

# Land Acquisition and Resettlement Framework

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## Pakistan: Khyber Pakhtunkhwa Intermediate Cities Improvement Project

Prepared by Local Government Election and Rural Development (LGE&RD) Department, Government of Khyber Pakhtunkhwa for the Asian Development Bank.

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## **CURRENCY EQUIVALENTS**

(As of 16 August 2021)

Currency Unit	–	Pakistan rupee/s (PKR)
PKR1.00	=	\$0.0061
\$1.00	=	PKR 164.0

## ABBREVIATIONS

ADB	Asian Development Bank
AIIB	Asian Infrastructure Investment Bank
BOR	Board Of Revenue
CAP	corrective action plan
CDIA	Cities Development Initiative for Asia
CDP	city development plan
CIU	city implementation unit
CNIC	computerized national identity card
CSC	construction supervision consultant
CSO	civil society organization
DMS	detailed measurement survey
DP	displaced person
DPAC	district price assessment committee
EA	executing agency
EMA	external monitoring agency
FGD	focus group discussion
GoKP	Government of Khyber Pakhtunkhwa
GRC	grievance redress committee
GRM	grievance redress mechanism
IOL	inventory of losses
IP	indigenous people
ISWMS	integrated solid waste management system
IVS	independent valuation study
KP	Khyber Pakhtunkhwa
KPCIP	KP Cities Improvement Project
LAA	Land Acquisition Act
LAC	land acquisition collector
LAR	land acquisition and resettlement
LARF	land acquisition and resettlement framework
LARP	land acquisition and resettlement plan

LGE&RD	Local Government, Elections and Rural Development Department
MRF	material recovery facility
NGO	non-governmental organization
OPL	official poverty line
PFS	pre-feasibility study
PMU	project management unit
PRF	project readiness financing
SBP	State Bank of Pakistan
SDDR	social due diligence report
SIA	social impact assessment
SPS	Safeguard Policy Statement
VLA	valuation of lost assets
WSSC	water sewerage and sanitation company

## **GLOSSARY OF TERMS**

<b>Compensation</b>	Payment in cash/voucher or kind to which the affected people are entitled to replace the lost asset, resource or income.
<b>Cut-off date</b>	The completion date of the census of project displaced persons is usually considered the cut-off-date. A cut-of date is normally established by the borrower government procedures that establish the eligibility for receiving compensation and resettlement assistance by the project displaced persons In the absence of such procedures, the borrower client will establish a cut-of-date.
<b>Detailed measurement survey</b>	Exact description and quantification of all lost assets by qualified appraisal experts.
<b>Displaced person</b>	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihood) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<b>Economic displacement</b>	Loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<b>Entitlements</b>	All compensation, relocation and income restoration measures due to displaced persons, specified by their property status and particular losses.
<b>Income rehabilitation</b>	Assistance to restore and/or improve the incomes of displaced persons through allowances and provision of alternative means of income generation.
<b>Non-titled displaced person</b>	Displaced persons without formal legal rights to land or claims to land recognized or recognizable under national law; eligible for compensation of non-land assets.
<b>Physical displacement</b>	Relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or no access to legally designed parks and protected areas.
<b>Relocation</b>	Settlement of displaced persons in alternative location through relocation schemes organized by the project or government or through self-relocation.

<b>Replacement cost</b>	Replacement cost involves replacing an asset at a cost prevailing at the time of its acquisition. This includes fair market value, transaction costs, interest accrued, transitional and restoration costs, and any other applicable payments, if any. Depreciation of assets and structures should not be taken into account for replacement cost. Where there are no active market conditions, replacement cost is equivalent to delivered cost of all building materials, labor cost for construction, and any transaction or relocation costs.
<b>Socio-economic survey</b>	Assessment of the social and economic conditions of the displaced persons through a combination of quantitative and qualitative research methods, providing a baseline for monitoring and evaluation.
<b>Temporary land occupation</b>	The use of or impacts on land and immovable property outside the right of way of the project caused temporarily by civil works related activities.
<b>Valuation of lost assets</b>	Assessment of the value of all lost assets according to the principle of replacement cost by qualified appraisal experts.
<b>Vulnerable person</b>	The vulnerable persons are those who are landless or will become landless as a result of the project, marginal farmers, those who have no legal title over land, and/or structures (informal users of land and structures), people below poverty line, elderly, physically disabled, women and children, minority groups and indigenous peoples or other vulnerable group based on local context.

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## 1. INTRODUCTION

### 1.1 Project Background

1. The proposed Khyber Pakhtunkhwa Cities Improvement Project (KPCIP) includes five major cities of KP namely Abbottabad, Kohat, Mardan, Mingora, and Peshawar with the aim to improve their access to quality urban services through two interlinked outputs: (i) enhanced municipal infrastructure and public urban spaces, and (ii) strengthened institutional capacities and efficiency of provincial, municipal and city governments and water & sanitation services. The Asian Development Bank (ADB) is assisting the Government in the preparation of the proposed KPCIP project through a project readiness facility (PRF) that aims to fast-track project preparation including the detailed engineering designs and necessary due diligence assessments including safeguards, procurement, capacity development and other project preparatory works ahead of the approval of the ensuing KPCIP project loan. Fig. 1.1 provides the project map of KPCIP.

2. Initially, a list of 62 potential subprojects was prepared for inclusion to KPCIP in consultation with various stakeholders mainly including the water and sanitation companies in all five project cities. These subprojects were proposed based on a pre-feasibility study (PFS) of three cities in Khyber Pakhtunkhwa, i.e., Abbottabad, Mardan, and Peshawar, with support from the Cities Development Initiative for Asia (CDIA) in 2017. The study assisted the Government of Khyber Pakhtunkhwa (GoKP) in preparing an integrated, climate-resilient urban environmental infrastructure investment plan based on Pakistan's Vision 2030, KP's Integrated Development Strategy 2014-2018, and city development plans (CDPs). The subprojects were screened through engineering, hydrological, and topographic assessment to ensure that these can provide an end-to-end solution for service delivery benefit for end-users. The subprojects were further assessed for ADB's safeguard requirements to ensure that these do not pose significant adverse impacts and can move to the design stage. Finally, a list of 24 subprojects were selected for preparation of detailed design and further due diligence. The KPCIP subproject list is in **Annex 1**.

### 1.2 IR Impact from KPCIP Subprojects

3. Based on detailed design, the 24 shortlisted subprojects were assessed further for involuntary resettlement impacts. Based on the issues and risks noted in the assessment, specific actions and plans were recommended to meet the ADB Safeguard Policy Statement (SPS) 2019 requirements. Findings from the assessment and recommendations were summarized in a social due diligence report (SDDR).

4. Of 24 subprojects, 15 subprojects were assessed as having no LAR impacts and were categorized C for involuntary resettlement (IR). These subprojects will be located on government-owned land where there are no other users who may be affected. For such subprojects, the actions are focused on obtaining no-objection certificates (NOCs) from the relevant agencies which manage the sites to be used for the subproject. PMU/CIU will do another due diligence during implementation in case unanticipated IR impacts occur. The 15 subprojects with no IR impacts include:

1. Shimla Hill urban forest (Green Urban Spaces), Abbottabad
2. Rehabilitation of solid waste dump and conversion into park, Abbottabad
3. New sewage treatment plant (STP), Kohat
4. Women development and community centre, Kohat
5. Green initiatives in sports complex (Green Urban Spaces), Kohat
6. Integrated solid waste management system including landfill, Mardan
7. Operationalization and upgrading sewage treatment plant (STP), Mardan

8. Ring Road Plantation (Green Urban Spaces), Mardan
9. Ghulam Nabi Park adjacent to railway line (Green Project), Mardan
10. Ladies Park adjacent to Railway Park (green Project), Mardan
11. Green initiatives at N-45 (Green project), Mardan
12. Development of neighborhood park on the old slaughter house (Green Urban Spaces), Mingora
13. Development of Besai Park in Phase VII (Green Urban Spaces, Peshawar
14. Development of Bagh-e-Naran Extension (Green Urban Spaces), Peshawar
15. Water supply system improvements in the city, Peshawar

5. The remaining 9 subprojects involve varying degrees of LAR impacts. Most of the acquired land is barren & uncultivated land and livelihood of most DPs is not affected. IR impacts from these subprojects were generally assessed as “insignificant”. Bulk of the 215.237 acres of land to be acquired/acquired for these subprojects is barren/unproductive land. None of the DPs are expected to be physically displaced from housing. Except for one DP who is losing all his land, all DPs are losing barren/unproductive land or less than 10% of their agricultural land. Hence, KPCIP is proposed to be categorized B for involuntary resettlement.

6. Three (3) subprojects in Abbottabad, Mingora and Kohat include overhead reservoirs, surface water tanks and tube wells where private land is being acquired through negotiated settlement. Negotiation for the purchase of land for 6 tube wells in Kohat has been completed. For the other 2 subprojects in Abbottabad and Mingora, negotiation is ongoing and expected to be concluded in August-September 2021. For all three subprojects, there is still the option to select or shift the location of the overhead reservoir to an adjacent or nearby plot if the current landowners do not agree to sell their land. A negotiated settlement will offer adequate and fair price for land and/or other assets. The EA/IA will ensure that any negotiations with displaced persons openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions. The EA/IA will agree with ADB on consultation processes, policies, and laws that are applicable to such transactions; third-party validation; mechanisms for calculating the replacement costs of land and other assets affected; and record-keeping requirements. An ADB RETA consultant is conducting third-party verification of the negotiation process. Approximately 3.416 acres of unproductive land is being acquired through negotiated settlement. Should negotiations fail and no alternative plot is identified for negotiation, Section 5 of the LAA will be notified and a land acquisition and resettlement plan (LARP) will be prepared following the provisions of this LARF.

7. Four subprojects (1. Abbottabad integrated SWM system landfill site, 2. Kohat integrated SWM landfill site, 3. Mingora integrated SWM- access road to landfill site, and 4. Mingora Greater Water Supply Scheme) involve acquiring a total of 94.27 acres of land under the normal process of the Pakistan Land Acquisition Act (LAA) 1894. Draft LARPs were prepared and an independent valuation study (IVS) is ongoing. Contract award will be conditional to the preparation and approval of implementation-ready LARPs, while commencement of civil works will be conditional to the full implementation of the LARP as verified in a LARP implementation compliance report. One subproject (Abbottabad pedestrianizing of the old city commercial area) has some temporary impacts during construction for which a resettlement plan (RP) has been prepared to address the impact on temporary/permanent structures belonging to 128 shops.

8. Three subprojects have IR legacy issues. The landfill site for Mingora and Peshawar were acquired prior to KPCIP using the LAA urgency clause, while the land for the Chuna new surface water treatment plant was acquired under the LAA normal process but compensation payment has not been disbursed to the affected landowners. The CAP for Mingora landfill site and the LARP for the access road to the LFS are part of the Mingora integrated solid waste management

and landfill subproject.. Total land acquired for these 3 subprojects with IR legacy issues is 117.551 acres. Draft corrective action plans (CAP) were prepared to meet the SPS requirements. These CAPs will be finalized based on the results of the independent valuation study (IVS). **Annex 2** shows the TOR for the conduct of IVS for the LARPs and CAPs.

9. Although the assessments of IR impacts for all subprojects is based on detailed design, the emergence of unanticipated or additional impacts during the implementation of these subprojects cannot be totally ruled out especially since these subprojects are to be implemented in urban areas and near settlements. For subprojects where LARPs/RPs/CAPs have been prepared, additional impacts can be addressed through an addendum or supplemental plan. However, for subprojects that were categorized C for IR, a new plan (RP or CAP) will be needed if unanticipated impacts were to occur.

## **2. PURPOSE AND SCOPE OF LARF**

10. A land acquisition and resettlement framework (LARF) is applicable to the entire KPCIP in order to address both impacts covered in the resettlement plans (LARPs/RP/CAPs) and unanticipated/additional impacts from subprojects that were not covered in these resettlement plans that have been prepared for KPCIP including subprojects that were categorized as “C” during DDR. This LARF has been prepared to guide the executing agency (EA)<sup>1</sup> and the participating cities in the conduct of further due diligence for IR prior to contract award and during project implementation and in preparing and implementing the required actions in case of newly identified impacts or emerging IR issues during implementation. It aims to ensure adequate, fair and timely compensation, and proper relocation and rehabilitation of physically and/or economically displaced persons (DPs). The LARF defines the institutional arrangements, legal and policy framework, eligibility criteria and entitlements for displaced persons. It sets out procedures for LARP planning and implementation, including further subproject IR screening; social impact assessment; consultation, participation and disclosure; grievance redress; monitoring and reporting; as well as the institutional and financial arrangements for LAR. An outline of suggested LARP is provided as **Annex 3**.

11. This LARF has been prepared by the Local Government Election and Rural Development Department (LGE&RD) with coordination of PMU in accordance with the requirements of ADB's Safeguard Policy Statement 2009 (SPS) pertaining to IR, the policy principles, objectives and implementation procedures and Pakistan's LAA. The LARF has been endorsed by the EA for application and implementation for subprojects that have LAR impacts, require preparation and implementation of LARPs or CAPs due to unanticipated impacts that may occur during the project planning and implementation

## **3. LAR PROCESSING AND IMPLEMENTATION REQUIREMENTS**

12. Draft LARPs and CAPs have been prepared during the appraisal of KPCIP by ADB. These draft documents will be updated following the results of the independent valuation study (IVS) and the issuance of APs acquaintance roll with the final list of DPs following the procedures of Pakistan's LAA (in case of LARPs). For subprojects with IR impacts (including those with IR legacy issues) the following LAR related conditions apply:

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<sup>1</sup> Khyber Pakhtunkhwa Local Government Election and Rural Development Department is the project executing agency responsible to acquire land and planning and implementation of land acquisition and resettlement plans.

- a) Contract award signing; conditional to the preparation/disclosure of relevant implementation-ready LARPs and CAPs approved by ADB and reflecting final impacts, DPs lists and compensation rates.
- b) Provision of notice to proceed to contractors; conditional to full implementation of LARP and CAP (fully delivery of compensation/rehabilitation), as confirmed in a LARP/CAP implementation compliance report prepared by an external monitoring agency/expert. Such a condition will be spelled out in the text of civil works contract.

13. For subprojects that are categorized C for IR in the SDDR, a reverification and confirmation on the absence of IR impacts will be done by the PMU prior to commencement of works and reported through the Internal Social Monitoring Reports. Each social monitoring report will prominently and regularly indicate the re-verification and confirmation of the absence of IR impacts. In case potential impacts are identified, a resettlement plan will be prepared and implemented prior to commencement of civil works in components/sections of the subproject with the identified IR issues.

14. Contractors shall be required to provide a written notice of any unanticipated resettlement risks or impacts that arise during the construction of the subprojects that were not considered in the relevant LARP/RP/CAP and or category "C" subprojects. If any unanticipated IR/social risks and impacts arise during construction of the Project, the PMU/CIU will propose a corrective action plan (CAP) and/or LARP to ADB. Implementation of the CAP/LARP will be closely monitored until its completion. The EMA will verify the completion of CAP/LARP and prepare a CAP/LARP implementation compliance report. Monitoring shall be continued throughout the project implementation period to track any such impacts and actions taken.

## **4. LEGAL AND POLICY FRAMEWORK**

### **4.1 LAR Legal and Policy Framework**

15. This LARF has been prepared in light of Pakistan's laws relevant to land acquisition and resettlement and ADB's SPS 2009 for Involuntary Resettlement (IR) and Indigenous Peoples (IPs). To resolve any gaps between the two set of instruments, i.e. Pakistan's Land Acquisition Act 1894 (LAA) and ADB's SPS 2009 the framework provides measures to reconcile and address the gaps in a manner consistent with SPS's compliance requirements.

### **4.2 Pakistan's Law and Regulatory System for Land Acquisition and Resettlement**

16. The Land Acquisition Act 1894 (LAA 1894) with its successive amendments is the main law regulating land acquisition for public purpose projects at federal and provincial levels through the right of exercise of eminent domain. The LAA has been variously interpreted by provincial governments, and some provinces have augmented the LAA by issuing provincial legislations. In KP valuation is done by District Collector/ District Commissioner and also provides for 15% compulsory acquisition surcharge on top of the value of the land. The LAA, nevertheless, requires that following an impacts assessment/valuation effort, land and crops are compensated in cash at market rate to titled landowners and registered land tenants/users, respectively. The LAA mandates that land valuation is to be based on the latest three (3) years average registered land sale rates, though, in several recent cases the median rate over the past 1 year, or even the current rates, have been applied.

17. Based on the LAA, only legal owners and tenants registered with the Land Revenue Department or with formal lease agreements are eligible for compensation/livelihood support. For those without title rights, there are no laws in Pakistan either at federal or at provincial levels that consider non-titleholders for compensation. The LAA does not openly or automatically mandates for specific rehabilitation/ assistance provisions benefiting the non-titleholders including poor, vulnerable groups, or severely affected DPs including tenants, sharecroppers, encroachers and squatters, nor does it overtly provide for rehabilitation of income/livelihood losses or resettlement costs. Nevertheless, for development projects financed internationally (by International Financial Institutions-IFIs or bilateral and multilateral lending institutions) in Pakistan, non-titleholder affectees have been paid compensation/assistance for lost incomes and assets as an ad hoc arrangement as agreed between the EA and DPs during consultation meetings. Example of such development projects are those funded by ADB, World Bank and other lenders in energy, urban, transport sectors.

18. The law deals with matters related to the acquisition of private land and other immovable assets that may exist on it when the land is acquired for public purpose. Table 1 below elaborate salient features of the LAA sections pertinent to acquisition of land. The right to acquire land for public purposes is established when Section 4 of the LAA is triggered. The LAA specifies a systematic approach for acquisition and compensation of land and other properties for development projects. It stipulates various sections pertaining to notifications, surveys, acquisition, compensation and apportionment awards along with dispute resolution, penalties and exemptions. Surveys for land acquisition are to be disclosed to the displaced persons. Table 4-1 below provides salient features of major sections of the act:

**Table 4-1: Salient Features of Pakistan's LAA 1894**

<b>Key Sections of LAA</b>	<b>Salient Features of the LAA 1894</b>
Section 4	Publication of preliminary notification and power for conducting survey.
Section 5	Formal notification of land needed for a public purpose. Section 5a covering the need for enquiry of the concerns or grievances of the affected people related to land prices.
Section 6	The Government makes a more formal declaration of intent to acquire land.
Section 7	The Land Commissioner shall direct the Land Acquisition Collector (LAC) to take order the acquisition of the land.
Section 8	The LAC has then to direct that the land acquired to be physically marked out, measured and planned.
Section 9	The LAC gives notice to all DPs that the Government intends to take possession of the land and if they have any claims for compensation then these claims are to be made to him at an appointed time. (At this stage, an acquaintance roll of DPs indicating the amount and share in compensation for affected assets is prepared.).
Section 10	Delegates power to the LAC to record statements of the DPs in the area of land to be acquired or any part thereof as co-proprietor, subproprietor, mortgage, and tenant or otherwise.

