



Draft Land Acquisition and Resettlement Plan

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PAK: TA – 8405 PAK: Improving Border Services
Project – TORKHAM

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ACRONYMS AND GLOSSARY

ABBREVIATIONS

ADB	Asian Development Bank
ADB TA	ADB Technical Assistance (Grant for project preparation)
COI	Corridor of Impact
CBO	Community Based Organization
DCR	District Census Report
DD	Deputy Director
DHs	Displaced Households
DPs	Displaced Persons
DO(R)	District Officer (Revenue)
EMC	External Monitoring Consultant
ft.	foot / feet (3.28 ft = 1 m)
FBR	Federal Board of Revenue
GOP	Government of Pakistan
GRC	Grievance Redress Committee
IMC	Independent monitoring consultant
IP	Indigenous People
km	Kilometers
LAA	Land Acquisition Act
LAR	Land Acquisition and Resettlement
LARP	Land Acquisition and Resettlement Plan
m	meter
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organization
PMU	Project Management Unit
ROW	Right-of-way
RFS	Resettlement field survey
ROW	Right-of-Way
TL	Transmission Lines
TOR	Terms of Reference
SPS	Safeguard Policy Statement

CURRENCY EQUIVALENTS

(as of 30 March 2015)

Currency Unit	–	Pakistan rupee/s (Pk.Rs)
PRs1.00	=	\$0.0099
\$1.00	=	PRs 101.13

GLOSSARY

<i>Compensation</i>	Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.
<i>Cut-off-date</i>	The completion date of the census of project-displaced persons is usually considered the cut-off date. A cut-off date is normally established by the borrower government procedures that establish the eligibility for receiving compensation and resettlement assistance by the project displaced persons. In the absence of such procedures, the borrower / client will establish a cut-off date for eligibility.
<i>Displaced persons</i>	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and / or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihood) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<i>Economic displacement</i>	Loss of land, assets, access to assets, income sources, or means of livelihood as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<i>Eminent domain</i>	The right of the state using its sovereign power to acquire land for public purposes. National law establishes which public agencies have the prerogative to exercise eminent domain.
<i>Entitlement</i>	Resettlement entitlements with respect to a particular eligibility category are the sum total of compensation and other forms of assistance provided to displaced persons in the respective eligibility category.
<i>Expropriation</i>	Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise use.
<i>Host communities</i>	Communities receiving physically displaced persons of a project as resettlers.
<i>Household</i>	Household means all persons living and eating together as a single-family unit and eating from the same kitchen whether or not related to each other.
<i>Implementing agency</i>	Implementing agency means the agency, public or private, that is responsible for planning, design and implementation of a development project.
<i>Income restoration</i>	Assistance to restore and/or improve the incomes of displaced persons through allowances and provision of alternative means of income generation.
<i>Involuntary Resettlement</i>	Development project results in unavoidable resettlement losses that people affected have no option but to rebuild their lives, incomes and asset basis elsewhere.
<i>Katcha</i>	A house is considered katcha, if both the walls and roof of the house are made of material that includes grass, leaves, mud, un-burnt brick or wood.
<i>Land Acquisition</i>	Land acquisition means the process whereby a person is compelled by a public agency to alienate all or part of the land she/he owns or possesses, to the ownership and possession of that agency, for public purposes in return for fair compensation.
<i>Meaningful consultation</i>	A process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v)

enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

<i>Physical displacement</i>	Relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<i>Pucca</i>	A house / structure is considered pucca, if both the walls and roof of the house are made of material that includes tiles, cement sheets, slates, corrugated iron, zinc or other metal sheets, bricks, lime and stone or RBC / RCC concrete.
<i>Rehabilitation</i>	Assistance provided to affected persons to supplement their income losses in order to improve, or at least achieve full restoration of, their pre-project living standards and quality of life.
<i>Replacement Cost</i>	Replacement cost involves replacing an asset at a cost prevailing at the time of its acquisition. This includes fair market value, transaction costs, interest accrued, transitional and restoration costs, and any other applicable payments, if any. Depreciation of assets and structures should not be taken into account for replacement cost. Where there are no active market conditions, replacement cost is equivalent to delivered cost of all building materials, labor cost for construction, and any transaction or relocation costs.
<i>Relocation assistance</i>	Support provided to persons who are physically displaced by a project. Relocation assistance may include transportation, food, shelter, and social services that are provided to the displaced persons during their relocation. It may also include cash allowances that compensate displaced persons for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.
<i>Semi Pucca/Katcha Pucca</i>	A house / structure is considered Semi Pucca, if both the walls and roof of the house are made of material that includes wood, planks, grass, leaves and wall are made of bricks walls with mud masonry or un-burnt brick.
<i>Squatters</i>	People without legal title to land and / or structures occupied or used by them. ADB's policy explicitly states that such people cannot be denied compensation based on the lack of title.
<i>Vulnerable DPs</i>	Displaced poor and other groups disproportionately affected by land acquisition and resettlement, including the elderly, disabled and female headed households
<i>Security of tenure</i>	Protection of resettled persons from forced evictions at resettlement sites. Security of tenure applies to both titled and non-titled displaced persons

EXECUTIVE SUMMARY

ES-1 PROJECT DESCRIPTION

1. The Government of Pakistan sought the technical assistance of the Asian Development Bank (ADB) to modernize its border point infrastructure to make available quality border-crossing services. Pakistan's geographic proximity to two largest global economies, China and India, makes it a potential transit trade hub in Central Asia. Making Pakistan the regional trade hub will facilitate diversified trading activities resulting to progressive economic growth and subsequent reduction of poverty in the region.

2. As the Executing Agency (EA), the Federal Board of Revenue (FBR) has embarked upon a multi-faceted Border Services Improvement Project (BSIP) at three Border Crossing Points (BCP)s. The Wagah BCP in Punjab Province, Torkham BCP in Federally Administered Tribal Area and Chaman BCP in Balochistan Province. These three BCP locations have involuntary land acquisition and resettlement components with varying degrees; which if unmitigated will give rise to social, environmental and economic risks. The development of the present LARP for Torkham BCP in line with ADB's SPS 2009 will ensure these risks are mitigated & managed during project preparation and implementation phase.

3. To pave the way for the project in Torkham, a total of 52 acres of land will be needed. Of this number, the government through its various departments (Pakistan Customs, FIA, Political Administration Torkham, & FC) functional at Torkham already owns 1.7 acres. The remaining 50.3 acres will be acquired by the National Logistics Cell (NLC) for Torkham BSIP. Of this figure, only 13 acres is settled land¹ while the remaining 37.3 acres is communal land² owned by the Khuga Khel Clan of Shinwari Tribe as tribal land.

ES-2 LAND ACQUISITION & RESETTLEMENT IMPACTS

4. The scope of the LARP includes the identification, evaluation and compensation of land and land based as well as non-land assets of encroachers and squatters if any, and to collect census data linked with impacts to determine impact significance and compensation entitlement against each asset lost including measures for rehabilitation and restoration of APs living standard at pre-project level.

5. The construction of proposed facilities at Torkham BCP will require about 50.3 acres of the land on permanent basis from private and communal landowners. Of the total required land, 37.3 (74%) acres will be acquired from communal land owned by Khuga Khel Clan of Shinwari Tribe and 13 (26%) acres will be acquired from private land owners i.e. three households/extended families. A total of 12 commercial structures (9 shops, 2 weigh stations and 1 petrol pump) and 3 residential structures will be affected due to the project.

6. A summary of LAR impacts and impact significance is summarized in Table ES-1 & ES-2.

Table ES-1: Summary of LAR Impacts

S. #	Impact Type	Impact Significance
1	Loss of Land	<ul style="list-style-type: none">A total of 50.3 Acres will be acquiredAcquired communal land is mostly open hilly barren land; while acquired private land is used for commercial purpose (petrol pump, weigh stations)
2	Loss of Trees	<ul style="list-style-type: none">A total of 38 trees will be affected; all of which are non-fruit trees

¹ **Settled land:** Land parcels owned by the individual households for which land record with land parcel size and ownership details is maintained by the Political Agency.

² **Communal land:** The land parcels claimed to be under collective ownership of the tribe/local community as per local customs but no official record for such land is maintained.

S. #	Impact Type	Impact Significance
		<ul style="list-style-type: none"> Of the total affected trees, 30 are eucalyptus, 6 are mulberry and 2 are acacia Trees will be compensated according to their productive age
3	Loss of Structures	<ul style="list-style-type: none"> 12 commercial structures (124,304 sq.ft) and 3 residential structures (35,088 sq.ft) will be affected Of the affected structures, 9 shops and 3 homes are on communal land, whereas the petrol pump and weigh stations are on private land Compensation will be 100%
4	Livelihood	<ul style="list-style-type: none"> Petrol pump and weigh stations will remain intact until their new facilities are constructed; thereby these businesses will face no loss of income Shop owners are renter business operators on communal land will be provided alternate shop/place and/or rental assistance to continue their business in the same locality.

Table ES-2: Summary of Affected Land Owners and Land Use

S. #	Land Use	Area (acres)	Affected ³ Households	Affected Persons/Entitled Shareholders ⁴
PRIVATE LAND				
1	Barren Land	10.4	4	27
2	Commercial Use-Self Owned	0.5	1	14
3	Commercial Use-Lease	2.13	2	2
	Total Private Land	13.0	6	29
COMMUNAL LAND				
1	Commercial Use	0.24	9	9
2	Residential Use	1.06	3	3
3	Collective Barren Land	36.0	Khuga Khail Clan of Shinwari Tribe	
	Total Communal Land	37.3	12	12

Note: For the private land, one AH has both barren land and land under commercial use, therefore total number of AH's on private land is 6 including 4 land owners and 2 leaseholders. Similarly the total entitled shareholders are 29 including 27 barren land category and 2 commercial use-lease category. The 14 commercial use-self owned entitled shareholders are counted in 27 barren land category shareholders.

7. Although the project is located Federally Administered Tribal Area with a distinctive regulatory framework from the other administrative units (Provinces) of Pakistan, however the Pashtun tribes/population living in FATA have inter clan linkages with Pashtun community in adjoining Khyber Pakhtunkhwa and Balochistan provinces and are fully embedded in main stream Pashtun social culture of the region. The affected tribal community belong to Khuga Khel Clan of Pashtun Shinwari tribe living in Khyber Agency of FATA who have the similar socio-cultural, economic and institutional structure as of main stream population in FATA region in particular and have inter-clan linkages with the Shinwari Pashtun tribes living in other parts of the country.

8. The Pashtun tribes living in the FATA or in settled regions of Pakistan belong to same ancestry and have inter clan linkages. The distinct governance in FATA with tribal system intact is recognized in the Constitution of Pakistan and given due representation in the local administrative system; in addition to physical impacts on land and land based assets, additional socio-cultural and economic impact on: (i) customary rights of use and access to land and natural resources; (ii) socioeconomic and/or cultural integrity; (iii) health, education, livelihood, and social security status; and (iv) impacts that may alter or

³ All identified affected households are extended families and the total population of extended family size is 412 persons including 182 persons for 6 households facing private owned land impact and 230 persons for 12 households facing communal land impact.

