

Uzbekistan

Drainage, Irrigation and Wetlands Improvement  
Phase I Project

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the South Karakalpakstan Water Resources Management  
Improvement Project

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FINAL REPORT

Resettlement Policy Framework

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## List of Abbreviations

DIWIP	Drainage, Irrigation and Wetlands Improvement Project
GoU	Government of Uzbekistan
LAR	Land Acquisition and Resettlement
MAWR	Ministry of Agriculture and Water Resources
M&E	Monitoring and Evaluation
NGO	Nongovernmental organization
OP	Operational Policy
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RBSK	Right Bank of South Karakalpakstan
RCM	Resolution of the Cabinet of Ministers
RAP	Resettlement Action Plan
RFP	Resettlement Policy Framework
RUz	Republic of Uzbekistan
SA	Social Assessment
SK	South Karakalpakstan
SKRBC	South Karakalpakstan Right Bank Canal
SKWRMIP	South Karakalpakstan Water Resources Management Improvement Project
ToR	Terms of Reference
WB	World Bank
WUA	Water Users' Association

## Glossary

Compensation	Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.
Cut-off date	<p>Date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cutoff date are not eligible for compensation and/or resettlement assistance.</p> <p>Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.</p>
Dehkan	Dehkan farm consists of homestead lands, allotted to heads of families under inheritable life tenure, producing and selling agricultural products on the basis of the labour of family members.
Farmer	Leasehold farm producing crops for commercial or similar purposes. This excludes dehkan farms, which within this definition are considered to engage in crop production for domestic and private use.
Goskomzemgeocadastre	State Committee for Land Resources, Geodesy, Cartography and State Cadastre
Khokimiyat	Local public authorities (municipality).
Land expropriation	Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.
Makhalla	Territorial community, and at the same time institution of local government of citizens.
OP 4.12	The World Bank Group Operational Policy on Involuntary Resettlement. OP 4.12 embodies the basic principles and procedures that underlie SKWRMIP's approach to involuntary resettlement associated with its investment projects.
Project Area	Irrigated area of nearly 100,000 hectares located in South Karakalpakstan on the right bank of the Amu Darya river making 20% of the irrigated area of Karakalpakstan
Project districts	Three administrative districts of the Republic of Karakalpakstan, namely Beruni, Turtkul and Ellikkala located at the right bank of Amu Darya river.
Resettlement assistance	Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale,

such as moving expenses and lost work days.

Resettlement policy framework	<p>A resettlement policy framework is required for projects with subprojects or multiple components that cannot be identified before project approval. This instrument may also be appropriate where there are valid reasons for delaying the implementation of the resettlement, provided that the implementing party provides an appropriate and concrete commitment for its future implementation. The policy framework should be consistent with the principles and objectives of OP 4.12.</p> <p>The rate of compensation for lost assets must be calculated at full replacement cost, that is, the market value of the assets plus transaction costs. With regard to land and structures, the WB defines “replacement costs” as follows:</p> <p>agricultural land—the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes;</p> <p>land in urban areas—the market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;</p> <p>household and public structures—the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor and contractors’ fees and any registration and transfer taxes.</p> <p>In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset</p>
Replacement cost	
Tuman	Administrative district (Uzbek equivalent word for Russian “rayon”)
Viloyat	Administrative region. (Uzbek equivalent word for Russian “oblast”).Uzbekistan is divided into 12 viloyats plus the Republic of Karakalpakstan. Viloyats are subdivided into tumans. Republic of Karakalpakstan is divided directly into tumans.
Vulnerable groups	People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.

## **INTRODUCTION**

The Resettlement Policy Framework (RPF) is Social Assessment (SA) Task 7 of the South Karakalpakstan Water Resources Management Improvement Project (SKWRMIP) Terms of Reference (ToR). The purpose of the RPF is to clarify resettlement principles, organizational arrangements, and the design criteria to be applied to any subproject prepared during project implementation.

The RPF describes how the Drainage, Irrigation, and Wetland Improvement Phase – I Project (DIWIP) resettlement issues will be addressed. It outlines principles and procedures that DIWIP will follow to ensure compliance with relevant laws of the Republic of Uzbekistan and applicable resettlement safeguard policies of the World Bank's (WB) Operational Policy (OP) 4.12 (Appendix 1).

# Chapter I. INFORMATION ABOUT THE PROJECT

## 1.1 PROJECT BACKGROUND

Government of Uzbekistan (GoU) has obtained a Credit/Loan for the implementation of the Drainage, Irrigation and Wetland Improvement Phase-I Project (DIWIP). Funds under this credit/loan will be used to prepare the proposal for South Karakalpakstan Water Resources Management Improvement Project (SKWRMIP).

Project objective is to develop national economy by increasing the productivity of irrigated agriculture, with the concomitant increase in employment and population incomes in South Karakalpakstan (SK).

Goal of DIWIP is to improve water quality in the Amu Darya River by safe disposal of drainage effluents and to enhance the quality of wetlands in the Amu Darya delta.

SKWRMIP covers the territory of three southern regions (raions) of the Autonomous Republic of Karakalpakstan, namely Beruni, Ellikkala and Turtkul at the right bank of the Amu Darya river.

Total irrigated area of about 100,000 ha<sup>1</sup> is fed by the system of canals taking water from the Amu Darya, either by gravity via the South Karakalpakstan Right Bank Canal (SKRBC) taking water from the Tuyamuyun Reservoir, or by pumping from the river at the north of the reservoir.

South Karakalpakstan Water Resource Management Improvement Project (SKWRMIP) area is located less than 100 km to the south from the city of Nukus (the capital of Karakalpakstan), and about 20 km to the west from the city of Urgench (the capital of Khorezm Region).

Population of the project area is over 400,000 people or 26% of population of the Republic of Karakalpakstan. About 80% of the population is engaged in agriculture and their income is below US\$2/person/day.

Irrigated area of South Karakalpakstan on the right bank of the Amu Darya (100 000 ha) makes 20% of the total irrigated area of Karakalpakstan. Considering the fact that over 96% of the gross agricultural production is produced by irrigated agriculture, contribution of SK is considerable.

Almost the entire drainage system of the South Karakalpakstan Right Bank (SKRB) has been successfully rehabilitated under the on-going DIWIP using the World Bank funding of about US\$ 60 million (equivalent). On-going DIWIP focuses on improvement of drainage system which hardly depended on power-operated pumping and defects before the rehabilitation. The newly constructed main drain and the rehabilitated on-farm and inter-farm drainage system under DIWIP are now being improved and flowing by gravity. In addition to the success of the DIWIP, the SKWRMIP feasibility study is seeking to improve water management in general and irrigation aspects of the system in particular

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<sup>1</sup> Beruni area – 33,397 ha; Ellikkala – 34.392 ha; and Turtkul – 32,222 ha. respectively.

This report presents the findings and assessments of the Resettlement Policy Framework (RPF).

## **1.2 OPTIONS OF WATER RESOURCE MANAGEMENT IMPROVEMENT IN SOUTH KARAKALPAKSTAN**

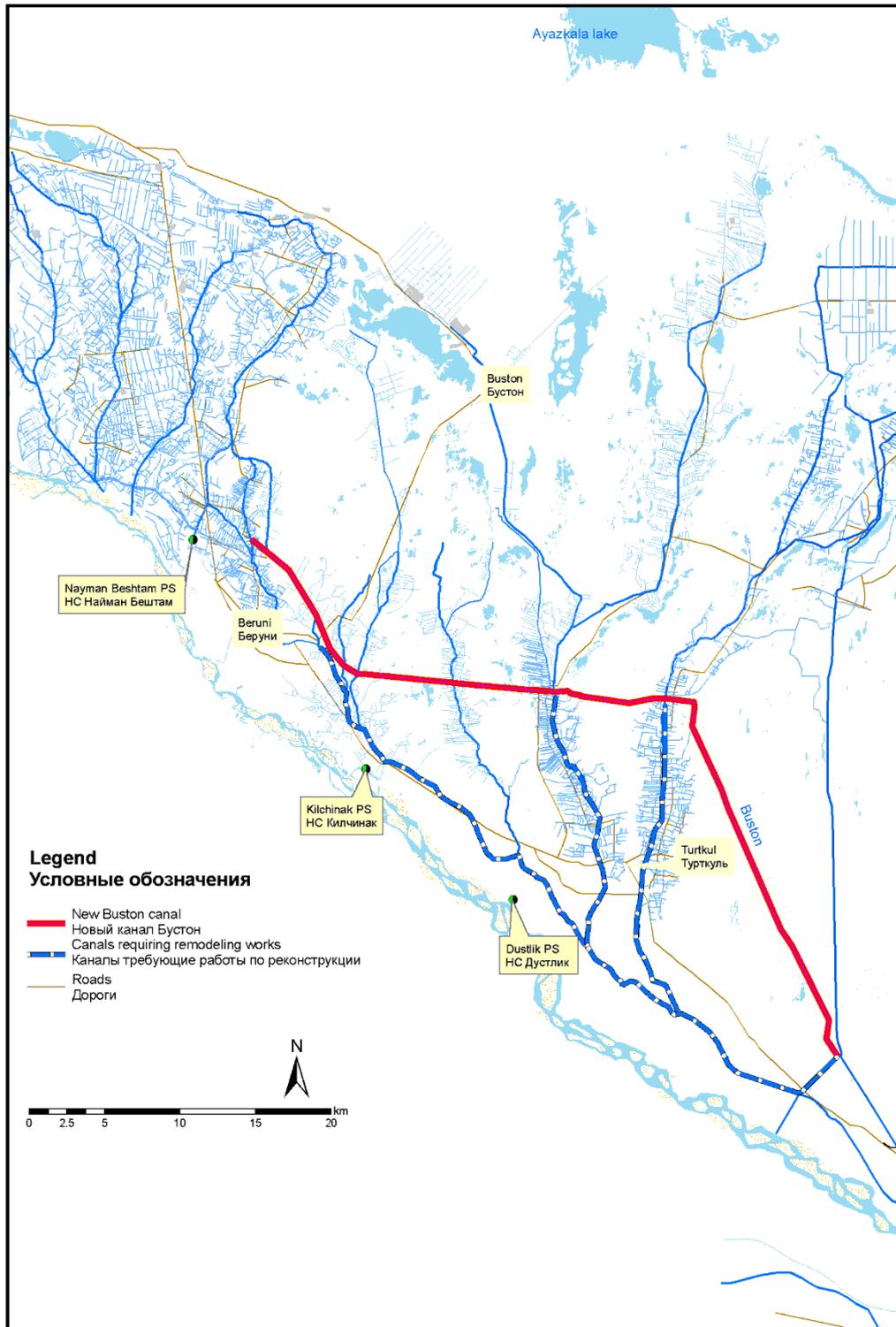
According to ToR, there were considered and estimated various options of water resource management improvement in South Karakalpakstan. For each option, the physical (capital) works are described, the operational and maintenance requirements of the completed works, and then significant issues relating to the proposal. These solutions are then summarised and compared, and the optimum option proposed, in this case it is Option A-2.