<b>Key Sections of LAA</b>	<b>Salient Features of the LAA 1894</b>
Section 11	Enables the Collector to make enquiries into the measurements, value and claim and then to issue the final “award”. The award includes the land’s marked area and the valuation of compensation.
Section 16	When the LAC has made an award under Section 11, he will then take possession and the land shall thereupon vest absolutely in the Government, free from all encumbrances.
Section 17	Emergency clause that allows acquisition of land prior to compensation of DPs. This clause will not be applied in any subproject of KPCIP
Section 18	In case of dissatisfaction with the award, DPs may request the LAC to refer the case onward to the court for a decision. This does not affect the Government taking possession of land.
Section 23	The award of compensation to the title holders for acquired land is determined at i) its market value of land, ii) loss of standing crops, trees and structures, iii) any damage sustained at the time of possession, iv) injurious affect to other property (moveable or immoveable) or his earnings, v) expenses incidental to compelled relocation of the residence or business and vi diminution of the profits between the time of publication of Section 6 and the time of taking possession plus 15% premium in view of the compulsory nature of the acquisition for public purposes.
Section 28	Relates to the determination of compensation values and interest premium for land acquisition.
Section 31	Section 31 provides that the LAC can, instead of awarding cash compensation in respect of any land, make any arrangement with a person having an interest in such land, including the grant of other lands in exchange.
Section 48A (LAA-1986)	If within a period of one year from the date of publication of declaration under section 6 in respect of any land, the Collector has not made an award under section 11 in respect to such land, the owner of the land
	shall, unless he has been to a material extent responsible for the delay be entitled to receive compensation for the damage suffered by him in consequence of the delay.

### 4.3 ADB’s Safeguard Policy Statement 2009

19. The SPS 2009 is based on the following objectives: to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups. The following principles are applied to reach these objectives:

- a) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.

- b) Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- c) Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- d) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- e) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- f) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.
- g) Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- h) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- i) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.



- j) Pay compensation and provide other resettlement entitlements before physical or economic displacement implement the resettlement plan under close supervision throughout project implementation.
- k) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

#### 4.4 Comparison of Key Principles and Practices of Pakistan's LAA and ADB's IR

##### Safeguards-SPS 2009

20. A comparison of Pakistan's Land Acquisition Act of 1894 (LAA) and ADB's Policy on Involuntary Resettlement (IR) shows that there exist differences in the two instruments. The objective of this comparison is to identify if and where the two sets of procedures are in conformity with each other and more importantly where there are differences and gaps. The key considerations that by following the ADB assessment procedures, the requirements of the Pakistan's legal and regulatory systems are in compliance. Conversely, if the Government of Pakistan systems are followed then there are likely to be shortfalls in comparison to the ADB requirements. The key ADB Policy Principles are (i) the need to screen the project early on the planning stage (ii) carry out meaningful consultation (iii) at the minimum restore livelihood levels to the pre-project conditions and improve the livelihoods of the affected vulnerable groups (iv) prompt compensation at full replacement cost is to be paid (v) provide displaced people with adequate assistance (vi) ensure that displaced people who have no statutory rights to the land that they are working are eligible for resettlement assistance and compensation for the loss of no-land assets and (vii) disclose all reports. Table 4-2 below presents a gap-analysis between the Pakistan's LAA and ADB's SPS 2009

**Table 4-2: Comparison of LAA and ADB's SPS 2009**

Key LAR Aspects	Pakistan's Land Acquisition Act of 1894	ADB IR Safeguards-SPS 2009
IR Policy	Government does not have a national or provincial policy on resettlement and rehabilitation of affected persons.	ADB Safeguard Policy Statement provides a policy on involuntary resettlement with principles, objectives and procedures for implementation
LAR Planning	Provides specific steps from initial notification, seeking objection, measurements and demarcation, valuation and further notifications on the until land award. However, there is no requirement for the preparation of LARP	Preparation of draft and final LARP
Consultation, information and participation of DPs	No specific requirement. The decisions regarding land acquisition and the rate/amount of compensation to be paid are published in the official Gazette which is notified in accessible places so that the people affected are informed	Meaningful consultation, timely disclosure of relevant information and participation in LAR planning

<b>Key LAR Aspects</b>	<b>Pakistan's Land Acquisition Act of 1894</b>	<b>ADB IR Safeguards-SPS 2009</b>
Disclosure of LARP	There is no law or policy that requires preparation and disclosure of LARPs. However, several general and targeted notifications are included in the land acquisition process from the notification of Section 4 until the notice of land award.	Disclosure of draft & final LARP to DPs and on ADB website
Grievance redress	Established under LAA through the formal land acquisition process at a point in time or through appeals to the court. Land Acquisition Collector (LAC) is the pre-land award authority to make decision on objections.	Establish GRM scaled to risks and impacts of project at project and field levels.
Assessment of social impacts	Includes the conduct of demarcation/measurement of the affected assets. Also includes assessment of related impacts to acquisition including diminution of profits, injurious affect to other property (moveable or immoveable) or his earnings, and expenses incidental to compelled relocation of the residence or business as required under Section 23. However, there is no requirement in LAA to assess vulnerability of the DPs or impacts on host communities.	Census, socio-economic survey, detailed measurement survey and valuation of lost assets
Cut-off date	At the time of issuance of section 4 under LAA	Eligibility for entitlements under this LARF is limited by a cut-off date, determined at the time of social impacts assessment (SIA) survey, census of displaced persons (DPs), inventory of losses (IOL) and socioeconomic baseline survey.
Involuntary LAR	LAA governs land acquisition and land is acquired strictly in accordance with vaguely defined LAA procedures.	Eminent domain is recognized and subject to social safeguard provisions
Negotiated LAR	Included as one of the options for acquiring land. In practice, agencies are reluctant to use this option for fear of being questioned later or suspected of conniving with landowners.	Negotiated land acquisition is encouraged and subject to social safeguard provisions
Eligible DPs	Only titled persons or those with recognizable claim to the affected land	All physically and economically displaced persons, including titled and non-titled, with differential entitlements

<b>Key LAR Aspects</b>	<b>Pakistan's Land Acquisition Act of 1894</b>	<b>ADB IR Safeguards-SPS 2009</b>
compensation to all eligible persons with or without titles.	Compensation paid to only the titleholders and those with legally recognizable claims	Lack of title should not be a bar to compensation. Requires equal treatment of those without clear land titles (for example squatters, or other informal settlers) in terms of their entitlements for resettlement assistance and compensation for the loss of non-land assets. Titled and non-titled with legally recognizable claims to land: land for land of equivalent value and quality or cash compensation at replacement value
Compensation of structures	The valuation of structures is based on official rates with depreciation deducted from gross value of the structure and also 15% of the value of salvage materials.	Replacement of structures or cash compensation at replacement value for all DPs, titled and non-titled
Community and public resources	Damages done to land and structures are to be paid	Restoration/provision of civic infrastructure and community services
Replacement cost	Land valuation based on the median registered land transfer rate over the 3 years prior to Section 4 of LAA being invoked. Calculation of compensation considers factors as per Section 23 (i.e. i) its market value of land, ii) loss of standing crops, trees and structures, iii) any damage sustained at the time of possession, iv) injurious affect to other property (moveable or immoveable) or his earnings, v) expenses incidental to compelled relocation of the residence or business and vi diminution of the profits between the time of publication of Section 6.  A 15% compulsory land acquisition charges are paid over and above the assessed compensation.	Full replacement cost includes fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments without depreciation. Land valuation to be done by qualified and experienced experts.
Income restoration and livelihood support	Only compensation is paid but not resettlement allowances and/or any income restoration support. There is no mechanism to ensure payment is made before displacement.	Enhance, at least restore, DPs' livelihoods. Compensation of lost incomes and livelihood sources at full replacement cost; credit, training and employment assistance; project development benefits

<b>Key LAR Aspects</b>	<b>Pakistan's Land Acquisition Act of 1894</b>	<b>ADB IR Safeguards-SPS 2009</b>
Women and Vulnerable persons	No provision in LAA	Improve livelihoods to at least national minimum standards. Due consideration of women in census and surveys, consultation, grievance redress, as well as compensation and rehabilitation
Relocation assistance	No provision in LAA	Secure tenure, better housing, transitional support, infrastructure and services
Timing and notification of displacement	Provides for several notification from the issuance of Section IV until land award. Under normal process, compensation should be made available prior to taking possession of site. However, receipt of compensation by the DPs is not required prior to taking possession of land.  Moreover, under the LAA's urgency clause, taking possession of site can be allowed after depositing the estimated amount of compensation at the district treasury after 15 days from publication of the notice mentioned in sub-section (1) of Section 9 of the LAA even if DPs have not received or object to the compensation amount.	No physical or economic displacement before compensation has been paid, other entitlements have been provided and income and livelihood program is in place
Monitoring and evaluation	No requirement	Monitoring and assessment of IR outcomes; disclosure of monitoring reports

#### **4.5 Remedial Measures to Bridge the Gaps**

21. In order to establish a land acquisition and resettlement policy framework for the Project, which reconciles Pakistan's legal and regulatory system for LAR (LAA 1894) and ADB's IR Safeguards as in SPS 2009, and addresses the gaps between the two systems, the following principles (as mentioned under the project LAR policy below) will be adopted. The following "Project LAR Policy" encompassing all the gap filling measures will be adopted for a project.

#### **4.6 Project LAR policy**

- i. Comprehensive LARPs/CAPs will be prepared for every subproject with LAR impacts under the KPCIP project.
- ii. The Project will avoid, minimize or mitigate involuntary LAR impacts causing physical and/or economic displacement.
- iii. Displaced persons and other stakeholders will be consulted and informed as well as given an opportunity to participate in LAR planning in a form accessible and understandable to them.

- iv. Each draft, final or updated LARP will be submitted to ADB for review/approval, endorsed by the borrower/client and disclosed on the ADB website.
- v. A grievance redress mechanism with representation of all stakeholders will be established at the time of project inception.
- vi. A comprehensive assessment of social impacts, involving (i) a census of all displaced persons, and an inventory of their lost assets (ii) a socio-economic survey of a sample of at least 10 percent of displaced persons, and (iii) a detailed measurement survey and valuation of all lost assets as well as an assessment of lost incomes will be carried out.
- vii. An eligibility cut-off date will be declared and formalized on the date of completion of social impacts assessment survey and census of DPs.
- viii. DPs will be compensated as per the provisions of LAA and LARP/s will be prepared as per the provision of ADB SPS 2009 to ensure replacement cost is awarded as compensation to the DPs. LARPs will also be prepared where land acquisition is involved as per the provisions of LARF and DPs will be compensated accordingly.
- ix. All titled and non-titled DPs occupying land to be acquired by the project before the cutoff date will be eligible for compensation, relocation and rehabilitation measures, as applicable, regardless of whether the impacts are permanent or temporary, full or partial. Non-titled DPs without legally recognizable claims to land will be eligible for all compensation, relocation and rehabilitation measures, except land. The full eligibility of non-titled DPs also includes both those who are temporarily/permanently or partially/fully affected.
- x. Compensation of land and non-land assets will be done at full replacement value, either through the replacement of land or assets of equivalent or higher value and quality or through cash compensation at replacement cost. Full replacement cost involves fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments without depreciation. For replacement of land or non-land assets all transaction costs will be paid by the project or included in compensation payments to the DPs. The value of structures will not be depreciated for age.
- xi. Qualified valuation experts will be engaged to assess the value of all lost assets according to legally sanctioned principles of Pakistan's LAA and the ADB IR safeguard norm of replacement cost and value as stipulated in LAR policy principle 10. Depending upon the number of land properties to be acquired for a subproject, a 5% representative sample of properties which reflects different land types and usage will be used for the valuation work. In case of any price differential between the prices of LAA and full replacement cost as determined by independent valuers, the requirement of full replacement costs of ADB's SPS 2009 shall prevail meaning that price differential will have to be topped up and paid to DPs as rehabilitation allowance.
- xii. All lost civic infrastructure and community services will be either restored or newly provided at relocation sites.
- xiii. Incomes and livelihood sources lost, including but not restricted to crops and trees or interruption of business activities and employment, will be fully compensated at replacement cost. DPs permanently losing incomes and livelihood sources as well as poor and vulnerable DPs are entitled to credit, training and employment assistance to maintain or improve their livelihoods.

- xiv. All DPs will be provided opportunities to share development benefits of the Project, if feasible.
- xv. Relocated DPs will receive secure tenure to replacement land, better housing, transitional support and access to civic infrastructure and services.
- xvi. DPs will not be physically or economically displaced before compensation has been paid, other entitlements have been provided and an income and livelihood program is in place.
- xvii. The effectiveness of the implementation of a project LARP and the impacts of its measures on the livelihoods of the DPs will be monitored during and evaluated after LARP implementation.
- xviii. Where feasible, the project will adopt negotiated purchase of land as the first preferred option for land acquisition. Negotiated settlement based on meaningful consultation with affected persons, including those without legal title to assets is encouraged in the SPS. A negotiated settlement will offer adequate and fair price for land and/or other assets. The borrower/client will ensure that any negotiations with displaced persons openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions. The EA/IA will agree with ADB on consultation processes, policies, and laws that are applicable to such transactions; third-party validation; mechanisms for calculating the replacement costs of land and other assets affected; and record-keeping requirements. If the landowners refuse to sell their land, a nearby alternative plot will be explored for which negotiation will be undertaken. If no alternative feasible site is available and negotiations fail with the required plot, LARP/s will be prepared as per the provisions of this LARF to compensate for the losses.

#### **4.7 Special Provisions for Displaced Vulnerable Persons**

22. To identify vulnerable persons and their households, the following vulnerability indicators were established. Vulnerable households exhibit one or a combination of the following conditions:
- i. Monthly per capita income is equal to or less than poverty line or less.
  - ii. Female headed household without children/members contributing income to the hh
  - iii. Elderly head of household without children/members contributing income to the hh
  - iv. Disabled persons of household with/without children/others are contributing income.
  - v. Vulnerable households and the specific LAR impacts on their livelihood will be identified in the census and socio-economic survey for each project and indicated in each LARP. The displaced vulnerable persons will be consulted and measures for the rehabilitation and enhancement of their livelihood will be provided to safeguard against impoverishment and to reduce their vulnerability.

#### **4.8 Special Provisions for Displaced Women**

23. To ensure a clear understanding and due consideration of specific LAR impacts on displaced women and to safeguard their livelihoods, specific provisions for women will be adopted for the LAR process, including (i) enumeration of all women and, if applicable, of their status as heads of household or otherwise vulnerable persons; (ii) collection of gender disaggregated socio-economic data; (iii) consultation of women in joint or separate meetings; (iv) due consideration of grievances lodged by women; and (iv) provision of compensation and/or new titles to women if they are titled or recognized owners of lost assets, and provisions of

rehabilitation measures to women, if households are female headed or women's livelihood is directly concerned. The LARP for projects will detail the scope of LAR impact on women and where required gender action plans will be prepared, implemented and monitored within or outside LARP. The details of entitled compensation and any additional plans will also be disclosed in a culturally appropriate way in order to ensure awareness.

## **5. ELIGIBILITY AND ENTITLEMENTS**

24. On the basis of the LAR Legal and Policy Framework, the following eligibility and entitlements are recognized and applicable in land acquisition and resettlement in all of its project with LAR impacts. The entitlement matrix in Table 5-1 summarizes the provisions for eligibility and entitlements under this LARF.

### **5.1 Eligibility**

25. Eligible for compensation, relocation and livelihood rehabilitation entitlements under this LARF are persons who were located and used land in the project area prior to the cut-off date and who are physically and/or economically displaced due to permanent or temporary loss of land, structures and/or livelihood, whether full or partial, as a consequence of land acquisition. Such eligible DPs include the following:

- i. Owners of land and/or structures, including those recognized as legally titled or legalizable on the basis of claims recognizable under national law;
- ii. Lessees (leaseholders) of state or private land, whether long-term or short-term;
- iii. Sharecrop tenants with or without formal legal registration according to national law;
- iv. Non-titled occupants of land, such as squatters or encroachers;
- v. Business owners, whether registered under national law or informal;
- vi. Employees of private or public businesses or enterprises, whether registered under national law or informal;
- vii. Cultivators of crops and/or trees, irrespective of legal status of property relation to land;
- viii. Vulnerable persons, including households headed by women, elderly and/or disabled persons, the households in local context with per capita incomes at or below the poverty line.
- ix. DPs who neither have formal legal rights nor recognizable claims to lands will be entitled to be compensation for their non-land assets. The eligibility also includes those who are temporarily/permanently or partially/fully affected by the project with formal and informal dependence on land and/or non land assets for income generation and livelihoods.

### **5.2 Cut-off date**

26. Eligibility for entitlements under this LARF is limited by a cut-off date, determined at the time of social impacts assessment (SIA) survey, census of displaced persons (DPs), inventory of losses (IOL) and socioeconomic baseline survey. The cut of date for land under LAA 1894 is the date when Section 4 of LAA is issued. With Section 4 has been issued, buying and selling of land in the notified area comes to a stop till land is acquired. However, due to lengthy process of land acquisition and timeline between different sections of LAA (section 4 to land award) the date of social impact assessment and census of DPs is usually considered as the cut-off-date. Any

person moving into the land located within the alignment of the project after this cut-off date will not be eligible for compensation, relocation and livelihood rehabilitation entitlements. The EA will establish the cut-off date which will be disclosed to the DPs through consultative meetings, focus group discussions (FGDs) and field surveys, and formalized through documentation and disclosure of reports.

### 5.3 Entitlements

27. Full replacement cost as compensation is the basic principle guiding the allocation of entitlements, i.e. the project will replace in kind or cash what is lost in terms of land, structures, livelihood, community facilities and services, with special provisions for the improvement of livelihoods of vulnerable displaced persons, sharing of project benefit and unanticipated impacts.

28. The entitlements and the entitlement matrix for a project LARP will be specific to the types of impacts, losses and eligible persons occurring in a project, while the provisions made in this LARF include a wider range of the possible cases which may arise under the project. Each individual DP will be eligible for a combination of entitlements specific to his/her particular losses and property relations to the lost assets. The entitlements are given below.

