaps</b>
1. No legal opportunities provided to potential APs and others to challenge or discuss proposed acquisition and resettlement or for any public debate and approval on proposals. In 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 ESS5 is followed in practice in Kabul but the law is silent on the matter.	Potential APs must be able to discuss need for acquisition and alternatives with officials from the Ministry
2. Officials visit area before any official action to assess land and mine values; values so assessed are the basis of compensation. This is practice as the LAL 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.	A date set prior to the commencement of acquisition should be fixed for land values. This should be the cut-off date
3. As a matter of practice in 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.	The RPF should prescribe that that a census of eligible APs to be undertaken at the immediate pre-project stage.
4. By article 6 of LAL, 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	Prepare resettlement plan on how project to be implemented and resettlement etc provided for. Emphasis on participation by APs in	LAL does not provide for what ESS5 requires. Some pre-planning of projects will exist and informal discussions with APs involve participation. 3	The RPF should prescribe a participatory approach to acquisition and resettlement planning and implementation would not

<p>months before acquisition. Informal discussions and negotiations occur both on land to be acquired and on compensation.</p> <p>It is at this point that donations of land may be ‘invited’.</p>	<p>preparation of process and in project implementation</p> <p>Emphasis on early information to be given to potential APs of possible resettlement</p>	<p>months’ notice may be too little where relocation is likely but not rigidly adhered to.</p>	<p>contradict the LAL and is the best way forward.</p>
<p>5. No special provision in LAL for a resettlement plan or any special arrangements for resettlement.</p>	<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. Distinction drawn between short and full plans, depending on numbers to be resettled.</p>	<p>Major gap of substance</p>	<p>2 and 3 the preferred option.</p>
<p>6. The Council of Ministers approves expropriation of land. Unlike the former law, there is no provision for the owner/user and or agent to be present throughout all stages of acquisition. It follows that</p> <p>Acquisition may proceed whether the owner etc is present or not. However, under article 5 LAL, a</p>	<p>No specific procedures required by ESS5 but content of resettlement plan implies APs will be involved in all stages of acquisition</p>	<p>The spirit of ESS5 conflicts with LAL’s non-provision of involvement of the owner apart from that provided for in article 5. It is not clear why that is confined to “the Municipality”. Given many absentee owners, it may be unavoidable to allow absentee acquisition.</p>	<p>Consultation with project affected persons, and greater protection for absentee owners should be required by the RPF which could also serve as a prototype for regulations made under article 22(5) of the new law.</p>

<p>commission is to be formed “by the Municipality” on which the owner is represented to “determine damage incurred due to land expropriation” which is differentiated from compensation. Damage is explained in article 18 LAL.</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 LAL after transfer of ownership, owner may enter acquired land and harvest crops except where urgent use of land prevents this</p>	<p>Not mentioned</p>	<p>LAL ahead of ESS5 on this:</p>	<p>No change</p>
<p>8. The bulk of LAL 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</p>	<p>Fundamental principle of ESS5 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>Given huge numbers of people not having and not going to get formal legal titles to their land in the foreseeable future, LAL should be interpreted so those living and or working on land at the census date receive fair compensation and resettlement assistance. As with 6 above, the RPF can provisions for compensating all those on the land and this can be a model for future</p>

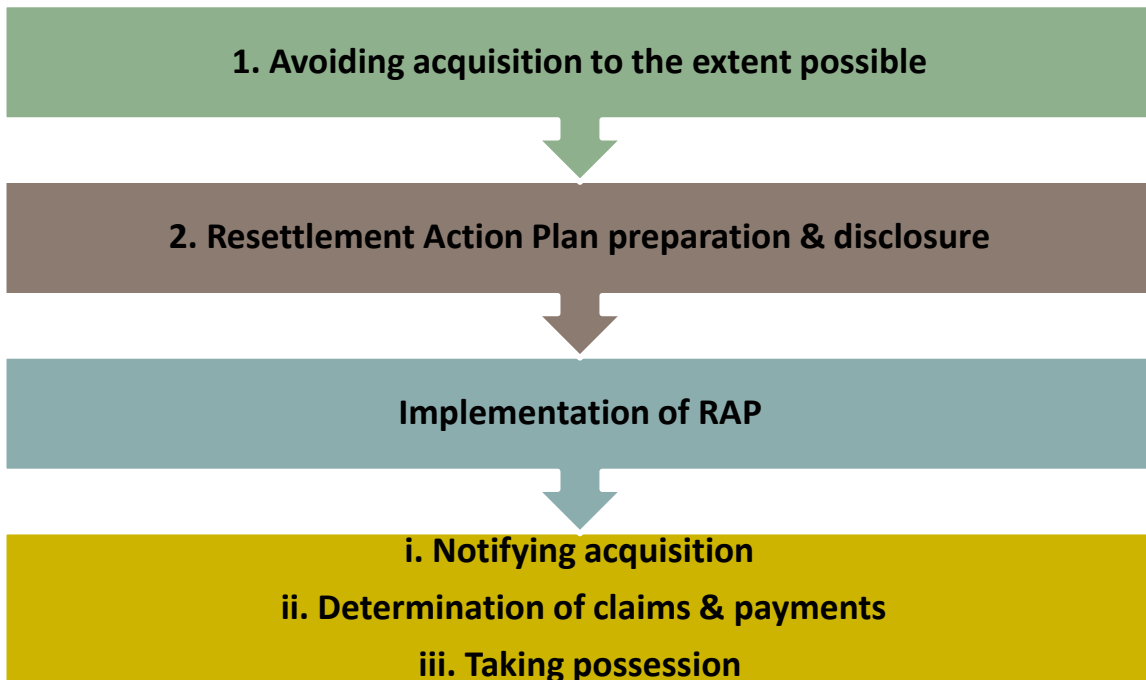
<p>respect to the payment of compensation.</p> <p>Practice in rural areas was quite accommodating to those with customary titles.</p> <p>Practice in Kabul is to acquire documentary evidence for a claim for compensation.</p>			<p>regulations to be made under the LAL.</p> <p>This is the one major area where there is considerable divergence between LAL and ESS5. It will be necessary to comply with ESS5.</p>
<p>9. The Constitution provides for payment of prior and just compensation. (English translation). The LAL 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</p>	<p>ESS5 requires prompt and effective cash compensation sufficient to replace the lost land and other assets at full replacement cost in local markets.</p> <p>Compensation for lost livelihoods required</p> <p>Disturbance compensation required</p> <p>Land for land compensation encouraged.</p> <p>Resettlement costs and ‘start up’ expenses required. All these provisions can be used to provide for compensation to pastoralists</p>	<p>There does appear to be a gap between the LAL and ESS5. The LAL has a lot of gaps in it. Sensible not to insist on market value in the absence of reliable functioning markets.</p> <p>Biggest gap is compensation for squatters and even their best practice does provide some compensation to those with no legal title.</p> <p>Practice of paying compensation into a bank even when APs not absentee difficult to reconcile with prompt payment of compensation.</p>	<p>Article 40 of the Constitution suggests that option 3 should be the preferred one. It should be supplemented by guidance on how to apply the code in practice.</p>

<p>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 that compensation may be paid into a bank, LAL is silent on the mechanics of paying compensation. No assistance for APs to access bank for their compensation.</p> <p>Practice on the ground is careful and painstaking.</p>			
<p>10. No provision in the law on resettlement support.</p> <p>Practice seems a little haphazard and tends to turn on legality of occupation of PAPs who are to be relocated</p>	<p>ESS5 requires implementation of resettlement plan the contents of which are noted at 4 above</p>	<p>Major gap of substance as noted in 4 above.</p>	<p>The RPF should provide for the making of a resettlement plan (5 above) which should be based on a guided participative approach to implementation.</p>
<p>11. LAL provides for administrative agencies to manage acquisition processes and deal with compensation. APs are part of some</p>	<p>It requires appropriate and accessible grievance mechanisms to be established for those being resettled.</p>	<p>A major gap on grievance mechanisms and current administrative arrangements in LAL difficult to reconcile with</p>	<p>A combination of law and practice guidance would be the best way forward.</p>

<p>committees dealing with compensation.</p> <p>No provision for courts to be involved or for appeals.</p> <p>In practice, committees may act to solve grievances</p> <p>No provisions for e.g. legal aid to assist APs to make claims.</p> <p>Practice at least in Kabul does appear to try and help PAPs.</p>	<p>Logic of ESS5'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.</p>	<p>the participative approach of ESS5.</p> <p>Earlier laws involved payment of compensation in the presence of a judge and allowed an appeal albeit from the judge to a Minister.</p>	<p>Grievance mechanisms to provide for co-operation with shuras and community councils in areas where PAPs are. RPF to provide for these</p>
<p>12. LAL does not provide for any external monitoring body or process</p>	<p>ESS5 states that the borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument.</p>	<p>Major gap on procedures but arguably, monitoring is not part of land acquisition so no legal impediment to providing for same.</p>	<p>Meaningful monitoring is required by ESS5. New institutions should be kept to a minimum. Consideration should be given to use provincial authorities and NGOs. Regular reports should be made and published</p>

## 2.4 Resettlement Approach

33. Following national legislations and the ESS5, the framework for resettlement and rehabilitation of the Project Affected Persons by the AGASP project will be adopted in the following approach:



### Step 1: Avoiding Acquisition wherever possible

- The first step addressed by ESS5 is avoidance of land acquisition and resettlement if possible. Land acquisition should be seen as a last resort and resettlement should not be seen as the easy and first option in terms of what governmental action might be necessary;
- To meet requirements of the above step, a comprehensive Social Impact Assessment (SIA) and financial analysis of each proposed investment needs to be carried out which will include assessment of alternatives to avoid or minimize acquisition and the financial implications to it;
- A preliminary investigation and assessment of the land that may be acquired for the different options must be undertaken. Following the above steps, analysis of alternative options and consultations with potential PAPs and other stakeholders conducted, then a decision on available options are made;
- Persons likely to be affected by the project (PAPs) 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 prior to and separate and distinct from affected people (APs) participating in the planning of any resettlement that has to take place; The affected persons shall have access to GRM, in case where he or she has any concern to raise concerning the site selection for relocation site.
- A cut-off- date for any ultimate assistance and compensation for PAPs 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 several times over with respect to each specific mining project. 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: Prepare a detailed Resettlement Action Plan through consultation and information disclosure**

34. The second step in the process is to prepare detailed land acquisition and resettlement plan (guided by the principles established in this RPF), which must include measures to ensure that PAPs are:
- informed about their options and rights in relation with resettlement and compensation;
  - consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
  - Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project-related land acquisition.
35. If the impacts include physical relocation or displacement of affected persons, the resettlement plan must include measures to ensure that the displaced persons are;
- Provided adequate and timely assistance (such as moving allowances) during relocation; and
  - Provided with residential housing, or housing sites, or, as required, sites for which a combination of productive potential, geographical advantages, and other factors is at least equivalent to the advantages that they had at the old settlement.
36. Where necessary, the resettlement plan should also include measures to ensure that affected people are;
- 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;
  - Provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities;
  - 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, obtain employment in e.g. a commercial mining operation.
  - Established accessible GRM system to address concerns/complaints that might be raised during resettlement process by the affected people.
37. The above provisions require a very judicious estimation of financial and other assistance and need to be dealt very carefully. The RAP should also establish clear and transparent processes to provide for just, fair and equitable distribution of assistance to minimize discretionary and biased approach in the decision-making processes.