### **Option A-1: Full Bustan Canal (Q=105 m<sup>3</sup>/s)**

Option A-1 comprises construction of a new 70 km concrete lined canal taking water from the tail end of the Right Bank Canal, with major outlets supplying the north section of Ellikkala Tuman and the whole of Beruni Tuman. Total flow rate will be 105 m<sup>3</sup>/s and will be situated among RBC and Nayman Beshtam Pump Station (Bustan Canal).

Under this Option A-1, the major canals Bogyap (currently 45 m<sup>3</sup>/s) and Keltaminor (currently 30 m<sup>3</sup>/s) would become local distribution canals along the length between Pakhta Arna Canal and Bustan Canal, with design flow rates of 5 and 7 m<sup>3</sup>/s respectively. These canals would terminate at Bustan Canal. These canals would need to be reprofiled and raised to allow a hydraulically efficient channel to be formed which is able to command the off takes along its length by gravity. In the current situation, these canals run in cut channels, and almost all off takes are by pump.

**Map 1 Option A: Proposed Bustan Canal**



The scope of construction work for this option would involve the following elements:

East Section of Bustan Canal:

- Construction of 35 km of canal, 25 km of which is through desert;

- The canal would have a head flow of 105 m<sup>3</sup>/s;
- An existing 55 m<sup>3</sup>/s earth channel has been constructed on this route, but this requires significant re-profiling to suit the new hydraulics;
- This proposed channel would be concrete lined, and incorporate adequate under-drainage;
- There are three major hydraulic structures.

West section of Bustan Canal:

- Construction of 34 km of canal predominantly through agricultural land. This is a completely new construction;
- The head flow of this section of the canal is 55 m<sup>3</sup>/s;
- This would include small hydraulic outlet structures and two major canal structures;
- There would be 17 road bridges, two pedestrian crossings and 9 culverts, four of which are major collectors;
- A tail escape will be constructed to the river by undertaking minor re-profiling works of the shorter Nayman Beshtam Pump Station inlet channel.

Pakhta-Arna trunk system:

- The area south of Bustan Canal will require significant fill works to change the section to suit the new significantly lower discharge;
- A new tail escape will be constructed for the RBC from PK 38, approximately with a length of 1.75 km to the river through farmland having a flow rate of 60 m<sup>3</sup>/s in order to maintain a minimum flow in the RBC.

### **Option A-2: Full Bustan Canal (Q=80 m<sup>3</sup>/s)**

During the World Bank supervision mission held in September 2011, it was required to identify the possible methods for reducing the head discharge of the Bustan Canal. After discussions with the stakeholders a hybrid option, which is a modification of Option A-1 (which was previously Option A), have been considered.

The main difference between the sub-variants of Option A is that: under this Option A-2, tail ends of the major canals Bogyap and Keltaminor will be connected back into Bustan Canal, thus allowing water to flow into the western reaches of Bustan Canal via the Pakhta Arna system. Therefore design capacities of Bogyap and Keltaminor Canals will be as 20 m<sup>3</sup>/s and 17 m<sup>3</sup>/s respectively. This will create a difference in the size of the replacement structures.

Under this option, it is not proposed to line the canals with concrete due to the potential cost. Under both sub-variant of Option A, bridges along Pakhta Arna, Bogyap and Keltaminor Canals would need to be replaced to suit the higher water levels required to command the adjacent fields.

For both Option A-1 and Option A-2 the reprofiled section of Bogyap and Keltaminor Canals will be designed to fit within the footprint of the existing canal. The design has also been checked to ensure that this fits with the existing railway bridge over Keltaminor Canal.

The advantages of option A-2 can be stated as follows:

- The magnitude of works to reprofile Pakhta Arna, Bogyap and Keltaminor canals will decrease, because the higher flow rates for these canals in Option A-2 means less infilling is required. This would reduce not only the cost, but also the potential social impacts of locating borrow pits to source the fill material;
- The head flow of Bustan Canal will be decreased slightly to 80 m<sup>3</sup>/s;
- The operation of Pakhta Arna, Bogyap and Keltaminor canals will become more flexible; they can run at a higher flow rate to ensure command and availability, without wasting water;
- There is a lower risk of sedimentation due to standing water in the tail reaches of Bogyap and Keltaminor canals, as a through flow would be maintained;
- At low flow demand periods, there is the opportunity to close the first reaches of Bustan Canal completely to allow for maintenance.

The disadvantages of Option A-2 on the other hand are as follows:

- This increases the complexity of the operation of the canal network. In particular, there is a risk of “transit flows” in Keltaminor and Bogyap which are intended for Bustan Canal being abstracted without permission by farmers along these canals;
- There is a risk that sediment from Keltaminor and Bogyap Canals would enter Bustan Canal.

It is proposed to select Option A-2 as it increases operation and maintenance flexibility, and offers a slightly lower cost. The risk of unauthorised abstractions can be mitigated by improving training of water management institutions, and the risk of sedimentation can be reduced by ensuring that design flow velocities in Bustan Canal are higher than design flow velocities in the earth canals.

**Table 1 Flow rates for the canals in m<sup>3</sup>/s are planned to be as follows:**

	Option A-1	Option A-2
Pakhta Arna	30.6	56
Bogyap	5	20
Keltaminor	7	17
Bustan (with functioning Yanbash Canal)	105	80
Bustan (without functioning Yanbash Canal)	130	105

*The table was worked out by PIU consultants*

Option A out of other considered options is the most preferred, in particular Option A-2 (and not A-1). There remain issues of resettlement for the canal route, and land for borrow pits; this will predominantly affect agricultural land and to a much lesser extent gardens and dwellings. The main construction of Bustan Canal is a large job but water does not have to be supplied through the canal until it is complete, as its route is predominantly off the line of existing canals. This will expedite construction and reduce the cost. There is less risk of disruption to irrigators. Having a new, separate trunk canal will also be significantly easier to manage, as there are no direct tertiary outlets from the canal (as is the case with the current existing canal). This makes it simpler to distribute water between secondary canals,

However, what will be significantly more difficult is the downsizing of the Pakhta-Arna system, and the source of fill material for this. It is essential that work is done to this system; if not, there are likely to be significant recurring operation and maintenance difficulties with these old trunk canals. The process of allowing natural siltation has been rejected as it cannot be managed within the lifetime of the project. Whilst sourcing and transporting the material will need very careful managing, and will lead to some disruption, this can be managed within the project. The aim of these downsizing works is to not leave any negative consequences to the local population after the project.

## **Chapter II. PLANNING OF THE RESETTLEMENT POLICY FRAMEWORK (RFP)**

Project involves reprofiling of first half (35 km) and construction of second half (35 km) of Bustan canal. The full list of involved farms and households was prepared on the ground of maps provided by Project Implementation Unit (PIU). Afterwards Social Assessment Group conducted extensive socio-economic surveys and the specially employed appraisal firm assessed the value of farm/households the lands of which are subject to allotment. All farms and households were informed about the Project and possible allotment of lands. Moreover, comprehensive resettlement policy framework (RFP) was designed for this part of the Project.

RFP covers the following elements, consistent with the provisions described in OP 4.12:

- (a) a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement plan or an abbreviated plan cannot be prepared by project appraisal;
- (b) principles and objectives governing resettlement preparation and implementation;
- (c) a description of the process for preparing and approving resettlement plans;
- (d) estimated population displacement and likely categories of displaced persons, to the extent feasible;
- (e) eligibility criteria for defining various categories of displaced persons;
- (f) a legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- (g) methods of valuing affected assets;
- (h) organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- (i) a description of the implementation process, linking resettlement implementation to civil works;
- (j) a description of grievance redress mechanisms;
- (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- (l) a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- (m) arrangements for monitoring by the implementing agency and, if required, by independent monitors.

Thus, it was determined that Project implementation will require physical resettlement which may cause potential social and environmental problems. These problems will be fixed in accordance with national security measures and WB Guidelines including situations where private property (houses, gardens, farm land plots) may be lost as a result of the canal (re-)construction. However, majority of people living in the rural area of the Project zone will obviously benefit from Project implementation.

## **Chapter III. PRINCIPLES AND OBJECTIVES OF THE RESETTLEMENT POLICY**

### **3.1 THE MAIN PRINCIPLES OF THE RESETTLEMENT POLICY**

In compliance with the WB OP 4.12 (Involuntary Resettlement), all possible measures were applied by the Feasibility Study Team in order to reduce impacts on residential areas and/or on immovable property, and minimize physical resettlement as a result of the Project activities. Similarly, the temporary use of land will be minimized through screening repair and rehabilitation options and continuous monitoring of economic displacement affects during the construction period.

Feasibility Study indicates that the Project will require permanent allotment of land, demolition of households and existing settlement infrastructure; there may be some, but minimal, temporary occupation of land for the completion of the works. As possibilities of adverse economic displacement impacts on people still exist, a RFP and Specific RAP were formulated in accordance with the WB OP 4.12, which covers both issues on involuntary resettlement and the ones related to allotment of land.

The following principles will guide Project implementation:

- a. It is essential to minimize construction works which may cause physical displacement (resettlement); during construction-rehabilitation, adverse impacts on households and infrastructure should be minimized;
- b. Allotment of land on permanent basis should be minimized during the designing period;
- c. Temporary adverse impacts on land should be minimized by the precise implementation of construction/rehabilitation works; it is also necessary to take additional measures in order to inform farmers/households about forthcoming construction/rehabilitation works so that damages on standing crops could be minimized;
- d. All efforts should be made to maximum extent to limit the number of construction and rehabilitation works on the territory of dehkan farms (inside and outside the settlements). In case it is impossible to avoid construction works on the territory of dehkan farms outside of the settlement areas, damages to affected fields, standing crops and plantings should be compensated;
- e. The amount of compensations to leasehold and dehkan farmers for the damaged crops and trees will be determined based on retail market prices;
- f. Indemnity of farmers and households losses should be advertised widely and in a transparent manner, involving, among others, representatives of Water User Association (WUA) and Makhalla representatives;
- g. Farmers and households should have an opportunity to assert their claims and take measures to obtain compensations; and
- h. Implementation of RF policies outlined here will be monitored not only internally by PIU but also externally by Independent Panel of Experts, consisting of three members.
- i. Compensation will be fully offset to the affected parties before starting of any construction and rehabilitation works.

