

**GOVERNMENT OF PUNJAB
PLANNING & DEVELOPMENT DEPARTMENT**

**GUIDELINES FOR LAND ACQUISITION AND
RESETTLEMENT
FOR PPP INFRASTRUCTURE PROJECTS**

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IMPORTANT DEFINITIONS

Land Acquisition	The process whereby a person is compelled by a public agency to alienate all or part of the land a person owns or possesses, to the ownership and possession of that agency, for public purpose in return for a compensation.
Environmental Assessment	Process to determine the environmental impacts of a project in its area of influence, and to evaluate and design mitigation measures. Depending on the significance of project impacts and risks, the process includes an Initial Environmental Examination or a full-scale Environmental Impact Assessment.
Government Agency	Department, attached department, body corporate, autonomous body of the Government, local government or any organization or corporation owned or controlled by the Government.
Affected Person	Any person or household adversely affected by acquisition of assets or change in use of land due to a project.
Government	Government of Punjab.
Infrastructure	Both traditional infrastructure (transport networks, water supply, energy generation, etc.) and social infrastructure (education and health facilities, etc.).
Public-private partnership (PPP)	Partnership between the public sector represented by a Government Agency and a private party for the provision of an infrastructure facility and/or service with a clear allocation of risks between the two parties. The PPP modalities range from service contracts to management contracts to leases to concessions to build-operate-transfer contracts and their variants.
PPP project	Project implemented on a PPP basis in any of the eligible infrastructure sectors.
PPP Cell	Entity established in the Planning & Development Department to assist Government Agencies in preparing and executing high-quality PPP

projects, and act as a PPP catalyst and advocate, knowledge manager, and policy and project advisor to the PPP Steering Committee.

Project Development Facility	Pool of funds available for consulting services required for the preparation and transaction execution of PPP projects.
Market Value	The value of asset determined by market transaction of similar assets and finally arrived at after negotiations with the stakeholders, and it includes transaction costs and without the depreciation and deductions for salvaged building material.
Project Inception Guidelines	Methodology for Government Agencies on how to identify, screen and register potential PPP projects, draft terms of reference and request for proposals for their preparation and transaction execution, and select consultants.
Resettlement	Means all measures taken to mitigate any and all adverse impacts, resulting due to execution of a Project, on the livelihood of the project affected persons, their property, and includes compensation, relocation and rehabilitation.
Project Preparation Guidelines	Methodology for Government Agencies on how to prepare a feasibility study for a PPP project and seek approval by the PPP Steering Committee.
Risk Management Unit	Entity established in the Finance Department to review requests for direct and/or contingent government support for PPP projects and ensure its fiscal sustainability.
Compensation	Includes cash payment, deferred payment, a bond, an insurance policy, stipend, payment in kind, rendition of services, grant of privileges and disturbance money, entitlement to special treatment by Government, grant of alternative land, grant of business, trade and commercial facilities.
Entitlement	Means the sum total of compensation and other assistance assessed according to the status of each individual belonging to the project area or related therewith or dependant thereon.

Collector	Means the Collector of a district, and includes a District Officer (Revenue) and any officer specially appointed by the Board of Revenue or Executive District Officer (Revenue) to perform the functions of a Collector
Involuntary Resettlement	Any resettlement, which does not involve willingness of the persons being adversely affected, but are forced through an instrument of law.
Transaction Execution Guidelines	Methodology for Government Agencies on how to select the transaction advisory services and Private Party for undertaking a PPP project and seek approval by the PPP Steering Committee.
Consultants	Individual consultants, or a consulting firm, or a financial institution, which will provide the services required for the preparation and transaction execution of a PPP project. Given the importance of the transaction execution phase in the life cycle of PPP projects, the consultants are frequently called transaction advisors, and the project development services are referred to as transaction advisory.

ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	Affected Persons
EA	–	Environmental Assessment
PDF	–	Project Development Facility
PPP	–	Public-Private Partnership
P&DD	–	Planning and Development Department
LAA	–	Land Acquisition Act 1894
LAMP	–	Land Acquisition Management Plan
RAP	–	Resettlement Action Plan

1.0 INTRODUCTION

1.1 BRIEF OF PPP INITIATIVES IN PUNJAB

The Government of Punjab is committed to sustainable economic growth and inclusive social development. Global experience has shown that there is a close relationship between these objectives and infrastructure development. The correlation works in both ways – investments in infrastructure are a major driver for economic growth and economic growth requires well functioning infrastructure facilities and services. If infrastructure investments are not kept at a sufficient level, economic growth becomes constrained by power shortages, traffic congestion, high transport costs, and other infrastructure bottlenecks. As to the impact on social development, it is the low-income groups who are most affected by an inadequate access to and poor quality of infrastructure services.

The Government has, therefore, decided to significantly increase infrastructure investments and has made provisions in the provincial budget to this effect. The Government is also the beneficiary of financial assistance for infrastructure projects from multilateral and bilateral development partners. In addition to projects funded by its budget and development loans, the Government is committed to engaging the private sector in the provision of infrastructure. The preferred mode is public-private partnerships (PPPs) where the private and public sectors enter into mutually beneficial contractual agreements for the provision of public infrastructure services.

