

Resettlement Planning Document

Resettlement Framework
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Samoa: Power Sector Expansion Project

Electric Power Corporation

The resettlement framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

A. INTRODUCTION

1. The Government of Samoa (GoS) has identified an enhanced performance of the power sector as key priority for economic growth and poverty reduction. The Samoa Power Extension Project (the Project) will enable the power sector to meet growing electricity demand and improve the quality, reliability and cost-effectiveness of power supply. The Project forms part of GoS's Development Plan for the Power Sector and comprises (i) investment components in line with the Electric Power Corporation's (EPC) investment plan for 2008–2015, (ii) assistance to project management, and (iii) technical assistance.

2. Some investment components (subprojects) may have resettlement impacts which need to be identified and mitigated prior to implementation as experience indicates that involuntary resettlement, if unmitigated, gives rise to severe economic, social, and environmental impacts: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

3. This Land Acquisition and Resettlement Framework (LARF) outlines the resettlement policy principles, procedures, and institutional arrangements to mitigate impoverishment risks and offers sustainable livelihoods and equitable development opportunities to the affected peoples of the project (AP). Table 1 lists agreed subprojects ("core subprojects") and potential subprojects ("candidate subprojects") and identifies potential resettlement impacts. If a subproject is earmarked for funding and an option assessment documents that the avoidance of resettlement impacts is unfeasible, the Executing Agency (EA) will elaborate a Land Acquisition and Resettlement Plan (LARP) for each selected subproject with resettlement impacts in compliance with the GoS's laws and regulations, and ADB's policy on Involuntary Resettlement (1995).

Table 1: List of Core and Candidate Subprojects

Location	Subproject	Potential Resettlement Impacts
	Core Subprojects	
Upolu	Hospital Feeder Upgrade – Stage 1	Nil
Upolu / Savai'i	Single and 3-phase pre-payment meters	Nil
Upolu	Project management unit (PMU) and implementation consultants	Nil
	Candidate Subprojects	
Upolu	Upgrading of 22 kV overhead conductors	Nil
Upolu / Savai'i	National SCADA System	Land acquisition, crop and tree loss
Upolu	Tanugamanono Power Station noise and emission control program	Nil
Upolu	Upgrade of 6.6 kV Alaoa Feeder to 22 kV	Nil

Location	Subproject	Potential Resettlement Impacts
Upolu	Refurbishment Alaoa Hydro power station	Nil
Upolu	Hospital Feeder Upgrade – Stage 2	Temporary loss of access to properties
Upolu	8.6 MW Upolu Diesel Power Station inclusive of plant and control equipment.	Nil (State-owned land, no squatters or usage by non-titled persons). ¹
Upolu	22 kV Vaitele Substation inclusive of equipment.	Nil (State-owned land, no squatters or usage by non-titled persons). ²
Upolu	Upolu Diesel Power Station to Vaitele Substation 22 kV underground cable	Temporary loss of access to properties
Upolu	Vaitele Substation to Apia Wharf area 22 kV underground cable.	Temporary loss of access to properties
Upolu	Vaitele Substation to Laulumauga via Vaigaga 22 kV underground cable	Temporary loss of access to properties
Upolu	Extension of low voltage networks	Land acquisition, crop and tree loss
Upolu	4.3 MW generator for Upolu Diesel Power Station	Nil
Savai'i	Re-conductoring of 22 kV Puapua feeder	Nil
Savai'i	Expansion of low voltage networks	Land acquisition, crop and tree loss
Savai'i	Power factor improvement capacitors	Nil
Savai'i	Hydro power scheme	Land acquisition, Loss of crops, trees and structures and temporary loss of access to communal assets.

kV = kilovolt, MW = megawatt, SCADA = system control and data acquisition.

B. LEGAL FRAMEWORK

4. The principles and policies on land acquisition and compensation of this LARF are based on the “Taking of Land Act” (1964) of the GoS and the Policy on Involuntary Resettlement (1995) of ADB. A comparison of the two and measures on how to bridge the gap are presented in Table 2:

¹ If the site for the Upolu Diesel Power Station is not located on land currently reserved for power station, the resettlement impact could be substantial.

² If the site for the Vaitele Substation is not located on site identified for the substation, substantial resettlement impacts may be incurred.