### **3.2 OBJECTIVES OF RESETTLEMENT POLICY**

Main objectives of the resettlement policy framework are:

- a. Ensure implementation of all recommendations and principles during the construction, rehabilitation and repair works of canal and other facilities covered by the project;
- b. Provide a basis for consultations with relevant parties concerned;
- c. Enable farmers and households to acquire and extend knowledge of their rights and obligations;
- d. Guide affected groups to raise their claims to appropriate authorities; and
- e. Ensure monitoring of compensation procedures.

## Chapter IV. LEGISLATIVE REGULATIONS ON SETTLEMENT AND LAND DISPUTES

### 4.1. LIST OF THE RAP-RELATED REGULATIONS OF UZBEKISTAN

This section presents an overview of the Government of Uzbekistan (GoU) codes and resolutions relevant to resettlement. These codes and resolutions provide a sound basis for the GoU to acquire for the public needs and for compensating landowners according to the registered use of the land.

**Key laws and resolutions of the Republic of Uzbekistan on land acquisition are following:**

Title	Type and Date	Summary
The Land Code of the RUz	Code approved by Law of RUz of 30.04.1998 and amended on 30.08.2003 and 03.12.2004.	The Code stipulates that all land in Uzbekistan is state property and rights for land usage are granted and monitored by the State via the district and regional administrations.
The Civil Code of the Republic of Uzbekistan	Code approved by Law of RUz December 21, 1995 N 163-I and August 29, 1996 N 256-I in accordance with the last law amendment act of September 22, 2010 N LRU-260.	The Code stipulates that all rights of the owner are protected by law and if there any violations of these rights, the owner can request compensation.
Resolution of the Cabinet of Ministers (RCM) of the RUz No. 146	25.05.2011	“On measures of improvement of the order of allotment of land for town planning and non-agricultural purposes”
Resolution of the Cabinet of Ministers (RCM) of the RUz No. 97	29.05.2006	“On the order of compensation paid to individuals and legal entities in case of the land acquisition for the state and public needs”.

Generally, these regulations provide a sound basis for acquiring land for the state and public needs and for compensating landowners according to the registered use of the land.

### 4.2. THE LAND CODE

According to the Land Code, all land in the Republic of Uzbekistan is state property and rights for land use are granted and monitored by the State through district and region administrations.

National legislation envisages the following types of land transfers: (a) to **legal entities** for use, lease, or ownership (only with the objects of services and trade sphere) and (b) to **individuals**

for lifelong inheritable tenancy (with housing), use or lease. **In no case land can be subject to selling or buying as a separate resource.** In case of individuals land is transferred to the new owner for life tenancy only in case of house selling and cannot be sold separately without structures on it. The same provision applies to the land used by legal entities, owners of objects of services and trade sphere.

All land occupied by permanent structures and facilities required under the Project, namely electric power transmission lines, wells, cross regulators and outlets, water measuring structures, collectors and related protection zones ('sanitary zones') is provided by the Government through local administrations and will remain the property of the Government upon completion of the Project.

In case of disposal of agricultural lands, in addition to compensation for damages, the legislation provides compensation to land users for the loss of agricultural production.

The main articles of the Land Code dealing with resettlement process are the following:

### **Article 23. Allotment of land plots**

Transfer of land plots to possession and use is realized in form of allotment.

Allotment of land plots is made by the Cabinet of Ministers of the Republic of Uzbekistan, khokims of viloyats, city of Tashkent, tumans, and cities in the order established by legislation.

Allotment of land plot currently in possession or in use is made only after disposal of the plot in the established order.

For construction of industrial enterprises, rail and auto road, communication and electricity lines, main pipe lines and also for other non-agricultural needs, the land of non-agricultural purpose or the land which cannot be used for agriculture or agricultural land of the worse quality is allotted. Allotment of land plots from the land resources of forestry, for the abovementioned purposes is made first of all in the areas without a forestation or areas planted with bushes and low value plants.

It is forbidden to start tenure and using the allotted land plot prior to the boundary of the plot has been established by the land management service in life (on the territory) and the document certifying land plot rights is issued.

The order of allotment of land plots to tenure and use is fixed by the current legislation.

### **Article 86. Reimbursement (or compensation) of losses to the land tenants, land users, lessees and owners of land plots**

Losses inflicted to the land tenants, land users, lessees and owners of land plots are liable to full reimbursement (including the lost profit) in the following cases:

- withdrawal, buy-out or temporary use of lands;
- limitation of their rights in connection with security, sanitary and protection zones established around the state reserves, game reserves, national parks, monuments of nature, cultural and historic monuments, water reservoirs, water supply sources, resorts

along the banks of rivers, canals, water throw points, roads, pipe lines, communication and electricity lines;

- deterioration of lands as a result of the impact caused by construction and operation of water reservoirs, canals, collectors and other objects exuding harmful for agricultural crops and plantations substances and other actions of legal and physical persons causing decrease of harvesting and worsening of the quality of agricultural production.

Reimbursement of losses is carried out by enterprises, establishments and organizations to which land plots are allotted and also by enterprises, establishments and organizations the activity of which causes limitation of rights of land tenants, land users, lessees and owners of land plots or deterioration of the neighboring lands in the order established by legislation.

### **Article 87. Recovery of losses of agricultural and forestry production**

The losses of agricultural and forestry production caused by withdrawal of agricultural and forest lands including agricultural lands in tenure and use by physical persons, for using them with the purposes not related with running agricultural and forest farming, restriction of rights of land owners, land users and leasers or deterioration of lands as a result of the influence caused by the activity of enterprises, establishments and organizations are liable to refunding besides the recovery of losses envisaged by the article 86 of Land Code.

Losses of agricultural and forestry production are recovered by legal and physical persons:

- which are allotted the withdrawn agricultural and forest lands for the needs not related with agriculture and forestry management;
- around the objects of which security, sanitary and protection zones are established with the exclusion from the turnover of agricultural and forest lands or by transferring them into less valuable lands.

Losses of agricultural and forestry production are not refunded:

- in case of withdrawal of land plots for individual housing construction and maintenance of the house;
- in case of withdrawal of land plots for construction of schools, boarding schools, orphanages, pre-school and medical establishments;
- in case of allotment of land plots to water enterprises for the construction of water reclamation objects and hydraulic structures.

Other cases, when legal and physical persons are exempt from refunding of losses of agricultural and forest production can be established by legislative acts.

The size and order of defining of liable to refunding losses of agricultural and forest production are established by legislation.

### **Article 88. Use of funds received by the recovery of agricultural and forest production losses**

Funds received by refunding of agricultural and forest production losses are used according to special purpose for:

- developing of new lands and complex reconstruction of irrigated lands;
- soils fertility increase;
- construction and reconstruction of collection and drainage network, capital planning and increase of water supply of irrigated lands;
- radical improvement of hayfields and pastures;
- adjustment or making up design and other documents on land management broken in connection with the withdrawal and allotment of lands.

According to the decision of the khokim of viloyat the funds, identified in the first part of the present article, can be used for realization of other activities aimed at the increase of agricultural production. Funds received by recovery of losses of forest production are accounted separately and used for creation and restoration of forests and forest-fruit plantations, a forestation of sands, bank side strips of water reservoirs and rivers with forests and also for realization of other activities aimed at improving of the condition of forest lands.

According to the **Article 90 Responsibility for infringement of land legislation**, Land Code of the Republic of Uzbekistan, responsibility according to the law is borne by the persons guilty for unauthorized occupation of lands besides other violations.

#### **4.3. THE ORDER OF ALLOTMENT OF LAND FOR TOWN PLANNING AND NON-AGRICULTURAL PURPOSES**

The order of allotment of land plots for town planning and other non-agricultural purposes is determined by RCM of RUz No. 146 of 25.05.2011.

Allotment of land plots is implemented on the basis of application from legal entities and individuals and consists of two stages:

**At the first stage**, allotment of land plots, registration of documents on selection of site for the object planning, agreement of these documents with the interested organizations and approval of the site by the decision of corresponding public authority;

**At the second stage**, on the basis of design estimates (hereinafter – construction object) provided by the legal entity or individual, agreed in the established order, registration of documents on allotment of land plot and approval of allotment of land by the decision of corresponding public authority which, in its turn is the reason for issuance of authorization for construction of object.

Allotment of land plot (hereinafter – land plot) in tenure, use, lease or ownership by legal entities and individuals for town planning and other non-agricultural purposes is carried out only after withdrawal of this land in the established order.

Allocation of land plot and preparation of corresponding documents is implemented by the regional (municipal) architecture and construction department, “Uzdaverloyiha” subdivisions and land management services.

Preparation of documents on sitting and allotment of land plot on the ground of documents on allocation of land plot on the territory of settlements is carried out by the regional (municipal) architecture and construction department, “Uzdaverloyiha” subdivisions and land management

services and on the rest territory by self-supporting service for land management and cadastre of regional (municipal) estate.

In settlements agreement of documents on sitting and allotment of land plots with the authorized bodies is carried out by the regional (municipal) architecture and construction department, and on the rest territory by self-supporting service for land management and cadastre of regional (municipal) estate in accordance with the “one-window” principle.

Works on sitting of land plots, preparation of documents on sitting and allotment of land plots are implemented on a contractual basis with legal entities and individuals.

Cost of works is set by the State Committee for Architecture and Construction and the State Committee for Land resources, Geodesy, Cartography and State Cadastre in accordance with the Ministry of Finance of RUz.

Determination of the settlement borders is implemented on the ground of approved general plans and designs of the town (settlement) boundaries as well as corresponding land management documents in the order established by law.

After approval of the design of settlement borders determining the boundaries of settlements, agricultural lands are included into the appropriate land of the settlements and ad interim, until allotment for town planning and other non-agricultural purposes remain in tenure, use and lease by agricultural organizations.

Lands of rural settlements, located on the territory of agricultural organizations, in case of enter in the boundary of the city and town settlement are included into the appropriate land of the city and town settlement in the established order.

Preparation of documents on land location is implemented within the period of not exceeding one month.