⁴ Following local customs, the records of privately owned land parcels is maintained as per lineage map of affected households reflecting the entire land parcel as joint property of the household and compensation is delivered through household elder for internal distribution. So as per updated lineage map total affected persons entitled for compensation is reflected in this column.

undermine the recognition of indigenous knowledge were reviewed. Based on review it is arrived that implementation of project in FATA will not impact on the local administrative, legal and traditional system of the region as well as it will not change or impact socio-cultural status of the affected Shinwari Pashtun tribe and hence will not trigger the IP impact benchmarks as detailed by ADB's SPS 2009 and OM Section F1/OP (2010).

9. No archaeological and historical sites were found within the RoW or in the vicinity of the project corridor. As per census, the affected households identified as vulnerable are 05 households with disabled members.

ES-3 SOCIO-ECONOMIC PROFILE OF DISPLACED PERSONS

10. A complete census of the AFs, on 100% basis, was carried out by using a pre-structured questionnaire. The census aimed at to register and document the number and status of APs/AFs likely to be physically displaced or affected as a result of the project and, therefore, entitled to compensation.

11. Compensation eligibility will be limited by a cut-off date which could either be the start or completion date of census of impacts. For preparation of this LARP socioeconomic baseline survey and census survey of DPs (including titled and squatters) was completed in March and accordingly the cut-off date determined is the 31st march 2015. Any displaced person who occupy project area after aforementioned cut-off-date will not be eligible for compensation. However, he will be given sufficient time (30 days) to remove his belongings from the project area. The cut-off date was disclosed during consultation, however, after approval of draft LARP the cut of date will be publicized with draft LARP disclosure by end July 2015.

12. Generally, 88% of the respondents' families are of joint family systems. For every 10 families of the project-affected households in Torkham, close to nine of them are joint family systems. The rest are nuclear families. The average number of adult males and females among the respondents is seven (7) and six (6) respectively. The average family size is 23. The average number of children in each family is 10.

13. The occupational level of the respondents is like a social pyramid. At the base is composed of small shopkeepers/businessmen (42%) followed by skilled workers (29%); and at the apex is shared by big businessmen/factory owners. Overall, over 50% of the respondents are engaged in some sort of business linked to the border activities.

ES-4 PUBLIC CONSULTATION, INFORMATION AND DISCLOSURE

14. With the objective of incorporating stakeholder concerns and minimizing unnecessary delays in acquisition, compensation and overall implementation, a series of stakeholder consultations were conducted in March 2015 with relevant government authorities (FBR, NLC, PA Khyber Agency, APA Landi Kotal), frequent users of the Torkham BCP (truck drivers, pedestrians), affected local community & business representatives.

15. Overall, the communities welcomed the development of the Torkham BCP and expected improved economic growth and livelihoods due to the new developments. During consultation process community informed that the negotiation on release of land through lease without forgoing land title for communal land and private land is under process. The major concerns raised include minimizing the resettlement impacts by avoiding the commercial area and Torkham settlement, provision of alternate space within the project to relocate affected business structures, timely compensation, employment opportunities for local communities and a fair and transparent acquisition and compensation process.

16. The women were of the opinion that the project will improve the livelihood opportunities for male counter parts in their families. However, their major concern was restrictions of routes and access due to construction activity and social issues due to outside labour during project construction phase. Their stressed need was the drinking

water supply, health and educational facilities in the project area. Many women suggested that alternate routes should be available for women and the existing water resources are not tapped for construction activity.

17. Under local customs and traditions, the women are not allowed to participate in outdoor income earning and social activities; the women are seldom allowed go out of their houses without accompanying male members of their family which limits the social circle of women upto near relatives and neighbours living around. Hence, the role of women in the society is limited to household works with no involvement in outdoor activities and accordingly the participation of women in development process could not be perceived.

ES-5 GRIEVANCE REDRESS MECHANISM

18. To address the complaints and grievance that may arise during project implementation, a three-tier grievance redress mechanism is proposed for the project which includes: Local Jirga (including sub PMU, PIU and Community representatives), ii) Grievance Redress Committee at Project Level (headed by Assistant Political Agent) & iii) FATA administration i.e. Political Agent (PA), Khyber Agency in case the grievance is not resolved at GRC level.

19. During project execution, the Jirga will serve as the first step where concerns and grievances of local people will be recorded, discussed and resolved as per local customs and traditions. The Jirga will investigate the issues, hear and record concerns of the aggrieved party and will examine the evidences produced and shall adjudicate the complaint with 20 days of its receipt by Jirga. The Jirga will have support from sub PMU and PIU for required documentation of the complaints and oversight regarding problem resolution within the ambit of the LARP for Torkham BCP and the resettlement specialist at Sub PMU/PIU will participate in all meetings of the Jirga to record the proceedings and facilitate the Jirga members to adjudicate the issue compliant with the LARP provisions as per eligibility and entitlements defined.

20. After preliminary assessment, the APA as chair of the project-specific GRC will investigate the complaint through local administration which will share its facts finding report with APA in 15 days of receipt of complaint. After receipt of the facts findings report, within next 7 days the GRC chaired by APA will convene its meeting and shall adjudicate the issue as per eligibility and entitlement provisions outlined in LARP of Torkham BCP fully consistent with local customs, legal and administrative framework of the area. The GRC shall decide the complaint, share its decision with the sub PMU, PIU and complainant within 30 days of receipt of complaint for further implementation/execution of the decision and subsequent closure of complaint accordingly. However, if the complainant/ aggrieved person are not satisfied with GRC decision, he/she can request the GRC to elevate his/her complaint to next higher level i.e. the Political Agent, Khyber Agency.

21. Upon receipt of complaint, the Political Agent will review the record and call the complaint/complainants to hear and record their concerns, and initiate any further investigations (if required) for resolution of the complaint. During investigation the PA will be at the liberty to hold meetings with the, sub PMU/PIU GRC, Jirga and any other stakeholders, as required, for resolution of the complaint. After this second round of fact-finding is complete, the PA will make a decision regarding the complaint and inform the aggrieved person, the LARU, GRC, and Jirga for required execution on-ground and closure of the grievance process or will refer the matter to Council of Elders under regulation 8 of FCR 1901 for its findings as per Riway (Custom).

ES-6 LEGAL AND POLICY FRAMEWORK

22. Under article 247(3) of the Constitution of Pakistan, acts of Parliament do not apply to Federally Administered Tribal Areas unless the President so directs. The criminal code of Pakistan does not apply to the tribal areas and Article 247(7) of the Constitution debars the jurisdiction of the country's high courts and the Supreme Court from the tribal areas.

Following the same principle, the body of laws and practices relative to Land acquisition which are embedded in the Land Acquisition Act of 1894 (as amended) are not applicable in Tribal areas (as with most other laws of Pakistan). The gap left void by the non-applicability of the national regular law in Tribal Areas is filled by the Frontier Crimes Regulation (FCR) of 1901. On the one hand the FCR sanctions the tribal customary practices as the appropriate means to deal with crimes and civil issues in tribal areas, establishes the authority and the jurisdiction of the Political Agent (PA) as the supreme representative of the Government in those areas, and stipulates that legal rulings are to be taken by the PA in agreement with the Tribal leaders. In FCR 1901 under regulation 56 the property rights are protected and no person can be deprived of his assets without compensation on consensus rate.

23. The Land Acquisition Act of 1984 is not applicable in FATA and land acquisition follows the FCR 1901 provisions which provide an administrative set-up for FATA including acquisition of asset for public purpose projects. Though, the FCR stipulates that land/assets compensation will be based on consensus rate (negotiated settlement between the land owners and the PA) that fits with ADB’s policy requirement, however a comparison of Land acquisition under Pakistan’s FCR 1901 applicable in FATA and the ADB’s Policy on Involuntary Resettlement (IR) shows that there exist major differences in the two instruments. The objective of this comparison is to identify if and where the two sets of procedures are in conformity with each other and more importantly where there are differences and gaps. The key consideration is that the Land Acquisition and Resettlement Planning is in compliance with ADB’s safeguards requirement and consistent with Pakistan and FATA regulatory system. The key ADB Policy Principles are elaborated in Chapter 6.

ES-7 ENTITLEMENTS, ASSISTANCE AND BENEFITS

24. An analysis of eligibility criteria and compensation entitlements and keeping in view the nature of losses and implementation issues of the proposed project, an Entitlement Matrix (EM) has been prepared as provided in Table ES-3 below. Keeping in view the ongoing consultation/negotiation between the local land owners and the government for acquisition of land through lease, the entitlements for acquisition of land are based on two alternatives including i) through long term lease arrangement for which the negotiations are in process but not concluded yet, or ii) permanent acquisition of land on replacement cost bases in case the ongoing negotiation for lease arrangement is unsuccessful. However, keeping in view the worst case scenario, the land compensation costs are worked out for permanent land acquisition on replacement cost bases to estimate the LARP budget.

Table ES-3: Entitlement Matrix

Asset	Specification	Affected People	Compensation Entitlements
Communal tribal Land ⁵	Collective land (Barren/hilly terrain and occupied under community shops)	Khuga Khel Clans of Shinwari tribes	<ul style="list-style-type: none"> ▪ In case land is acquired on lease: Cash compensation as per agreed terms and conditions of lease agreement between the Communal Jirga and Political Administration; or ▪ In case the land is acquired permanently: Cash compensation on replacement cost basis i.e. consensus sale price as negotiated by the Communal Jirga and Political Administration. Compensation will be paid to Malik/elder of clan for downward

⁵ For land losses (communal or private owned land) two alternatives which are (i) land acquisition under lease arrangement or (ii) compulsory acquisition of land on permanent basis, are considered to propose compensation entitlements.