Table 2: Comparison of Samoan Laws and ADB's Policy on Involuntary Resettlement

Samoa's Land Acquisition Policy Taking of Land Act (1964)	ADB's Policy on Involuntary Resettlement	Gaps and measures to bridge these gaps
<p>"In the exercise of the powers conferred by this Part of this Act, the Minister or his officers, workmen or others by his direction shall do as little damage as may be" (Part IIa Section 24F)</p>	<p>Involuntary resettlement should be avoided wherever feasible.</p>	<p>Consistent.</p>
<p>"Every person having any estate or interest in land entered upon for the purposes of this Act or injuriously affected thereby or suffering any damage from the exercise of any of the said powers shall be entitled to full compensation." Where it is customary land³ which has been taken under this Act for any public purpose, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers given by this Act, the Minister and the Court shall be entitled to proceed as if the <i>matai</i> who had the <i>pule</i> (power) over that land at the relevant date is the only person so entitled to a full and just compensation from the Minister and to be paid that compensation." (Part III, Section 25)</p>	<p>Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.</p>	<p>Consistent, but the national laws are not as specific as ADB's policy. Therefore, the detailed measures of ADB will be used to interpret the national laws.</p>
<p>"The Minister shall offer such sum as he thinks fit as compensation to that person, and that person may agree with the Minister as to the compensation payable by the Minister." "Any such agreement between the Minister and such a <i>matai</i> shall be binding on any other person claiming an interest in that land under Samoan custom and usage." (Part III Section 26)</p>	<p>Replacing what is lost. If individuals or community must lose all part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be compensated and assisted through replacement of land, housing, infrastructure, resources, income sources, and services, in cash or in kind, so that their economic and social circumstances will be at least restored to the pre-project level. All compensation is based on the principle of resettlement cost.</p> <p>Each involuntary resettlement is conceived and executed as part of a development project or program. ADB and executing agencies or project sponsors, during project preparation, assess opportunities for affected people (AP) to share project benefits. The APs need to be provided with sufficient resources and opportunities to reestablish their livelihoods and homes as soon as possible, with</p>	<p>Consistent, but the national provisions to determine "replacement value" are not as specific as ADB's policy. Therefore, the detailed measures of ADB will be used to interpret the national laws and to establish compensations, which are able to gain the consent of the affected people.</p> <p>The GoS has no written policy consistent with the provisions of ADB, but as national law requests the consent of the affected people to the compensation, the expected outcomes should be the same. Therefore, ADB's measures will be used to establish compensations, which are able to gain the consent of</p>

³ Eighty-one percent of all lands in Samoa is customary land.

Samoa's Land Acquisition Policy Taking of Land Act (1964)	ADB's Policy on Involuntary Resettlement	Gaps and measures to bridge these gaps
	time-bound action in coordination with civil works.	the affected people.
<p>"Whenever it is proposed to take freehold land for any public purpose, the Minister shall: (c) Cause a notice to be publicly notified and to be sent to each owner, occupier and person having an interest in the land, or the agent of any of them, whose name and address are readily ascertainable, stating the Government's proposal to take the land, the public purpose for which it is wanted, that the plan thereof may be inspected in the said office in ordinary office hours, and that any persons affected may give written notice of objection with reasons to the Director within 28 days of the first publication of the notice." (section 14)</p>	<p>The APs are to be fully informed and closely consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation. Pertinent resettlement information is to be disclosed to the AP at key points, and specific opportunities provided for them to participate in choosing, planning, and implementation options. Grievance redress mechanisms for APs are to be established. Where adversely APs are particularly vulnerable groups, resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning and implementation.</p> <p>Institutions of the APs, and, where relevant of their hosts, are to be protected and supported. APs are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.</p> <p>Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal legal rights, and others, who may have usufruct or customary rights to affected land or other resources, often have no legal title to their lands. The absence of a formal legal title to land is not a bar to ADB policy entitlements.</p> <p>The APs are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cut-off date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.</p>	<p>In general the policy principle are consistent as they provide for are (a) public notice; (b) presentation of the project plan; (c) provision for consultation; and (d) opportunity for complaint or objection. As ADB's policy provides more details, it should therefore be applied to achieve the common policy objectives.</p> <p>The GoS has no equivalent written policies and regulations. However such practice is embedded in the customs and traditions of the Samoans in which the <i>matais</i> take care of their <i>aigas</i>. Therefore, ADB's provisions will be used to achieve consistency.</p> <p>The special provision in the GoS policy for customary land addresses the first issue, while there is no national equivalent for the second provision. As it is assumed that under the GoS system, consent can only be reached, if all APs are compensated, the provision for non-titled users of the ADB policy will be used to specify the general provision and ensure consent on the compensation offered.</p> <p>The GoS has no equivalent written implementing rules and regulations, but as it is the responsibility of the minister to identify all APs, the project will use the detailed provisions of ADB's IR policy to achieve this common objective.</p>

Samoa's Land Acquisition Policy Taking of Land Act (1964)	ADB's Policy on Involuntary Resettlement	Gaps and measures to bridge these gaps
	<p>Particular attention must be paid to the needs of the poorest APs, and vulnerable groups that may be at high risks of impoverishment. This may include those without legal title to the land or other assets, household headed by female, the elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic status.</p> <p>The full resettlement costs are to be included in the presentation of project costs and benefits. This includes cost of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over without-project situation (which are included in the presentation of project costs and benefits). The budget also includes cost for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior to approval of the loan. Similarly resettlement plans should also reflect the timeframe for resettlement planning and implementation.</p> <p>Eligible cost of compensation, relocation and rehabilitation may be considered for inclusion in ADB loan financing for the Project, if requested, to ensure timely availability of the requested resources and to ensure compliance with involuntary resettlement procedures during implementation.</p>	<p>The GoS has no equivalent written implementing rules and regulations, but the objective of mutual consent to the compensation requests that all APs are satisfied with the process and the outcomes. To ensure this, ADB's provisions will be used.</p> <p>The GoS has no equivalent written implementing rules and regulations as governments use different planning and implementation systems. As this project is receiving external financial support, ADB's provisions will be used to document the cost for land acquisition and resettlement.</p> <p>The GoS has no equivalent written implementing rules and regulations. EPC will use counterpart funds to finance compensation, relocation and rehabilitation costs. The details will be outlined in the LARPs.</p>

ADB = Asian Development Bank, AP = affected persons, EPC = Electric Power Corporation, GoS = Government of Samoa.

