

# Resettlement Planning Document

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Resettlement Framework  
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## Islamic Republic of Pakistan: Earthquake Emergency Assistance Project

Prepared by Earthquake Rehabilitation and Reconstruction Authority for the Asian Development  
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## RESETTLEMENT FRAMEWORK

### A. Introduction

1. The proposed project will support the efforts of the Government of Pakistan (the Government) in the recovery, reconstruction, and rehabilitation of the earthquake-affected areas of Azad Jammu and Kashmir (AJK) and North-West Frontier Province (NWFP).

2. The Asian Development Bank (ADB) will assist the rehabilitation of damaged or destroyed infrastructure of the transport, power, and health and education sectors, and will provide legal assistance and support for institutional building. Reconstruction and rehabilitation of damaged or destroyed facilities will be done at their original sites. The Government will try to use its own land if additional land is required for physical infrastructure. The Government will acquire private land only if vacant government-owned land is not available

3. Resettlement impacts<sup>1</sup> of a specific subproject will be known only during project implementation. As a result, the preparation of resettlement plans for such subprojects cannot be done before Board consideration of the loan and grant. Therefore the resettlement framework will be part of the report and recommendation of the President and the legal agreements considered by the Board at project approval. This resettlement framework, agreed between the Government and ADB, sets out compensation and other entitlements of all project-affected people as well as how to prepare satisfactory resettlement plans for subprojects with resettlement impacts.

4. Among the earthquake-affected communities are several dominant tribes and subtribes that participate in mainstream economic and political activities and are represented in public institutions, civil services, and educational institutions. Social inequalities and vulnerabilities in these communities usually arise from economic differentiation, as land is owned by a few large, powerful families who rent it out to others who cultivate crops and raise livestock. The project is unlikely to change this dominant mode of economic system. A social assessment<sup>2</sup> will be conducted focusing on the vulnerabilities of all affected groups including tribal groups and cultural minorities in the earthquake-affected areas. This is to ensure effective consultations and that culturally appropriate benefits will reach each affected group. As part of this assessment, the executing agency of each subproject will examine the vulnerability of different groups in terms of potential exclusion from subproject benefits, negative subproject impacts, and the need for specific culturally compatible mechanisms for participation by women, the permanently disabled, and other vulnerable groups. If any of the above are found in a subproject area, the executing agency will incorporate adequate measures to address such vulnerabilities in project design. If land acquisition or relocation becomes necessary, people's entitlements will be ensured through the resettlement plan that will be prepared in accordance with the approved resettlement framework.

### B. Policy and Legal Framework

5. The resettlement framework has been prepared in accordance with ADB's *Involuntary Resettlement Policy* (IRP), its disaster and emergency assistance policy, and the Land

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<sup>1</sup> Resettlement impacts are social and economic impacts that are permanent or temporary, and are caused by (i) acquisition of land and other fixed assets, (ii) change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation.

<sup>2</sup> The World Bank has planned to conduct a similar social assessment in the affected areas. ADB and World Bank could jointly conduct this assessment.

Acquisition Act (LAA) of 1894 (with amendments).<sup>3</sup> Whereas the LAA considers those eligible for compensation to be legal owners and tenants who are registered with the Land Revenue Department or possess formal lease agreements, the IRP emphasizes that the absence of formal legal title to land is not a bar to entitlements and assistance. The second important policy issue is that, while the LAA assesses compensation based on the market value of acquired property, the IRP emphasizes the payment of replacement value of all affected assets. The third policy issue is the participatory approach to grievance resolution provided by the IRP through information disclosure and discussions with affected communities, and the appointment of special committees such as grievance redress committees. In contrast, under the LAA, the sole authority to resolve disputes lies with the Land Acquisition Collector. Thus the IRP provides for consultation and disclosure of resettlement information much more than does the LAA. The IRP emphasizes of rehabilitation of all affected people so that they will not be worse off because of land acquisition and resettlement. The LAA does not provide such assistance but does declare a land owner eligible for a 15% acquisition surcharge and 8% compounded interest per year if compensation payment is delayed.

6. Having taken into consideration the above differences between the LAA and IRP, the following resettlement policy principles were adopted for the purpose of the Project. If a subproject requires land acquisition or resettlement or both, the executing agency will prepare a satisfactory resettlement plan based on the following core principles and will obtain ADB's approval prior to awarding contracts.