The Government recognizes the need for and importance and benefits of private sector participation in infrastructure development. Punjab accounts for more than half of Pakistan's population and economic output. However, it is estimated that less than 50% of its infrastructure investment requirements can be met by public sector funds. The Government wants to fill the gap through PPPs and other forms of private sector participation. PPPs have been recognized worldwide as an essential mode of public service delivery. They attract private capital investment, increase efficiency through the profit motivation of the private sector, and help reform sectors through the reallocation of roles and risks

1.2 PUNJAB PUBLIC-PRIVATE PARTNERSHIP FRAMEWORK

1.2.1 POLICY DOCUMENTS

PPP for Infrastructure Act 2010: For the private investments in infrastructure to materialize, a comprehensive and consistent cross-sector legal framework is essential that establishes a clear and predictable environment within which investors will finance, implement and operate PPP projects. A well-drafted PPP law protecting rights of all the parties is a key component of such a framework as it will develop confidence of private investors in making investment in infrastructure development. The PPP law should describe the overall framework for undertaking PPP projects from beginning until the end. It should also outline the overall process for undertaking projects under PPP mode including all important issues, such as project identification and preparation, method of competitive bidding, and roles and responsibilities of each party involved. To provide a firm legal framework, the Punjab PPP for Infrastructure Act 2010 was enacted by Punjab Provincial Assembly on 12th July 2010. The Act is based on an inter-country comparison, incorporates international best practices, and is consistent with the other components of the enabling PPP framework.

PPP Policy: The PPP Policy aims at reinforcing the considerable enthusiasm for PPPs in various sectors, addressing the lack of trust between the public and private sectors to collaborate in infrastructure projects, and facilitating the creation of effective partnerships. The Government hopes to fully utilize the potential of PPPs for Punjab by strategizing and standardizing the PPP development. To ensure this, the PPP Policy states the objectives to be achieved through PPPs, provides guidance to the public sector on initiating, evaluating and executing PPP projects, and communicates the Government's position on PPPs to other stakeholders, including potential private sector partners and the public at large. The PPP Policy was approved by the Provincial Cabinet in September 2009.

PDF Guidelines: The Government has established a fund titled Project Development Facility (PDF) for the preparation of PPP

projects including feasibility studies and to meet the cost of transaction advisors. The objective of the PDF is to help the line departments, local governments and other government agencies to overcome the financial constraints for PPP project preparation. Reimbursement of the cost of project preparation will be sought from the winning bidder. PDF guidelines, which have been approved by the Provincial Cabinet, describe the detailed process for the utilization of the fund.

Project Preparation Guidelines: The Guidelines provide an overview of the life cycle of PPP projects, list the PPP modalities and infrastructure sectors covered, and explain why adequate project preparation is important. Thereafter, they outline a practice-oriented methodology for feasibility studies, and describe the various steps, tasks and processes required in their preparation.

Project Inception Guidelines: A practice-oriented methodology is described for the identification and screening of potentially suitable PPP projects, which can be used by line departments and local governments in-house without undertaking complex and time-consuming assessment studies requiring external support. This is followed by outlining the principles and procedure for drafting terms of reference (TOR) for the subsequent phases of project preparation and transaction execution, and selecting consultants to provide assistance during those two phases.

Transaction Execution Guidelines: The Guidelines describe a methodology for Government Agencies on how to select the Private Party for undertaking a PPP project.

1.2.2 INSTITUTIONAL ARRANGEMENTS

Under the Punjab PPP framework, comprehensive institutional framework has been established entrusting various roles and responsibilities at each level of the project life cycle from inception, preparation, approval, bidding and execution to project transfer. The Government has established the following entities as part of the PPP framework (Figure 1):

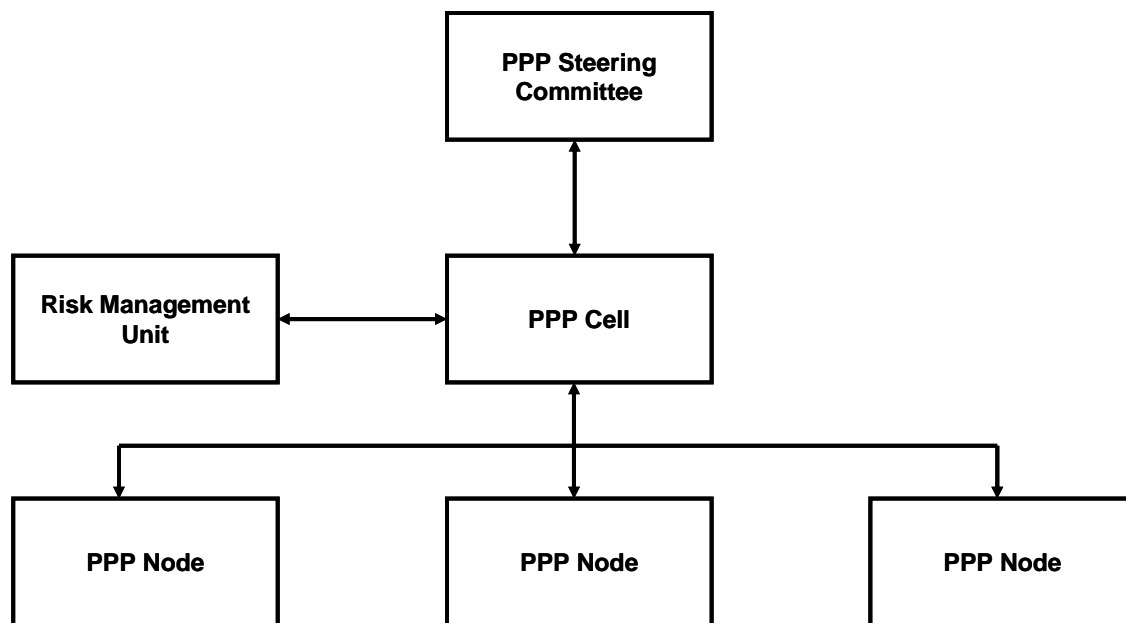
PPP Steering Committee: A high-level committee chaired by the Minister of Planning & Development has been notified.

PPP Cell: A dedicated Cell has been established in the Planning & Development Department to solely look into the PPP affairs in the Province.

PPP Nodes: Focal points are being established in Line Departments and government agencies to handle the PPP projects.

Risk Management Unit: The unit is being established in the Finance Department to act as fiscal guardian and look into issues of project sustainability and fiduciary risks.

