



**Islamic Republic of Afghanistan
Kabul Municipality**



KABUL URBAN TRANSPORT EFFICIENCY IMPROVEMENT (KUTEI) PROJECT

ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK (ESMF)

September 2013

Kabul,

Afghanistan

List of Acronyms

ARAZI	Afghanistan Land Authority
ARTF	Afghanistan Reconstruction Trust Fund
ANDS	Afghanistan National Development Strategy
AP	Affected Person
BP	Bank Policy
CoC	Certificate of Compliances
EIA	Environmental Impact Assessment
E&S	Environmental & Social
ESFP	Environmental and Social Safeguards Focal Point
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESSO	Environmental and Social Safeguards Officer
GoA	Government of Afghanistan
GRC	Grievance Redress Committee
HQ	Headquarters
ICB	International Competitive Bidding
ICR	Implementation Completion Report
IDA	International Development Association
ISR	Implementation Status Report
KGRC	KUTEI Grievance Redress Committee
KM	Kabul Municipality
KUTEI	Kabul Urban Transportation Efficiency Improvement
M&O	Maintenance & Operation
LESA	Limited Environmental and Social Assessment
LLE	Law of Land Expropriation
MAC CA	Mine Action Clearance of Afghanistan
MAFP	Mobility Access Facilitation Plan
MoI	Ministry of Interior
MoT	Ministry of Transport
NCB	National Competitive Bidding
NGO	Non-Governmental Organization
NEPA	National Environment Protection Agency
OP/BP	Operation Policy/Bank Procedure
O&M	Operation and Maintenance
PAP	Project Affected People
PMU	Project Management Unit
RAP	Resettlement Action Plan
RCC	Reinforced Cement Concrete
RoW	Right of Way
RPF	Resettlement Policy Framework
SIA	Social Impact Assessment
TA	Technical Assistance
UN	United Nations
UXO	Unidentified Explosive Object
TBD	To Be Discussed
WB	World Bank
WHO	World Health Organization

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
PROJECT COMPONENTS	5
ENVIRONMENT AND SOCIAL SAFEGUARDS ISSUES	5
OBJECTIVES OF THE ESMF	7
PUBLIC COMPLAINTS HANDLING MECHANISM.....	7
CONSULTATION AND DISCLOSURE	8
I. BACKGROUND AND PROJECT CONTEXT.....	9
I.1 PROJECT DESCRIPTION.....	9
I.2 PROJECT COMPONENTS:.....	9
II. POTENTIAL ADVERSE SOCIAL AND ENVIRONMENTAL IMPACTS.....	10
III. PURPOSE OF THE ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK.....	10
IV. ESMF GENERAL GUIDELINE	11
V. GUIDING PRINCIPLES, POLICY, LEGAL AND ADMINISTRATIVE FRAMEWORK	11
V.1 ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS PROMULGATED BY NATIONAL ENVIRONMENTAL PROTECTION AGENCY (NEPA).....	11
V.2 ENVIRONMENTAL LAW	12
V.2 APPLICABILITY TO THE KUTEI.....	12
V.3 LAND ACQUISITION AND RESETTLEMENT	12
V.5 WORLD BANK SAFEGUARD POLICIES TRIGGERED.....	13
V.6 THE ENVIRONMENTAL AND SOCIAL SCREENING PROCESS	17
V.6.1 THE SCREENING PROCESS	17
V.7 MINE RISK MANAGEMENT.	21
VI. STAKEHOLDER IDENTIFICATION, CONSULTATION AND PARTICIPATION.....	22
VII. INSTITUTIONAL ARRANGEMENT.....	22
VII.1 SAFEGUARDS RESPONSIBILITIES.....	24
VIII. COMPLAINTS HANDLING MECHANISM	25
VIII.1 INTRODUCTION:.....	25
VIII.2 STEPS AND MECHANISM.....	25
IX. MONITORING AND REPORTING MECHANISM.....	27
IX.1 ESTIMATED BUDGET FOR ESMF IMPLEMENTATION.....	27
X. CONSULTATION AND DISCLOSURE.....	28
ANNEX 1: NEGATIVE LIST OF SUBPROJECT ATTRIBUTES	30
ANNEX 2-PROTECTION OF CULTURAL PROPERTY	31
ANNEX 3: CODES OF PRACTICE FOR PREVENTION AND MITIGATION OF ENVIRONMENTAL IMPACTS	33
ANNEX 4: DRAFT TERMS OF REFERENCE FOR SUB-PROJECT REQUIRING AN EIA/SIA.....	38
ANNEX 6: ENVIRONMENTAL AND SOCIAL CHECKLIST FOR SCREENING OF SUB-PROJECTS UNDER KUTEI	45
ANNEX 7: COMPILATION OF ENVIRONMENTAL MITIGATION MEASURES FOR PROJECTS UNDER KUTEI	48
ANNEX-8: COMPLAINTS REGISTRATION FORM.....	55
ANNEX 9: RESETTLEMENT POLICY FRAMEWORK (RPF)	56
FIGURE 1: ORGANIZATIONAL STRUCTURE OF KUTEI PROJECT.....	22
FIGURE 2: REPORTING STRUCTURE OF KUTEI/PMU AND RELEVANT STAKEHOLDERS.....	23

EXECUTIVE SUMMARY

1. The Islamic Republic of Afghanistan, with the aim to improve the transport service, reduce adverse environmental impacts and travel time in Kabul City, is planning to implement the Kabul Urban Transport Efficiency Improvement Project (KUTEI). The project is to be financed from funds made available by the Afghanistan Reconstruction Trust Fund (ARTF), administered by the World Bank / IDA.
2. Kabul Municipality (KM) is entrusted with the implementation of the project. A dedicated Project Management Unit (PMU) has been setup to manage the Project and fulfill the role of the Client for contracts and consultants planned.
3. The primary objective of KUTEI is to improve road conditions and traffic flow on the selected priority road segments. This would be achieved through improvement of the surfaces of the priority roads, provision of adequate side drains systems, improvement of traffic flow at intersections, provision pedestrian crossings and footpaths to reduce traffic congestion and promote safety.

Environmental and Social Issues Relevant to the Project

4. The potential environmental and social impacts of the likely investments are not currently known, even though they are likely to be minor. Since the exact location, size, nature and number of investments are not known, KUTEI is required to prepare an Environmental and Social Management Framework (ESMF) to ensure that all investments are adequately screened for their potential environmental and social impacts, and that correct procedures to be followed, depending on the types of investments to be carried out, and these will be reflected in the ESMF document.
5. In pursuant to the requirements of the World Bank, including OP 4.01, this ESMF, is prepared.

Objectives of the ESMF

The objective of the assignment is to prepare an ESMF which will:

- (i) Establish the legal framework, procedures, and methods for environmental and social planning, review, approval and implementation investments to be financed;
- (ii) Identify roles and responsibilities, including reporting procedures and monitoring and evaluation;
- (iii) Identify capacity/or training needs for different stakeholders to ensure better implementation of the provisions in the ESMF and also in the sub-project EIA.SIAs and ESMPs and;
- (iv) Identify funding requirements and resources to ensure effective implementation of the framework.

PROJECT Components

The proposed project will have three components,

6. **Component A - Road infrastructure:** This component will be implemented through road infrastructure LOS recovery on four selected corridors. This will focus on rehabilitating 32 km of selected road links on the four priority road corridors. Civil works will constitute rehabilitating the road surfaces and pedestrian walkways, installing street lightings, traffic control measures, and rehabilitating roadside drainage system. Other civil work related consulting tasks included in the subcomponent are “design review and site supervision” and “performance indicator surveys.
7. Component “A” comprises of two subcomponents (“A1” and “A2”). Subcomponent “A1” relates to the civil works planned for the rehabilitation of selected roads and the drainage works of District 4 Area, Subcomponent “A2” involves studies to improve public transport services.
8. **Component B - Transport improvement measures:** This sub component will focus on a wide range of transport improvement measures in support of Component A. These include: (1) improving KM’s in house maintenance capacity through training and investment (2) implementing road safety and traffic management engineering measures e.g. junction channelization, signalization, engineering measures for pedestrian safety; (3) conducting studies for Bus Rapid Transit services, including a feasibility study for two potential BRT lines and a business plan for the BRT system; and (4) other designs and studies, including potential BRT detailed designs, natural disaster assessment of city transport infrastructures, other road rehabilitation and construction designs.
9. **Component C - Capacity building and Project Management Support:** This component will enhance KM’s human resources and institutional capacity for infrastructure project management and develop sustainable urban transport system through: (a) provision of external consultants to enhance the PMU operation; (b) support to KM staff through “on-the-job” training, thematic long term training and short term training); (c) carry out seminars, workshops and study tours; (d) provision of incremental cost support for project management.

Environment and Social Safeguards Issues

10. KUTEI project is assigned the Environmental Category B is assigned because no significant adverse or irreversible impacts are envisaged, and impacts are manageable within the existing institution and technical framework. The World Bank OP/BP 4.01 (Environmental Assessment) is triggered.
11. The proposed physical works under sub-component A1 are limited mostly to rehabilitation of the existing alignments. Overall long term social and environmental impacts will be positive,

while negative impacts will be of minor scope and duration, and typical for any small to medium size road rehabilitation activity. Project activities as envisaged under subcomponent A2 are also unlikely to exert any significant negative impact on the social and physical environment. On the contrary, the principle aims of the proposed activities under subcomponent A2 (mini ¹waste water treatment system and pumping station, etc.) are to enhance the drainage system.

12. The specific physical works, particularly details of the drainage canal along corridor-4 and detailed design for lot-5 (W14 in Karta-e Now road), are not known at appraisal, therefore a framework approach is being applied to address environmental and social impacts.
13. The Environmental and Social Management Framework (ESMF) spells out the requirements of preparation of Environmental Impact Assessment/Social Impact Assessment (EIA/SIA) and preparation of site specific ESMPs. An EIA/SIA will be carried out for subcomponent “A2” and lot-5, a road section that may involve land acquisition and resettlement. The proposed study will be conducted, once the locations and general design of the sub-projects are finalized and will be subject to World Bank approval.
14. In view of the possibility of land acquisition issues, the ESMF also comprises a Resettlement Policy Framework (FPF) compliant to OP 4.12 and relevant national laws. The RPF sets out the general principles and policies and compensation framework to be followed in connection with any land acquisition and resultant resettlement which may occur during the implementation of KUTEI.
15. Once the detailed designs for specific sites are finalized and if resettlement/land acquisition is unavoidable, Kabul Municipality is responsible for the development of a Resettlement Action Plan (RAP) in accordance with the approved Resettlement Policy Framework (RPF) and subject to approval by the World Bank. . The KM will be responsible for implementing the full RAPs prior to commencement of related civil works i.e. full compensation received by all Project Affected People (PAPs).
16. The ESMF provides an overview of the expected environmental and social issues, which may arise during the project implementation. It also offers comprehensive guidance on the site-specific environmental and social management planning to be carried out by the client for the civil works. The Environmental and Social Management Framework (ESMF) has been developed specifically for the proposed operations to avoid, reduce or mitigate adverse social or environmental impacts. Consistent with existing national legislation and the World Bank

¹ The Mini Waste Water Treatment System, with a capacity of around 100 cubic meters per day will be installed to treat the sewage and the storm water. The water will be treated to obtain gray water to use for the greenery and irrigation purposes in the downstream area.

Operational Policies on environmental and social safeguards, the objective of the Framework is to help ensure that activities under the project would.

- Protect human health;
- Prevent or compensate any loss of livelihood;
- Prevent environmental degradation as a result of either individual subprojects or their cumulative effects;
- Minimize impacts on cultural property;
- Enhance positive environmental and social outcomes; and,
- Ensure compliance with World Bank safeguard policies.

Objectives of the ESMF

- (i) The Objective of the ESMF is to Establish the legal framework, procedures, tools and methods for managing the environmental and social concerns in planning, review, approval and implementation of investments to be financed under the project;
 - (ii) Identify institutional arrangements, roles and responsibilities, including reporting procedures and monitoring and evaluation;
 - (iii) Identify capacity/or training needs for different stakeholders to ensure better implementation of the provisions in the ESMF and also in the sub-project ESMPs and;
 - (iv) Identify funding requirements and resources to ensure effective implementation of the framework.
17. **Sub-project Screening:** The selection, design, contracting, monitoring and evaluation of subprojects will be consistent with the following guidelines, codes of practice and requirements:
- Annex 1: A negative list of characteristics that would make a proposed subproject -ineligible for support
 - Annex 2: Protection of Cultural Property
 - Annex 3: Codes of practice for prevention and mitigation of environmental impacts
 - Annex 4: Draft Terms of Reference for Sub-Project Requiring an EIA/SIA
 - Annex 5: Procedure for Mine Risk Management in World Bank Funded Projects
 - Annex 7: Compilation of environmental mitigation measures for projects under KUTEI
 - Annex 8: Complaint Registration Forum
 - Annex 9: Resettlement Policy Framework (RPF)

Public Complaints Handling Mechanism

18. Complaint Handling Mechanism (CHM) provides a formal avenue for affected groups or stakeholders to engage with the project implementing agency on issues of concern or unaddressed impacts of the interventions. Grievances are any complaints or an issue, concern,

problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. They may take the form of specific complaints for damages/injury, concerns about routine project activities, or perceived incidents or impacts. Identifying and responding to grievances supports the development of positive relationships between projects and affected groups/communities, and other stakeholders.

19. The KM under the KURIP project had a grievance handling system in place, but its scope and reach was limited. It consists mainly of complaint handling committee at project level, comprised of project engineer from the consultant firm and the contractor staff. There were no active complaint recording mechanism and proper book keeping in place to enable complaint tracking and review. KUTEI has reviewed the KUTRIP's CHM and enhanced the KURIP's complaint handling system.
20. In case of land acquisition and resettlement, a specific project level Grievance Redress Committee (GRM) will be formed comprising members from relevant stakeholders and Project Affected Person (PAPs) to address community and individual concerns related to land acquisition issues.

Consultation and Disclosure

21. The Government of Afghanistan intends to make all project documentation publicly available to the relevant stakeholders. As an example, a site-specific ESMP was prepared for the civil works for 4 lots road stretch financed through retroactive financing under KUTEI project. The documents were disclosed with the stakeholders and a series of discussions have been conducted. The client has also held a series of public consultations with communities, particularly in relation to mitigating the social impacts. The site specific ESMP was approved by the Bank and disclosed on the KM's PMU website on 09/24/2013.
22. The same procedures will be applied to all sub-projects to be covered under KUTEI prior to commencement of works in each of the project site. Site-specific RAPs, if required, will be prepared, disclosed, discussed with the affected communities, finalized, and implemented by the Government prior to commencement of works in the specific sites.
23. Prior to appraisal of the KUTEI, the ESMF and RPF are disclosed by KM' PMU in local languages as well as English on the KM's website and in relevant places in the country as required by law for consultation and comments. Public consultation meeting with participation of the relevant stakeholders, and community leaders held on September 17, 2013. The English version of the ESMF is also disclosed at the World Bank's Infoshop on Nov. 04, 2013.

I. Background and Project Context

I.1 PROJECT DESCRIPTION

1. The proposed follow on project builds upon KURIP (2007-2011) and its primary objective is to improve road conditions and traffic flow on the selected priority road segments. This would be achieved through improvement of the surfaces of the priority roads, provision of adequate side drains systems, improvement of traffic flow at intersections, provision pedestrian crossings and footpaths to reduce traffic congestion and promote safety.

I.2 PROJECT COMPONENTS:

KUTEI Project is planned to have three main components. These are,

2. **Component A - Road infrastructure:** This component will be implemented through road infrastructure LOS recovery on four selected corridors. This will focus on rehabilitating 32 km of selected road links on the four priority road corridors. Civil works will constitute rehabilitating the road surfaces and pedestrian walkways, installing street lightings, traffic control measures, and rehabilitating roadside drainage system. Other civil work related consulting tasks included in the subcomponent are “design review and site supervision” and “performance indicator surveys.
3. Component “A” comprises of two subcomponents (“A1” and “A2”). Subcomponent “A1” relates to the civil works planned for the rehabilitation of selected roads and the drainage works of District 4 Area, Subcomponent “A2” involves studies to improve public transport services.
4. **Component B - Transport improvement measures:** This sub component will focus on a wide range of transport improvement measures in support of Component A. These include: (1) improving KM’s in house maintenance capacity through training and investment (2) implementing road safety and traffic management engineering measures e.g. junction channelization, signalization, engineering measures for pedestrian safety; (3) conducting studies for Bus Rapid Transit services, including a feasibility study for two potential BRT lines and a business plan for the BRT system; and (4) other designs and studies, including potential BRT detailed designs, natural disaster assessment of city transport infrastructures, other road rehabilitation and construction designs.
5. **Component C - Capacity building and Project Management Support:** This component will enhance KM’s human resources and institutional capacity for infrastructure project management and develop sustainable urban transport system through: (a) provision of external consultants to enhance the PMU operation; (b) support to KM staff through “on-the-job” training, thematic long term training and short term training); (c) carry out seminars, workshops and study tours; (d) provision of incremental cost support for project management.

II. Potential Adverse Social and Environmental Impacts

6. KUTEI project is not expected to have significant environmental and social impacts and has been categorized as Environmental Category B in accordance with World Bank operational policy (OP) 4.01 (Environmental Assessment). OP/PB 4.01 is triggered because no significant adverse or irreversible impacts are envisaged, and impacts are manageable within the existing institution and technical framework. -. The proposed physical works under sub-component A1 are limited mostly to rehabilitation of the existing alignments. Overall long term social and environmental impacts will be positive, while negative impacts will be of minor scope and duration, and typical for any small to medium size road rehabilitation activity. Project activities as envisaged under subcomponent A2 are unlikely to exert any significant negative impact on the social and physical environment too. On the contrary, the principle aims of the proposed activities under subcomponent A2 (mini waste water treatment system and pumping station, etc.) are to enhance the drainage system.
7. The specific physical works, particularly details of the drainage canal along corridor-4 and detailed design for lot-5 (W14 in Karta-e Now road), is not known at appraisal, therefore a framework approach is being applied to address environmental and social impacts including specifying the requirements of preparation of EIA/SIA and of site specific ESMPs. E.g. an EIA/SIA will be carried out for subcomponent “A2” and lot-5, a road section that may involve land acquisition and resettlement. If required ESIAAs will be conducted, once the locations and general design of the sub-projects are known.
8. In view of the possibility of land acquisition issues, the ESMF also comprises a Resettlement Policy Framework (FPF) compliant to OP 4.12 and relevant national laws. The RPF sets out the general principles and policies and compensation matrix to be followed in connection with any land acquisition and resultant resettlement which may occur during the implementation of KUTEI.

III. Purpose of the Environmental and Social Management Framework

9. The ESMF provides an overview of the expected environmental and social issues, which may arise during the project implementation. It also offers comprehensive guidance on the site-specific environmental and social management planning to be carried out by the client for the civil works in each of the subprojects. The Environmental and Social Management Framework (ESMF) has been developed specifically for the proposed operations to avoid, reduce or mitigate adverse social or environmental impacts. Consistent with existing national legislation and the World Bank Operational Policies on environmental and social safeguards, the objective of the Framework is to help ensure that activities under the project would.
 - Protect human health;
 - Prevent or compensate any loss of livelihood;

- Prevent environmental degradation as a result of either individual subprojects or their cumulative effects;
- Minimize impacts on cultural property;
- Enhance positive environmental and social outcomes; and,
- Ensure compliance with World Bank safeguard policies.

IV. ESMF General Guideline

10. **Sub-project Screening:** The selection, design, contracting, monitoring and evaluation of sub-projects will be consistent with the following guidelines:

- Annex 1: A negative list of characteristics that would make a proposed subproject ineligible to support
- Annex 2: Protection of Cultural Property
- Annex 3: Codes of practice for prevention and mitigation of environmental impacts
- Annex 4: Draft Terms of Reference for Sub-Project Requiring an EIA/SIA
- Annex 5: Procedure for Mine Risk Management in World Bank Funded Projects
- Annex 6: Compilation of environmental mitigation measures for projects under KUTEI
- Annex 7: Complaint Registration Forum
- Annex 8: Resettlement Policy Framework (RPF)

V. Guiding principles, Policy, Legal and Administrative Framework

V.1 Environmental Impact Assessment regulations promulgated by National Environmental Protection Agency (NEPA)

11. As per the EIA regulation of NEPA, transport projects are categorized as “A” and “B” activities depending on following features of the transport project:(i) Activity A: National or provincial highways or major roads with a total cost of US\$800,000, or more with the exception of maintenance, rebuilding or reconstruction of existing roads; (ii) Activity B: The construction or upgrading of national or provincial highways and roads (except maintenance, rebuilding or reconstruction of existing roads with a total cost of less than US\$800,000. In addition, NEPA regulations on EIA cover (iii) Activity creating adverse impact on Environmentally Sensitive Areas which relates to activities likely to have significant adverse impact on the environment of the area that has been determined by NEPA to be an environmentally sensitive area; (iv) Prohibited Activity: any other activity that is likely to have a significant adverse effect on the environment and which is determined by NEPA to be a prohibited activity. For the above mentioned category of projects, project component will have to take “certificate of compliance” from NEPA after making application and fulfilling the statutory requirements of NEPA.

V.2 Environmental Law

12. The primary national environmental legislation in Afghanistan is the Environmental that was promulgated by presidential decree on 18 December 2005. It was published in issue no 873 of the Official Gazette of 19 January 2008. The Law repeals the Law for the Protection of Nature

V.2.1 Key Articles

Article 15

It prohibits any activity having potential adverse impacts without obtaining a Certificate of Compliance (CoC) from NEPA. The procedure for obtaining a CoC is;

- Submit a preliminary screening report to NEPA Deputy Executive
- If required, prepare a comprehensive mitigation plan (EMP) for anticipated impacts
- NEPA issues CoC in accordance with Article 18 of the Law

Article 29

Prohibits discharging of any pollution (operation of stone crusher, hot mix plant and quarry, are some of the KUTEI's activities). Article 30 has a mandatory requirement to obtain a pollution control permit for such activity.

Article 33

Prohibits collection, storage, transportation, disposal of waste having potential significant adverse impacts

Article 34

Mandatory requirement to obtain waste management license for landfill

V.2 Applicability to the KUTEI

13. It is important to note that most of the sub-projects constituting the KUTEI are rehabilitation of selected road network on the four priority road corridors and do not belong to construction/upgrading of national, provincial or major road category and hence NEPA's requirement of "certificate of compliance" is not required. Therefore, all sub-projects are exempted from the requirement of "Certificate of Compliance" from NEPA. While the road upgrading does not require NEPA clearance, the mini water treatment system will require an ESIA to be approved by NEPA.

V.3 Land acquisition and resettlement

14. The initial screening of the sub-projects financed through retroactive financing confirmed that there would be no land acquisition or resettlement, as most physical activities are envisaged to be carried out on existing right of way. However, since the details (scope, scale, etc.) of the two projects under sub-component A2 and the Karta- e Now road widening are not known, OP 4.12 Involuntary Resettlement is triggered as a precautionary measure and the RPF is prepared by Kabul Municipality. The RPF sets out the general principles and policies to be followed in connection with any land acquisition and resultant resettlement which will occur during the

implementation of KUTEI. Draft final RPF was disclosed in country on 09/10/2013, and consulted upon with the project stakeholders on 09/17/2013.