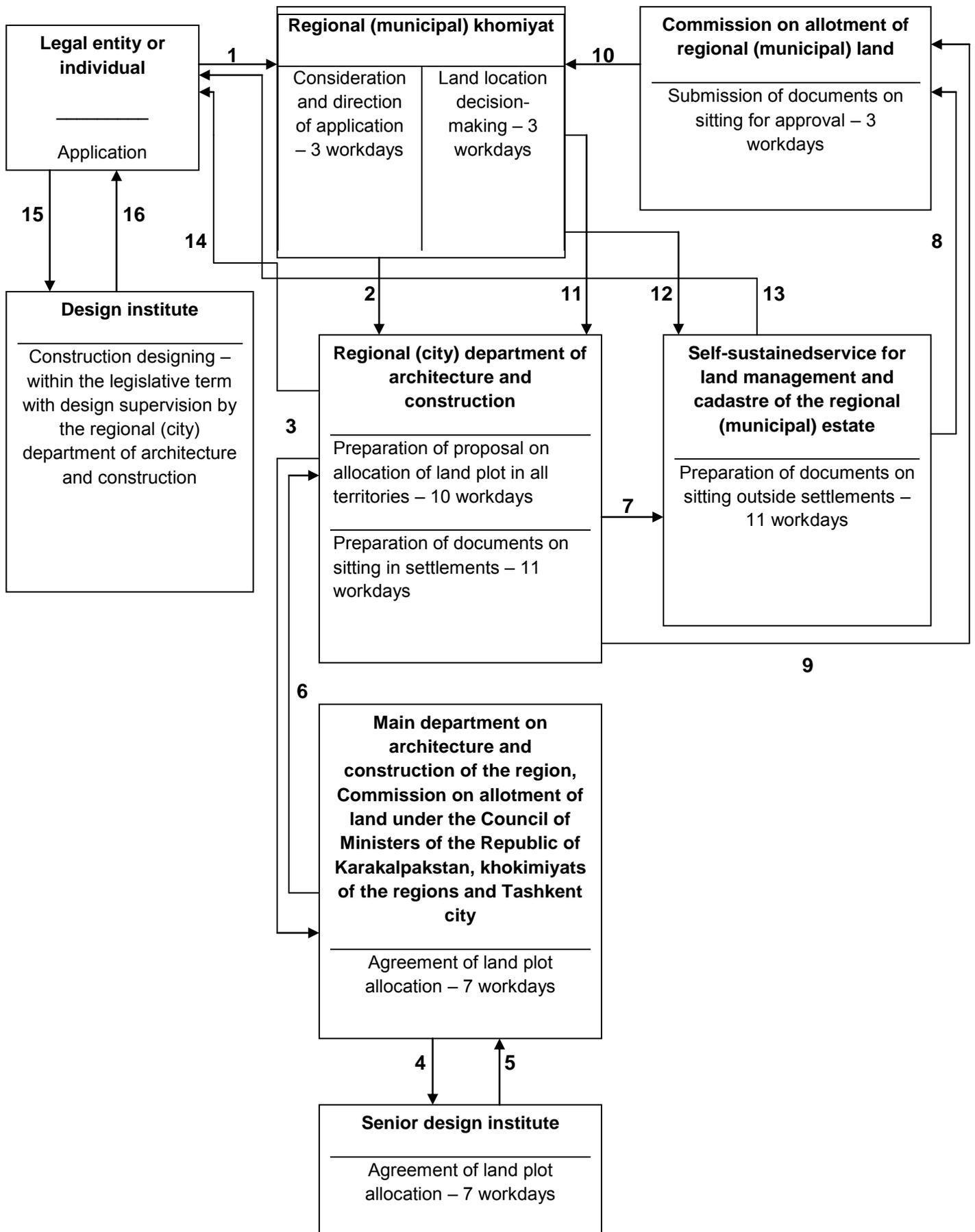
Documents on land location include the following:

- 1) Documents on object allocation;
- 2) Layout of land plot borders registered in the established order;
- 3) Resolutions of organizations where agreement of documents on land location is carried out;
- 4) List of displaced families of citizens indicating persons interested in acquiring new land plots or apartments, as well as list of houses and other constructions subject to demolition located at the allotted land plot;
- 5) Act which determines other losses of owners, users, tenants and lessees of seized land plots and also losses of agricultural and forestry production (as appropriate);
- 6) Act of technical inspection of allotted land in case of its withdrawal from the tenure of forestry enterprises (as appropriate);
- 7) Resolution of the State Ecological Expertise of the State Environmental Committee of the Republic of Uzbekistan;
- 8) Resolution of the department of land resources and state cadastre of the rayon/city (Republic Karakalpakstan) on the correspondence of sited land plot to the land cadastre requirements;

- 9) Documents on agreement of data with legal entities and individuals, the land of which is seized;
- 10) Approval of resolution of corresponding public authorities (decision of regional khokims and Council of Ministers of the Republic of Karakalpakstan) on land location.

**Diagramm 1 Land location for the object planning (allocation of land, preparation and approval of land location documents) in the absence of town planning documentation (general plan, RAP )**

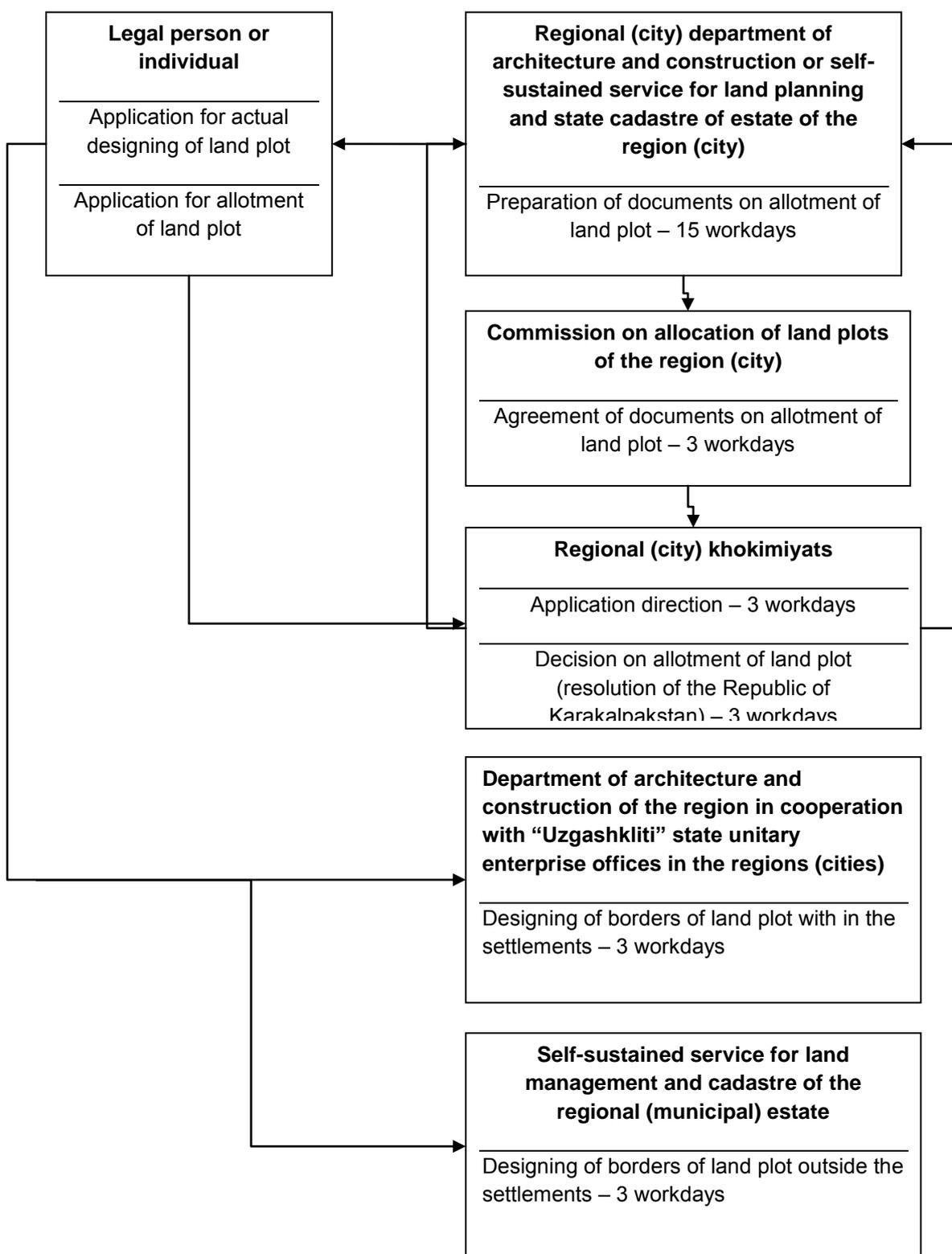
**First stage**



Registration of documents on allotment of land plot is implemented on the basis of documents on land location and the object construction design agreed and approved in the order established by law.

Allotment of agricultural land for non-agricultural purposes is implemented as actually needed and after its harvesting.

**Diagramm 2 Preparation, agreement and approval of documents on allotment of land plot and its designing**



Layout of land plot borders is designed in generally adopted reference characters on a scale that allows determining the borders with the required accuracy. Borders of land plot are drawn on the plan of land plot borders. If land plots of several legal entities and individuals are allotted, then the borders of these land plots are drawn and description of borders by topographic elements of the area and point coordinates should be provided. Layout of borders is signed by the heads of departments of architecture and construction of the region (city) and the regional (municipal) land resources and state cadastre departments.

Documents on the right of use of a land plot are prepared by the self-sustained service for land management and cadastre of the regional (municipal) estate on the basis of corresponding public authority decision on allotment of land plot for construction purposes.

Tenants, users, lessees and owners in case of their disagreement with the decision of the corresponding public authority on allotment (buy-out) of land plot or conditions of its allotment (buy-out) may appeal in the order established by law.

#### **4.4. THE CIVIL CODE**

**The right of ownership**, in compliance with the Civil Code of the Republic of Uzbekistan, is the right of a person to possess, use, and dispose of property belonging to him at his own discretion and interests, and also to request the elimination of any violations of his right of ownership from whosoever they emanate. The right of ownership is without limit of time.

Basic articles of the Civil Code of the Republic of Uzbekistan related to the resettlement procedures are:

##### **Article 169. Objects of the Right of Ownership**

Land, minerals, water, airspace, flora and fauna and others natural resources, enterprises, property including buildings, apartments, constructions, equipment, raw materials and products, money, stocks and other assets, and also intellectual property can be owned.

##### **Article 197. Grounds of cessation of the Right of Ownership**

The right of ownership is ceased by voluntary fulfillment of the obligation by the owner, unilateral decision making by the owner that determines the property's fate, seizure (buyout) of property on the ground of judicial decision or legislation act which ceases the right of ownership.