38. 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;
- Entitlement matrix and eligibility criteria; with special additional allowance for identified vulnerable households
- Details of person/s who are 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 including;
  - Whether the land is occupied and by whom;
  - What the land is presently being used for;
  - The condition of the land and its facilities;
- All necessary arrangements made by the project implementing agency to facilitate resettlement and disbursement of moving allowances etc. The manner and form in which compensation amounts with clear definitions of categories of land to be acquired and mechanisms to decide on land prices for compensation payable;
- An estimate of the compensation payable and of the resettlement expenses;
- Budget to implement RAP;
- The procedures to be followed in executing the plan;
- The arrangements for the involvement of PAPs in execution of the plan;
- Participation of PAPs in the design, execution and monitoring of RAP implementation. There will be informal day-to-day meetings among PAPs, MOF local staff, and other stakeholders. The more formal consultation process in the sub-project areas will be through: (a) one-on-one meetings with directly affected households; (b) village and community meetings; and (b) public consultations with government officials. Informative materials will have to be prepared and distributed within the sub-project areas before the meetings;
- The arrangements to challenge plan execution and compensation (establishment of a Grievance Redress Mechanism easily accessible for PAPs and other stakeholders), in accordance with the WB ESS10. Where possible, the GRM may use existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements designed to resolve disputes in an impartial manner.
- Appropriate Institutional arrangements to implement the RAP;
- The arrangement for monitoring mechanism.

### **Land Donation**

39. There must be very clear documentation that any person who ‘donates’ land to the project is made fully aware of his or her right to receive compensation for any land which he or she is losing to the project and specifically waived that right. It is essential to make it certain that such donations are genuinely voluntary and that the giver of the land does not expect some special benefit or treatment from the project because of the donation. Where there is any possibility of such special treatment or

the expectation of same, the donor of the land should receive compensation under the resettlement plan rather than obtain special treatment outside the plan; in other words, a donor will be treated as if he or she had their land acquired compulsorily.

Wherever land is donated there will be documented evidence that:

- The potential donor or donors have been appropriately informed and consulted about the project and the choices available to them;
- person donating the land was not subject to pressure to donate and that he/she could freely have opted not to donate;
- Potential donors are aware that refusal is an option, and have confirmed in writing their willingness to proceed with the donation;
- The amount of land being donated is minor impacts (as loss of less than 10 percent of an individual's holdings) and will not reduce the donor's remaining land area below that required to maintain the donor's livelihood at current levels;
- No household relocation is involved;
- The donor is expected to benefit directly from the project;
- That the donor has clear title over the land and such land is not being used by a third party who could be affected;
- For community or collective land, donation can only occur with the consent of individuals using or occupying the land;
- The Borrower will maintain a transparent record of all consultations and agreements reached.

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

### **Eligibility Criteria**

41. Project affected persons may be classified and include: i) those with formal legal rights to land, including customary and traditional rights recognized under the law of the country; ii) Those who do not have formal legal rights to land at the time the survey begins but have a claim to such land or assets, provided that such claims are recognized under the law or become recognized through a process identified in the resettlement plan; and iii) Those who have no recognizable legal right or claim to the land they are occupying.

42. The first two categories of occupiers are entitled to receive compensation for loss of their land. The third category is entitled to receive resettlement assistance. The rationale for this assistance is that people in this group are usually the poorest members of a community and those most likely to be the hardest hit by having to move. While this group does not have legal rights over the land, as part of the efforts to restore their livelihoods and living conditions, it is the ESS5 requirement, to provide solutions that help ensure that those affected have security of tenure at their new relocation site, in the case of those being physically displaced or being offered land for land. However, people who encroach on the project area after the cut-off date, which will be the completion of the census, will not be entitled to any compensation or other assistance

### **Step 3: Implementation of RAP**

43. The third and final step is the execution of the Resettlement Action Plan, further divided into three sub sets provided below. These sub-steps are not set out specifically in ESS5; they are however a necessary part of land acquisition and resettlement and must be written into the RPF to take place.

1. **Notifying acquisition:** To ensure public notifications and 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 (if any), full explanation of the circumstances of such displacement including period for which and where will the occupiers be temporarily located and in what form of accommodation including their eligibility for compensation, if any will have to be recorded. In case of voluntary donation of Land, the donor should be clearly made aware of his/her right to receive compensation and the process should be clearly documented to avoid any future claims or objections;
2. **Determination of claims and their payments:** To determine the claim amounts payable to each affected person and their speedy disbursements ESS5 distinguishes between compensation and assistance, financial or otherwise, in connection with resettlement. This distinction makes it 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 restore lost livelihood, i.e. to put a person back into the position as close as may be as he/she was prior to having his/her land (including buildings and natural resources on the land) acquired and or the value of retained land diminished and or having to vacate his/her land and move elsewhere, then monetary compensation for loss of assets should be added to what may be called resettlement expenses.

In order to comply with ESS5, this sub-step includes below contents:

- Making claims for compensation
- Provision of assistance to PAPs in making claims
- Assessment of claims
- Determining claims and dealing with appeals
- The payment of compensation

Compensation will include;

- Full replacement cost of land taken at its market value plus transaction costs (e.g. registration fees, selling/buying taxes, etc.)
- alternative land of the same quantity and quality if possible
- resettlement expenses (which for these purposes includes temporary displacement)

3. **Acquiring Possession:** In order to ensure a peaceful and sensitized approach towards taking over of the land – the entering into possession of the land by the acquiring authority – and the departure and resettlement of PAPs.

Assistance with resettlement and displacement will include;

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

44. 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 is a need for constant contact with

PAPs both individually and via their representatives where there are substantial numbers of PAPs involved. A consensual rather than a confrontational approach must be taken to decision-making on awards of compensation, which means that would be comprehensive consultation and negotiation with PAPs regarding compensation package in order to minimize grievances and complaints

### 3. Eligibility for Compensation

#### 3.1 General Eligibility

45. General eligibility is defined as, “people who stand to lose land, houses, structures, trees, crops, businesses, income and other assets as a consequence of the project as of the formally recognized cut-off date will be considered as project affected persons (PAPs)”.

PAPs - entitled for compensation

- All PAPs losing land with or without title, formal land-use rights or traditional land use rights;
- Tenants and sharecroppers whether registered or not;
- ;
- PAPs losing ownership of buildings, crops, plants, access to assets, structures or other objects attached to the land; and
- PAPs losing business, income, livelihood and salaries.

#### 3.2 Land Tenure and Compensation Entitlement

46. In the case of AGASP, persons who may principally be entitled to compensation will be those who may lose small or whole amounts of land as a result of investment in the extractive industry. The following categories of the PAPs will be entitled for compensation for loss of land:

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

Squatters, Encroachers and non-licensed miners will not be entitled for compensation for loss of land, but Non-land assets will be compensated at replacement cost (especially poor and vulnerable). All affected people will be eligible for resettlement assistance. There will be additional measures taken to improve living conditions of poor or vulnerable persons who are physical displaced, through provision of adequate housing, access to services (education & health) and facilities, employment and security of tenure.

#### 3.3 Compensation Entitlements & Livelihood Restoration

47. The PAPs in the project are entitled to various types of compensation and resettlement assistance that the living standards will be improved or at least restored to their previous standards. . They are entitled to a mixture of compensation measures and resettlement assistance, depending on the nature of lost assets and scope of the impact, including social and economic vulnerability of the affected

persons. All PAPs are equally eligible for cash compensation and rehabilitation assistance, 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. Where PAPs livelihood is mainly depends on land, in this case land- for- land compensation it should be the most preferred form of compensation and cash compensation should be last resort in such cases. Thus, the consultation and negotiations for should focus on land for land. In cases where land impacts are very minor, cash compensation may be the most practical option. The compensation packages shall reflect replacement costs for all losses (such as land, crops, trees, structures, businesses, mining activities incomes, etc.) as elaborated below:

- **Agricultural land Loss:** It is important to note that preference should be given to land-based resettlement strategy. Loss of agricultural land will be compensated at full replacement value at local market rates<sup>1</sup> plus an additional indemnity for 3 months as transitional livelihood allowance. ‘Replacement cost’ is the method of valuation of assets that help determine the amount sufficient to replace lost assets and cover transaction cost. MoMP and consultation with MoF will shoulder all fees, taxes, and other charges, as applicable under relevant laws incurred in the relocation and resource establishment and in issuing new title deeds.
- **Severe Agricultural Land Impacts:** In case PAPs are losing more than 10% of his/her total agricultural landholding, PAPs (owners and other occupiers defined as eligible herein), in addition to the compensation explained above, will be entitled to get an additional amount for severe impacts equal to the market value of a year’s net income crop yield of the land lost. Meanwhile, the PAPs will be provided access to the capacity building and training program on a priority basis for development of an alternative sustainable livelihood.
- **Residential/Commercial/Mining Land Impacts:** These impacts will be compensated at replacement value in cash at current market rates free of deductions for transaction costs Also, PAPs are provided with choices among feasible resettlement options, including residential housing or housing sites. Apart from this, the owners/renters of residential buildings will be assisted with finding alternative accommodation and provided with a monthly relocation allowance for a period not exceeding three months or till they move to an alternative accommodation, whichever is earlier. The monthly amount payable will be clarified in the RAP;
- **Houses, Buildings, Structures Damages:** These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions. Compensations will include the cost of lost water supply, electricity or telephone connections. Renters/leaseholders will receive an allowance of geared to the rent they are paying for 3 months to cover emergency rent costs;
- **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 (fruit growing trees). Productive trees will be valued at gross market

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<sup>1</sup> The Valuation Committee will be represented by local authorities including member of the local municipality, who has engaged fixing prices for the local market and acquire updated information about the local market prices. The compensation amount fixed by the valuation committee members will coincide with the open market rates, otherwise the PAPs would not accept it.

value of one year of 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, including fishing and artisanal mining, will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise (small & medium) business loss allowance will be decided based on the market rate of the day and nature of business. Permanent business losses will be based on actual income loss or in cash for the period deemed necessary to reestablish the business (6 months). Compensation for temporary business losses will be cash covering the income of the interruption period up to 6 months based on a monthly allowance of similar business in the region. The details should be provided in the RAP. In the absence of any substantial and verifiable system to calculate incomes of such small businesses in the rural areas of Afghanistan, the compensation for business losses cannot be ascertained. However, these businesses will be entitled to compensation for any loss of asset similar to as described above, such affected persons or members of their families will also be entitled to avail the capacity building and training opportunities made available to the others PAPs;
- **Community Structures and Public Utilities:** Will be fully diverted or rehabilitated so as to satisfy their pre-project functions;
- **Vulnerable Households:** Vulnerable people (PAPs below the poverty line, women headed household, mentally challenged headed households, etc.) will be provided an additional allowance equivalent to 3 month of average household income, 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;
- **Temporary impacts:** Landowners who lose use of their land temporarily because of project activities will be compensated in cash covering the period of interruption based on an agreed monthly allowance.
- **Transitional Livelihood allowance:** PAPs forced to relocate will receive a livelihood allowance (that will be mutually agreed upon) for the duration of the livelihood interruption, computed based on the prevailing wage rate of the time and region. This is also the basis for cash compensation on lost wages;
- **Land Replacement Values:** will be assessed based on a survey of land sales in project areas over the last 3 years and of government rates (if any) as per local revenue papers. Land values and compensation for other assets, will be negotiated between PAPs and competent authorities if concrete data on land market rates are unavailable;
- **Gender Inclusion:** Documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or single heads of households as relevant, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs.