15. After ESIA and finalizing the detailed designs of specific road sections, in case resettlement/land acquisition is unavoidable, a Resettlement Action Plan (RAP) will be prepared by KM (through consultants) according to the RPF (see Annex 9), and submitted to the Bank for approval. The Government will be responsible for implementing the RAPs prior to commencement of civil works. The Government will be responsible for full implementation of the RAPs prior to commencement of civil works – i.e. PAPs should be in full receipt of compensation and all resettlement activities be completed.
16. The RPF in Annex 9 includes a presentation of applicable national law and a gap analysis of relevant National Laws on Land Acquisition and the World Bank Policies OP4.12 Involuntary Resettlement.

V.4 WBG Environmental, Health and Safety Guidelines (EHSB)

17. The EHSB also apply to KUTEI, since their use is required by OP 4.01. The EHSB has guidance on the pollution prevention and abatement measures and workplace and community health and safety guidelines that are normally acceptable in Bank-supported projects, particularly in cases where the borrowing country does not have standards, or when its standards fall significantly short of international or industry-wide norms. The EHSB are in two parts: general guidelines on health and safety and pollution prevention and abatement, including general standards for air and water quality, and a set of sector-specific guidelines for various types of development projects. The general guidelines are fully applicable to KUTEI and should be reflected in the health and safety aspects of the training, in the Project Implementation Manual, and in the Safety Manual.

V.5 World Bank Safeguard Policies triggered

The relevant safeguards for this project are Environmental Assessment (OP4.01), and Involuntary Resettlement (OP/BP4.12). OP4.11 on Physical Cultural Property is not triggered. It has the overall objective of ensuring that projects supported by the Bank are environmentally and socially sustainable. The screening procedure described in OP 4.01 has classified KUTEI as Category B, because its anticipated impacts tend to be site-specific, not irreversible, and generally amenable to management through easily-designed mitigation measures. No Physical Cultural Resources are expected to be impacted by the Project. However, the ESMF comprises guidelines for Chance Find Procedures according to national law (see annex 2-Protection of Cultural Property). GoA adopts a programmatic approach with the following characteristics as individual subproject investments are not all known in advance. Therefore, the exact location and nature are not known prior to implementation; the environmental assessment requirement for the overall project is being met through preparation of this ESMF.

Safeguard Policies Triggered by the Project	Yes	No	TBD
Piloting the Use of Borrower Systems to Address Environmental and Social Issues in the Bank-Supported Projects (OP/BP 4.00)		✓	
Environmental Assessment (OP/BP 4.01)	✓		
Natural Habitats (OP/BP 4.04)		✓	
Pest Management (OP 4.09)		✓	
Physical Cultural Resources (OP/BP 4.11)	✓		
Involuntary Resettlement (OP/BP 4.12)	✓		
Indigenous Peoples (OP/BP 4.10)		✓	
Forests (OP/BP 4.36)		✓	
Safety of Dams (OP/BP 4.37)		✓	
Projects in Disputed Areas (OP/BP 7.60)			
Projects on International Waterways (OP/BP 7.50)			

Table1: World Bank Safeguard Policies Applicable on KUTEI

S. No	World Bank Policy	Applicable due to	Addressed by ESMF
1.	Environmental Assessment OP 4.01	<ul style="list-style-type: none"> The urban transport may have some minor environmental and social impact during the project implementation period, such as, noise, dust, clogging/diversion of existing drains, traffic congestion and human health and safety issues. 	<ul style="list-style-type: none"> Implementation of Environmental Mitigation Measures/EIA, Environmental and Social management Plan (ESMP) and Traffic Management Plan Broader consultation with relevant communities/stakeholders in order to address their views and problems prior to implementation period
2	Involuntary Resettlement OP 4.12	<ul style="list-style-type: none"> The initial screening of the sub-projects financed through retroactive financing confirmed to have no land acquisition. Given that the overall details of sub-projects are not known at appraisal stage and keeping in view the nature of project which may require minor land and thus negatively impact the land, asset, business and livelihood of the PAPs. 	<ul style="list-style-type: none"> Undertake consultations with PAPs and reach voluntary agreement on community compensation. Voluntary donation only permissible in case of minor impact (less than 10 percent of an individual's holdings). Land donation cannot be accepted if there is loss of livelihood that is not mitigated.
3	Physical Cultural Resources OP 4.11	<ul style="list-style-type: none"> Although the project will follow the existing right of way and no physical cultural resources are expected be found in the selected project sites. 	<ul style="list-style-type: none"> The ESMF has place a chance finding procedure to address any case of cultural resources.

Table 2: Comparison between National EIA Regulation and OP/BP4.01

National EIA Regulation	WB Operating Procedure 4.01 (OP/BP 4.01)
1. Afghan EIA system is lacking focus on Social related issues.	OP/BP 4.01 Focuses both Social and Environmental Issue
2. Afghan EIA is deficient in involvements of stakeholders in project stages	WB Safeguards emphasizes on stakeholders involvements in different project stages
3. The Scoping stage is missing in Afghan EIA system, while during the	Scoping stage is important for delineating required items

Scoping the ToR of EIA team is modified accordingly	and level of impact of an intervention
4. Afghan EIA system is lacking of broader assessment guidelines of different activities	WB Safeguards have plenty of impact assessment guidelines of various project activities
5. There is no proper format and reporting mechanism for EIA, thus the EIA may miss important feature to be assessed during study.	WB Safeguards Policy emphasizes on proper reporting mechanism.

V.6 The Environmental and Social Screening Process

18. A screening process, selection and evaluation of KUTEI sub-projects are required to manage environmental and social aspects of these activities. The sections below show the various stages of this environmental and social screening process:
- (i) Screening: identify actions that have negative environmental and social impacts;
 - (ii) Determination of environmental categories: identify appropriate mitigation measures for activities with adverse impacts;
 - (iii) Implementation of environmental work: activities that require separate EIA/SIA or ESMP;
 - (iv) Review and approval of the selection.
 - (v) Dissemination of EIA/SIA or ESMP.
 - (vi) Supervision and monitoring
19. These steps are explained in the following paragraphs and incorporate those responsible for implementing each step. The stakeholders identified and their roles are developed in detail in the chapter "Strengthening institutional capacity".
20. The screening process determine which project and sub-project activities are likely to have negative environmental and social impacts; to determine appropriate mitigation measures for activities with adverse impacts; to incorporate mitigation measures into the project as appropriate and to monitor environmental parameters during the implementation of activities.
21. The extent of environmental assessment that might be required prior to the commencement of the projects will depend on the outcome of the screening process as per the NEPA guideline. The stages of the environmental and social screening process leading to the review and approval of the KUTEI sub-project activities to be implemented are described below.

V.6.1 The Screening Process

22. At this stage the screening is required only for the existing road stretch under rehabilitation while screening for component A2 will be conducted during EIA/SIA studies, since the size, scope and exact locations of the proposed sub-project is yet to be determined. The purpose of the screening process is to determine whether sub-projects are likely to have potential negative environmental and social impacts; to determine appropriate mitigation measures for activities with adverse impacts; to incorporate mitigation measures into the sub-projects design; to review and approve sub-projects proposals and to monitor environmental parameters during implementation. The extent of environmental and social work that might be required for the sub-projects prior to implementation will depend on the outcome of the screening process. This process should include screening for possible resettlement impacts.

Table 3: Structures Involved in KUTEI Environment and Social Management

Intervention level	Environmental structures	Other environmental stakeholder
Kabul Municipality	Planning and Coordination Department, NEPA	NGO, Communities
Contractors	KUTIE/ KM	Communities, vendors, NEPA

Step 1 Screening of Sub-projects

23. The screening process is the first step in the ESMF process. One of the objectives of the screening process is to rapidly identify those sub-projects which have little or no environmental or social issues so that they can move to implementation in accordance with pre-approved standards or codes of practices or other pre-approved guidelines for environmental and social management.
24. For each relevant sub-project proposal the KUTEI, led by the Environmental & Social Safeguard Officer will carry out a screening process. The ESSO will complete the Environmental and Social Screening Form (Annex 6) and submit to the PMU for review as part of the project package. Completion of this screening form will facilitate the identification of potential environmental and social impacts, determination of their significance, assignment of the appropriate environmental category, proposal of appropriate environmental mitigation measures, or recommend the execution of an Environmental and Social Impact Assessment (EIA/SIA) or an Environmental and Social Management Plan (ESMP), if necessary.

Step 2: Determination of appropriate environmental categories

25. Based on screening results, the appropriate environmental category for the KUTEI proposed activity will initially be determined by the ESSO in the screening form. After determining the correct environmental category based on the NEPA guidelines, the extent of environmental work required could be: (a) an environmental work will not be necessary and therefore a ESIA or ESMP would not be prepared, (b) An Environmental and Social Management Plan will suffice, or (c) A separate Environmental and Social Impact Assessment (EIA/SIA) will be prepared.

Step 3: Implementation of environmental and social work

26. Depending on the results of the determination of step 2, the following environmental work will be performed:
- **Sub-projects for which an ESMP is required**
An ESMP will include the potential environmental and social impacts; appropriate mitigations measures; appropriate monitoring indicator; frequency of monitoring the mitigation measures; person responsible for the task and cost implications. This determination will be made in consultation with the community and persons likely to be impacted by the sub-project's activities.

➤ **Sub-projects for which separate Environmental and Social Impact Assessment (ESIA) is required**

Environmental Permits are needed for sub-projects for which ESIA may be required as per the NEPA guidelines. The planning and preparation of environmental assessment tool required for sub-projects permitting are described in the table below.

27. The EIA/SIA will identify and evaluate potential environmental and social impacts for the proposed activities, evaluate alternatives, and design mitigation measures. The preparation of the ESIA will be done in consultation with stakeholders, including people who may be affected. Public consultations are critical in preparing a proposal for the activities of the KUTEI likely to have impacts on the environment and communities. The public consultations should identify key issues and determine how the concerns of all parties will be addressed in the ESIA. When an ESIA is necessary, the administrative process enacted by the EPA will be followed and executed.

Table 4: Procedures for ESIA

Procedures for sub-projects requiring an ESIA

First step: Preparation of Terms of Reference

The results of identification, and extent of the ESIA (scoping), the terms of reference will be prepared by the KUTEI.

Second step: Tasking of Planning Officer to prepare ESIA

Third stage: Preparation of the ESIA with public consultation

The report will follow the following format:

- Description of the study area
- Description of the subproject
- Discussion and evaluation of alternatives
- Environment description
- Legal and regulatory
- Identifying potential impacts of proposed sub-projects
- Process of public consultations
- Development of mitigation measures and a monitoring plan, including estimates of costs and responsibility for implementation of surveillance and monitoring

Step Four: Review and approval of the ESIA for the sub-project; Publication / Dissemination of ESIA

Step 4: Review and approval of ESIA

28. The KM submits the final draft EIA/SIA to NEPA. The report is reviewed by the ESSO at KUTEI and by the NEPA. Copies of the EIA/SIA are placed at vantage points including the NEPA Library, relevant stakeholders, NEPA Regional Offices. NEPA serves a three weeks public notice in the national and local newspapers about the ESIA publication and its availability for public comments.

Step 5: Environmental Monitoring

29. Environmental monitoring of KUTEI activities will be conducted under the project general system of monitoring.

It will be done at two levels:

- Performance monitoring at central level:

At central level, the KUTEI will involve KM.

- Implementation of monitoring at field level:

30. At the field level, monitoring will be conducted by the KUTEI. In circumstances where the sub-project triggers an EIA/SIA, RAP, or ARAP the monitoring will be escalated to the Environmental and Social Safeguards Officer (ESSO) at KUTEI.

Step 6: Development of Monitoring Indicators

31. Monitoring measures will focus on key indicators to be defined considering both the positive and negative impacts of the projects. The monitoring indicators will be parameters which will provide quantitative and / or qualitative information on the direct and indirect impacts of the KUTEI environmental and social benefits. The choice of indicators will be guided by the characteristics of relevance, reliability, usefulness and measurability.

Step 8: Reporting

32. Safeguards reporting will be bi-annually from KUTEI for onward submission to World Bank for review.

Table 5: Responsibility for the Implementation of Screening Process

Stage	Management Responsibility	Implementation Responsibility
1. Screening Environmental and Social Infrastructure Project and public consultation	KUTEI-PMU	ESS Officer KUTEI
2. Determination of appropriate environmental categories	KUTEE	ESS Officer
2.1 Classification of Project by NEPA regulation Review of screening and determination of Environmental assessment tool to be prepared	KUTEI-PMU	ESS Officer KUTEI
3. Preparation of required environmental assessment tool as per the NEPA environmental assessment procedures	KUTEI-PMU	KUTEI, KM
3-1. If ESIA is necessary		
3.1.a Preparation of ToR	KUTEI-PMU	ESS Officer, KM
3.1 b Preparation of the EIA/SIA, Public Consultation Integration of environmental and social management plan issues in the tendering and project implementation,	KUTEI-PMU	KUTEI, KM, ESS Officer
4 Review and Approval		
4.1 ESIA Approval (B1) EPA NEPA, ESO, World Bank	NEPA	NEPA, ESS Officer, World Bank
4.2 Approval simple measures where ESIA is not required	KUTEI-PMU	KUTEI, ESS Officer
5. Public Consultation and disclosure	KUTEI, NEPA	KUTEI, ESS Officer
6. Surveillance and monitoring	KUTEI, NEPA	KUTEI, ESS Officer
7 Development of monitoring indicators for ESIA as may be stipulated under the environmental permitting conditions.	KUTEI-PMU	KUTEI, ESS Officer

V.7 Mine Risk Management.

33. Subprojects will not be implemented without appropriate mine-risk management. Current practice (evolved during field implementation) for managing mine risk have been robust. A GoA procedure for mine risk management is part of the project safeguard framework (Annex 7). All risk assessment and clearance tasks shall be implemented in coordination with the Mine Action Center for Afghanistan (MACA).

VI. Stakeholder Identification, Consultation and Participation

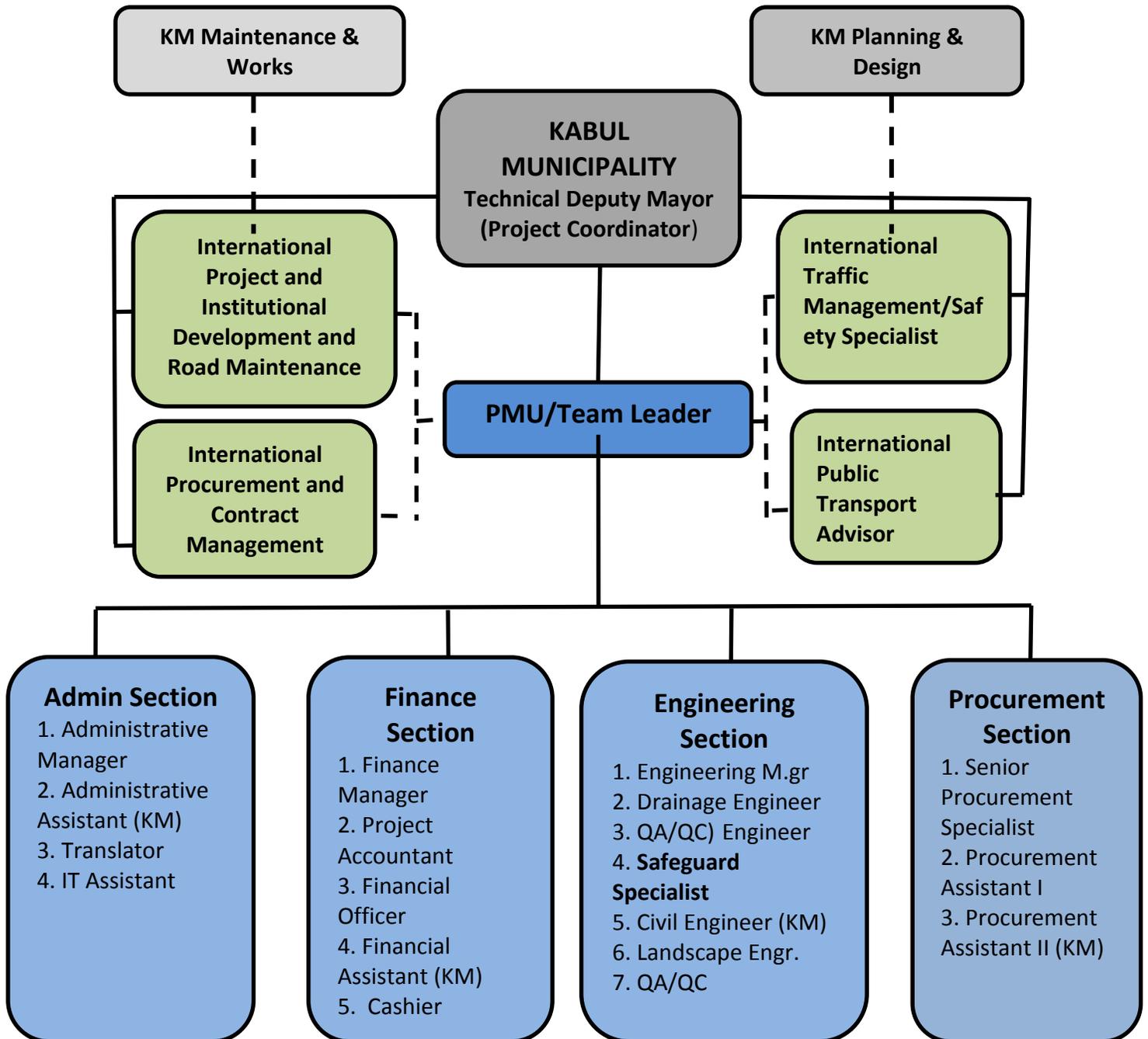
34. The key project stakeholders are the Kabul Municipality, PMU/KUTEI, and KM's district offices, Traffic Police Department of MoI, MoT, NEPA, ARAZI and PAPs who may suffer some types of losses. Local communities, road users, and businesses are direct beneficiaries of the Project. A wider range of population of Kabul will benefit in a longer term from the expected increased access to economic and social opportunities, and job creation resulting from better connectivity through the rehabilitated lifeline roads.
35. The final draft ESMF and RPF were disclosed in-country on 09/10/2013 and consulted upon with the project stakeholders on 09/17/2013. The final version of the ESMF satisfactory to the World Bank with the minutes of public consultation will be re-disclosed in-country and through the InfoShop. Site-specific ESMP for the civil work supported under retroactive financing was developed and shared with the Bank over the month of February, 2013. They were approved by the World Bank and disclosed in country in 08/05/2013. Consultation on the site-specific ESMPs with the local stakeholders will be conducted prior to commencement of works in each individual road section.
36. The same procedures will be applied to all sub-projects to be covered in the subsequent stages of the project implementation prior to commencement of works in each of these sections. Site-specific RAPs, where required, will be prepared, disclosed, discussed with stakeholder and the affected communities, finalized, cleared by the World Bank and fully implemented by the Kabul Municipality prior to commencement of works in the specific road sections.

VII. Institutional Arrangement

37. The KM's PMU has hired a Safeguard focal point with a clear ToR, who will be responsible for day to day monitoring, reporting and conduct of safeguards training and capacity building to both PMU and relevant contractor's staff. The KUTEI's PMU will also hire a consultant firm to conduct an Environmental Impact Assessment and Social Impact Assessment (EIA/SIA) as part of the feasibility study for the two projects under subcomponent "A2".
38. The consultant firm will also conduct an EIA/SIA for a road widening project in Karta-e Naw during the preparatory stage to identify likely environmental and social impacts. Generic ToR for ESIA is included in Annex 4.
39. The KM (through a consultant firm) will also prepare a RAP, in case of subprojects where land acquisition is unavoidable. Kabul Municipality will be responsible for implementation of RAP.
40. The Consultant firm will also conduct training sessions to KM, PMU and Contractors Staff. The contents and levels of the training will be decided jointly with the Consultant.

41. During supervision of the project, the World Bank will assess the implementation of the Framework, and if required, will recommend additional strengthening.

Figure 1: Organizational Structure of KUTEI Project

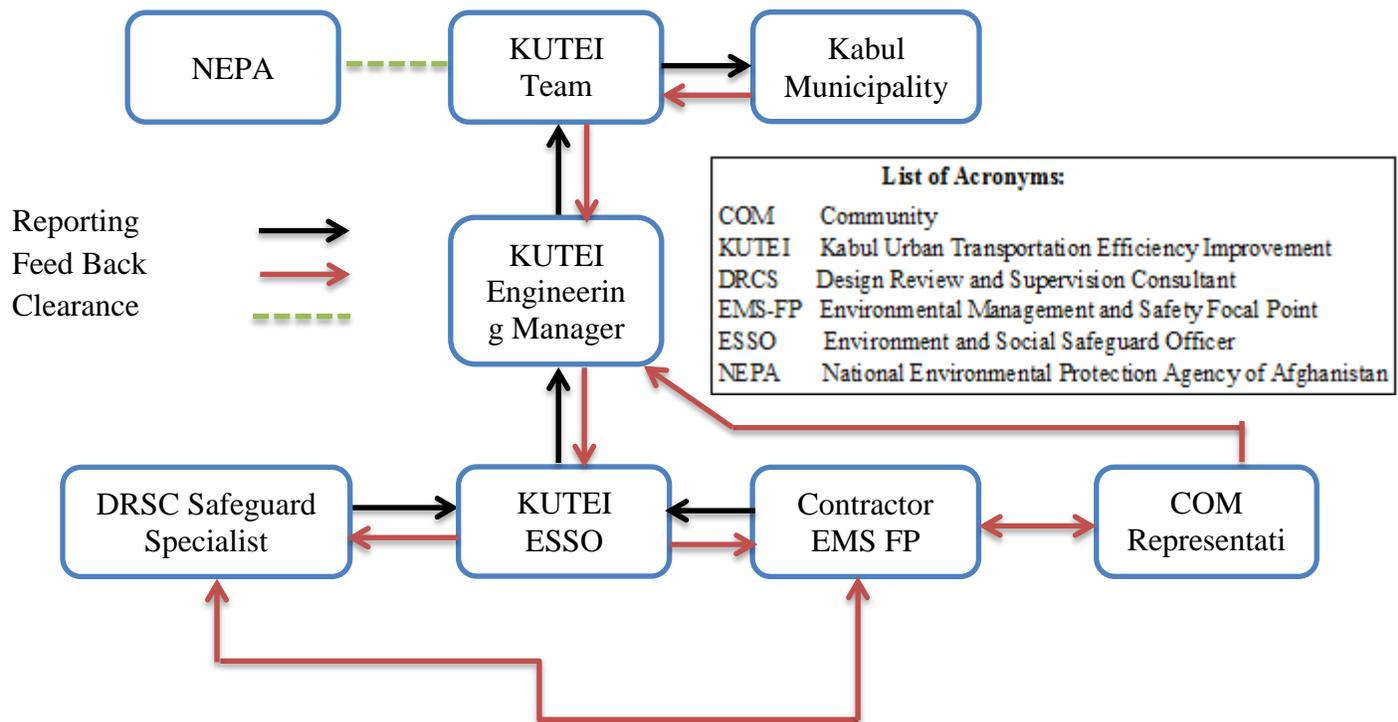


VII.1 Safeguards Responsibilities

42. The KM will be responsible for the overall safeguards related concerns of KUTEI project, while PMU has been delegated for the effective compliance with the ESMF. Moreover the oversight responsibility on field level rests with the Team leader of KUTEI's PMU. Responsibilities of Environmental and Social Safeguards Officer (ESSO) based in KUTEI office in Kabul will include:

- Ensuring that communities and local government departments have up-to-date information on project activities.
- Facilitating environmental and social impact assessments including developing relevant TOR for consultants etc.
- Coordinating environmental and social commitments and initiatives with relevant government agencies including the Afghanistan Land Authority and NEPA.
- Supervising and monitoring ESMP implementation and producing periodic reports.
- Training local staff/engineers of contractor as well as engineers of KM on environmental and social safeguards issues and implementation of ESMPs.
- Facilitating land acquisition and resettlement processes as required.
- The ESSO will also be responsible for the translation into local language, dissemination the ESMF/ESIAs/ESMPs in country in KM web-site.