##### **Article 199. Seizure of the owner property**

Seizure of the property from the owner is allowed only in case of charging of property obligations in cases and order, determined by legislation acts, and also in the order of nationalization<sup>2</sup>, requisition and expropriation.

If the property in the person's ownership cannot belong to him in compliance with the Law, the right of ownership to this property is ceased legally with compensation of cost of exempt assets to the owner.

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<sup>2</sup> Nationalization - alteration or assumption of control or ownership of private property by the state

## **Article 202.Nationalization**

Nationalization is the compensated transfer of the right of ownership to the property being nationalized, which belongs to individuals and legal entities, the State in accordance with a law.

## **Article 205. Determination of the Value of Property in case of its Seizure and the Right to Compensation of Losses**

The value of property seized in case of termination of the right of ownership shall be determined by the valuation organization at the moment of termination of the right of ownership unless otherwise established by legislation.

Evaluation according to which the value of the seized property is compensated to the owner may be contested by him in the court.

Owner has the right to request recovery of other losses caused by the seizure of the property.

In turn, evaluation of property is implemented in compliance with the Law of the Republic of Uzbekistan "On valuation activity" No 811-I of August 19, 1999 and the *National standard of the Republic of Uzbekistan for Property Evaluation developed on the basis of the aforementioned Law and approved by the Resolution of the State Property Committee No 01/19-19 dated June 14, 2006.*

### **4.5. THE ORDER OF COMPENSATION PAID TO INDIVIDUALS AND LEGAL ENTITIES IN CASE OF THE LAND ACQUISITION FOR THE STATE AND PUBLIC NEEDS**

The order of compensation paid to individuals and legal entities in case of land allotment for the state and public needs is determined by the Resolution of the same name approved by the Cabinet of Ministers of the Republic of Uzbekistan No 97 dated May 29, 2006.

Decisions on land allotment and demolition<sup>3</sup> of residential, production and other types of buildings, constructions and plantations (hereinafter - objects) are made in accordance with the general layouts and projects of detailed planning and development of housing and microdistricts, cities and settlements.

Warrantless demolition of residential, production and other types of buildings, constructions and plantations on the territory of expropriated land plots is not allowed.

Thus, decision on land allotment and demolition of residential, production or other types of buildings, constructions and plantations is issued by khokims of the appropriate region (city) on the ground of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan, the Council of Ministers of the Republic of Karakalpakstan and regional and Tashkent city khokimiyats.

Khokimiyats of appropriate region (city) must notify owners of residential, production and other types of buildings, constructions and plantations of the made decisions in written form under their signature not later than six months prior to demolition and attach to notification copies of the appropriate decisions of the Council of Ministers of the Republic of Karakalpakstan and

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<sup>3</sup> Demolition is the tearing-down of buildings and other structures, the opposite of construction.

regional and Tashkent city khokims on the land allotment, demolition of residential, production or other types of buildings, constructions and plantations located on the land plot.

Once the decision of regional (municipal) khokims on the land allotment and demolition of residential, production and other types of buildings, constructions and plantations located on the land plot is made the above indicated houses (apartments), buildings, constructions and plantations are not subject to alienation to other persons.

Decision of khokim of the appropriate region (city) on demolition of residential, production and other types of buildings, constructions and plantations and approval of their value, can be appealed<sup>4</sup> to the Council of Ministers of the Republic of Karakalpakstan, regional and Tashkent city khokimiats, and juridically as well.

The value of illegally built dwelling houses, production and other types of buildings, constructions is not compensated.

In case of allotment of land plots to enterprises, institutions and organizations, compensations, provision of houses (apartments) and provision of lodging, as well as offset of all expenses connected with removal to a new place are provided by these enterprises, institutions and organizations in accordance with the decision of khokims of the appropriate regions (cities).

The land plots are allotted under the conditions of providing the following types of compensations:

- allocation of other comfortable accommodation house of the equal worth with the living space not less than social standards of living space and compensation of plantations losses to citizens;
- compensation payments to citizens for demolishing of their houses and other buildings, constructions and plantations;
- allocation of land plot for private housing within the set standards providing lodging on terms of contract of engagement for period of land plot reclamation (not more than two years) and compensation of the overall value of demolished houses (apartments), buildings, constructions and plantations to citizens;
- allocation of the property of equal worth and compensation of other damages to legal entities because of land allotment for the state and public needs;
- full compensation of damages caused by land allotment for the state and public needs;
- relocation and reconstruction of houses, buildings and constructions belonging to citizens and legal entities and subject to demolition at a new site;
- erection of houses, buildings at a new site and its transfer to the possession of displaced citizens and legal entities.

The order of calculation of the compensation amount to the citizens and legal entities for demolition of their houses (apartments), buildings, constructions and plantations by the reason of land allotment for the state and public needs:

1. Khokimiyats of appropriate regions (cities) set up commission in order to determine the amount of refunding and type of compensation (hereinafter - commission) headed by the deputy khokim of the region (city) and composed of finance and other khokimiyat departments

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<sup>4</sup> An appeal is a petition for review of a case that has been decided by a court of law.

representatives, government supervisor controlling usage and protection of land, institutions of citizens government, landowners (land users, leaseholders) whose land plots are seized, a representative of the enterprise, institution or organization to which the land plot is allotted, and representatives of other competent authorities at khokimiyat's discretion.

2. Valuation of houses (apartments), buildings, constructions and also perennial plantations placed on the territory of seized land plots is made by valuation organizations, in this case at the expenses of WB. Evaluation report is submitted to the commission.

In case of seizure of land plots used by individuals in the capacity of life heritable tenure or acquired by auction, a new land plot of equal worth with the right of life heritable tenure is granted to them.

Valuation of the cost of land plot belonging to individuals in the capacity of life heritable tenure at the moment of its allotment is executed by the departments of land resources and state cadastre of the regions (cities) and according to current prices at the moment of valuation at the expense of applicant.

Materials after demolishing of houses (apartments), other buildings and constructions (except illegal constructions) situated at the seized land plot, remain in possession of the builder or landowner (land user, leaseholder) who pays full compensation to the owner.

In some cases, if the owner of demolished houses (apartments), buildings, constructions and plantations wishes to keep materials after tearing down it can be returned to the owner in accordance with the decision of khokims of the appropriate region (city). In that case, a special commission should determine the value of returned to the owner materials which will remain after demolition according to the current market prices taking into account depreciation.

3. Specific terms and order of compensation payments are determined by the decision of the Council of Ministers of the Republic of Karakalpakstan, regional and Tashkent city khokims guaranteeing implementation of these compensation payments before starting the demolishing process.

### **The order and conditions of allocation of the living space to the owner of demolished houses.**

In case of demolition of citizens' houses (apartments) in view of land allotment for the state and public needs, these citizens, their family members and also citizens permanently living in these houses (apartments) in accordance with their choice and agreement are provided for ownership with the comfortable houses of equal worth with the living area not less than social living space standards, and also with compensation of the plantations value or provided with compensation for demolishing of their houses (apartments), other buildings, constructions and plantations.

Equivalence of provided living space is determined according to the value of the owner's demolished house (apartment).

In case of exceeding of the demolished house (apartment) value over the value of the provided to the owner living space, the difference is compensated.

In order to obtain living space the owner of the demolished house (apartment) after being notified of forthcoming demolition should submit an application agreed with the family members and other living together (registered) persons with the request for allocation of living space instead of the demolished house indicating the number of family members, permanently living persons and their privilege for obtaining extra living space exceeding social standards of living space to the khokimiyats of appropriate regions (cities) within one month period.

After approval of the commission decision on the amount and type of compensation, allocation of the living space to the owner instead of the demolished house (apartment) or provision of compensation at owner's will by regional (municipal) khokimiyats, the owner submits guaranty letter on vacation of the demolished house (apartment) to khokimiyats.

Demolition of the house (apartment) can be implemented after allocation of living space to the owner instead of the demolished house (apartment) and only in case of agreement of each side.

In some cases, if the owner of the demolished house (apartment) agrees, khokimiyats of the appropriate regions (cities) allocate them living space in apartment houses under construction, indicating terms of putting into operation of these houses in corresponding decisions. If the owner is not provided with living space in the houses under construction within the assigned time period, regional (municipal) khokimiyats must provide living space within a month.

Transportation of property of the owner of demolished house (apartment) to the new living place is implemented at the expense of the organization, builder or landowner (land user, leaseholder), to which land plot is allotted.

### **Order and conditions of allocation of the land plot for individual housing construction instead of the demolished house (apartment).**

In case of demolition of displaced persons houses (apartments) in view of allotment of land plots for state or public needs, these individuals, their family members and also persons permanently living in their houses (apartments) at their will are granted with the land plot for individual housing within the established standards. In this case lodging is granted to them on terms of contract of engagement for a period of the land plot development (not more than two years) with full compensation of the value of demolished houses (apartments), building, constructions and plantations.

In case of allotment of seized land plots to enterprises, institutions and organizations, allocation of the land plot for individual housing and compensation payments to the owner of demolished houses (apartments) are implemented at the expenses of these enterprises, institutions and organizations.

In order to obtain land plot the owner of the demolished house (apartment) after receiving notification on the forthcoming demolition should submit an application for allocation of the land plot for individual housing with indication of the number of their family members, permanently living persons and also necessity in lodging on terms of the contract of engagement to regional (municipal) khokimiyats within one month period.

After approval of the commission decision on the amount and type of compensation by regional (municipal) khokimiyats, the owner provides the letter of guaranty for vacation<sup>5</sup> of the house (apartment) subject to demolition within the determined by the khokimiyats of the appropriate region (city) period to the khokimiyat.

Demolition of the residential house (apartment) can be implemented only after allocation of the land plot for individual housing and also provision of lodging on terms of the contract of engagement to the owner for the period of land plot development (not more than two years).

### **Order of compensation losses to legal entities in view of the land plots allotment for the state and public needs.**

In case of expropriation of the land plot with houses, enterprises, and other buildings, constructions, plantations belonging to legal entities, assets of the equal value is provided to them and losses caused by the land allotment for the state and public needs are fully compensated to them.

Refunding of damages and losses of farming and forestry production to land tenants, land users, leaseholders, owners of land plots is implemented in accordance with the land legislation of the Republic of Uzbekistan.

Compensation of legal entities losses caused by seizure of the land plot is implemented by the khokimiyats of the appropriate region (city).