Asset	Specification	Affected People	Compensation Entitlements
	Collective land under residential structures,	Affected Extended family/ Households	<p>distribution to clan members as per custom.</p> <ul style="list-style-type: none"> ▪ Replacement land plot in adjoining communal land if the communal land is released on lease basis by the community; <p>Or</p> <ul style="list-style-type: none"> ▪ Cash compensation on replacement cost i.e. basis at consensus rate as negotiated by the Household elder/Communal Jirga and Political Administration if land is acquired permanently ▪ In later case, compensation will go to elder of the affected household.
Private Household Plots	Privately owned barren land/ land under commercial uses	Affected Extended Family / household	<ul style="list-style-type: none"> ▪ In case land is acquired on lease: ▪ Compensation in cash as per agreed terms and conditions of lease agreement between the household elder or Communal Jirga with Political Administration <p>Or</p> <ul style="list-style-type: none"> ▪ In case of permanent land acquisition: Cash compensation on replacement cost basis i.e. consensus sale price as negotiated by the Household elder/Communal Jirga and Political Administration. ▪ Compensation will be paid through Household elder for distribution in family members.
Lease holders	Leased out privately owned land	Lease Holders	<ul style="list-style-type: none"> ▪ Land Lease termination support equaling the paid up cost for remaining tenure as per lease agreement rate if substantiated with documentary proof or for a period maximum up to three years if applicable.
Structures (Residential/Commercial/religious))	Residential Structure on Collective Land	Affected Extended family/Households	<ul style="list-style-type: none"> ▪ Cash compensation at replacement rates for affected structure; and Compensation for other fixed assets free of salvaged materials, depreciation and transaction costs. ▪ Compensation will go to elder of household. ▪ Livelihood Assistance Allowance equal Pak Rupees to lump sum 03 months of minimum wage declared by the government or lump sum to cover livelihood loss during construction of house. ▪ Advance notice for 03 months minimum to relocate out of project site.
	Commercial Structures on leased land	Lease holders	<ul style="list-style-type: none"> ▪ Provision of replacement land in the new terminal premises on a secure tenure basis to relocate business; ▪ Cash compensation at replacement rates for affected structure; and compensation for other fixed assets

Asset	Specification	Affected People	Compensation Entitlements
			<p>free of salvaged materials, depreciation and transaction costs.</p> <ul style="list-style-type: none"> ▪ Sufficient advance notice (minimum 6 month) to re-establish commercial structure on replacement place before dismantling the existing to avoid interruption in facility and business.
	Commercial Structures (Shops) on	Khuga Khel Clans of Shinwari tribes	<ul style="list-style-type: none"> ▪ Replacement structures of similar type and dimensions will be provided at alternate communal land, without deducting salvage material <p>Or</p> <ul style="list-style-type: none"> ▪ Cash compensation on replacement costs basis/consensus rate including compensation for utilities (electricity, water supplies and telephone) free of depreciation and transaction costs will be provided to the communal Jirga for reconstruction of structure at their own and salvage material is allowed.
Trees	Trees affected	Affected Extended family/Households/ Respective clan	<ul style="list-style-type: none"> ▪ Fruit Trees: compensated on yearly production value calculated 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-fruit trees: The compensation is to reflect the market value of tree's wood content, based on the girth of trunk at current market rates. ▪ The compensation for trees on private land will go to the elder of household and the tree on collective barren land will be compensated to the Community through elder of the clan.
Business Loss Employment/li velihood loss	Businesses Losses renter business operators in communal shops.	Relevant individuals	<ul style="list-style-type: none"> ▪ Cash compensation (03 months period) on actual basis on production of some valid documentary proof or equal to government announced minimum wage rate. ▪ Rental assistance (03 months period) either at the rate of rent being paid on production of rent payment receipt or on lump sum @ rate of Rs. 5,000/- per month.
	Employees	Relevant individuals (if any)	<ul style="list-style-type: none"> ▪ Cash compensation (03 months period) equal to government announced minimum wage rate in case employment loss.
Relocation	Transport/transiti n livelihood costs	Affected extended family/household	<ul style="list-style-type: none"> ▪ Provision of sufficient allowance to cover transport expenses for transportation of salvage material and belongings to relocation site. For the project the allowance has been set at Rs.25, 000.
Cultural and community	Affected community assets	Manager of structure	<ul style="list-style-type: none"> ▪ Reconstruction of affected community structure (if any) as part

Asset	Specification	Affected People	Compensation Entitlements
structures			of project to ensure community rituals are not interrupted, Or <ul style="list-style-type: none"> ▪ Cash compensation for affected community structure on replacement cost basis.
Public utilities	Affected public utilities	Appropriate department	<ul style="list-style-type: none"> ▪ Relocation and installation costs for water wells/pumps, ▪ Electric poles and transformers and other similar immovable assets if any as project component.
Vulnerable AP livelihood		AP below poverty line or disabled	<ul style="list-style-type: none"> ▪ Vulnerability allowance equivalent to 03 months minimum wage rate announced by the government over and above other entitled compensation; and ▪ Employment priority in project-related jobs.
Unanticipated Impacts			<ul style="list-style-type: none"> ▪ Unanticipated impacts if identified at final design or during implementation of the project will follow the entitlement provisions listed above and ADB SPS requirements.

ES-8 RELOCATION, REHABILITATION, AND INCOME RESTORATION

25. The acquired assets include barren land with 3 commercial structures (on privately owned land), 3 residential structure and 9 shops (on communal land) that needed relocation. For relocation of the affected structures following relocation policy will apply. All residential and small shops located on communal land will be reconstructed on the nearby communal land to avoid physical and economical displacement. However the 3 commercial structure located on private land (include two weigh bridges and one filling station with service area for truckers and freight vehicles) have a direct link with operation of existing border crossing facilities, hence these three structures will have to be kept in operation not only during construction phases of the project but there after as well. Hence, these structures will be adjusted in the improved border crossing facilities by providing replacement land on secure tenure basis for their relocation. Accordingly following relocation strategy is proposed for three commercial structures to ensure that the available services for existing BCP operation & local community are not disrupted and compromised:

26. As per compensation entitlements following relocation strategy has been adopted:

- The owners of the commercial structures will be compensated for the total structure loss at replacement cost basis. In addition, they will be paid business / transitional allowance equal to 03 months (temporary loss asset) income losses.
- Transport facility or Transportation charges for shifting of salvage material & belongings to the relocation site.
- The owners of shops, weigh stations and petrol pump will be given 06 months advance notice for vacation of affected structure at the time of payment of compensation amount.

27. The EA will ensure that the land compensation to replacement value is agreed through negotiated settlement. FOR draft LARP, the unit rate for affected land, structures and community assets was estimated on replacement cost following the previous precedents of land compensation for establishment of a grid station in the area and current construction costs of structures of similar type and dimension in order to determine the unit rate of compensation and allowance value. However, the compensation unit rates will be updated as follows:

- Land compensation as agreed by the tribal committee involving the elders and the PA through negotiated settlement.
- Buildings and structures, i.e. Houses and commercial structures valued at replacement cost based on cost of (new) construction materials, type of construction, labor, transport and other construction costs and free of salvaged materials and transaction costs. The affected buildings were of 3 types: (i) mud brick buildings / houses; (ii) cooked brick / cement buildings/houses, and (iii) partly dismantled and unused buildings.
- Fruit Trees: compensated at yearly production value calculated as Productive trees are 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-fruit trees: The compensation is to reflect the market value of tree's wood content, based on the girth of trunk at current market rates.
- Businesses were compensated with an allowance corresponding to the average income over 03 months.

28. To restore income loss of all AFs whose livelihoods are affected will be supported for their income losses calculated on the basis of minimum wage rate announced by the government for a period in which they are unable to attain their routine livelihood earning activities which could be up to 03 months maximum.

ES -9 INSTITUTIONAL ARRANGEMENTS

29. As EA FBR is overall responsible of project implementation including acquisition of land and other assets compliant with ADB's safeguard Policy statement 2009. A Project Management Unit (PMU) is being established in the FBR with its regional offices (sub PMU) at Torkham, with a mandate of management role and employer under FIDIC conditions. At BCP level, the National Logistic Cell (NLC) has been assigned project implementation unit for overall on site supervisions of day to day activities and acquisition of additional land for the project.

30. Based on project locus in FATA, the LAR and IR affairs could only be dealt with direct involvement of the Office of the Political Agent (PA), Khyber Agency and Office of the Assistant Political Agent (APA), Landi Kotal. Hence, the PA, Khyber Agency will provide coordination support as facilitator at the PMU level while the Assistant Political Agent, Landi Kotal will perform the necessary functions at sub PMU and PIU level to facilitate the project executors during land acquisition, LARP preparation, implementation and monitoring as well as resolution of grievances if any.

31. A number of coordination committees will be established such as the Project Implementation Committee at PMU Level and Land Acquisition & Resettlement Coordination Committee and Grievance Redress Committees at sub PMU/PIU level to facilitate coordination with different stakeholders and project affected persons during acquisition of land and other assets, preparation, implementation and monitoring of Land Acquisition and Resettlement Plans.

32. The Project Implementation Unit will be facilitated by Land Acquisition and resettlement Unit, to ensure timely establishment of Grievance Redress committees, Affected/displaced Persons Committees at village level. The LARU will also ensure effective coordination between line government departments, concerned stakeholders and displaced population during updating, implementation and monitoring of this RP.

ES-10 IMPLEMENTATION SCHEDULE

33. Implementation of LARP consists of preparation, implementation (delivery of compensation to the DPs for affected assets and other entitlements under LARP provisions) and monitoring and evaluation of LARP progress. Under ADB's SPS 2009 requirements, the delivery of full compensation is mandatory before physical/economical displacement of affected households or commencement of civil works, hence, in tentative

implementation schedule all activities related to the land acquisition and resettlement are planned to ensure that compensation is paid prior to displacement and commencement of civil works. Public consultation, monitoring and grievance redress are ongoing activities which will be undertaken intermittently throughout the project duration.

34. The draft LARP is prepared on the basis of preliminary design however it will be updated and finalized when land acquisition process under Law or detailed design is completed. In Torkham the land acquisition process is at early stage (negotiation between Government Committee and Jirga is on-going) and it could take minimum 6 months to complete land acquisition process under Law. Further, once land acquisition is completed or detailed design is available the draft LARP will be updated as final implementation ready LARP with final impact inventory. After ADB's endorsement this final LARP will be implemented and monitored. Hence, at draft LARP stage, to design a tentative LARP implementation schedule, the proposed project's resettlement activities are divided into three broad categories i.e. i) Preparation, review and disclosure of Draft LARP; ii) Updating/Finalization of draft LARP as final implementation ready LARP with final census linked impacts and compensation budget; iii) LARP Implementation and monitoring phase includes a) payment of all entitled compensations to respective APs and putting in place resettlement/rehabilitation measures before commencement of civil works and b) Monitoring and Reporting of LARP implementation. Accordingly, in tentative LARP implementation time lines are worked out for different LAR activities outlined under each border category and are presented in the LARP implementation schedule (EX Fig.1) below. However the proposed schedule is tentative and will be subject to modification depending on the loan processing timelines and progress of the project activities.