Figure 2: Reporting Structure of KUTEI /PMU and relevant stake holders



VIII. Complaints Handling Mechanism

VIII.1 Introduction:

43. Complaint Handling Mechanism (CHM) provides a formal avenue for affected groups or stakeholders to engage with the project implementing agency on issues of concern or unaddressed impacts of the interventions. Grievances are any complaints or an issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. They may take the form of specific complaints for damages/injury, concerns about routine project activities, or perceived incidents or impacts. Identifying and responding to grievances supports the development of positive relationships between projects and affected groups/communities, and other stakeholders.
44. The KM under the KURIP project had a grievance handling system in place, but its scope and reach was limited. It consists mainly of complaint handling committee at project level, comprised of project engineer from the consultant firm and the contractor staff. There were no active complaint recording mechanism and proper book keeping in place to enable complaint tracking and review.
45. KUTEI has reviewed the KUTRIP's CHM and come up with the steps on how to complain, how complaints are received, considered and adjudicated at all times during the implementation of the project:

VIII.2 Steps and Mechanism

Table 6: Steps and Mechanism of CHM

Step in CHM	Details and Mechanism
Step 1: Publicize the Mechanisms	CHM is disclosed in project website: www. km.gov.af . It should also be publicized in Project sign board during the construction.
Step 2: Receive and Register	Complaints Receive a) General public can file complaints through i. Postal address at the Kabul Municipality (KM), ii. E-mail: kuteicomplaints@gmail.com iii. (iii)Letter written directly to Project Manager of KUTEI. iv. Telephone: +93; v. In addition, complaints can be lodged in a complaint box prominently kept in each project site b) In addition, verbal complaints or anonymous complaints received shall also be considered for due verification of their seriousness and validity.

	<p>Complaints Register</p> <p>a) Complaints received shall be recorded in a separate register (book or Computer file) with unique reference number, date and time received and mode of receipt. The register should also contain the details of the person or organization against whom the complaint is being made.</p> <p>b) Complaints (verbal and anonymous) shall also be taken into account and registered for further action if the committee perceives that they are falling under potential degree of seriousness.</p>
Step 3: Review and Investigation	<p>Complaints Handling Committee</p> <p>The Complaints Handling Committee will comprise of the following entities:</p> <ol style="list-style-type: none"> 1. Project Manager-KUTEI 2. Environmental and Social Safeguards Officer- KUTEI 3. Head of relevant district Manager- KM 4. Senior Project Engineer –KUTEI 5. Contractor (relevant contractor staff) 6. Community (representative of business community or CDC, Wakil Gozar) <p>Process</p> <p>a) All complaints received by any of the methods detailed in Step 2 shall be entered immediately into the Complaints Register. The KUTEI’s Safeguard officer will be responsible to enter community complaints in central database.</p> <p>b) Once in 15 days the committee members shall meet to review the complaints received and propose an action plan.</p> <p>c) In cases where investigations are complex and unavoidably take longer, the complainant should be notified of progress at 14-day intervals.</p>
Step 4: Right to Appeal Adjudication	<p>a) Complainants have a right of appeal to higher/involved authorities or court, if they are dissatisfied with the committee’s decision.</p> <p>b) When final decision is reached, the outcome will be publicly disclosed website: www.km.gov.af. The disclosure of final decision/response on the complaints should be at the project area to notify the complainant.</p>
Step 5: Monitoring and Evaluation	<p>a) The complaints book (or computer file) and all notes, and complaint registration form (<u>please see annex -8</u>) and its investigation shall be maintained for review for minimum of one year after the completion of the project.</p> <p>b) Tracking and assessing the progress to resolve complaints.</p> <p>c) Analyze the complaint data for continual improvement in complaints handling system.</p>

46. In case of land acquisition and resettlement, a specific project level Grievance Redress Committee (GRM) will be formed comprising of members from relevant stakeholders and Project Affected Person (PAPs) to address community concerns related to land acquisition issues. There will be comprehensive grievance redress mechanism made part of the Resettlement Action Plan (RAP) in case of subproject involve land acquisition and resettlement (see RPF for further guidance, Annex9). The Consultant Firm will assist KUTEI's PMU to fine-tune the above Complaint Handling Mechanism.

IX. Monitoring and Reporting Mechanism

47. The KUTEI's Project Management Unit (PMU) has hired a Safeguard Officer, who will responsible for monitoring and reporting the environment and social performance aspects supported by the KUTEI. The Safeguards Officer will undertake regular visits to monitor project activities and will provide technical advice to site engineers on social and environment issues if needed. The Safeguard Officer will collaborate closely with the World Bank Safeguards team and will share quarterly progress report on safeguards issues in the Project.

IX.1 Estimated Budget for ESMF Implementation

48. The KM's PMU staff will receive training over the implementation period of KUTEI. The World Bank will assess the implementation of the Framework, and if required, will recommend additional strengthening. As needed, the project is expected to recruit a consultant to provide on-the-job training on supervision of ESMPs and RAP.

49. The estimated budget for capacity building of relevant staff in Implementation of ESMF and RPF are as follows (The cost of implementing and monitoring the ESMF is included in the overall budget of the KUTEI project). Budget for RAP implementation will be developed and included in individual RAPs.

Table 7: Cost Breakdown for ESMF Implementation

S/No	Tasks	Cost (US\$)	Time Frame
1	Training sessions to staff on ESMF implementation (two session)	US\$ 8800	One session during Appraisal Stage One Session during early implementation. stage
2	Consultation and Social Inclusion (one session)		One Session early implementation
3	Grievance Redress Mechanism (two session)		One session during Appraisal Stage 1 Session during early implementation. stage
4	Social Safeguards (Land/asset acquisition (one session))		One session during early implementation
5	Environmental Safeguards (one session)		One Session during early implementation
6	Training sessions on mitigation of Environmental and Social Impacts, Health and Safety as well as ESMP (three sessions)		One session during early implementation One session during implementation stage
7	Training session for the Contractors and community members on implementation of ESMPs (two session)		One session for safeguards orientation (contractors). One general (contractors and communities) session about ESMPs and ESMF
8	Conduct sub-project ESIA's and RAPs before project implementation	TBD	During Project implementation after the consulting firm is on board
Total Estimated Costs		TBD	

X. Consultation and Disclosure

50. The Government of Afghanistan intends to make all project documentation publicly available to the relevant stakeholders. There was a public consultation meeting with participation of the relevant stakeholders, and community leaders held on September 17, 2013.

51. A site-specific ESMP was also prepared for the civil works for 4 lots of road stretches financed through retroactive financing under KUTEI project. The documents were disclosed with the stakeholders and a series of discussions have been conducted. . The client has also held a series of public consultations with communities, particularly in relation to mitigating the social impacts. The site specific ESMP was approved by the Bank and disclosed on the KM's PMU website on 09/24/2013.

52. Site-specific RAPs, if required, will be prepared, disclosed, discussed with the affected communities, finalized, and implemented by the Government prior to commencement of works in the specific sites. The proposed EIA/SIA studies will be disclosed and discussed with the stakeholders and affected communities and posted on KM website.
53. Prior to appraisal of the KUTEI, the ESMF and RPF are disclosed by KM' PMU in local languages as well as English on the KM's website and in relevant places in the country places as required by law for information and comments. The English version of the ESMF is also disclosed at the World Bank's Infoshop on 12/28/2013.

Annex 1: Negative List of Subproject Attributes

Subprojects with any of the attributes listed below will be ineligible for support under the proposed emergency reconstruction operations.

Table 8: ineligible sub-projects

Attributes of Ineligible Subprojects
<p>Involves the significant conversion or degradation of critical natural habitats. Including, but not limited to, any activity within:</p> <ul style="list-style-type: none">• Ab-i-Estada Waterfowl Sanctuary;• Ajar Valley (Proposed) Wildlife Reserve;• Dashte-Nawar Waterfowl Sanctuary;• Pamir-Buzurg (Proposed) Wildlife Sanctuary;• Bande Amir National Park;• Kole Hashmat Khan (Proposed) Waterfowl Sanctuary.
<p>Will significantly damage non-replicable cultural property, including but not limited to any activities that affect the following sites:</p> <ul style="list-style-type: none">• monuments of Herat (including the Friday Mosque, ceramic tile workshop, Musallah complex, Fifth Minaret, Gawhar Shah mausoleum, mausoleum of Ali Sher Navaii, and the Shah Zadehah mausoleum complex);• monuments of Bamiyan Valley (including Fuladi, Kakrak, Shar-I Ghulghular and Shahr-i Zuhak);• archaeological site of Ai Khanum;• site and monuments of Ghazni;• minaret of Jam;• mosque of Haji Piyada/Nu Gunbad, Balkh province;• stupa and monastery of Guldarra;• site and monuments of Lashkar-i Bazar, Bost;• Archaeological site of Surkh Kotal.
<p>Requires pesticides that fall in WHO classes IA, IB, or II. This is not applicable.</p>

Annex 2-Protection of Cultural Property

Protection of Cultural Property

Physical cultural Property includes monuments, structures, works of art, or sites of "outstanding universal value" from the historical, aesthetic, scientific, ethnological, or anthropological point of view, including unrecorded graveyards and burial sites. Within this broader definition, cultural property is defined as sites and structures having archaeological, paleontological, historical, architectural, or religious significance, and natural sites with cultural values.

The proposed project is unlikely to pose a risk of damaging cultural property, as the sub-projects will largely consist of repair and reconstruction of existing secondary and tertiary rural access infrastructure. Further, the negative list of attributes, which would make a subproject ineligible for support, includes any activity that would significantly damage non-replicable cultural property. Nevertheless, the following procedures for identification, protection from theft, and treatment of chance finds should be followed and included in standard bid documents.

Chance Find Procedures

Chance find procedures are defined in the law on Preservation of Afghanistan's Historical and Cultural Heritages (Official Gazette, No. 828, 1383/2004), specifying the authorities and responsibilities of cultural heritage agencies if sites or materials are discovered in the course of project implementation. This law establishes that all moveable and immovable historical and cultural artifacts are state property, and further:

1. The responsibility for preservation, maintenance and assessment of historical and cultural monuments rests with the Archaeological Committee under the Ministry of Information and Culture, which has representation at provincial level.
2. Whenever chance finds of cultural or historical artifacts (moveable and immovable) are made the Archaeological Committee should be informed. Should the continuation of work endanger the historical and cultural artifacts, the project work should be suspended until a solution is found for the preservation of these artifacts.
3. If a moveable or immovable historical or cultural artifact is found in the countryside of a province, the provincial governor (Wali) or district in-charge (Woluswal) should be informed within two weeks, and they should inform the Archaeological Committee. In case the immovable historical or cultural artifact is found in a city, the provincial branch of the Department of Maintenance of Historical Values of the Ministry of Information and Culture should be informed within two weeks (art. 18). If the find is made within the center, the Archaeological Committee must be informed directly within one week (art. 25).
4. Failure to report a chance find within the stipulated time limit will be punished with a fine or imprisonment for a period of one week or up to one month (art. 72).
5. If someone intentionally damages a historical or cultural artifact, the culprit shall pay compensation in accordance with the value of the artifact plus be imprisoned for a period of one month to ten years depending on the gravity of the crime (art. 71).

In case of a chance find of moveable or immovable historical or cultural artifact, the implementing agency is responsible for securing the artifact from theft, pilferage and damage until the responsibility has been taken over by the relevant authorities as specified above.

These procedures must be referred to as standard provisions in construction contracts, when applicable. During project supervision, the ESM officer/Site Engineer shall monitor that the above regulations relating to the treatment of any chance find encountered are observed.

Relevant findings will be recorded in World Bank Implementation Status Reports (ISRs), and Implementation Completion Reports (ICRs) will assess the overall effectiveness of the project's cultural resources mitigation, management, and capacity building activities, as appropriate.

Annex 3: Codes of Practice for Prevention and Mitigation of Environmental Impacts

Environmental Concern	Mitigating Measures
Preconstruction Stage	
Income reduction of businesses and shopkeepers and street vendors both within the right of way and outside	<ul style="list-style-type: none"> • As soon as the construction schedule is prepared, the contractor will prepare a coordinated Mobility and Access Facilitation Plan (MAFP) to avoid/minimize impacts on business owners/shopkeepers and households • Inform the potential PAPs about MAFP, the schedule of construction activities /road closures • Provide alternative sites for street vendors/micro businesses and others using right of way. • Where alternative arrangements are unable to avoid significant income losses identify these locations and prepare an inventory of potential PAPs and income loss • Prepare a compensation plan with public consultations • Implement compensation plan whenever PAPs are affected significantly
Impedance to surface runoff	<ul style="list-style-type: none"> • Design cost effective side drains (wherever possible use of Reinforced Concrete Pipe Drains)
Construction Stage	
Inadequate awareness of Environmental Requirements	<ul style="list-style-type: none"> • Conducting special briefing and/or on-site training for the contractors and workers on the environmental requirement of the project • Conducting briefing session as and when required
Impacts on Water Quality	<ul style="list-style-type: none"> • Proper construction management including training of operators and other workers to avoid pollution of water bodies caused by the operation of construction machinery and equipment • Storage of lubricants, fuels and other hydrocarbons in self-contained enclosures • Proper disposal of water and wastewater generated by construction activities • Proper disposal of solid waste from construction activities and labor camps • Covering the construction material and spoil stockpiles with a suitable material to reduce material loss and sedimentation. • Avoiding temporary construction facilities and stockpiling of materials close to water bodies and wetland areas • Avoid disposal of wash water and other construction related waste on water bodies and wetland areas • Vehicles and equipment shall be maintained in good operable condition, ensuring no leakage of oil or fuel • Providing sanitation arrangements at work sites and temporary accommodation facilities to avoid release of waste water and sewage to drains or water bodies • Special attention to drainage, proper disposal of oil and other hazardous materials • Rehabilitation of adequate sanitary facilities and purifying constructions including appropriate disposal of wastewater and sewerage

Environmental Concern	Mitigating Measures
Impacts on Air Quality/Dust	<ul style="list-style-type: none"> • All heavy equipment and machinery shall be in full compliance with the national and municipal regulations for emissions • Using efficient plant and machinery, maintaining these in good condition and ensuring these are operated by trained and qualified personnel • Stockpiled sand and aggregate shall be enclosed Stockpiled soil and sand shall be slightly wetted before loading, particularly in dry windy conditions • Parked vehicles on site will have their engines turned off • Vehicles transporting soil, sand and other construction material shall be covered • Spraying of water during delivery and handling of dust generating material • Providing all weather surface in areas where regular movement of vehicles are expected • Procurement of efficient plant & machinery, maintenance of these in good conditions, and operated by trained and qualified personnel • Washing tires and lower body of vehicles exiting from sites
Sludge Management	<ul style="list-style-type: none"> • A sludge disposal management plan will be developed • The dumping sight will be identified in coordination with Kabul Municipality • Facilities will be procured to assure the safe sludge transportation • Sludge monitoring and supervision plan will also be developed.
Increase in level of Noise / Vibration	<ul style="list-style-type: none"> • All powered equipment and machinery shall be fitted with noise abating gear such as mufflers in full compliance with the national and municipal regulations. • As a rule, the operation of heavy equipment shall be conducted in daylight hours. • Construction equipment, which generates excessive noise shall be isolated • Well maintained haulage trucks shall be used with • speed controls • Taking reasonable measures to minimize
Sedimentation of Streams and Water Bodies	<ul style="list-style-type: none"> • Back-fill should be compacted properly in accordance with design standards. • In the short-term, either temporary or permanent drainage works shall protect all areas susceptible to erosion. • Measures shall be taken to prevent ponding of surface water and scouring of slopes. • Newly eroded channels shall be backfilled and restored to natural contours. • Use of silt traps where earthworks are carried out adjacent to water bodies

Environmental Concern	Mitigating Measures
Pollution by Construction Material	<ul style="list-style-type: none"> • Hydrocarbons and hazardous material shall be stored on impervious ground under cover. • The storage area shall be constructed as a spill tray • Safe ventilation for storage of volatile chemicals shall be provided. • Access to areas containing hazardous substances shall be restricted and controlled. • All hot mix plant, crushing plant, workshops, depots and temporary workers accommodation facilities shall be sited in approved locations • Refrigerants and fire extinguishing agents shall be in accordance with the “Montreal Protocol”
Spoil and construction waste disposal	<ul style="list-style-type: none"> • Estimating the amounts and types of spoil and construction waste to be generated by the project. • Investigating whether the waste can be reused in the project or by other interested parties. • Identify potential safe disposal sites close to the project and investigate the environmental conditions of the disposal sites and prepare recommendation of most suitable and safest sites. • Reuse of waste material and use of designated disposal sites • Unsuitable excavated materials should be systematically carried away from the areas prone to erosion. • Used oil and lubricants shall be recovered and reused or removed from the site in full compliance with the national and municipal regulations. • Oil wasted, debris and other waste shall not be burned.
Work camp and temporary yard location and operation	<ul style="list-style-type: none"> • Identify location of work camp/office sites and temporary yards in consultation with KM and communities. • Committee/Business Association; wherever possible, camps shall not be located near settlements or near drinking water supply intakes. • Cutting of trees shall be avoided and removal of vegetation shall be minimized. • Water and sanitary facilities shall be provided for employees. • Solid waste and sewage shall be managed according to the national and municipal regulations. As a rule solid waste must not be dumped, buried or burned at or near the project site, but shall be disposed of at the nearest sanitary landfill or site having and complying with the necessary permits. • The Contractor shall organize and maintain a waste separation, collection and transportation system. • The Contractor shall document that all liquid and solid hazardous and non-hazardous waste are separated, collected and disposed of according to NEPA and KM requirements and regulations. • Water logging and ponding shall be avoided • At conclusion of the project, all debris and waste shall be removed. All temporary structures, including office buildings, shelters and toilets, shall also be removed. • Exposed areas shall be planted with suitable vegetation. • The Engineer shall inspect and report that the camp has been vacated and restored to pre-project conditions.

Environmental Concern	Mitigating Measures
Safety and precaution for the workers	<ul style="list-style-type: none"> • Providing adequate warning signs • Providing workers with skull guard or hard hat and other safety devices. • The Contractor shall instruct his workers in health and safety matters, and require the workers to use the provided safety equipment. • Establish all relevant safety measures as required by law and best engineering practices • Training and briefing of workers on safety precautions, their responsibility for their safety and the safety of others • Ensuring that vehicles and equipment operators are properly licensed and trained • Arranging for provision of first aid facilities, rapid availability of trained paramedical personnel, and emergency transport to nearest hospital with accident and emergency facilities • Allocation of responsibilities to ensure that the safety arrangements are in place • Arranging for regular safety checks of vehicles and material, and allocation of responsibility for checking • Ensuring that material extraction operations are supervised and carried out by trained and experienced staff
Traffic condition	<ul style="list-style-type: none"> • Formulation and implementation of a construction related traffic management plan • Installation of traffic warning signs, and enforcing traffic regulations during transportation of materials and equipment & machinery • Conducting awareness programs on safety and proper traffic behavior in densely populated areas near the construction sites • Assign traffic control personnel • Provide alternative access to pedestrians • Select quarry and borrow sites that are served by roads of adequate capacity for heavy trucks; Where minor roads cannot be avoided include provision for repair and restoration • Repair damages to roads caused by haulage of construction materials, spoil and equipment and machinery • Loading and operating speed of vehicles shall be controlled • If local road are used for transportation, obtain approval from local authorities
Social Impacts	<ul style="list-style-type: none"> • Conflicts with local community should be avoided • Potential for spread of vector borne and communicable diseases from labor camps shall be avoided • Competition with locals for resources will be avoided • Inform the public on timing and duration of any disruption to water, power, telecommunications or other services • Reduce risk of accidental damage by ensuring that vehicles and equipment are operated by trained personnel, and that operations are adequately supervised

Environmental Concern	Mitigating Measures
Operation Stage	
Air quality / Dust	<ul style="list-style-type: none"> • Formulation and strict enforcement of the regulations subsequent to an awareness program • Provision of a vegetated barrier to arrest the spread of air borne particles to residential areas
Noise / Vibration	<ul style="list-style-type: none"> • Formulation and strict enforcement of the regulations subsequent to an awareness program • Providing sound barriers in sensitive areas such as schools, places of worship, hospitals and libraries
Road Safety	<ul style="list-style-type: none"> • Formulating regulations to impose speed limits, road discipline and pedestrian safety • Enforcing regulations with awareness building
Sludge and Nuisance	<ul style="list-style-type: none"> • Formulating a strict guideline for safe and timely disposal of sludge produced • In close coordination with KM the KUTEI team will specify a dumping or burial sight • Ensure the proper facilities and resources available for timely sludge handling • Formulating restrictions on delay of sludge handling to avoid nuisance • Apply proper technique to reduce the nuisance • Development of efficient monitoring and supervision for sludge and other waste/solid waste management.

Annex 4: Draft Terms of Reference for Sub-Project Requiring an EIA/SIA

Based on the screening and scoping results. EIA/SIA terms of reference will be prepared. A Consultant Firm will conduct the EIA/SIA and the report should have the following format:

Introduction and Context

This part will be completed at a time and will include necessary information related to the context and methodology to carry out the study.

Objectives of the Study

This section will indicate (i) the objectives and the project activities; (ii) the activities that may cause environmental and social negative impacts and needing adequate mitigation measures.

Mission/Tasks

The Consultant should realize the following:

- Describe the biophysical characteristics of the environment where the project activities will be realized; and underline the main constraints that need to be taken into account at the field preparation, during the implementation of the project.

- Assess the potential environmental and social impacts related to project activities and recommend adequate mitigation measures, including costs estimates;
- Assess the need of solid and liquid waste management and suggest recommendation for their safe disposal;
- Review political, legal and institutional framework, at national and international level, related to environmental and social, identity constraints and suggest recommendations for reinforcement;
- Identify responsibilities and actors for the implementation of proposed mitigation measures;
- Assess the capacity available to implement the proposed mitigation measures, and suggest recommendation in terms of training and capacity building, and estimate their costs;
- Develop an Environmental and Social Management Plan (ESMP) for the project. The ESMP should underline (i) the potential environmental and social impacts resulting from project activities; (ii) The proposed mitigation measures; (iii) the institutional responsibilities for implementation; (iv) the monitoring indicators; (v) the institutional responsibilities for monitoring and implementation of mitigation measures; (vi) the costs of activities; and (vii) the schedule of implementation.

Public consultations

The EIA/SIA results and the proposed mitigation measures will be discussed with local communities, NGOs, local administration and other organizations mainly involved by the project activities. Recommendations from this public consultation will be included in the final EIA/SIA report.