In case of allotment of the seized land plots to enterprises, institutions and organizations, compensation payments, allocation of dwellings, provision of lodging and transportation of property to a new place are implemented at the expense of these enterprises, institutions and organizations in accordance with the decision of khokims of the appropriate region (city).

In order to receive compensation in view of land plot allotment, the legal entity after having notice of forthcoming demolition must submit an application with indication of the chosen type of compensation to the khokimiyats of appropriate regions (cities) within a month.

After approval of the commission decision by regional (municipal) khokimiyats the legal entity provides the letter of guarantee for vacation of the house, other buildings and constructions subject to demolition to the khokimiyat within the determined by regional (municipal) khokimiyats period.

Demolition of residential, industrial and other buildings and constructions possessed by the legal entity can be implemented only after reconciliation of the type, amount and terms of compensation with these persons.

### **Order and conditions of losses calculation in case of replacement and restoration of houses, buildings and constructions subject to demolition in a new place**

At citizens and legal entities will residential, production and other buildings and constructions in their ownership which are subject to demolition, can be relocated and reconstructed in a new place.

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<sup>5</sup> The act of departing from or abandoning property

Relocation and reconstruction of residential, production and other buildings and constructions owned by citizens and legal entities, are implemented on the ground of the regional (municipal) khokimiyats decision out of funds of income part of local budgets received in addition to forecasted quarter outcomes, funds of reserve fund of the budgets of the Republic of Karakalpakstan, regions and Tashkent city, and/or out of part of allotted funds from denationalization and privatization of state property, received to the appropriate accounts of the Council of Ministers of the Republic of Karakalpakstan, khokimiyats of the regions and Tashkent city, enterprises, institutions and organizations to which land plots are allotted. Meanwhile, khokimiyats should provide citizens and legal entities, for the period of relocation and restoration of houses, with lodging on terms of the contract of engagement for period of development of the land plot (not more than two years).

Relocation and reconstruction of houses, buildings and constructions should be implemented within the range of the given territory (settlement) on the land plots and provided that the technical state of residential houses, buildings and constructions allows their relocation, which means the state of constructions and elements should assume disassembly, transportation and assembly in a new place.

Commissions should determine the possibility of relocation of houses, buildings and constructions on the ground of availability of the corresponding feasibility study and design estimates worked out by specialized Design Institutes at the expense of the builder to which the seized land plot is allotted.

Relocation and reconstruction of residential, production and other buildings and constructions in a new place should be implemented within the period (not more than one year) determined by the khokimiyats of the appropriate regions (cities).

All expenses on relocation and reconstruction in a new place of residential, production and other buildings and constructions, lodging renting, transportation of the property of citizens and legal entities to the place of lodging, and also its transportation from temporary dwelling to the reconstructed house, building and construction in a new place are covered by the builder or landowner (land user, leaseholder) to which the land plot is allotted and according to the regional (municipal) khokimiyats decision.

Relocation of residential, production and other buildings and constructions of equal worth possessed by the legal entity on terms of the contract of engagement to the new place is implemented only after reconciliation of the type, amount and terms of compensation payments with it.

**Order and conditions of losses calculation in view of construction in a new place of houses, buildings for the citizens and legal entities houses (apartments) of which are subject to demolition**

For the citizens and legal entities houses (apartments) of which are subject to demolition up to their will houses and constructions can be erected in a new place and transferred to them for ownership. Meanwhile, cost of houses (apartments), buildings and constructions subject to demolition is not compensated.

Erection of houses, constructions in a new place and its transfer to the citizens and legal entities residential houses (apartments) of which are subject to demolition is implemented by khokimiyats of the appropriate regions (cities).

In case of allotment of land plots to enterprises, institutions or organizations, erection of houses, constructions in a new place and its transfer to the citizens and legal entities for ownership residential houses (apartments) of which are subject to demolition is implemented at the expense of these enterprises, institutions or organizations.

Erection of houses for the citizens and legal entities houses (apartments) of which are subject to demolition, at the new place should be implemented within the range of the given territory (settlement). Meanwhile, citizens and legal entities houses (apartments) of which are subject to demolition are provided with lodging on terms of the contract of engagement by the khokimiyats of the appropriate regions (cities) for the period of house construction.

All expenses on lodging renting, transportation of property of the citizens and legal entities to the lodging and its transportation from the temporary dwelling to the house erected in a new place, according to the khokimiyats of the appropriate regions (cities) decision are covered by the builder or landowner (land user, leaseholder) to which the land plot is allotted.

In order to obtain the residential house, construction erected in a new place instead of the demolished house (apartment), citizens and legal entities houses (apartments) of which are subject to demolition within one month period after receiving of notification on demolition should submit the application indicating the number of their family members and permanently living persons as well as privileges they have for obtaining of living space to the khokimiyats of appropriate regions (cities).

#### **4.6. DISCREPANCIES BETWEEN NATIONAL LEGISLATION AND WORLD BANK REGULATIONS**

It was developed Comparison table of legislation of the Republic of Uzbekistan and the WB policy which allows three discrepancies (they are taken into account in this RAP).

- 1. Illegal construction / persons without legal rights on assets;**
- 2. Assessment market rate of the target;**
- 3. Transitional allowance.**

The Bank Policy 4.12 will prevail in cases of discrepancies between WB and Uzbekistan legislation.

In accordance with WB OP 4.12 displaced persons may be classified in one of the following three categories:

- a) persons having formal legal rights to the land plots (including customary and traditional rights recognized under the laws of the country);
  - b) persons not having formal legal rights to land plots at the time the census begins but having claimed their rights to such land or property – provided that such claims are recognized under the laws of the country or become recognized in the order determined by the resettlement plan;
- and

c) persons having no recognizable legal rights and claims with regard to the land plots they are occupying.

Thus, according to WB OP 4.12 persons who represent categories a) and b) are provided with compensation for the land they lose, and other assistance as well. Persons who represent category c) are provided with resettlement assistance instead of compensation for the land plots they lose, and if required, also other types of assistance required to achieve the objectives indicated in WB OP 4.12, provided they occupied the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who took up their residence on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. The WB OP 4.12 highlighted that particular attention should be paid to the needs of the most vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, and also other categories of displaced persons whose interests may not be protected by national legislation with regard to the compensations for the land plots subject to withdrawal.

The Bank Policy 4.12 will prevail in cases of discrepancies between WB and Uzbekistan legislation.

## **Chapter V. POSSIBLE DISCREPANCIES OF THE NATIONAL LEGISLATION TO THE WB REGULATIONS IN CASE OF RESETTLEMENT ISSUES AND MECHANISMS OF ELIMINATION OF THESE DISCREPANCIES**

In accordance with WB OP 4.12 displaced persons may be classified in one of the following three categories:

- a)** persons having formal legal rights to the land plots (including customary and traditional rights recognized under the laws of the country);
- b)** persons not having formal legal rights to land plots at the time the census begins but having claimed their rights to such land or property – provided that such claims are recognized under the laws of the country or become recognized in the order determined by the resettlement plan; and
- c)** persons having no recognizable legal rights and claims with regard to the land plots they are occupying.

Thus, according to WB OP 4.12 persons who represent categories **a)** and **b)** are provided with compensation for the land they lose, and other assistance as well. Persons who represent category **c)** are provided with resettlement assistance instead of compensation for the land plots they lose, and if required, also other types of assistance required to achieve the objectives indicated in WB OP 4.12, provided they occupied the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who took up their residence on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons representing categories **a)**, **b)** and **c)** are provided with compensation for loss of property other than land plot.

The WB OP 4.12 highlighted that particular attention should be paid to the needs of the most vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, and also other categories of displaced persons whose interests may not be protected by national legislation with regard to the compensations for the land plots subject to withdrawal.

As it was mentioned in the third chapter of this report, national legislation does not stipulate compensation of the value of illegally built residential, production and other types of buildings, constructions as well as compensations paid to the persons illegally occupying the land plot. Thus, displaced persons who represent categories **b)** and **c)** are not eligible to any form of compensation. It is proposed to conduct official multilateral consultations with the representatives of World Bank, PIU, the Ministry of Finance, regional and district khokimiyats of the Project zone, and republican, regional and district departments of Uzgeodezcadastre in order to solve out these conflicting views. A result of these negotiations should be an official document – decision confirming agreement of public authorities to compensate these illegal crops, houses, constructions and other assets at the expense of credit (project) funds.

## CHAPTER VI ELIGIBILITY FOR COMPENSATION

### 6.1 DEFINITION OF DISPLACED PERSONS

The Land Code identifies several categories of arable land users, who are eligible for compensation for losses and damages connected with disposal of lands:

According to the law of the RUz “On farm households” No602-I of 30.04.1998, **farm household** is an independent business entity that administers farm-market agriculture by means of leased land use. Land parcels are leased for a period from thirty to fifty years and are not allowed to go private. A contract of tenancy can be changed or dissolved agreed. If there is no understanding this case is considered by the court. The necessity of acquisition of a land parcel for government and public needs can be a ground for denunciation. The head of the farm household is a farmer (a founder of the household). A farmer can be a citizen of the RUz who is come of age and has corresponding agricultural qualifications and skills.

According to the law of the RUz “On dekhkan households” No604-I of 30.04.1998, **dekhkan household** is a family small commodity household that exercises production and realization of agricultural products on basis of family members labor at a plot land attached to a house that allocated to the head of a family for inheritable tenure. The dekhkan household is formed on voluntary principles and considered created after allocation of a land parcel and official registration of this household in order established by law. The dekhkan household is formed at agricultural and forest resources land plots that are not covered by forest planting and also at reserve land parcels. A plot attached to a house is allocated to one of the family member of the dekhkan household for inheritable tenure. This land is used for production of agricultural products both for free selling and needs of the family and also for the small construction or house maintenance. The head of a family, his (her) spouse, children, including adoptees, parents and other relatives of working age, cohabiting and managing the dekhkan household are members of this household. The head of the dekhkan household represents it in relationships with legal entities and individuals. The head of the dekhkan household is the head of the family or one of competent members of the family who acquired the right of inheritable live tenure in order established by law. If the head of the dekhkan household become temporary disable or continuously absent, he has right to transfer his responsibilities to one of the household’s member. In case of acquisition of a land parcel attached to a house the dekhkan household is liquidated in order established by law.

Hence, all individuals relating to these categories on the ground of relevant legal documents and legal ownership of their property are protected by law of the RUz and have a right to pretend to compensation payments in order established by law.