### 3.4 Unit Compensation Rates and Budget

Based on Land Acquisition Law (2017) related organization is responsible for payment of compensation. So, every implementing agency of project must pay compensation and access to social issues on time. In mining projects, If MoMP is the cause of detention then responsibilities also refer to



them, and the other hand if the payment process has been delayed through affected people then MoMP is not responsible.

### **3.4.1 Establishment of Rates for Land Acquisition/Resettlement**

48. Prompt and adequate compensation provision is guided in the 'Land Acquisition Law' (2017) but is silent on the details of compensation. In the absence of detailed rules; it will not be in conflict with the LAL for details to be developed in the context of this RPF and applied to the project. Also in order to comply with the World Bank's ESS5, rates used to compensate for lost land and assets must be at replacement cost in local 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 ESS5, "replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs.
49. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot easily be valued or compensated for in monetary terms, attempts will be made to establish access to equivalent and culturally acceptable resources and earning opportunities.
50. In the absence of information on likely investment project on extractives industry (number of affected communities of any consultations carried out with potential stakeholders under AGASP project the figures in this RPF are drawn from Resettlement Policy Framework prepared in April 2018 (Resettlement Policy Framework for Public-Private Partnerships and Public Investment Advisory Project; PPIAP). That RPF is prepared with guides on the methods of valuation. Therefore, the figures would not necessarily be the same for the AGASP, but the principles are the same and the suggested methods of calculations of the rates of compensation are sound and may be followed in RAP. The budget would be a part of each RAP which would come forward once the RPF had been accepted and final identification of PAPs and consultation on first segment of the project is completed. Further, provision for funds will be made available for the resettlement costs, including not only compensation to PAPs, but also other costs to be incurred throughout the process of development and implementation of RAPs.

### **3.4.2 Valuation of Land**

51. 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 buildup area. In the valuation of agricultural land, the availability of water is very important to determine the fair value or market rates. Residential and commercial including mining 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.

### **3.4.3 Valuation of Structures**

52. The classification of structures (temporary, semi-permanent and permanent) refers to the materials used in construction. The valuation of structures into three classes:

Class-1: Mud/brick/wood walls, mud/tin roof;

Class-2: Tiled roof and normal cement floor; and

Class-3: RCC, single/double story building

These classes will be determined after various consultations with some owners who recently built their houses, local contractors and some local civil engineers.

#### **3.4.4 Valuation of Crops and Trees**

53. Valuation of crops and trees is quite complicated due to lack of reliable data in terms of yield. The results of the socio-economic survey are not reliable because the majority of the respondents are 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 is 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 will be estimated as per the rate of the day in the market; however, this estimate will be fine-tuned in the preparation of any RAP document.
54. The compensation for productive trees is based on the gross market value of 1 year's income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees will be valued based on the multiple year 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.
55. 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 as a result of the project impact.

#### **3.4.5 Livelihood Restoration Allowances**

56. The resettlement strategy is to provide compensation for all lost assets at replacement cost in order that PAPs' incomes and livelihoods are not adversely affected and where possible improved. All PAPs whose 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 poor and vulnerable PAPs). PAPs will also be given first preference for employment opportunities on the project related activities.

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

**Income Restoration Allowance for Business Losses:** Compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (6 months). Permanent business will receive an amount equaling to average monthly salary for 6 months. Compensation for

temporary business losses will be cash covering the income of the interruption period up to 3 months based on an average monthly allowance in that period in time.

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

**Income Restoration Allowance for Severe Agricultural Land Impacts:** When >10% of a PAP's agricultural land is affected and or in case remaining land holding become less than minimum land holding<sup>2</sup> PAP (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. Again, if the holding is small and the remaining area is not economically viable, the family will be compensated both for the lost asset and for the remaining unproductive asset.

**Vulnerable Households:** Vulnerable people (PAPs below the poverty line, women headed household, mentally challenged headed households, as identified under ESIA) will be provided an additional allowance equivalent to 3 months of average household income, and priority in employment in project-related jobs;

**Transitional Livelihood Allowance:** PAPs losing productive land or losing a house and forced to relocation will receive a livelihood allowance of average monthly salary until livelihood restoration.

**Rental Allowance:** House Renters who are forced to relocate will receive a rental allowance equivalent to three (3) months' rent at the prevailing market rate and will be assisted in identifying alternative accommodation.

**Bank Account:** All project affected families eligible to receive cash compensation of some sort will be assisted in opening a bank account in the name of both spouses, to which all compensation will be issued.

**Employment Opportunity to PAPs (for unskilled and semi-skilled tasks during construction):** 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.

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<sup>2</sup> The minimum economic land holding size is defined when the remaining area is not economically viable for agriculture use.

Table -2: Matrix of Compensation Entitlements and Rates

<b>Eligibility Criteria For Identifying PAPs</b>					
<b>S. No</b>	<b>Who is eligible</b>	<b>What are they eligible for</b>	<b>How to determine eligibility and compensation levels</b>	<b>What's the objective</b>	<b>Comments</b>
1	Landowners	Loss of land and rights to land	<p>1. Official documentation issued by or on behalf of the government</p> <p>2. Customary documents, i.e. documents recognized 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>	The aim of ESS5 is to compensate all those who have lost 'their' land. ESS5 goes beyond technical rules of law or evidence which in part are designed to bring disputes over land to an end and ensure security to title. ESS5 aims at simple and substantive justice: "if you've been on this land for a long time and there is good evidence of that then you should be compensated for losing it" based on replacement cost.	As the matrix in Annex 1 comparing the LAL and ESS5 shows, there is nothing in LAL which prevents the approach of ESS5 being adopted here
2	Encroachers and Squatters	Permanent improvements they have made to the land they have occupied	Observance of permanent improvements; questioning the squatter and neighbors on when improvement made; consulting maps and other relevant documents	The objective here is to compensate the squatter for expenditure on the land but not for the value of the land itself	-do-
3.	Agricultural tenants	Loss of income	Cash compensation corresponding to one year's crop yield of land lost.	A fair approximation of loss of income	-do-
4.	Sharecroppers	Loss of income	Their share of the harvest at market rates plus one additional crop compensation.	-do-	-do-
5.	House owners/renters	Costs of relocation to other	House owners' relocation allowance equivalent to average monthly salary until suitable accommodation established.	This is a very standard element of compensation in all systems	Not specifically provided

## Eligibility Criteria For Identifying PAPs

S. No	Who is eligible	What are they eligible for	How to determine eligibility and compensation levels	What's the objective	Comments
		accommodation	Renters/leaseholders will receive an allowance of geared to the rent they are paying for 3 months to cover emergency rent costs.		for in LAL but nothing to stop is being paid
6.	Loss of livelihoods by agriculturalists	Replacement costs for all losses	<p>1. Permanent losses will be compensated at replacement value in cash based on current market rates plus an additional. Indemnity for 6 months to re-establish based on an average monthly allowance as transitional livelihood allowance.</p> <p>2. When &gt;10% of PAP's agricultural land is affected, PAPs will get an additional allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land.</p>	The aim is to provide a reasonable measure of compensation for loss of livelihoods but on the assumption that PAPs will make a go of things on their new land. It provides temporary relief but not an amount which invites future indolence	This approach is widely accepted in Afghanistan
7.	Residential/commercial land impacts	Replacement costs for all losses	Replacement value in cash at current market rates free of deductions for transaction costs	The above reason applies	-do-
8.	Those who lose or have buildings damaged	Replacement costs	<p>These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions.</p> <p>Renters/leaseholders will receive an allowance geared to the rent they are paying for 3 months to cover emergency rent costs.</p>	See above.	-do-
9.	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 should be paid to both; landowners and tenants	See above	-do-

## Eligibility Criteria For Identifying PAPs

S. No	Who is eligible	What are they eligible for	How to determine eligibility and compensation levels	What's the objective	Comments
			based on their specific sharecropping agreements.		
10.	Those who have lost income from loss of trees	Replacement of lost income	Income replacement based on types of trees lost.	See above	-do-
11.	Those who have suffered business losses	Replacement of lost income	Compensation for business losses will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise based on business loss allowance. Duration for compensation to be determined in RAP	See above	-do-
12.	Those who have suffered loss of wages	Replacement of lost wages for a limited period	Compensation based on actual income loss for time duration until income source is re-established.	See above	-do-
13.	Vulnerable households	Additional compensation over and above strict loss of income	Vulnerable people (PAPs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable PAPs equivalent to 3 months of average household income as well as priority in employment in project-related jobs.	This is a recognition that those classified as vulnerable households will likely suffer losses over and above income loss and will find it especially hard to get started again somewhere else.	-do-
14.	Transitional living allowance for PAPs forced to relocate	Disturbance compensation	PAPs forced to relocate will receive a livelihood allowance of equivalent to average monthly salary for three months. Transitional livelihood allowance is computed based on the prevailing wage rate of day in the areas during the transition time.	This is a standard head of compensation in most systems of compensation.	-do-