### 5.4 Land and Non-Land Assets

#### 5.4.1 Agricultural land

30. **Agriculture land** (partially or fully affected) will be compensated at full replacement costs including fair market value, all transaction costs, such as applicable fees and taxes and other applicable payments. Qualified and experienced land valuation expert will determine the replacement cost. If the compensation determined by the Board of Revenue (BOR) is found to be less than full replacement cost, LGE&RD will pay the price differential to the DPs. For DPs losing more than 10% or more of their productive resources, severe impact allowance equal to market value of the gross annual yield of lost land for one year will also be paid. Land for land compensation through the provision of a fully titled and registered replacement plot of comparable value, quantity and quality as the lost plot will also be explored if viable. **Non-titled users of agricultural land**, i.e. those without traditional rights/squatters losing informal use of agricultural land, will be provided with an income rehabilitation allowance in cash equal to the net market value of yearly harvest income based on relevant cropping pattern and cultivation record (additional to standard crop compensation), and compensation for any irrigation infrastructure and other improvements made to the land (but not for the land) at full replacement cost; and other appropriate rehabilitation to be defined in the LARPs based on project situation and DP consultation.

31. **Leaseholders or tenants on government land** will be entitled to either renewal of the lease in other plots or cash compensation equivalent to the market value of net yield of the affected land for the remaining lease years (additional to standard crop compensation), up to a maximum of three (03) years.

32. **Sharecroppers** will share the crop compensation with the landowner based on the proportions stipulated in the sharecropping contract.. Compensation in cash will be equivalent to the market value of the gross yield of lost harvest according to crop compensation (if impact is temporary); plus one (01) additional crop compensation (if the land is lost permanently).



33. **Agricultural laborers**, with contracts to be interrupted, will be provided with compensation equal to their salary/daily wage or minimum wage/official poverty line (OPL) whichever higher for the remaining agreement/contract period. In case there is no contract, opportunity cost will be calculated for the loss of work opportunity up to a maximum period of three months.

#### **5.4.2 Residential, commercial, public and community land:**

34. **For partial loss** of a plot/percent of the total plot (taking into account functional viability of remaining plot), owners -defined as titleholders or legalizable users- will receive cash compensation at replacement cost according to the quantity and quality of the land lost, including all transaction costs. Lessees or rental tenants will receive a cash refund at the rate of the rental fee proportionate to the size of the affected plot and the duration of the remaining lease period. Non-titled land users squatters or encroachers on affected land will not receive compensation for the partial loss of land, but will be provided with access to land through a rent to own arrangement as under the entitlements for agricultural land.

35. **For full loss** of a plot/percent of the total owned plot (taking into account functional viability of remaining plot), owners may choose between either (i) land for land compensation through the provision of a fully titled and registered replacement plot of comparable value, quantity and quality as the lost plot at a relocation site for the displaced community or another location agreeable to the DP or (ii) cash compensation at replacement cost according to the quantity and quality of the land lost. In either case all transaction costs, such as applicable fees and taxes, will be borne by the EA. Lessees or rental tenants will receive a cash refund at the rate of the rental fee for the duration of the remaining lease period for the entire lost plot. Non-titled land users squatters or encroachers on affected land will not receive compensation for the loss of land, but will be provided with access to land through a rent to own arrangement as above.

#### **5.4.3 Temporary occupation of land**

36. Temporary occupation of land is required in the short term for construction and other uses during civil works. Such owners, lessees and tenants will receive a rental fee commensurate with current local land rents for the period of occupation of the land. All DPs so affected will have guaranteed access to their land and structures located on their remaining land and their land will be restored to its original state.

### **5.5 Structures**

37. For the partial loss of structure/percent of the total of a residential, agricultural, commercial, public and community structure or its alteration (taking into account of functional/economic viability of remaining or un-affected part of the structure), the owners, including non-titled land users, will receive cash compensation for the lost parts of a structure at replacement cost and for the repair of the remaining structure at the market rate for materials, labor, transport and other incidental costs, without deduction of depreciation for the age of the structure. They have the right to salvage all usable materials from the lost structures. Lessees and rental tenants receive a cash refund at the rate of the rental fee proportionate to the size of the lost part of the structure and the duration of the remaining lease period.

38. For the full loss of a residential, agricultural, commercial, public and community structure/percent of the total structure (taking into account functional/economic viability of remaining structure), the owners, including non-titled land users, may choose between either (i) the provision of a fully titled and registered replacement structure of comparable value, quantity and quality, including payment for all transaction costs (such as applicable fees and taxes), at a

relocation site or another location agreeable to the DP, or (ii) cash compensation at replacement cost, including all transaction costs (such as applicable fees and taxes), without deduction of depreciation for age, for self-relocation. If the market value of a replacement structure is below that of the lost structure, the owner will be paid cash compensation for the difference in value without deduction of depreciation for age. If the market value of the replacement structure is above that of the lost structure, no further deductions will be made. In either case the owners have the right to salvage all usable materials from the lost structures.

39. If minor structures, such as fences, sheds or latrines, need to be moved, their owners or the lessees and tenants, depending on the arrangements between owners and tenants, may either (i) receive cash compensation for self-relocation of the structure at the current market rate for the cost of labor, materials, transport and other incidental costs, as required, without deduction of depreciation for age, or (ii) the structure may be relocated by the Project.

40. For stalls and kiosks of street vendors, whether titled or licensed or not, alternative sites comparable in business potential to the lost location will be provided and the vendors will receive cash compensation for self-relocation of their stalls at the current market rate for the cost of labor, materials, transport and other incidental costs, as required, without deduction of depreciation for age.

## **5.6 Crops**

41. Cultivators of affected crops will be paid cash compensation for the loss of a crop at the current market rate proportionate to the size of the lost plot, based on the crop type and the highest average yield from among the past 3 years from the date of assessment. The parties to a share cropping arrangement will distribute this compensation between the landowner and the tenant according to the legally stipulated or the traditionally or informally agreed share.

## **5.7 Trees**

42. Cultivators of affected trees will receive cash compensation for perennial tree crops at the current market rate of the crop type and average yield (i) multiplied, for immature non-bearing trees, by the years required to grow such a tree back to productivity or (ii) multiplied, for mature crop bearing trees, by the average years of crops forgone. In addition, the cost of purchase of seedlings and required inputs to replace these trees will be paid. For timber trees, cash compensation will be paid at the current market rate of the timber value of the species at current volume, in addition to the cost of purchase of seedlings and required inputs to replace the trees. The rates and valuation methods will be determined using the accepted methodology in use at the Departments of Agriculture and Forestry.

## **5.8 Resettlement & Relocation**

### **5.8.1 Land for land compensation**

43. Land for land compensation has significant advantages in that it reduces the chance of displaced people spending their compensation on items that will not provide them with an alternative economic livelihood. Therefore, preference will be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land, or on private land acquired or purchased for resettlement. Whenever replacement land is offered, displaced persons are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the

advantages of the land taken. If land is not the preferred option of the displaced persons, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. In case the land for land compensation is not possible, the lack of availability of land will be demonstrated and documented to the satisfaction of ADB.

#### **5.8.2 Relocation assistance**

44. Where applicable, the DPs will be provided logistical support for the identification and purchase or rental of replacement plots and/or structures, or the construction of new structures, as the case may be, as well as with all related administrative tasks. The physically displaced persons will be relocated at a relocation site or will self-relocate at individual sites and structures of their own choice.

#### **5.8.3 Security of tenure**

45. Arrangements for secure tenure to the replacement land and structures will be made and their provision to each DP, according to the level of eligibility of each DP, will be ensured.

#### **5.8.4 Transport allowance**

46. All DPs to be relocated due to loss of land and/or structures including residences, business premises or agricultural land, are entitled to receive a cash allowance to cover the cost of transport of people and their movable property (furniture, household items, personal effects, machinery, tools etc.) and of setting up at the new premises at the current market rate for labor, vehicle hire, fuel and incidental costs. A lump sum amount of compensation (covering all items mentions) will be provided to the DPs.

#### **5.8.5 Transition allowances**

47. To facilitate moving and settling process, a transition allowance of 3 months of the official minimum wage/OPL (whichever is greater) is paid in addition to any income loss compensation, as applicable.

48. If relocation sites with completed housing and full facilities are not available in time, the DPs will be provided with transition arrangements, either in the form of adequate transition housing of a standard comparable to the lost housing, or with a rental allowance permitting the rental of housing at such a standard and covering the entire transition period.

### **5.9 Income Restoration**

#### **5.9.1 Loss of agriculture-based livelihood**

49. In case of a partial loss of agricultural land without available replacement land, but remaining viable land, in addition to cash compensation for the loss of land as indicated above, the displaced owner, lessee, sharecrop tenant or non-titled user of land will be provided with financial support for investments in productivity enhancing inputs, including but not limited to land leveling, terracing, biological, erosion control, sprinkler/drip irrigation, composting, tools and agricultural extension, as feasible and applicable. Additional financial support in the form of grants and micro-credit will be available, if the compensation for partial land loss is insufficient to allow for adequate investments to maintain the DP's livelihood.

50. For the full loss of viable agricultural land without availability of alternative land, in addition to cash compensation for the loss of land as indicated above, the displaced owner, lessee,

sharecrop tenant or non-titled user of land will be provided with re-training, job placement, additional financial support in the form of grants and micro-credit for investments in equipment and buildings, as well as with organizational and logistical support to establish the DP in an alternative income generation activity. If possible, Project EA will coordinate and/or cooperate with governmental and non-governmental income generation and micro-enterprise development initiatives.

#### **5.9.2 Maintenance of access to means of livelihood**

51. The Project EA will ensure that the agricultural fields, business premises and residences of persons in the project area remain accessible, by either avoiding the obstruction of such access or by including special provisions for access in the technical design of project facilities. The project LARP will elaborate on specific anticipated impacts and outline measures to ensure access.

#### **5.9.3 Businesses**

52. For the temporary loss of business income due to LAR or construction activities by the project, the owner of a business will receive cash compensation equal to the lost income during the period of business interruption, based on tax records or, in their absence, comparable rates from registered businesses of the same type with tax records. However, if tax based lost incomes are unknown, then official poverty line (inflation adjusted) will become the minimum rate of compensation per family per month.

53. For permanent loss of business due to LAR without the possibility of establishing an alternative business or re-establishing the lost business at a new location, the owner will be compensated with (i) cash compensation equal to the lost income for 12 months or as agreed and will be determined by the business on a case by case basis, depending on the monthly income generated by the business. Cash compensation will be based on tax records or, in their absence, comparable rates from registered business of the same type with tax records. If tax based lost incomes are unknown, then official poverty line (inflation adjusted) will become the minimum rate of compensation per family per month, and (ii) provision of re-training, job-placement, additional financial support in the form of grants and micro-credit for investments in equipment and buildings, as well as organizational and logistical support to establish the DP in an alternative income generation activity. Coordination with relevant governmental and non-governmental programs will be sought.

#### **5.9.4 Employment**

54. The temporary loss of employment due to LAR or construction activities among all laid-off employees of affected businesses will be compensated through cash compensation equal to the lost wages during the period of employment interruption, based on tax records or registered wages, or, in their absence, comparable rates for employment of the same type. As may be required under Pakistan's labor laws and regulations/codes, the compensation for lost income from employment will be paid to the employer to enable him/her to fulfill applicable legal obligations to provide compensation payments to laid-off employees. An arrangement of payment disbursement between employer and laid-off employees would need to be documented, verified and made part of the LARP. If, however, tax based lost incomes are unknown, then official poverty line (inflation adjusted) will become the minimum rate of compensation per family per month. The prompt and full payment of compensation to the employees is to be verified by an authorized official by EA.

55. For the permanent loss of employment<sup>2</sup> due to LAR with the possibility of re-employment in a similar sector and position in or near the area of lost employment, the laid-off employees will be (i) paid cash compensation equal to the lost wages for 12 months, based on tax records or registered wages, or, in their absence, comparable rates for employment of the same type, as may be required by Pakistan Labor Laws and regulations/codes. The compensation for lost income from employment will be paid to the employer to enable him/her to fulfill applicable legal obligations to provide compensation payments to laid-off employees. An arrangement of payment disbursement between employer and laid-off employees would need to be documented, verified and made part of the LARP. If, however, tax based lost incomes are unknown, then official poverty line (inflation adjusted) will become the minimum rate of compensation per family per month. All possibilities will be explored to provide training, job-placement, additional financial support (if required) in the form of grants and micro-credit for investments in equipment and buildings, as well as organizational and logistical support to establish the DP in an alternative income generation activity. Coordination and cooperation with relevant governmental and nongovernmental programs. The prompt and full payment of compensation to the employees is to be verified by an authorized official by EA and external monitoring agency (EMA).

## **5.10 Public services and facilities**

56. Public services and facilities interrupted and/or displaced due to LAR will be fully restored and re-established at their original location or a relocation site. All compensation, relocation and rehabilitation provisions of this LARF are applicable to public services and facilities. These include but are not limited to schools, health centers, community centers, local government administration, water supply or graveyards.

## **5.11 Special provisions**

### **5.11.1 Vulnerable DPs**

57. All DPs who are losing livelihood are entitled to livelihood restoration/improvement support in the form of cash and/or training, job-placement, additional financial support in the form of grants and micro-credit for investments in business or re-employment related equipment and buildings, as well as organizational and logistical support to establish the DP in an alternative income generation activity. Training and support in a viable and suitable income generation activity selected by the DP is eligible for support, including in agriculture, manufacturing or services. For vulnerable DPs, to facilitate the process of training and establishment of a new income generation activity, a subsistence allowance of 3-6 months of the official minimum wage/OPL (whichever is greater) is paid in addition to any income loss compensation and transition allowance, as applicable. Coordination and cooperation with relevant governmental and non-governmental programs will be sought. Moreover, all vulnerable DPs receive preferential consideration in the selection of project related employment, including civil works, as well as the operation and maintenance of the facilities constructed under the project. This provision will be reflected in the civil works contracts as well as the agreements between the project executing agency and the ADB.

58. All vulnerable DPs affected by the loss of land will be assisted with the identification and purchase or rental of a new plot and/or structure, as the case may be, as well as the administrative process of land transfer, including cadastral mapping and registration of their property titles.

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<sup>2</sup> Loss of employment is considered as permanent when a person remains unemployed for a period of 6 months or more.

Assistance will also be provided with the preparation of compensation, relocation and rehabilitation agreements with the executing agency or authorized government agency.

59. All vulnerable DPs affected by the loss of a structure will be assisted with the construction of a new structure or the identification and purchase or rental of a new structure, as the case may be. Further assistance will be given with the administrative process of registration of the new property, with the transition to the relocation site and with the preparation of compensation, relocation and rehabilitation agreements with the executing agency or authorized government.

60. Temporary occupation of land at properties owned or occupied by vulnerable persons will be avoided and, if unavoidable, preferentially mitigated. Civil works at these sites will be completed as quickly as possible. For disabled and elderly persons suitable access to their land and residences will be ensured.

### **5.11.2 Legal and Administrative issues**

61. Both the LAA (1894) and ADB SPS (2009) require that DPs are compensated before displacement, but allow a mechanism for dealing with cases with legal and administrative impediments to disbursing compensation payments to DPs provided that sufficient good-faith efforts are demonstrated in (a) contacting, notifying and assisting DPs, and (b) delivering compensation payments. The guidance note provided at **Annex 4** elaborate the efforts required to be made to address the (i) the cases with legal and administrative impediments to payment of compensation to DPs (ii) the requirements under the LAA related to cases with legal and administrative impediments to payment of compensation to DPs and (iii) when can good-faith efforts be considered as sufficient and how to document that good-faith efforts.

62. In light of the guidance note, the EA will have to take appropriate actions to demonstrate that sufficient good-faith efforts have been made toward addressing the legal and administrative impediments to payments.

### **5.11.3 Women**

63. Women DPs who are the titled or recognized owners of land and structures or whose livelihoods are directly affected will receive compensation and titles for replacement land and structures, as well as other entitlements, in their name. Any monetary compensation due to women will be disbursed to them directly.

## **5.12 Update on Eligibility and Entitlements**

64. For unanticipated impacts identified during project implementation and not covered under the eligibility and entitlement provisions of this LARF, new and additional eligibility and entitlement provisions will be determined in accordance with the IR safeguards requirements of ADB's SPS and the applicable legal framework of Pakistan. A LARF will be prepared, endorsed by the borrower and reviewed and cleared by ADB before disclosure on the ADB website.

65. Specific subproject LARP will be updated with new eligibility and entitlement provisions on account of unidentified impacts and losses under any project as well. The displaced persons concerned will be consulted.

66. The standards agreed and established for the eligibility and entitlement provisions of this LARF shall be maintained and may be raised, but not lowered in this LARF or any project LARP.