Activity	Time Line						
	2015			2016			
	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
RP Preparation, updating, implementation and redress of grievances							
Phase-1 Preparation, review and disclosure of Draft RP							
Preparation of Draft RP	=====						
Review of and approval of draft RP by ADB		=====					
Disclosure of Draft RP			=====				
Redressal of Grievances		◆=====					
Consultation and information dissemination		◆=====					
Phase 2: Updating of draft RP as final LARP and ADB's Approval							
Establishment of PMU in FBR and PIU at Torkham with LARU and GRC notified and functional at PIU level.		=====					
Hiring and mobilization of Design and Supervisions Consultants and Project management Consultants to assist PMU and PIU to implement the project.		=====					
Finalization of detailed Design.				=====			
Detailed measurement of impacted assets completed and relocation options settled through negotiation.	=====						
Updating of LARP impact inventory based on final design and land awards announced					=====		
Updating of Draft LARP as final larp with final impact inventory, entitlements and compensation costs and shared with ADB for review and concurrence.						=====	
ADB Approved Final LARP							=====
Phase 3: Implementation and Monitoring of RP							
A: ADB Approved RP Disclosure and Implementation started.							
Disclosure of Final RP and implementation started							=====
Transfer of LAR compensation cost in PIU account according to final LARP budget for payment of compensation and resettlement costs as per entitled resettlement					=====		
Issuance of Notices to APs for submission of claims							=====
Full Compensation Payment (Compensation for Lost assets / assistance, with other entitled compensation as per RP)							=====
Contract Award and mobilization of Civil Works Contractor							=====
Handing over possession of land for commencement of civil works.							=====
B: RP Implementation Monitoring and Reporting							
Internal Monitoring of RP implementation progress and submission of monthly reports to ADB						
Hiring and mobilization of External Monitor					=====		
Submission of bi-annual External Monitoring Reports for ADB review, concurrence and disclosure.							◆=====

ES-11 MONITORING AND EVALUATION

35. The monitoring mechanism for Torkham LARP will have both internal monitoring (IM) and external monitoring (EM) components. Internally, the LARP implementation for the subproject will be closely monitored by the EA through the PIU and the Resettlement

Specialist (Internal Monitoring Consultants). Whereas, the EM component will be executed by an external monitoring agency hired by the EA.

36. A computerized user-friendly resettlement database is part of the LARP for Torkham BCP and will be accessible to implementing agencies and ADB. This database not only records socio-economic profiles, economic impacts and affected assets information for all DPs, but it will also serve as a monitoring tool for the EMA to gauge the achievement of LAR objectives.

37. The external expert will be responsible for submission of an external monitoring report to the EA and the ADB on a monthly basis. Findings of the EMA should be summarized in the reports, including the following: (i) progress on LARP implementation vis-à-vis defined objectives and targets (ii) identification of problems/concerns and recommendations for mitigation measures including roles and responsibilities matrix (iii) progress on mitigation measures identified in the previous report.

ES-12 LAND ACQUISITION AND RESETTLEMENT BUDGET

38. The summary of total estimated funds for compensation costs, rehabilitation, and mitigation cost amounting to **388.59 Million** is given in ES-4. With these financial provisions, satisfaction of the project affectees is ensured and the grievances would be minimized.

Table ES-4: SUMMARY OF BUDGET⁶

S.#	Description of Item	No. / Area	No. of Affected Household	Unit Cost in PKR	Cost (PKR.)
A	Land Acquisition Cost	50.3 Acres	4 & (1)	5,000,000	251,500,000
B	Cost of Affected Structures	15	6 & (1)	Refer Table 9.2	71,322,400
C	Tree Losses	38	3 & (1)	Refer Table 9.3	152,000
D	Business/Transition Allowance				
i	Re-establishment of Petrol-pump	1	1	5,000,000	5,000,000
ii	Re-establishment Weigh Bridges	2	2	2,000,000	4,000,000
iii	Business/Transition Allowance 03 months (shop proprietors)	9	9	11,000	297,000
iv	Rental Assistance 03 months (Shop Proprietors)	9	9	5,000	135,000
F	Lost Income Allowance 03 months (Residential structure owners)	3	3	11,000	99,000
G	Transportation/Shifting Allowance (One time Lump Sum)	12	12	25,000	300,000
H	(One time lump-sum)	3	3	100,000	300,000
I	Vulnerable People Allowance (03 months)	5	5	11,000	165,000
J	SUB-TOTAL				333,270,400
K	Monitoring and Evaluation @ 5% of SUB-TOTAL				16,663,520
L	Administration Cost @ 1% of SUB-TOTAL				3,332,704
M	TOTAL (J + K + L)				353,266,624
N	Contingencies @ 10% of TOTAL				35,326,662
O	GRAND TOTAL (M + N)				388,593,286 (388.59 Million)

Note: The figure in parentheses represents communal land/asset

⁶ The Costs indicated in table are tentative which are subject to update in the Final LARP in line with updated impacts inventory and consensus based decision on land acquisition mode and costs.

SECTION 1

PROJECT DESCRIPTION

1.1 PROJECT BACKGROUND

1. The Government of Pakistan sought the technical assistance of the Asian Development Bank (ADB) to modernize its border point infrastructure to make available quality border-crossing services. The TA is aimed at developing the physical and institutional facilities that will permit Pakistan to reduce barriers to trade between Pakistan, Afghanistan, India, and other immediate neighbors.

2. Pakistan's geographic proximity to two largest global economics, China and India, makes it a potential transit trade hub in Central Asia. Making Pakistan the regional trade hub will facilitate diversified trading activities resulting to progressive economic growth and subsequent reduction on poverty in the region. To achieve this objective, the Federal Board of Revenue and the Ministry of Commerce developed new policies and strategies which include improving border crossing point infrastructure, equipments and procedures to reduce cargo dwell time and increase throughput, and enhance the efficiency of transport corridors. It will also benefit its neighbors in landlocked countries of Central Asia, Western China, India, and the Arabian Gulf where a sizeable portion of global trade originate.

3. The Improving Border Services project is primarily focused on three existing BCPs that are used for transit trade with Afghanistan, India and potentially the Central Asian Republics. The Border Crossing Points subject to improvement under the project include Wagah (Pakistan-Indian Border), Torkham and Chaman (Pakistan-Afghanistan Border). Under the project, at all three border crossing points, it is aimed to i) construct new infrastructure such import export processing zones, passenger terminal with separate parking areas; ii) construct integrated administrative office buildings; iii) widen approach roads, and install new multi-approach traffic lanes with checking booths, iv) to install new equipment such as cargo X-Ray scanning, truck weighing and pedestrian multi entry and exit lane scanning and detection equipment; v) to install new Information and Communication Technology hardware and software as part of the transition to a Single Window System.

4. The Government of Pakistan sought the technical assistance of the Asian Development Bank (ADB) to Develop Regional Improving Border Services Project to modernize its border crossing point infrastructure and to make it compatible with vision of the government to develop Pakistan as economic Corridor by developing trade and transits network connecting central Asian Republics and South Asia. For facilitating the GOP, ADB provided Technical Assistance aimed at i) designing and developing the Improving Border Services Project; ii) conduct due diligence for technical, economic, financial, social and environmental viability of the project; and assist the executing Agency (EA) in developing required documents including Land Acquisition and Resettlement Plans for all three Border Crossing Points.

5. The Border crossing points subject to improvement are located at three locations along Pakistan Indian Border and Pakistan Afghanistan Border. The Wagah BCP is in Punjab Province, Torkham BCP in Federally Administered Tribal Area and Chaman BCP in Balochistan Province. The three BCP locations have involuntary land acquisition and resettlement components with varying degree, which, if unmitigated, could give rise to severe economic, social and environmental risks, including loss of production, impoverishment through loss of productive assets or income sources. Keeping in view the geographic spread and distinctive legal administrative and cultural set-up dealing with land administration and acquisition at each BCP site; the LARP as per ADB's Safeguard Policy Statement 2009 are prepared separately; and this LARP is for Torkham Border Crossing Point. Accordingly the descriptions below are limited to the extent of Torkham only.

1.2 DESCRIPTION OF THE PROJECT

A. Border Crossing in Torkham

6. Torkham is the border crossing on the traditional route for trade between Afghanistan and Pakistan via the Khyber Pass. The customs operations office was established in 1954 and is located beside the narrow and crowded road. Throngs of trucks and pedestrians passing by make the street extremely busy. The customs office and operations currently occupy 13 acres of land.

7. Transport connectivity with the Torkham border crossing is improving. The approach road from Peshawar to Torkham is under construction and is expected to be finalized during 2015. An alternative route called the “expressway” is also proposed although a completion timeline is not known. The road from the Afghanistan side of the border is proposed to be four lanes wide and the condition of the existing road is good.

8. The current site is constrained in a narrow valley and surrounded by steep mountains and as a result there is not a large amount of flat land near the border or the “zero gate” with Afghanistan. In addition the border crossing approach road goes through a market bazaar. There is not enough land (at existing BCP facilities) available to build good practice export and import commercial truck and pedestrian processing facilities near the border.

9. The procedure for import of goods from Afghanistan is similar to standard practices and the freight carriers are allowed to travel through country. Afghan and Pakistani trucks carrying goods from Afghanistan report to the Custom House and deliver an Import General Manifest (IGM). Afghan drivers are issued a token for them to travel into Pakistan. Customs retain the vehicle registration book as a security. There is no restriction on Afghan trucks operating beyond Torkham and immigration rules for drivers are relaxed.

10. Pakistani and Afghan trucks carrying goods for export deliver their Export General Manifest (EGM) to Customs at Torkham, The goods are examined under Customs supervision and issued an Exit Gate Pass. Although the Torkham border crossing seems to be the busiest Border Crossing Point of Pakistan due to its location on historic trade route (Khyber Pass), the infrastructure is quite outdated and requires lot of improvement.

B. Design and Layout Proposals

11. The Phase I consultants have prepared proposals for completely new infrastructure and facilities at Torkham for which a total of 52 acres are required. To minimize disruption in commercial activities adjoining existing BCP facilities, the proposal is to move the office and freight operations (Trade Terminal) some 2 to 3 kilometers back towards Peshawar. While the passenger terminal with new entry and exit pedestrian processing facility, will be built close to the border in the land occupied under existing government building owned by the Political Agent of Khyber Agency (FATA Administration). The identified land for new trade terminal is barren hilly terrain which is mostly collective (communal) land owned by the Pashtun Shinwari Tribe of Khyber Agency.

12. The design and layout proposal includes construction of buildings for new passenger terminal, trade terminal with separate import and export processing areas with parking bays and office accommodations as well as setting-up of i) new equipment such as two new truck back scatter and color X-Ray scanners; ii) two new truck weighing and dimension measuring machines plus CCTV and overhead and task lighting in case the border crossing ever moves to 24 hour operation. iii) new Information and Communication Technology (ICT) hardware and software as part of the transition to a Single Window System (SWS).