## Establishing Valuation Rates for Acquisition

What is being valued	How is valuation conducted	Input of PAPs	Indicative figures	Comments
Matters common to all specific types of valuation	Rapid appraisal; consultation with PAPs; information derived from census and from local authorities	Yes, but not necessarily decisive	Where figures are given they are indicative only being based on a 2018 valuation exercise. These rates will be based on the MAIL's annual crops rates, however the replacement cost rates are determined by provincial land valuation committee on the basis of market prices and replacement cost.	Not any
Valuation of Land	Valuation of the land is pegged on an average, the actual value depending on the nearness to a built-up area. Land prices are based on the district land prices in the district government	Land values are so far as possible determined on the basis of 'objective' factors, but it is not possible to ignore the assumptions of PAPs about land values which do play a part in valuation	Not any	Land values are dealt with after a fashion in the LAL. The Council of Ministers determines values but there is a local process that valuation goes through.
Structures	Structures can be classified (temporary, semi-permanent and permanent) based on the materials used in construction. They may be classified into class 1 (mud/brick/wood walls, mud/tin roof), 2 (tiled roof and normal cement floor) and 3 (RCC, single/double floor building)	In the project from which these classifications are based, they were arrived at after various consultations with some owners who recently build their houses, local contractors and some local civil engineers.	Not any	This approach to structures seems a good one to adopt. Some PAPs considered that the length of time a structure had been standing should affect value, but this was not a factor used in valuation

What is being valued	How is valuation conducted	Input of PAPs	Indicative figures	Comments
Crops	In computing crop losses, a combination of four main crops is 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	In determining the valuation, reliable data will need to be collected from multiple sources (survey, consultation, rapid appraisal etc.)
Trees	Compensation for productive trees is based on the gross market value of 1 year's income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees are valued based on the multiple years' investment they have required. 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.	During interviews with APs on trees, it was pointed out that the fluctuation of the value of tree products was influenced largely by the supply and demand and the absence of post-harvest facilities. Fruit was sold when all other farmers sold their fruit. In the off-season, prices were higher, but few farmers could store their crops until then	The compensation rate for a fruit bearing tree is the average yield per tree times the age of the tree.	The same point as above applies here too
Restoration of income 1. Crop losses	Cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on	No apparent input from PAPs but there may be disputes between owners and sharecroppers which officers from the AGASP and possibly from Environmental and Social Management Unit (ESMU) might become involved in	No figures can be given	As noted in column 3 this may not be as straightforward as it seems. Inter-PAP disputes may erupt and the GRC called into action.



What is being valued	How is valuation conducted	Input of PAPs	Indicative figures	Comments
	their specific sharecropping agreements.			
2. Business losses	compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business Compensation for temporary business losses will be cash	The figures in the next column do not seem to admit of negotiation but there will be an issue of whether a business is permanent or temporary on which PAPs will wish to be consulted and have their views taken on board	Permanent business will receive an amount equivalent to average monthly salary of the time for 6 months. Temporary business losses will be paid for a limited number of months at an amount equivalent to average monthly salary. However, this will be re-computed while developing RAP.	This is another area where disputes could arise but between those offering and those receiving compensation.
3. Income restoration for workers and employees	Indemnity for lost wages for the period of business interruption	This does not admit of much negotiation although there may be differences of opinion of what count as wages	No figures because wages differ depending on the work being done	-do- but in addition, there could be disputes between employer and employee on wages which the project will have to arbitrate on.
Income Restoration Allowance for Severe Agricultural Land Impacts.	When more than 10% of the agricultural land of a PAP is affected, PAPs will get an additional allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land lost.	Given the problems of measurement of PAPs' holdings – see above column on crop losses – this may be difficult to compute and careful negotiations with the PAPs will be necessary	No figures because the exact sums of money involved will depend on the use to which the land is being put	Although this has the appearance of objectivity for reasons noted in column 3 there may be disputes which will need to be handled sympathetically.
Vulnerable group allowance	Vulnerable people (PAPs below the poverty line, women household heads, mentally challenged headed	There will need to be careful and sympathetic consultation and negotiation with these PAPs	A one-time allowance for vulnerable PAPs equivalent to at least an amount equivalent to	Whether this will be seen as adequate will depend on the income forgone. It might be

What is being valued	How is valuation conducted	Input of PAPs	Indicative figures	Comments
	households, etc.) will be provided assistance.		average monthly salary and priority in employment in project-related jobs.	advisable to build in some flexibility here hence the ‘at least’.
Transitional livelihood allowance	PAPs losing land or losing a house and forced to relocate will receive a livelihood allowance.	Disturbance is a standard heading of compensation, but it will need a willingness to be flexible on rates as disturbance is not an objective matter.	At least an amount equivalent to average monthly salary a month for transitional period. Provision of alternative housing in a suitable relocation site.	This is very much a ‘guesstimate’. It may be the best that can be done in the circumstances. Here too the words ‘at least’ have been added to provide for some flexibility
Rental allowance	House renters forced to relocate will receive a rental allowance and will be assisted in identifying alternative accommodation	Negotiations with PAPs are central to the operation of this category of compensation	Monthly rent at the prevailing market rate in the project area	What the prevailing market rent is must differ from place to place. It is probably not worth while trying to create a ‘shadow’ market. As with other heads of ‘allowances’ some flexibility must be built into the outcome.

## 4. Institutional Arrangement

### 4.1 General

57. Distinct processes, dynamics and different agencies are involved in the resettlement and rehabilitation program as described in this RPF. 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;

- Ministry of Mines and Petroleum (MoMP)
- Ministry of Finance (MoF)
- Environment and Social Safeguards Unit (ESSU) at the MoMP
- Implementing Non-Government Organization (NGO)
- Provincial Directorates of MoMP
- Local Government Units (LGUs) - district provincial government, villages and local community Development Councils (CDCs)/*Shuras*
- Afghanistan Land Authority- *Arazi*
- Ministry of Agriculture, Irrigation and Livestock (MAIL)
- Ministry of Energy and Water
- Local municipalities

58. Several agencies are involved in the planning and implementation of resettlement and rehabilitation program however key institutions are MoMP as the executing agency (EA) and the Provincial and District governments together with the appointed extractive industries. 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 Development Councils/*Shuras* in which the package will be implemented.

### 4.2 Overall Organization – Ministry of Mines and Petroleum

59. The MoMP as a requiring agency with support from MUDL (acquiring agency) will have overall administration of resettlement activities. MoMP; will be responsible for ensuring that the guidelines and procedures set out in this RPF are adhered. Within the MoMP, RAP tasks will be handled by two units namely provincial MoMP office and local government institutions. Provincial MoMP will be responsible to coordinate activities in the field including the organization of surveys, consultation meetings, based on the principles set out in the RPF. MoMP is responsible for delivering compensation to the PAPs, preferably to their bank accounts.

60. Under the MoMP the Environmental and Social Safeguards Unit (ESSU) will be involved in the implementation of RAP.

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:

61. In order to coordinate with line government departments, provincial and district administration and other stakeholders and manage project related impacts, surveys, studies, monitor RAP development and implementation and interact with World Bank, the MoMP will include two additional staff- Land Acquisition and Resettlement Specialists (one international and one local) who will be responsible to coordinate with census, cadastral/land clearance survey team, land valuation team, socio-economic surveys, consultation, implementation of RAP, support to vulnerable people and

ensuring social inclusion etc. Local social Development. It is important to note that land cadastral survey, land tasfiya and land/asset valuation will be carried out by MUDL- see annex 3 for details. The social team will closely work with MUDL for land acquisition management. The Resettlement Specialists will be reporting to the Project Director at the MoMP.

62. The social safeguards studies (SIA, including Resettlement Action Plan, ESMPs) will be contracted out to qualified experts (firm & individual). The PMU's social safeguards/resettlement team will conduct quality review of the studies. All social safeguards studies will be subject to review and clearance by both government (NEPA, MUDL, cabinet approval) and the WB approval. The Annex 3 details steps with procedures for government approval of land clearance survey, land valuation and resettlement plan. Government will allocate budget for compensation and resettlement to the affected people. The MoMP will also assigned Focal Officers for Grievance Handling in the selected sites (i.e. Mes Aynak site and the Sheberghan-Mazar gas pipeline).
63. 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 MoMP, Ministry of Finance, and the Geology and Cartography Department.
64. Valuation of Assets Values of land and other assets for compensation is by the Council of Ministers under the Land Acquisition Law (2017) 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 mine owner or person who uses the land or their representatives,
  - ii. An official representative of the agency that needs to acquire the land (e.g. MoMP),
  - iii. A representative of the local municipality,
  - iv. A representative of Arazi, and
  - v. A representative of the Ministry of Justice.

### **4.3 Project Implementation**

65. The overall responsibility of the RPF remains with the MoMP albeit in close coordination with other line ministries.

#### **4.3.1 Ministry of Mines and Petroleum**

66. MoMP will be responsible for submitting RAP to the WB for approval and clearance. Additionally, implementation of RAP also lies under the responsibility of MoMP. Within the MoMP, RAP tasks will be handled by two units described below. Local MoMP office and local governments will be responsible to co-ordinate 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 RAP compensation finances will be the responsibility of MoMP and the physical delivery of compensation to the PAPs will be assigned to a committee selected by the MoMP which will include members such as the local governments but under the supervision of the MoMP and of the supervision consultants.

#### **4.3.2 Implementing NGO**

67. The specific tasks of the implementing/supervisory NGO will be as follows:
  - Work under close coordination with the ESSU/PIU, local government units and MoMP local staff to implement the RAP;
  - Assist the ESSU/PIU in dissemination of the RAP and other resettlement related information;
  - Generate awareness about livelihood restoration activities and assist the PAPs to make informed choices including participating in government development programs;

- Identify training needs of PAPs for income generation activities and ensure that these are properly funded;
- Provide counseling and awareness generation to resolve RAP related grievances and assist in seeking redress to unresolved grievances from land acquisition and resettlement disputes with the Grievance Committee;
- Assist the PAPs in claims for just compensation including the collection of timely and complete payments;
- Submit periodic implementation reports on RAP;
- Conduct and/or undertake any other activities that may be required in the successful implementation of the RAP.

#### **4.3.3 Local Government**

68. While implementing RAP a close cooperation and coordination between the local government's units are required. Key institutions are, MUDL (cadaster and land clearance departments, directorate for LAR&R) the provincial government, district provincial government, villages and local Community Development Council/*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 or mining assets will constitute a land valuation committee to determine the disputes on rates.
69. Disputes resolution process on land ownership, land records go 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 appointed district head (locally named; *Wolaswal*) is expected to play a coordinating role.

#### **Capacity Building Measures:**

70. MoMP will engage two experienced social development/resettlement experts (national & international) who will provide hand-holding support to the current local staff as a mandatory requirement under their contract. MoMP is in the process to establish E& S unit which will play a leading role in contract management on design and implementation of project safeguard issue, institutionalized GRM system for the ministry, CDA implementation.
71. Where required, site specific RAPs will be prepared and disclosed prior to invitation of bids for corresponding sections and the land acquisition and resettlement activities will be completed prior to award of contract and commencement of works will be described in the RAPs.

#### **4.3.4 Implementation timeline (sequence)**

The table below presents generic timeline for social safeguards (including resettlement) preparation and implementation. It also outlines coordination between RAP and civil works implementation.