Figure 1: PPP Institutional Framework



2.0 INITIATING LAND ACQUISITION UNDER PROJECT LIFE CYCLE

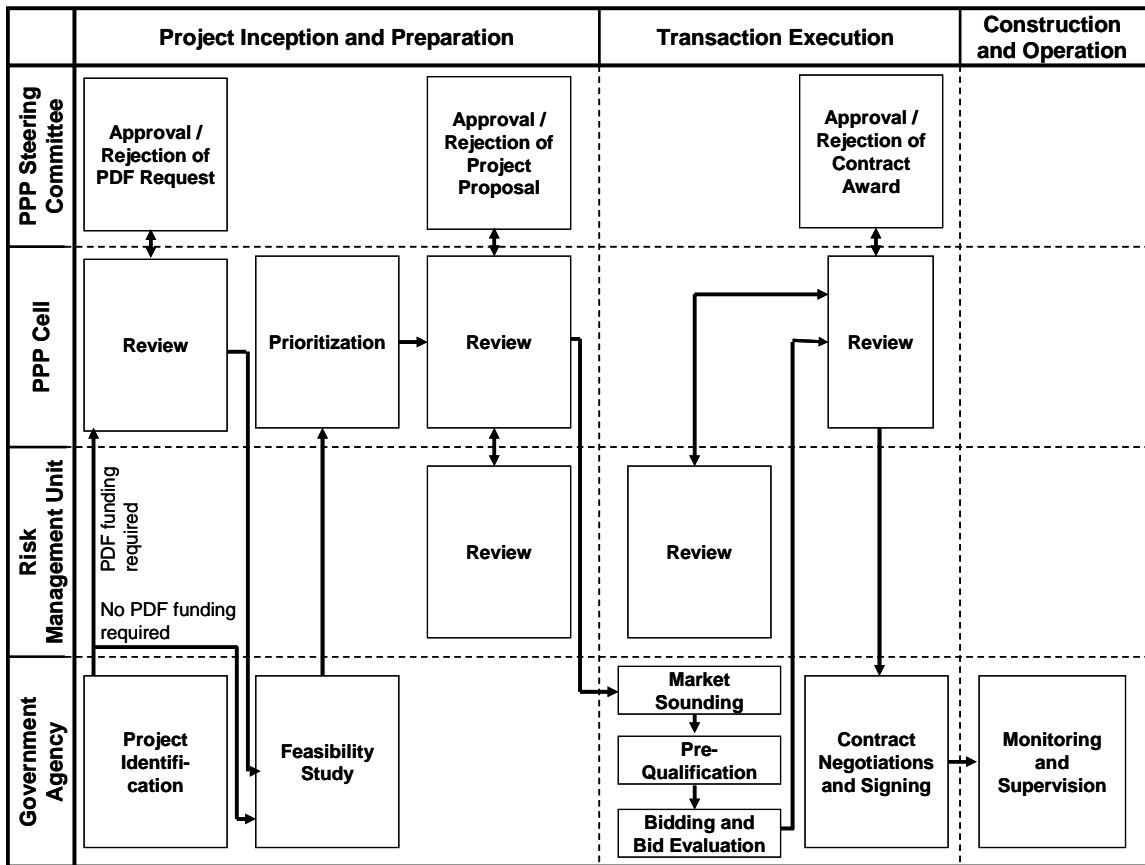
The following four main phases can be distinguished in the overall life cycle of PPP projects:

- (i) Project inception (identification and screening)
- (ii) Project preparation (feasibility study)

- (iii) Land Acquisition process needs to be initiated when the feasibility study is finalized and approved by PPP steering committee. The feasibility study should address ownership and availability issues to ensure that the project site is available for the private party and clear of any legal, institutional, technical and other impediments that could delay implementation
- (iv) Transaction execution (selection of the private party) and
- (v) Construction, operation and transfer (development, delivery and exit)

A flow chart of the main activities during these phases is shown in Figure 1.

Figure 1: Flow Chart of Project-Related Activities



3.0 APPLICABILITY OF THE GUIDELINES

These Guidelines are applicable to all PPP projects in the following infrastructure sectors:

- (1) Canals or dams
- (2) Education facilities
- (3) Health facilities
- (4) Housing
- (5) Industrial estates
- (6) Information technology
- (7) Land reclamation
- (8) Power generation facilities
- (9) Roads (provincial highways, district roads, bridges or bypasses)
- (10) Sewerage or drainage
- (11) Solid waste management
- (12) Sports or recreational infrastructure, public gardens or parks
- (13) Trade fairs, conventions, exhibitions or cultural centers
- (14) Urban transport including mass transit or bus terminals
- (15) Water supply or sanitation, treatment or distribution
- (16) Wholesale markets, warehouses, slaughter houses or cold storages

4.0 LAWS & REGULATIONS FOR LAND ACQUISITION

4.1 LAND ACQUISITION ACT 1894 (LAA)

In Pakistan, a number of laws give and protect the proprietary rights. Also, laws have been promulgated at different occasions for purposes like urban and rural development, and for establishment of the authorities to implement their programmes that include acquisition of private properties for development.

The acquisition of private properties for public purposes including development projects in Pakistan is governed by the Land Acquisition Act 1894. It lays down detailed procedures for the acquisition of private properties for public purposes and their compensation. Currently all over Pakistan private land for public purpose is being acquired under Land Acquisition Act 1894.

Punjab is also following the rules and procedures laid down in Land Acquisition Act 1894 for acquiring private lands for the development purposes. The Board of Revenue Department of Punjab in coordination with the concerned government agencies deals with the Land Acquisition matters who initiate, issues notices, evaluation and distribution of compensation etc under Land Acquisition Act 1894.