Plan of the EIA/SIA Report

- Cover page
- Table of Contents
- List of Acronyms
- Executive Summary
- Introduction
- Description of project activities
- Description of Environment in the project area
- Description of policy, legal and Institutional Framework
- Description of the methodology and techniques used in assessment and analysis of the project impacts
- Description of environmental and social impacts for project activities
- Environmental and Social Management Plan (ESMP) for the project including the proposed mitigation measures;
- Institutional responsibilities for monitoring and implementation; Summarized table for ESMP.
- Recommendations
- References
- List of Persons/Institutions met

Qualification of the Consultant

The Consultant firm for design review and suppression will conduct the EIA/SIA studies

Duration of Study

The Duration of study will be determined according to the type of activity

Production of final Report

The Consultant firm will produce the final report one (1) week after receiving comments from PMU/KUTEI and WB. The final report will include comments from these institutions.

Annex 5: Procedures for Mine Risk Management in World Bank-Funded Projects

Background:

The following procedures are designed to respond to the risks caused by the presence of mines in Afghanistan, in the context of:

Community rehabilitation / construction works to be identified and implemented by the communities themselves (for small projects of up to \$100,000 each);

Small and medium-size works to be identified by local authorities and implemented by local contractors (for projects up to \$5m each);

Works to be implemented directly by Government departments/agencies, without use of contractors;

Large works to be implemented by contractors (for projects above \$5m);

General comment applying to all following procedures: All risk assessment and clearance tasks shall be implemented in coordination with the Mine Action Center for Afghanistan (MACA). These procedures may need to be amended in the future depending on evolving circumstances.

Procedure for Community-Managed Works

Applicability: This procedure applies to community rehabilitation / construction works to be identified and implemented by the communities themselves (for small projects of up to \$100,000 each).

Overall approach: The communities should be responsible for making sure that the projects they propose are not in mine-contaminated areas, or have been cleared by MACA (or a mine action organization accredited by MACA).

Rationale: Communities are best placed to know about mined areas in their vicinity, and have a strong incentive to report them accurately as they will carry out the works themselves.

Procedure:

1. Communities are required to submit a reply to a questionnaire regarding the suspected presence of mines in the area where Bank-funded community-managed projects will be implemented. This questionnaire should be formally endorsed by the Mine Action Program for Afghanistan (MAPA). It will be a mandatory ANNEX to the project submission by the communities and should be signed by community representatives and the external project facilitator. External project facilitators will receive training from MACA. Financing agreements with the communities should make clear that communities are solely liable in case of a mine-related accident.
2. If the community certifies that there is no known mine contamination in the area, the ministry responsible for the selection of projects should check with MACA whether any different observation is reported on MACA's data base.

If MACA's information is the same, the project can go ahead for selection. The community takes the full responsibility for the assessment, and external organizations cannot be made liable in case of an accident.

If MACA's information is different, the project should not go ahead for selection as long as MACA's and community's statements have not been reconciled.

3. If the community suspects mine contamination in the area,

If the community has included an assessment / clearance task in the project agreed to be implemented by MACA (or by a mine action organization accredited by MACA), the project can go ahead for selection.

If the community has not included an assessment / clearance task in the project, the project should not go ahead for selection as long as this has not been corrected.

Mine clearance tasks must be implemented by MACA or by a mine action organization accredited by MACA. Communities will be penalized (subsequent funding by World-Bank funded projects shall be reduced or cancelled) if they elect to clear mines on their own.

Procedure for Small and Medium-size Works Contracted Out

Applicability: This procedure applies to small- and medium-size works to be identified by local authorities and implemented by local contractors (for projects up to \$5m each).

Overall approach: MACA (or a mine action organization accredited by MACA) should provide detailed information on the mine-related risks (either based on previously done and updated general survey or on a new general survey) before projects are considered for selection. Only project sites assessed to have a nil-to-low risk would be eligible for selection, unless they have been de-mined by MACA or by a mine action organization accredited by MACA.

Rationale: Neither local authorities nor local contractors have the capacity to assess the mine-related risks in a systematic way, while they may have incentives to underestimate them.

Procedure:

- Prior to putting up a project for selection, a general survey should be carried out by MACA (or a mine action organization accredited by MACA) to assess mine-related risks in the area of the project (this should include checking information available in the MACA data base).
- If MACA provides information suggesting a nil-to-low risk in the proposed project area, the project can go ahead for selection.
- The contract between the responsible ministry and the contractor will include a clause stating that in case of an accident, legal liability would be fully and solely borne by the contractor.
- If MACA assesses a potentially high risk in the area (whether due to the presence of mines or uncertainty),
- If the project includes an assessment / clearance task agreed to be implemented by MACA (or by a mine action organization accredited by MACA), it can go ahead for selection based on agreed funding modalities (clearance may be funded either under a contract with a Bank-funded project or under existing donor agreements with the mine action organization);

- If the project does not include an assessment / clearance task, it should not go ahead for selection as long as this has not been corrected.

Procedure for Works to be implemented directly by Government Departments/Agencies, without use of contractors

Applicability: This procedure applies to works to be implemented directly by Government departments/agencies, without use of contractors.

Overall approach: MACA (or a mine action organization accredited by MACA) should provide detailed information on the mine-related risks (either based on previously done and updated general survey or on a new general survey) before works or installation of goods/materials are carried out in any given area. Work would only be allowed to proceed in areas assessed to have a nil-to-low risk, unless they have been de-mined by a mine action organization accredited by MACA.

Rationale: Government departments and agencies responsible for providing services currently do not have the capacity to assess the mine-related risks in a systematic way, and currently follow a process of consulting with MACA prior to carrying out activities.

Procedure:

- Prior to carrying out work, the Government department/agency will consult with MACA to assess mine-related risks in the area (this should include checking information available in the MACA data base). If not already done, a general survey should be carried out by MACA (or by a mine action organization accredited by MACA) to assess mine-related risks in the area.
- If MACA provides detailed information on mine-related risks which suggest a nil-to-low risk in the proposed area, the work can proceed. The Government would be solely liable in case of a mine-related accident.
- If information provided by MACA cannot support the assessment of a nil-to-low risk in the proposed area (whether due to the presence of mines or uncertainty), works should not go ahead before MACA (or a mine action organization accredited by MACA) carries out the necessary further assessment and/or clearance for risks to be downgraded to nil-to-low, based on agreed funding modalities (clearance may be funded either under a contract with a Bank-funded project or under existing donor agreements with the mine action organization).

Procedure for Large Works Using Contractors

Applicability: This procedure applies to large works to be implemented by large contractors (projects above \$5m).

Overall approach: The main contractor should be responsible for dealing with mine-related risks, in coordination with the UN Mine Action Center.

Procedure:

- As part of the preparation of the bidding documents, a general survey should be carried out by MACA (or a mine action organization accredited by MACA) on all the areas where contractors may have to work (broadly defined). This survey should provide detailed information on mine-related risks in the various areas allowing for an un-ambiguous identification of areas that have a nil-to-low risk of mine/UXO contamination and areas where the risk is either higher or unknown. The survey should be financed out of the preparation costs of the bidding documents.
- All survey information should be communicated to the bidders (with sufficient legal caveats so that it does not entail any liability), as information for the planning of their activities (e.g., location of campsites, access roads to quarries).
- Depending on the nature and location of the project and on the available risk assessment, two different options can be used.

Option 1 – Mine clearance activities are part of the general contract

- a) Based on the general survey results, a specific budget provision for mine action during construction is set aside as a separate provisional sum in the tender documents for the general contract.
- b) As a separately identified item in their bid, the bidders include a provision for a further detailed mine assessment and clearance during construction.
- c) On the instruction of the Supervision Engineer and drawing on the specific provisional sum for mine action in the contract, the contractor uses one of several nominated sub-contractors (or a mine action organization accredited by MACA) to be rapidly available on call, to carry out assessment prior to initiation of physical works in potentially contaminated areas, and to conduct clearance tasks as he finds may be needed. The Contractor may also hire an international specialist to assist him in preparing and supervising these tasks. The Contractor is free to choose which of the accredited sub-contractors to use, and he is fully responsible for the quality of the works and is solely liable in case of accident after an area has been demined.
- d) To avoid an “over-use” of the budget provision, the Contractor is required to inform the Supervision Engineer in writing (with a clear justification of the works to be carried out) well in advance of mobilizing the mine-clearing team. The Supervision Engineer has the capacity to object to such works.

Option 2 – Mine-clearance activities are carried out under a separate contract

- a) Specific, separately-awarded contracts are issued for further surveying and/or clearing of areas with a not-nil-to-low risk (under the supervision of the Engineer) by specialized contractors (or a mine action organization accredited by MACA). The definition of the areas to be further surveyed / cleared should be limited to those areas where any contractor would have to work, and should not include areas such as camp sites and quarries/material sites which are to be identified by the Contractor during and after bidding of the works. As a result of these further surveys and possibly clearance works, mine-related risk in the entire contract area is downgraded to nil-to-low.
 - b) The contract with the general Contractor specifies the extent of the portion of the construction site of which the Contractor is to be given possession from time to time, clearly indicating restrictions of access to areas where the mine risk is not nil-to-low. It also indicates the target dates at which these areas will be accessible. Following receipt of the notice to commence works from the Engineer, the Contractor can start work in all other areas.
 - c) The general Contractor is invited to include in its bid an amount for mine-security, to cover any additional survey / clearance he may feel necessary to undertake the works.
4. In case of an accident, a Board of Inquiry is assembled by MACA to investigate on the causes of the accident and determine liabilities. Large penalties should be applied on the Contractor if the Board determines that the accident resulted from a breach of safety rules.
 5. All parties involved in this process are required to closely coordinate with MACA and to provide the Government, local communities, MACA, as well as any interested party the full available information on mine-related risks that may reasonably be required (e.g., maps of identified minefields, assessments for specific areas).

Annex 6: Environmental and Social Checklist for Screening of sub-projects under KUTEI

Name of the Lot: _____

Activity	Potential Impacts	Assessment {Put only one tick (√) in each row}		Scheme specific observations if any
		Impact <u>NOT significant (minor)</u>	Significant Impact requires <u>mitigation</u> measures	
Construction of roads, drains, street repairs	Land take (minor impact "as loss of less than 10 percent of an individual's holdings")			
	Loss of access to public services (e.g. water, power, telephone, transport, etc.)			
	Removal of street vendors			
	Removal of vegetation			
	Pollution from ancillary activities like hot-mix plants, crushers, concrete batching plants, etc.			
	Dust generation during construction activities			
	Increased Noise due to construction activities			
	Risks of accidents and spills			
	Potential for spread of water-borne diseases			
Rehabilitation of drainage canal including installation of waste water	land take			
	Loss of access to public services (e.g. transport, water pipe, power, etc.)			

Activity	Potential Impacts	Assessment {Put only one tick (✓) in each row}		Scheme specific observations if any
		Impact <u>NOT significant (minor)</u>	Significant Impact requires <u>mitigation</u> measures	
Installation of mini waste water treatment system	Potential risk of accidents due to widened excavation for manhole or trenches			
	Health hazard caused due to indiscriminate disposal of sludge removed from the pipes, drains and other appurtenances			
Providing curb side collection of solid waste in previously lacking such a service	Clogging of open drains conveying storm water and / or wastewater			
	Indiscriminate disposal of collected waste causing a health hazard			
Installation of street lighting	Accidents during construction stage			
	Hindrance to movement of traffic in operation stage			

Approval of Engineering Section Head of the PMU

Name: _____

Signature: _____

Date: _____

KEY IMPACTS IDENTIFIED

- 1.
- 2.
- 3.

MITIGATION MEASURES TO BE IMPLEMENTED (REFER TO ANNEX 7)

- 1.
- 2.
- 3.

AGENCY RESPONSIBLE FOR IMPLEMENTATION / SUPERVISION (REFER TO ANNEX 7)

- 1.
- 2.
- 3.

TIMING OF IMPLEMENTATION WITH REFERENCE TO STAGE OF CIVIL WORKS CYCLE (DESIGN, CONSTRUCTION OR OPERATION)

- 1.
- 2.
- 3.

Approval of Engineering Section Head of the PMU:

Name: _____

Signature: _____

Date: _____

Approval of the PMU Team Leader:

Name: _____

Signature: _____

Date: _____

Annex 7: Compilation of Environmental Mitigation measures for Projects under KUTEI

Part A: Construction Stage Impacts

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
Rehabilitation of Roads	Land take	<ul style="list-style-type: none"> • Compensation to be paid to affected persons as per ANNEX 2 to the ESMF 	Consultant firm / Municipality	Record of transfer of payment to affected persons	Kabul Municipality / PMU
	Dust generation during construction activities	<ul style="list-style-type: none"> • Provide temporary enclosures to the site using GI sheets and poles • Provide cover on trucks carrying construction material. • Provide protective masks for workers • Sprinkle water within site, especially on windy days 	Contractors	Visual Inspection, Check log books	Supervision Consultant
	Noise due to construction activities	<ul style="list-style-type: none"> • Avoid noise generating activities during particular periods – times of prayers, school hours, etc. • Discontinue all operations during night except if concreting requires work to continue 	Contractor	Visual inspection of works, checking log books	PMU

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
		<p>during the night.</p> <ul style="list-style-type: none"> • Provide ear plugs to construction workers manning noisy equipment. • Consider provision of noise barriers by landscaping, tree plantation. 	Contractor		
	Risks of accidents and spills	<ul style="list-style-type: none"> • Provide adequate signage and fencing around the site. • Train workers to follow safety instructions. • Prepare contingency plans for spillages, and carry out mock drills. • Provide adequate notice of site/road closures to locals. • Provide adequate detours around construction areas. 	Contractor	Visual inspections, checking logbooks	PMU
	Potential of spread of water-borne diseases	<ul style="list-style-type: none"> • The site should be graded after construction is finished to ensure proper drainage of run-off from the site. • Prepare and execute debris disposal plans. 	Contractor	Measurements at the end of construction	PMU

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
Improving service delivery through cleaning up of existing networks of water supply and wastewater conveyance	Potential risk of accidents due to widened excavation for manhole or trenches	<ul style="list-style-type: none"> • Meticulously follow drawings prepared for the project. • Install fencing for the period of construction in case of deep trenches. • Provide training to workers on action to be taken in case they encounter methane in sewers. 	Contractor	Visual inspections, checking log books	PMU
	Health hazard caused due to indiscriminate disposal of sludge removed from the pipes, drains and other appurtenances	<ul style="list-style-type: none"> • Provide adequately sized sanitary landfill site where such waste can be disposed of. • Train the workforce and raise public awareness regarding the potential hazard of indiscriminate disposal of such sludge. • Consider flushing the system one-time to dispose of the solids rather than removing sludge outside the trenches. 	Contractor	Visual inspection, surveys of citizens, etc.	PMU
Street lighting	Risk of accidents during installation – falling	<ul style="list-style-type: none"> • Follow safety guidelines. • Provide for personal protective equipment – gloves, 	Contractor	Visual inspections	PMU

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
	objects, electric shocks, etc. Shutdown of power supply	<ul style="list-style-type: none"> hard hats, etc. Provision of first-aid kit on-site. Carry out construction during off-peak hours. 	Contractor		
Rehabilitation of Wazir Abad Canal	Land acquisitions	<ul style="list-style-type: none"> Minimize through proper design Keep current alignment and route 	Design and supervision consultant	RAP report and complaints from public	PMU
	Potential for ground water contamination	<ul style="list-style-type: none"> Use bottom concrete slab where untreated water is transported 	Design and supervision consultant	Sampling of ground water and testing	PMU
	Accumulation of Wastes	<ul style="list-style-type: none"> Development of solid waste disposal plan 	Design and supervision consultant	Measurement during site visit	PMU
	Dislocation of Utilities	<ul style="list-style-type: none"> Minimize effect with proper designs Take concerted effort with concerned service provider to reduce effect 	Design consultant and concerned service providers	Review of design documents	PMU
	Obstruction for pedestrian access	<ul style="list-style-type: none"> Provide pedestrian crossing wherever required 	Design and supervision consultant	Review of designs	PMU
	Waste material disposal	<ul style="list-style-type: none"> Identify waste material disposal areas and location Ensure adequate 	Design and supervision consultant	Review of contract documents and plans	PMU

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
		requirements in contract documents			
	Foul smell	<ul style="list-style-type: none"> • Design mechanism to remove foul smell 	Design and supervision consultant	Review of designs	PMU
Installation of Mini Water Treatment system and Pump Stations	Land acquisitions	<ul style="list-style-type: none"> • Install the pump stations and treatment plants on land owned by KM • Minimize through design • Install pump station underground at wide roundabouts 	Design and supervision consultant	RAP Report and complaints from affected persons	PMU
	Landscaping and Aesthetics	<ul style="list-style-type: none"> • Provide architectural designs for mini treatment system areas • Beatification of the areas as public parks 	Design and supervision consultant	Review of designs	PMU
	Foul smell	<ul style="list-style-type: none"> • Design mechanism to remove foul smell 	Design and supervision consultant	Review of designs	PMU
	Waste material disposal	<ul style="list-style-type: none"> • Identify waste material disposal areas and location • Ensure adequate requirements in contract documents 	Design and supervision consultant	Review of designs and contract documents	PMU

Part B: Operation Stage Impacts

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
Rehabilitation of Urban Roads	Increased traffic and congestion due to diverted traffic	<ul style="list-style-type: none"> • Maintain alternative routes. • Provide traffic police to regulate and speed up the traffic. 	Works and maintenance Department; Kabul city traffic police	Visual inspections	Kabul Municipality and the Traffic Police
Solid waste disposal including Sludge from Mini Water Treatment system	Clogging of open drains conveying storm/waste water and health hazard caused due to indiscriminate disposal of sludge	<ul style="list-style-type: none"> • Fix up days on which the waste would be collected from the curbside in the locality. • Educate the locals not to bring out household waste on days other than those on which collection has been fixed. • Preparation of sludge management plan Enhanced Supervision of day to day sludge disposal. 	District Administration KM	Check for copies of advertisements on file, Visual monitoring	Kabul Municipality
	Random disposal of collected waste causing a health hazard	<ul style="list-style-type: none"> • Provide adequately sized sanitary landfill site where such waste can be disposed of. • Train the workforce and raise public awareness regarding the potential hazard of indiscriminate disposal of such sludge. 	District Administration	Visual inspection, surveys of citizens, etc.	Kabul Municipality

Activity	Potential Impacts	Mitigation Measures	Responsibility of Execution	Monitoring measure & method	Responsibility of Monitoring
Access roads and streets	Increased traffic	<ul style="list-style-type: none"> • Provide adequate RoW from planning stage itself. • Protect this RoW using appropriate devices – notification, planting in area currently not used for the road, fencing, etc. 	City Authority	Copies of notifications to be filed, Visual inspection	Kabul Municipality
Street lighting	Hindrance to traffic	Locate street lights appropriately	PMU Engineering Section	Plans to be verified before execution	Kabul Municipality
Wazir Abad Canal	Stagnating water due to siltation and blockage	<ul style="list-style-type: none"> • Educate the local population to refrain from disposal of waste in the canal • Cleaning of the water way before and after the winter season • Emergency cleanup operations 	District Office	Regular inspection of the waterway	Kabul Municipality
District 4 Mini Water Treatment System and Pump Stations	Foul Smell	<ul style="list-style-type: none"> • Investigate the problem and take necessary action 	KM Sanitation Department	Regular inspection	Kabul Municipality

Annex-8: Complaints Registration Form

(a) Sub-project Name (Gozar)			
(b) Complainant Information:			
NAME		F/Name	
Taskara/ID number		Telephone #	
ADDRESS/ GCS:			
(c) Grievance: First Reminder <input type="checkbox"/> Earlier Grievance <input type="checkbox"/> No. (If reminder) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
(d) Nature of the Grievance : (Please tick the respective block which is applicable to you)			
Employment <input type="checkbox"/> Land/asset related disputes <input type="checkbox"/> Project details/design <input type="checkbox"/>		Contractor work related disputes. <input type="checkbox"/> Project delays. <input type="checkbox"/> Other (Specify). <input type="checkbox"/>	
(e) Details of the grievance (Not more than 2000 characters)			
		Date of Receipt	Grievance case #
		/ /	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
		Name of the complaint handling officer	
Signature of the complainant		PMU stamp with (to be filled by the PMU staff at project level)	

Annex 9: Resettlement Policy Framework (RPF)

Kabul Urban Transportation Efficiency Improvement (KUTEI)

Resettlement Policy Framework

Prepared by: Kabul Municipality KUTEI Team

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

CONTENTS

Abbreviations	4
Definitions	5
Preface	9
1. Outline of the KUTEI project	10
1.1 Key development issues and rationale for Bank involvement	10
1.2 Proposed objectives	11
1.3 Preliminary description	11
1.3 Why a Resettlement Policy Framework	13
2. Legal & Policy Framework for Resettlement	15
2.1 Afghan Law & Policy on Land Acquisition	15
2.2 Principles of World Bank OP 4.12 on acquisition, resettlement and compensation	17
2.2.1 Introduction	17
2.2.2 The application of OP 4.12	17
A table of comparison between the Law on Land Expropriation and OP 4.12 with proposals for reconciliation	25
3. Eligibility for compensation	30
3.1 General eligibility	30
3.2 Land Tenure and Compensation Entitlements	30
3.3 Entitlements to Compensation & Livelihood Restoration	33
4. Unit Compensation Rates and Budget	36
4.1 Establishing Rates for Land Acquisition & Resettlement	36
4.2 Valuation of Land	38
4.3 Valuation of structures	38
4.4 Valuation of crops and trees	38
4.5 Income restoration allowances	40
5. Institutional Arrangements	41
5.1 General	41
5.2 Overall Organization – Ministry of Energy and Water (MEW)	42
5.3 Project Implementation	43
5.3.1 Kabul Municipality	43
5.3.2 Implementing NGO	43
5.3.3 5.3.3 Gender	45

6.	Public Consultation and Participation	46
6.1	General Public Consultation	46
6.2	Public consultation	46
6.3	Village meetings	46
6.4	Consultations with Government Officials and Other Stakeholders	47
6.5	Preparation of Project Specific Informative Material	47
6.6	Disclosure	48
7.	Preparatory Actions and Implementation Schedule	49
7.1	Preparation Actions	49
7.2	Process of LARP Implementation	50
8.	Complaints and Grievance Redress	51
9.	Monitoring & Evaluation	53
9.1	General	53
9.2	Internal Monitoring	53
9.3	External Monitoring	54
9.4	Management Information Systems	55
9.5	Reporting Requirements	55
10.1	Matrix of Actions under the RPF	56
10.2	Matrix of Compensation Entitlements and Rates	60
11.1	A draft Resettlement Code made under the authority of article 22(5) of the Law on Land Expropriation	66
11.2	Commentary on the draft Resettlement Code	73

ABBREVIATIONS

ADB	Asian Development Bank
AP	(Project) Affected Person including all persons in an affected household
EA	Executing Agency
EMA	External Monitoring Agency
ESIA	Environment and Social Impact Assessment
GRC	Grievance Redress Committee ha hectare
IOL	Inventory of Losses
IRA	Islamic Republic of Afghanistan
IRD	Irrigation Restoration and Development Project
KM	Kabul Municipality
KUTEI	Kabul Urban Transportation Efficiency Improvement
LARP	Land Acquisition and Resettlement Plan
LLE	Law on Land Expropriation
MoF	Ministry of Finance
NGO	Non-governmental organization
PIU	Project Implementing Unit
PMU	Project Monitoring Unit RAP Resettlement Action Plan
RPF	Resettlement Policy Framework
RP	Resettlement Plan
TOR	Terms of Reference

Definitions of Words and Phrases Used in the RPF

Affected Persons (APs) mean all the people affected by a project through land acquisition, relocation, or loss of incomes and includes any person, household (sometimes referred to as project affected family), firms, or public or private institutions who on account of a development project would have their; (i) standard of living adversely affected; (ii) right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement. APs therefore include; i) persons affected directly by the right of-way or construction work area; (ii) persons whose agricultural land or other productive assets such as trees or crops are affected; (iii) persons whose businesses are affected and who might experience loss of income due to the project impact; (iv) persons who lose work/employment as a result of project impact; and (v) people who lose access to community resources/property as a result of the project.