**Table 3: Timeline for social safeguards preparation and implementation**

S.No	Social Development/Resettlement studies	By	Timeline
1	Preparation of TOR for SIA and RAP	Mining and gas companies	After completion of pre-feasibility study for any gas and mining sites
2	Bidding and recruitment process for engaging an independent external consultant (firm- or individual)	Mining and gas companies	After signing concession agreement
3	Preparation of SIA (including baseline survey)	SIA Consultant	Upon signing consultant's contract
4	Cadastral/land clearance survey	Mobile team/MUDL	After finalization of project foot print
5	Land/Asset Valuation survey	MUDL+ Provincial valuation team	After finalization of project foot print
6	RAP preparation including 100% Census survey	Consultant	After completion of 3, 4 and 5.
8	Government clearance (SIA, ESMP and RAP)	NEPA + MUDL	After stakeholder's consultation
9	WB clearance (SIA, ESMP including the RAP)	WB	During implementation
10	RAP implementation (compensation payment + resettlement & Rehabilitation)	Ministry through a consulting firm	Prior to begin any civil work
11	Civil work can be started after full implementation of RAP	Gas and mining companies	After implementation of RAP
12	RAPs implementation monitoring	An independent external third-party monitoring	During and after implementation of RAPs

## 5. Preparatory Actions and Implementation Schedule

### 5.1. Preparation Actions

72. MoMP will begin the implementation process of each mining project immediately after its approval by the World Bank. It will initiate some actions as groundwork and certain preparatory tasks under implementation of the RAP as follows:

- Establishment of implementation arrangements under the project
- Creation of post of National Safeguards Officer (NSO);
- Creation of posts of regional safeguards officers (RSOs);
- Appointment of two types (National and International level) of resettlement specialists (consultants);
- Establishment of Affected Persons Committees (APCs);

- Establishment of official cutoff date for each gas related sub-project;
- A series of public consultative meetings and workshops with APs and local representatives and active involvement PAPs in preparing a final RAP;
- Endorsement of the first RAP 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 opening bank accounts for disbursement of compensation payments to PAP or via Cheque
- Identification of the implementing consultant that will assist MoMP in RAP implementation;
- Identification of external monitoring agency who will undertake independent monitoring.

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

74. Payment of compensation of assets other than structures (land, crops, and trees) will be made at least 90 days prior to actual possession of the space being utilized by the PAPs. However, in case of a dispute, up to 70% of the assessed/allocated amount of compensation will be paid to PAPs and the rest pledged in the names of the concerned PAPs, pending the resolution of the dispute. In such an exceptional case, the MoMP 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 extractive work with resettlement impacts.

75. In the absence 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 escrow is the offered amount plus 10 percent for contingency. 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.

## **5.2. Compensation Delivery Process**

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

- **Obtain financial resources based on the final budget of each RAP:** MoMP shall obtain the needed money for its counterpart to fund the land acquisition component from the Ministry of Finance;

- **Verification of the list of qualified PAPs:** MoMP through the implementing consultant will verify the list of PAPs provided in the RAP to ensure that all eligible PAPs will be properly compensated and non-eligible PAPs will be excluded. To ensure that identification and qualifications are guaranteed, village representatives and *Community Development Councils/Shuras* will be consulted to resolve issues arising from the list;
  - **Notification of a detailed Compensation Package:** MoMP through the implementing consultant will prepare and provide each PAPs with a detailed breakdown of affected assets, and the unit cost of each asset affected and the total compensation that they will receive;
  - **Final conciliation/expropriation:** PAPs who disagree with the amount of the detailed compensation package and how it was arrived at will be provided with a last or final chance to settle these issues with the implementing consultant facilitating this meeting. In the event that the MoMP and the PAPs still cannot agree, the MoMP will file expropriation proceedings in the appropriate court, asking that MoMP be permitted to take possession of the affected asset. The MoMP will pay the PAP 70% of the contested sum and deposit the remaining amount in an escrow account in a bank;
77. **Locate absentee owners:** The MoMP 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 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.
- **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.
  - **Preparation of Invoices:** Invoices for each of the eligible PAFs (husband and wife(s)) will be prepared by MoMP/Implementing consultant. This document entitles each of the PAFs to receive the amount indicated in the invoice.
- Money transaction to Local Bank:** The money from MoMP/MoF will be remitted to a local bank in the nearest town to the sub-project site. However, the MoMP/AGASP/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 PAPs.
- **Payment:** PAPs will be assisted 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.
  - In case a bank account for whatever reason cannot be opened in the name of the PAP, the PAPs in question will each receive a cheque for the whole amount of compensation from the MoMP. The PAP 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 PAP receiving the cheque as part of project documentation.
  - The PAP will cash the cheque by presenting their *Tazkera* or national identification card (NIC) and/or election registration card to the bank. Persons without *Tazkera* will have to explain to the pertinent authorities the reasons why they are not in possession of the *Tazkera*.



## 6. Gender Mainstreaming into Resettlement Process

78. This section provides mechanism for gender mainstreaming into resettlement process, mechanisms for consultation with women on land acquisition impacts, and guidelines for GBV risks prevention.

### 6.1 Considering Gender Issue

79. The gas companies must ensure that development plans for affected communities have a specific gender component and ensure that enough benefits of the mine operations must flow to women living in the area while their participation in various areas of the operations is encouraged and prioritized. Similarly, the poor and marginalized sections within the communities living in the areas are at a major risk of not benefitting from the economic opportunities of the investments while bearing most of the negative socio-economic impacts in the area. A hydrocarbon investment or operation may use their land and water which is a source of livelihood and may even result in displacement and homelessness. Their ability to get productive employment the operation is also severely limited by their education and work skills. The poorer sections may get further affected by influx of labor coming from outside which may not only cause social conflict but also put pressure on existing social infrastructure like schools, hospitals, drinking water etc.
80. It is appropriate to draw special attention to gender issues within the context of the resettlement implementation. Discussions with women in villages visited as part of the Social Safeguards Review Requirements confirmed that they have important, although varying, roles in agriculture which is the main activity which will be affected 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.
81. 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 RAPs.
82. In the project, special attention will be paid to female-headed households, both those with and without land, as they are generally amongst the most vulnerable in communities and risk having their rights ignored. Although women's ownership of land is not widespread it is important to ensure that their land rights receive equal recognition in the project and in any resettlement activities. Moreover, where land acquisition is at stake, it is important to ensure that both male and female members of the household leaving their lands/houses agree to the resettlement offer made as at times female members are not consulted by their male members when they agree to certain terms on voluntarily giving up their lands or getting cash in return. Thus, the ESMU within the MoMP will have special responsibility to:
- Ensure that AGASP project actively promotes and uses women's CDCs to enhance outreach to women both in terms of seeking their ideas and feedback as well as facilitating their complaints registration and complaints handling to and by the GRM Committee;
  - Ensure that the Affected Persons do have female members or establish separate female-only APs.
  - Have multiple and regular consultations with the women of the community to seek women's feedback and ideas.
  - Ensure women members of the households affected by resettlement are consulted and that they agree on the actions taken.
  - Ensure women members are present when and if there is any form of cash transfer to the households.
    - If the amount is transferred to bank accounts, and for that bank accounts are created, the social unit should make sure bank accounts are joined for the spouses and also created for female heads of household for disbursement of compensation payments

- For women who do not have *Tazkera* or national identification card, the project should encourage and facilitate the process of getting *Tazkera* so that there is ease in the creation of bank accounts or withdrawal of the cheques they are given by the project.
- In case of land-for-land compensation or replacement residential plot, the land title deed will be issued in the names of all spouses.
- Revisit incentives in order to attract women to work in RAP and in other capacities at regional level;
- Ensure implementing NGOs and the Third-Party Monitoring (TPM) have female project officers.
- Make certain that the MIS obtains gender-disaggregated data for future analysis and use.
- Documentation of ownership or occupancy and compensation payments should be issued in the names of both husband and wife/wives. Other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs.

## **6.2 Gender-Based Violence (GBV)**

83. AGASP project according to the Bank's new GBV (Gender Based Violence) risk assessment tool plus the additional questions to the tool based on Afghanistan's unique context is rated as moderate meaning GBV including Workplace Sexual Harassment (WSH), Sexual Exploitation and Abuse (SEA), partner and non-partner violence may potentially arise or get triggered as a result of the project's operations. Therefore, certain actions need to be taken to mitigate the risk of GBV as well as measures to tackle/refer cases of GBV in the future. Some suggested actions according to the GBV Good Practice Note recently released are:

- a. Sensitize the implementing agency on the importance of GBV in the project.
- b. The project's social assessment to include assessment of the underlying GBV risks and social situation;
- c. Have a mapping of the already available GBV service providers in the affected area.
- d. Have GBV risks adequately reflected in all safeguard instruments (i.e., Project ESMP, C-ESMP)—particularly as part of the assessment in the ESIA;
- e. As part of the project's stakeholder consultations, those affected by the project should be properly informed of GBV risks and project activities;
- f. Make sure the GRM is inclusive of GBV complaints and its handling measures.
- g. Clearly define the GBV requirements and expectations in the bid documents of each project under AGASP;
- h. Include Code of Conduct (CoC) as part of the bidding documents.
- i. During implementation, ensure that CoCs are signed and understood by all contractor and consultant staff. Training should be carried out.
- j. During works, separate facilities for women & men, GBV-free zone signage.
- k. Develop a GBV Action plan (responsibility lying on the IA implementing agencies) including the Accountability and Response Framework as part of the ESMP.
- l. *Consider* (if needed) having a GBV specialist in the IA (i.e. the Project Mgmt. Unit) to support project implementation;
- m. *Consider* (if needed) having a social /environmental specialist in the supervision consultant's team with GBV specific skills to supervise issues related to GBV;

## **7. Public Consultation and Disclosure**

84. This section describes the mechanisms for public consultation process with the PAPs, disclosure of the RAP through distribution of informative material to create awareness among the PAPs regarding their entitlements and compensation payment procedures and grievances redress mechanism. The Stakeholders Engagement Plan (SEP) following the ESS 10 will be developed and followed to guide the consultation process.

### **7.1. Public Consultation**

85. In addition to formal and informal communication among PAPs, MoMP local staff, and other stakeholders, the formal consultation process in the project area will be ongoing and will be undertaken by supervising consultants and the MoMP through village meetings, meetings with associations of artisanal miners 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 PAPs; and the preparation and disclosure of RAP to the PAPs, as explained below. MoMP will adopt a proactive approach to disseminate the RAP and entitlements framework. The awareness generation efforts should ensure flow of information up to the most vulnerable groups like women headed households, physically challenged and absentee PAPs. 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.
86. Focus group discussions and public meetings with communities will be conducted to ensure enough information flow on all aspect of the resettlement processes. The translated summary of RAP in local languages (Dari & Pashto) will be shared with all stakeholders and disclosed on MoMP Website. The draft resettlement Action Plan for each site will be made available at locations that are convenient to the Displaced Persons and other local stakeholders in a form and language understandable to these groups. The draft resettlement instrument will also be sent to the Bank External Website.