Salient features of LAA 1894 for Land Acquisition are :

- Government shows its intention to acquire specific piece of land for a public purpose or for a company through publication of notification in the official gazette and invites objections against notification
- After marking and measurement of the land to be acquired, notices are issued to persons having rights/interests in the land inviting claims from them for compensation
- Before possession of land is taken, award of compensation for the owners is announced by the Collector after necessary enquiries
- Compensation evaluation and determination
- A reference can be made by the Collector to Civil Court where any person affected by Land Acquisition has not accepted the award by given the Collector.
- In case of urgency authority can make a declaration under U/S 17 directing the Collector to take possession of the land needed for a public purpose before award of compensation.

4.1.1 Synopsis of Land Acquisition Act 1894

The Land Acquisition Act, 1894 (LAA) has been the most commonly used law for acquisition of land and other properties for development projects. It comprises of 55 Sections pertaining to area notification and surveys, acquisition, compensation and apportionment, awards and disputes resolution, penalties and exemptions. Brief synopsis of important sections of Land Acquisition Act is as under:

Land Acquisition Act 1894 contains the following parts:

- **PART I - PRILIMINARY**
 - Section 1 to 3
- **PART II – ACQUISITION**
 - Section 4 to 17
- **PART III - REFERENCE TO COURT AND PROCEDURE THEREON**
 - Section 18 to 28
- **PART IV - APPORTIONMENT OF COMPENSATION**
 - Section 29 to 30
- **PART V – PAYMENT**
 - Section 31 to 34
- **PART VI - TEMPORARY OCCUPATION OF LAND**
 - Section 35 to 37
- **PART VII - ACQUISITION OF LAND FOR COMPANIES**
 - Section 38 to 44
- **PART VIII – MISCELLANEOUS**
 - Section 45 to 55

Part II of the Land Acquisition Act is relatively of more importance where all the necessary steps towards Land Acquisition are done including notification and declaration in the official gazette to acquire the private land for Public purpose, physical survey is conducted, marking & measurement of land is done, notices to interested people, address to grievances, awards, compensation etc.

4.1.2 ACQUISITION - PART II OF LAA

Synopsis of Part II of Land Acquisition Act 1894 is as under:

Section 4: Publication of preliminary notification and powers of officers thereupon.

Publish Notification in the Official Gazette which make lawful for any designated officer to enter the land and conduct survey etc.

Section 5: Notification that particular land is needed for a public purpose or for a Company

Notification that particular land is needed for a public purpose or for a Company and a notification to that effect shall be published in the official Gazette.

Section 5 A: Hearing of objections

Any person interested in land being acquired and notified under section 5 may raise objection however after proper hearing the decision of Executive District Officer (Revenue) will be final.

Section 6: Declaration that land is required for a public purpose

Declaration issued by the Executive District Officer (Revenue) that land is required for public purpose and published in official gazette.

Section 7: After declaration Collector to take order for acquisition

Executive District Officer (Revenue) or any authorized officer shall direct the Collector to take order for the acquisition of the land.

Section 8: Land to be marked out, measured and planned

Land to be acquired will be marked if not done previously under section 4 and will also measure and prepare plan

Section 9: Notice to persons interested

The Collector issues public notice given at convenient places on or near the land to be taken stating that the Government intends to take possession of the land and that claims and compensation to all interests may be made.

Section 10: Power to require and enforce the making of statements as to names and interests

The collector gathers information containing the name of every person possessing any interest in the land as co-proprietor, sub-proprietor, mortgagee, tenant or other and the nature of such interest, the rents and profits (if any) received or receivable.

Section 11: Enquiry and award by Collector

Collector inquires the objections of the interested persons and after conducting inquiry make award of compensations.

Section 12: Award of Collector when to be final

Award shall be filed in the Collector's office and shall be final and conclusive evidence as between the Collector and the persons interested whether they have respectively appeared before the Collector or not.

Section 12 A: Correction of mistake

Any clerical or arithmetic mistakes identified is rectified

Section 13: Adjournment of enquiry

The collector may adjourn and postpone any enquiry due to any reason.

Section 14: Power to summon and enforce attendance of witnesses and production of documents

Under the Act the Collector have powers to summon and enforce the attendance of witnesses including the parties interested or any of them to compel the production of required documents.

Section 15: Matters to be considered and neglected

In determining the amount of compensation the Collector shall be guided by the provisions contained in sections 23 and 24.

Section 16: Power to take possession

After the award under section 11 the collector may take possession of the land

Section 17: Special power in cases of urgency

In cases of urgency on the expiration of fifteen days from publication of the notice mentioned in sub-section (1) of section 9 where no such award has been made possession can be taken of any land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

5.0 LAND ACQUISITION

Government has to initiate the infrastructural development projects in order to sustain economic development at a desirable level as development of infrastructural facilities is closely related to economic development. Development of infrastructural projects like roads, transport, dams, airports etc requires the acquisition of private land for further construction and development purposes. The private land owners who are deprived off their belongings are called affected persons (APs) and are liable to be compensated reasonably and fairly.

5.1 Types of Land Requirements

Land required for the development may be of two types:

5.1.1 Permanent Land: Permanent Land is the land which needs to be acquired for construction purposes. This type of land is permanently acquired from the private land owners against fair and reasonable compensation.

5.1.2 Temporary land: Temporary Land is the land required to carry out the construction and installation phases. This type of land can be acquired on rental or lease basis over the project construction period.

5.2 WHAT IS LAND ACQUISITION

“Land Acquisition can be stated as the action of the government whereby it acquires land from its owners in order to pursue certain public purpose. This acquisition may be against the will of the owners but compensation is paid to the owners or persons interested in the land. This can be distinguished from an outright purchase of land from the market. Land Acquisitions by the government generally are compulsory in nature, not paying heed to the owner’s unwillingness to part with the land”

5.3 LAND ACQUISITION UNDER PPP INITIATIVES

Though Land Acquisition process and procedures would be the same as in normal course of business traditionally adopted by the government however under public private partnership theme more deliberations are

required and the responsibilities on part of the various institutions involved would be required to draw to a close more effectively and efficiently.