7. The main involuntary resettlement principles and procedures that are applicable to the Project are the following:

- (i) Involuntary resettlement will be avoided; if it cannot be avoided, it will be minimized.
- (ii) Where involuntary resettlement is unavoidable, affected persons will be assisted in reestablishing themselves and improving their quality of life.
- (iii) Lack of formal legal land title is not a bar to compensation or rehabilitation assistance under the Project.
- (iv) Land-for-land is an option for compensation in the case of loss of land; however, in the absence of replacement land, cash compensation for the property acquired will be paid at its replacement value<sup>4</sup> in addition to any transaction costs.
- (v) Each affected person is entitled to receive assistance to restore income and livelihood to a pre-project standard, and all vulnerable affected people are entitled to assistance to improve their income and livelihood.
- (vi) All affected people will be fully informed and consulted on compensation and other entitlements, relocation programs, and rehabilitation assistance. The resettlement plan will be posted on the ADB website.
- (vii) Affected people will be fully involved in the selection of relocation sites, if any, and livelihood compensation and development options at the earliest opportunity.

<sup>3</sup> The draft resettlement policy and associate ordinance was prepared with ADB's assistance in 2002. These instruments have still not been approved by the Government.

<sup>4</sup> Replacement cost means the cost of replacing lost assets and income. In the case of land, it means the cost of buying replacement land near the lost land with equal productive potential plus the cost of preparing the land to levels similar to those of the affected land and the cost of any registration and transfer taxes. If alternative land is not available in the vicinity of the lost land, it means the cost of buying land with similar attributes and productive and/or residential potential plus the cost of preparing the land to levels similar to those of the affected land and cost of any registration and transfer taxes. In selecting alternative lands, affected people will be informed and consulted.

- (viii) All affected people will be integrated economically and socially into their host communities, if relocated. For this, participatory measures will be designed and implemented by the executing agency.
- (ix) Affected people's social and cultural institutions will be protected and supported.
- (x) Common property resources and community and public services will be provided to relocated communities.
- (xi) Compensation and rehabilitation programs will be carried out with equal consideration for women and men; in the case of these subprojects, particular attention will be paid to the rights of women, widows, orphans, the elderly, and other vulnerable people and groups such as indigenous peoples and religious and cultural minorities. Appropriate and sufficient assistance will be provided to help them improve their socioeconomic status.
- (xii) Compensation and resettlement assistance will be fully provided before the approval of any subproject if it involves resettlement.
- (xiii) Full compensation and resettlement costs are included in subproject costs.

### **C. Entitlements**

8. The application of policies, laws and regulations pertaining to displacement, dispossession and resettlement is outlined below. The entitlement matrix is not exhaustive: more entitlements may be added if any resettlement impact not listed in the matrix is identified during project implementation. However, the entitlements may not be reduced or lowered.

**Table 1: Entitlement Matrix**

<b>Type of Losses</b>	<b>Entitled Person</b>	<b>Entitlement</b>	<b>Implementation Issues</b>
Permanent loss of land	Land owner	<ul style="list-style-type: none"> <li>Land-for-land or cash-for-land at replacement value of lost land.</li> <li>Shifting or moving allowance, if displaced.</li> <li>Livelihood and income restoration grant and skill and vocational training.</li> <li>Living allowance until livelihood restored.</li> <li>Land registration expenses and taxes, if any.</li> </ul>	<ul style="list-style-type: none"> <li>Priority in selecting replacement land will be given to those who are identified as vulnerable, based on needs and relevance.</li> <li>Special attention will be paid to vulnerable people to ensure their inheritance rights.</li> <li>Relevant departments of NWFP and AJK will issue or replace property titles and national identity cards as early as possible to facilitate the process.</li> </ul>
Loss of agricultural land and loss of income or livelihood	Tenant or sharecropper	<ul style="list-style-type: none"> <li>Cash payment for loss of standing crops at market value</li> <li>Cash payment for the remaining portion in agreement with the land owner</li> <li>Assistance in negotiating a new sharecropper agreement on another plot of land</li> <li>Subsistence allowance of up to 6 months until alternative employment is found</li> </ul>	<ul style="list-style-type: none"> <li>Entitlements apply equally to both registered and unregistered tenants and sharecroppers.</li> <li>At least 30-day notice of land clearance</li> <li>The Department of Agriculture will determine market value.</li> <li>Subsistence and assistance in finding new employment</li> <li>Tenants and sharecroppers displaced by the earthquake will get the entitlements.</li> </ul>
Loss of livelihood or income	Daily wage worker in agriculture or in non-agricultural enterprises including business	<ul style="list-style-type: none"> <li>Subsistence assistance until alternate employment is found</li> <li>Assistance in obtaining skill training and seed money to restore income and livelihood</li> </ul>	Identification of daily wage workers is to done in consultation with local authorities and village leaders
Temporarily affected land (during construction)	Land owner	<ul style="list-style-type: none"> <li>Land rent during the temporary use of land</li> <li>If displaced, shifting or moving assistance (as above)</li> </ul>	The land will be restored to its previous status or will be improved. Rent will be decided by the executing or implementing agencies in consultation with affected people.
Business establishment	Land owner	<ul style="list-style-type: none"> <li>Replacement value of land and commercial establishment without deduction for depreciation or salvageable materials.</li> <li>Shifting or moving costs as above.</li> </ul>	<ul style="list-style-type: none"> <li>The estimated value of the business will be included in replacement value.</li> <li>The relevant departments of NWFP and AJK will issue or replace property titles and national identity cards as early as possible to facilitate the process.</li> </ul>
Business establishment	Non-titled (squatter)	<ul style="list-style-type: none"> <li>Replacement value for structures they constructed without deduction for depreciation</li> <li>Salvageable materials belong to the establishment owner</li> <li>Moving or shifting allowance, if displaced</li> </ul>	<ul style="list-style-type: none"> <li>Support to find alternate land for business and settlement by executing or implementing agencies.</li> <li>The estimated value of the business affected will be included in replacement value.</li> </ul>