**Table 5-1: Entitlement Matrix**

Type of Loss	Specification	Eligibility	Entitlements
<b>1. LAND</b>			
Permanent impact on arable land	All land losses independently from impact severity	Owner (titleholder, or holder of traditional rights)	<ul style="list-style-type: none"> <li>Land for land compensation with comparable productivity and suitability to be explored (if feasible) OR</li> <li>Cash compensation at full replacement cost (RC<sup>3</sup>) including fair market value plus 15% compulsory acquisition surcharge all transaction costs, applicable fees and taxes and any other payment applicable</li> <li>If BoR<sup>4</sup> compensation falls below RC, the project will pay the differential as resettlement assistance to the DPs to restore affected livelihoods.</li> <li>Additional compensation to be worked out in consultation with DPs if the loss is 10% or more of productive resources including land.</li> </ul>
		Leaseholder titled/untitled	<ul style="list-style-type: none"> <li>Compensation commensurate to lease type and duration to be defined in LARP</li> <li>Production based on relevant cropping pattern/cultivation record (additional to standard crop compensation as defined below) and other appropriate rehabilitation, to be defined in the LARPs based on project situation and AP consultation.</li> </ul>
		Sharecropper/tenant (titled/untitled)	<ul style="list-style-type: none"> <li>Cash compensation equal to gross market value of crop compensation (see below) to be shared with the land owner based on the sharecropping</li> </ul>
			<ul style="list-style-type: none"> <li>Income rehabilitation allowance in cash equal to net value of annual crop production based on relevant cropping pattern/cultivation record (additional to standard crop compensation and other appropriate rehabilitation to be defined in the LARPs based on project situation and DP consultation).</li> </ul>
		Squatter, encroacher.	<ul style="list-style-type: none"> <li>No compensation for land loss</li> <li>IN addition to standard crop compensation, income rehabilitation allowance in cash equal to net value of annual crop production and other appropriate rehabilitation to be defined in the LARPs based on project specific situation and DP consultation.</li> <li>Compensation for any irrigation infrastructure and other improvements made to the land (but not for the land) at full replacement cost.</li> </ul>

<sup>3</sup> Refer to IR safeguards as in SR2 para 10 of SPS 2009

<sup>4</sup> Board of Revenue, provincial agency with a mandate to approve compensation rate/amount

Type of Loss	Specification	Eligibility	Entitlements
Severe impact on productive land	Loss of 10% of productive (income earning) land	Titleholder, or holder of traditional rights	<ul style="list-style-type: none"><li>Cash compensation for 3 months equal to national minimum wage i.e. PKR 20,000/month as fixed by the Federal Government for the year 2021-22. The amount for three months will be equal to PKR 20,000 X 3 = 60,000</li></ul>
Residential/ commercial land	All land losses	Titleholder, or holder of traditional rights	<ul style="list-style-type: none"><li>Cash compensation at full replacement cost (RC) including fair market value plus 15% compulsory acquisition surcharge all transaction costs, applicable fees and taxes and any other payment applicable</li><li>If BoR compensation falls below RC, the project will pay the differential as resettlement assistance to the DPs to restore affected livelihoods.</li><li>Additional compensation to be worked out in consultation with DPs if the loss is 10% or more of productive resources including land.</li></ul>
		Lessee, tenant	<ul style="list-style-type: none"><li>Cash refund/payment at the rate of lease or house rent for remaining lease period or house rent</li></ul>
		Renter/ leaseholder	<ul style="list-style-type: none"><li>Rent allowance in cash equivalent to 3-6 months' rent to be decided in consultation meetings with DPs.</li></ul>
		Non-titled user without traditional rights (squatters)	<ul style="list-style-type: none"><li>No compensation for land loss</li><li>Self-relocation allowance in cash equivalent to 3 months livelihood based on OPL, or as assessed based on income analysis.</li></ul>
Temporary land occupation	Land temporarily required during civil works	Owner, lessee, tenant	<ul style="list-style-type: none"><li>Lease agreements to be signed between the DPs and the contractor for the period of occupation of land. Rental fee payment for period of occupation of land, as mutually agreed by the parties</li><li>Restoration of land to original state</li><li>Guarantee of access to land and structures located on remaining land</li></ul>
		Non-titled user	<ul style="list-style-type: none"><li>Restoration of land to original state</li><li>Guarantee of access to land and structures located on remaining land</li></ul>
2. STRUCTURES			
Residential, agricultural, commercial, public, community	Partial Loss of structure	Owner (including non-titled land user)	<ul style="list-style-type: none"><li>Cash compensation for affected structure (full or partial taking into account functioning viability of remaining portion of partially affected structure) at full replacement cost and repair of remaining structure at market rate for materials, labor, transport and other incidental costs, without deduction of depreciation.</li></ul>



Type of Loss	Specification	Eligibility	Entitlements
			<ul style="list-style-type: none"> <li>• Right to salvage materials (without deduction) from lost structure</li> <li>• For vulnerable households, provide legal and affordable access to adequate housing to improve their living standard to at least national minimum standard.</li> <li>• Any improvements made to a structure by a tenant will also be taken into account in the calculation of compensation at full replacement cost payable to the owner and any apportionment due to the tenant as agreed at consultation meetings.</li> </ul>
		Lessee, tenant	<ul style="list-style-type: none"> <li>• Cash refund at rate of rental fee proportionate to size of lost part of structure and duration of remaining lease period already paid.</li> <li>• Any improvements made to a structure by a tenant will also be taken into account in the calculation of compensation at full replacement cost payable to the owner and any apportionment due to the tenant as agreed at consultation meetings.</li> </ul>
	Full loss of structure and relocation.	Owner (including nontitled land user)	<p>The DP may choose between the following alternatives:</p> <ul style="list-style-type: none"> <li>• Compensation through provision of fully titled and registered replacement structure of comparable quality and value, including payment of all transaction costs, such as applicable fees and taxes, at a relocation site or a location agreeable to the DP.</li> <li>• Any improvements made to a structure by a tenant will also be taken into account in the calculation of compensation at full replacement cost payable to the owner and any apportionment due to the tenant as agreed at consultation meetings.</li> <li>• If the market value of the replacement structure is below that of the lost structure, cash compensation for the difference in value without deduction of depreciation.</li> <li>• If the market value of the replacement structure is above that of the lost structure, no further deductions. or</li> <li>• Cash compensation at full replacement cost, including all transaction costs, such as applicable fees and taxes, without deduction of depreciation for age, for self-relocation. In any case, DP has the right to salvage the affected structure.</li> <li>• Severity assistance to all losing structures permanently equivalent to 3 months equal to national minimum wage i.e. PKR 20,000/month as fixed by the Federal</li> </ul>

Type of Loss	Specification	Eligibility	Entitlements
			Government for the year 2021-22. The amount for three months will be equal to PKR 20,000 X 3 = 60,000
		Lessee, tenant	<ul style="list-style-type: none"> <li>Cash refund at rate of rental fee proportionate to duration of remaining lease period</li> </ul>
	Moving of minor structures (fences, sheds, latrines etc.)	Owner, lessee, tenant	<p>The DP may choose between the following alternatives:</p> <ul style="list-style-type: none"> <li>Cash compensation for self-relocation of structure at market rate (labor, materials, transport and other incidental costs, as required, without deduction of depreciation for age) Or</li> <li>Relocation of the structure by the Project.</li> </ul>
	Stalls, kiosks	Vendors (including titled and non-titled land users)	<ul style="list-style-type: none"> <li>Allocation of alternative location comparable to lost location, and</li> <li>Cash compensation for self-relocation of stall/kiosk at market rate (labor, materials, transport and other incidental costs, as required, without deduction of depreciation for age)</li> </ul>
<b>3. Crops</b>	Affected crops	Cultivator	<ul style="list-style-type: none"> <li>Cash compensation at current market rate proportionate to size of lost plot, based on crop type and highest average yield over past 3 years.</li> <li>Additional compensation to be worked out in consultation with DPs if the loss is 10% or more of productive resources including land.</li> </ul>
		Parties to sharecrop arrangement	<ul style="list-style-type: none"> <li>Same as above and distributed between land owner and tenant according to legally stipulated or traditionally/informally agreed share</li> </ul>
<b>4. Trees</b>	Affected Trees	Cultivator	<ul style="list-style-type: none"> <li>Cash compensation for perennial crop trees at current market rate of crop type and average yield (i) multiplied, for immature non-bearing trees, by the years required to grow tree to productivity or (ii) multiplied, for mature crop bearing trees, by the average years of crops forgone; plus cost of purchase of seedlings and required inputs to replace trees.</li> <li>Cash compensation for timber trees at current market rate of timber value of species at current volume, plus</li> <li>Cost of purchase of seedlings and required inputs to replace trees</li> </ul>
		Parties to sharecrop arrangement	<ul style="list-style-type: none"> <li>Same as above and distributed between land owner and tenant according to legally</li> </ul>

Type of Loss	Specification	Eligibility	Entitlements
			stipulated or traditionally/informally agreed share
<b>5. RESETTLEMENT &amp; RELOCATION</b>			
Relocation Assistance	All types of structures affected	All DPs titled/untitled requiring to relocate as a result of losing land and structures	<ul style="list-style-type: none"> <li>The project will provide logistic support to all eligible DPs in relocation of affected structures whether project based relocation or self-relocation as opted by the DPs.</li> <li>If project-based relocation, DPs will be provided with fully functional public services and facilities including school, health center, community center, electricity, water supply and sewage and irrigation facility with their long term operation and maintenance planned and agreed.</li> </ul>
Security of tenure	Replacement land and structures	All DPs and tenants needing to relocate to project relocation sites.	<ul style="list-style-type: none"> <li>If DPs are required to relocate to project relocation sites, they will be provided with secure tenure to the replacement land and structures.</li> </ul>
Transport allowance	All types of structures requiring relocation	All DPs and tenants required to relocate as a result of losing land and structures	<ul style="list-style-type: none"> <li>Compensation (in cash or kind as agreed with DPs) to all eligible DPs and tenants.</li> <li>For residential structure a lump sum amount of Rs. 15,000/ or higher depending upon the situation on ground.</li> <li>For commercial structure a lump sum amount of Rs. 10,000/ or higher depending upon the situation on ground.</li> <li>For Kiosk a lump sum amount of Rs.3000/ or higher depending upon the situation on ground.</li> </ul>
House rent	All types of structures requiring relocation	All DPs and tenants required to relocate as a result of losing land and structures	<ul style="list-style-type: none"> <li>A lump sum amount, as agreed between the DP and project team, to assist the DPs in renting house for a negotiated period of time, for a comparable structure or apartment to the one lost.</li> </ul>
Transition allowance	All types structures requiring relocation	All DPs and tenants required to relocate	<ul style="list-style-type: none"> <li>On a case to case basis, transitional allowance equal to 3 months of recorded household income or equal to inflation adjusted official poverty line, whichever is higher.</li> </ul>
Arable, residential and commercial land and structures	All types of structures	All DPs titled/untitled losing land & structures	<ul style="list-style-type: none"> <li>Additional cash compensation of 15% as solatium over and above the BOR compensation price.</li> <li>Payment of any price differential or top-up, based on replacement cost study.</li> </ul>
<b>6. INCOME RESTORATION</b>			

Type of Loss	Specification	Eligibility	Entitlements
Permanent loss of agriculture based livelihood	Partial loss of agricultural land with viable land remaining	Owner, lessee, sharecrop tenant, non-titled land user	<ul style="list-style-type: none"> <li>Provision of support for investments in productivity enhancing inputs, such as land leveling, terracing, biological, erosion control, sprinkler/drip irrigation, composing, tools and agricultural extension, as feasible and applicable; additional financial support if land compensation is insufficient to allow for adequate investments to maintain livelihood</li> </ul>
	Full loss of viable agricultural land without availability of alternative land.	Owner, lessee, sharecrop tenant, non-titled land user	<ul style="list-style-type: none"> <li>Provision of re-training, job-placement, additional financial grants and micro-credit for equipment and buildings, as well as organizational/logistical support to establish DP in alternative income generation activity</li> </ul>
Maintenance of access to means of livelihood	Avoidance of obstruction by project facilities	All DPs	<ul style="list-style-type: none"> <li>Provide un-interrupted access to agricultural fields, business premises and residences of persons in the project area.</li> </ul>
Businesses	Temporary business loss due to LAR or construction activities by Project	Owner business (registered, informal)	<ul style="list-style-type: none"> <li>Cash compensation equal to lost income during period of business interruption based on tax record or, in its absence, comparable rates from registered businesses of the same type with tax records, or at least inflation adjusted OPL.</li> </ul>
	Permanent business loss due to LAR without possibility of establishing alternative business	Owner business (registered, informal)	<ul style="list-style-type: none"> <li>Cash compensation equal to lost income for 12 months based on tax record or, in its absence, comparable rates from registered businesses of the same type with tax records, or at least inflation adjusted OPL And</li> <li>Provision of training, job-placement, additional financial grants and micro-credit for equipment and buildings, as well as organizational/logistical support to establish DP in alternative income generation activity</li> </ul>
Employment	Temporary employment loss due to LAR or construction activities	All affected employees of affected businesses and agricultural workers	<ul style="list-style-type: none"> <li>Cash compensation equal to lost wages during period of employment interruption up to 3 months based on tax record or registered wage, or, in its absence, comparable rates for employment of the same type, or at least inflation adjusted OPL.</li> <li>If required by Pakistan's labor laws and regulations/codes, the compensation will be paid to the employer to enable him/her to fulfill legal obligations to provide compensation payments to laid-off employees, to be verified by EA/relevant government official.</li> </ul>

Type of Loss	Specification	Eligibility	Entitlements
	Permanent employment loss due to LAR without possibility of re-employment in similar sector and position in or near area of lost employment	All laid-off employees of affected businesses and laid-off agricultural workers from affected farms	<ul style="list-style-type: none"> <li>Cash compensation equal to lost wages for 6 months, based on tax record or registered wage, or, in its absence, comparable rates for employment of the same type, or at least inflation adjusted OPL.</li> <li>If required by the applicable labor code, compensation will be paid to employer to enable him/her to fulfill legal obligations to provide severance payments to laid-off employees, to be verified by government labor inspector And</li> <li>Provision of training, job-placement, additional financial grants and micro-credit for equipment and buildings, as well as organizational/logistical support to establish DP in alternative income generation activity</li> </ul>
<b>7. PUBLIC SERVICES AND FACILITIES</b>			
Loss of public services and facilities	Schools, health centers, administrative services, infrastructure services, graveyards etc	Service Provider	<ul style="list-style-type: none"> <li>Full restoration at original site or re-establishment at relocation site of lost public services and facilities, including replacement of related land and relocation of structures according to provisions under sections 1 and 2 of this entitlement matrix</li> </ul>
<b>8. SPECIAL PROVISIONS</b>			
Vulnerable APs	Support to disproportionately affected persons	All vulnerable DPs including those below the poverty line, the landless, the elderly, women and children, and indigenous peoples.	<ul style="list-style-type: none"> <li>Provision of training, job-placement, additional financial Cash allowance equal to 3 months of official minimum wage to all vulnerable DPs.</li> <li>grants and micro-credit for equipment and buildings, as well as organizational/logistical support to establish DP in alternative income generation activity.</li> <li>Subsistence allowance equal to 3 months of official poverty line, and other appropriate rehabilitation to be defined in the LARPs based on income analysis and consultations with DPs.</li> <li>Preferential selection for project related employment.</li> </ul>
	Loss of land	All vulnerable DPs	<ul style="list-style-type: none"> <li>Assistance in identification and purchase or rental of new plot</li> </ul>
	Loss of structure	All vulnerable DPs	<ul style="list-style-type: none"> <li>Assistance with administrative process of land transfer, property title, cadastral mapping and preparation of compensation agreements</li> <li>Assistance in construction of new structure Assistance in identification and purchase or rental of new structure</li> <li>Assistance with administrative process of registration of property and preparation of compensation agreements</li> <li>Assistance with transition to relocation site</li> </ul>

Type of Loss	Specification	Eligibility	Entitlements
	Temporary land acquisition	All vulnerable DPs	<ul style="list-style-type: none"> <li>• Preferential treatment to avoid or mitigate as quickly as possible</li> <li>• Provision of access to land and residence suitable to disabled and elderly DPs</li> </ul>
	Loss of livelihood	Female livelihood losers directly affected	<ul style="list-style-type: none"> <li>• Compensation paid directly to female livelihood loser</li> </ul>

## **6. SOCIAL IMPACT ASSESSMENT - ASSESSMENT OF LAR IMPACTS**

67. In the preparation of LARPs for each subproject with LAR impacts under KPCIP, a detailed assessment of LAR and its social impacts will be carried out, including an initial screening and categorization of impacts, a census of DPs with an inventory of lost assets (ILA), a socio-economic survey (SES), a detailed measurement survey (DMS) and valuation of lost assets (VLA). Depending on the progress of the technical design of project facilities, the assessment of LAR impacts will be based on an estimate of asset losses. If exact alignments are not yet known, a draft LARP will be prepared; otherwise, if a detailed engineering design is available, comprehensive and accurate measurements of actual impacts will be undertaken and a final LARP will be prepared. The results of the LAR impact assessment will be presented in aggregate form in the project LARP, as well as for each household in their annex.

### **6.1 Screening**

68. All subprojects under KPCIP have been screened for IR impacts. For subprojects that have been screened as C for IR, a reverification will be done prior to commencement of work to confirm absence of impacts. At any stage of subproject implementation, if any unanticipated impacts occur, the subproject will be recategorized to category "A" or "B" depending upon the scale of impacts and the corresponding resettlement planning document (LARP/CAP) will be prepared.

69. The LAR impacts are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). Within this context, a subproject is classified as category A if it is likely to have significant IR impacts. A land acquisition and resettlement plan (LARP) including assessment of social impacts is required. Similarly, a proposed subproject is classified as category B if it includes IR impacts that are not deemed significant. A LARP including assessment of social impacts is required. A proposed subproject is classified as category C if it has no IR impacts. No further action is required in this case, although constant monitoring will be done during implementation to check if there are any unanticipated impacts.

### **6.2 Census of Displaced Persons and Inventory of Lost Assets (ILA)**

70. At the beginning of the preparation of the census and ILA, the CIU's project staff and consultants tasked with LAR planning will work closely with the design engineers in the field to minimize LAR impact as much as technically feasible. The project LARP will contain a statement describing the efforts made to minimize LAR impacts. The LAR and engineering staff, in cooperation with the concerned land administration officials, will also prepare LAR Impact maps showing the alignment of project facilities and, based on cadastral maps, the boundaries of properties so the affected land and structures can be identified. The map will be included in the project LARP. The land administration officials will also be requested to provide existing records for the DPs and lost assets. Based on these records and the LAR Impact Maps, the LAR staff and consultants will undertake the census and inventory of lost assets in consultation with DPs at each affected property. If there are any difference in the list of DPs recorded before land award or at the time of notification under Section 9 of the LAA, the census of DPs will be updated and list of DPs revised accordingly for inclusion in the LARP.

71. Using a questionnaire, a census enumerates all physically and economically displaced persons in a project, including all displaced households, and, if applicable, displaced enterprises.

Displaced community assets will also be recorded by interviewing the officials or persons in charge. The census questionnaire will query the size and members of a displaced household, its project affected assets (land, structures) with estimated sizes and associated property status, as well as income sources (business, crops, employment). In addition, a limited number of socioeconomic characteristics of the displaced households, such as ethnicity, gender, age and education of its members, head of household, total income and its sources, as well as vulnerability in terms of poverty, age, disabilities and gender of household head, will be recorded. The census will also inquire into the compensation preferences and expectations of each displaced household.

72. The data on affected assets will be used to prepare a quantitative ILA as part of the LAR impact database, including land, immovable property (buildings and other structures), and income losses. The ILA will be corroborated or updated with information from relevant government sources, such as offices in charge of land administration and property registration. If necessary, outdated official records will be updated according to the current status of the DP's assets. If the LAR impact assessment is based on the feasibility design of a project, a preliminary project impact assessment and asset valuation will be prepared based on estimated impacts. If a final detailed engineering design is available, a complete census and updated ILA will provide the basis for the detailed measurement survey (DMS) indicating the final complete quantification of all lost assets caused by a project. The data from the census and ILA are presented in the section on the scope of LAR impacts in aggregate form, and for each individual household or legal entity in the annex of each LARP. The census of 100% DPs and ILA (based on section 9 of LAA or land award) will be carried out by PMU/CIU officials and consultants deputed to the project's LAR tasks.

73. In each project CIU will publically announce an eligibility cut-off date at the beginning of the census and notify the DPs about the LAR impact of the project.

### **6.3 Socio-economic survey (SES)**

74. A socio-economic survey will be carried out for the project LARP to obtain a detailed understanding of the social and economic conditions of the DPs and to provide baseline data for the monitoring of the implementation of the LARP and the impacts of the project. The SES will be carried out by the project staff and consultants deputed by LGE&RD to undertake LAR work.