Issues involved in Land Acquisitions under PPP need to be addressed technically and professionally. As the entire responsibility to acquire land for construction of proposed development lies with the Government. The government's commitment and necessary arrangements towards Land Acquisition are the gestures to the private sector and build confidence and reliability of private sector to participate in the bidding process.

The following factors must be taken into account in case of launching public private partnership initiatives.

5.3.1 Feasibility Study Including Land Acquisition Cost Estimates

Conducting feasibility study is an integral part of the whole process of executing the project. Feasibility study is the key component of project preparation and a technical working document for project appraisal. Any PPP project regardless of its scale and nature can have long-term implications with a great deal at stake once it is implemented. A feasibility study therefore needs to be authentic, accurate and comprehensive. It should be a complete document capturing all aspects of the project and thereby allowing the Government Agency, PPP Cell, PPP Steering Committee and potential private sector investors to make informed investment decisions. Feasibility study should include:

- Cost estimates for Land Acquisition including detailed survey
- Structuring & Designing of project
- Project needs and benefits
- Environmental Assessments
- Social Impact Assessments
- Engineering design & cost estimates for construction
- Construction schedule
- Cost Estimates of construction and allied services during project life cycle
- Human Resource requirements over project life cycle
- Financial Modeling for various PPP options

- Economic & Financial Analysis along with justifications
- Risks involved
- Resettlement Plan including issues and mitigation measures
- Project management plan and scheduling

The consultants conducting feasibility study should conduct detailed physical survey of the proposed site for development and produce the necessary data related to the characteristics of the land, facilities available, government structures etc. While estimating the cost of the land and other structures should also conduct detailed analytical survey of the entire location to arrive at reasonable and fair market value. However, the cost estimate calculated in feasibility study would provide the baseline data and estimate to the government agency for further arrangement of finances to acquire land. However final valuation of Land Acquisition will be determined under the rules and procedures prescribed in Land Acquisition Act 1894.

5.3.2 Land Acquisition Process Completion Time.

As mentioned above in section 4.3 the government commitment towards Land Acquisition for the proposed development project would build the confidence of the private sector at an early stage. Under the PPP initiatives it is desired that the Land Acquisition process is completed and finalized till the selection of the private partner. International experiences have shown that delayed or partly Land Acquisition hampered the entire project in terms of its costs and time and at the same time private partner may not be able to fulfill its quoted prices.

In order to make the project successful Land Acquisition is desired to be completed till the selection of the private partner so that the project may be executed in accordance with the project construction schedule.

Though Land Acquisition Act 1894 does not mention any timelines¹ to be adhered after issuance of certain notices however if necessary

¹ Board of Revenue Department has proposed certain amendments in Land Acquisition Act 1894 including timelines for certain actions and sent case to Law Department for further incorporation and approval.

required tasks are completed efficiently, the required land can be acquired in a shortest possible time.

5.3.3 Financing Arrangements

Keeping in view the fact that governmental resources are limited and financing needs of the Land Acquisition, which require massive funds for mega projects, are to be managed in accordance with the requirements of the projects so that the project may be started in accordance with the construction schedule and project management plan. In this regard, government agency should take all necessary arrangements for timely approval, allocation and release of funds for the Land Acquisition.

Although Land Acquisition act 1894 permits government to acquire private land for development purposes and the procedures laid down in the Act are very candid and address the most concerning point of determining compensation to the effected persons, however, this all depends on the availability of finances. If finances are secured for acquiring land then under LAA the land can be acquired in a minimum shortest possible time. With regard to the arrangement of funds government must take such arrangements that the funds to acquire lands are arranged promptly when required.

Under Land Acquisition Act 1894 notice under section 5 can not be issued until assessed amount is deposited in the account of collector for issuance of compensation to Affected Persons.

5.3.4 Minimize Land Speculation

Land Speculation is also the critical point in Land Acquisition process whereby if necessary arrangements are not taken then the government has to pay huge extra resources. Government needs to take needed steps under the laws to minimize or eliminate the land speculation.

Land Acquisition process under Land Acquisition act 1894 starts with issuance of notification under section 4 “showing intention of the government to acquire the specific land”. Land Speculation

takes place during the time which involves the physical survey and identification of ownership of the land to be acquired. An effort should be made to complete all the surveys at the earliest possible time and finances to be arranged so that notice under section 5 may be issued. After issuance of notice under section 5 the prices of the land are determined on average basis during last one year. Hence in case of delay in issuance of notice under section 5, land speculation may rise and government will have to bear more cost on acquiring land.

5.3.5 Institutional Arrangements - Coordination with Concerned Departments

The Land Acquisition process involves many departments which include the relevant government agency, Board of Revenue, Finance Department and Planning & Development Department. The Government agency shall ensure that the relevant tasks for the concerned departments have been assigned to them and on continuous basis coordinate with them to ensure that the entire Land Acquisition process is being implemented in accordance with the Land Acquisition Management Plan (LAMP).

5.3.5.1 Establishment of Committee

A high level committee for troubleshooting and to oversee the entire process of Land Acquisition may be established and notified. The committee shall look into the issues involved in acquiring land, arrangement of finances more particularly. The Committee shall consist of the following:

- Chairman P&D Board (Chair)
- Secretary of Concerned Government Agency
- Secretary of Finance Department
- Senior Member Board of Revenue

5.4 LAND ACQUISITION MANAGEMENT PLAN (LAMP)

As Land Acquisition for any development is one of the most important and complex phase of project life, therefore it needs to be dealt with very carefully and technically. Acquiring Land from private owners is a sensitive task which may result in stern grievances of inhabitants. In this regard political will is also an important element.