Census means the pre-appraisal population record of potentially affected people, which is prepared through a count based on village or other local population data or census.

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

Cut-off-date means the date after which people will not be considered eligible for compensation that is they are not included in the list of APs as defined by the census. Normally, the cut-off date is the date the census begins.

Displacement means either physical relocation or economic displacement in which the impact of loss of incomes forces people to relocate in order to initiate alternative strategies of income restoration.

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

Encroachers mean those persons/family who transgresses into the public land (prior to the cut-off date), adjacent to his/her own land or other immovable assets and derives his/her additional source of shelter/livelihood and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

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

Income Restoration means the measures required to ensure that APs have the resources to at least restore, if not improve, their livelihoods. Restoration of incomes of all affected persons is one of the key objectives of the World Bank's resettlement policy. It requires that after resettlement, all of the affected persons should have incomes that are at least equivalent to their pre-project income levels or otherwise improvement. Though resettlement programs should be designed to help improve the standards of living and income levels of the affected population, they must as a minimum be restored.

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

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

Land Acquisition means the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns or possesses, to the ownership and possession of that agency, for public purposes, in return for prompt and fair compensation.

Non-titled means those who have no recognizable rights or claims to the land that they are occupying and includes people using private or state land without permission, permit or grant.

Poor Those falling below the UN poverty line of 1 dollar per person per day or equivalent to AF 52.

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

Rehabilitation means the assistance provided to severely affected APs to supplement payment of compensation for acquired assets in order to improve, or at least achieve full restoration of, their pre-project living standards and quality of life to pre-project level.

Replacement Cost means the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this

method of valuation, depreciation of structures and assets should not be taken into account. For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

Resettlement means all social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of the project.

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

Severely Affected APs means APs that are affected by significant impacts within the meaning of the definition below.

Significant Impact means 200 people or more will experience major impacts, which are defined as; (i) being physically displaced from housing, or (ii) losing ten per cent or more of their productive assets (income generating

Structures mean all structures affected, or to be acquired, by the project – living quarters, wells, hand pumps, agricultural structures such as rice bins, animal pens, stores/warehouses, commercial enterprises including roadside shops and businesses.

Squatters mean the same as non-titled person i.e. those people without legal title to land and/or structures occupied or used by them. World Bank policy explicitly states that such people cannot be denied compensation based on the lack of title.

Vulnerable means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e; (i) single household heads with dependents; (ii) disabled household heads; (iii) poor households; (iv) elderly households with no means of support; (v) the landless or households without security of tenure; and (vi) ethnic minorities.

Preface

This draft Resettlement Policy Framework (RPF) sets out the general principles and policies to be followed in connection with any land acquisition and resultant resettlement which will occur during the implementation of the proposed Kabul Urban Transportation Efficiency Improvement Project. It has drawn on, and been informed by, the existing and approved (December 2010) Resettlement Policy Framework prepared for the Irrigation Restoration and Development Project by the Ministry of Energy and Water for the same funder, the World Bank.

Common standards and approaches to resettlement across government increase efficiency and effectiveness in the administration of such programs. Officials can more easily grasp what is required; capacity can be enhanced; and affected persons (APs) in all projects will have greater confidence that they are being treated fairly, so reducing the likelihood of grievances and legal and other challenges to resettlement which can delay the implementation of projects. Common standards in practice will also make it easier to develop a national law on resettlement as and when the government decides to move in that direction.

It should however be emphasized that this RPF is designed solely for the KUTEI. It may have wider uses but these are a by-product of and not the main purpose of this framework.

Kabul Urban Transport Efficiency Improvement (KUTEI) Resettlement Policy Framework

1. Outline of the KUTEI

1.1 Key development issues and rationale for Bank involvement

Kabul city is growing exponentially due to multiple reasons. This is highly stressing the already overstretched transport infrastructure as clearly demonstrated by the severe traffic congestion we now see in the city and the extra-long travel time it takes to move from one part of the city to the other. The problem is aggravated by lack of adequate form of public transport.

The Islamic Republic of Afghanistan, with the aim to improve the transport service, reduce adverse environmental impacts and travel time in Kabul City, is planning to implement the Kabul Urban Transport Efficiency Improvement Project (KUTEI). The project is to be financed from funds made available by the Afghanistan Reconstruction Trust Fund, administered by the World Bank / IDA.

Kabul Municipality (KM) is entrusted with the implementation of the project. A dedicated Project Management Unit (PMU) has been setup to manage the Project and fulfill the role of the Client for contracts and consultants planned.

The cost of the project is estimated at USD 85 million. This is planned to be apportioned between civil works, consultancy services aimed at improving public transport service delivery, capacity building and incremental operational costs for the PMU.

The Afghanistan National Development Strategy (ANDS) assigns high priority to increasing Transport Efficiency, despite significant achievements in rehabilitation to date; Afghanistan's remaining needs for Transport Improvements are still large.

1.2. Proposed objective(s)

The development objective of the project (PDO) is to improve road condition and traffic flow on selected corridors and strengthen the capacity of Kabul Municipality to deliver transport services.

1.3 Project Description

The proposed project will have three components,

Component A - Road infrastructure: This component will be implemented through road infrastructure LOS recovery on four selected corridors. This will focus on rehabilitating 32 km of selected road links on the four priority road corridors. Civil works will constitute rehabilitating the road surfaces and pedestrian walkways, installing street lightings, traffic control measures, and rehabilitating roadside drainage system. Other civil work related consulting tasks included in the subcomponent are “design review and site supervision” and “performance indicator surveys.

Component “A” comprises of two subcomponents (“A1” and “A2”). Subcomponent “A1” relates to the civil works planned for the rehabilitation of selected roads and the drainage works of District 4 Area, Subcomponent “A2” involves studies to improve public transport services.

Component B - Transport improvement measures: This sub component will focus on a wide range of transport improvement measures in support of Component A. These include: (1) improving KM’s in house maintenance capacity through training and investment (2) implementing road safety and traffic management engineering measures e.g. junction channelization, signalization, engineering measures for pedestrian safety; (3) conducting studies for Bus Rapid Transit services, including a feasibility study for two potential BRT lines and a business plan for the BRT system; and (4) other designs and studies, including potential BRT detailed designs, natural disaster assessment of city transport infrastructures, other road rehabilitation and construction designs.

Component C - Capacity building and Project Management Support: This component will enhance KM’s human resources and institutional capacity for infrastructure project management and develop sustainable urban transport system through: (a) provision of external consultants to enhance the PMU operation; (b) support to KM staff through “on-the-job” training, thematic long term training and short term training); (c) carry out seminars, workshops and study tours; (d) provision of incremental cost support for project management.

1.4 Why a Resettlement Policy Framework?

The elements of the project for which a Resettlement Policy Framework (RPF) is required is component A (subcomponents “A1” & “A2”) which may involve acquisition of land and/or loss of assets from persons living or carrying out business within the right of way, where the waste water pump stations will be installed and the proposed road segment that involve road widening.. Following the KUTEI approach, these components will be largely demand-driven so that it is not possible at this stage of developing the project to prepare a resettlement plan with the full details of all affected persons who are likely to have to be relocated or who are going to suffer some losses or diminution of the value of land and other assets which will entitle them to compensation. The purpose of the RPF is to clarify resettlement principles, organizational arrangements, and design criteria and compensation framework to be applied to sub-projects to be prepared during project implementation. In this way a consistent approach to resettlement practice will be ensured over the course of the project.

The RPF is prepared in compliance with OP 4.12, which deal with Involuntary Resettlement and with existing local laws and policies. Where there is inconsistency between the two, then if creative interpretation of the local law cannot reconcile the differences, the practice in Afghanistan, at least in relation to inconsistencies between the law and World Bank (WB) equivalent policies on involuntary resettlement, is to prefer the World Bank policies. The first step however is to analyze and compare OP 4.12 and relevant laws before making any judgment on incompatibilities.

Second, before the details of the RPF can be outlined and explained, the basic principles and objectives of the RPF must be set out. But whereas OP 4.12 contains such principles and objectives, no laws or policies in Afghanistan deal with resettlement. There are relevant laws that will be discussed later – principally a Law on Managing Land Affairs of 2008 and a Law on Land Expropriation of 2009 but neither deal with involuntary resettlement. So setting out the principles of an RPF at the outset of developing one is unavoidably to give priority to World Bank policies on resettlement. Notwithstanding the difference between the national laws and Bank Operational policies, in all cases of divergence between the two, the Bank Operational Policies as laid out in the RPF will apply.

The World Bank summaries the principles of an RPF as being to

- first, avoid or minimize adverse impacts on persons and families likely to be affected by the project (APs)
- second, ensure that where land acquisition is unavoidable, APs are
 - consulted on the operation of the project
 - compensated for lost assets at replacement costs
 - Provided with assistance to improve/restore livelihoods and standards of living to pre-displacement levels in the event of displacement.

The RPF spells out how these principles will be met. It should be said at the outset that while the relevant laws of Afghanistan might not cover these matters in any detail there would appear to be nothing in the laws to stop these principles being given effect to in practice.

2. LEGAL & POLICY FRAMEWORK FOR RESETTLEMENT

2.1 Afghan Law & Policy on Land Acquisition

There is no country specific resettlement policy in Afghanistan. A comprehensive land policy was approved in 2007 by the cabinet; however it has yet to be fully operationalized. Ratified in early 2004, the Constitution of Afghanistan has three articles that closely relate to compensation and resettlement. For public interest purposes, such as the establishment/construction of public infrastructure or for acquisition of land with cultural or scientific values, land of higher agricultural productivity, large gardens, the Law on Land Expropriation (LLE) enacted in 2009 provides that:

- (i) The acquisition of a plot or portion of a plot for public purpose is decided by the Council of Ministers and is compensated at fair value based on current market rates (Section 2);
- (ii) The acquisition of a plot or part of it should not prevent the owner from using the rest of the property or hamper its use. If this difficulty arises, the whole property will be acquired (Section 4);
- (iii) The right of the owner or land user will be terminated three months prior to the start of civil works on the project and after the proper reimbursement to the owner or

person using the land has been made. The termination of the right of the landlord or the person using the land would not affect their rights on collecting their last harvest from the land, except when there is emergency evacuation (Section 6);

(iv) In cases of land acquisition, the following factors shall be considered for compensation:

- (a) Value of land;
- (b) Value of houses and buildings on the land;
- (c) Value of trees, orchards and other assets on land (Section 8);

(v) The value of land depends on the category and its geographic location (Section 11);

(vi) A person whose residential land is subject to acquisition will receive a new plot of land of the same value. He/she has the option to get residential land or a house on government property in exchange, under proper procedures (Section 13);

(vii) If a landowner so wishes his/her affected plot can be swapped with unaffected government land and if this is valued less than the plot lost, the difference will be calculated and reimbursed to the affected plot owner (Section 15);

(viii) The values of orchards, vines and trees on land under acquisition shall be determined by the competent officials of the local body (Section 16); and

(ix) A property is valued at the current rate at the locality concerned. The owner or his/her representative must be present at the time of measuring and valuing of property.

Compensation is determined by the Council of Ministers. The decision is based on the recommendation of a —committee|| consisting of the following

- (i) The landlord or person who uses the land or their representatives;
- (ii) Official representative of agency who needs to acquire the land (viz., MEW);
- (iii) Representative of local municipality;
- (iv) Representative of Ministry of Finance; and
- (v) Representative of Ministry of Justice.

2.2 Principles of World Bank OP 4.12 on acquisition, resettlement and compensation

2.2.1 Introduction

This part of the RPF will discuss the World Bank's Operating Policies 4.12 rather than attempting to repeat OP 4.12 verbatim, it will be more helpful to attempt to set out the requirements of OP 4.12 in a form in which they might be provided for in any set of legal provisions or how they might be addressed by an administrative agency following a logical approach to land acquisition.

The fundamental principles of policy which inform the Bank's position on resettlement and land acquisition are :

- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs
- (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 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.

Step 1: Preliminary issues: is acquisition necessary

The first step addressed by OP 4.12 is avoidance of land acquisition and resettlement if possible. Land acquisition and resettlement should not be seen as the easy first option; rather it should be seen as a last resort.

From the point of view of what governmental action might be necessary to meet this first step, it is necessary that alongside an environmental impact assessment, a social impact assessment and a financial analysis of the proposed project that is required to be undertaken,

- a preliminary investigation and assessment of the land that may be acquired must be undertaken;
- Persons likely to be affected by the project (APs) and other interested parties should be given an opportunity to contribute to or comment on the location of the proposed project and the necessity of acquiring the proposed land for the project. This involvement is separate and distinct from APs participating in the planning of any resettlement that has to take place;
- A cut-off date for any ultimate assistance and compensation for APs must be determined and announced. After that date, no one coming into or obtaining land or a house in the potential project area will be entitled to compensation. In the case of this particular project, this step will have to be taken several times over with respect to each sub-project. There will be a risk that there may be some speculative encroaching as word gets out unofficially about likely sub-projects in the future. This will need careful handling. The best way forward will be to plan for sub-projects to take place in a specific area or district and for the cut-off date to apply to the whole district even if specific sub-projects within the district are executed over a period of time.

Step 2: Preparing an acquisition and resettlement plan

The second step in the process is to prepare a land acquisition and resettlement plan which must include measures to ensure that APs are, in the words of OP 4.12:

- (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 for losses of assets attributable directly to the project.

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.

Where necessary to achieve the objectives of the policy, the resettlement plan should 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;-and
- (ii) Provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities.

In terms of what must be contained in either or both law and administrative arrangements to ensure that these requirements are met, the following would need to be in any land acquisition and resettlement plan:

- the land to be acquired
- the persons who will be suffering any losses of assets, income, sources of livelihoods
- the persons to be required to move
- the place or places to which such persons are to be moved to
- the circumstances of the place to which persons are to be moved to: viz
 - whether the land is occupied and by whom
 - what the land is presently being used for
 - the condition of the land and its facilities
- the arrangements to be made to facilitate resettlement and integration
- the manner and form in which compensation is to be assessed and paid
- the heads of compensation payable
- an estimate of the compensation payable and of the resettlement expenses
- the procedures to be followed in executing the plan
- the arrangements for the involvement of APs in plan execution
- what opportunities there will be to challenge plan execution and compensation

In practice, the preparation of this plan should commence as part of the exercise of developing sub-projects for it is regarded as a part of the sub-project but in terms of process, it is sensible to keep separate the issue of whether any land acquisition and resettlement is necessary from the issue of what resettlement will take place and how it will be conducted.

This second step however is also to involve APs in participation in the preparation of the plan and not just in being given a chance to object to a plan made by officials. OP 4.12 spells this out very clearly as follows:

(a) Displaced persons and their communities, and any host communities receiving them, are to be provided with 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 to be 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 to be 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 must be based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettles and any host communities should be preserved and resettles 'preferences with respect to relocating in preexisting communities and groups honored.

The preparation of a plan must be preceded by and involve in its development meetings with potential APs and more general public consultation. There will be informal day-to-day meetings among APs, Kabul Municipality local staff, and other stakeholders. The more formal consultation process in the sub-project areas will be through: (a) community meetings; and (b) public consultations with government officials. Informative materials

will have to be prepared and distributed within the sub-project areas before the meetings.

Step 3: Paying compensation, resettling the dispossessed, acquiring the land

The third step is the execution of the plan: that is the acquisition of the land and the resettlement of those persons displaced by the acquisition. This is the central part of the process of acquisition and resettlement and must be broken down into several sub-steps. Not all these sub-steps are set out specifically in OP 4.12; they are however a necessary part of land acquisition and resettlement and must be written into the RPF to take place.

Before each sub-step is summarized, a general point about the legal framework must be made. There will need to be in place a set of clear rules on the whole of step 3. This code will need to cover –

- the empowerment of institutions to execute, regulate and monitor the process
- which officials are empowered to take actions and give orders
- what actions and orders must or may these officials take or give
- the processes and institutions of participation and consultation
- to which APs and others will these actions and orders apply
- what must APs do to comply with orders and take required actions
- what must APs do to gain benefits and assert rights under the law
- with respect to compensation
 - the scope and form of compensation
 - the manner of assessment of compensation
 - the manner and timing of claiming and paying compensation
 - the process of decision-making and appeals on compensation
- with respect to resettlement
 - process and procedures on resettlement
 - financial and other assistance with resettlement
- Processes and institutions relating to challenging and contesting decisions.

The ensuing discussion of the sub-steps assumes that such a code will be in place.

Sub-step 1

The first sub-step is the process of acquiring the land; informing all the qualified owners and occupiers of the land of the intention to acquire the land and pay compensation for any land so acquired. This will involve intensive personal contact with owners and occupiers of land and oral explanations of what is happening and what owners and occupiers should do in order to ensure that they obtain recognition for their occupation of land and compensation for same. Acquisition of land will also necessitate full and clear documentation of what is happening.

This is especially relevant where some land may be donated 'by PAPs. There must be very clear documentation that any person who has 'donated' land to the project was made fully aware of his or her right to receive compensation for any land which he or she is losing to a project and specifically waived that right. The Social Safeguards report indicated that there had been inadequate documentation of this practice and that there have been some disputes arising out of the practice.

While not going so far as to suggest that voluntary donations should be rejected or banned, it will be essential to make certain that they are genuinely voluntary and that the giver of the land does not expect some special benefit or treatment from the project as a result of the donation. Where there is any possibility of such special treatment or the expectation of same, the donor of land should receive compensation under the resettlement plan rather than obtain special treatment outside the plan; in other words, a donor will be treated as if he or she had had their land acquired compulsorily.

With respect to references to occupiers of land OP 4.12 states that these embrace

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

OP 4.12 states that the first two categories of occupiers are entitled to receive

compensation for loss of their land; the third category is entitled to receive resettlement assistance. However, this provision must be read in the light of the requirement in OP 4.12 that at the time of the identification of the project area, a census must be carried out within the area of those who will be affected by the project and will be eligible for assistance. Persons who encroach on the project area after the cut-off date which will be the completion of the census will not be entitled to any compensation or other assistance.

OP 4.12 thus makes clear that squatters must receive some compensation and assistance with resettlement. The rationale for this is that such persons are usually the poorest members of the community and those most likely to be the hardest hit by having to move. OP 4.12 is not making any policy statement about whether such persons should be given property rights; indeed it is making clear that such persons are not regarded as having any rights in any land in the project area.

Sub-step 2

The second sub-step involves determining claims to compensation, assessing amounts of compensation and paying compensation. OP 4.12 distinguishes between compensation and assistance, financial or otherwise, in connection with resettlement. This is perfectly logical as it makes clear that persons are entitled to compensation for lost assets etc. whether they are being relocated or not. However, if compensation is understood as money, money's worth or land and/or other assistance to put a person back into the position as near as may be as he/she was prior to having his/her land (including buildings and natural resources on the land) acquired and or the value of retained land diminished and or having to vacate his/her land and move elsewhere, then we can deal with monetary compensation for loss of assets along with what may be called resettlement expenses.

In order to comply with OP 4.12, the content of this sub-step should include:

- Making claims for compensation
- Provision of assistance to APs in making claims
- Assessment of claims
- determining claims and dealing with appeals
- the payment of compensation
- Compensation will include

- Full replacement cost of land taken at its market value so far as possible
- Alternative land of the same quantity and quality so far as possible
- Compensation for _injurious affection¹ of land not taken
- Resettlement expenses which in turn may include
 - costs of moving (disturbance compensation)
 - financial and other assistance in provision of housing
 - income support and livelihood replacement including retraining

The issue of replacement cost is dealt with in OP 4.12 which states:

—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 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.

The details of how to calculate various heads of compensation are dealt with below

Sub-step 3

The third sub-step involves the actual taking of the land – the entering into possession of the land by the acquiring authority – and the departure and resettlement of APs. This will need to be handled sensitively with plenty of notice given to APs. OP 4.12 does not specifically deal with this sub-step but it is a necessary part of the process of acquisition and resettlement.

Assistance with resettlement will include

- Assistance with packing up and moving
- Provision of transport for those being resettled
- working with and providing additional resources for the _host‘community

- Advice and assistance to those being resettled
- Preparation of land, provision of accommodation and facilities

The whole process of leaving one's land, moving to another area, relating to a new community, getting started again is likely to be extremely stressful. There will need to be constant contact with APs both individually and via their representatives where there are substantial numbers of APs involved. A consensual rather than a confrontational approach must be taken to decision-making on awards of compensation.

To what extent does law and practice in Afghanistan conform to the model of land acquisition and resettlement provided for by OP. 4.12? It is to this matter this report now turns via a table which compares the two systems suggesting ways of reconciling them.