1. Policy principles on land acquisition and resettlement

5. To bridge the gaps between the GoS's "Taking of Land Act" and ADB's policy, the following principles and policies will govern the LARP for subprojects and activities funded

under this project, with due consideration of the customs and traditions of the people in the subproject site:

- (a) Acquisition of customary and/or freehold lands shall be minimized and avoid the resettlement of people, as much as possible, therefore are subprojects, which require the physical displacement or undermine the livelihoods of more than 200 people, not eligible for funding under this project.
- (b) Where population displacement is proven through option assessments to be unavoidable, it should be minimized by providing viable livelihood options; therefore, no subproject with resettlement impacts will be implemented before a LARP has been elaborated in line with this LARF.
- (c) The *matais*⁴ - and through them the *aigas* (extended families) and other people living or depending on customary land - will be systematically informed and consulted on the acquisition of customary lands, assets and possible impacts on their livelihoods. They will be informed on their rights and options and invited to participate actively in the elaboration of mitigating measures. The same shall be accorded to APs who have interests on freehold or government lands or are otherwise affected by a subproject.
- (d) In the consultation process, EPC will also include representatives of the Village Fonos (councils), community leaders and civil society organizations like non-government organizations (NGOs) from the operational areas.
- (e) The customs and traditions as well as the religious practices of all APs will be respected and historical or cultural landmarks, reservation area, and trees of 50-years or more preserved and protected.
- (f) The APs are to be identified and their affected properties and livelihoods will be recorded and validated during a detailed measurement survey (DMS) in preparation of the LARPs for subprojects with resettlement impacts. The end of this survey will represent the cut-off date for eligibility. Eligible persons are entitled to compensation and livelihood rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income earning capacity and production levels. If the resettlement impacts are considered to be minor and do not undermine the livelihoods of the affected people, cash compensation at replacement costs will be offered. For severe affected people sustainable livelihood restoration measures will be elaborated in the resettlement plans (RPs).
- (g) Lack of formal legal rights to assets lost will not deprive any APs from receiving compensation and entitlements. Distinctions should not be made between APs "with" and "without" formal legal title.
- (h) Compensation rates for physical assets, i.e. house, building and other structures, and non-physical assets like lost income from productive assets or jobs will be calculated at replacement costs in the subproject area at the time of compensation.

⁴ The *matais* are the traditional appointed heads of the families and the administrator of their customary lands.

- (i) APs that stand to lose only part of their physical assets will not be left with a proportion inadequate to sustain their current standard of living such a minimum size being identified and agreed upon during the resettlement planning process.
- (j) Particular attention will be given to the socially and economically vulnerable groups like female-headed households, children, the landless, the poor, elderly or handicapped people without support structures and other people living in extreme hardships during the resettlement plan implementation process.
- (k) An independent grievance redress mechanism will be established to solve resettlement related disputes and complaints from the APs.
- (l) Whenever necessary, EPC will arrange for the assistance of relevant institutions to ensure effective consultations and a compressive and timely implementation of the RPs.
- (m) The full cost of land acquisition and resettlement will be included in the project cost and adequate budgetary support shall be made available during implementation.
- (n) Appropriate reporting and monitoring and evaluation will be established by EPC as part of the resettlement management system.
- (o) Finally, EPC ensures that all land acquisition, compensation, resettlement and rehabilitation activities will be satisfactorily completed and the subproject areas cleared of all obstructions before commence of civil works.

2. Eligibility Criteria

6. The DMS will be used to identify eligible aigas, households and individuals, and the cut-off date associated with it (the end of the survey), is used to discourage any party to take advantage of the compensation measures as people moving into the area or starting to use resources after the cut-off date are not eligible for compensation and livelihood restoration. Eligible aigas, households and individuals have the following entitlements:

Temporary loss of land

- a) For Right of Way (ROW) easements during the installation of transmission lines, the construction of access roads, temporary work stations and storage of project materials, no compensation will be paid, but EPC will negotiate with the landowner a lease for the affected land and pay this lease in accordance with the timeframe to be negotiated in the LARP. After the use, the land will be restored to its original condition or improved quality and returned to the landowner within the agreed timeframe.
- b) For customary land, the lease will be negotiated with and paid to the matai, who should make it available to the affected households and individuals or use it for communal activities of the aiga.
- c) For affected leaseholders and users without land titles an easement fee will be negotiated and paid in accordance with the timeframe to be specified in the

LARP. For customary land, affected households are only eligible for an easement fee, if they are not members of the affected aiga.

Permanent loss of land

- a) For construction sites and permanently used land, a cash compensation for the affected portion of land will be negotiated with the landowner. The compensation will be calculated based on the market value of this piece of land or land of similar quality in the operational area of the subproject and all legal and other expenses arising from the acquisition of land for subprojects will be borne by EPC.
- b) If the remaining portion of the affected land is no longer viable for continuous use, EPC will negotiate compensation at replacement value for the entire land and - if the affected landowner requests this - assist the affected landowner to find a similar piece of land and provide all transaction costs associated with the transfer of land ownership or the establishment of lease agreements.
- c) For customary land, the compensation will be negotiated with and paid to the matai, who should make it available to the affected households and individuals or use it for communal activities of the aiga. In line with established customs, the LARP must document that the proposed compensation was accepted by the matai and the aiga and that it is equal or higher than the replacement value.
- d) EPC may assist affected leaseholder and untitled user to find a similar piece of land and provide for the transaction costs. For customary land this only applies, if the leaseholder is not member of the affected and therefore compensated aiga.