Consequently, farmer households that prevail on the territory of the Project area represent public lands, provided to farmers on the ground of lease contract and for a term not more than 50 years and cannot be privatized. The necessity of acquisition of a land lot for government and public needs can be a ground for denunciation. Moreover, these land lots are granted to farmers in order to grow crops in compliance with the government contractual work. Thus, there is no need to allocate land lots to project-affected households due to the fact that the government work will be terminated after denunciation of the lease contract or it will be reduced proportionally to the lost area. As regards homestead land, it was assessed along with the other assets and will be recovered in money equivalent or the similar land plot will be provided.

The following entitlement matrix describes the eligibility for compensation and/or assistance for impacts/losses for different types of assets and categories of Project – affected persons.

**Table 2 Entitlement matrix**

Type of Loss	Application	Definition of Entitled Person	Compensation Policy	Implementation Issues
Losses of HHHs' dwelling houses	Losses of dwelling houses, adjoined territories and objects located there	Owners of dwelling houses / houseowner	a) Compensation of losses of dwelling houses, adjoined territories and objects in them b) Calculation of compensation based on market rate of cost of mentioned objects <b>including all associated fees</b> c) <b>transitional allowance</b>	a) Compensation will be made according to market rate on actual date of compensation taking into account the rate of inflation and range of market value of assets b) The commissions of representatives of Khokimiyats (appropriate raions) as well as cadastral and other official organizations will be established to provide PAP with the alternative land plots and dwelling houses of equal value
Losses of leased <sup>6</sup> land plots of farmer and dekhkan farm	Agricultural land plots	Farmer and dekhkan farms	a) Compensation is paid to farmers for dwelling houses, industrial buildings, constructions, gardens. The equal (alternative) land plot is provided to farmers as well. b) The local authorities will provide all the farmers who lose their land plots with equal (alternative) land plots c) Compensation is paid to farmers for losses of crops.	a) Khokimiyats of appropriate raions will notify owners of residential, and other types of buildings, constructions and gardens in written form under their signature not later than six months prior to demolition and attach to the notification copies of the appropriate decisions of the Council of Ministers of the Republic of Karakalpakstan on the land acquisition, demolition of residential, production or other types of buildings, constructions and gardens adjoined to the land plots. Acquisition of land will be possible only after payment of compensation to these persons.  b) The negotiations will be conducted with Khokimiats, cadastral and other official organizations to provide farmers with the alternative (equal I) land plots. c) If farmer is not satisfied with the provided land plot, he can refuse the offer of alternative land plot. In this case the government order on crops (cotton, wheat) will be terminated. The appropriate compensation for losses of crops will be calculated as well. However, the regular activity will be conducted with farmers and local authorities in order to find out the most acceptable conditions of the alternative land plots for growing the crops.
Trees (including	Losses of trees	Farmer and	a) Complete compensation	a) The negotiations will be conducted with Khokimiats, cadastral

<sup>6</sup>There is no private land plots in Uzbekistan. All land plots are public and being let on lease.

mulberry, fruit trees)	(mulberry, fruit trees)	dekhkan farms	due to age of the tree (+3 years of losses)	and other official organizations to provide farmers with the alternative (equal) land plots B) If farmer is not satisfied with the provided land plot, he can refuse the offer of alternative land plot. However, the regular activity will be conducted with farmers and local authorities in order to find out the most acceptable conditions of the alternative land plots for growing the crops, in particular seedling.
Loss of commercial, businesses and industrial activities	Loss of commercial, and industrial buildings, adjoined territories as well as objects and infrastructure located there	Owner and workers of the commercial, business and industrial activities or whoever operates the business at the site of the infrastructure.	a) Complete compensation of , buildings, adjoined territories as well as objects and infrastructure located there <b>at the market rate including all associated fees and</b> including compensation for lost incomes for two years b) <b>Transitional allowance</b>	a) Khokimiyats of appropriate raions will notify owners of residential, and other types of buildings, constructions and gardens in written form under their signature not later than six months prior to demolition and attach to the notification copies of the appropriate decisions of the Council of Ministers of the Republic of Karakalpakstan on the land acquisition, demolition of residential, production or other types of buildings, constructions and gardens adjoined to the land plots. Acquisition of land and assets will be possible only after payment of compensation to these persons.

## **CHAPTER VII GRIEVANCE REDRESS MECHANISM**

### **7.1 GRIEVANCES REDRESS MECHANISM**

Acquisition of land and involuntary resettlement are complex procedures that can be accompanied with trials caused by compensation payments grievances and defaults of obligations on assistance to displaced persons. As it has occurred impossible to avoid involuntary resettlement within the project bounds so the redress of grievances mechanism was worked out. The exact redress of grievances mechanism for PAP has not submitted at the current moment of project implementation. However, the approximate scheme of that mechanism was worked out on the basis of previous analogous projects that implemented involuntary resettlement. This mechanism provides appealing of any actions and decisions that breaks rights of affected by the project persons.

As it was mentioned above, laws of the RUz and statutory acts determine the order of acquisition of land and the amount of compensation payments due to the project implementation. These laws and acts aimed at avoiding possible conflicts and violation of land users' rights. Moreover, these procedures provide participation of all land users and their family members in process of decision-making on a new land parcel and assessment of losses and damages within the project implementation. If affected persons do not agree with decisions of organizations and institutions responsible for compensation issues, they can submit a complaint to the local administration (regional or municipal khokimiyats).

In this regard, the following mechanism will be in place to ensure that all claims are considered, and the authorities take measures to resolve them:

1. Affected persons submit their grievances to the chairman of makhalla committee or PIU (responsible for resettlement activity) who will register and try to resolve them. If grievances are not settled through a week, then they are directed to regional or municipal khokimiyats. Initiative groups will be established at makhalla committee. The y will consist of representatives of farmers and HHs who will participate in discussion of resettlement activity and compensation procedures;
2. Registration books of complaints will be developed in established structures responsible for resettlement activity (makhalla committee or PIU). The submitted complaints should be studied in period of 21 working days. Registration books of makhalla committee should be examined by the representative of PIU every 14 calendar days.
3. A regional or municipal khokim will assume all possible measures to solve the problems and complaints. However, if complaints are not solved during two weeks they are directed to the Council of Ministers of the Republic of Karakalpakstan Committee on allocation (realization) of regional land parcels;
4. An authorized by the committee person will accept complaints, register and try to solve them.
5. If complaints are not settled during two weeks, the complaint would be submitted to the Supreme Court of the Republic of Uzbekistan and resolved in compliance with the national legislation and agreements on the resettlement issues between Republic of Uzbekistan and the World Bank.

Reports and settlement of disputes should be supervised by the M&E group and khokimiyats.

## **CHAPTER VIII PUBLIC CONSULTATIONS**

Two public consultations will be conducted for preparation of each RAP. They will consist of representatives of khokimiyats, makhalla committees, PIU, other local authorities and informal local associations as well as PAPs.

During the public consultations the minutes of the meetings will be recorded.

Key issues on RAP will have to be agreed with all the participants of public consultations. Copy of each RAP will be disclosed on the website of the Ministry and will also be publicly available and easily accessible in each of three districts at the local branches of the department of the Ministry of Water Resources.

## CHAPTER IX EXPENSES AND BUDGET

It will be necessary to calculate the value of the affected property along secondary canals and to pay compensation to the project-affected persons prior to commencement of construction works. At the moment, it is impossible to estimate the cost of expropriated assets along these canals due to lack of its engineering data (width, length and location). Besides that the land area required for construction works varies depending on the canal flow rate (and width).

At present it is impossible to count up approximate cost of withdrawn property along secondary canals because of lack of technical parameters of these canals (width, length and location) as the area of land necessary for these construction works varies depending on consumption of the canal and requires determination. Adjusted cost index will be available only at the stage of preparation of detailed design of secondary canals during implementation of the project.

Preliminary estimates which will be reconsidered and detailed during implementation of the project and assessment are described below .

However, it is possible to determine mathematically the calculated value of real property for 1 ha. So, we can calculate the cost of 1 ha on basis of the average cost of one household located within the expropriated area of the Buston canal (35 km), which constitutes **64 921 643** Uzbek Sums or **35 905** US Dollars at the rate of the CB of the Republic of Uzbekistan on 24.01.2012. As a result of independent assessment of the project-affected households by experts, it was identified that 79 households were located on the expropriated area of 426,4 ha of the Buston Canal. Consequently, one object of real property accounted for 5 ha of land, then the average value of 1 ha accounts **12 984 329** Uzbek Sums or **7181** US Dollars at the rate of the CB of the Republic of Uzbekistan. Hence, knowing the amount of hectares accounted for the expropriated area of secondary canals, in that case 4 000, it will be possible to estimate the cost of immovable property located along these canals. Hence, these costs constitute **51 937 316 000** Uzbek Sums, that equal to **28 723 691** US Dollars at the rate of the CB of the Republic of Uzbekistan. However, taking into account that secondary canals will be reconstructed, but not newly built as Buston Canal, then the damage for project-affected households will be much less. Hence, according to approximate calculation compensation payments may constitute 10 per cent of the estimated value that equals to **5 193 731 600** Uzbek Sums or **2 872 369** US Dollars. Also, this indicator is not absolute as the density of households' location substantially differs from place to place.

Expenses on secondary canals and any other expenses on resettlement activity upon the SKWRIMP will be included in the project budget.

## CONCLUSION

During the Project progress, it will be implemented temporary and permanent allotment of land for the construction works. Compensation of losses to farmers and property owners (with or without titles) for their loss of agricultural profits and property will be provided.

Thus, the RFP should be applied in order to conduct the most effective procedures on withdrawal and allotment of land:

- measures to ensure that for PAPs assets will be informed about their options and rights in view of resettlement;
- measures on involuntary resettlement providing sufficient investment resources to enable the persons displaced by the Project to share in project benefits, such as:
  - a) provide timely compensation payments in amount of full replacement cost for losses of assets related directly to the project;
  - b) allocate living space or land housing sites or (in case of displaced persons for whom land is the main source of income) agricultural sites with total characteristics (production capacity, advantageous location and other factors) that will be at least equivalent to the seized land plots;
  - c) provide assistance during the resettlement process.

Expropriation of land and other property can be implemented only after provision of compensation payments or new land plots to displaced persons.

## Annex 1

### OP 4.12 - Involuntary Resettlement

These policies were prepared for use by World Bank staff and are OP 4.12 not necessarily a complete treatment of the subject.

December, 2001

This Operational Policy statement was updated in February 2011 to clarify the use of Use of Escrow Accounts in order to Help Reduce Delays in Implementation of Resettlement, and Clarification of Funding of Grievance Mechanisms. It was previously revised in March 2007 to reflect the issuance of OP/BP 8.00, Rapid Response to Crises and Emergencies, and in August 2004 to ensure consistency with the requirements of OP/BP 8.60. Questions on this policy may be addressed to OPCS Quality Assurance and Compliance (OPCQC).