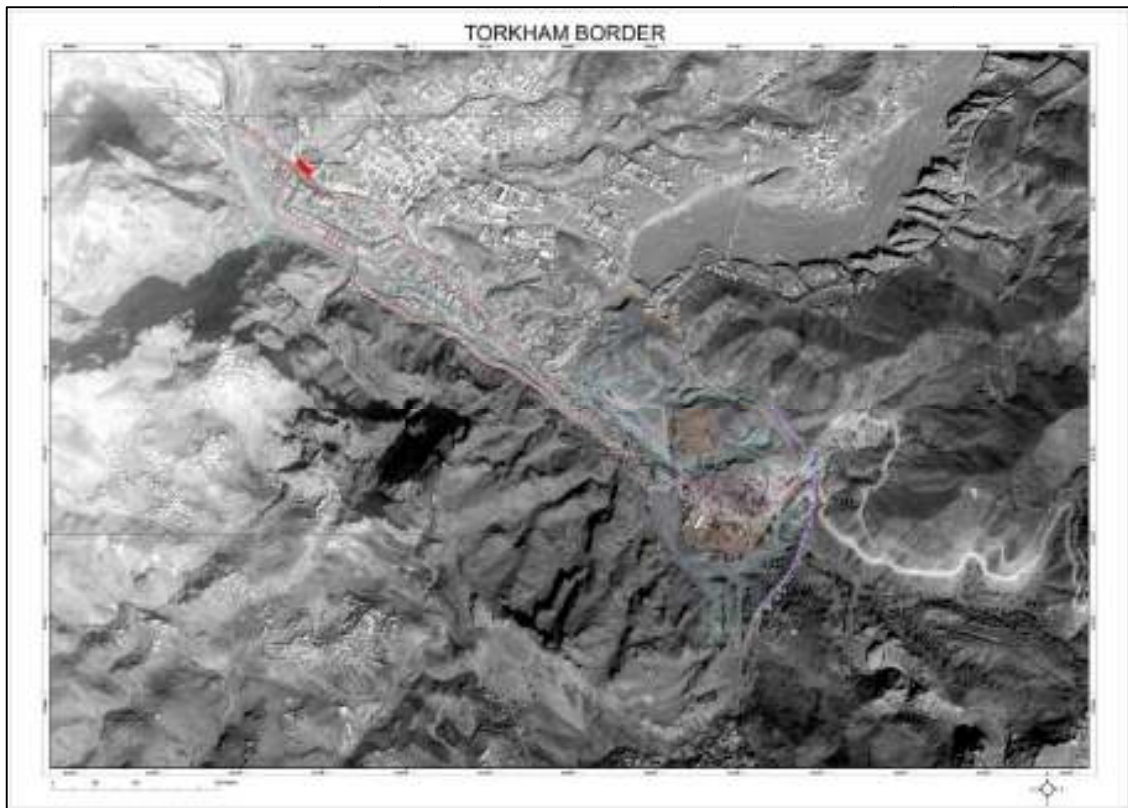


Fig 1.1: Layout of proposed Torkham Border Improvement Section

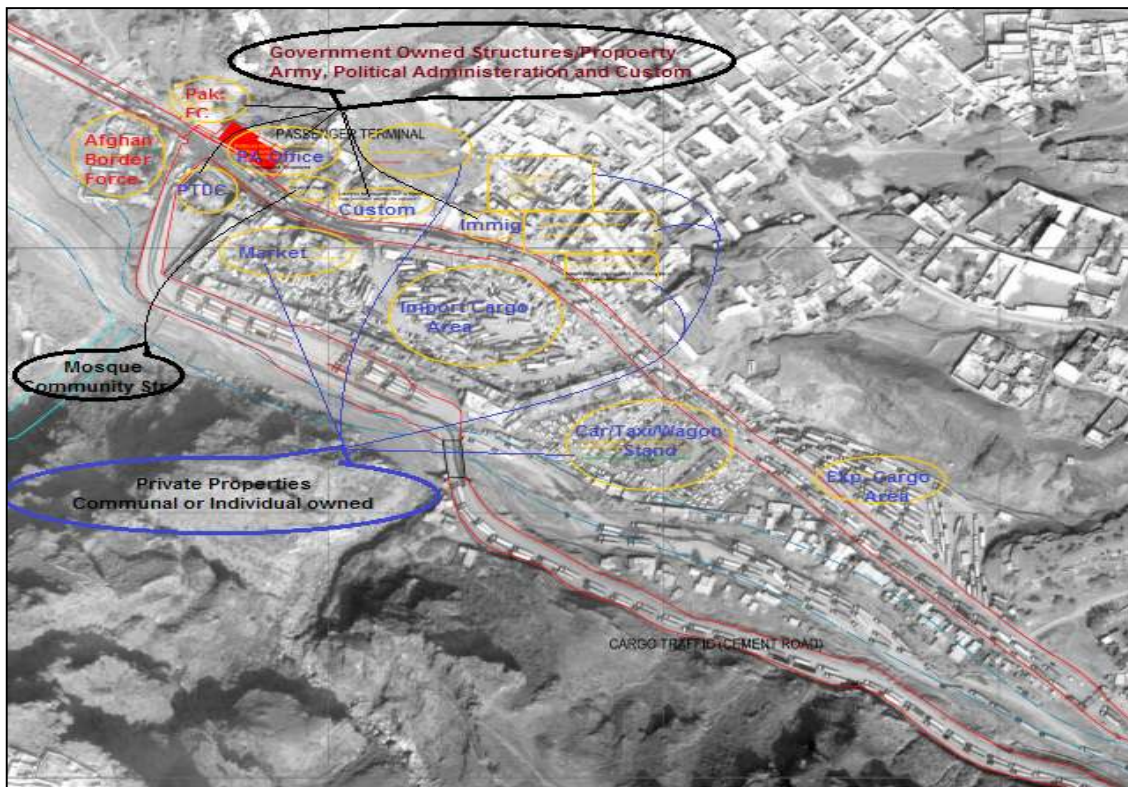


Fig 1.2: Image Showing Available and Land to be acquired for Passenger Terminal

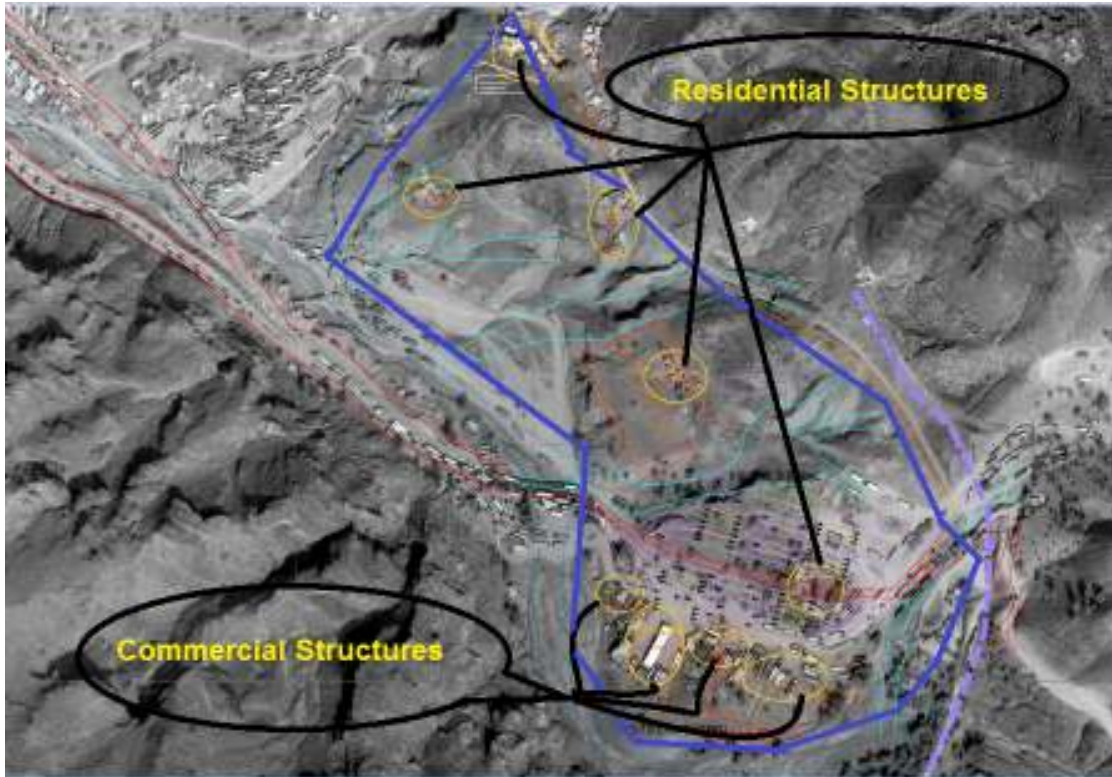


Fig 1.3: Image Showing Land to be acquired for Passenger Terminal with Structures marked

C. Design Components which involve Land Acquisition.

13. To pave the way for the project in Torkham, a total of 52 acres of land will be needed. Of this number, the government through its various departments (Pakistan Customs, FIA, Political Administration Torkham, and FC) functional at Torkham already owns 1.7 acres of land required for improvement works to be implemented at passenger terminal. While, the remaining 50.3 acres will be needed by the National Logistics Cell (NLC) for establishment of newly proposed trade terminal (separate export and import processing zones, parking bays, administrative buildings and allied infrastructure) at a distance of about two and a half kilometer away from the existing passenger terminal and settlement of Torkham. Of this figure, only 13 acres is settled⁷ land owned by 04 households while the remaining 37.3 acres is communal land (*Tribal land*) owned by the *Khuga Khel clan of Shinwari Tribe*. The land to be utilized for trade terminal is surrounded by mountains with hilly outcrops adjoining the existing facilities; it is mostly barren rolling hilly terrain with no potential for agricultural use. However, the use of land for the project will impact residential structures of 03 households and three commercial structures including 2-weight station and one petrol pump which are located along the road (N-5) leading to Torkham Border Crossing Point.

14. As the project is located in Federally Administered Tribal Area where local community governed by local customs and riwaj is offering to release their land on lease basis for execution of project, rather than giving up their land holding right by permanent acquisition of land. Accordingly, the Federally Administered Tribal Area administration through its Political Agent Khyber Agency is convening consultations with local Jirga (community representatives) and EA (FBR)/PIU (NLC) to agree on terms and conditions of land lease agreement or a benefit sharing mechanism.

⁷ The land recorded of 1919, prepared by the then British government

1.3 NEED FOR LARP

15. The involuntary resettlement of AHs due to project actions may cause severe long-term socioeconomic hardships, impoverishment and environmental damages unless appropriate measures are carefully planned and carried out. The ADB Policy on involuntary Resettlement requires that i) involuntary resettlement should be avoided where feasible, ii) minimized by exploring all viable alternative project/design options and if it becomes unavoidable, then the affected persons (APs) should be fully compensated for their lost assets and earnings to ensure that their living standards should be restored at pre-project level if not improved. This Policy endorses the eligibility of all the categories of persons, whether with formal legal rights or without these rights in a project, but occupying project area prior to the cut-off date.

16. This LARP has been prepared by the Federal Board of Revenue based on 100 % census of losses of Displaced Persons (APs) in terms of land, structures, trees and assets; socio-economic survey of APs covering the project area and on-going consultations through meetings, interviews, focus group discussions with the APs and other stakeholders, in accordance with provisions of ADBs Involuntary Resettlement Policy guidelines.

17. The primary objective of the LARP is to provide necessary details for compensation, resettlement and rehabilitation by identifying (i) the extent of losses; (ii) the policy framework for compensation payments, income restoration, relocation and rehabilitation; (iii) mechanisms for timely disclosure of information to the APs and other stakeholders (iv) institutional arrangement for LARP preparation, implementation and monitoring; (v) grievance redress mechanism and (vi) itemized resettlement budget and staggered implementation schedule to ensure timely implementation of LARP provisions in compliance with ADB's safeguard requirements and commencement of civil works subsequently.