### **7.2. Meetings at Community Level**

87. A chain of community meetings will be held, where the census and socio-economic surveys will be explained and later executed. The aims and objectives of a proposed extractive investment will be explained as well as the necessity for, processes and outcomes of any temporary displacement or resettlement. The community representatives and stakeholders' meetings will be scheduled based on the availability and the participation of the maximum number of stakeholders. The ESSU of AGASP will be responsible for conducting community consultations. In addition to meetings with male stakeholders, separate meeting will be held with women to ensure their understanding with the sub project content and processes. Efforts should be taken to ensure that concerns of vulnerable groups and local minorities are heard and considered.
88. While performing 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 MoMP/AGASP will ensure that the relevant sponsoring ministry prepares a RAP for each extractive industry investment that will ensure that all affected assets are equitably compensated. The approved RAP will be presented and explained to all affected households and persons and other interested parties. The census survey will be conducted in the affected lands. Individual meetings will be held with each PAP (husband and wife(s)) regarding entitlements and compensation payment procedures as well as the grievance redress mechanism.

### **7.3. Consultations with Government Officials and Other Stakeholders**

89. During RAP preparation, the staff from regional and national focal teams 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 RAP. The MoMP (and in some cases Afghan Gas Enterprise, AGE) will coordinate with land clearance team (including land valuation committees) for RAP preparation. There will be coordination with the district governors which have jurisdiction over the sub-project areas as well as village leaders/CDC. Information about the entitlement provisions and compensation packages will be shared with these government officials and other stakeholders and affected communities.

### **7.4. RPF Stakeholder Consultation**

90. Stakeholder consultations on both ESMF and RPF took place on October 30, 2018 at MoMP, with participants from NGOs, academia, research institutes, international donors, private sector and local communities from potential mining areas, as well as Ministry of Rural Rehabilitation and Development (MRRD), National Environmental Protection Agency (NEPA) and similar government agencies. The discussions provided valuable inputs and suggestions, which are incorporated in the final version of ESMF and RPF. Minutes from stakeholders consultation workshop is annexed to the ESMF (please refer to Annex 13)

### **7.5. Grievance Redress**

91. Based on the LAL 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 Mines and Petroleum;
  - Representative of the Ministry of Finance;
  - Representative of the Ministry of Justice; and
  - Representative of the local municipality or district office.
92. The land acquisition process is initiated with the constitution of the land acquisition committee. As land and other assets are acquired for a public purpose, the law does not permit any objection to the acquisition of an individual's property by the state. Usually, there are dissatisfactions that arise with these acquisitions, mostly relating to the value of compensation. The LAC inquires into the matter and reviews the valuation and tries to arrive at a win-win solution. The whole process is based on a negotiated approach and as the PAP 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.
93. However, if after this negotiated approach, the issue remains unresolved, the affected person may elevate the matter to Grievance Redress Committees. The GRCs will be established at three levels: (i) Local community level; (ii) Project level; and (iii) ministry level. The local and Project level GRCs are the most accessible and immediate venue for fastest resolution of grievances. The District Governor's representatives with the help of the Shura and other GRC members, convene a meeting of the GRC in the project area and conducts proceedings informally to reach an amicable settlement between the parties. The report of the committee will be recorded in writing, and copies will be provided to the parties involved. At local or community level, the GRC will be required to meet and

reach a decision within 7-14 days of receiving a complaint (verbally or in writing) from an affected person or his representatives. Should the grievance remain unresolved or the AP is not satisfied with the decision, the grievance can be lodged with the Project level GRC who need to make a decision within 10 days. In case the complaint is not resolved within 10 days of its receipt or it is unattended, the complainant can approach the ministry level GRC or directly to the Minister- of MoMP in Kabul. Ministry-GRC and/or minister will then examine the complaint and address the complaint within 20 days. If the appellant is still not satisfied, s/he has the right to take his case to the public court. The PAP will always have 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 PAP.

94. The GRCs structure for AGASP project has the following levels:

- **Local or community level GRC:** members should include: (i) community representatives, labors (ii) grievance focal officer, (iii) contractor/mining company.
- **Project site level GRC (e.g., gas-pipeline, amine plant and gas sites):** members include: (i) MoMP, (ii) representative of local district governor/provincial governor; (iii) representative of CSO, (iv) Grievance focal officer/PMU; (v) local community/affected people; (vi) representative from Arazi- MUDL; (vii) mining company/contractor, and Expropriating Authority/Technical Panel<sup>3</sup>. In accordance with the law on land acquisition (2018), the Expropriating Authority are municipalities in the scope of urban masterplans and ministries and governmental agencies outside the areas of urban masterplan with cooperation of the Ministry of Urban Development and Land (MUDL).
- **Ministry level GRC:** (i) deputy minister of MoMP (head), (ii) government commission/technical panel (e.g. RAP implementation commission), (iii) PMU manager, (iv) Grievance focal officer, (v) community representative.

The members of GRCs of the remaining (i.e. gas pipeline and amine plant) sites will be completed by appraisal.

95. As the concept of just compensation for affected assets for public works such as dams or for major commercial or industrial activities such as mining is new to Afghanistan, the ESSU and the implementing consultant (NGO) will assist in disseminating this concept to PAPs, its procedures and prerequisites in filing the proper complaints. The process of grievance redress will be made simple to hasten the process of decision-making and facilitate getting on with the works. The grievance redress committee will include a representative from the local administration and the affected individual. Grievances are expected to be redressed locally within the existing framework.

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➤ <sup>3</sup> Technical Panel for the purpose of pricing of expropriated properties consisting of professional engineers of the Expropriating Authority and owner or representative of owners (article 24 of the LAL (2018)).

## **7.6. Preparation of Project Specific Informative Material**

96. 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:
- Prior to finalization of RAPs of the respective sites, summarized information about entitlement matrix and eligibility criteria of the approved RPF will disseminated to the affected families and other stakeholders in the project sites. Also, RAPs for sub-projects will be made available to the concerned district governments and community leaders, affected families and MoMP's field offices as an official public document in the language understandable to them. This draft RPF was disclosed on July 17, 2018 and the final approved RPF is disclosed on June 10, 2019 in-country on MoMP and on the WB's website.
  - A payment disbursement schedule explaining the date for disbursement of compensation into the bank accounts of each PAF will be prepared in local languages and distributed to all PAFs. This will also be disclosed in the community meetings.
  - A package containing following information material will be prepared for each PAP.
    - Inventory of PAP's losses
    - Schedule for compensation disbursements into PAFs' bank accounts explaining the dates for receiving compensation, vacating land and demolition of structures
    - Pamphlet/ brochure in local languages
    - GRM
    - Any other relevant information for the PAP

## **7.7. Disclosure**

97. The draft RPF was disclosed on July 17, 2018 in-country on MoMP website- in addition, the draft RPF version was shared with all stakeholder prior to stakeholder consultation meeting which happened on October 30, 2018. Stakeholders' feedback and comments were incorporated into the final RPF and minutes of meeting from stakeholder consultation is annexed to the ESMF (refer to Annex XVIII "stakeholder workshop"). The final approval of RPF is pending. Following Bank approval, the final approved RPF will be re-disclosed in-country on MoMP and the WB's website.

## **8. Monitoring and Evaluation**

### **8.1 General**

98. 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 MoMP and approved by the World Bank.

### **8.2 Internal Monitoring**

99. Internal monitoring will be carried out routinely by the MoMP/E&S Unit and results will be communicated to World Bank through the regular project implementation reports. Indicators for the internal monitoring will be those related to process, immediate outputs and results. This information will be collected directly from the field and reported monthly to the MoMP project director to assess the progress and results of LARP implementation, and to adjust the work program, if necessary. The monthly reports will be consolidated every quarter in standard supervision reports and submitted to the World Bank. Specific monitoring benchmarks will be:

- Information campaign and consultation with PAPs;
- Status of land acquisition and payments on land compensation;

- Compensation for affected structures and other assets;
- Relocation of PAPs;
- Payments for loss of income;
- Income restoration activities.

### **8.3 External Monitoring**

100. The implementation of mining projects will take several years. It is therefore crucial to deploy external monitoring consultant with the primary objective to support the project team in implementation of RAP. External monitoring consultant will perform third party monitoring on a regular basis with the results communicated to the national focal team of the MoMP and the WB through a bi-annual compliance report; The ToR for the Third-Party Monitoring will be part of the RAP. The EMA will also 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 MoMP/the World Bank if the necessary civil works on irrigation rehabilitation and dam building with resettlement impacts can commence a copy of the compliance report and its recommendations will be submitted to the MoMP, supervising consultant and the World Bank simultaneously. Ministry will also engage an independent consultant (firm or individual) to conduct an audit where RAP implementation (or compensation payment) has already happened. For example, an independent audit will be carried out for Gas sites to verify full implementation of respective RAPs.

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

- Socio-economic conditions of the PAPs in the post-resettlement period;
- Communications and reactions from PAPs on entitlements, compensation, options, alternative developments and relocation timetables etc.;
- Changes in housing and income levels;
- 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.

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

### **8.4 Management Information System**

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

## 8.5 Reporting Requirement

104. The MoMP will be responsible for supervision and implementation of RAP and prepare monthly progress reports on resettlement activities and submit to the Project Director for review. The implementing consultant will also monitor RAP implementation and submit quarterly reports to MoMP 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.

## 8.6 RPF Implementation Budget

The table 4 below includes budget detail for RPF Training. Cost of consultation of future RAPs will be covered by the relevant mining and gas companies

**Table 4: RPF Implementation Budget**

Description	Target Group	When	Facilitation	Cost -\$
Afghanistan National Environmental, social, health and safety Guidelines, basic concept surrounding environmental & social impact assessment, Labor management, regulations, policies etc.	MoMP, ESSU, MoIC, CSO, MoWA, Private sector, CBO, and other interested stakeholders	Annual training throughout project duration	ESSU/MoMP	40000
World Bank ESF Awareness Training of Environmental and Social Standards	ESSU, MoMP, MoIC, MoWA	Annual Training throughout project duration	ESSU MoMP	40,000
Citizen Engagement Component (Events and workshops for community awareness in the Project areas)	ESSU, MoMP, MoIC, MoWA	Annual training throughout project duration	ESSU/MoMP	40,000
Set up Grievance Redress Mechanism and functioning in the extractive industry	ESSU, MoMP, MoIC, AGE, CSO	Project implementation	ESSU	20,000
Monitoring Occupational Health and Safety (OHS) Leadership Management Safety performance assessment Hazard Analysis and Control Hazard Communication Program Effective Accident Investigation Conducting Health and Safety Audits Job Hazard Analysis Occupational Health Risk Assessment Work Stress Risk Assessment Electrical Safety Fire Safety Fall Protection Plan Fleet Safety Management	ESSU, MoMP, MoPH, AGE, CSO	Project implementation phase	ESSU/ MoPH	50,000
<b>Implementation budget</b>				
General Technical Assistance for ESF documents				300,000
Monitoring and Inspection (External Monitoring)				300,000
Training and Capacity Building in contract management and quality assurance of consultant deliverables				300,000



<b>Description</b>	<b>Target Group</b>	<b>When</b>	<b>Facilitation</b>	<b>Cost -\$</b>
SEP implementation for Sheberghan Mazar e Sharif Gas Pipeline (for details, please refer to SEP)				19,900
Total				<b>1,316,600</b>
<b>Grand total budget for ESF capacity building, implementation and Monitoring</b>				<b>1,316,600</b>

-ESIAs, RAPs including preparation and implementation are not included in above budget. These costs are covered by Government/Mining and Gas companies.