Loss of crops and trees

- a) For the loss of annual crops on temporarily or permanently used land, a cash compensation equivalent to the market values of each crops at the time of anticipated harvest will be paid to the owner of the crops (which does not need to be the owner or leaser of the land).
- b) For the loss of other crops and trees cash compensation will be paid to the owner (which does not need to be the owner of the land). For woodlands and uncultivated trees on customary land, the aiga represented by its matai will be considered as owner and the compensation paid to the matai. During the elaboration of the LARP, EPC and the affected people will fine-tune and negotiate the compensation rates for the different species, types, ages and productivity.

Loss of other income sources

- a) In the unlikely event that one of the subprojects affects livelihoods, which are non-agricultural (fishing, hunting, handicraft etc.), EPC will ensure that the livelihoods of the affected people are improved or at least restored. Details are going to be elaborated in the LARPs.

- c) If the income losses are temporary, EPC will pay to the affected people an amount equal to their average monthly income (as determined in the DMS) for the entire period during which their livelihood is affected.

Loss of common properties, which are not land based

- a) In the unlikely event that one of the subprojects affects non-land based common properties such as cultural heritages, secret caves, graves etc., EPC will provide funds for all ceremonies etc., which are associated with their resettlement. Details are going to be determined during the elaboration of LARPs.

Loss of access to common property

- a) If the access to a common property (road, river, fishing ground, forest etc.) is temporarily affected, EPC will provide for alternative access (bypasses etc.) or if this is found to be impossible provide an easement fee for all APs; EPC will also restore the access up to a condition, which is equal or better then before the project.
- b) If the access to common property (road, river, forest, fishing ground etc.) is permanently lost, EPC will provide for an alternative access and an easement fee for all APs. All impacts associated with this alternative access will be addressed accordingly.

Loss of structures

- a) In the unlikely event that a subproject affects a structure (house, shade, water tank etc), EPC will provide: (i) a cash compensation amounting to the full replacement cost (material, labor, supervision etc), which will be paid to the owner of the structure irrespective of whether the owner holds title to the land on which the structure has been erected; (ii) relocation assistance in cash and in kind (provision of labor and transport resources); and (iii) if a tenant is loosing his housing, an assistance to find a similar structure of equal or higher quality at a similar price.
- b) EPC will further provide all occupants, irrespective of their ownership status, with a moving allowance equal to two month income (as determined in the DMS).
- c) Further, all materials salvaged from demolished structures remain the property of the owner of the structure.

Special Assistance for vulnerable populations

- a) EPC will, in the preparation and implementation of LARPs, pay particular attention to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, or persons without legal entitlements and ensure that their living standards are enhanced.

7. An Entitlement Matrix summarizing the compensation and entitlement policy is shown in Annex 1. A number of options of indirect compensation schemes were discussed in the context

of the Vaita'i hydropower subproject, which has been shelved due to community concerns. Annex 2 documents some options elaborated in this context.

C. PROCEDURES FOR LARP PREPARATION

8. Under this project, EPC will not fund any subprojects with significant resettlement impacts; this means that subprojects, which would require the physical displacement of 200 or more people or would cause that more than 200 people lose 10% or more of their productive assets (land and incomes) are not eligible for funding under this project.

9. If a subproject with potential resettlement impacts is earmarked for funding under this project, a LARP will be prepared in accordance with ADB's *Policy on Involuntary Resettlement* (1995), the OM F2 (2006) and in close collaboration with those affected. Detailed terms of reference (based on the draft terms of reference (TORs) in Annex 3), approved by ADB, will be given to the consultants to ensure thatLARPs meet ADB's policy requirements and the draftLARPs will be reviewed by EPC and submitted to ADB for review and approval.

10. As soon as a subproject with resettlement impacts is earmarked for financing, EPC will carry out (or commission consultants to carry out) a social impact assessment, based on preliminary technical designs. A DMS will be completed for all APs losing land or assets to the Project. The LARP will also include measures to ensure that socioeconomic conditions, needs, and priorities of vulnerable groups are identified, and ensure that land acquisition and resettlement does not disadvantage them. Consultants preparing the LARPs must be familiar with ADB's requirements and have a track record of preparing satisfactory LARPs.

11. A LARP will be based on the provision of the LARF to provide more detailed arrangements on (i) organizational responsibilities; (ii) community participation and disclosure; (iii) findings of socioeconomic survey and social and gender analysis; (iv) legal framework, including eligibility criteria and a final entitlement matrix; (v) mechanisms for resolution of conflicts and appeals procedures; (vi) identification of alternative sites and selection; (vii) inventory, valuation of, and compensation for lost assets; (viii) landownership, tenure, acquisition and transfer; (ix) access to training, employment, and credit; (x) shelter, infrastructure and social services; (xi) environmental protection and management; (xii) monitoring and evaluation; (xiii) a detailed cost estimate with budget provisions; and (xiv) an implementation schedule, showing how activities will be scheduled with time-bound actions in coordination with the civil works.

12. All LARPs will be updated to reflect any changes to resettlement impacts or compensation arrangements. The LARP will be updated (i) on the completion of detailed engineering design but prior to the award of civil works contracts, and (ii) during the subproject civil works where design changes during construction result in changes to the resettlement impacts. All amended LARPs will be submitted to ADB for approval.

D. INSTITUTIONAL ARRANGEMENT

13. EPC will establish an Environment and Social Unit (ESU) to plan, implement, and coordinate land acquisition, resettlement, and environmental activities prior to loan effectiveness. The ESU will be staffed by a land acquisition and resettlement officer, a public relations and consultations officer, and an environmental officer. EPC's legal officer will provide overall guidance on the Government's requirements and liaise on legal land acquisition matters with the Attorney General. The ESU will initially be an integral part of the Project Management Unit (PMU) to address social, land acquisition, resettlement and environmental activities under

the Project. The operations of the ESU may be financed through loan funds for the duration of project implementation.