1.4 ANALYSIS OF ALTERNATIVES CONSIDERED

18. Setting and design of developmental actions determines the level and severity of resettlement impacts. Following the ADB's Resettlement planning principals to avoid and minimize resettlement and compensate the unavoidable impacts, the alternatives studied and evaluated to arrive at the best option with minimum resettlement impacts are described below:

19. The Torkham borders crossing point located at Pak-Afghan Border is a gateway to Khyber Pass⁸ which is historically known trade route between subcontinent and the Central Asian States. This BCP is already being used for across border travel/trade with passenger and trade terminals (import and export) already in operation at Torkham border. Existing passenger terminal with offices of the BCP operating authorities and local administration is located on right of road near border line; while existing trade terminal which is adjoining to Torkham Bazar Area, a major commercial center at Torkham, is on the left side of the road. At the time of designing the basic lay out plan for improving border services project, possibility to use existing trade terminal was considered as one of the options, however, it was dropped being unsuitable because of: i) inadequacy of available land at existing trade terminals; ii) limitation of ROW width of N-5 within Torkham settlement and Bazar Area to accommodate multilane entry and exit traffic lanes; iii) large scale dislocation of housing and business premises including markets and a car-parking/taxi stand located in Torkham Bazar Area.

⁸ The Khyber Pass is situated some 5 kilometers to the west from Jamrud (Near Peshawar) and it runs to a length of about 40 kilometers up to Torkham check post at the Pak-Afghan border. For centuries this pass has been witnessing numerous kings, generals and preachers passing through it.

20. Use of railway with its available infrastructure as other alternate was also considered. Although a railway line was laid from Peshawar to Torkham eight decades ago but was never operated beyond Landi Kotal and due to deferred maintenance it is not in a functional state. Considerable investment would be needed to repair and upgrade it. During stakeholder meetings in Karachi and Torkham, participants suggested a terminal on the railway terminal land in Landi Kotal as another option. This site is flat and could serve as a future multi modal road and railway terminal. Commercial vehicles could move between the terminal and the border using RFID tags to alert customs in real time of any tampering with the container or goods or if there were any unexplained vehicle stops or deviation from prescribed routes. A logical extension of this concept would be to have a dry port in Peshawar and for customs clearance to be undertaken there. However such 'off site' options, while technically feasible, are considered to involve too many risks given the lack of security in the area. Accordingly this option was dropped because of additional investments required to rehabilitate and upgrade the railway line and security issues.

21. With above considerations, it was arrived that passenger terminal facility and trade terminal should be located separately in improved border services project. The terrain surrounding Torkham settlement is hilly out crops with undulating topography and limited land parcels having comparatively flat area but unproductive rocky/barren land. The nearest available land parcel measuring 50.7 acres having potential for project use was selected to design the BCP layout and it is at a distance of about 2 Km from Torkham Settlement. Accordingly the basic lay out was designed with improved Passenger Terminal located near the border crossing point on the land which is already available with the BCP operating authorities, while the trade terminal is located at a fair distance from the Torkham settlement with minimized land acquisition and resettlement issues.

22. Keeping in view the basic design, the resettlement impacts of the identified site were studied in detail. According to impact analysis, (50.7 acres) is barren uncultivable land will be acquired for the project and other than land identified impacts include dislocation of 03 residential structures and 03 commercial structures which are located on the land identified for construction of new trade terminal, while few shops (09 in number) located near passenger terminal will face impact due to providing an enclosed pedestrian lane for passengers along right side of the road.

1.5 SCREENING OF IMPACT SIGNIFICANCE

23. During impact assessment prime focus was to identify number of affected families/affected persons subject to physical displacement or with significant permanent economic displacement to define resettlement scope, plan and prepare Land Acquisition and Resettlement Plan accordingly.

1.6 PHYSICAL DISPLACEMENT

24. During project planning, prime focus is given to adjust the project component in such a way during preparation of detailed designing, so that impacts on built-up properties are avoided to maximum possible extent. To this end, the proposed new passenger terminal is placed on the land already available with BCP authorities near the border crossing gate and establishment of trade terminal is planned at a distance of 2 km away from the settlement in barren hilly land. The local community agreed to release land possession on lease based arrangement without forgoing its right to land title. Accordingly, local Jirga (community representatives), through political administration is negotiating terms and conditions for land lease agreement including mechanism for benefit sharing with the EA and PIU. Only 03 households will face loss of their residential structures located on communal land required for the project. All such affected households will be compensated for structure loss on full replacement cost for reconstructing houses in adjoining communal land out of project site. The terms and conditions for leasing communal and private land shall encompass this aspect. With this arrangement, it is envisaged that there will be only limited physical displacement which will be due to loss of residential structures only.

1.7 ECONOMIC DISPLACEMENT

25. During designing of the project layout special consideration was focused to avoid economic displacement. In project area, major economic activity including commercial markets and car/taxi stand is limited to the Torkham Bazar Area along the road near the proposed passenger terminal. Due to locale of passenger terminal and developing pedestrian lanes only 9 small shops located on communal land will be impacted in the bazaar area, while at trade terminal location 3 commercial structures including, one petrol pump and two weigh stations located on private land required for establishment of trade terminal will need relocation.

26. The commercial structures (3) located at new trade terminal are directly linked to operation of existing border facilities and dislocation of these facilities without providing alternate will not only impact existing BCP operations but will also hinder smooth operations of the new facilities, hence these structures will be adjusted either within the land acquired for the project or alternate land available nearby. While, for relocating commercial enterprises (09 communal shops), replacement structures will be provided within the business center/commercial area proposed in the border crossing facilities. Thus with planned relocation of the 12 (9+3) commercial structures economic displacement will remain temporary and insignificant. Efforts will be ensured to minimize temporary income loss to maximum possible extent by providing adequate time for construction of replacement structures and relocation of business, however it is perceived that these owners and tenants (communal shops) will face temporary and partial economic displacement until their new premises are developed and functional. All such income losses will be compensated as per entitlement matrix to ensure the income losses if any are restored.

27. All the businesses (petrol pump and weigh stations) will be kept intact and operational until these are constructed in their allocated place in the new terminal or nearby land as agreed in result of ongoing consultations between the local Jirga, Political Agent and the EA. Thereby, these business owners and their employees will face no loss of income/livelihood. With respect to the nine shops, these are renter business operators on communal land and due to loss of shops, they will lose their place of business, if not accommodated elsewhere, these will be provided temporary business loss for transition period and rental assistance to relocate their business.

1.8 RESETTLEMENT PROCESSING REQUIREMENTS

28. Under ADB Policy, the resettlement planning and processing should be started at very early stage of the project to avoid, minimize, mitigate adverse impacts and prepare the resettlement plan based on final engineering design. This draft resettlement plan is prepared on the basis of basic design with estimated costs for land and other assets. Based on final finalization of land acquisition process as per project design, the LARP could be updated as final implementation ready LARP with updated impact census database and final itemized budget for compensation of affected assets on full replacement cost.

29. As per project design, the detailed design as well as construction and procurement will be responsibility of single entity procured under Engineering, Procurement and Construction Contract (EPC). Hence, for policy objectives & loan processing requirements following resettlement related conditions are to be satisfied for smooth and timely implementation of the project.

a) Mobilization of civil works contractor:

30. The procurement/mobilization of civil works construction team will be conditional with, ADB approved updated implementation ready RP based on land acquisition process completed as per project design, which will include; final impact inventory linked to census and assets valued on replacement cost basis responsive to cost escalation (if any); final agreement regarding release of land and compensation delivery mechanism; all

institutional arrangements in place & functional; and detailed implementation schedule for timely delivery of RP implementation & monitoring synchronized with handing over of site/sites to the contractor for execution of civil works.

b) Commencement of Civil Works Implementation:

31. Commencement of civil works of the project will be synchronized with full implementation of RP at a site as per RP implementation schedule and sites with RP implementation under way, neither will be handed over to the contractor nor will open for civil works until RP implementation is completed and confirmed to ADB as such by external monitor.

SECTION 2

SCOPE OF LAND ACQUISITION AND RESETTLEMENT

2.1 OBJECTIVES OF LAND ACQUISITION AND RESETTLEMENT PLAN

32. Main objective of Land Acquisition and Resettlement Plan (LARP) is to identify the physically and economically displaced persons (APs), assess the impacts on APs, provide compensation to APs, and to develop a mechanism to implement LARP. For Torkham BSIP, LARP is prepared by Federal Board of Revenue (FBR) as per resettlement policy provisions defined for the project consistent with requirements of ADB's Involuntary Resettlement Policy requirement-II under SPS 2009 and the Frontier Crimes Regulations (FCR) 1901. It provides full identification of the APs; assesses all project impacts and sets out objectives, principles, compensation criteria and public participation mechanisms to rehabilitate the APs. For preparation of LARP, socio-economic survey and full census of APs is carried out. The impacts are identified/assessed and, linked with respective APs.

2.2 SCOPE OF LARP

33. The scope of the LARP includes the identification, evaluation and compensation of land and land based as well as non-land assets of encroachers and squatters if any, and to collect census data linked with impacts to determine impact significance and compensation entitlement against each asset lost including measures for rehabilitation and restoration of APs living standard at pre-project level.

2.3 SCOPE OF LAND ACQUISITION

34. As per basic design of the Torkham BCP about 50.3 acres of the barren hilly land will be required to construct new trade terminal and allied facilities. Of the total required land, 37.3 (74%) acres is communal land which is owned by three clans of Khuga Khel clan of Shinwari Pashtun tribe while about 13 (26%) acres is privately owned land which is owned by 4 households/extended families. In tribal areas, generally the land is regarded as power source and symbolically it embeds the link one individual has with his ancestors who inhabited and used that land before. Hence the selling land is not considered honorable practice and the land is either provided free of cost in community's interest or leased out to government for execution of public interest project in the area. Such leases are for longer period based on mutually agreed terms and conditions for lease tenure, rate and compensation payment mechanism. Accordingly, instead of giving-up the land title by selling it to government on permanent basis, the local community (Khuga Khel Clan of Shinwari Pashtun Tribe has agreed to release land on lease based arrangement on mutually negotiated terms and conditions for execution of project. Table 2.1 below show details of land subject to acquisition with respect to title and land use pattern.

Table 2.1: Summary of Affected Land Owners and Land Use

S. #	Land Use	Area (acres)	Affected ⁹ Households	Affected Persons/Entitled Shareholders ¹⁰
PRIVATE LAND				
1	Barren Land	10.4	4	27
2	Commercial Use-Self Owned	0.5	1	14
3	Commercial Use-Lease	2.13	2	2

⁹ All identified affected households are extended families and the total population of extended family size is 412 persons including 182 persons for 6 household facing private owned land impact and 230 persons for 12 affected house hold facing impact on for communal land.