## **Annex-1: Terms of Reference for Resettlement Action Plan for AGASP Project**

AGASP is designed to enhance administration of extractive resource development by strengthening the capacities of key government. In addition of being formulated around capacity development and reform establishment regional investment projects would be supported in different aspects under the principle of shared facilities.

According to the World Bank requirements, a Resettlement Action Plan should be developed for each mining project before construction to ensure fair and timely compensation of any project affected person (PAP).

### **Project Description:**

AGASP incorporates the MoMP Roadmap priorities that facilitate institution strengthening and regulatory restructuring and building technical skills for resource development. The project design relies heavily upon citizen engagement and investor input. The project has three components as follows: Component A - Sustaining Gas Supply; Component B - Strengthening Governance of the Gas Sector; and Component 3 - Project Management.

**COMPONENT A: SUSTAINING GAS SUPPLY.** The objective of this component is to support the sustained supply of commercial quality natural gas for Sheberghan and Mazar IPP power generation and industrial uses through (a) targeted technical assistance and transaction support to hydrocarbons related investments in the near and mid-term, and (b) support to the construction and installation of natural gas infrastructure, including a pipeline and gas processing facility.

**COMPONENT B: STRENGTHENING SECTOR GOVERNANCE.** The objective of this component is to address the institutional, contractual and regulatory gaps that persist in the management of Afghanistan's mineral and hydrocarbon resources, thereby improving predictability, transparency and functionality of the sectors. Emphasis will be given to the MoMP upstream role as policy-maker, in accordance with the Mining Sector Roadmap, as well as establishment of sector regulatory bodies such as the AOGRA (created 2018). Geographic focus will include field offices responsible for licensing, regulatory monitoring including occupational health, safety and environment.

**COMPONENT C: PROJECT MANAGEMENT, MONITORING AND EVALUATION.** This component will provide support at implementation to the undertake project management, in accordance with the World Bank's fiduciary and other guidelines, including incremental operating costs, equipment, training on fiduciary and project management issues, project audits, and engagement of technical advisers to provide technical expertise on project performance monitoring and planning. This component will also finance the cost of recruiting a project management firm to support the MoMP in the effective management and implementation of the project. The firm is expected to focus on the job training and capacity building to project staff.

## **Objectives and Key Principles**

The objective of this assignment is to prepare Resettlement Action Plans (RAP) for the extractive industry by following the World Bank Environmental and Social Standard on Land Acquisition, restrictions on Land Use and Involuntary Resettlement (ESS5) and relevant government laws and regulations e.g. Land Acquisition Law of 2017 to ensure the adverse impacts resulted by physical and economic displacement are adequately mitigated and the livelihood of PAPs are restored. The RAP will include detailed information on PAPs whose livelihoods are likely to be adversely affected by the project activities, both during construction and operation.

The key principles for RAP preparation and implementation are the following:

- When possible, resettlement plans should be conceived as development opportunities, so that those affected may benefit from project activities;
- Lack of legal rights does not bar displaced persons in peaceful possession from compensation or alternative forms of assistance;
- Compensation rates refer to amounts to be paid in full to the individual or collective owner of the lost asset, without deduction for any purpose;
- When cultivated land is acquired, it often is preferable to arrange for land-for-land replacement. In some cases, as when only small proportions of income are earned through agriculture, alternative measures such as payment of cash or provision of employment are acceptable if preferred by the persons losing agricultural land;
- Replacement house plots, sites for relocating businesses, or redistributed agricultural land should be of equivalent use value to the land that was lost;
- Transition periods should be minimized. Compensation should be paid prior to the time of impact, so that new houses can be constructed, fixed assets can be removed or replaced, and other necessary measures can be undertaken before displacement begins;
- Displaced persons are consulted during the planning process, so their preferences regarding resettlement arrangements are considered; resettlement plans are disclosed in a publicly accessible manner;
- The previous level of community infrastructure and services and access to resources will be maintained or improved after resettlement;
- The borrower is responsible for meeting costs associated with land acquisition and resettlement, including contingencies;
- Resettlement plans include adequate institutional arrangements to ensure effective implementation of resettlement measures;
- Resettlement plans include arrangements for internal and external monitoring of resettlement implementation;
- Resettlement plans include procedures by which displaced persons can pursue grievances.

## **Tasks of the Assignment:**

The assignment will involve the following tasks:

- **Review relevant project documents:** The documents to be reviewed would include but not limited to draft project feasibility study, the preliminary project design, and relevant socioeconomic and legal documents;
- **Carry out various socioeconomic surveys and studies:** Various studies need to be carried out for preparation of the resettlement action plan, including socioeconomic survey and inventory survey. The socioeconomic studies will gather data on livelihoods and income in order to establish a baseline for developing the measures of rehabilitating the livelihood and income pre-land acquisition. The studies will be carried out in gender sensitive approach and should also pay special attention to vulnerable households to be affected. The RAP should include the results of a Census Survey on all individuals, households, infrastructure, businesses (large or small, licensed or non-licensed), farms and agricultural concerns, herding pastures, The RAP should also contain photographs and GIS coordinate information on each of the potentially adversely affected entities or PAPs, together with names of individuals and/or household heads, owners of each entity, names of regular employees, descriptions of the size and composition of all structures; a description of the function of the structure/entity (e.g., gas station, restaurant, market, dwelling, etc.); and information on the value of the structure and average monthly income from the concerns;
- **Carry out socioeconomic studies in a gender sensitive approach:** The socioeconomic studies and consultations should be carried out in a gender sensitive manner. The different needs and demands of men and women will need to be taken into account in the survey, studies, consultations and designed mitigation measures. To extent possible, disaggregated data would be collected. If needed, consultation with women should be organized separately;
- **Pay special attentions to vulnerable groups:** The studies should help identify and gather information on vulnerable households in order to be able to design specific assistance measures for these groups;
- **Develop the methods for valuing the affected assets:** The consultant shall develop and describe in detail the methods used in valuing those assets that will be eligible for compensation either as per national or World Bank Environmental and Social Standard on land acquisition and involuntary resettlement (ESS5). This method shall be consistent with both national policy requirements and regulations and ESS5. This process should capture the methodology for taking of inventory of assets, values assigned, and agreement reached with each identified PAP and consider inflationary realities in the final determination of values. Compensation value should reflect fully the replacement cost of acquired assets;
- **Carry out consultations with various project stakeholders:** including project affected people, on resettlement options, compensation standards, livelihood and income restoration measures; institutional arrangements, and grievance redress mechanisms. It needs to summarize the outcomes from public consultations held with communities and PAPs along the road and include in an Annex summary minutes of each consultation meeting, signed lists of attendance, photographs of the consultations; and the Agenda for the meeting. The consultant should note that following the preparation of the Draft RAP, further Public Consultations should be held with the PAPs to inform them of the findings and conclusions and confirm there is general acceptance by

the PAPs of the proposed mitigation measures. PAPs who are determined to be eligible for mitigation should (if they agree with the mitigation) sign;

- **Develop the resettlement measures:** In addition to the compensation, the consultant will need to design a package of resettlement measures for income restoration, livelihood rehabilitation, and relocation for each category of eligible displaced persons to achieve the resettlement policy. The RAP should also include the feasibility analysis of the proposed resettlement measures;
- **Design Grievance Redress Mechanisms applicable to local social context:** The consultant shall describe the options available to PAPs for grievance redress they may have about the process, the identification of eligible people for compensation, the valuing and compensation and any other complaints they may have with the entire process. The RAP shall indicate how these would be disseminated and accessible to them in a way that is clear and comprehensible to the PAPs. The grievance redress mechanism should also have an in-built monitoring mechanism to check on responsiveness to complaints or grievances lodged. The different forms of receiving the complaints should be clearly described together with the different stages of going through the process. In addition, the redress mechanism shall indicate alternatives, in case the proposed mechanism, for any reason, does not respond to all grievances and complaints;
- **Prepare Resettlement Action Plan (RAP):** The consultant will need to prepare the RAP based on the findings and results of documentation reviews, socioeconomic studies, and consultation with project stakeholders and project affected persons. The RAP needs to clearly present detailed information on the proposed mitigation measures for each affected entity/PAP with reasoning for the type and level of mitigation being offered.

The contents of the RAP would include but not limited the following (see the box):

**Executive Summary:** including the statement of objectives, legal framework, main impacts, and the mitigation measures, and the budget.

**Description of the Project:** including the following

- Key objectives of project
- Key activities
- Description of the project areas

**Resettlement Impacts,** including

- To provide details (or best estimates) on categories and amounts of significant adverse impact, and the number of persons to be affected by each.
- To provide details (or best estimates) regarding identification of any groups who may be particularly vulnerable to hardship.

**Socio-economic survey:**

This section will be the summary of the results and findings of the socio-economic studies and surveys, including:

- The results of a census survey covering:

The current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of:

- people for eligibility for compensation and resettlement assistance;
- Standard characteristics of displaced households;

- The magnitude of the expected loss - total or partial – of assets, and the extent of displacement, physical or economic;
- Information on vulnerable groups or persons, for whom special provisions may have to be made; and
- Provisions to update information on the displaced peoples’ livelihoods and standards of living at regular intervals.

The results of other studies describing the following:

- Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems, and any issues raised by different tenure systems in the project area;
- The patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; and
- Public infrastructure and social services that will be affected.

**Policy Objectives, Legal Framework, and Definitions:**

This section normally would consist of standardized text outlining key objectives, principles and definitions to be employed in resettlement planning. This would include reference to Land Acquisition Law (2017), and relevant regulations, as well as to World Bank ESS5 on Land Acquisition, Restrictions on Land Use and Involuntary Resettlement, and provides essential guidance on objectives and principles that are applicable in projects generating land acquisition and resettlement related impacts.