In order to proceed with the Land Acquisition, the government agency should prepare a comprehensive and logical Land Acquisition Management Plan (LAMP). The plan should address the key issues involved in acquiring land and its mitigation measures. LAMP should include but not limited to the following ingredients:

5.4.1 General

Include a general brief and background of the proposed project.

5.4.2 Project Description

LAMP should provide overview of the key features of the project along with its justification including:

- Background & Purpose of the project a brief description of the nature and size of the project
- Objectives of the project
- Location of the project
- Size or magnitude of the operation, including cost estimates, and associated activities
- Proposed construction schedule
- Any other relevant information

5.4.3 Characteristics & categorization of Land to be Acquired (Baseline Data)

Feasibility study initiated by the Government agencies should declare the geographical and other characteristics of the land to be acquired for the proposed project by conducting topographic and other surveys and producing engineering maps and drawings. The

geographical information should be categorized in terms of type of land, type of built-up structures and should be elaborated in LAMP including:

- Federal / Provincial Government or Private belongings
- Urban or Commercial
- Agriculture (Fertile / Infertile)
- Residential
- Residential & Commercial built-up Structures
- Trees & Forests
- Crops
- Business types
- Livestock

5.4.4 Survey & Census of Land & Economic Activities

Detailed physical survey of the land, being acquired for development purposes, shall provide the information with regard to individual's living pattern, related population, individual and collective assets, (including house, land, crops, buildings, cropping, trees, animals), business activities and other characteristics of existing infrastructure. The collected data would be helpful both for determining entitlements for compensation to affected persons and for resettlements. Detailed physical survey should be exhaustive and should include the following but not limited to:

5.4.4.1 House Hold & Individual Census

- Assigning unique code to each household
- Number and particulars of household members
- Gender & Marital Status of each person
- Religion and cast of each person
- Education & occupations
- Basis of income & livelihoods
- Disabilities

5.4.4.2 Land Tenure

- Type of land ownership (own-entirely; own share; rent; sharecrop; squat; informal use right)
- If owned by HH, name of HH member
- If not owned by HH, name and particulars of owner
- If own-share, name of co-owner
- If own-share, name & particulars of co-owner
- If informal use right, define agreement
- Number of years in use

5.4.4.3 Land Use

- Size of Land
- Area used for dwelling
- Area used for business if any
- Area used for agriculture produces & Forest
- Area used for livestock & fisheries
- Area affected by project
- Area under wasteland and grassland

5.4.4.4 Structures

- Government or private owned
- Type of structure
- Use & Size of structure
- Number & Size of rooms
- Wall, flooring & roofing material
- Number of doors and windows
- Number & type of fencing used
- Any other characteristics

5.4.4.5 Livestock

- Number and type of livestock & animals
- Breeds of animals
- Ownerships
- Output being derived from livestock produces

5.4.4.6 Agriculture & Production

- Types of crops
- Number & types of agriculture equipment
- Ownership of crops & equipments
- Total yearly production of each crop
- Use of crop (Personal or Selling)
- Average yield of each crop
- Seasonality of yearly production cycle
- Number of labour except family members
- Market where produce is sold
- Total income derived from agriculture produces

5.4.4.7 Trees

- Number & type of trees
- Ownership
- Age of trees
- Average yield of fruits
- Yearly production from trees
- Use of produces (Home or Selling)
- Income being derived from produces.

5.4.4.8 Business Inventory

- Type of business
- Ownership of business
- Number & types of business equipments
- Number of employees
- Seasonality of business
- Income being derived from business
- Suppliers details providing inputs

5.4.5 Legal Framework for Land Acquisition and Compensation

This section will describe the legal parameters to be adopted for the Land Acquisition under which the government is required to take actions for Land Acquisition and determination of compensation to effected persons. Land Acquisition Act 1894, being a legal document for Land Acquisition, shall be detailed in the Land Acquisition Management Plan including time lines for Land Acquisition in accordance with the project implementation schedule.

5.4.6 Institutional Arrangements

Adequate Institutional Arrangements should be well defined in LAMP to implement the whole process of Land Acquisition and establishing the roles and responsibilities of the implementing agency and all other the concerned departments through out planning, managing and internal / external monitoring etc of Land Acquisition process.

The concerned government agency should hold a committee meeting on regular basis to mitigate the issues being faced in Land Acquisition process.

5.4.7 Financing Arrangements

Government Agency shall define in Land Acquisition Management Plan (LAMP) that how the finances for the Land Acquisition are to be arranged and got it approved and released from the Government and spared on the disposal of the collector for further payment of compensation to the Affected Persons.

5.4.8 Entitlements & Compensation Mechanism

Government agency shall define the entitlement and eligibility criteria of affected persons and develop compensation mechanism and parameters to be adopted for determining the compensation of the Affected Persons being deprived of their belongings and assets.

Compensation mechanism should be transparent that each and every Affected Person gets the reasonable and fair market value of his or her assets being acquired by the government.

5.4.9 Time Lines for Acquiring land

Timelines to acquire land for project construction under Public Private Partnership approach are decisive. Government agency in LAMP should fix the timelines in consultation with the concerned departments, to be engaged for Land Acquisition, and keeping in view the project construction schedule so that the project is executed swiftly in accordance with the project implementation schedule.

5.4.10 Required Government Approvals

Government Agency shall characterize necessary arrangements and steps to be taken to seek various governmental approvals at various levels of Land Acquisition process.

5.4.11 Ownership of Land

Government Agency shall identify the ownerships of the assets being acquired by the Government and prepare a comprehensive database of the owners. In this regard government agency will coordinate with Board of Revenue for accurate and updated ownership details.

5.4.12 Monitoring & Evaluation

LAMP should clearly state the mechanism for monitoring and evaluation through out the whole process of Land Acquisition. Monitoring and Evaluation may also include the internal and external monitoring.