A table of comparison between the Law on Land Expropriation and OP 4.12 with proposals for reconciliation

Law on Land Expropriation	WB Operating Procedure	Gaps between LLE and OP	Possible solutions to gaps	What RPF should provide
PART	ONE:	PRE	ACQUISITION	PROCEDURES
1. No legal opportunities provided to potential APs and others to challenge or discuss proposed acquisition and resettlement or for any public debate and approval on proposals. In practice	Principle that involuntary resettlement to be avoided where possible implies discussion of necessity for and alternatives to acquisition and resettlement	The principle behind OP 4.12 is followed in practice in Kabul but the law is silent on the matter.	No reason why practice in Kabul could not be applied in the project areas	Potential APs must be able to discuss need for acquisition with officials from the PIU and the Ministry
2. Officials visit area before any official action to assess land values; values so assessed are the basis of compensation. This is practice as the LLE is completely silent on pre-acquisition procedures	Land values assessed as at pre-project or pre-displacement value whichever is higher	No real gaps; just different approaches to the same need to limit claims and compensation.	No gaps	A date set prior to the commencement of acquisition should be fixed for land values. This should be the cut- off date
3. As a matter of practice in Kabul efforts are made to determine those entitled to compensation and	Census conducted of persons in the area to determine eligibility for assistance, and to limit inflow of people ineligible for assistance;	No real gap here.	Given the practice in Kabul, there would be no problem in adopting OP 4.12 as the practice to be followed in the project.	A legal framework will require a census of eligible APs to be undertaken at the immediate pre-project stage.
4. By article 6 of LLE, the right to own or use land is terminated three months prior to the actual start of the project. So information on land to be acquired is sent to APs three months before acquired and on	Prepare resettlement plan on how project to be implemented and resettlement etc. provided for. Emphasis on participation by APs in preparation of process and in project implementation Emphasis on early information to be given to	LLE does not provide for what OP 4.12 requires. Some pre- planning of project will exist and informal discussions with APs involve participation. 3 months' notice may be too little where relocation is likely but not rigidly adhered to.	There is nothing in LLE to prevent a more participative approach to acquisition as is called for in OP 4.12. The three month rule could be interpreted to mean -not less than three months which would allow for discussions on acquisition	A legal framework within the RPF allowing for a participatory approach to acquisition and resettlement planning and implementation would not contradict the LLE and is the best way

<p>5. No special provision in LLE for a resettlement plan or any special arrangements for resettlement</p>	<p>Prepare resettlement plan: contents to include Involvement of and ensure APs their rights to compensation relocation assistance development assistance in new location. Distinction drawn between short and full plans, depending on numbers to be resettled.</p>	<p>Major gap of substance</p>	<p>1. The LLE is silent on resettlement but there is nothing in the law to suggest that a resettlement plan or action to implement a resettlement plan would be illegal. 2. Provide for resettlement plan administratively but 3. Backed up by some regulations</p>	<p>2 and 3 the preferred option.</p>
<p>PART</p>	<p>TWO:</p>	<p>ACQUIRING</p>	<p>TH</p>	<p>LAN</p>
<p>6. The Council of Ministers approves expropriation of land. Unlike the former law, there is no provision for the owner/user and or agent to be present throughout all stages of acquisition. It follows that acquisition may proceed whether the owner etc. is present or not. However under article 5 LLE ,a commission is to be formed -by the Municipality on which</p>	<p>No specific procedures required by OP 4.12 but content of resettlement plan implies APs will be involved in all stages of acquisition</p>	<p>The spirit of OP 4.12 conflicts with LLE’s non-provision of involvement of the owner apart from that provided for in article 5. it is not clear why that is confined to the Municipality. Given many absentee owners, it may be unavoidable to allow absentee acquisition.</p>	<p>Spirit of OP 4.12 could be met by more protective provisions and or practice on dealing with absentee acquisition. The silence of LLE on the details of acquisition may be taken quite legitimately as providing a gap which can be filled by appropriate participatory arrangements. There is no reason why the damage provisions of article 18 shouldn’t equally apply to all</p>	<p>Involvement of owners present on the land to be acquired and greater protection for absentee owners should be provided by a legal framework developed as part of the RPF which could also serve as a prototype for regulations made under article 22(5) of the new law.</p>

obliged to hand over all documentary evidence relating to land to the acquiring authority				
7. Under article 6 LLE after transfer of ownership, owner may enter acquired land and harvest crops	Not mentioned	LLE ahead of OP 4.12 on this:	A good provision	No change
PART	THREE:	COMPENSATION	PAYMENT	PROCEDURES
8. The bulk of LLE deals with compensation but says nothing about who is entitled to compensation. The assumption is that -owners are entitled to compensation but the law does not define -owners . The old law drew a clear distinction between those with legal title and those with customary title or no title with respect to the payment of compensation. Practice in rural areas was quite accommodating to those	Fundamental principle of OP 4.12 is that all those on land are to be entitled to fair compensation and assistance with resettlement irrespective of their title to land.	Major gap of substance in the law but given practice in rural areas, it is not unbridgeable.	Accommodate OP 4.12 by changing practices where necessary. Advantage may be taken of absence of legal definition of -owner to accommodate those with customary titles which is likely to be the majority in project areas.	Given huge numbers of people not having and not going to get formal legal titles to their land in the foreseeable future, LLE should be interpreted so those living and or working on land at the census date receive fair compensation and resettlement assistance. As with 6 above, the RPF can develop a legal framework for compensating all those on the land and this can be a model for future regulations to be made under LLE. This is the one major area where there is
9. The Constitution provides for payment of prior and just compensation. (English translation).The LLE at article 2 provides for the payment of prior and adequate compensation	OP 4.12 requires prompt and effective cash compensation sufficient to replace the lost land and other assets at full replacement cost in local markets. Compensation for lost	There does appear to be a gap between the LLE and OP 4.12. The LLE has a lot of gaps in it. Sensible not to insist on market value in the absence of reliable functioning markets. Biggest gap is compensation	1. OP 4.12 must be accommodated. Other resettlement plans developed in connection with ADB projects more or less ignore the LLE and provide detailed frameworks for assessment	Article 40 of the Constitution suggests that option 3 should be the preferred one. It should be supplemented by guidance on how to apply the code in practice.

<p>distinction between just and adequate, then the constitutional provision of just compensation prevails.</p> <p>Article 8 provides that compensation shall be the price of land or houses or trees etc. and article 10 provides that the Council of Ministers shall determine the price. But article 15 provides that the municipality and the administration for agriculture determine the compensation for trees etc. Article 13 sets out detailed provisions for obtaining residential plots where a person has had land acquired; the more land acquired the more residential plots are paid as compensation. Disturbance compensation not provided for. Compensation can be land for land</p>	<p>livelihoods required Disturbance compensation required Land for land compensation encouraged. Resettlement costs and startup expenses required.</p>	<p>for squatters and even their best practice does provide some compensation to those with no legal title. Practice of paying compensation into a bank even when APs not absentee difficult to reconcile with prompt payment of compensation.</p>	<p>and payment of compensation.</p> <p>3. The ADB models should be adapted for use in the project. The lack of any detail in LLE on how to assess compensation and the content of compensation (apart from article 13) allows for the creation of a clear comprehensive and fair code on compensation applicable to all acquisitions including resettlement costs which can be a part of the RPF without doing violence to the existing law.</p>	
<p>10. No provision in the law on resettlement</p>	<p>OP 4.12 requires implementation of resettlement plan the</p>	<p>Major gap of substance as noted in 4 above.</p>	<p>If preferred option at 4 above accepted, resettlement</p>	<p>The RPF should provide for the making of a resettlement plan (5</p>

haphazard and tends to turn on legality of occupation of APs who are to be relocated	noted at 4 above		Choice is between formal top-down and participative involvement of APs which OP	be based on a guided participative approach to implementation.
PART	FOUR:	ADMINISTRATIVE	& JUDICIAL	PROCEDURES
11. LLE provides for administrative agencies to manage acquisition processes and deal with compensation. APs are part of some committees dealing with compensation. No provision for courts to be involved or for appeals. In practice, committees may act to solve grievances	OP 4.12 silent on judicial and administrative arrangements. It requires appropriate and accessible grievance mechanisms to be established for those being resettled. Logic of OP 4.12's references to 'meaningful consultation' with APs and making use of CBOs and NGOs suggests preference for decision-making process which is not just part of the	A major gap on grievance mechanisms and current administrative arrangements in LLE difficult to reconcile with the participative approach of OP 4.12. Earlier laws involved payment of compensation in the presence of a judge and allowed an appeal albeit from the judge to a Minister.	Develop grievance handling practices but keep them administrative rather than legal. Make legal provision for appeals from administrative decisions and decisions on compensation to an independent body.	A combination of law and practice guidance would be the best way forward. Grievance mechanisms to provide for co-operation with <i>Shuras</i> and community councils in areas where APs are. RPF to provide for these
12. LLE does not provide for any external monitoring body or process	OP 4.12 states that the borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument.	Major gap on procedures but arguably, monitoring is not part of land acquisition so no legal impediment to providing for same.	Provide monitoring for WB projects as required by OP 4.12. Establish specialist monitoring agency for all projects involving acquisition and resettlement Empower provincial and local institutions to monitor	Meaningful monitoring is required by OP 4.12. New institutions should be kept to a minimum. Consideration should be given to use provincial authorities and NGOs. Regular reports should be made and published

3. Eligibility for compensation

3.1 General eligibility

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

APs who will be entitled to compensation or at least rehabilitation under the project are:

- (i) All APs losing land with or without title, formal land-use rights or traditional land use rights;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, plants, or other objects attached to the land; and
- (iv) APs losing business, income, and salaries.

Compensation eligibility will be limited by the cut-off date. All APs who settle in affected areas after this date and who cannot prove that they are displaced users of affected plots will not be eligible for compensation. MEW will inform local communities regarding this cut-off date through their local offices and through the relevant local government agencies. Those that settle after the cut-off date however will be given sufficient advance notice to vacate premises/dismantle affected structures prior to project implementation. Their dismantled structures will not be confiscated and they will not pay fines or sanctions.

3.2 Land Tenure and Compensation Entitlements

In the case of all the sub-projects, persons who may principally be entitled to compensation will be those who may lose small amounts of land. It is necessary therefore to consider the types of interests in land that such persons may have and whether those interests would entitle them to compensation. It is important to understand the prevailing land relationships and the documents and/or declarations that evince these rights over land and the various assets. The following paragraphs summaries the different types of formal and informal land ownership/possession in Afghanistan. This will be the basis for the land impacts and the more important question of who are entitled for compensation of land affected by the project.

The system of Afghan property rights is broadly divided into two categories: formal and informal. Under the formal system, the land law defines ownership of immovable property as private, public and Mawat lands. Written evidences of land ownership under the formal system of property rights are different kinds of deeds or legal documents with copies in the Court Registries. Other formal written documentation may also be utilized for this purpose. Details are to be found in article 5 of the Law on Land Management.

Immovable property owned by an individual is considered as private property. According to Shari'a, private property can be owned individually or collectively. Private ownership may be acquired through (a) purchase, (b), allocation from a municipality, (c) transfer of ownership of which the most common form is inheritance. In addition, private land can be acquired through the principle of —dead land or —zameen-e-Bayer. This classification entitles all legal owners to compensation for affected land.

Public land is classified as (a) owned by the state, (b) owned by public juridical persons, (c) allocated for public interests, and (d) recognized by law as public property. In addition to the above, cultivable land which has no owner is deemed to be public land. The law prohibits acquisition of such land without the permission of the government. The state has recently strengthened its grip over land based on a statute of limitation which states that all individual claims to land that has been held by the state for a period exceeding 37 years shall be barred and the state shall be considered the owner of the property. The decree provides that all land in which the ownership of individuals is not established legally shall be considered the property of the state. This classification does not entitle an occupant to compensation for the affected land but such a person is entitled to compensation for all immovable assets which are permanently fixed on the land.

Mawat Land means —dead land. In practice, this term refers to land which is not suitable for cultivation. The concept of Mawat requires three elements: 1) the ownership history of the land is not known; 2) it has not been cultivated and constructed, and 3) currently the land is not owned by any person. Even barren land (zameen-e-bayer) that does not have an owner may only be acquired with the permission of the government. The person who acquires and develops barren land with the permission of the government shall own the land. Shari'a generally recognizes Mawat land as property neither owned by a private individual nor by the state and which could be acquired through renovation. Consistent with this, Mawat land is recognized under the laws, but whoever, wants to acquire Mawat land must first secure permission from the President. In theory then, private property may be acquired in accordance with this concept. If Mawat land is in the process of being legally acquired or have been acquired by an individual but

some formal legal requirements have not been complied with, the possessor/owner is entitled to compensation for his/her affected land.

Informal System of Property Rights – There are two types of owners/possessors under the informal system that will be entitled for compensation over land affected by the project. The first group entitled for compensation is the customary or traditional owners of land and their heirs. These are individuals who inherited land that their ascendants occupied for more than fifty years. The original owners were either individuals who received royal land grants (Firman) in the form of decrees or legal letters, etc. from the ruler of the time, or the original settlers of the land or their survivors who peacefully occupied the land for many generations. In the rural areas, these occupants may have (1) tax receipts or are included in the tax records, (2) unofficial land deeds and (3) been declared or recognized as legitimate users of lands by community development councils, Jirgas or local elders. Households or persons who hold customary or traditional deeds for their properties are people who acquired de facto ownership of their land through purchase from customary or traditional owners of land.

The second type of owners/possessors under the informal system entitled to compensation is de facto owners of property who have bought land or a house from legal owners but did not fulfill the legal formalities required to formalize ownership. The transaction was legal but the legal formalities required to obtain a legal deed from the competent court were not completed. In many instances, buyers and sellers conclude customary agreements based on good faith and traditional norms and disregard the need to formalize the sales transaction in a competent court. Many persons perceive that a customary deed suffices to prove ownership of their property, especially when the original owner holds a formal document.

The two types of ownership/possession under the informal system of property rights have customary documents called “orfi” to prove their ownership/possession. These documents are usually witnessed by their neighbors, and especially local village and/or religious leaders. These documents include bills of sale and purchase, pawn agreements, wills subdivision agreements, etc. These two types of informal ownership/possession will receive compensation for land affected by the project.

These two types of land rights under the informal system cannot be classified any more as public land. In the customary or traditional rights, the adverse, open, continuous and interrupted possession of owners over a very long time has effectively vested in them legal rights over the lands they occupy through acquisitive prescription. In the second

type of land rights under the informal system, the lands involved have been effectively segregated from the classification of public land because the lands have been titled by the former owners and the failure of the new owners to comply with the formal requisites to register the lands under their names do not change the private character of these lands. Hence, the two types of land under the formal system are by their very nature private lands and as a consequence, owners will be compensated.

The other occupants of lands outside of the classifications of legal and legalisable occupancy or possession such as squatters will not be compensated for the lands that they occupy but will be compensated for the permanent improvements they may have introduced in the affected lands and restoration assistance. The other type of land occupants are encroachers. These are people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

3.3 Entitlements to Compensation & Livelihood Restoration

The APs in the project are entitled to various types of compensation and resettlement assistance that will assist in the restoration of their livelihoods, at least, to the pre-project standards. They are entitled to a mixture of compensation measures and resettlement assistance, depending on the nature of lost assets and scope of the impact, including social and economic vulnerability of the affected persons. All APs are equally eligible for cash compensation and rehabilitation assistance, irrespective of their land ownership status, to ensure that those affected by the project shall be at least as well off, if not better off, than they would have been without the project. The compensation packages shall reflect replacement costs for all losses (such as land, crops, trees, structures, businesses, incomes, etc.) as detailed below:

- ***Agricultural land impacts*** -- These impacts will be compensated at replacement value in cash based on current market rates plus an additional. Indemnity for 3 months as transitional livelihood allowance. Kabul Municipality will shoulder all fees, taxes, and other charges, as applicable under relevant laws incurred in the relocation and resource establishment. This is not applicable to KUTEI, because the proposed interventions are not likely to involve acquisition of agriculture land.

- ***Severe Agricultural Land Impacts*** -- When >10% of an AP's agricultural land is affected, APs (owners, leaseholders and sharecroppers) will get an additional allowance for severe impacts equal to the market value of a year's net income crop yield of the land lost. (NA)

- ***Residential/commercial land impacts*** -- These impacts will be compensated at replacement value in cash at current market rates free of deductions for transaction costs.
- ***Houses, buildings, structures damages*** -- These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions. Compensations will include the cost of lost water supply, electricity or telephone connections. Renters/leaseholders will receive an allowance of geared to the rent they are paying for 3 months to cover emergency rent costs.
- ***Income from crops losses*** -- These impacts will be compensated through cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements. (NA)
- ***Tree losses*** -- These impacts will be compensated in cash based on the principle of income replacement. Fruit trees will be valued based on age of the tree in two categories: (a) not yet productive; and (b) productive. Productive trees will be valued at gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees will be valued based on the multiple years' investment they have required. Non-fruit trees will be valued at dry wood volume basis output and its current market rates.
- ***Businesses losses***—Compensation for business losses will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise based on business loss allowance computed as AF 6, 000 a month. Permanent business losses will be based on actual income loss or in cash for the period deemed necessary to re-establish the business (6 months). Compensation for temporary business losses will be cash covering the income of the interruption period up to 6 months based on a monthly allowance of AF 6,000. Business loss is computed at AF 200 per day (AF 6,000/month) as average net income of typical road businesses such as small stores, repair and vulcanizing shops and small food establishments.
- ***Income losses for agricultural workers and employees*** -- Indemnity for lost wages for the period of business interruption up to a maximum of 3 months. (NA)
- ***Agricultural land leaseholders, sharecroppers, and workers*** -- Affected leaseholders will receive cash compensation corresponding to one year's crop yield of land lost. Sharecroppers will receive their share of harvest at market rates plus additional crop compensation. Agricultural workers, with contracts which are interrupted, will get an

indemnity in cash corresponding to their salary in cash and/or kind or both as applicable, for the remaining part of the harvest up to a maximum of 3-months. (NA)

- **House owners/renters** -- House owners/renters who are forced to relocate their houses will be provided with relocation allowance equivalent to AF 5,000 for 3 months and will be assisted in identifying alternative accommodation.

- **Community Structures and Public Utilities** -- Will be fully replaced or rehabilitated so as to satisfy their pre-project functions.

- **Vulnerable Households** -- Vulnerable people (APs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable APs equivalent to AF 5,200 and priority in employment in project-related jobs.

- **Impacts on irrigation canals** -- Project will ensure that irrigation channels are diverted and rehabilitated to previous standards. (NA)

Temporary impact: Landowners who lose use of their land temporarily as a result of project activities will be compensated in cash covering the period of interruption based on an agreed monthly allowance.

- **Transitional Livelihood allowance** -- APs forced to relocate will receive a livelihood allowance of AF 5,200 a month for three months. Transitional livelihood allowance is computed based on the prevailing wage rate of AF 200.00 per day times 26 days or AFs 5,200 per month. This is also the basis for cash compensation on lost wages.

Land replacement values will be assessed based on a survey of land sales in project areas over the last 3 years and of government rates (if any) as per local revenue papers. Land values and compensation for other assets, will be negotiated between APs and competent authorities if concrete data on land market rates are unavailable.

4. Unit Compensation Rates and Budget

4.1 Establishing Rates for Land Acquisition & Resettlement

As noted in the table above at paragraphs 9 and 10, the Law on Land Expropriation refers to prompt and adequate compensation but is silent on the details of compensation, has no specific provisions on resettlement and provides for the Council of Ministers to make decisions on compensation. These provisions fall some way short of what is required by OP 4.12 but it was suggested in the table that the absence of detail could be used to the advantage of developing rules and principles of compensation. The Law does not forbid the development of detailed rules on compensation and the fact that regulations may be

made under the Law suggests that that is where details may ultimately be developed. In the absence of detailed rules, it does not do violence to the Law for details to be developed in the context of this RPF and applied to the project.

To comply with the World Bank's OP. 4.12, rates used to compensate for lost land and assets must be replacement cost at current market value, in order to meet the policy objective of —at least|| restoring people's livelihoods and ensuring that people affected by a project are not left worse off. According to OP 4.12, 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 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.

The rates for land, structures, crops and trees that have been used in the cost estimates prepared in the MPW plan were derived through rapid appraisal and consultation with affected parties through the census and inventory of loss survey and relevant local authorities. The affected households were asked about their personal valuation of the affected lands and other assets. This would be an essential preliminary aspect of an RAP.

4.2 Valuation of Land

The location of the land influences the actual price per square meter. The nearer the land to a build-up area (e.g. community), the higher is the valuation and perception of the affected households. Hence, the valuation of the land is pegged on an average, the actual value depending on the nearness to a buildup area. In the valuation of agricultural land, the availability of water is very important to determine the fair value or market rates. Residential and commercial lands are largely dictated by the existing road alignment for accessibility rather than crop potential. The land prices are based on the district land prices in the district government. The prices follow the trend that the nearer the land to a population centre, the higher the price of the land.

4.3 Valuation of Structures

In the study area of the MPW project, almost all structures were made of mud or mud and bricks except for some government-owned structures that used cement as the binder in lieu of mud, straw and lime. The classification of structures (temporary, semi-permanent and permanent) refers to the materials used in construction. The valuation of structures into class 1(mud/brick/wood walls, mud/tin roof), 2 (tiled roof and normal cement floor)

and 3 (RCC, single/double storey building) were determined after various consultations with some owners who recently build their houses, local contractors and some local civil engineers.

4.4 Valuation of Crops and Trees

This was quite problematic because of lack of reliable data in terms of yield. The results of the socio-economic survey were not reliable because the majority of the respondents were not aware of size of their land holdings. Their measurements of farm lots are determined on the basis on the amount of seeds they use in sowing. Hence, they know that a certain parcel will require one kilogram of seeds and expected to yield a certain amount. Hence, in computing crop losses, a combination of four main crops was used to get the average yield and price. The unit price for crop losses for a square meter of land devoted to the four main crops was estimated at AF 5.00 per sqm.

The compensation for productive trees is based on the gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees will be valued based on the multiple years investment they have required. However, during interviews on trees, the fluctuation of the value of tree products was influenced largely by the supply and demand and the absence of post-harvest facilities. Farmers are forced to sell tree crops when everyone one else is doing so during off-season months, the prices of tree crops quadrupled. The compensation rate for a fruit bearing tree is the average yield per tree (AF 1,500) times the age of the tree.

For the non-fruit bearing trees, the usual propagation method is grafting. Farmers buy these saplings and these are ready to be transferred in the fields after two years. On the fourth year of the tree, the tree starts to produce fruits. Hence, it is on this basis that the valuation of non-bearing fruit trees was determined. The compensation for non-productive fruit bearing tree is the cost of the sapling plus the cost of maintaining the tree up to the time that the tree was cut because of the project.

4.5 Income Restoration Allowances

The resettlement strategy is to provide compensation for all lost assets at replacement cost in order that APs incomes and livelihoods are not adversely affected and where possible improved. All APs whose livelihood are affected will be supported for income losses and those whose livelihoods are affected adversely provided with livelihood restoration measures (including allowances and interventions for severely affected, poor and vulnerable APs).

Income Restoration Allowance for Crops Losses -- These impacts will be compensated through cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements. (NA)

Income Restoration Allowance for Business Losses -- compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (6 months). Permanent business will receive AF 6,000 a month for 6 months. Compensation for temporary business losses will be cash covering the income of the interruption period up to 3 months based on a monthly allowance of AF 6,000.

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

Income Restoration Allowance for Severe Agricultural Land Impacts -- When >10% of an AP of the agricultural land is affected, AP (owners, leaseholders and sharecroppers) will get an additional allowance for severe impacts equal to the market value of a year's net income crop yield of the land lost. (NA)

Vulnerable Group Allowance -- Vulnerable people (APs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable APs equivalent to AF 5,200 and priority in employment in project-related jobs.

Transitional Livelihood Allowance -- APs losing land or losing a house and forced to relocation will receive a livelihood allowance of AF 5,200 a month for 3 months.

Rental Allowance – House Renters forced to relocate will receive a rental allowance equivalent to three (3) months' rent at the prevailing market rate (AF 5,000/month) and will be assisted in identifying alternative accommodation.

Project-related employment (for unskilled and semi-skilled tasks during construction) - severely affected and vulnerable groups will be given priority for project-related employment opportunities as drivers, carpenters, masons, clearing and digging work, and if possible as clerks or basic administration support staff.

5. Institutional Arrangements

5.1 General

The resettlement and rehabilitation program described in this RPF involves distinct processes, dynamics and different agencies. This section deals with the roles and responsibilities of different institutions for the successful implementation of the project. The primary institutions that are involved in the land acquisition and resettlement process are the following;

- Islamic Republic of Afghanistan (IRA)
- Kabul Municipality
- Project Management Unit (PMU)
- Safeguards staff
- Environment and Social Consultants (consultant firm for design review and supervision)

- Local district office KM Amlak Department

3. Implementing Non-Government Organization (NGO)

The agencies involved in the planning and implementation of resettlement and rehabilitation program are Kabul Municipality as the EA and with the appointed NGO. Kabul Municipality will be acting in the project through the project management office. All activities will be coordinated with the relevant local district offices and community shura in which the package will be implemented.