75. As appropriate, a combination of research methods will be used, including a quantitative sample survey, focus group discussions, key informant interviews and a walkthrough to observe the area in which the DPs live and work, in addition to a desk study of relevant secondary sources from official records and statistics, as well as academic and other subject matter related reports.

76. The sample size for the survey depends on the size of total affected households in a project. If the number is large (e.g. 500 or more) a sample of 10 percent of all affected households will be considered. All affected families termed as vulnerable, poor and severely affected households will be included in the survey. A smaller displaced population requires the sampling of a larger percentage. Sampling will be a combination of purposive selection of specific groups in the population from various affected locations and random selection within these groups.

77. The key variables covered in the surveys and qualitative interviews will include (i) demography; (ii) social organization; (iii) income and assets; (iv) occupational structure; (v) access to public services; and (vi) personal property. All data collection and presentation needs to be disaggregated by gender and other relevant social characteristics, depending on the social groups of concern (for example IP, ethnic or vulnerable groups). The project LARP reports on the findings of the SES and provides observations on the wider social, economic and cultural context



of the DPs. Special attention is paid to possible previous or future occurrence of displacement due to LAR among the communities of the DPs.

#### **6.4 Detailed measurement survey (DMS) and valuation of lost assets (VLA)**

78. The detailed measurement survey (DMS) and valuation of lost assets (VLA) provide an exact quantification and valuation of the assets lost due to the LAR impacts of a project. They will be carried out in collaboration with qualified appraisers of the BOR, SBP accredited valuers, certified companies, individuals and non-governmental organizations (NGOs) certified in valuation. A third-party with expertise in valuation will be engaged as an independent third party to observe and verify or undertake the DMS and VLA process. The census of DPs, ILA and LAR impact maps guide the preparation of the DMS and VLA.

79. The DMS determines the exact size, type, and quality of each asset identified in the ILA. Existing records in land and property registries are referred to, but field measurements will be carried out by the project to verify exact quantities. The DMS covers all types of land and structures and identifies their property status. It is carried out in the presence of the DPs owning and/or using the assets concerned, who confirm the results of the DMS with their signature. In case of a dispute, the project's LAR specialist and the agency tasked with the DMS seek to resolve disagreements in situ or the issue is referred to the Grievance Redress Mechanism. The DMS will also identify income losses of displaced businesses and their employees, based on official records, including contracts, tax records, and accounts. Income losses from agricultural activity will assess lost harvests, measuring the quantities of all applicable types of lost crops and trees.

80. The VLA will assess (for e.g. assessment by District Assessment Committee in KP) the value of all lost assets according to the principle of replacement cost and other provisions in the chapter on eligibility and entitlements of this LARF. Thus, the lost assets of DPs will be replaced either in cash or in kind. This requires that the exact quantity, type and quality of lost land, structures, businesses, jobs or crops are identified by the DMS and an accurate value constituting full replacement cost be assessed. LARF indicates the agreed definition of replacement cost as involving fair market value, transactions costs, interest accrued, transitional and restoration costs and other applicable payments, if any, without depreciation. Each LARP will specify the procedures and explain the assessment methodologies used in the VLA for a project under this project/facility.

81. As the legal framework for land acquisition in Pakistan does not permit payment of compensation rates above government (BOR) rates, the assets lost due to project will be assessed according to the principle of replacement cost as outlined in this LARF. The BOR considers average market rate based on registered land transactions as fair market value although this is not compatible with ADB's requirement of replacement cost. Therefore, the difference between BOR and RC will need to be worked out through a valuation study by qualified and experienced experts. In cases where compensation has been already awarded, the BOR, under the prevailing LAA practice, is not authorized to accept or reject any additional amount of compensation (over and above the BOR price). However, CIU will be required to arrange the balance amount and pay to the DPs to comply with the conditions of loan agreements.

## **7. CONSULTATION, PARTICIPATION AND INFORMATION DISCLOSURE**

### **7.1 Consultation Strategy**

82. For each project under the Sector Lending, PMU through CIU and project team will implement a comprehensive consultation, participation and information disclosure strategy to ensure the DPs are meaningfully consulted in LAR process; their views and concerns are fully taken into account, and appropriate steps taken to resolve them. The consultations will involve the displaced persons and other relevant stakeholders including community leaders host communities, civil society organizations (CSOs) and non-governmental organizations, district government, project staff and consultants.

83. The LARPs will provide a stakeholder analysis of all persons who are directly or indirectly involved in the project, including DPs, project and related government staff, and host communities, and determine the need for consultation, participation and information. Consultation and information disclosure is an ongoing process, which starts with field investigations for the design of the project alignment, through preparation of draft LARPs, LARP implementation and monitoring, and ends after the final evaluation of LARP implementation.

84. Formal consultation meetings will be held with all DPs and will also include participation from project LAR staff and consultants, district revenue officials as well as representatives of civil society organizations (CSO) or Non-governmental organizations (NGO) and other pertinent stakeholders. The draft LARPs, based on the results of consultations and impact surveys in the field, will be disclosed. In particular the DPs will be informed about their rights and obligations, the institutional arrangements, the procedures which need to be followed, and the grievance redress mechanism (GRM). During LARP preparation, the official eligibility cut-off date for the project will be announced at every meeting with DPs. Every revision and update of the draft LARP requires a new disclosure and consultation meeting with DPs. Any critical issue and complaint will be raised, discussed and resolved, if possible, at these meetings.

85. Separate meetings with women and vulnerable DPs will be held so their voices are not constrained by those of men and powerful sections of the DP communities. In addition, individual meetings and focus group discussions (FGD) will be held formally and informally, as and when the opportunity or need arises during field activities, such as census, IOL, SES, DMS and VLA. CIU will arrange joint field inspections of affected land and structures and of relocation sites among DPs and project staff and relevant government staff and other stakeholders to physically inspect and verify impacts, and to ascertain the state of suitability and readiness of relocation sites (where required). Individual negotiation meetings will be held with DPs, as necessary, to resolve any disagreements and reach individual agreements.

86. The consultation meetings and other consultation activities will be recorded and documented comprehensively, including signed attendance lists, photographs and minutes of the key issues addressed and agreements reached, observations made in the field, and outstanding issues in need of being addressed. The consultations will be documented in the LARPs with consultation records appended. This information will be updated for each LARP update and will also be continued in the LAR monitoring reports of the external monitoring agency (EMA).

87. The Project LAR staff and consultants will prepare a LAR Information Booklet for all DPs in the local language(s) with concise information on all of the key aspects of the LAR process of a project, such as project description, legal framework, institutional arrangements, grievance mechanism, general eligibility and entitlement provisions, assessment of impacts, payment of compensation strategy, and the timing of LAR activities. In addition, the cut-off date and other

information on relevant issues will be disclosed/publicized to DPs and other stakeholders in the project area through leaflets and brochures (in local language) made available at project and relevant government offices. All information dissemination will be made in the local languages. For illiterate DPs oral and/or pictorial means of communication will be used.

88. After reaching mutual agreement on the LARP in the formal consultation meetings, the draft and final LARPs endorsed by the government will be disclosed on the ADB website. All detailed specific information for displaced persons and their households will be kept anonymous in publicly disclosed documents by omitting their names. However, project will maintain a computerized database of project-specific LAR impacts and lists of all the DPs with inventory of losses by types. This computerized database will be updated and maintained in a retrievable system and made available to the independent LARP monitoring agency and ADB, as and when required, to enable internal/external monitoring to ensure transparency of information.

89. During internal monitoring of LARP, the project LAR staff will carry out individual and focus group meetings with the DPs to record the process and impact of LARP implementation for each project. For all project with IR impact category A, the external monitor will repeatedly carry out individual and focus group meetings as well as quantitative surveys.

## **7.2 Disclosure**

90. The LARF, LARPs and CAPs (draft and final) and information brochure will need to be translated into Urdu and disclosed to the DPs and placed in accessible places and in a form understandable to DPs and other stakeholders, including the relevant CIU and union offices. The LARF, LARPs and CAPs will also be disclosed in English and Urdu on ADB and LGE&RD's websites before appraisal of the project.

91. The LARF, LARPs and CAPs will also be disclosed on ADB's website. Internal/external monitoring reports of LARP/CAP implementation will also be disclosed to the DPs and on ADB's website. PMU will closely monitor the disclosure of these documents.

## **8. INSTITUTIONAL ARRANGEMENTS**

### **8.1 Introduction**

92. The Local Government Election and Rural Development Department (LGE&RDD) of the Government of KP is the executing agency for the project. A PMU has been established at provincial level while at city level, City Implementation Unit (CIU) will be established. The PMU is headed by a Project Director and supported by a team of specialists responsible for liaison and coordination with CIU. Each CIU is headed by a city Manager with support from other wings working closely with city officials to implement the project.

93. PMU will be provided the additional support through the consultants for Project Management and Implementation Support (PMIS). The consultants will assist the PMU and CIU in project management, procurement, supervision and safeguard monitoring.

94. In term of LARP implementation, LGE&RDD, PMU, and CIU of five cities shall ensure that land and ROW required for the project are made available to the contractor in according with the agreed schedule and land acquisition and resettlement activities are implemented in compliance with all applicable laws and regulations of Pakistan, ADB's SPS, 2009 and measures in the form of preparation and implementation of LARP followed by the corrective action plan based on the monitoring report.

95. The roles and responsibilities for the planning, implementation and supervision of LAR functions of institutional actors are defined below and presented in table 8-1.

## 8.2 Local Government Election and Rural Development

96. The LGE&RD (project executing agency) has overall responsibility for Resettlement functions including preparation, implementation, financing and supervision of all Resettlement tasks and cross-agency coordination. LGE&RDD will exercise its functions through the Program Management Unit (PMU) and City Implementation Unit (CIU), to be tasked with daily LARP implementation activities.

**Table 8-1: Institutional Roles and Responsibilities**

<b>S #</b>	<b>Institution</b>	<b>Roles and Responsibilities</b>
<b>1</b>	PMU	The overall coordination will be provided by Project Management Unit (PMU) at Peshawar (headed by the Project Director) in addition to recruitment of PRF consultant, contract signing and preparation of key reports. The Social and Environment team under the PMU is already in place to manage the LAR-tasks and activities including handling/resolving any complaints or grievances of those displaced by the Project (DPs).
<b>2</b>	CIU	CIU will manage the Project's day-to-day implementation, approval of project design, contract management and technical input of engineering design through WSSC and city government.
<b>3</b>	WSSC	WSSC Mingora is a public sector company established under section 42 of the companies ordinance 1984 (Act 2017) to assist CIU in the implementation of the project through the management of water and sanitation.
<b>4</b>	Contractor	Contractor is responsible for the construction works under the social and environment conditions.
<b>5</b>	CSC	CSC is responsible for the overall supervision of the projects and ensure that LARP is implemented in a smooth and timely manner in accordance with the provisions of the LARP.
<b>6</b>	District Government	Role of district administration is to provide full support and coordination to all stakeholders and keep law and order related to security measures.
<b>7</b>	Independent Valuation Expert	Determine how the value of land and other assets can be assessed to meet ADB's policy requirement for replacement cost and also satisfy the legal requirements of Pakistan.
<b>7</b>	Community	Local Community is the affectees as well as beneficiary of the sub-project. Community is responsible to resolve social conflicts and to safeguard their rights.
<b>8</b>	ADB	ADB is the donor of the Land Fill Site Abbottabad and has supervisory role.
<b>9</b>	Revenue Department	District Collector/Deputy Commissioner is responsible for the evaluation of the lost assets and disbursement of the compensations to DPs for their lost assets.

### **8.3 City Implementation Unit**

97. The scope of CIU will include on the following;

- Submit to PMU quarterly progress reports based on information provided by the consultants.
- Verify and process all invoices for the payment.
- Assist PMU, as needed, in the administration of other consultants' contract.
- Facilitate all monitoring requirements and reporting of Government of Khyber Pakhtunkhwa and ADB.
- Support consultants in all survey, data provision, studies and provide office space as required.
- Ensure financial and safeguards compliance and reporting, in line with loan and grant agreements.
- Monitor and ensure preparation of the gender action plan.
- Support the City Governments in establishing and maintaining proper coordination with WSSC.

### **8.4 Construction Supervision Consultants**

98. The Construction supervision consultants will report to CIU/PMU and prepare the implementation program, quality of works, delivery of works, and certify the quantities of work carried out and the payments. The CSC will also help the PMU in project planning and management, quarterly progress reporting, procurement planning, contract management, financial management and overall project management. They will also be tasked to implement the LARP prepared for the subproject. Their scope of work will include but not be limited to the following:

- Preparation of database of all the affected households and review their eligibility and entitlement based on the final LARP;
- Assist in disbursement of compensation and ensure that affected persons are compensated as per the LARP before commencement of civil works
- Distribute the notices to the entitled DPs regarding their payment of compensation
- Provide proper guidance to DPs for the submission of their requests for compensation as per eligibility and entitlement
- Facilitate the DPs in compensation payment through the completion of necessary documentation to receive their entitled payments like payment vouchers, opening of bank account and formation of CNIC, etc.;
- Facilitate the DPs in term of resolving the legal and administrative impediments for the compensation payment;
- Help the DPs to put their complaints (if any) in front of GRCs;
- Conduct the community consultation and disclosure process throughout the sub-project cycle;
- Assist PMU/CIU in the preparation of progress and monitoring reports.
- Review, monitor and evaluate the effectiveness with which the LARP is implemented, and recommend necessary corrective actions to be taken. Advise on corrective measures where necessary to the PMU;

## **8.5 Grievance Redress Committees (GRCs)**

99. Grievance redress committee will be established for addressing conflicts and appeal procedures regarding subproject design, compensation assessment, eligibility and entitlements followed in the implementation of resettlement activities, and impacts of construction work including the jobs to DPs and local population etc. GRCs will receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and are gender sensitive. The detail already discussed in the section 8 of this LARP.

## **8.6 District Government**

100. District Government based agencies have jurisdiction over compensation activities. Revenue Department, most notably Patwari, carry out specific roles such as preparation and verification of the land record. Functions pertaining to compensation of non-land assets rest on Provincial line agencies and their city level offices. Crops compensation pertains to the Department of Agriculture; the compensation for wood trees losses pertain to the Department of Forestry and the building structure will be assessed through the Building and works department.

## **8.7 Displaced Persons Committee**

101. The DPs will be encouraged and mobilized to form a Displaced Persons Committee (DPC). DP representation facilitates communication and information flow among DPs and with other stakeholders. The representatives will closely liaison with Grievance Redress Committees (GRC) formed at PMU, Commissioner Office and field levels. The DPC will meet monthly and on demand from members, due to Land Acquisition and Resettlement planning and implementation issues. The DPC members may elect from among themselves a representative to the GRC or hold elections in a meeting of all subproject DPs. In subprojects with a very small number of DPs, one or two GRM representatives may be elected at one of the first consultation meetings.

## **8.8 Independent Valuation Expert**

102. An Independent Valuation Expert will undertake an independent appraisal of the value of land using international appraisal standards, assess the constraints to carry out such appraisal for IR, compare the valuation method and rates used by BOR/PMU and those based on the international standards and provide the professional advice as to how any issue identified can be addressed to make the valuation as per the replacement cost of the lost assets. The TORs of the conduct of an IVS for subprojects under KPCIP is in **Annex 2**.

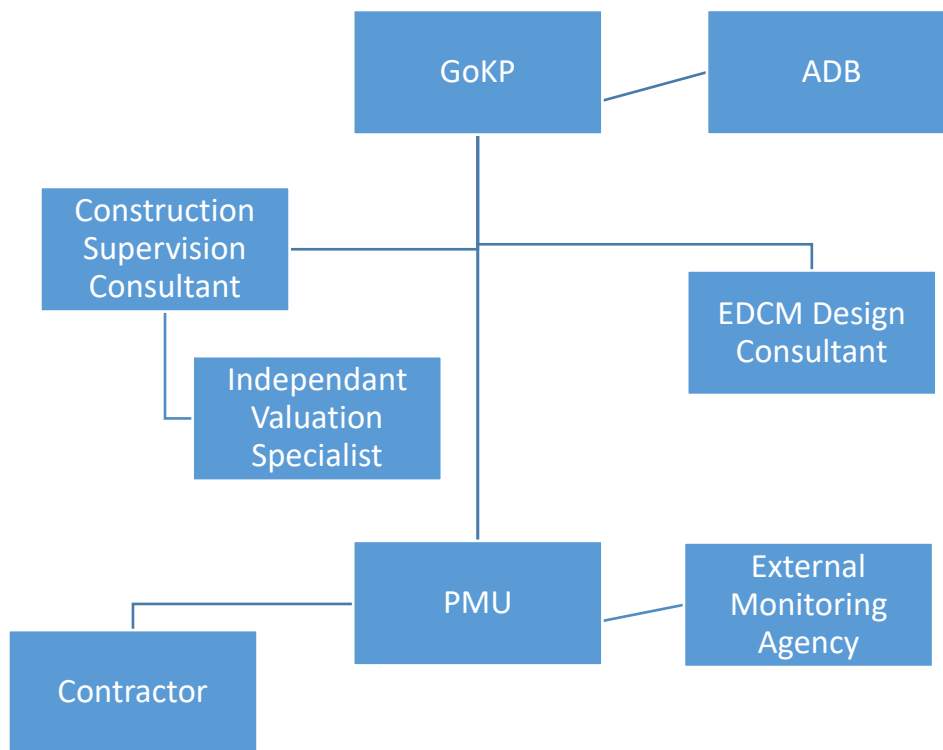
## **8.9 Asian Development Bank (ADB)**

103. ADB reviews LARP and confirms their responsiveness to ADB's safeguards requirements. In cases where these do not meet ADB's requirements, additional assessment and improvement of the LARP will be undertaken. ADB will also conduct periodic social safeguards reviews; to verify that land acquisition and Resettlement planning and implementation is being carried out as agreed in this LARP.

## 8.10 Organizational Chart

104. An Organogram showing the institutional arrangements for the implementation of LARP has been illustrated through a diagram presented in figure 8-1 below.

**Figure 8-1: Organizational Chart**



## **9. GRIEVANCE REDRESS MECHANISM (GRM)**

105. An integrated GRM for environment and social will be established at the subproject level to facilitate amicable and timely resolution of complaints and grievances of the DPs, including local communities regarding the social, environmental, and resettlement aspects of the subproject.

106. The grievance redress mechanism will be three tiers structures, i) Grievance Redress Committee at Field Level, ii) Grievance Redress Committee at Deputy Commissioner Level and iii) Grievance Redress Committee at PMU, Local Government Election & Community Development Department Level. The GRM is a gender responsive, culturally appropriate, and readily accessible to the stakeholders at no cost and without retribution. The step-wise process of the proposed GRM is summarized below.