14. An international resettlement specialist will be recruited as member of the Project Implementation Assistance consultancy team and will design procedures for the identification of resettlement impacts, design of social surveys, preparation of LARPs, and resettlement monitoring procedures. The resettlement specialist will also provide on-the-job training and support to the ESU on an intermittent basis during the first 2 years of the project implementation. The Australian Agency for International Development may provide Australian volunteers to assist EPC to build a Land Registry.

15. The ESU may require the assistance of the following stakeholders land acquisition and resettlement activities:

- (a) the Village Fonos;
- (b) Land and Titles Court (LTC);
- (c) ADB;
- (d) civil society organizations; and
- (d) the civil works contractor.

Table 3 summarizes the roles of relevant institutions during the implementation of the LARP.

Table 3: Institutions Involved in Resettlement Implementation

Activities	Responsible Agency
A. Preparation and Implementation of LARP	
- Subproject disclosure and public consultation	EPC/ Village <i>Fonos</i>
- Survey and marking of subproject sites and ROW	EPC Engineering Section
- Loss assessment	EPC
- Survey and establishment of market unit prices	EPC
- Consultation and agreement of compensation	EPC
- Review and approval of draft LARP	ADB
- Update of the LARP	EPC
- Endorsement of updated LARP	EPC
- Disclosure to the affected people and the public	EPC and ADB
B. LARP Implementation	
- Approval and release of funds for compensation	EPC Board of Directors
- Verification of <i>matais</i> and APs	EPC/LTC
- Monitoring	EPC
- Grievance and redress	EPC/GRC
- Preparation of deeds of sale	EPC
- Payment of compensation	EPC
- Acquisition of affected lands	EPC
- Restatement of license or lease of customary lands	EPC/ <i>matais</i>
- Submit compliance documents to ADB	EPC
- Validate compliance of LARP implementation	ADB
C. Construction Stage	
- Confirm "No Objection" for the award of civil works	ADB
- Tendering and award of civil works	EPC
- Hiring of APs and mobilization of labor force.	Civil Works Contractor
- Core subproject construction	Civil Works Contractor
D. Post Construction	
- Restoration and return of temporarily affected lands	EPC/Civil Works Contractor

ADB = Asian Development Bank, AP = affected persons, EPC = Electric Power Corporation, GRC = Grievance Redress Committee, LARP = land acquisition and resettlement plan, LTC = Land and Titles Court, ROW = right of way.

E. DISCLOSURE, PUBLIC CONSULTATIONS AND PARTICIPATORY APPROACHES

16. EPC will disclose the LARF to the public through the ADB webpage and refer to it in its general publications and meetings. If a subproject with potential resettlement impacts has been earmarked for funding, EPC will undertake public consultations with the affected communities and individuals:

- a) If the subproject impacts on customary land, the concerned Village *Fonos* shall be represented by a committee of three persons, whose members would include the *Ali'i Taua* (high chief), *Tulafale* (talking chief) and another member that may be authorized by the council. They will create sub-committees whose members will guide the EPC for dialogues with the *matais*, which will be instrumental in inviting the population to attend public consultation meetings. The views and recommendations of this meeting shall be adequately considered in the subproject design, and will stand at the beginning of the LARP elaboration. This participatory approach will (a) reduce potential conflicts, (b) minimize the risk of delay in constructing due to complaints and grievances, and (c) enable EPC to elaborate the LARP as a development program suited to the priorities of the village people.
- b) If a subproject impacts on freehold or government land, EPC will post invitations for public consultations in places where there is busy pedestrian traffic. The public consultation meetings with the APs and other interested stakeholders will be used to inform them on the project and subproject, the possible impacts and the various steps of the LARP elaboration. As no forms of local governments exist on freehold land, the affected people will elect representatives for further meetings, which are responsible for constant feedback.

17. A framework for this participatory approach is presented in Table 4 and defines the roles of the *matais* and the APs.

Table 4: Community Consultation and Participation Framework

Stage	Subject	Expected outcome
Pre-Implementation <ul style="list-style-type: none"> ▪ Consultation and focus-group discussions ▪ Elaboration of LARP. ▪ Agreement on the content of LARP 	<ul style="list-style-type: none"> ▪ General information on the subproject and its possible impacts ▪ Land acquisition, technical design, Compensation and entitlement packages. ▪ Contents of LARP. 	<ul style="list-style-type: none"> ▪ All stakeholders (including women, matais etc.) understand the proposed subproject and its benefits and impacts and are informed on decision-making process, their rights and responsibilities. ▪ Agreement on the technical design of the subproject, the acquisition of land and assets and the compensation and entitlement packages, which is documented in a resolutions signed by all stakeholders. ▪ Agreement on the contents of LARP before submission to ADB. These measures will lessen conflicts.
Implementation <ul style="list-style-type: none"> ▪ Creation of compensation and resettlement committees. ▪ Grievance and redress. 	<ul style="list-style-type: none"> ▪ Compensation and resettlement committees. ▪ Grievance and redress mechanism. 	<ul style="list-style-type: none"> ▪ Appointment of five members for each compensation committee with the active participation of women. ▪ Ensure that problems are addressed within agreed timeframe.