5.2 Overall Organization – Kabul Municipality

The Kabul Municipality will be the executing agency (EA). The Kabul Mayor and Deputy Mayor (Technical) will be responsible for the overall policy level decision, planning, implementation and coordination of project activities. The EA will have proper coordination with other departments of the Government of Afghanistan to resolve the following issues:

1. Land Records and Ownership. To resolve issues related to land records and ownership, a land management committee will be formed in the central level and will include members from the Kabul Municipality, Ministry of Finance, and the Afghanistan Land Authority (ARAZI).
2. Assets Valuation. Values of land and other assets for compensation is determined by the Council of Ministers under the LLE on the basis of the principles set out in this RPF.

The decisions are based on the recommendation of a committee consisting of the following (i) the landlord or person who uses the land or their representatives, (ii) an official representative of the agency that needs to acquire the land (e.g. Kabul Municipality), (iii) a representative of the local district office, (iv) a representative of the Ministry of Finance, and (v) a representative of the Ministry of Justice.

5.3 Project Implementation

5.3.1 Kabul Municipality

Kabul Municipality, through the project management unit (PMU) will be responsible for the implementation of the LARP. Within the PMU, LARP tasks will be handled by two units described below. Local district office will be responsible to co-ordinate activities in the field including the organization of surveys, consultation meetings, and the fixing of specific compensation rates based on the principles set out in the RPF. The provision of the LARP compensation finances will be the responsibility of Kabul Municipality and the physical delivery of compensation to the APs will be assigned to a committee selected by the Kabul Municipality which will include members such as the local district office but under the supervision of the PMU and of the Supervision consultants.

The Environmental and Social Safeguards Officer will be primarily responsible for the social safeguard issues. She/he will also be responsible for the daily field level activities, getting all the necessary clearances required to initiate and implement all resettlement works. He will coordinate with the consultant firm in the implementation of the project. As necessary, the safeguards officer will coordinate with ARAZI, NGOs and the community shuras, and local representatives and business community. The safeguards officer will be responsible for ensuring that all stages of the processes of resettlement, determining and paying compensation, and acquiring land are fully documented and that hard and soft copies of the records are at all times kept in a safe and secure environment.

A consultant firm for design review and supervision will be recruited as an advisor to the safeguards officer for resettlement issues. The consultant firm will have overall responsibility for ensuring/monitoring compliance with safeguards. The international adviser would be responsible for mentoring/building the capacity of safeguards officer to (i) work with local district offices' teams to ensure adherence to safeguard requirements at each stage of sub-project development and (ii) facilitate outreach to other development agencies.

5.3.2 Implementing NGO

The specific tasks of the implementing/supervisory NGO will be as follows:

1. Work under close coordination with the Safeguards Officer, local district offices and Kabul Municipality local staff to implement the LARP.
2. Assist the Safeguards Officer in dissemination of the LARP and other resettlement related information.
3. Generate awareness about livelihood restoration activities and assist the APs to make informed choices including participating in government development programs.
4. Identify training needs of APs for income generation activities and ensure that these are properly funded.
5. Provide counseling and awareness generation to resolve LARP related grievances and assist in seeking redress to unresolved grievances from land acquisition and resettlement disputes with the Grievance Committee.
6. Assist the APs in claims for just compensation including the collection of timely and complete payments.
7. Submit periodic implementation reports on LARP.
8. Conduct and/or undertake any other activities that may be required in the successful implementation of the LARP.

The implementing NGO must be a non-profit organization; be legally registered (at least years) as an NGO in Afghanistan; have operated for at least 3 years; have a minimum of five paid staff; be committed to the principles of gender equality in terms of its own staffing; have a management or advisory board; maintain a proper accounting and financial system; have a long term presence and credibility in districts relevant for the project area; have work with government focal agencies; and must be willing to undergo training in resettlement work for project implementation.

5.3.3 Gender

It is appropriate to draw special attention to gender issues within the context of project implementation.

The government's commitment to addressing gender equality principles in social and economic development is evident in the Afghan National Development Strategy (ANDS). Using established community structures to involve women meaningfully in developing RAP will be a challenge and will need to be approached with renewed effort and imagination. Working with women can be done only with female staff. The contracting of a local NGO will be required to have women as staff members, familiar with the proposed area, who can reach women in the affected communities.

Specific efforts should be made to seek the views of groups within the community who are usually not involved in decision-making, in particular women. KUTEI will pay special attention to female-headed households, both those with and without land, as they are generally amongst the most vulnerable in communities and risk having their rights ignored. Although women's ownership of land is not widespread it is important to ensure that their land rights receive equal recognition in the project and in any resettlement activities. Thus, the ESSO within the PMU will have special responsibility to

- Ensure that the KUTEI uses existing women's groups to enhance outreach to women.
- Identify NGOs working with women in locality and consider whether/how to
- Piggy-back on their work in order to reach women affected by the project

6. Public Consultation and Participation

6.1 General Public Consultation

This section describes the mechanisms for public consultation process with the APs, disclosure of the LARP through distribution of informative material to create awareness among the APs regarding their entitlements and compensation payment procedures and grievances redress mechanism.

6.2 Public Consultation

In addition to informal day-to-day meetings among APs, Kabul Municipality local staff, and other stakeholders, the formal consultation process in the project area will be ongoing and will be undertaken by supervising consultants and the PMU through Districts meetings, and public consultations with government officials. All these mechanisms and approaches will also be used during the collection of baseline socio-economic data from the APs; and the preparation of LARP and disclosure of LARP to the APs, as explained below.

6.3 District Meetings

A series of district meetings will be held, where the census and socio-economic surveys will be explained and later carried out. The aims and objectives of the KUTEI will be explained as will the necessity for, processes and outcomes of any resettlement. The neighborhood elders and stakeholders meetings will be scheduled based on the availability of the participants. The safeguards officer will be responsible for conducting district consultations.

The project will conduct an inventory of losses of affected assets and socio- economic survey. In the socio-economic survey, the project will list the names of the owners/users of assets likely to be acquired or damaged for which compensation will be payable and the Kabul Municipality will prepare a land acquisition and resettlement plan (LARP) for each sub-project that will ensure that all these affected assets are justly compensated. The approved LARP will be presented and explained to all affected households and persons and other interested parties. The census survey will be conducted in the affected lands

At all times, all people will be encouraged to express their own options about resettlement. These will be relevant to the resettlement options of the APs themselves. The primary purpose of these meetings will be to provide the affected households and persons and host communities the opportunities to air and ventilate their issues, concerns and opinions about the project while on the side of the supervision consultants, it is also an opportunity to clarify and elucidate initial results of surveys as well as inquire on subject matters that were not sufficiently covered by questionnaires.

6.4 Consultations with Government Officials and Other Stakeholders

The supervising consultants will meet with provincial and local officials to ensure that they are fully apprised about the project including the formulation and details on the implementation of the LARP. The PIU will coordinate with land valuation committees. There will be coordination with the district manager which have jurisdiction over the sub-project areas as well as neighborhood (Gozar) leaders. Information about the entitlement provisions and compensation packages will be shared with these government officials and other stakeholders.

6.5 Preparation of Project Specific Informative Material

Project specific informative materials will be prepared and distributed to the APs to create awareness among the APs regarding their entitlements and compensation payment procedures and grievances redress mechanism. They will cover the following:

- After approval of this RPF by the World Bank, it will be translated into local languages and disclosed to the stakeholders especially affected persons by the Kabul Municipality through consultants and at district meetings. LARPs for sub-projects will be made available to the concerned district offices and community leaders as an official public document. This RPF will also be disclosed on the Kabul Municipality website.

- A summary of this RPF will be prepared specifically for this purpose and will be translated into local languages and presented to all APs in the form of a pamphlet/ brochure, to enable the APs and local communities to read it by themselves and be aware of the IRDPs benefits/compensations to be made to available for various types of APs, as given in the entitlement matrix'. Kabul Municipality field staff/consultant will distribute the brochures through the district meetings and will explain the mechanisms and procedures of the consultation program and how APs will be engaged in resettlement activities and the overall process.
- A cheque disbursement schedule explaining the date, time and venue for disbursement of compensation cheques of each AP will be prepared in local languages and distributed to all APs. This will also be disclosed in the village meetings.
- A package containing following information material will be prepared for each AP.
 - Inventory of AP's losses
 - Schedule for compensation cheque disbursement explaining the date, time and venue for receiving cheque, vacating land and demolition of structures
 - Pamphlet/ brochure in local languages
 - Any other relevant information for the AP

6.6 Disclosure

Key features of this RPF will be disclosed to the APs through the community meetings, and informal interaction between the APs, PMU staff. After its approval by the World Bank, the disclosure plan will be followed:

- Provision of the RPF in local languages and English to PMU, Kabul Municipality field offices, APs, other local and district level offices of the concerned agencies.
- Disclosure of the RPF in district meetings
- The RPF will be available in all public institutions for general public information
- Posting of RPF on Kabul Municipality website
- Publicity will be given to the RPF through all forms of media
- Provision of information packet to all APs

The safeguards officer will again conduct meetings with the district staff, and other government agencies as part of the disclosure process to acquaint them of the substance and mechanics of the RPF. The safeguards officer will be responsible to return to the affected communities once this RPF is approved by Kabul Municipality and the

World Bank and conduct disclosure activities through community meetings to ensure that affected households will be familiar with this plan before the actual implementation commences.

7. Preparatory Actions and Implementation Schedule

7.1 Preparation Actions

Kabul Municipality/PMU will begin the implementation process of each sub-project immediately after its approval by the World Bank. It will initiate some actions as groundwork and certain preparatory talks regarding implementation of the LARP as follows:

- Establishment of a Project Management Unit (PMU)
- Appointment of resettlement specialists (consultants)
- Establishment of Affected Persons Committees (APCs)
- Establishment of official cut-off date for the first sub-project
- A series of public consultative meetings and workshops with APs and local representatives and active involvement APs in preparing a final RP
- Endorsement of the first LARP by PMU and its submission to World Bank for approval
- The process for developing the budget for compensation of land, trees, and crops will have already been coordinated with the Ministry of Finance
- Establishment of criteria, requirements and procedure for disbursement of compensation cheques
- Identification of the implementing consultant that will assist KM in LARP implementation
- Identification of external monitoring agency who will undertake independent monitoring

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

Payment of compensation of assets other than structures (land, crops, and trees) will be made at least 90 days prior to actual possession of the space being utilized by the APs. However, in case of a dispute, up to 70% of the assessed/allocated amount of compensation will be paid to APs and the rest pledged in the names of the concerned APs, pending the resolution of the dispute. In such an exceptional case, the Kabul Municipality may possess the land without full payment of compensation. Grievances or objections (if any) will be redressed as per grievance redress procedure adopted in this RPF. However, all activities related to land acquisition and resettlement will be completed prior to initiation of civil works for irrigation infrastructure rehabilitation and dam building with resettlement impacts.

7.2 Process of LARP Implementation

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

The steps for the delivery of compensation for all eligible APs will be the following:

- I. Obtain financial resources based on the final budget of each LARP. PMU shall obtain the needed money for its counterpart to fund the land acquisition component from the Ministry of Finance.
- II. Verification of the list of qualified APs: PMU through the implementing consultant will verify the list of APs provided in the LARP to ensure that all eligible APs will be properly compensated and non-eligible APs will be excluded. To ensure that identification and qualifications are guaranteed, community elders and community Shuras will be consulted to resolve issues rising from the list.
- III. Notification of a detailed compensation package: PMU through the implementing consultant will prepare and provide each APs with a detailed breakdown of affected assets, and the unit cost of each asset affected and the total compensation that they will receive.
- IV. iv. Final conciliation/expropriation: APs who disagree with the amount of the detailed compensation package and how it was arrived at will be provided with a

last or final chance to settle these issues with the implementing consultant facilitating this meeting. In the event that PMU and the APs still cannot agree, the PMU will file expropriation proceedings in the appropriate court, asking that MEW be permitted to take possession of the affected asset. The PMU will pay the AP 70% of the contested sum and deposit the remaining amount in an escrow account in a bank.

- V. Locate absentee owners: The PMU through the implementing consultant and village leaders shall try to locate absentee owners of affected assets. There are some cases where owners are residing or working in other places and every effort must be undertaken to locate these absentee owners.
- VI. Notification to the public: available media and community bulletin boards will be utilized to inform the public that lands with the corresponding owners will be affected by the project. These will provide sufficient time for any adverse claimants on lands that will be affected to raise their opposition or claims over the affected lands.
- VII. Preparation of invoices: Invoices for each of the eligible APs will be prepared by PMU/Implementing consultant. This document entitles each of the APs to receive the amount indicated in the invoice.
- VIII. Delivery of the money to local bank: the money from KM /MoF will be remitted to a local bank in the nearest town to the sub-project site. However, the KM/PMU may remit the money for compensation to any bank of its choice. The bank account will be opened by PMU which will receive from Kabul the compensation in behalf of the APs.
- IX. Payment: the APs will each receive a cheque for the whole amount of compensation from the PMU. The AP will sign a document acknowledging the receipt of the whole compensation and a waiver attesting that he/she has no longer any pending claim over the affected property. A photograph shall be taken with the AP receiving the cheque as part of project documentation.
- X. The AP will cash the cheque by presenting their national identification card (NIC) and/or election registration card to the bank. Persons without NICs will have to explain to the pertinent authorities the reasons why they are not in possession of the NIC.

APs will be encouraged to open a bank account in any bank and only carry necessary money to their respective villages to avoid unnecessary exposure to those who might wish illegally or with force to relieve them of their cash. The benefits of having a saving account will be part of the information to be provided by the implementing consultant.

8. Complaints and Grievance Redress

Based on the LLE when private landholdings are acquired for public purposes such as dam building, compensation is paid to the owner based on the category and location of the affected land and the values of land for compensation are determined by the Council of Ministers. The decision is based on the recommendation of a land acquisition committee (LAC) consisting of the following members:

- Affected person who uses the land or his/her representative,
- Representative of Kabul Municipality,
- Representative of the Ministry of Finance,
- Representative of the Ministry of Justice, and
- Representative of the local district office,

The land acquisition process is initiated with the constitution of the land acquisition committee. As land and other assets are acquired for a public purpose, the law does not permit any objection to the acquisition of an individual's property by the state. Usually, there are dissatisfactions that arise with these acquisitions, mostly relating to the value of compensation. The LAC inquires into the matter and reviews the valuation and tries to arrive at a win-win solution. The whole process is based on a negotiated approach and as the AP or his/her representative is a member of this legally constituted LAC, a consensus is reached on the replacement value of the land and assets lost. The LAC thus also performs the tasks of a grievance redress committee.

However, if after this negotiated approach, the issue remains unresolved, the affected person may elevate the matter to a Grievance Redress Committee (GRC) to try to resolve the issue. It should be pointed out however, that this committee does not possess any legal mandate or authority to resolve land issues but rather acts as an advisory body or facilitator to try to resolve issues between the affected household and the MEW/PMU who would implement the valuation based on the decision of the LAC. The GRC will be composed of the following members:

- Affected person or his/her duly appointed representative,
- Representative of the local administration (from the office of the governor),
- Representative from Kabul Municipality/PMO
- Representative from the local legal department,
- Representative of the implementing NGO

The grievance redress committee will register the unresolved matter and meet to try to resolve the issue. A recommendation should be made within 7–10 working days. In the case of the absence of any of the members during the decision-making process, an appropriate candidate will be nominated by the original representative. If no decision has been promulgated after 10 working days from the last meeting of the grievance redress committee, the affected person may take the issue to the next level. The AP always has the final recourse to seek redress through the legal system. However, every effort must be exerted to avoid this alternative because it entails loss of time and expenses of the part of the AP.

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

9. Monitoring & Evaluation

9.1 General

Project activities will undergo both internal and external monitoring. Internal monitoring will be conducted by the PMU, assisted by the Supervision Consultant. External monitoring will be assigned to an independent External Monitoring Agency (EMA) to be hired by KM/PMU, and approved by the World Bank.

9.2 Internal Monitoring

Internal monitoring will be carried out routinely by the KUTEI safeguards officer and results will be communicated to World Bank through the regular project implementation reports. Indicators for the internal monitoring will be those related to process, immediate outputs and results. This information will be collected directly from the field and reported monthly to the KM's Deputy Mayor/technical to assess the progress and

results of LARP implementation, and to adjust the work program, if necessary. The monthly reports will be consolidated every quarter in standard supervision reports and submitted to the World Bank. Specific monitoring benchmarks will be:

- Information campaign and consultation with APs;
- Status of land acquisition and payments on land compensation;
- Entitlement matrix
- Compensation for affected structures and other assets;
- Relocation of APs;
- Payments for loss of income;
- Income restoration activities.

9.3 External Monitoring

The implementation of the KUTEI will take several years. It will therefore be necessary that external monitoring is carried out on a regular basis with the results communicated to the KUTEI and the World Bank through a bi-annual compliance report. The EMA will be responsible for the preparation of the compliance report confirming that all compensation and related resettlement assistance in cash or kind are being delivered to the affected households. Based on the results of the compliance report, the EMA will recommend to KM/the World Bank if the necessary civil works on Road Improvement with resettlement impacts can commence. A copy of the compliance report and its recommendations will be submitted to the PMU, supervising consultant and the World Bank simultaneously.

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

- Socio-economic conditions of the APs in the post-resettlement period;
- Communications and reactions from APs on entitlements, compensation, options, alternative developments and relocation timetables etc.;
- Changes in housing and income levels;
- Rehabilitation of squatters (if any);
- Valuation of property;
- Grievance procedures and outcomes;

- Disbursement of compensation; and
- Level of satisfaction of APs in the post resettlement period.

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

9.4 Management Information Systems

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

9.5 Reporting Requirements

The implementing consultant firm will be responsible for supervision and implementation of LARP and prepare monthly progress reports on resettlement activities and submit to the PMU for review. The implementing consultant firm will also monitor RAP implementation and submit quarterly reports to KM/PMU and the World Bank. The external monitoring agency (EMA) will submit bi-annual reviews directly to the World Bank and determine whether or not resettlement goals have been achieved, more importantly whether livelihoods and living standards restored/enhanced and suggest suitable recommendations for improvement.

10.1 Matrix of Actions under the RPF

ACTIONS, MEASURES, COMPENSATION ENTITLEMENTS AND CATEGORIES IN THE RPF

ACTIONS	TO	IMPLEMENT	TH	KUTEI
Wh	Wha	Whe	Why (Objective)	Comments
Kabul Municipality	Establish liaison arrangements with other Ministries which will necessarily be involved in KUTEI: Kabul	Assuming these arrangements already exist with respect to EIRP, they can be utilized as soon as	To facilitate the smooth implementation of the beginning and operation of the KUTEI	The vital first step in the process of developing the KUTEI
Kabul Municipality	Establish institutional arrangements for ensuring safeguards	On approval of RPF by World Bank	Creation of the internal Ministry arrangements to implement RPF	Preparatory work to be done before approval of RPF
Kabul Municipality	Appoint national safeguards officer	Desirable to appoint this officer well before the commencement of KUTEI	Creation of internal Ministry arrangement to implement RPF	Early appointment will facilitate training of this officer. Training organized by safeguards officer
Kabul Municipality	Commence the preparation of materials on the RPF for distribution to probable	At commencement of 2011	To give as much advance publicity to KUTEI as possible and to alert probable APs of	No need to wait for approval of RPF by World Bank. This work should start as soon as
Kabul Municipality	Prepare terms of reference for international social safeguards consultant	At commencement of 2011. Advertisements can go out before RPF approved but appointment would be	To ensure rapid recruitment processes once RPF approved	There will need to be considerable consultation on this post so action needs to start early on
Kabul Municipality	Appoint the implementing NGO which is going to carry out the processes of resettlement	Initial work on appointment terms of reference; basic requirements for an NGO to be qualified to apply; vetting applicants – can start in early 2011. Appointment would	The implementing NGO will have an important role to play in all significant resettlement exercises.	For sub-projects where no or very small-scale resettlement will take place, the ESSU and the regional safeguards officer could be the implementers but anything over that and the

Kabul Municipality	Continue with process of locating sites and preparing technical plans etc. for sub- projects	Be ongoing	To ensure no delay in beginning implementation of KUTEI	No comment needed. Self-evident action. PIU
Kabul Municipality	Where likely resettlement will be involved in a site located for action under KUTEI begin preparation of RAP under the RPF	This action should begin to be incorporated into plans developing the sites for action under KUTEI	To ensure no delay in beginning of implementation of KUTEI	Processes for preparing RAP set out in the text of RPF
MEW	Census of residents and probable APs within sub- project area	As early as possible once sub- project site identified	An essential first step in the process of resettlement	Explanation of the importance of this in the RPF
KABUL MUNICIPALITY	Begin the processes of publicity and consultation with APs.	Alongside taking the census of APs	An essential first step in the process of planning resettlement and developing a resettlement	Consultation must be genuine. As much information as possible must be given to APs.
KABUL MUNICIPALITY	Consult and liaise with local governments and regional offices of associated Ministries on	Alongside consultation with APs	Essential to ensure that Ministries and local governments know of what is happening	These bodies will be needed to assist with village meetings and consultation with APs.
KABUL MUNICIPALITY	Undertake the process of inviting APs to submit claims for compensation; assessing discussing and settling claims with APs	Part of the process of consultation and preparing an RAP as an RAP must contain precise details of the compensation and	Compensation and the process of resettlement is at the heart of an RAP and its implementation.	ESSU and NGO will be involved here
GRC	The GRC will be involved in attempting to settle any grievances which APs may have over the compensation that they are being offered	The GRC should be ready to be involved from the commencement of the process of assessing and determining the	To assist in the process of settling claims to compensation	The GRC must be prepared to work speedily and flexibly so as to ensure that a sub-project does not get bogged down in never-ending disputes
KABUL MUNICIPALITY	Finalize RAP	Preparation of RAP is a continuous process commencing with consultation in connection with census	A necessary step to commencing action on the ground	RAP must be approved by World Bank

KABUL MUNICIPALITY	Prepare information pack for each AP	The information pack to be distributed when RAP approved	The pack provides all the basic information which an AP will need to know. What is to occur on resettlement; how much compensation will be provided; how the compensation will be provided and the	This is a vital component of an RAP. The details of what must be in the information pack are contained in the RPF
KABUL MUNICIPALITY	Implement the compensation and resettlement processes of the RAP	Everything should be ready to be rolled out once the RAP is approved	Once the APs have been paid their compensation and been resettled, infrastructural activities on the ground may commence	It is absolutely vital to bear in mind that all APs claims must be settled (subject to the limited exception of payment of only part of compensation if a dispute is going to court as set out in the RPF) before entry may be made on to land from which
Implementing NGO	1. Work closely with ESSU in generating awareness of all aspects of resettlement and compensation 2. Work closely with APs in assisting in making, negotiating and if necessary taking to the GRC claims for compensation 3. Submit regular reports on the process to KM and the monitors	Throughout the execution of the RAP	The presence of an independent agency whose prime function is to act on behalf of and support APs in their claims for compensation is designed as a guarantee that the process complies with principles of substantive and procedural (administrative) justice	This is a key element in the RPF. It will be important that a reputable and effective NGO is appointed and that the external monitoring body has terms of reference that embrace the monitoring on the NGO
GRC	Handle AP grievances over compensation	During the process of determining compensation.	As with the implementing NGO, a GRC is a	Another key element on the RPF. Important that the members of

		Meet regularly and settle disputes within 10 days.	guarantee to APs that the process is both substantively (a second and independent opinion on compensation) and procedurally (an AP can have a hearing and put	The GRC see themselves as independent and operate accordingly. They are not there to save government money.
MEW	Internal monitoring conducted by PMU	Throughout the process of the implementation of an RAP with regular reports to the World Bank	The PMU is responsible for managing the KUTEI. It will not have the major hands-on role which will be that of the implementing NGO. So it is in a good position to monitor and report on what is happening and will do that via officers of MEW in the field	An essential aspect of the RPF as it provides an element of project assurance to the World Bank with respect to the implementation of the KUTEI
EMA. Must be independent of all bodies involved in the implementation of the KUTEI and with independent standing in its own right. Could be a University department or a consortium of departments.	External monitoring conducted by the EMA.	Throughout the process of the implementation of the KUTEI with regular reports to the World Bank and guaranteed access to sites; APs; documents; officials in Kabul Municipality and other relevant public and private bodies	An independent overview of the implementation of the KUTEI	The independence of the EMA must be assured in the contract between it and the Kabul Municipality. The World Bank has a substantial interest in the EMA and its outputs so will likely be involved in the selection process.