**Stage 1:** The affected person(s) may submit an oral or written complaint to the GRC at Field Level. The GRC will log the complaint along with relevant details in the community complaint register. The displaced person(s) can directly approach GRC. For each complaint, the GRC must investigate the complaint, assess its appropriateness/eligibility, and identify an appropriate solution. It will provide a clear response within seven working days to the complainant, PMU/CIU and Contractor (where relevant). The GRC will, as appropriate, instruct the responsible entity to take corrective actions. The GRC will review the responsible entity's response and undertake additional monitoring as needed. During the complaint investigation, the GRC will work in close consultations with the Contractors, the CSC Consultants, PMU/CIU and other relevant agencies. The responsible entity should implement the redress solution and convey the outcome to GRC within seven working days.

**Stage 2:** If no solution can be identified by the GRC or if the complainant is not satisfied with the suggested solution under Stage 1, the complainant can approach to stage 2 at City Level (Deputy Commissioner Office). The committee will review the case and give the solution within seven days of its submission.

**Stage 3:** In case of dissatisfaction of the complainant at stage 2, he/she can approach to stage 3 at PMU level. Here, the GRC is headed by the Special Secretary Local Government Election & Community Development Department. The GRC at PMU level will resolve the complaint/grievance and the agreed action thus determined should be implemented within twenty-one days (if additional time is needed to implement the corrective action, it should be discussed and decided during the meeting).

107. The GRC cannot impede a DP's access to the legal system, according to SPS, Annex 2, para 29. Thus, a DP can approach the courts at any time in accordance with the applicable legal provisions as per Section 18 of Land Acquisition Act 1894.

108. Implementing the GRC's decision will be contractually binding on the contractor.



## **10. LAND ACQUISITION AND RESETTLEMENT BUDGET**

109. The EA (Local Government and Community Development) will get the funds (reflected in the budgeting section of approved LARP) from loan (from ADB) and ensure to use these funds for the disbursement of compensation payment and other assistances. LGE&RD will be responsible to transfer the funds allocated for the compensation disbursement in the district treasury. The Project will determine the annual inflation rates to be applied to all cash entitlements. The CIU will assist the PMU in identifying additional loss/s of assets during construction and proposing entitlements for such DPs. The budget revisions will be approved by LGE&RD, Government of KP with the concurrence of the Asian Development Bank.

110. In total, LGE&RD received approval of PKR 3000m (\$19m) block allocation for land acquisition from the steering committee (SC). Accordingly, cities were requested to submit PC-1s for the land acquisition. So far, 4 PC-1s amounting to PKR 1071m (\$6.75m) have been approved and amount released to the DC office through LGE&RD. Following the findings of IVS for the 4 LARPs and 3 CAPs, the LGE&RD will request the Finance Department for release of additional funds to cater for differential cost. LG department will generate its request once (i) ADB approves the IVS; and (ii) the final cost endorsed through Section 5A. For subprojects with minor land acquisition, the responsible WSSCs will manage from their existing internal funds.

111. The Project will ensure that the land acquisition and resettlement funds are delivered on time to the District Collector. The Project will also ensure that funds for entitlements under the LARP are fully provided to DPs prior to commencement of civil work. Compensation and resettlement funds will be provided to the DPs in two separate ways: (i) Compensation under law for acquisition of land will be disbursed through the District Collector; and (ii) Additional assistance for resettlement of DPs will be disbursed directly by CIU with the assistance of the respective Project Team.

### **10.1 Management of Resettlement Budget**

112. District Collector is authorized by LAA 1894 to pay compensation to eligible persons for loss of land and structures, trees and crops. Other compensation payments as per the entitlement matrix will be contingent upon payments by District Collector to confirm the identity of the eligible person. These payments will be made by CIU with the assistance of the respective project teams.

113. Detailed implementation procedural guidelines will be required to implement the LARP at the field level. CIU will follow the implementation procedure after it has been approved by PMU if no change in cost otherwise it has to approve by Local Government Election and Rural Development with concurrence from Bank. The implementation procedure will include definition of various resettlement terms, the entitlements, detail procedure for identification of eligible persons for resettlement entitlements of the LARP, and preparation of losses and entitlement files of individual DP, processing payments, effecting their disbursement and documentation. CIU with the assistance of project team (under the supervision of PMU) will prepare the implementation procedural guidelines.

114. The implementation guideline will contain details of management aspects and monitoring mechanism. All payment to the displaced persons will be paid by crossed bank cheques. Vouchers on payment will be prepared in triplicate, for CIU, PMU and LGERD. The safeguard officer will sign the vouchers. Payment will be made and record maintained as per approved implementation guidelines.

115. In Pakistan, land acquisition and resettlement are regulated by the Land Acquisition Act 1894 which require that land acquisition and resettlement plans are implemented by the relevant provincial authorities. The DC will be implementing the land acquisition and resettlement plans and will be responsible for payment of all land related compensation, compulsory acquisition charges (otherwise known as premiums), other acquisition charges (which may include compound interest) etc. Items in the LARPs that are not included in the land award, i.e. transitional and relocation support, support to vulnerable households and livelihood restoration support, will be disbursed directly by the PMU.

116. The PMU will open designated account in the name of KPCIP with National Bank of Pakistan and all funds from GoKP in respect of budget allocations for land acquisition and resettlement will be transferred to this designated account. The PMU is required to make the funds available from designated account to the DC to implement the land acquisition and resettlement plans, which will primarily cover compensation for land assets to be given to displaced persons (DPs). ADB's reimbursement procedure shall be used for retroactive financing of eligible expenditure under cost categories of land acquisition and resettlement. Disbursement from the loan account under all claims of retroactive financing will be made by ADB after loan effectiveness to the Non-food Account-I of GoKP upon submission of a withdrawal application and Statement of Expenditure forms.

## **11. MONITORING, EVALUATION AND REPORTING ARRANGEMENTS**

117. The LAR tasks will be monitored internally and externally. The EA-LGE&RD through PMU/CIU will carry out internal monitoring (IM) of LARP. The external monitoring will be assigned to an Independent External Monitoring Agency (EMA), hired by EA-PMU with ADB's concurrence, for project requiring monitoring of LARP and CAP implementation. The EMA terms of reference shall be prepared in coordination with ADB (suggested TORs attached as **Annex 4**, and PMU shall recruit an EMA for the Program/project. The EMA will be mobilized prior to LARP implementation. The extent of monitoring activities, including their scope and timing, will be commensurate with the projects risks and impacts.

The monitoring of the LAR tasks aim to:

- i. Establish and maintain procedures to monitor the progress of the implementation of safeguard plans.
- ii. Verify their compliance with safeguard measures and their progress toward intended outcomes.
- ii. Document and disclose monitoring results and identify necessary corrective and preventive actions in the periodic monitoring reports.
- iii. Follow up on these actions to ensure progress toward the desired outcomes.

- iv. Retain qualified and experienced external experts or qualified NGOs to verify monitoring information for projects with significant impacts and risks.
- v. Submit periodic monitoring reports (semi-annually) on safeguard measures as agreed with the ADB.

### **11.1 Internal Monitoring (IM)**

118. IM indicators will relate to process, outputs and results, information will be collected directly from the field, and will be reported monthly to the PMU to assess the LARP implementation progress and adjust the work plan if necessary. Specific IM benchmarks will be based on the approved LARP and cover the following:

- a. Information campaign and consultation with DPs;
- b. Status of land acquisition and payments on land compensation;
- c. Compensation for affected structures and other assets;
- d. Relocation of DPs;
- e. Payments for loss of income;
- f. Selection and distribution of replacement land areas;
- g. Income restoration activities; and
- h. Ensure the gender mitigation measures in the LARP are adhered to during the internal monitoring and reporting process.

119. The above gender disaggregated information will be collected by the CIU which will monitor the day-to-day resettlement activities of the project through the following instruments:

- i. Review of project information for all DPs;
- j. Consultation and informal interviews with DPs;
- k. Key informant interviews; and,
- l. Community public meetings.

120. Upon completion of compensation payments as per the approved LARP/RP/CAP, the PMU will prepare a LARP/RP/CAP implementation completion report along with the supporting documents. Throughout the project implementation period from starting from project effectiveness, the PMU will submit semi-annual social monitoring reports (SSMRs) to report on the progress of LARP/RP/CAP implementation and on unanticipated issues/impacts noted during the KPCIP subproject implementation. The reports will also include grievances recorded, actions taken and status of resolution. It will also cover compliance monitoring of core labor standards (CLS). The SSMRs will be submitted every July (for the period January-June) and January (for the period July-December) of each year.

### **11.2 External Monitoring**

121. An Independent External Monitoring Agency or an individual with a team (EMA) will carry out external monitoring of LARP and report monitoring results to LGE&RD/PMU/CIU and ADB via the LARP/RP/CAP implementation completion reports and semi-annual social monitoring reports. Indicators for EM tasks include:

- i. Review and verify internal monitoring reports prepared by CIU;
- ii. Review baseline information from socio-economic survey, census, and inventory of losses of pre-displaced persons; update the baseline data if required;
- iii. Identification and selection of impact indicators;
- iv. Impact assessment through formal and informal surveys with the affected persons;
- v. Consult DPs, officials, community leaders for preparing review report;

- vi. Assess resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement policy formulation and planning;
- vii. Ensure that gender mitigation measures in LARP is adhered to during monitoring.

122. The external monitor will also assess the reporting of affected vulnerable groups such as female-headed households, disabled/elderly, the landless, and families below the poverty line. Indicators for monitoring and evaluation of the project will be based on the following:

- viii. Socio-economic conditions of the DPs in the post-resettlement period;
- ix. Communications and reactions from DPs on entitlements, compensation, options, alternative developments and relocation timetables etc.
- x. Changes in housing and income levels;
- xi. Rehabilitation of squatters, severely affected people, and different vulnerable groups;
- xii. Ability to replace lost assets;
- xiii. Disbursement of compensation and other entitlements;
- xiv. Level of satisfaction of DPs in the post resettlement period.
- xv. Quality and frequency of consultation and disclosure; and
- xvi. Grievance procedures.

123. Upon verification of the LARP/RP/CAP implementation completion report, the EMA will prepare a LARP/RP/CAP implementation compliance report which will be a condition for allowing the commencement of works in subproject components with LAR impacts or LAR legacy issues. In addition, the EMA will prepare semi-annual external monitoring to independently identify any unanticipated issues or non-compliances during the subproject implementation. Based on the external monitor's report, if significant issues are identified, a corrective action plan (CAP) will be prepared, reviewed and approved by ADB and disclosed to affected persons. Within 6 months from KPCIP's project closing, the EMA will prepare an overall evaluation report on the LAR experience of KPCIP. The report will summarize the overall impacts in the course of the project, compliance status, issues emerging and actions taken and present lessons learned and recommendations for future operations. The TOR for the EMA is in **Annex 5**.

124. Both Internal and external monitoring reports will be submitted to ADB for review and disclosed on the ADB website.

## **12. ANNEXES:**

# ANNEX 1: LIST AND IR CATEGORY OF KPCIP SUBPROJECTS

Sr. No	Subprojects	City	IR category
1	New Surface Water Treatment Plant (WTP) and Intake structure	Abbottabad	B
2	Rehabilitation and upgradation of water supply system connected to the WTP: a. Rehabilitation or provision of water storage reservoirs b. New distribution network and water metering system	Abbottabad	C
3	Integrated solid waste management system including landfill	Abbottabad	B
4	Pedestrianization of Old City Commercial Area Abbottabad	Abbottabad	B
5	Urban/Green Space initiatives - Shimla Hill Urban Forest Abbottabad	Abbottabad	C
6	Urban/Green Space initiatives - Remediation of Solid Waste Dump & Conversion into Park	Abbottabad	C
7	New Sewage Treatment Plant (STP) at KDA	Kohat	C
8	Water supply improvements in Kohat city. a. Rehabilitation or provision of water storage reservoirs b. New distribution network and water metering system	Kohat	C
9	Integrated solid waste management system including landfill	Kohat	B
10	Women Business Development and Community Center	Kohat	C
11	Urban/Green Space initiatives - Sports Complex Kohat	Kohat	C
12	Operationalization & upgrade of Sewage Treatment Plant (STP)	Mardan	C
13	Integrated solid waste management system including landfill	Mardan	C
14	Urban/Green Space initiatives - Ring Road Green Belt Mardan	Mardan	C
15	Urban/Green Space initiatives - N-45 National Highway Mardan	Mardan	C
16	Urban/Green Space initiatives - Ghulam Nabi Park Mardan	Mardan	C
17	Urban/Green Space initiatives - Ladies Park Mardan	Mardan	C

<b>Sr. No</b>	<b>Subprojects</b>	<b>City</b>	<b>IR category</b>
18	Mingora Greater Water Supply Scheme including new Water Treatment Plant (WTP), Intake Structure, transmission and distribution systems.	Mingora	B
19	Integrated solid waste management system including landfill	Mingora	B
20	Development of Neighbourhood Park on Old Slaughter House Site	Mingora	C
21	Water supply system improvements in city a. Rehabilitation or provision of water storage reservoirs b. New distribution network and water metering system	Peshawar	C
22	Integrated solid waste management system including landfill	Peshawar	B
23	Urban/Green initiatives - Hayatabad Besai Park Peshawar	Peshawar	C
24	Urban/Green initiatives - Bagh-e-Naran Park Extension Peshawar	Peshawar	C



## ANNEX 2: KPCIP TOR FOR THE INDEPENDENT VALUATION STUDY

### BACKGROUND:

1. The Asian Development Bank (ADB) is supporting the Provincial Government of Khyber Pakhtunkhwa (GoKP) to carry out the Project Readiness Financing (PRF) for the ensuing Khyber Pakhtunkhwa Cities Improvement Project (KPCIP) under ADB Project No 51036-003. Prioritized subprojects focus on water supply, sanitation and solid waste management. Detailed designs for all three mentioned sectors have been completed.
2. The implementation of some subjects proposed under KPCIP involves land acquisition and resettlement. There are total 06 subprojects that require the undertaking of an independent valuation study to be conducted by State Bank of Pakistan accredited firm. Four subprojects are subject to land acquisition under the GoKP's Land Acquisition Act of 1894. Land for 3 subprojects have already been acquired, 02 sites are acquired using the Urgency Clause Section 17/4/6, and 01 site has been acquired through normal process of the Land Acquisition Act of 1894. Section 4 has been notified for all 04 subprojects under fresh land acquisition. Section 5 has been notified for 03 subprojects while Section 5 for 1 subproject is expected to be notified within August 2021. The table below shows the details that includes; total area, number of affected persons (APs), and land acquisition status, of the subprojects where IVS is to be conducted. Should new land acquisition will be required for other subprojects, IVS will also be conducted for such subprojects using the same process and standards. Note too that LARP 2 and CAP 2 are part of the same subproject (Mingora integrated solid waste management and landfill). .

Subprojects	Safeguard Document	APs	Land Size	Section 4	Section 5
Mingora Greater Water Supply Scheme	LARP 1	3,000	136 Kanals, 20 KM Stretch	Notified	Notified
Mingora Landfill Site (access route)	LARP 2	27	6 Kanals and 11 Marla's	Notified	In process
Mingora Landfill Site	CAP 2	6	64 Kanals and 2 Marlas	Acquired under Section 17/4/6	
Landfill Site in Abbottabad	LARP 3	438	416 Kanals	Notified	Notified
Landfill Site in Kohat	LARP 4	4,500 (25)	160 Kanals	Notified	Notified
Landfill Site in Peshawar	CAP 1	231	819 Kanals and 2 marlas	Acquired under Section 17/4/6	
Choona Water Treatment Plant Abbottabad	CAP 3	261	55 Kanals & 12 marlas	Acquired under normal LAA Process	

3. ADB's SPS 2009 requires that the rate of compensation for acquired land, structures and other lost assets are calculated at full Replacement Cost (RC), which is based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued; (iv) transitional and restoration costs; and (v) other applicable payments, if any. Where market conditions are absent or in a formative stage, the borrower/client is required to consult displaced persons and host populations to obtain adequate information about recent land transactions, land value by types, land titles, land use, cropping patterns & crop production, availability of land in the project area and region and other related information. Qualified and experienced experts/firm accredited by the state bank of Pakistan is required to undertake the valuation of acquired/lost assets. In applying the method of valuation, depreciation of structures and assets should not be considered.
4. Similarly, Section 23 of the Pakistan's Land Acquisition Act (1894) as amended, prescribes the matters to be considered in determining compensation. These include (i) market-value of the land on the date of publication of Section 4, sub-section taking into account transfer of land similarly situated and in similar use, and potential-value of the land to be acquired subject to certain conditions; (ii) the damage sustained by the person interested to any standing crops or trees which may be on the land; (iii) the damage (if any) sustained by the person interested for severing such land from his other land; (iv) the damage (if any) sustained by the person interested to his other property, movable or immovable, in any other manner, or his earnings; (v) reasonable expenses (if any) incidental to being compelled to change his residence or place of business; and (vi) the damage resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land. In addition to the market-value of the land, a 15% premium is added in consideration to the involuntary resettlement acquisition.
5. The LAA 1894 requires that the main criterion for fair compensation is the price which a buyer would pay to a seller for the property if they voluntarily entered into the transaction. In determining the value of the land acquired by the Government and the price which a willing purchaser would give to the willing seller, past sales as indicated in the registered sales records should not be the only basis for assessment. The value of the land with all its potentialities may also be determined by referring to local property dealers or other persons who are likely to know the price that the property (land and other assets) in question is likely to fetch in the open market. More specific guidance on the application of Section 23 of the LAA can be found in various court rulings on compensation payment cases.
6. KPCIP subprojects are required to compensate and assist displaced people to restore their livelihoods following the provisions in the Land Acquisition and Resettlement Framework (LARF) for KPCIP which is under process. . Accordingly, detailed measurement survey (DMS) and valuation of lost assets (VLA) including land, structures, crops, trees and livelihood are required to be carried out in collaboration with qualified appraisers of the BOR, SBP

accredited valuers, certified companies, individuals and non-governmental organizations (NGOs) certified in valuation. A third-party external monitoring agency will be engaged to observe and verify or undertake the DMS and VLA process.