Note: OP and BP 4.12 together replace OD 4.30, *Involuntary Resettlement*. These OP and BP apply to all projects for which a Project Concept Review takes place on or after January 1, 2002. Questions may be addressed to the Director, Social Development Department (SDV).

#### Revised February 2011

1. Bank<sup>1</sup> experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

#### Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.<sup>2</sup>

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons<sup>3</sup> should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.<sup>4</sup>

### **Impacts Covered**

3 . This policy covers direct economic and social impacts<sup>5</sup> that both result from Bank-assisted investment projects,<sup>6</sup> and are caused by

(a) the involuntary<sup>7</sup> taking of land<sup>8</sup> resulting in

(i) relocation or loss of shelter;

(ii) lost of assets or access to assets; or

(iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) the involuntary restriction of access<sup>9</sup> to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are

(a) directly and significantly related to the Bank-assisted project,

(b) necessary to achieve its objectives as set forth in the project documents; and

(c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see BP 4.12, para. 7).<sup>10</sup>

### **Required Measures**

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) informed about their options and rights pertaining to resettlement;

(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and

(iii) provided prompt and effective compensation at full replacement cost<sup>11</sup> for losses of

assets<sup>12</sup> attributable directly to the project.

(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) provided assistance (such as moving allowances) during relocation; and

(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.<sup>13</sup>

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are

(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;<sup>14</sup> and

(ii) provided with development assistance in addition to compensation measures described in paragraph 6(a);

(iii) such as land preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

(a) specific components of the project will be prepared and implemented;

(b) the criteria for eligibility of displaced persons will be determined;

(c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and

(d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,<sup>15</sup> ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has

explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A, para. 11](#)).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30).<sup>16</sup>

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers 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, the provision of land would adversely affect the sustainability of a park or protected area,<sup>17</sup> 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. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction<sup>18</sup> of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on

choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

### **Eligibility for Benefits<sup>19</sup>**

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the Annex A, para. 6(a)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex A, para. 7(f)); and<sup>20</sup>

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance<sup>21</sup> in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.<sup>22</sup> Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

### **Resettlement Planning, Implementation, and Monitoring**

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and Annex A);

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified (see Annex A; and

(c) a process framework is prepared for projects involving restriction of access in accordance

with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs.<sup>23</sup> The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.<sup>24</sup>

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also BP 4.12, para. 16).

## **Resettlement Instruments**

### *Resettlement Plan*

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see Annex A, paras. 2-21) for projects referred to in para. 17(a) above.<sup>25</sup> However, where impacts on the entire displaced population are minor,<sup>26</sup> or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see Annex A, para. 22). The information disclosure procedures set forth in para. 22 apply.

### *Resettlement Policy Framework*

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see Annex A, paras. 23-25). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see Annex A, paras. 23-25). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential subborrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects<sup>27</sup> that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see Annex A, paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in para. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and

ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

### *Process Framework*

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before to enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

### **Assistance to the Borrower**

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing

(a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;

(b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;

(c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and

(d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

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1. "Bank" includes IBRD and IDA; "loans" includes IDA credits and IDA grants, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) adaptable program lending; (b) learning and innovation loans; (c) PPFs and Institutional Development Funds (IDFs), if they include investment activities; (d) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (e) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs under development policy lending operations. "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.
  2. In devising approaches to resettlement in Bank-assisted projects, other Bank policies

should be taken into account, as relevant. These policies include OP 4.01, Environmental Assessment, OP 4.04, Natural Habitats, OP 4.10, Indigenous Peoples, and OP 4.11, Physical Cultural Resources.

3. The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.
4. Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.
5. Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.
6. This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see OP/BP 8.00, Rapid Response to Crises and Emergencies).
7. For the purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice.
8. "Land" includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.
9. For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).
10. The *Involuntary Resettlement Sourcebook* provides good practice guidance to staff on the policy.
11. "Replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see Annex A, footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of

- compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.
12. If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.
  13. The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.
  14. Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements.
  15. See OP 4.10, *Indigenous Peoples*.
  16. Where the borrower has offered to pay compensation to an affected person in accordance with an approved resettlement plan, but the offer has been rejected, the taking of land and related assets may only proceed if the borrower has deposited funds equal to the offered amount plus 10 percent in a secure form of escrow or other interest-bearing deposit acceptable to the Bank, and has provided a means satisfactory to the Bank for resolving the dispute concerning said offer of compensation in a timely and equitable manner.
  17. See OP 4.04, *Natural Habitats*.
  18. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.
  19. Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).
  20. Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.
  21. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.
  22. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.
  23. For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under OP 4.01, *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts.
  24. See The World Bank Policy on Disclosure of Information, para. 34 (Washington, D.C.: World Bank, 2002).
  25. An exception to this requirement may be made in highly unusual circumstances (such as emergency operations) with the approval of Bank Management (see BP 4.12, para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.

26. Impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost.
27. For the purpose of this paragraph, the term "subprojects" includes components and subcomponents.

## **Annex 2 Retrenchment Framework**

Important factor at realization of optimum option of construction and reconstruction of Bustan canal and other canals in the territory of project raions is the stop of operation of three pump stations – Dustlik PS, Kilchinak PS and Nyman-Beshtam.

The closure of operation of the specified pumping stations requires implementation of actions on organization of new workplaces for employees of these stations. A detailed plans will be prepared outlining actions required, which are in line with current legislation (described below) and additional measured in line with the international good practices to minimize the impacts of job losses on workers and communities.

The obligatory requirement of the labor legislation of the Republic of Uzbekistan is notification of the worker of changes of the organization and working conditions, and also about the termination of activity of this enterprise. In this regard public services of employment, khokimiyats and other departmental bodies should carry out actions on offer of work to these workers on the same specialty, qualification or position.

According to the article 102 of the Labour Code of the Republic of Uzbekistan: Notification about termination of labor contract by the employer:

The employer is obliged to inform the worker in writing (signed by the employee) about the intention to terminate labor agreement in the following terms:

- not less than two months in advance in case of termination of the labor agreement in view of the changes in technology, production and work organization, reduction of scope of works which have entailed change of number of employees (staff) or change of nature of works, or in view of enterprise liquidation (clause 1 of the second part of article 100), and also reaching by the employee of retirement age having the right for the state pension for age according to the legislation (clause 7 of the second part of article 100);

Under the agreement between the employee and employer notification stipulated by clause 1 of the first part of the present article can be replaced with the monetary compensation corresponding to duration of term of notification.

In case of termination of the labor agreement with employee in connection with change of the owner of this enterprise (clause 6 of the second part of article 100) the new owner is obliged to notify the employee in writing (signed by the employee) about the forthcoming termination of labor relations not less, than in two months or to pay him/her proportional compensation.

During notification period, except for notification on termination of labor relations in connection with guilty actions, the right not to come to work not less than one day in a week with salary preservation during this time for seeking of another work is provided to the employee. Period of employee notification, except for the termination of labor relations in connection with enterprise liquidation, does not include periods of temporary disability, and also time of performance of state or public duties by him/her.

The employer in due time, not less than in two months, provides the appropriate trade-union body or another body representing interests of employees, information on possible mass dismissal of employees and carries out consultations aimed at mitigation of the consequences

of dismissal. The employer, also not later than two months in advance, is obliged to inform local body on employment about the forthcoming dismissal of each employee with the indication of his/her profession, specialty, qualification and salary amount.

Employees dismissed in view of liquidation of enterprise, establishment, organization, reduction of number of employees or the staff reserve monthly average salary taking into account monthly severance pay for the period of job search, but no more than for two months. If employees within ten calendar days after dismissal were registered in public service of employment as the persons who are seeking for a job, they acquire the right to an average salary for the third month in former place of work according to the certificate issued by public service of employment. In any case employees dismissed for the specified reasons reserve continuous seniority within three months from the date of dismissal.

If after three months period suitable job is not provided to the dismissed employee, he/she obtains the status of unemployed. In case of its refusal during the specified period from two offers of such job he/she will not obtain the status of unemployed and after thirty calendar days will be registered as the person who is seeking for a job on a universal basis.

Payment of the severance pay and kept average earnings is performed in former place of work. In case the liquidated enterprises, establishments, organizations have no necessary funds payment of compensations dismissed employees is made out of funds of assignees. In case the liquidated enterprises, establishments, the organizations have no assignees, compensations are paid to dismissed employees out of funds of the fund of assistance to employment, compensated in an order established by the legislation.

Thus, mitigation measures will be applied in case of loss of a job due to the project implementation. So, the Project stipulates informing workers of forthcoming redundancy in advance (not less than two months ahead); to provide compensation of lost income or new workplace to affected workers. All these measures will minimize adverse impacts on incomes and standard of living of project-affected persons.

Closure of Dustlik, Kilchinak and Nyman-Beshtam pump stations (PS) will have unfavorable impact on the pump station employees, due to they will lose not only their regular work, but fixed income of their family as well. Most of these employees may have some difficulties of finding a new job because of lack of work places in the region. Therefore, stop of operation of the specified stations requires implementation of actions on organization of new workplaces (probably temporary) for employees of these stations.

A number of mitigation measures will be introduced for affected pump station employees to mitigate over the impacts on these employees:

- Development of a redundancy/compensation package: Redundancy or compensation payments should be provided to employees to cover any loss of earnings for the period immediately following the pump station closure. Such kind of payments should be thoroughly explained and discussed with the employees well before the stoppage of pump stations' operation, to ensure that their expectations are properly managed;
- Provision of administrative assistance in job search: It may be that finding a new job implies an administrative burden on the pump station employees. In this

case, financial or logistical assistance should be given with any administration which needs to be undertaken; and

- Provision of skills training: Skills training should be provided to the pump station employees to make them more competitive on the labour market.
- There can be a chance to shift the pump station employees to the Pakhta-arnayman (PAN) due to increase of the structures' number that should be maintained. As PAN and Pump stations' Directorate (PSD) are conducted by the same Ministry of Agriculture and Water Resources (MAWR), then transfer of employees, particularly those living within Beruni District, would be possible.

In the event that all the employees of the pump stations are in fact will be made redundant, it will only be possible to monitor the long-term impacts on them by being in touch with them on an individual basis. This could be arranged by requesting the individuals concerned to contact their district administrations on a quarterly basis for the first year to report their progress, and to carry on to do this every six month for the following three years.