¹⁰ Following local customs, the records of privately owned land parcels is maintained as per lineage map of affected households reflecting the entire land parcel as joint property of the household and compensation is delivered through household elder for internal distribution. So as per updated lineage map total persons entitled for compensation is reflected in this column.

S. #	Land Use	Area (acres)	Affected ⁹ Households	Affected Persons/Entitled Shareholders ¹⁰
	Total Private Land	13.0	6	29
COMMUNAL LAND				
1	Commercial Use	0.24	9	9
2	Residential Use	1.06	3	3
3	Collective Barren Land	36.0	Khuga Khail Clan of Shinwari Tribe	
	Total Communal Land	37.3	12	12

Note: For the private land, one AH has both barren land and land under commercial use, therefore total number of AH's on private land is 6 including 4 land owners and 2 lease holders. Similarly the total entitled shareholders are 29 including 27 barren land category and 2 commercial use-lease category. The 14 affected persons/entitled shareholders of one affected household represented against commercial use category are already included in 27 barren land category shareholders.

2.4 LOSS OF CROPPED AREA

35. The project site is located in dry hilly terrain and the entire landscape in and around the project site of Torkham BCP is uncultivable barren land, therefore there will be no loss of cropped area.

2.5 LOSS OF TREES

36. Data regarding trees (wood and fruit trees) has been collected through field survey. The survey findings reflected 8 affected trees owned by 4 affected persons and 30 trees owned by community, all of which are wood trees of three different species. The table 2.2 below provides the list of impacted trees with their size and entitled persons.

Table 2.2: List of Trees

Sr. No	Species	Total	Girth Size	No of AHs
Non-Fruit (wood) Trees				
1	Acacia	2	Below 24"	1
2	Mulberry	6	Below 24"	3
3	Eucalyptus	30	Below 24"	Communal ownership
Total		38		4

2.6 LOSS OF STRUCTURES

37. During planning and preparation of preliminary design for improving border services facilities at Torkham BCP, special focus was to avoid any adverse impact on built-up properties nearby. So, to achieve the objectives of minimizing the resettlement impacts to maximum possible extent, the improvement works for passenger terminal are proposed on already available government land while, the new trade terminal is proposed at a distance of about 2 km away from the existing facilities and Torkham settlement. However, execution of project will impact 15 structures of different sizes and dimensions including 9 small community owned shops located along the road between existing custom office and proposed passenger terminal, three commercial structures (one petrol pump and two weigh stations) and 03 residential structures. Of the identified structures, 9 small shops, and all three residential structures are located on communal land and three commercial structures (one Petrol Pump and two Weigh Stations) on private owned land. The table 2.3 below provides details about asset type, type of construction and affected area.

Table 2.3: Land Impacts of Residential and Commercial Structures

S. #	Affected Asset Type	No. of Structures	Construction Type	Affected Area (sq.ft)	
				Total Area	Covered Area
Communal Land					
1	Shop	2	Katcha	2448	2448
2	Shop	2	RCC	816	816
3	Shop	5	Pacca	6356	6356
4	House	1	Katcha	2,448	1632
5	House	2	Semi-Pacca	43,520	27,200
Private Land					
1	Weigh Station (Self-Owned)	1	RCC	21,760	8,160
2	Petrol Pump (Tenant)	1	RCC	65,280	5,984
3	Weigh Station (Tenant)	1	RCC	27,200	1,360

2.7 IMPACT ON INCOME/LIVELIHOOD

38. All the businesses (petrol pump and weigh stations) will be kept intact and operational until these are constructed in their allocated place in the new terminal or nearby land as agreed in result of ongoing consultations between the local Jirga, Political Agent and the EA. Thereby, these business owners and their employees will face no loss of income/livelihood. With respect to the nine shops which are communal shops, it is proposed to construct replacement shops on nearby communal land in market area or provide replacement shops in the service / business area in new development. However, the affected shop operators (renter business operator) in impacted shops on communal land will lose their place of business, if not accommodated elsewhere. These rental business operators will be provided replacement structure within the project or market area on the similar terms, temporary business interruption allowance for transition period and rental assistance to relocate their business.

2.8 INDIGENOUS PEOPLE

39. The area bordering Afghanistan with Khyber Pakhtunkhwa Province is under administrative control of Federal Government and is termed as Federally Administered Tribal Areas (FATA). It has 13 regions including 7 Agencies (Khyber, Bajur, Kurram, Mohmand, Orakzai, North Waziristan and South Waziristan) and 6 Frontier Regions (FR Peshawar, FR Kohat, FR Tank, FR Laki, FR Bannu and FR DI Khan). With a total area of 22,720 sq km the entire region of FATA is inhabited by Pashtun tribes of Sunni Muslim sect that have inter clan linkages with Pashtun tribes in settled areas of adjoining Khyber Pakhtunkhwa and Balochistan Provinces and are fully embedded in the socio-cultural and economic system of the country. The project site is located in Khyber Agency and the project affected persons belong to main stream Pashtun population of the region having cultural, customary, economic, social or political institutions similar to the mainstream population of the area.

40. The Pashtun tribes living in the FATA or in settled regions of Pakistan belong to same ancestry and have inter clan linkages. The distinct governance in FATA with tribal system intact is recognized in the Constitution of Pakistan and given due representation in the local administrative system. The applicability of ADB's Safeguards Requirement III "Indigenous People" for the project to be executed in FATA region is considered. Accordingly, considering the project physical impacts on land and land based assets additional socio-cultural and economic impact on lives of the affected communities are reviewed and discussed as under to determine significance of project impacts (if any) in terms of indigenous people.

2.8.1 General Economic and Socio-Cultural Impacts on Tribal APs

41. Based on the physical impacts detailed above the project will not impact current system of production and livelihood of the AP as long as appropriate compensation is timely provided to them to replace/relocate houses, commercial buildings and compensate business losses. It is also worth to note that the project site is located in hilly barren and unproductive terrain along the famous trade route between Central Asia and sub-continent and core of the Shinwari Pashtun economy has become increasingly embedded in transport and trade related commercial activities, and in salaried work in the cities. With no doubt the Khuga Khel clan of Shinwari Pashtun successfully master the money economy due to available current Torkham Border Crossing Point and with improved border crossing facilities they will not be put out of control of their means of economic reproduction.

2.8.2 Significance of socio-cultural impacts

42. Based on ADB Operational Manual (OM)F1/OP (2010) a development intervention has Indigenous People Impact when it: (i) affects customary rights of use and access to land and natural resources; (ii) changes socioeconomic and/or cultural integrity; (iii) affects health, education, livelihood, and social security status; and (iv) causes impacts that may alter or undermine the recognition of indigenous knowledge. Each of these points is discussed below:

- i. **customary rights of use and access to land and natural resources:** Although, plots occupied by affected houses will have to be acquired through mutually agreed lease rate and compensated, the APs **customary rights** on land use and access in the remaining communal land will not be changed and as long as this land right change does not happen the land will remain under control of the Maliks/tribal elders and any change will have to be negotiated between them and the Political Agent (PA). Moreover in order to make sure that the terms of the "deal" negotiated between Maliks/elders and PA are documented transparently & the compensation program carried as agreed, this LARP was prepared.
- ii. **Change in socioeconomic status or cultural Integrity:** The APs are not isolated tribes living in a state of pristine isolation rather they are invariably embedded in the broader Pakistani reality, and they have relations with the surrounding political and economic world. Historically, the Shinwari's Pashtuns are increasingly embedded and trade and transport economies and the improvement in border services will not change the situation. Besides the Shinwari people keep moving in and out tribal areas to improve their business links and access better civic amenities available in urban centers of Pakistan and with this their culture is continuously changing and this will continue with or without the improved Border Services Project.

In general it is perceived that improvement of border services will have no impact on the APs socio-economic status or cultural integrity in project areas. This is so as the Shinwari's will remain in control of their resources, and will continue to have both political, administrative and police means to defend their position from outsiders' pressures. It is to be noted that the administration in FATA is carried out with assistances of local tribal Maliks and the tribes have their designated share in the tribal police (Khasdar/Levis). The Shinwari tribe has its share in local police as 256 persons in Khasdar Force and 75 Persons in Levis of Khyber Agency.

- iii. **Health, education, and social security status:** The improved border facilities will lead to improved road infrastructure in the region and it is expected that APs access to basic civic amenities will increase with passage of time. Further expected improvements in the Border crossing facilities will increase the socio-economic activity and improved economy will help to boost expenditure on social security, meanwhile the reduced idling stay of truckers due to improved processing facilities will also minimize social security risks for the local community.
- iv. **Indigenous knowledge:** The APs belonging to Shinwari Pashtun tribe are not

isolated people oriented by an isolated culture rather they are fully embedded in the Pashtun Culture of the main stream population region wide. Execution of the project will do nothing to implicate the information & their indigenous knowledge.

43. Based on the above there are clear elements to indicate that the implementation of the Project in FATA will not implicate the local administrative, legal and traditional system of the FATA region as well as it will not change or impact socio-cultural status of the affected Shinwari Pashtun tribe and hence will not trigger the IP impact benchmarks as detailed by ADB's SPS 2009 and OM Section F1/OP (2010). However, keeping in view the customary land management system in FATA under FCR 1901, and the recognition of the local dispute resolution system, it is needed to ensure that the LARP prepared for FATA communities is fully reflective of local customs, land management practices and grievance resolution mechanisms as is in vogue in FATA.

2.9 ARCHEOLOGICAL, HISTORICAL AND RELIGIOUS SITES

44. No archaeological and historical sites were found within the RoW or in the vicinity of proposed project corridor.

2.10 IMPACT ON VULNERABLE PEOPLE

45. Displaced poor and other groups disproportionately affected by land acquisition for execution of the project including landless elderly, disabled and female headed households are termed as vulnerable. As per census, the affected households identified as vulnerable are 05 households with disabled members.

Table 2.4 Summary of Vulnerable Persons

Vulnerability Status	Category			
	Indigenous People	Women Headed Households	Disabled	Poor
No. of vulnerable persons	0	0	5	0

SECTION 3

THE FATA AND SOCIO-ECONOMIC PROFILE OF PROJECT AFFECTED PERSONS

46. The project site is located in the Federally Administered Tribal Area of Pakistan which is an administrative unit like other administrative units (Provinces) of the country; however the administrative and legal system of FATA is distinctive. The Federally Administered Tribal Areas (FATA) runs as a narrow tract between the Khyber Pakhtunkhwa and the Pak Afghan Borders which is mostly hilly tract. It consists of seven semi-autonomous agencies or administrative units – Khyber Agency, Mohmand Agency, Bajur Agency, Kurram Agency, Orakzai Agency, North Waziristan and South Waziristan Agencies. Additionally, the FATA also includes 'Frontier Regions (FR)' that adjoin the settled districts of Khyber Pakhtunkhwa including FR Peshawar, FR Kohat, FR Bannu, FR Lakki Marwat, FR Tank and FR Dera Ismail Khan. This tangled mass constitutes an area of 27224 sq kilometers and is inhabited by around 3.17 million^s people belonging to different Pukhtuns or Pashtun tribes. The project site (Torkham Border Crossing) is located on Pakistan-Afghanistan Border in territorial jurisdiction of Khyber Agency which is predominantly occupied by the Afridi, Shinwari, Mulagori and Orakzai Pashtun Tribes.