7. As stated above the difference between BOR and Replacement cost RC will need to be worked out through a valuation study by qualified and experienced experts. In cases where compensation has been already awarded, the BOR, under the prevailing LAA practice, is not authorized to accept or reject any additional amount of compensation (over and above the BOR price). However, the implementing agency (IA) and executing agency EA will ensure and materialize a strategy for the replacement cost

#### **OBJECTIVES AND SCOPE OF WORK:**

8. The services of a valuation firm/expert approved by the Pakistan Bank's Association to serve as an independent valuation consultant (IVC) are needed to undertake an independent valuation study of a representative sample of assets to be acquired under KPCIP. The valuation study aims (i) to ascertain the current replacement cost, as specified in ADB SPS 2009, of all land and non-land assets lost due to land acquisition under KPCIP and (ii) to establish whether the valuation of affected assets by the Deputy Commissioner (DC) / Land Acquisition Collector (LAC) meets the elements of RC, while considering the calculation of compensation as specified in Section 23 of the LAA.
9. The objective of the independent land valuation study is to independently appraise the value of land and other affected assets under the KPCIP based on international appraisal standards using a sample of 10% or at least 8 plots of affected land per subproject, covering various land types and locations. If the DC rates do not fall within the identified range of rates reflecting replacement cost, the IVC will determine (i) the reasons for the difference in the rates and (ii) the exact balance between RC and DC rates for land, structures, crops, trees and income losses, in order to enable IA and EA to fill the gap.
10. The independent valuation study will apply the methodology for the determination of replacement cost as referred under ADB SPS 2009 and the field assessments will cover the following:
  - i. Review of land records and conducting of field survey
  - ii. Current valuation of location/property
  - iii. Consideration of value of similar properties in the vicinity and in the immediate neighborhood, ideally type of land mentioned in the award.
  - iv. Consideration of distance from the population/nearest town/village
  - v. Consideration of market rates of structures (business & residential) without deduction of depreciation
  - vi. Current rates for crops cultivated on the affected land
  - vii. Rates for fruit trees considering the investment cost & fruit bearing age; the rate of wood / timber in case of non-fruit trees

- viii. Consideration of business/income losses & livelihood restoration assistance
- ix. consultation with DPs/APs

11. The IVC firm will undertake the following tasks:

- a) Select a sample of 10% or at least 8 plots of the affected land per subproject, ensuring that the sample includes all categories of land (i.e. agricultural, residential, etc.) and location (off-road / adjacent to the road), etc. from the list of land parcels to be acquired.
- b) Describe the valuation approach methodology to be used to appraise replacement cost in accordance with the ADB SPS 2009;
- c) Meet relevant stakeholders including DPs, LAC staff, project-land staff, DC staff, revenue officials, prospective buyers and the local people.
- d) Obtain copies of previous land awards, valuation tables, mutations information in the affected villages.)
- e) Collect information on recent land transactions, land use, cropping patterns, crop production (per area identified in the locally per term, per year for different crops), irrigation patterns, availability of land in the project area and region, and factors prospective buyers consider while buying land in the region.
- f) Undertake a physical survey to make a general assessment of the location of the land parcel (on/off road), value of similar properties in the vicinity, accessibility, sources of cultivation (canals, tube well etc.), nearby amenities (like schools, hospital, etc.), any improvements (structures, trees, crops, irrigation canals and other land development measures) made to the land parcel, general supply and demand environment in the locality, and prospective buyers in the locality.
- g) Review the awarded rates by the DC/LAC and that of prevailing rates of sales records (mutations) in the sampled villages, union councils taking into account the accessibility to the land, location of the land; fertility/productivity; availability of amenities; and any other pertinent factor that may affect land values; verify the average farm yield/productivity rates from different sources i.e. LAC office, local farmers, and the Department of Agriculture;
- h) Appraise the fair market value of the sampled properties (based on the actual prices at which a lost asset can be sold and acquired in today's markets as opposed to registered prices in land records), as well as relevant transaction costs and other elements of RC in accordance with the ADB SPS 2009.
- i) Prepare a valuation report for each sampled land parcel which includes the following information:
  - Property address (village name, area identification)
  - General description of the property (area) registered owners
  - Location and attributes (on/off road, surrounding development, source of water, etc.)
  - Land category
  - Present and past cultivation
  - Public services (amenities/utilities nearby)
  - Date of inspection
  - Details of any structure on the land
  - Details of any trees on the land

- DC Valuation
- Estimated market price by real estate agents in the open market (The property dealers / real estate agents guess the value of land based on their acumen and experience)
- Valuation at replacement cost by the IVC
- Difference between DC valuation and that of the IVC in absolute figures and percent.

## **OUTPUT REQUIREMENTS:**

12. The assignment is for 1.5 PM. The outputs of the independent valuation study include an inception report, a draft valuation report, followed by the final valuation report (incorporating comments of stakeholders on the draft report) for the assigned subprojects under KPCIP.
  - i. Inception Report. Within 05 days from signing the contract, the IVC will submit an inception report that will include (a) the proposed final valuation methodology, (b) Presentation of a sample report structure (table of contents or similar), (c) method of engagement with key stakeholders and outcomes of any Initial discussions, (d) Resolution of remaining implementation issues, and (e) detailed work schedule.
  - ii. Draft Valuation Report for the assigned subproject(s). Within 02 weeks from the review and acceptance of the inception report by ADB and the Local Government, Elections & Rural Development Department of KP (LGE&RDD). The draft valuation report should summarize and present the findings of the study.
  - iii. Final Valuation Report for the assigned subproject(s). Within 01 week after review of the draft valuation report by ADB and LGE&RDD. The final valuation report should address all the comments / observations, if any, on the submitted draft valuation report and provide final findings along with the RC identified by the study.

## **CONSULTANT QUALIFICATIONS:**

13. The valuation firm or expert should be a registered valuer with the Pakistan Bankers' Association with at least 5 years' experience in doing valuation work for agricultural, residential and commercial land and buildings (Panel 1) in both urban and rural areas. The valuation firm or expert should be familiar with the application of Section 23 of the LAA in determining fair market value.
14. The valuation firm or expert should thoroughly familiarize themselves with the concept of replacement cost, in accordance with para 10, Appendix 2 of the ADB SPS 2009.

## **OUTLINE OF THE REPORT WRITING**

Table of contents

Detailed Description of the Firm along with NTN and SBP association no etc.

### **Chapter no -1**

1.1 Executive Summary

1.2- Need for IVS

1.3- Introduction of KPCIP

### **Chapter no 2**

2.1 Detailed description of the subproject including approved design and google images and alignment

2.2 LAR impact of the sub project in a table form

2.3 Details of LAA 1894 applied to the sub project

2.4 Status of BOR disbursement to DPs in a form of table

### **Chapter 3**

3.1 consultations with DPs and outcome and annexure and pictures

3.2 Consultation with stakeholders and annex and pictures

3.3 consultations with property dealers and annex recent tractions and pictures of consultation

### **Chapter 4**

4.1 Methodology

4.2 Approach adopted by the IVS firm

4.3 Sampling Technique

4.4 Description of the review of Project data for conducting IVS exercise

4.5 Finding of IVS conducted

4.6 Differential/RC Matrix

4.7 Details of IVS firm job description and TORs

### **Chapter 5 Conclusion in bullet form**

### **Chapter 6 Annexures**

### **Chapter 7 List of transitions data**

### **Chapter 8 Pictures**

## **ANNEX 3: OUTLINE OF A RESETTLEMENT PLAN**

### **AN OUTLINE OF A RESETTLEMENT PLAN**

A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

#### **A. Executive Summary**

This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

#### **B. Project Description**

This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

#### **C. Scope of Land Acquisition and Resettlement**

This section:

- (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) summarizes the key effects in terms of assets acquired and displaced persons; and
- (iv) provides details of any common property resources that will be acquired.

#### **D. Socioeconomic Information and Profile**

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- (i) define, identify, and enumerate the people and communities to be affected;
- (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.



## **E. Information Disclosure, Consultation, and Participation**

This section:

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

## **F. Grievance Redress Mechanisms**

This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

## **G. Legal Framework**

This section:

- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
- (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;
- (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.
- (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

## **H. Entitlements, Assistance and Benefits**

This section:

- (i) defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and.

- (iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

## **I. Relocation of Housing and Settlements**

This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

## **J. Income Restoration and Rehabilitation**

This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) describes special measures to support vulnerable groups; (v) explains gender considerations; and (vi) describes training programs.

## **K. Resettlement Budget and Financing Plan**

This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.

- (iv) includes information about the source of funding for the resettlement plan budget.

## **L. Institutional Arrangements**

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management,

## **M. Implementation Schedule**

This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

## **N. Monitoring and Reporting**

This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

## ANNEX 4: GUIDANCE NOTE ON HANDLING COMPENSATION WITH LEGAL AND ADMINISTRATIVE ISSUES

Guidance Note on Handling Compensation Cases with Legal and Administrative Impediments	
<b>Policy Requirement</b>	Pay compensation and provide other resettlement entitlements before physical or economic displacement. <sup>5</sup>
<b>Key Issues</b>	
<i>SPS and legal covenants</i>	1. ADB Safeguard Policy Statement (SPS 2009) requires the borrower/client to ensure that no physical displacement or economic displacement will occur until (i) compensation at full replacement cost <sup>6</sup> has been paid to each displaced person (DP) for project components or sections that are ready to be constructed; (ii) other entitlements listed in the resettlement plan have been provided to DPs; and (iii) a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help DPs improve, or at least restore, their incomes and livelihoods. While compensation is required to be paid before displacement, full implementation of the LARP might take longer. <sup>7</sup> To ensure policy compliance, specific provisions are included in the Project/Loan agreements to keep on-hold civil works until compensation payments are fully paid to the DPs.
<i>When is compensation considered paid?</i>	2. Compensation for both land and non-land assets is deemed to have been paid when the amount in cash or cheque has been provided to DPs <sup>8</sup> or deposited into their bank account, or in an escrow account. <sup>9</sup> Depositing the compensation in an escrow account, in lieu of providing cash or cheque to the DP is justified only when sufficient good-faith efforts and all legal requirements for contacting and notifying the DPs have been made.
<i>LAA requirement on compensating before</i>	3. Pakistan's Land Acquisition Act (1894) allows the government to take possession of the acquired land once land award has been made as per LAA Section 11, and payment has been made or deposited to the court as per LAA Section 31. Accordingly, the Collector is required to pay the full amount to the DP, unless (a) the DP refuses to receive the amount, (b) there is no competent person to receive the

<sup>5</sup> See Involuntary Resettlement Safeguards Policy Principle 11, ADB Safeguards Policy Statement (2009), page 17.

<sup>6</sup> SPS defines full replacement cost for land and non-land assets as based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. In case of non-land assets, depreciation of structures and other assets should not taken into account.

<sup>7</sup> .

<sup>8</sup> Displaced persons include: (i) persons with formal legal rights to land lost in its entirety or in part; (ii) persons who lost the land they occupy in its entirety or in part who have no formal legal rights to such land, but who have claims to such lands that are recognized or recognizable under national laws; and (iii) persons who lost the land they occupy in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land. The borrower/client is required to provide adequate and appropriate replacement land and structures or cash compensation at full replacement cost for lost land and structures, adequate compensation for partially damaged structures, and relocation assistance, if applicable, prior to their relocation. DPs without legal rights to the affected land should be compensated for the loss of their non-land assets, and for other improvements to the land, at full replacement cost prior to their relocation provided they occupied the land or structure before the cut-off date..

<sup>9</sup> An escrow account is a separate, dedicated or trust bank account for keeping money that is the property of others. It is relevant in the case of absentee landlords whose property is acquired for a public purpose, or when there is litigation regarding the compensation amount for land acquisition. This mechanism enables payment of compensation once the legal cases were settled and ownership documents were submitted. Source: A Planning and Implementation Good Practice Sourcebook – Draft Working Document, ADB November 2012, Para 152.

<i>displacement</i>	compensation, or (c) if there is a dispute as to the title to receive the compensation. Such cases may be referred to the court and the compensation amount deposited in the court. <sup>10</sup> In case the DPs or their representatives did not come forward to collect
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	<p>their compensation, the amount may be deposited in the Revenue Department payable to the DPs, after exerting due efforts to contact and encourage them to appear and notifying the DPs in which treasury the deposit has been made.<sup>11</sup>Similarly, the Acquiring Officer is required (as per SO 28), to the extent possible, to make payments to DPs in or near the village to which the DPs belong to, in order to reduce the amount of undisbursed compensation payments.</p> <p>4. Both the LAA (1894) and ADB SPS (2009) require that DPs are compensated before displacement, but allow a mechanism for dealing with cases with legal and administrative impediments to disbursing compensation payments provided that sufficient good-faith efforts are demonstrated in (a) contacting, notifying and assisting DPs, and (b) delivering compensation payments. This guidance note clarifies:</p> <ul style="list-style-type: none"> <li>i. What are cases with legal and administrative impediments to payment of compensation to DPs?</li> <li>ii. What are the requirements under the LAA related to cases with legal and administrative impediments to payment of compensation to DPs?; and,</li> <li>iii. When can good-faith efforts be considered as sufficient and how to document that good-faith efforts have been made?</li> </ul> <p>5. Cases with legal and administrative impediments to payment of compensation include:</p> <ul style="list-style-type: none"> <li>i. DPs who did not accept the award due to objection to the measurement of the land or affected asset, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested;</li> <li>ii. Absentee land owners (DPs living overseas or in other parts of the country), and without an authorized representative to collect compensation;</li> <li>iii. DPs with pending inheritance mutations;</li> <li>iv. DPs unenthusiastic to collect meager compensation amount;</li> <li>v. DPs unable to alienate the acquired asset either being a juvenile with no legally documented guardian or due to other issues.</li> </ul> <p>6. Non-disbursement/non-delivery of compensation due to (a) insufficient funds or delay in approval of funds; or (b) insufficient staff or resources does not justify payment of compensation to DPs after displacement. EAs/IAs have the power and responsibility to ensure that sufficient funds and staffing are available in a timely manner to undertake the required land acquisition. Similarly, non-compensation of affected non-land assets (structures)and improvements owned by DPs who have no formal rights to the affected land is not considered as a valid legal and administrative impediment (see footnote 4).</p> <p>7. DPs facing legal and administrative impediments could only be paid when they overcome those and in such cases, it is uncertain when DPs will actually receive their compensation, causing untoward delay in project execution due to complaints received from the DPs and burden to local communities and project stakeholders. More importantly, these impediments prevent the project from assisting these DPs to</p>
<i>Cases with legal and administrative impediments</i>	
<i>Cases not valid as legal and administrative impediments</i>	

<sup>10</sup> Reference to the court may only be made after the lapse in the period in Section 18 (2) of the LAA.

<sup>11</sup> Financial Commissioner Standing Order No. 28 Land Acquisition, para 88 (V), page 29.

<p><i>Why is it important to address cases with legal and administrative impediments?</i></p> <p><i>Good-faith efforts for cases with legal and</i></p>	<p>enhance, or at least restore, their livelihoods and to improve the standards of living of the displaced poor and other vulnerable groups.</p> <p>8. Although compensation of these DPs is beyond the control of the EA, and are mainly dependent of the actions of the DPs or ruling/decision from a third-party i.e. the court or BOR, good-faith efforts are needed from the EA/IA to (a) contact and notify DPs through their last known address, village heads or kins; (b)inform DPs who to</p>
<p><i>administrative impediments</i></p> <p><i>Need for sustained community outreach</i></p> <p><i>Cases with title disputes and litigation</i></p>	<p>contact or where to proceed to collect their compensation; and (c) possible actions that may help them receive their compensation.</p> <p>9. It is important that the LAR management team<sup>12</sup> undertakes continued community consultations and outreach in order to locate, assist and guide DPs with legal and administrative impediments. Documentation of the efforts by the LAR management team including multiple visits<sup>14</sup>to villages with pending compensation payments, organizing village meetings, posting of notices in public places, serving notices at last known address of DPs and publishing the names of unpaid DPs in the print media is needed to demonstrate that due efforts were conducted in addressing cases with impediments.</p> <p>10. Some issue-specific measures to confirm DPs understanding about the availability of compensation, payment mechanism, time-lines as well as DPs agreement to the commencement of works (wherever required) while the issue is being resolved can help show and validate the efforts exhausted by the EA to achieve the policy objectives, and enable the decision makers to allow the construction works accordingly. For each issue, documentation requirements and recording of certification statements are discussed below and standard templates for additional documentation are provided against each issue as and wherever required:</p> <p style="text-align: center;"><b>i) Land Title Disputes or Litigations amongst the DPs or Court References Against Award</b></p> <p>11. Where the DPs have title disputes before the competent courts of law or have filed references against award, payment of compensation could only be made after the court decrees which may take years. Further, right to appeal against court's decree cannot be forfeited or denied under law which could further delay the payment. In such cases, payment of compensation in a given time frame is impossible and it would be appropriate to deposit compensation in treasury at courts disposal to make sure the DPs are paid as and when court verdicts passed. For these cases, the process provided in the succeeding paras should be followed.</p>

<sup>12</sup> The LAR management team may include Land Acquisition and Resettlement Staff engaged by the EA i.e. EA's Land Management Staff, Land Acquisition Collector deputed by BOR, Resettlement Specialists and social mobilizers either recruited by the EA or mobilized through Consultants (Safeguards Management or Construction Supervision Consultants) to support the EA in effective LAR management.. <sup>14</sup> Repeated visits in three consecutive months scheduled for each village by the Land Acquisition Collector/Land Acquisition Unit of the EA to deliver compensation to unpaid DPs and identify those with legal and administrative impediments. The repeated visits should be documented showing visit schedule, information disclosure reports, list of persons met and field visit reports duly endorsed by the local community and the village headman confirming number of identified DPs with legal and administrative impediments.

	<p>12. Immediately after identifying such cases, the EA after seeking court's permission should deposit the compensation in the court for payment to DP as and when court decides their reference or title dispute. The receipt and records for such deposits should be maintained at the EA's project office. Meanwhile, the EA through its LAR staff should liaise with the DPs to inform them about the compensation payment mechanism and compensation deposited in the treasury or the court. The EA's project office should prepare and maintain the following record:</p> <ul style="list-style-type: none"> <li>• Database/listing and field reports on activities done to identify and screen DPs with their legal/administrative issues including nature of dispute and reference court where pending</li> <li>• Field reports on activities done to coordinate with the DPs for early resolution of their issues and with courts for seeking permission/guidance and deposit of compensation in treasury at court's disposal.</li> <li>• Copy of the delivery of notices (with signed receipt) to the DPs confirming deposit of amount at court's disposal and clarifying mechanism for payment.</li> </ul>
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<i>Absentee land owners</i>	<p><b>ii) Absentee Land Owners (DPs Living Overseas or in Other Parts of the Country).</b></p> <p>13. Many rural households migrate to cities for better livelihood opportunities and standard of living. Moreover, hereditary division over time resulted in the segmentation of agricultural land parcels into unproductive units. While some families with land and assets in different parts of the country divide their land based on their places of residence, many do so without legally formalizing such settlements and getting land records updated accordingly. Some family members who have migrated overseas permanently or for livelihood had land in their name or retained their respective share in family-owned land as per land revenue records. All such land owners who own or have share in the land as per record but are not living in the village are termed as absentee land owners.</p> <p>14. Whenever the land is acquired, the absentee land owners<sup>13</sup> are also shown as affected persons to the extent of their share in that land. The compensation to absentee land owners could not be made due to their non-appearance for processing and payment of compensation. LAA requires that notices are delivered against each land parcel either through (a) co-sharers in the acquired land parcel, (b) DPs relatives living in the village, or (c) through the village headman. The legal requirement is to serve notices to DPs at their places of residence either through special messenger or registered post, which can only be met if the whereabouts and residence of the absentee land owners is known. An additional measure that may be considered to notify absentee land owners whose whereabouts are unknown is by publishing their names in print media (National Daily News Paper).<sup>14</sup></p>
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<sup>13</sup> Land owners who are recorded in the land holding rights register as owners but they have shifted from the village to other areas in the country or overseas for better income opportunities and living standard.