Stage	Subject	Expected outcome
Post Implementation ▪ Monitoring and evaluation	▪ Monitoring and evaluation system	▪ Provide inputs to monitoring and evaluation, which will be used to fine-tune the resettlement policies for future EPC subprojects.

F. GRIEVANCE AND REDRESS

18. Any grievances or complaints from the affected people shall be resolved by EPC in a timely and satisfactory manner. EPC will provide its best efforts to reach mutually acceptable resolutions. If the claimant is not satisfied with the response from EPC or does not receive a response in 2 weeks, he/she can contact the Grievance Redress Committee (GRC), which will be established during LARP elaboration for each subproject with resettlement impacts. It will be composed of five members. For subprojects on customary land, one member is a *matiai*, three members will be from the *aigas*, and one representative will be from the Village *Fonos*. For subprojects affecting other lands, three members will be from the village councils and two elected representatives of the affected people. EPC will disclose the grievance redress procedures through the resettlement brochures and the meetings in preparation of the LARP.

19. But in case the grievance could not be solved in an out-of-court settlement, there will be two approaches in settling the disputes: one for the *matiais*, the other for other APs, which will be spelled out in the LARP. All legal costs incurred in resolving the grievance will be borne by EPC. EPC shall also pay reasonable compensation to APs for other costs associated with resolving the grievance. The steps involved in Grievance and Redress Procedures will be explained during the training of personnel as part of EPC's institutional strengthening.

G. RESETTLEMENT BUDGET AND FINANCING ARRANGEMENT

20. The detailed resettlement costs of each subproject with resettlement impacts will be determined during the elaboration of LARPs. The compensation at replacement costs for lands, other assets, access to assets and livelihoods of each individual APs will be tabulated and summarized in separate sheets as supporting schedule in the LARP document.

21. The costs of implementing the LARP will be borne by EPC and will be considered as counterpart funding.

22. The budgets for compensation will be approved by the EPC's Board of Directors (BOD). It will commit for adequate budgetary support and the release of funds for the subproject LARP, before the award of civil works contracts for the specific subproject. Prior to implementation, the EPC will set-up the accounting chart to capture the expenses for compensation and administrative costs.

H. IMPLEMENTATION SCHEDULE

23. The LARPs will need to be approved by ADB and disclosed to the public through ADB's webpage and to the affected people prior to construction and will not overlap with the construction activities of the core subproject. EPC will confirm that the payments for compensation are available before it makes a request to ADB for its "No Objection" for the award of civil works contract to the subproject contractor. In support of claim for satisfactory compliance, the EPC will submit the following duly authenticated documents to ADB:

- (i) list of *matais* and APs and their corresponding compensation
- (ii) copy of the resettlement brochures distributed to *matais* and APs
- (iii) minutes of consultations with the *matais* and/or the APs
- (iv) minutes of consultations with women
- (v) minutes of consultations agreeing to the contents of LARP

24. ADB will issue its "No Objection" for the award of civil works contract once EPC has satisfactorily completed the implementation of the LARP. After that EPC will ensure that compensations are paid prior to dispossession. While livelihood restoration might continue during and after the commence of civil works certain entitlements such as land and asset compensation and transfer allowances need to be paid prior to the commencement of those civil works, which will cause the dispossession. EPC will document this to ADB through a progress report on LARP implementation together with the request for "no objection" for commencement of civil works.

I. MONITORING AND EVALUATION

25. All activities in the implementation of subproject LARP's will be monitored by EPC and land acquisition and resettlement activity reports compiled on monthly basis for circulation within EPC and on a quarterly basis for distribution to the Government and ADB. The monthly and quarterly reports will provide detailed assessments of: (a) the status of resettlement, land acquisition and compensation activities; (b) objectives attained and not attained during the period; (c) problems encountered; (d) land acquisition and resettlement targets for the next period; and (e) an updated land acquisition and resettlement schedule.

J. ADDITIONAL REQUIREMENTS

1. Sub-Project Appraisal

26. One essential requirement for ADB's appraisal for subprojects is that a satisfactory LARP has been prepared. EPC will submit the English version of LARP to ADB for review before the appraisal. Should the social assessment and survey identify new categories of APs and types of loss that are not described in this LARF, EPC will amend this LARF and the Entitlement Matrix accordingly.

2. Update of the LARP

27. EPC will update subproject LARPs following final detail design, and, during subproject implementation, if changes in the subproject land acquisition and resettlement requirements occur due to factors including subproject design changes, unforeseen impacts, and changes of land title.

28. EPC will submit amended LARPs to ADB for review and approval on a "no objection" basis.

K. DISCLOSURE

29. Consistent with its public communications policy,⁵ ADB will upload the LARPs on the ADB website to facilitate dialogue with stakeholders. ADB will ensure that subproject designs allow for stakeholder feedback during implementation and that relevant information about any major changes to project scope is also shared with the APs and the stakeholder. EPC will disclose the LARPs in the local language to the affected people. This could be done through a resettlement brochure, which needs to include: a) measures of losses, b) detailed asset valuations, c) entitlements and special provision, d) grievance procedures, e) timing of payments, and f) displacement schedules.

⁵ This refers to *The Public Communications Policy of the Asian Development Bank: Disclosure and Exchange of Information*, March 2005.