**Key policy objectives include:**

Avoidance or minimization of land acquisition and other adverse impacts Those adversely affected (“displaced persons,” as defined below) are compensated at replacement cost for lost assets, and otherwise receive any assistance necessary to provide them with sufficient opportunity to improve, or at least restore, incomes and living standards.

**Legal framework, including:**

The scope of the power of eminent domain and the nature of compensation associated with it in terms of both the valuation methodology and the timing of payment.

**Valuation and Compensation:**

This section provides the following information:

- Eligibility criteria (including cut-off dates if necessary) establishing who is entitled to receive compensation (or other forms of assistance in lieu of compensation)
- Description of valuation procedures used to establish compensation rates for land, structures or other fixed assets
- Description of arrangements for delivery of compensation to displaced persons
- Compensation rates for all categories of land acquisition, for all affected areas
- Compensation rates for all categories of affected structures, for all affected areas
- Compensation rates for all categories of other fixed assets, for all affected areas
- Transitional support (e.g., moving expenses, temporary living allowances, payment of fees or other transaction costs) to be provided
- Arrangements for recalculation of compensation rates in case of prolonged delay in delivery of compensation

**Income and Livelihood Rehabilitation Measures This section provides the following information:**

- Arrangements (in addition to compensation) providing sufficient opportunity for those losing land to improve, or at least restore, incomes
- Arrangements, timing and availability for replacement housing, including site preparation and access to facilities and services as needed to improve, or at least restore, living standards of the affected families to their previous standards,
- Relocation or other arrangements necessary for shops and enterprises to resume profitable operation
- Arrangements (e.g., alternative employment, temporary wage support, other) necessary to maintain or restore incomes of workers in affected enterprises
- Relocation assistance to renters or leaseholders losing access to land or structures
- Special assistance to be provided to vulnerable groups (e.g., the poor, elderly, disabled)
- Restoration or replacement of community infrastructure and services

#### **Institutional Arrangements**

This section identifies organizations or agencies primarily responsible for resettlement implementation. It describes these entities' capacity for effective implementation by reference to links to authority, prior experience with resettlement, and number and training of personnel. This section also briefly describes the implementation timetable, establishing that key implementation measures precede adverse impacts.

#### **Budget and Funding Arrangements**

This section includes a budget breakdown estimating all resettlement-related costs, including an allocation for contingencies. It also establishes financial responsibility for meeting resettlement commitments and describes funding flow arrangements.

#### **Consultation, Disclosure and Grievance Procedures**

This section provides information on the following:

- Measures taken to consult with displaced persons regarding proposed resettlement arrangements, and to foster their participation in activities essential to improvement or restoration of incomes and living standards to previous standards.

#### **Monitoring Arrangements**

#### **Entitlement Matrix**

### **Skills and Qualifications of the consultant/consultancy firm**

The consultant team should possess the following qualifications:

- Familiarity with World Bank Safeguards policies, particularly ESS5, and regulations and procedures related to land acquisition
- The team leader should have at least a Master's degree in social science or related training
- Minimum of five years of experience with land acquisition and resettlement planning and implementation
- Excellent oral and written communication skills in Pashto/Dari English.

## **Deliverables**

The following reports reflect the main outputs expected from the study:

- Inception Report (including the work methodology, approach, detailed work plan and results of the scoping phase)
- First draft Resettlement Action Plan
- Final draft Resettlement Action Plan

Each report mentioned above will be submitted both as a digital copy and 2 hard copies in both English and Pashto/Dari languages.

## **Timeframe**

The Consultant/consultancy should prepare and submit a detailed work plan showing how the proposed dates will be met.



## **Annex 2 -Role and responsibility of Institution towards Land Clearance, land valuation, and Land Acquisition/resettlement**

### **A. Land Clearance (Tasfiya)**

**Summary:** There are two distinct phases for transferring land for infrastructure projects. This involves cadastral survey/land clearance (Tasfiya) to be followed with Land acquisition and resettlement and rehabilitation. The role of ARAZI (Land clearance and Cadastral team), Ministry of Agriculture, Irrigation and Livestock (MAIL), Ministry of Energy and Water (MEW), Ministry of Finance (MoF), Provincial agencies (local municipality DEW, DAIL), Presidential Office and Requiring agency is clearly defined. There is an underlying assumption that with the implementation of IDPL, one of the key services of ARAZI on transfer of land for infrastructure will become efficient. Accurate cadastral maps and clear title to property is a critical action, however, that alone will not expedite transfer of land for projects. It requires other Institutions to work together with ARAZI as described below:

Phase 1 - ARAZI's responsibility towards providing reports on cadastral survey and land clearance covered request for all infrastructure projects. Mobile team from Kabul, representing cadastral and Land clearance, MAIL, MEW, MoF, visits the province to process the request. Before finalization of the report, the cadastral team prepares map indicating location, shape and size of the property required. Recently, the responsibility to provide cadastral survey and land clearance reports has been decentralized to provinces for linear project, except for some rare cases, such as CASA 1000 transmission-line in which the land acquisition impact is larger. For other development projects, it is retained with the Kabul office (See detail in Table 1.1).

The Requiring Agency shall, after approval of the plan by the Arazi evaluation committee and approval of project by the government (Presidential Office), inform the property owner and affected persons under expropriation, six months prior to its implementation through mass media and local competent administrative source regarding the detailed plan of the project plus information relating to land acquisition (objective of expropriation, type and adequate size of property needed for expropriation, estimation of value of property needed for expropriation on the basis of minimum and maximum value of the land, ensuring allocation of prior and just payment of compensation and starting date of project)- [ article 9 of the LAL 2017).

- (1) **Phase 2** – After the land clearance report is approved by the Presidential Office, the requiring body submits request to ARAZI to initiate the process of acquisition. The cadastral and land clearance report is submitted to the Provincial government that constitutes a land valuation team. A report on valuation of the property is prepared which the provincial government submits to ARAZI that for approval by Council of Ministers (CoMs). Following the approval of the plan by the evaluation committee and approval of the plan by the CoMs, it is sent to Ministry of Finance for release of budget and to Requiring body to disburse the compensation and issue notice to people for evacuation 1 months after receiving compensation- [article 10 of the LML] (see detail in table 1.2). Whenever buildings and establishments are constructed on the expropriated land, the owner may destruct it and transfer the construction materials within a period of three months- [article 13 of the LML].

#### **Phase-1**

**Table 1.1 presents the processes/procedures with steps for land clearance (Tasfiya)**

<b>Steps</b>	<b>Action</b>	<b>Responsibility</b>	<b>Duration</b>
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1	Submit request of land requirement for a project to Arazi (Clause 48 of LML)	Requiring body (i.e. IDLG, MoMP, MoEW, etc.)	Within 1-2 months after contract approval
2	Prepare a report on the requirement of land for the project, for which the team carries readiness filter of whether the project is in the plan, budget is allocated, land is required or not- (as stipulated in LML)	Land clearance Department/Arazi- at HQ level	2-3 days
3	Submission of the report to the President for approval- (refer to LML).	Arazi Office	2 weeks
4	President gives consent or decline	President office	Week time
5	Inform the property owner and affected persons under expropriation, six months prior to its implementation through mass media and local competent administrative source regarding the detailed plan of the project plus information relating to land acquisition	Requiring body	6 months prior to its implementation
6	Constitution of land clearance team of representing MoEW, MAIL, MoF, Cadastral and Tasfiya team. Clause 40 of LML.	Arazi	3 weeks
7	For development projects, the mobile team constituted under step 5 send to the province. They meet the Governor and inform him/her regarding the project and land requirement and their role in land clearance and office is provided to them by the Governor.	Land clearance Mobile team	4 weeks
8	For linear project, the team is constituted at the province level and the members are the same indicated in step 5.	Provincial government	2 weeks
9	Information dissemination regarding the nature of type of project, location, area required and other basic information via TV, radio, posters, mosques and other means.	Land clearance	4 weeks
10	Submission of ownership documents to the land clearance team. The minimum requirement is one of the documents out of the 11-listed (see annex 1 A) in clause 80 of the LML. It should meet the conditions stipulated in the LML.	The affected owner of the concerned land	3 weeks
11	The document submitted is verified for history of ownership, checking for court approval, etc.	Land clearance	2 weeks
12	Meeting the cadastral team to check whether maps are available to verify the location of the land on the cadastral map and owner of the property.	Land clearance	2 weeks
13	If map is available form is filled to calculate size of each parcel of land required for the project, including geometric shapes of the parcels and submitted to the land clearance team.	Cadastral team	2 weeks
14	Four-page form is filled, which include personal information of the owner, qualitative/quantitative information of the land, own assessment of balance land to make whether it is titleholder land, grabbed land, additional land, etc. Each member of the land clearance team will include their own observations in the form and sign.	Land clearance team	4 weeks

	This is submitted to Arazi and Amlak or Arazi provincial office for their review/processing.		
15	Submit the report to the requiring agency indicating that land clearance is completed.	Arazi	2 weeks

## Phase 2

**Table 1.2 presents the processes/procedures with steps for land acquisition and resettlement**

steps	Action	Responsibility	Duration
1	Submit request for land acquisition to Arazi (refer to LAL)	Requiring body (i.e. IDLG, MoMP, MoEW, etc.)	After completion of Land clearance process
2	Analysis the land clearance report and request for acquiring and submit it to the provincial Governor to value at the land.	LAD of Arazi	2 weeks
3	Land valuation team is constituted representing DAIL, DoEW, local municipality and community representatives. (Article 22 LAL). The price is fixed by provincial government which is verified by the land valuation team in some cities. If the price is not determined, then the valuation team fixes the price for which standards are stipulated. However, there is no land price in rural and some urban areas. Article 24 of LAL according to which the requiring body constitutes the team (Engineers, and land Owner) to collect prices and market value to determine the rate of compensation.	Provincial governor council	4 weeks
4	Report prepared and submitted the report on the value of land and other properties to provincial governor.	Land valuation team	4 weeks
5	Report reviewed and approved.	Provincial government council	1 week
6	Report submitted to Arazi for certification	ARAZI	2 weeks
	Certified report submitted to Requiring body	ARAZI	1 week
7	Certified report/document submitted to Council of Ministers (CoMs) for approval.	Requiring body	2 weeks
8	Report with approval sent to requiring body to make payment and MoF to allocate budget.	CoMs	2 weeks
9	Disbursement of compensation paid to the affected people.	Requiring body	8 weeks
10	Public notice issued to evacuate 1 month after receiving compensation (RAP implementation).	Requiring body	4 weeks
11	Land deeds from owners deposited to requiring body	Owner	2 weeks
12	These deeds submitted to ARAZI	Requiring body	2 weeks
13	Change in land owner and use completed of acquired land	ARAZI	2 weeks
14	Land allocation for relocation	ARAZI	4 weeks