<sup>14</sup> In NTCHIP tranche-1 and NHDSIP tranche –II projects (i.e. M-4 Faisalabad-Gojra Section (ADB Loan 2400) and SukkurJacobabad (N-65) (ADB Loan 2540)) and the National Motorway M-4 Gojra-Shorkot Section Project (ADB Loan 3300), the notices with the names of the DPs who have not come forward to collect compensation were published in the National News Papers (Urdu language) as a last resort effort to approach unpaid DPs for compensation delivery.

15. It is vital to collect information about the DP's contact details including the mailing and residential address in order to reach out to and facilitate absentee DPs in receiving payments. The following measures are proposed to contact absentee landowners and maintain record of all efforts made by the EA:

☐ Identify and record DPs relation in affected village or local contact person, collect information about DP's present place of residence. See template 1 below:

**Template 1: Record on DPs not living in the project area (other villages/cities in Pakistan or Overseas).**  
Date Prepared: \_\_\_\_\_

Name of Village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_

#	Name of DP	Impact Type	Person contacted in village and his cell No.	Relationship with DP	Current Residence of DP with contact No.	Remarks
1	Add DP name as of impact inventory	Add Impact i.e Land Tree Crops Structure etc	Add name of person contacted with his cell number and other particular if any	Uncle, Brother, neighbor etc	Add current address of DP with contact number and city/country of residence.	Signature of the Person contacted
2						
3						
4						

Information Collected By \_\_\_\_\_ Witnessed by \_\_\_\_\_ Information verified by \_\_\_\_\_

Sd \_\_\_\_\_ Sd. \_\_\_\_\_ (headman or DPC President/member) \_\_\_\_\_ Sd \_\_\_\_\_

{ SM team names } \_\_\_\_\_ {Name of headman/president or member committee} \_\_\_\_\_ Resettlement Specialist. \_\_\_\_\_

☐ Deliver formal notice to the DP's last known address (recorded in template 1) through registered post with acknowledgement receipt attached. Make sure to keep on file as scanned-copy of the notice and acknowledgement receipt.

☐ In case no contact person or relative of the DPs is identified in the village and the local community confirms DPs whereabouts are unknown, a certification statement from any of the resident land owner in the village preferably by the president or member of the Displaced Persons Committee (DPC) and duly witnessed by (a) the village headman and, (b) land revenue patwari should be recorded and maintained. See Template 2 below (to be translated to Urdu).

**Template 2: Statement from Village headman or other notable in village/area when the whereabouts of DP are not known**

Date prepared: \_\_\_\_\_

**Particular of DP and acquired land parcel**  
Name of DP \_\_\_\_\_ (enter DP Name with Parentage) Resident of \_\_\_\_\_ (Enter DP Last known address) Land Plot \_\_\_\_\_ Khasra Nos \_\_\_\_\_ Located Village \_\_\_\_\_

**Statement:**  
I \_\_\_\_\_ (put name here) \_\_\_\_\_ the president/member of village DPC or local resident land asset/owner, on behalf of the other residents in village solemnly declare that:

- The DP and his family owned acquired land as per land records but for last (-----) they have never been seen in the village.
- To my information, the DP and his family never lived in village, neither any relative of DP lives in village/area nor any of the village resident know the whereabouts of the DP and his family.
- I affirm that the EA with assistance of DPC has exerted full efforts to outreach the DPs in village and those living in other areas and clarified that compensation cost for unpaid DPs is deposited in treasury that can be claimed as and when the DPS show-up to claim.
- This statement is given free of coercion and compulsion which is witnessed by the Village Headman and land revenue Patwari of village \_\_\_\_\_.

**The Declarant**

Sign/Thumb Impression  
Name \_\_\_\_\_  
Village Headman/Local resident land owner \_\_\_\_\_  
Resident of \_\_\_\_\_

**Witnessed By**  
We the Village Head man and land revenue Patwari of village \_\_\_\_\_ (Put village name here), personally know Mr/Mrs \_\_\_\_\_



DPs with pending inheritance mutation	President/member of DPC or local resident land owner of village (____), and witness veracity of statement made by him affirming that the DP Named <u>(Put name of DP here)</u> , himself or any of his family members are not living in village/area since/for -----and their current places of residence are not known to any of the local residents in village.
	<div>Signed</div> <div>Name: Mr. _____ Village Headman Chak. _____</div>
	<div>Signed</div> <div>Name: Mr. _____ Land Revenue Patwari Chak. _____</div>
<div>iii) DPs with Pending Inheritance Mutations</div> <div>16. Land records are maintained by the local land revenue authorities who are responsible to enter land mutation transactions as and when reported by the landowners and update land records accordingly. In case of inheritance mutations, some heirs of DPs who passed away fail to get inheritance mutations recorded and get land records updated accordingly. Further, on an average land acquisition process is completed almost in two years and during the course of acquisition or after land awards are announced some DPs pass away without receiving their entitled compensation. Although the legal heirs of the deceased DP are eligible for compensation, they could not be paid until the inheritance mutation is recorded and remaining land of deceased DP is transferred in their name.</div> <div>17. Under the law, heirs of the DP should report and apply to the local land revenue authorities about the demise of the DP and apply for the updating of the land record. Upon receipt of the application, the land revenue authorities undergo a legal process to record the inheritance mutation, update the land record reflecting the names of legal heirs and their respective shares in the land record. When it is done, the compensation can be paid to the legal heirs as per their respective share. This process normally takes three to four months. For cases where inheritance mutations are not timely reported, recording becomes more difficult and can take a longer period to complete.</div> <div>18. When it is determined that the DP has passed away, the LAR management team should coordinate with the legal heirs of the DP for apprising them the process for compensation payment and assist them in approaching land revenue authorities to get their inheritance mutations recorded. The LAR management team should carry-</div>	
	<div>outthe following activities to facilitate the mutation of inheritance and early payment of compensation to the heirs and document their efforts:</div> <div><div><div>• Identify all living legal heirs of the DP, visit the heirs residing in the village and guide them on the process and facilitate in inheritance mutation process:</div><div>• Collect a statement from the legal heirs<sup>15</sup> confirming that their inheritance mutation of land is pending, acknowledging the EA’s efforts to assist them, indicating awareness that funds are available for compensation delivery, and concurring that works may commence while their inheritance mutation is being processed.</div><div>• Keep copies of the signed statement in the EA project office files. See Template3 below(to be translated to Urdu):</div></div></div>

<sup>15</sup> To the extent possible, all legal heirs living within the village should sign the Statement. If some heirs are not available to sign, the LAR management team should prepare a field report indicating who are the heirs who were not able to sign the statement and the circumstances why they were not able to sign i.e. out of the village or country, ill, etc. The LAR management team should also record the names of heirs who are out of the village or country and their last known address and advise the other heirs to relay the information to those who are away.

Template 3: Inheritor's Statement When Inheritance Mutation is Pending									
<div style="text-align: right; margin-bottom: 10px;">Date Prepared: _____</div> <p><b>Particulars of DP and acquired land parcel</b>  Name of DP _____ (enter DP Name with Parentage as of land record), owner of Acquired Land Plot _____ Khasra  Nos _____ Located in Village _____, District _____, Province _____</p> <p><b>Statement by the Inheritor's</b>  We the persons listed below as legal heirs of DP---{put name of DP here}----- against acquired land referred above solemnly declare that:</p> <ul style="list-style-type: none"> <li>The inheritance mutation of above said acquired land is pending;</li> <li>We understand that compensation can be claimed/paid according to inheritance mutation recorded in land record and we are coordinating with the Land Revenue Authorities in this regard;</li> <li>_____ (Name of Staff, Office and EA) has clarified that compensation amount already deposited in treasury can be paid to legal heirs as and when the inheritance mutation issues are resolved;</li> <li>We have no objection to the commencement project works on our plot while our inheritance mutation of land is being processed; and <input type="checkbox"/></li> </ul> <p style="margin-left: 20px;">This statement is given free of coercion and compulsion which is witnessed by Village Headman and APC president.</p> <p><b>The Declarant</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> Sign/Thumb Impression  Name _____  of _____ Resident of _____ </td> <td style="width: 50%; vertical-align: top;"> Sign/Impression Thumb  Name _____ Resident  of _____ </td> </tr> <tr> <td style="vertical-align: top;"> Sign/ Thumb Impression  Name _____  Resident of _____ </td> <td style="vertical-align: top;"> Sign/ Thumb Impression  Name _____  Resident of _____ </td> </tr> <tr> <td style="vertical-align: top;"> Sign/ Thumb Impression  Name _____  of _____ Resident of _____ </td> <td style="vertical-align: top;"> Sign/ Thumb Impression  Name _____ Resident  of _____ </td> </tr> </table> <p><b>Witnessed By</b>  We the Village Headman and President APC village-----, personally know the above signatories as legal heirs of the DP, and confirm and witness the statement above.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;"> <b>Signed</b>   Name: Mr.-----  Headman Chak----- </td> <td style="width: 50%; text-align: center;"> <b>Signed</b>   Name: Mr.----- Village  President DPC Chak----- </td> </tr> </table>		Sign/Thumb Impression Name _____ of _____ Resident of _____	Sign/Impression Thumb Name _____ Resident of _____	Sign/ Thumb Impression Name _____ Resident of _____	Sign/ Thumb Impression Name _____ Resident of _____	Sign/ Thumb Impression Name _____ of _____ Resident of _____	Sign/ Thumb Impression Name _____ Resident of _____	<b>Signed</b>  Name: Mr.----- Headman Chak-----	<b>Signed</b>  Name: Mr.----- Village President DPC Chak-----
Sign/Thumb Impression Name _____ of _____ Resident of _____	Sign/Impression Thumb Name _____ Resident of _____								
Sign/ Thumb Impression Name _____ Resident of _____	Sign/ Thumb Impression Name _____ Resident of _____								
Sign/ Thumb Impression Name _____ of _____ Resident of _____	Sign/ Thumb Impression Name _____ Resident of _____								
<b>Signed</b>  Name: Mr.----- Headman Chak-----	<b>Signed</b>  Name: Mr.----- Village President DPC Chak-----								
<i>DPs unable to alienate the land</i>	<p><b>iv) DPs Who are Unable to Alienate the Acquired Asset:</b></p> <p>19. The DPs who being a minor/juvenile or because of mental disability/lunacy are not capable to alienate the acquired land under law and so could not be compensated directly. The law provides that compensation could be paid through legally-designated guardians or managers who can act and alienate the immovable property on behalf of the minor or the lunatics. In cases where the guardians are not designated by the court, the compensation remains pending until the minor attains the age of majority and claim compensation.</p> <p>20. It is common that children inherit their parents' immovable properties, but is kept in possession and used by adult male members of the extended family or kinship group as a joint family asset. It is not a common practice to appoint guardians following the Guardians and Wards Act of 1890. Hence, compensation of DPs with</p>								

	<p>21. It is recommended that the LAR management team to carry-out the following activities in dealing with pending guardian's appointment and in documenting its efforts:</p> <ul style="list-style-type: none"> <li>• Coordinate with the Living Parent or other grown up members of the household the DP is living with, guide them on the process of appointing a guardian.</li> <li>• Collect a certification statement from the Living Parent or other grown up member of the household the DP is living with, that i) confirms EA's efforts to notify and guide them and secure funds for compensation payment, ii) states that the appointment of guardian is pending, and iii) concurs to the commencement of civil works on the plot while the guardianship certificate is being processed. Such statement should be witnessed by the village headman and the village DPC chairman or member. See Template 4 below(to be translated to Urdu).</li> </ul> <p style="text-align: center;"><b>Template 4: Guardian Statement if DP is Juvenile</b></p> <p style="text-align: right;">Date Prepared: _____</p> <p>Particular of DPs and acquired land parcel  Name/Names of DPs i) _____(enter DP Name/names of DPs with Parentage), ii) _____ and iii) _____ Resident of _____(Enter DP current address)_____ Own acquired Land Plot _____ KhasraNos _____ Located Village _____</p> <p><b>Statement by Guardian</b>  I _____(put name here)_____ the {mother/father/brother/sister/uncle (put relation of elder with whom the minor DP/DPs lives) of DP/DPs i) _____(put name of DP/DPs here)_____ ii) _____ iii) _____ as natural guardian solemnly declare that:</p> <ul style="list-style-type: none"> <li>• The DP/DPs is/are minor who lives with me and as natural guardian of DP/DPs, I am responsible for his/her/their well-being and bringing him/her/them up;</li> <li>• _____(indicate name of staff, unit, and EA) has clarified that compensation amount, already deposited in treasury, can be paid to legal guardian of DP/DPs after production of the valid Guardian Certificate issued by the competent court;</li> <li>• A petition for issuance of guardians certificate is filed/being filed in the competent court and the court's decision is pending;</li> <li>• The awarded compensation in name of DP/DPs will be collected upon issuance of guardian's certificate by court; however, as natural guardian I have no objection to commencement of project works; and</li> <li>• This statement is given free of coercion and compulsion which is witnessed by Village Headman and DPC president.</li> </ul> <p><b>The Declarant</b></p> <p>Sign/Thumb Impression  Name _____  Relationship with DP _____  Resident of _____</p> <p><b>Witnessed By</b>  We the Village Headman and President APC village-----, personally know Mr/Mrs _____ and witness veracity of statement made by confirming that the Minor DP/DPs named above lives with him/her in village/city _____(Put name of village city here).</p> <p><b>Signed</b> <span style="float: right;"><b>Signed</b></span></p> <p><b>Name: Mr.-----</b> <span style="float: right;"><b>Name: Mr.----- Village</b></span>  <b>Headman Chak-----</b> <span style="float: right;"><b>President DPC Chak-----</b></span></p>
<p><i>DPs with meager compensation</i></p>	<p><b>v) DPs with Meager Compensation</b></p> <p>22. The compensation amount itself proves driving factor for DPs to submit their claims. In cases where small land holdings are in joint ownership with a number of entitled persons, corresponding compensation amount shares for each DP become very small (\$100 and below). A good number<sup>16</sup> of DPs fall in this category and they never show-up to collect compensation. The situation is further aggravated when such DPs also face other legal or administrative issues like pending inheritance mutations of acquired land or living overseas and other parts in the country.</p> <p>Although the law provides a mechanism that includes payment in cash at the village or compensation payment through money order in case of absentee land owners<sup>17</sup>, such</p>

<sup>16</sup> In the National Motorway M-4 Gojra-Shorkot Section Project, almost ± 10% DPs are entitled to a compensation below 100 US \$.

<sup>17</sup> Rule 87, Financial Commissioner's (Board of Revenue) Standing Order No 28 (1909) on land acquisition procedures.

	<p>is no longer practiced. The only available mode is payment through voucher debit-able to the treasury which requires the DP to travel repeatedly to the district/tehsil headquarter to receive their compensation, making the transportation cost higher than their compensation.</p> <p>24. It is recommended that the LAR management team to explore other payment modes allowed under the LAA including cash payment or payment through money order if the DP is living out of project area. If such unclaimed compensations are deposited at court's disposal as legal remedy, it will be of no gain because a significant number of the DPs will remain unpaid. Following actions should be taken and recorded to explore specific measures and seek guidance from BOR in this aspect.</p> <ul style="list-style-type: none"> <li>• Define a maximum slab of amount to be termed as meager compensation and get it endorsed by the EA;</li> <li>• Document coordination efforts with BOR including i) official correspondence and ii) meetings with BOR to seek guidance on the issue at the project and EA levels.</li> <li>• Maintain a record of actions taken by the project team for payment to DP or deposit of compensation at court's disposal following guidance from BOR.</li> </ul>

## **ANNEX -5: TERMS OF REFERENCE FOR EXTERNAL MONITOR AGENCY/CONSULTANT**

### **Objective**

An External Monitor Agency/consultant (EMA) will be hired for the monitoring of implementation of the land acquisition and resettlement plans (LARPs), resettlement plans and corrective action plans (CAPs) for KPCIP. The EMA will also independently monitor unanticipated/emerging impacts during the implementation of KPCIP subprojects that were not covered in the approved LARPs/RPs/CAPs and recommend appropriate corrective actions to address these.

### **Scope of the Work**

- Review of the LARP/RP/CAP implementation completion reports and semi internal monitoring reports prepared by the PMU in the course of KPCIP implementation
- Review community complaints, grievance redressal methods and system of the project;
- Review of the consultations with the APs, community and other stakeholders;
- Review the implementation status of land acquisition and resettlement activities including payments of compensation, entitlements to different eligible groups, adequacy of budget, timeliness and institutional arrangements
- Conduct field surveys including interviews of APs, physical verifications/ spot checking, public consultations/ focus group discussion ; Review and propose recommendations on the efforts involved in training, capacity building of concerned officials/staff regarding the implementation of land acquisition and resettlement plan;

The following indicators will be monitored during LARP implementation:

- No. of acres of land acquired by land use category and the process adopted;
- Number of land owners (DPs), provided land, trees crop and non-land based compensation;
- Number of DPs resettled/ relocated and provided livelihood assistance;
- DPs shifted to the agreed location and vulnerable DPs compensated as per the Entitlement Matrix;
- Assess DPs progress in income restoration and re-establishment of livelihoods,
- Consultations with local communities and targeted stakeholders;
- Number of grievances/ community complaints recorded and redressed;
- Identification of key issues/ conflicts that arise during the implementation of the project;
- Identification of constraints faced during the implementation of LARP by the project management, contractor, land revenue officials and other concerned staff and accordingly suggests remedial measures for corrective action, if required, support the resettlement specialist in preparing a corrective action plan (CAP).

### **Reporting**

The EMA will prepare the following reports:

1. LARP/RP/CAP implementation compliance reports – upon receipt of the LARP/RP/CAP implementation completion report and conduct of independent verification. This report will be used as basis for issuing no-objection to the commencement of works in subproject

components or sections that have LAR impacts or IR legacy issues. At least 8 implementation compliance report will be prepared.

2. Semi-annual external resettlement monitoring reports – upon receipt of the semi-annual social monitoring report by the PMU and conduct of independent verification.
3. Final resettlement evaluation report – within 6 months from the KPCIP project closing