Table 1 - Entitlement Matrix

Affected asset	Type of Loss	Affected People	Entitlement	Expected Results
Customary Land	Permanent loss	Aiga, represented by the Matai	<ul style="list-style-type: none"> Cash compensation based on the market value of the affected land and provision of all legal and other expenses associated with it; If the remaining portion of the affected land is not viable for continuous use: Cash compensation for the entire piece of land, or possibly assistance to find a similar lands and all transaction costs associated with the transfer; 	Livelihood restoration
		Leaseholder and users, which are not member of the aiga.	Assistance to find a similar piece of land and possibly provision of the transaction costs.	Livelihood restoration
	Temporary loss	Aiga, represented by the Matai	Lease agreement. After the use, the land will be restored to its original condition or improved quality and returned to the aiga.	Livelihood restoration
		Leaseholder	An easement fee.	Livelihood restoration
Freehold Land	Permanent loss	Landowner	<ul style="list-style-type: none"> Cash compensation based on the market value of the affected land and provision of all legal and other expenses associated with it; If the remaining portion of the affected land is not viable for continuous use: Cash compensation for the entire piece of land, or possibly assistance to find a similar piece of land and all transaction costs associated with the transfer; 	Livelihood restoration
		Leaseholder and other users	Assistance to find a similar piece of land and provision of the transaction costs.	Livelihood restoration
	Temporary loss	Landowner	A negotiate lease. After the use, he land will be restored to its original condition or improved quality and returned to the landowner.	Livelihood restoration
		Leaseholder and other users	An easement fee.	Livelihood restoration
State Land	Permanent loss	Leaseholder and other users	Assistance to find a similar piece of land and provision of the transaction costs.	Livelihood restoration
	Temporary loss	Leaseholder and other users	A negotiate lease. After the use, he land will be restored to its original condition or improved quality and returned to the landowner.	Livelihood restoration
Annual crops	All kind of losses	Users (whether or not they have legal/customary titles)	A cash compensation equivalent to the market values of each crops at the time of anticipated harvest.	Income restoration
Other crops, trees	All kind of losses	Users (whether or not they have legal/customary titles)	<ul style="list-style-type: none"> Cash compensation, equivalent to the market values. For woodlands and uncultivated trees on customary land, the aiga will be considered as owner and the compensation paid to the matai. 	Income restoration
Non-agricultural livelihoods	Permanent loss	Affected person	Livelihoods are improved or at least restored. Details are going to be determined during the elaboration of LARPs	Livelihood restoration
	Temporary loss	Affected person	A cash compensation equal to the average monthly income of the AP for the entire period during which the livelihood is affected.	Livelihood restoration
Non-land based common property	All kind of losses	Aiga represented by the Matai	Funds for all ceremonies etc., which are associated with the resettlement of items	Pay respect to customs
Access to common property	Permanent loss	Affected persons	An alternative access and an easement fee. All impacts associated with this alternative access will be addressed accordingly.	Pay respect to customs
	Temporary loss	Affected persons	Alternative access (bypasses etc.) or if this is found to be impossible an easement fee and the access will be restored up to a condition, which is equal or better then before the project;	Livelihood restoration

Affected asset	Type of Loss	Affected People	Entitlement	Expected Results
Structures (residential or commercial)	Partial or total removal of structure	Owner of the structure (whether having legal title to land or not) (could also be a community)	<ul style="list-style-type: none"> • Cash compensation amounting to the full replacement cost, • Relocation assistance in cash and in kind, • Moving allowance equal to two month income (as determined in the DMS). • All materials salvaged from demolished structures remain the property of owner of the structure. 	Livelihood restoration
		Tenant	Assistance to find a similar structure of equal or higher quality at a similar price.	Livelihood restoration
All kind of losses		Vulnerable households	Additional cash grant to head of affected households Employment in the project construction work, if available	Improved living conditions
Any unforeseen or unintended impacts emerging after the finalization of this LARF			Compensation at full replacement costs as per the spirit of this land acquisition and resettlement framework	No impact is left unmitigated.

Discussion Note on Possible Compensation Arrangements for the Candidate Subproject “Vaita’i Hydropower Station”

A. Background

1. As part of the preparation of the Power Suspension Programme in Samoa, a Land Acquisition and Resettlement Planning Framework (LARPF) has been prepared. The LARPF covers the legal framework on compensation and outlines policy, procedures and institutional mechanisms as well as the requirements in preparing the LARP and specifies that all affected persons will be compensated for their losses at replacement costs. During preparation, the Vaita’i Hydropower subproject was considered to become a core subproject, but EPC and the communities of Sili, Gautavai, Puleia and Papa could not agree on it. Therefore, the decision making process has been postponed and the investment downgraded to the status of a candidate subproject. In the following, the compensation scheme proposed by the TA consultants is presented for further consideration. It has neither been approved by any of the actors involved, nor does it reflect the position of ADB or the GoS.

2. In case the subproject will be approved for funding, it would most likely have the following impacts:

1. Land Acquisition

3. 14.4 hectares of land would need to be permanently acquired in order to site the physical infrastructure associated with the project. This cover the weir, intake, settling basin, extended road and penstock, and existing road and transmission line. A further 2.2 ha of land needs to be used for construction purposes on a temporary basis, but will not need to be acquired for permanent hydropower infrastructure.

2. Trees and Crops

4. Trees and crops present on some parts of the land required for permanent and temporary use would need to be cut down.

3. Environmental Effects

5. As the Vaita’i hydropower project is a run-of-river scheme where the water abstracted above the Asaasa Falls is returned to the Vaita’i Stream, at least 1 km upstream of the nearest village (Sili), the effects of the water abstraction on the flow regime through the Sili village should not be significant and the flow regime over the lower 3.5 km of the stream should not be affected at all. The 200 m section of the Asaasa River from the intake (50 m) above the falls to the area where the stream goes underground (150 m below the falls) will, however, have reduced flows for much of the time, and the amenity values of the waterfall and the in-stream fishing in the pools below the falls could be adversely affected. These effects would need to be monitored and compensation flows from the intake weir will be provided to mitigate the advance effects. Some residual effects may, however, remain.