10.2 Matrix of Compensation Entitlements and Rates

ELIGIBILITY	CRITERIA	FOR	IDENTIFYING	
Who is eligible	What are they eligible for	How to determine eligibility and compensation levels	What's the objective	
1. Landowners	Loss of land and rights to land	1. Official documentation issued by or on behalf of government 2. Customary documents; i.e. documents recognized by both official and customary law as giving rise to ownership rights 3. Oral and other evidence with probative value that the claimant and his/her family have been in occupation of the land for at least 35 years. 4. Open, continuous and uninterrupted possession of persons over a very long time which effectively vests in them legal rights over the lands they occupy through acquisitive prescription.	The aim of OP. 4.12 is to compensate all those who have lost their land. OP 4.12 goes beyond technical rules of law or evidence which in part are designed to bring disputes over land to an end and ensure security to title. OP 4.12 aims at simple and substantive justice: -if you've been on this land for a long time and there is good evidence of that then you should be compensated for losing it.	
2. Squatters	Permanent improvements they have made to the land they have occupied	Observance of permanent improvements; questioning the squatter and neighbors on when improvement made; consulting maps and other relevant documents	The objective here is to compensate the squatter for expenditure on the land but not for the value of the land itself	
3. Agricultural tenants	Loss of income	cash compensation corresponding to one year's	A fair approximation of loss of income	

4. Sharecroppers	Loss of income	Their share of the harvest at additional compensation market rates plus one	Ditto to above	
5. House owners/renters	Costs of relocation to other accommodation	relocation allowance equivalent to AF5,000 for 3 months and assistance in identifying alternative accommodation	This is a very standard element of compensation in all systems	
6. Loss of livelihoods by agriculturalists	Replacement costs for all losses	1. losses will be compensated at replacement value in cash based on current market rates plus an additional . Indemnity for 3 months as transitional livelihood allowance. 2. When >10% of an AP's agricultural land is affected, APs will get an additional allowance for severe impacts equal to	The aim is to provide a reasonable measure of compensation for loss of livelihoods but on the assumption that APs will make a go of things on their new land. It provides temporary relief but not an amount which invites future indolence	
7. Residential/commercial land impacts	Replacement costs for all losses	Replacement value in cash at current market rates free of deductions for	See above. The same reasoning applies	
8. Those who lose or have buildings damaged	Replacement costs	These impacts will be compensated in cash at replacement cost free of depreciation, salvaged materials, and transaction costs deductions. Renters/leaseholders will receive an allowance geared to the rent they are paying for 3 months to cover emergency rent costs.	See above.	
9. Those who lose income from crop losses	Replacement of lost income	These impacts will be compensated through	See above	

		cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.		
10. Those who have lost income from loss of trees	Replacement of lost income	Income replacement based on types of trees lost.	See above	
11. Those who have suffered business losses	Replacement of lost income	Compensation for business losses will be based on actual income to be established by pertinent receipts or other documents if demonstrable, otherwise based on business loss allowance computed as AF 6, 000 a month	See above	
12. Those who have suffered loss of	Replacement of lost wages	Up to three months wages	See above	
Vulnerable households	Additional compensation over and above strict loss of income	Vulnerable people (APs below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance in the form of a one-time allowance for vulnerable	This is a recognition that those classified as vulnerable households will likely suffer losses over and above income loss and will find it especially hard to get started again somewhere else.	

13. Transitional living allowance for APs forced to relocate	Disturbance compensation	APs forced to relocate will Receive 0a livelihood allowance of AF 5,200 a month for three months. Transitional livelihood allowance is computed based on the prevailing wage rate of AF 200.00 per day times 26 days or AF 5,200 per month.	This is a standard head of compensation in most systems of compensation.	
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10.3 Principle of Valuation

What is being valued	How is valuation	Input of APs	Indicative figures	Comments
Matters common to all specific types of valuation	Rapid appraisal; consultation with APs; information derived from census and from local authorities	Yes but not necessarily decisive	Where figures are given they are indicative only being based on a 2009 valuation exercise. They will almost certainly be changed when budgets for RAPs are developed under the	none
Land	Valuation of the land is pegged on an average, the actual value depending on the nearness to a buildup area. Land prices are based on the district land prices in the district government	Land values are so far as possible determined on the basis of 'objective' factors but it is not possible to ignore the assumptions of APs about land values which do play a part in valuation	None	Land values are dealt with after a fashion in the LLE.. The Council of Ministers determines values but there is a local process that valuation goes through.

Structures	Structures may be classified (temporary, semi-permanent and permanent) based on the materials used in construction. They may be classified into class 1(mud/brick/wood walls, mud/tin roof), 2 (tiled roof and normal cement floor) and 3	In the project from which these classifications are based, they were arrived at after various consultations with some owners who recently build their houses, local contractors and some local civil engineers.	None	This approach to structures Seems a good one to adopt. Some APs considered that the length of time a structure had been standing should affect value but this was not a factor used in valuation
Crops	In computing crop losses, a combination of four main crops was used to get the average yield and price..		The unit price for crop losses for a square meter of land devoted to the four main Crops were estimated at AF5.00 per sqm.	Valuation was problematic because of lack of reliable data in terms of yield. The results of the socio-economic survey were not reliable because the majority of the respondents were not aware
Trees	Compensation for productive trees is based on the gross market value of 1 year income for the number of years needed to grow a new tree with the productive potential of the lost tree. Non-productive trees are valued based on the multiple year's investment they have required. Compensation for non-productive fruit bearing tree is the cost of the sapling plus the cost of	During interviews with APs on trees, it was pointed out that the fluctuation of the value of tree products was influenced largely by the supply and demand and the absence of post -harvest facilities. Fruit was sold when all other farmers sold their fruit. In the off-season, prices were higher but few farmers could store their crops until then	The compensation rate for a fruit bearing tree is the average yield per tree (AF 1, 500) times the age of the tree.	The same point as above applies here too

Restoration of income 1. Crop losses	cash compensation at current market rates for the full harvest of 1 agricultural season. In case of sharecropping, crop compensation will be paid both to landowners and tenants based on their specific sharecropping agreements.	No apparent input from APs. But there may be disputes between owners and sharecroppers which officers from the implementing NGO and possibly from ESSU might become involved in	No figures can be given	As noted in column 3 this may not be as straightforward as it seems. Inter-AP disputes may erupt and the GRC called into action.
2. Business losses	Compensation for permanent business losses will be in cash for the period deemed necessary to re-establish the business (6 months). Compensation for temporary business losses will be cash	The figures in the next column do not seem to admit of negotiation but there will be an issue of whether a business is permanent or temporary on which APs will wish to be consulted and have their views	Permanent business will receive AF 6,000 a month for 6 months. Temporary business losses will be paid for up to 3 months at AF 6,000 a month	This is another area where disputes could arise but between those offering and those receiving compensation.
3. Income restoration for workers and employees	Indemnity for lost wages for the period of business interruption up to a maximum of 3 months	This does not admit of much negotiation although there may be differences of opinion of what count as wages	No figures because wages differ depending on the work being done	Ditto but in addition, there could be disputes between employer and employee on wages which the project will have to arbitrate on.
Income Restoration Allowance for Severe Agricultural Land Impacts	When >10% of the agricultural land of a AP is affected, APs will get an additional allowance for <i>severe impacts equal to</i> the market value of a year's net income crop yield of the land lost.	Given the problems of measurement of APs' holdings – see above column 5 on crop losses – this may be difficult to compute and careful negotiations with the APs will be necessary	No figures because the exact sums of money involved will depend on the use to which the land is being put	Although this has the appearance of objectivity for reasons noted in column 3 there may be disputes which will need to be handled sympathetically.

Vulnerable group allowance	Vulnerable people (Aps below the poverty line, women household heads, mentally challenged headed households, etc.) will be given assistance.	There will need to be careful and sympathetic consultation and negotiation with these APs	A one-time allowance for vulnerable APs equivalent to at least AF 5,200 and priority in employment in project-related jobs.	Whether this will be seen as adequate will depend on the income forgone. It might be advisable to build in some flexibility here hence the 'at least'.
Transitional livelihood allowance	APs losing land or losing a house and forced to relocate will receive a livelihood allowance.	Disturbance is a standard head of compensation but it will need a willingness to be flexible on rates as disturbance is not an objective matter.	At least AF 5,200 a month for 3 months	This is very much a guesstimate'. It may be the best that can be done in the circumstances. Here too the words 'at least' have been added to provide for some flexibility
Rental allowance	House renters forced to relocate will receive a rental allowance and will be assisted in identifying alternative accommodation	Negotiations with APs central to the operation of this head of compensation	3 months' rent at the prevailing market rate which in the project area from which these figures are taken was AF 5,000/mo	What the prevailing market rent is must differ from place to place. It is probably not worth while trying to create a 'shadow' market. As with other heads of allowances some flexibility must be built into the outcome.

11.1 A draft Resettlement Code made under the authority of article 22(5) of the Law on Land Expropriation and based on the principles and processes set out in this RPF.

1. Duty to resettle

The duty to resettle requires that an acquiring authority make all necessary arrangements whether through a plan or otherwise to ensure that project affected persons who are to be relocated as a consequence of the acquisition of their land are –

- Informed about their options and rights to be resettled;
- Consulted on and offered choices and provided with realistic and feasible resettlement alternatives;
- Assisted to resettle; and
- Provided with compensation at full replacement cost in accordance with the Code for losses attributable directly to the acquisition of their land.

2. Project affected person not obliged to accept resettlement under this Code

1. A project affected person who has a right to be resettled under this code is under no obligation to accept resettlement under and in accordance with this code but may instead apply to receive compensation in lieu of resettlement under this code.

2. A project affected person may decide not to avail him- or herself of resettlement under this code at the commencement of, or at any time during the preparation of, or on the completion of a resettlement plan.

3. The acquiring authority shall, after satisfying itself that the project affected person is making an informed decision on the matter and has considered the needs and interests of any dependents, pay such compensation as that project affected person is entitled to in lieu of resettlement under this code.

4. A project affected person who is paid compensation under this article shall on receipt of the compensation sign a disclaimer of any entitlement to resettlement under this code.

3. Circumstances when resettlement plan required

1. Where the numbers of project affected persons required evacuating certified land and move to some other land exceeds two hundred persons, the acquiring authority shall be under a duty to prepare in accordance with the provisions of this code a resettlement plan.

2. In determining the number of project affected persons required to leave certified land, the acquiring authority shall calculate the number taking into account the entirety of

the project notwithstanding that the project may be planned to be implemented in several sub-projects over a number of years.

4. Resettlement committee

1. An acquiring authority shall, in any case specified in regulation 3 and after consulting with and taking account of the advice of the provincial and local authorities having jurisdiction within the area of certified land, arrange for and assist in the establishment of a resettlement committee consisting of not less than seven nor more than twenty project affected persons for each sub-project.

2. The functions of a resettlement committee shall be to –

- be involved in the preparation and implementation of a plan;
- represent to the acquiring authority and all persons and organizations working with the acquiring authority the concerns and interests of all project affected person
- Undertake such other activities as are calculated to further the interests of project affected persons.

3.

The Kabul Municipality shall make rules providing for the mode of establishing a committee and the rules shall be designed to ensure that the members of a

5. Preparation of plan

1. The acquiring authority shall cause to be prepared a plan in any case referred to in regulation 3 where it is necessary for a plan to be prepared.

2. A plan shall be prepared by any person or organization with the necessary social and technical skills and knowledge from the public or private sector, including a non-governmental organization or an association of persons from the area concerned and such a person or organization shall be referred to in this code as ‘the planner’.

3. The planner shall;

- prepare a plan within three months of being appointed to prepare a
- comply with the provisions of sub-articles 4 to 10 in preparing a
- comply with the provisions of paragraphs 4 and 7 to 10 in preparing

and shall be responsible for arranging public meetings, village meetings, water associations meetings and meetings of the resettlement committee referred to in sub-regulations 4 to 10 with such timings so as to comply with the time-scales for the preparation of the plan or guide.

4. The planner shall conduct a survey of the certified land, the project affected people and any land which may be used for purposes of resettlement to ascertain the conditions, circumstances and wishes of the project affected persons and the persons already in occupation of the land which may be used for resettlement in relation to any resettlement.

5. The planner may hold such public meetings with project affected persons and persons in areas which may be used for resettlement as will in its opinion contribute to he understanding of the circumstances and needs of such persons.

6. The survey, together with a report of any public meetings referred to in sub-article 4, shall be placed before and considered by the resettlement committee.

7. The planner shall prepare a draft of a plan or guide on the basis of the survey, other relevant information, the views of the acquiring authority and any comments made at any meetings referred to in paragraph 3 and by the resettlement committee.

8. A draft plan shall be placed before one or more public meetings on or near to the certified land and any land planned to be used for resettlement to enable the project affected persons and other persons to comment on and suggest additions and amendments to that draft plan or guide.

9. The draft plan or guide together with a report of the public meetings referred to in paragraph 8 shall be placed before and considered by the resettlement committee.

10. The planner shall have regard to any comments and suggestions for changes to the plan or guide made at any public meetings and by the resettlement committee and shall amend the plan accordingly.

11. The planner shall submit the plan or guide to the acquiring authority which shall be

responsible for its implementation.

12. The acquiring authority shall hold regular meetings with the resettlement committee in connection with the implementation of the plan.

6. Content of plan and guide

1. A resettlement plan prepared to give effect to the duty referred to in regulation 4 shall include measures to ensure that project affected persons are provided with –

- financial and practical assistance during relocation;
- housing, or housing sites, or, as required, agricultural sites or sites for commercial premises which are at least equivalent to the advantages of the place which the project affected persons are leaving;
- where necessary, income and other 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; and
- where; necessary, development assistance in addition to compensation measure including but not limited to land preparation, credit facilities, training, and job opportunities.

2. A plan which requires that project affected persons shall be resettled in places which are already occupied shall include measures to assist the existing occupiers of the land to adjust to and not be disadvantaged by the arrival of project affected persons and such measures may include or be similar to the measures specified in paragraph 1.

3. A plan shall include a detailed program for the phased relocation and resettlement of project affected persons.

7. Assessment of cost of plan or guide

1. The planner shall, as part of the plan, prepare an estimate, to be known as a compensation assessment, of the cost of implementing that plan.

A compensation assessment shall include:

- the rights and interests in land which all project affected persons have or claim to have, including rights and interests to use land in common;
- the rights and interests in plants and trees which all project affected persons have or claim to have;

- the livestock and other moveable property which project affected persons will be taking with them when they are resettled;
- the income and the sources of income which project affected persons have;
- the preferences which project affected persons have for the nature of the compensation which they may receive;
- an estimate of the value of each claim and of the amount of compensation and the nature of the compensation which will be required to meet the claims set out in the assessment;
- an estimate of the costs of providing such other services and facilities to mitigate the costs of, and provide assistance for, relocation and resettlement;
- Such other matters as in the opinion of the planner should be the subject of a compensation assessment or as may be directed to be included by the acquiring authority.

3. A compensation assessment shall not affect any claim to compensation made by a project affected person or the amount of compensation that may be awarded to such a person.

8. Implementation of plan

The implementation of a plan shall involve all or any of the following actions depending on the nature of the resettlement and the numbers of persons to be resettled:

- Where the land to which project affected persons (in this regulation referred to as –settlers) are to be relocated is already occupied by existing occupiers, regular meetings shall be arranged between the resettlement committee and settlers and existing occupiers to settle any disputes and ensure a harmonious atmosphere prevails during and after resettlement;
- The acquiring authority shall cause to be prepared sites and houses for settlers and basic services of water and electricity in such time that such sites and housing are usable before settlers move in;
- Notice of not less than ninety days shall be given to settlers before they are required to move to their new sites and houses;
- Assistance is provided to settlers to dismantle any structures on their existing land which they wish to re-erect on their new sites;
- Transport is provided for the movement of settlers, their possessions, building

- materials if any, and livestock, if any, in sufficient quantity so that settlers are not required to wait on the day scheduled for their relocation for a period in excess of six hours before being transported to their new sites;
- Advice and assistance from local safeguards officers from the area from which
- settlers are being relocated and from other persons with qualifications relevant to resettlement are available both at the site from which settlers are being relocated and at the new site at the time of relocation and from time to time thereafter at the new site to deal with any problems and disputes arising out of resettlement;
- Settlers are paid any lump sum compensation due to them before the time of relocation;
- Arrangements are in place and have been explained to settlers for the payment of any sums of money or other things as compensation on a regular basis for a specific period of time;
- Such other matters are provided for as may be agreed upon between the acquiring
- Authority and the resettlement committee after good faith negotiations on such matters.

9. Grievance Redress Committee

1. There shall be established a Grievance Redress Committee (the Committee) for the project.
2. The Committee shall be composed of
 - the project affected person or his/her duly appointed representative,
 - A representative of the local district office
 - Safeguard Officer,
 - A Representative from the legal department of the province or district
 - A Representative of the implementing NGO
3. The Committee shall register any complaint made by a project affected person on any matter connected with a resettlement plan and its implementation as it affects him or her.
4. The Committee shall consider any registered complaint and shall have power to call for any documentation relating to the resettlement plan.
5. The Committee may permit the complainant and a representative of the acquiring

authority or any organization carrying out functions connected with the implementation of the resettlement plan on behalf of the acquiring authority to appear before it and participate in discussions and negotiations about the complaint.

6. The Committee shall issue its recommendation on the complaint within ten days of the complaint being made to it.

7. If a complainant is not satisfied with the recommendation of the Committee he or she may take the complaint to a local court.

10. Monitoring resettlement

1. An external monitor shall have the duty of monitoring resettlement and the preparation and implementation of a plan and guide.

2. In pursuance of the duty set out in paragraph 1, the external monitor is empowered to –

- Attend any meeting of the planner and of the resettlement committee and any public meeting;
- Have access to, review and comment on any plan or other document produced in connection with the preparation of a plan;
- Meet with and discuss any aspect of resettlement with the acquiring authority;
- Meet with and discuss any aspect of resettlement with any project affected person;
- Be present at any phase of the implementation of a plan;
- Make representations on any aspect of the implementation of a plan to the acquiring authority which representations shall be acted upon in a timely manner by the acquiring authority; and
- Prepare full and regular reports on the preparation and implementation of a planner guide which shall be submitted to the acquiring authority and shall be made available to the public.

11. Commentary on the draft Resettlement Code

This code deals with resettlement: the relocation of PAPs from their land which is being acquired to other land. This code builds on practice in Afghanistan as evidenced by existing resettlement plans and on international best practice as set out in World Bank OP

4.12.

Regulation 1: Duty to Resettle

Establishes the duty to resettle PAPs that have to be moved and sets out the content of the duty; basically, to involve PAPs in the preparation and execution of any plan of resettlement, to pay compensation and to assist PAPs in their move and in their resettlement.

Regulation 2: Project affected person not obliged to accept resettlement under this code

This regulation provides that a PAP is not obliged to accept resettlement but can take his or her compensation and go it alone. 'If he/she does that then when receiving compensation, they must sign a disclaimer to the effect that they accept the State is under no obligation to resettle them once they have received their compensation.

Regulation 3: Circumstances when resettlement plan required

This regulation provides that a resettlement plan will be required where more than 200 PAPs are to be resettled. There is no particular magic in the number 200 but its used in OP 4.12 and given that the figure is used in an influential statement of international best practice, it is sensible to follow it.

Regulation 4: Resettlement committee

Establishes a resettlement committee of PAPs and provides for its functions. If participation is the key to successful and co-operative resettlement, it is clearly sensible to provide for a committee of PAPs with whom the acquiring authority, its officials and resettlement planners can work. The committee must itself keep in touch with the PAPs and be involved in the planning and implementation of a resettlement plan.

Regulation 5: Preparation of plan

Sets out the process for the making the plans: The acquiring authority is responsible for the plan but may appoint a firm or some other body (the planner), e.g. an NGO to prepare a plan. The regulation provides a fairly simple straightforward process of plan making: survey; public meetings; report on same to committee; draft plan; public meetings on draft; committee to consider draft plan in light of views of public meetings; revised plan to acquiring authority which is responsible for implementing it.

Regulation 6: Content of plan

Sets out the content of the plan: Financial and other assistance during relocation; provision of sites in the relocation area for housing and other activities; income and other support during a transitional phase and compensation for losses. Where the relocation area is already occupied, the plan must contain measures to assist existing occupiers and to assist in the

integration of newcomers into the existing community. A program of implementation must also be included.

Regulation 7: Assessment of cost of plan

Provide for the financial aspects of a plan: The plan must contain an assessment of the costs and this regulation sets out what any such assessment must contain. It is basically the value of what PAPs will be losing; the costs of moving; the costs of resettlement; the costs of income support in the new location; the costs of compensation and general administrative costs. This paragraph puts the onus on the planner who has to go round to the project affected persons (PAP), discuss with them what their likely losses are and what type and form of compensation they would want. The exercise is a co-operative exercise in which the PAP is to play an important part putting forward their ideas and requirements.

Regulation 8: Implementation of plan

Sets out the steps required for the implementation of a plan or guide: These involve regular meetings with PAPs and existing occupiers of the relocation land; help to PAPs to dismantle moveable buildings and pack up; transport of livestock (if any); of the PAPs with due and fair notice; help with resettlement; payment of compensation; and arrangements in place for income support to be provided once PAPs have moved.

Regulation 9: Grievance Redress Committee

This regulation establishes a Grievance Redress Committee which provides a semi-formal avenue for a project affected person who considers that he or she has not been treated fairly in the resettlement process to make a complaint about the treatment received. The GRC will adopt a conciliatory and negotiating approach to the grievance and try to ensure that the matter is not taken further. It has the powers to call for any documentation and will usually invite both sides to its meeting to try and reach an acceptable resolution to the complaint. A project affected person still dissatisfied by the recommendation of the GRC may take the matter further to a local court.

Regulation 10: Monitoring resettlement

Create a duty on the acquiring authority to monitor resettlement: Monitoring will be both internal and external. This regulation deals with external monitoring and gives an external monitor all necessary powers to monitor and check on the resettlement plan and its implementation by being able to interview PAPs, by accessing documents; visiting relocation sites. The external monitor must produce regular reports for the acquiring authority which must also be made available to the public.