Type of Losses	Entitled Person	Entitlement	Implementation Issues
Loss of crops and trees (both temporary and permanent)	Title owner and non-titled owner	<ul style="list-style-type: none"> <li>• If sown or standing crops are damaged or uprooted, the cultivator of the affected crops will be compensated in cash at the mature crop value to be assessed on the basis of current market rates.</li> <li>• Compensation for loss of fruit trees at market value, based on the present income and crop-bearing capacity.</li> </ul>	<ul style="list-style-type: none"> <li>• The value of trees or crops that will be affected by a subproject will be decided by local agricultural offices in consultation with affected peoples.</li> <li>• Owners will be given at least 30 days' notice before removal.</li> </ul>
Loss of structures (complete loss or deemed loss if cost of repair is more than 40% of replacement value) and immovable assets (including residential houses).	Owner	<ul style="list-style-type: none"> <li>• Compensation for structures/assets at full replacement costs without deduction for depreciation or salvageable materials.</li> <li>• Transportation costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant departments of NWFP and AJK will issue or replace property titles to facilitate the process.</li> </ul>
Loss of structures (complete loss or deemed loss if cost of repair is more than 40% of replacement value) and immovable assets (including residential houses)	Non-titled (squatters)	<ul style="list-style-type: none"> <li>• Replacement value for structures they constructed, without deduction for depreciation. Salvageable materials belong to the establishment owner.</li> <li>• Moving or shifting allowance, if displaced.</li> </ul>	<ul style="list-style-type: none"> <li>• The executing agency will assist in finding alternate residential land.</li> <li>• Relevant departments of NWFP and AJK will issue or replace property titles to facilitate the process.</li> </ul>
Cultural and/or community structures	Community	The executing or implementing agency will rebuild community structures at relocation sites.	<ul style="list-style-type: none"> <li>• The building of structures will be done in consultation with the community.</li> </ul>

#### **D. Procedure of Formulating a Resettlement Plan**

9. Subprojects will be selected based on several selection criteria agreed upon by the Government and ADB. The executing agency of a subproject will do its best to avoid or at least to minimize land acquisition and resettlement as much as possible. If resettlement impacts are unavoidable in implementing a subproject, the executing or implementing agency will formulate a resettlement plan for the subproject by following the procedure given below:

- (i) Initially categorize anticipated resettlement impacts in consultation with the ADB Pakistan Resident Mission and identify the financial and expert resources required to prepare a resettlement plan if resettlement impacts are identified.
- (ii) Conduct stakeholder consultations to obtain their inputs regarding how to avoid or at least minimize involuntary resettlement, and to identify their needs and preferences; undertake a social assessment to identify different categories of affected people, including indigenous peoples, based on the degree and scale of subproject impacts on them.
- (iii) Outline an applicable policy and legal framework (if the policy and legal framework discussed in the resettlement framework are adequate to address resettlement impacts, only a summary of the policy and legal framework is required, along with a reference to the resettlement framework).
- (iv) Undertake a census and complete an asset inventory of all affected people and households, and provide resettlement information to all affected people in their own language.
- (v) Develop an entitlements matrix to outline the entitlements of all affected people including non-titled people (e.g., squatters, encroachers, tenants, and wage workers) following the above entitlement matrix (if new categories of affected people and types of losses are identified during project implementation, appropriate entitlements will be added to the resettlement plan and forwarded to ADB for review and approval, and all affected people should be informed of such changes).
- (vi) Explain relocation plans and the rehabilitation strategy, including income restoration and improvement, to affected people.
- (vii) Describe the institutional framework of resettlement programs.
- (viii) Itemize a budget for all resettlement activities in the resettlement budget and financial plan.
- (ix) Outline, if applicable, the environmental impacts of relocation.
- (x) Formulate a time-bound schedule for resettlement plan implementation.
- (xi) Outline procedures contained in the grievance redress mechanism.
- (xii) Describe both the internal and external monitoring program and the final evaluation.
- (xiii) Disclose the draft resettlement plan to all affected people in their own language and keep copies of the documents at public offices; the executing agency will endorse it before submitting it to ADB for review and approval.
- (xiv) Disclose the resettlement plan to all affected people again after ADB's approval, if it is revised according to ADB's advice and comments (the plan will be posted on ADB's involuntary resettlement website).
- (xv) At a minimum, pay compensation and complete any required relocation before awarding subproject construction contracts.