5.4.13 Conclusions and Recommendations

Government agency should clearly indicate the recommendations and necessary mitigation measures required for making the whole Land Acquisition process swift.

5.5 Unsolicited Proposal

In case of unsolicited proposal received by any Government Agency where the bidder has prepared the detailed feasibility study but did not conduct survey and work on estimating Land Acquisition cost the government agency in this scenario shall conduct the detailed study on detailed estimates and other particulars of the land to be acquired provided government agency is satisfied with other contents of the feasibility study.

6.0 RESETTLEMENT & REHABILITATION

Most development projects have the potential to create resettlement effects. Development projects that change patterns of land use and other natural resources generally cause resettlement effects. Resettlement effects may be either physical or economic.

Physical Resettlement: is the actual physical relocation of people resulting from loss of homes, productive assets, or access to productive assets.

Economic Resettlement: results from an action that interrupts or eliminates people's access to productive assets without physically relocating themselves.

6.1 Involuntary Resettlement`

Resettlement is involuntary when the displaced persons do not have the power to refuse resettlement nor the option to stay behind. The affected persons have no recourse to oppose the acquisition of land regardless of their desire to continue living or using the affected land.

6.2 Resettlement Action Plan (RAP)

6.2.1 Requirement of Resettlement Action Plan

Any development project that causes the physical or economic resettlement of affected persons requires the preparation of a Resettlement Action Plan. Any development project may be:

- Any involuntary resettlement

- Any other prescribed project that involves resettlement as a mitigating measure to offset the negative impacts of the project

6.2.2 What is Resettlement Action Plan

Resettlement Action Plan is a time-bound plan with budgetary indicators in which the government agency or other responsible entity specifies the procedures that it will follow and the actions (resettlement strategy, objectives, options, entitlements, actions approvals, responsibilities, monitoring and evaluation) that will take to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by a development project.

The scope and level of detail of a Resettlement Action Plan (RAP) will vary with circumstances, depending on the project's complexity and the magnitude of its effects. At a minimum the RAP must ensure that the livelihoods of affected persons by the project are restored to levels prevailing before inception of the project. It is important that a Land Acquisition assessment be undertaken as early as possible, so that sufficient time is available to prepare a Resettlement Action Plan (RAP).

6.3 Contents of Resettlement Action Plan

6.3.1 Executive Summary

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

6.3.2 Project Description

It should include the following information:

- A general description of the project and the project area
- List of project components that create resettlement
- Identification of the project area

- List of alternatives considered to avoid or minimize resettlement, describe alternative options considered to avoid or minimize Land Acquisition and its effects.
- Explain the results of these efforts - explain why remaining effects are unavoidable
- Describe the main objectives of the RAP
- Quantified data and provide a rationale for the final decision.

6.3.3 Scope of Land Acquisition and Resettlement

This section shall include the overall scope and define the demographic, assets and economic characteristics of the land to be required including justifications and shall include the followings:

- Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- Describes the scope of Land Acquisition (provide maps) and explains why it is necessary for the main investment project;
- Summarizes the key effects in terms of assets acquired and displaced persons
- Provides details of any common property resources that will be acquired.
- Country's framework for Land Acquisition through eminent domain and other regulatory measures
- Policies, laws, and guidelines relating Land Acquisition and resettlement

6.3.4 Socioeconomic Information and Profile

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

- Define, identify, and enumerate the people and communities to be affected
- Describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account
- Discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups and
- Identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

6.3.5 Consultation, Public Participation and Grievance Redress

Participation is a process by which Affected Persons assume responsibility over their lives. Participation is most important because the success of resettlement, like the success of most of the projects that cause it, depends in part upon the responsiveness of those affected. It would include:

- Description of all stakeholders who will be involved in the consultation process particularly primary stakeholders.
- Description of the consultation and participation process with affected persons, host community, NGOs, and local government and related authorities conducted and to be conducted in the different stages of the project cycle.
- Describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders
- Description of the participation mechanisms to facilitate the consultation process.
- Summarizes the results of consultations with affected persons (including host communities), and discusses how

concerns raised and recommendations made were addressed in the resettlement plan

- Disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans
- Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.
- Description of the grievance redress framework

6.3.6 Policy Framework and Legal Framework

Describe the policy and legal framework to be followed while preparing resettlement plan and shall include:

- National prevailing laws
- In case of donor funded projects adherence to the policies and regulations of the donor agencies.
- Description of key national, donor related (where applicable) and project specific compensation and resettlement policies, laws and guidelines that apply to the project
- Include the analysis of the policies, laws, regulations and guidelines relevant to resettlement activities of the project
- Description of any compensation guidelines, methodologies used to value losses, proposed types and levels of compensation to be paid, compensation and assistance eligibility criteria and how and when compensation will be paid
- describes the legal and policy commitments from the executing agency for all types of displaced persons;
- Describes the Land Acquisition process and prepare a schedule for meeting key procedural requirements.

6.3.7 Entitlements, Assistance and Benefits

Regarding the entitlement to compensation government agency should ensure that Resettlement Action Plan caters for all the project affected persons, determine eligibility for compensation and other resettlement assistance.

- Specifies all assistance to vulnerable groups, including women, and other special groups;
- Prepare an Entitlement matrix
- Work out the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons
- Establish a timetable for payment of compensation and delivery of related entitlements to each category of eligible people
- Outlines opportunities for affected persons to derive appropriate development benefits from the project.

6.3.8 Relocation Planning

Resettlement activities require relocation of some APs or the entire project affected community, with the purpose to recreate living conditions at new site/s. Efforts should be made to reduce or minimize the relocation as much as possible, by weighing alternative options for main project. Depending upon the scale of relocation involved, all the options should be considered and different relocation strategies be reviewed by the concerned government agency, keeping in view the socio-cultural and religious profiles of both the displaced persons and host communities. It shall also be necessary to develop the relocation sites along with essential utilities, before any relocation activity takes place. The relocation sites should preferably within the same region.