6. A 1 km section of the Vaita’i Stream downstream of the confluence of the Laupa and Asaasa Rivers, will also have reduced flows (about 50%) for much of the time (about 85%). The effect of this flow reduction is unlikely to be significant.

7. To maintain the water resource on which the viability of the hydropower project depends, the Asaasa River catchment above the intake would need to be conserved. The main requirement of conservation is the maintenance of the vegetative forest cover. This means a restriction on any removal of forest cover for timber, wood fuel, shifting agriculture or plantations/farming, but there would not be any restriction placed on hunting (except for rare and endangered species). Pig hunting in the catchment may, in fact, may be encouraged and it has been proposed to establish the Asaasa River catchment as a sustainable management area (SMA) under the PUMA Act and Regulations.

8. Based on this rather generic assessment of possible impacts, the TA consultants proposed several compensation schemes, which are not approved by any of the stakeholders or in line with the national laws in Samoa or ADB's policy on involuntary resettlement:

- a) Whereas the acquisition of land is quantifiable, and for which compensation arrangements are well established in Samoan Law, any basis for compensation for the temporary use of water and restrictions on the use of forest resources are much more difficult to establish. Accordingly, one option is to use the power produced as a basis for compensation. This is easily measured, and also provides an incentive to protect the forest cover in the catchment, as reduction in the forest cover will reduce the amount of power produced and compensation received.
- b) Another option is a lease arrangement on the catchment area and/or the water flows. However, given that the catchment is not currently utilised (except hunting which will not be restricted under the SMA), nor are the water resources in the area of the proposed project, formulating a fair basis for lease payments would be difficult – particularly as the water is being returned to the Vaita'i stream.
- c) Accordingly, it is proposed that the villages having rights to the catchment, and the rivers and streams, which both require protection and may be affected by the project location or operation, receive a percentage of the revenue obtained by power generation from the hydropower project. It is further proposed that this percentage be paid to a legal entity established specifically for the project. It is envisaged that this legal entity be made up of representatives from the affected villages, and that this entity itself will determine how payments are made to its members, presumably based on the respective interests that the various villages or families have in the catchment and the upper reaches of the affected rivers and streams.

Draft Terms of Reference for Elaboration of Land Acquisition and Resettlement Plan

1. The scope and level of detail of the resettlement plan vary with magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed subproject and its impacts on affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers elements, as relevant. When any element is not relevant to subproject circumstances, it should be noted in the resettlement plan.
2. **Description of the subproject:** General description of the subproject and identification of subproject area.
3. **Potential Impacts:** Identification of (a) the subproject component or activities that give rise to resettlement, (b) the zone of impact of such activities, (c) the alternatives considered to avoid resettlement; and (d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.
4. **Objectives:** The main objectives of the resettlement program.
5. **Socio-economic studies:** The findings of socio-economic studies to be conducted in the early stages of subproject preparation and with the involvement of potentially affected people, including:
 - a. the results of a census survey covering:
 - i. current occupants of the affected area to establish a basis for design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
 - ii. standard characteristics of affected households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the APs;
 - iii. the magnitude of the expected loss, total or partial, of assets, and the extent of physical or economic displacement;
 - iv. information on vulnerable groups or persons, for whom special provisions may have to be made; and
 - v. provisions to update information on AP's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
 - b. other studies describing the following:
 - i. 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 (including fishing, grazing, or use of forest areas) governed by local recognized land allocation

mechanisms, and any issues raised by different tenure systems in the subproject area;

- ii. the patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the subproject;
- iii. public infrastructure and social services that will be affected; and
- iv. social and cultural characteristics of affected communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, non governmental organizations), that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

6. **Legal Framework:** The findings of an analysis of the legal framework, covering:

- a. 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;
- b. the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the sub project;
- c. relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law related to displacement, and environmental laws and social welfare legislation;
- d. laws and regulations relating to the agencies responsible for implementing resettlement activities;
- e. gaps, if any, between local laws covering eminent domain and resettlement and the ADB's resettlement policy, and the mechanisms to bridge such gaps; and
- f. any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage .

7. **Institutional Framework:** The findings of any analysis of the institutional framework covering:

- a. the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- b. an assessment of the institutional capacity of such agencies and NGOs; and
- c. any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

8. **Eligibility** : Definition of APs and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

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

10. **Resettlement Measures**: A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of ADB's resettlement policy. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

11. **Site selection, site preparation, and relocation**: Alternative relocation sites considered and explanation of those selected, covering:

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

12. **Housing, infrastructure, and social services**: Plans to provide (or to finance resettler's provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

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

14. **Community Participation**: a description of the strategy for consultation with and participation of resettlers and host communities, including:

- a. a description of the strategy for consultation with and participation of APs and hosts in the design and implementation of resettlement activities;
- b. a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;

- c. a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centres, cemeteries); and
- d. institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, landless, and women are adequately represented.

15. **Integration with host populations:** Measures to mitigate the impact of resettlement on any host communities, including:

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

16. **Grievance procedures:** Accessible procedures for third-party settlement of disputes arising from resettlement, such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

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

18. **Implementation Schedule:** An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

19. **Costs and budget:** Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetable for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

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