## **E. Implementation Arrangements**

10. The resettlement specialists of the safeguard compliance group within the project coordination unit will ensure that each project implementing agency formulates satisfactory resettlement plans for each subproject with any resettlement impacts. Each implementing agency will have resettlement specialists among its consultants who will assist each administrative department or implementing agency with initial screening of subprojects for resettlement impacts. If any are found, the resettlement specialists will assist in undertaking social assessments at subproject sites and in formulating resettlement plans, where necessary, in accordance with the approved resettlement framework. If significant resettlement impacts are identified, the line department or implementing agency is responsible for engaging resettlement specialists to ensure resettlement safeguard compliance and for submitting satisfactory resettlement plans to the implementing agency and ADB for review and approval prior to any acquisition or resettlement of affected persons and the award of civil works contracts.

## **F. Consultation and Participation**

11. Executing agencies will invite vulnerable households and people for stakeholder consultations during the formulation of resettlement plans. The decisions of such meetings will be recorded, and these records will indicate the responsibility and timeline for implementing the decisions. Each resettlement plan will include a note on all public consultations held and the disclosure of resettlement information. During resettlement plan preparation, resettlement information will be disclosed to all affected people in their own language, and their views and opinions will be taken into consideration in finalizing the plans. Final resettlement plans will be translated into local languages and disclosed through public notices posted at implementing agency offices, published in newspapers, and posted on ADB's website. Affected people will be closely consulted in resettlement site selection and livelihood restoration.

## **G. Eligibility Provisions**

12. All affected people are entitled to compensation and rehabilitation. However, eligibility to receive compensation and other assistance will be limited by a cut-off date to be set for each subproject on the day corresponding to the beginning of its preliminary impacts assessment. The cut-off date defines "eligibility" and "affected person." Given the destruction caused by the earthquake, some affected people may have difficulty proving their ownership of, or user rights to, any affected property. In such cases, affected people will be assisted and supported under the legal assistance, governance and institutional building activities of the Project. Such support will include reissuing and replacing national identity cards, property titles, birth certificates, disability certificates, and marriage certificates.

## **H. Grievance Redress Mechanism**

13. The LAA provides for aggrieved persons at different stages of land acquisition to present their grievances to the Land Acquisition Collector or a court of law for redress. The executing agency of each subproject with resettlement impacts will establish a grievance redress committee headed by the district land acquisition collector and including among its members concerned union councils, local nongovernment and community-based organizations, and community leaders. The committees will be open forums for raising objections and holding discussions to resolve conflicts. Each committee will record its deliberations and inform the concerned parties within 4 weeks of its findings and recommendations.

## **I. Monitoring and Evaluation**

14. SCs, assisted by RAs will monitor compliance of resettlement plans with ADB's involuntary resettlement safeguard requirements in subproject design. It will also develop a tracking system to ensure that necessary resettlement plans are formulated, and submitted to ADB for review and approval.

15. Each resettlement plan will include monitoring—internal and external—indicators. The EA will conduct its own internal monitoring of RP implementation and will submit quarterly reports to SC. A private firm, NGO, or university will be engaged by executing agency/implementing agency as an external monitor. External monitoring reports will be submitted quarterly during the first year of subproject implementation, and twice a year from the second year to SC. SC will submit these reports to ERRA and ADB for review. There will be a separate section in the project's midterm review report on the progress in resettlement implementation in the entire project.

## **J. Resettlement Budget**

16. The ERRA will be responsible for providing adequate funds for land acquisition and relocation arising from subprojects. Detailed estimates will be prepared by executing agency/implementing agency for each RP, which will be included in the overall subproject estimate. The budget will include (i) detailed costs of land acquisition, relocation, and livelihood and income restoration and improvement; (ii) sources and availability of adequate funding; (iii) arrangements for approval of RP cost estimates; and (iv) the flow of funds and contingency arrangements.

17. Land acquisition and resettlement are state government's responsibility. However, under the Project, state governments might find difficult to pay for land acquisition and resettlement. Therefore, in each subproject, it is necessary to indicate who will fund land acquisition and resettlement costs. Costs of physical infrastructure at relocation sites and income and livelihood restoration and improvement programs could be financed from grant funds provided such financing has in-built check and balances to ensure ADB's requirements are met. All land acquisition, compensation, relocation and rehabilitation of income and livelihood will be considered as an integral component of project costs.