- This component will include details of site selection, site preparation and relocation details including:
 - List of alternative relocation sites that were considered and reasoning.
 - Information relating to the provision of housing, infrastructure, and social services
 - Describes options for relocating housing and other structures, including replacement housing, replacement cash compensation etc.
 - Describe efforts to protect, move and restore cultural property and relocation of artifacts and structures associated with religious.

- Include a description of the boundaries of the relocation area and an assessment of the environmental impacts
- Relocation schedule including timetables for site preparation and transfer.
- describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- Describe how integration with host populations will be carried out.

6.3.9 Income & Livelihood Restoration

Resettlement to be planned as a result of development activity for the affected persons. Those bearing the burdens of displacement deserve to be beneficiaries of the projects affecting them and resettlement plans accordingly should provide opportunities for restoring and increasing the incomes and living standards of those affected and following to be included:

- Describe the process of consultation with affected persons (including women and vulnerable groups) regarding income restoration planning and implementation
- Description of income restoration programmes including multiple options.
- Short term & Long term strategies for income restoration.
- Analysis of existing economic activities and patterns of severely affected APs to assess their needs.
- Special measures for affected persons disadvantaged in terms of income generation and employment
- Special measures for women and vulnerable groups after consultation
- Analysis of economic activities of all effected persons to assess their needs to establish baseline
- Describe training programs
- Describe framework for institutional supervision and evaluation

6.3.10 Resettlement Budget and Financing Plan

The development projects which requires considerable resettlements also requires large financing in order to resettle the affected persons and for income and livelihood restoration. In this regard comprehensive financial requirements are to be estimated and necessary financing arrangements should be in place for timely effectiveness of the resettlement effects. Followings may should be included in the RAP.

- Itemized budget for all resettlement activities, including compensation for Land Acquisition. The annual resettlement budget should show the budget-scheduled expenditure for key items including resettlement unit, monitoring and evaluation etc.
- Include a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies)
- Include information about the source of funding for the Resettlement Action Plan (RAP) budget

6.3.11 Institutional Arrangements

The RAP must identify and provide details on the roles and responsibilities of all organizations involved including public or private, governmental or non-governmental that will be responsible for resettlement activities. The capacity of these organizations to carry out their responsibilities should be assessed for the effective delivery. This section should cover the followings:

- Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- Includes institutional capacity building program
- Describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management;
- Describes how women's groups will be involved in

resettlement planning and management,

6.3.12 Implementation Schedule

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

6.3.13 Monitoring & Evaluation

The RAP must provide a coherent monitoring plan that identifies the organizational responsibilities, the methodology and the schedule for monitoring and reporting and procedures. The followings should be included:

- Institutional arrangements to monitor resettlement activities by the government agency including internal and external monitoring arrangements
- Describe financial arrangements to carry out both internal and external monitoring arrangements
- Describe internal monitoring process and provide a list of monitoring indicators
- Describe external monitoring process and provide a list of monitoring indicators
- Describe frequency of reporting and content for both internal and external monitoring
- Describe process for integrating feedback from internal and external monitoring into implementation
- Evaluation of the impact of the resettlement for a reasonable period after all the resettlement and development activities has been completed.

Table – 7.1 Land Acquisition Assessment Indicators & Information Sources

Land Acquisition Assessment Indicators	Information Sources
1. Quantity of land required	Planning documents, including engineering designs and maps
2. Location and ownership of land required	Fields verification
3. Use of land required	Land acquisition laws and regulatory procedures
4. Determining necessity of involuntary land acquisition	Information from project implementing agencies
5. Legal process of asset acquisition	Information from implementing agency.
6. Proposed timing of land acquisition, including details regarding land already acquired	Project planning documents
7. Land Use	Secondary data (government statistics; social or demographic research)
<p>8(a) Productive use (e.g., agricultural or commercial), including present use of public lands designated for the project, and including seasonal or periodic uses; estimated number of households affected in each category.</p> <p>8(b) Estimated number of residential households affected, sorted by category of structure (e.g. by construction materials).</p>	Fields verification
<p>8(c) Tenurial status of present users.</p> <p>8(d) Presence of squatters or encroachers.</p> <p>8(e) Presence of public or community infrastructure.</p> <p>8(f) Presence of cultural, historical, or sacred sites.</p> <p>8(g) Presence of natural conservation sites or Programs</p>	Fields verification
Institutional Capacity	Information Sources
9. Which administrative entities are to be involved in land acquisition?	Implementing agency
10. Which personnel are responsible for RAP preparation and implementation?	Implementing agency
11. What is the current capacity of these entities and personnel to manage land acquisition and resettlement implementation?	Land acquisition laws and regulatory procedures

Table – 7.2 Sample Budget Plan for a Resettlement Action Plan

Item	Cost (Rs.)	Comment	Timing	Source of Funds	Channel of Disbursement
<i>Operations</i>					
Salaries					
Office/Administration					
Transportation					
Miscellaneous					
<i>Compensation</i>					
To Landowners for agricultural land					
For crop production for landowners and tenants					
For dwellings and Structures					
For house-plots					
For trees					
For enterprises					
For moving					
<i>Land acquisition & resettlement planning</i>					
Land acquisition					
Site planning					
Infrastructure					
<i>Monitoring & evaluation</i>					
RAP monitoring					
RAP evaluation					
<i>Community development</i>					
Agricultural extension services					
Small enterprises					
Revolving credit					
Common facilities					
Contingency					
TOTAL					

8.0 REFERENCES

Asian Development Bank's Safeguard Policy Statement (June 2009)