47. To determine, whether the tribal people facing loss of their assets due to execution of project in FATA fall under indigenous people category as defined in SPS 2009 and to prepare the resettlement plan accordingly the history of FATA and anthropogenic background of people living in FATA is reviewed during socio-economic survey. This section **A** below briefly describes the historic background of FATA with present administrative system, demographic spread and anthropogenic history of Pashtun community living in the region on both sides of Durand line (Pak-Afghan Border) and in FATA. It also include Pashtun social structure, social organization, leadership structure, administration and conflict resolution system to identify and assess impacts on the indigenous people (if any) and propose the resettlement and rehabilitation provisions accordingly. While in section-**B** the socio-economic status of project displaced persons is discussed.

A. HISTORIC BACKGROUND, ADMINISTRATIVE & SOCIAL STRUCTURE IN FATA

3.1. THE FEDERALLY ADMINISTERED TRIBAL AREA (FATA)

a. Colonial period under British regime

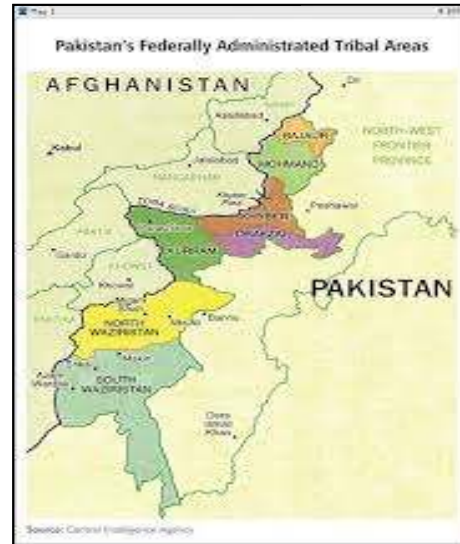
48. The Pashtun tribes that inhabit the hills of the borderlands between Pakistan and Afghanistan have a long history and they have endured several invasions of the Indus Valley. Before the arrival of the British, there had been no special Agency for dealing with the Pukhtoon tribes' in the area and this region worked as buffer between the Central Asian States and the sub-continent (India). After repeated expeditions of British army, The North Western sections of the borderland were subjugated in later part of 19th century. In 1901 the area was placed directly under the rule of the Governor General of India through the chief commissioner of the Punjab province, who acted as his agent by dividing it into two separate areas i.e. the "settled areas (present Khyber Pakhtunkhwa Province)" and "tribal areas (present FATA)" that were subject to differing legal-administrative statuses for governance purposes.

49. Unlike Pashtuns tribes in settled area of Pakhtunkhwa Province, the Pashtun tribes, living between the Kabul and the Gomal rivers (Now FATA), were harder to control and tribes living in the hilly tracks maintained their identity through the tribal code and their cultural organization. The Tribal Areas were a continuous source of trouble for British Indian stability. However, in return of subjugation under colonial rule, the tribal areas along the Durand Line were given semi-autonomous status with allowances and subsidies granted to the tribal Maliks and elders, something formalized through various agreements

and treaties. One such arrangement was the introduction of the Frontier Crimes Regulations (FCR) by the colonial government to maintain law and order and which by 1901 was completely promulgated in all occupied frontier districts of tribal area. And each frontier district was given the status of an Agency and a Political Agents for each agency were appointed as administration head.

b. Pakistan regime

50. The Indian Independence Act of the 3rd of June 1947 abrogated the special treaties and the tribal Jirga signed an instrument of accession with first Governor General of newly created sovereign Muslim state, the Pakistan, in return for continued allowances and subsidies. Pakistan also retained the semi-autonomous status of the area with the Governor General assuming direct administrative jurisdiction over it.



51. Except for minor changes, the 1956, 1962 and 1973 constitutions of Pakistan retained the same arrangements, as the governor general, and then the President of Pakistan, assumed the administrative jurisdiction of the FATA through the Khyber Pakhtunkhwa Governor acting as his agent.

52. The present constitutional status of FATA is enshrined in Articles 246 and 247 of the 1973 constitution of the Islamic Republic of Pakistan, conferring continuity of status enjoyed during British rule. The constitution provides for a special mode of governance under tribal customs and traditions through a Political Agent (PA), who acts as a representative of the federal and provincial governments. The unique status of the tribal area confers three special privileges. In the Tribal Area, the legislation is the responsibility of the President of Pakistan. Federal and provincial laws of Pakistan have to be specifically extended to the area under Presidential Order, the superior courts of the country have no jurisdiction and its semi-autonomous status cannot be altered without the prior consent of the people of the tribal areas.

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3.2. DEMOGRAPHIC SPREAD OF PASHTUNS IN AND AROUND FATA REGION.

53. FATA has a population of 3.176 million predominantly comprising of the Pashtuns, a biggest ethnic group living in the world who in Persian are known as Afghans and in Indian as Patahns, while in Pushto they are called Pashtuns or Pakutuns in northern dialect. The vast majority of Pashtuns are found in the traditional Pashtun homeland, located in an area south of the Oxus River in Afghanistan and west of the Indus River in Pakistan. In Pakistan the Pashtuns are 15.42% of total population of Pakistan while in Afghanistan Pashtun population is 42% of its total. The map showing demographic spread of Pashtun population in the region is pasted.



ng demographic
ulation

54. In Pakistan, Pashtun dominated regions are Khyber-Pakhtunkhwa province, Federally Administered Tribal Areas (FATA) and part of Balochistan, while additional Pashtun communities are located in the Gilgit-Baltistan province, Kashmir and

northwestern Punjab province of Pakistan. After Punjabis, the Pashtuns are the second largest ethnic group in Pakistan, while the population of Pashtuns living in FATA is only 15% of Total Pashtun Population of country. Thus a vast majority of the Pashtun ethnic group is living in other parts of country particularly in the adjoining provinces i.e. Khyber Pakhtunkhwa and Balochistan as well as in Karachi city of Sind province. Some estimates reflect that Pashtun population in Karachi is 7 million which is almost double of the Pashtun population living in FATA.

55. The entire Pashtun population in the region is Muslim, predominantly following suni sect of Islam and it is believed that a non-Muslim could not be of a Pashtun dynasty. There are also sizeable Muslim communities in India, which are of largely Pashtun ancestry. Throughout the Indian subcontinent, excluding Pashtun-dominated regions where Pashtuns are generally known with their tribe name, they are often referred to as *Pathans*. The figure above shows the demographic spread of Pashtun population in the region.

3.3. PASHTUN TRIBAL STRUCTURE AND SOCIETY IN FATA

56. The Pashtun social organization is based on patrilineal tribal and egalitarian principles marked by the absence of hereditary authority figures. A patrilineal tribe is a socio-political entity associated with a particular territory and gathering people assuming a common descent from a common male ancestor many generations ago. Each Pashtun tribe (Qoum) is comprised of various clans (or Khels), Lineages (Tappa), lineage-sections (Bajar/Plarina) and finally households/extended families (Kor). The household is the basic production and consumption unit; lineages and sub-lineages are cohesive groups and clans and tribes are rather abstract unit of symbolic but not-necessarily practical day-to-day relevance. Lineages have demonstrated descent while clans have stipulated descent. This means that within a lineage people genealogies are well documented from the apical ancestor to the present. At the level of a clan genealogies are assumed but not necessarily are clearly traceable¹¹.

57. Although these tribes and clans differ in name, tribal society is based on many characteristics which are relatively uniform and cohesive. It is based on inter-clan linkages, which unite families, clans and tribes in a web of kinship. The family structure is the most complex feature of tribal society and underpinned by family honor, property and intra-family relationships characterized by love and hate.

58. Each family is headed by a patriarch, who is well respected and his decisions are obeyed by the entire family. Then Maliks⁶⁴ or tribal elder as head of each of the sub-clans. Maliks/Tribal Elders are hereditary in tribal communities. Household structures are alike and mostly take the shape of fortresses. These fortress-like houses often comprise of 10 to 15 sub-houses within one enclosure which may house one extended family. Each such family is represented by a head, which may be the grandfather of several sons and grandsons. In this context, the Pashtun people constitute a very real cultural and social entity.

59. In Pashtun society, there are important traditional and social factors which guide community life and in many cases influence or even determine the action of individuals. These traditions vary considerably in different parts of the Pathan area, and codification of them is virtually impossible. However, certain of them are almost universal and are basic principal of Pashtun tribal system. These un-codified set of rules, which guides the Pashtun way of life, is called the **Pukhtoonwali-the code of Pashtun honor-**. Pashtuns, living in the areas on both sides of the Durand Line (Pak Afghan Border) have preserved their centuries old culture and traditions. "Pukhtoonwali" that they strictly observe and quote with pride, guides their lives and is their dearest value, which conducts and controls their routine lives, behavior and attitudes. The three main obligations of Pukhtoonwali for a

¹¹ Qais bin Al-Rashid bin Qais in the seventh century, who had four sons: Sarban, Bitan Ghurghust and Karlani from whom all Pukhtun tribes trace their descent. For instance, Afridi bin Faridun bin Mani bin Karlanri bin Al-Walid bin Khalid bin Al-Rashid bin Qais

Pushtun include: **Nanawati**, which means 'begging for pardon or protection' by confessing faults or wrongs committed and throwing oneself at the mercy of the family whose sense of honor is injured; **Milmastya** or open-handed hospitality and protection to all who may, or may not, demand it, is the greatest obligation of the Pukhtoonwali; sometimes, protection and hospitality may even be extended to an enemy as long as the enemy remains in the host community; and **Badal**, means revenge. Under the Pukhtoonwali, Pashtuns are obligated to seek revenge if they feel they have been wronged, regardless of the consequences.

60. The above traits of Pakhutun wali are practiced in all Pushtun inhabited areas of the Khyber Pakhtunkhwa, Balochistan and Afghanistan. However, with the passage of time the spirit is fading in urbanized settled area and the authentic practice remains only in the remote areas of Pashtuns. However, in FATA (all 7 Agencies and 6 FRs), the Pushtun tribal community is given liberty to live their lives as per their local customs and traditions. Even, Government Administration also follows the local customary practices and the local Maliks are involved in adjudication of the criminal and civil disputes in the area to maintain peace and control law and order following local customs.

3.4. LEADERSHIP AND ADMINISTRATION IN FATA

a. The Traditional sphere

61. In traditional times power among the tribes was held by notable elders (Malik) and was manifested in their legitimacy as arbitrators and decision-makers. Given the relative nature of kinship relations this meant that no elder could be a superior arbitrator than others solely based on kinship. For this to happen it was necessary that an influential elder could reinforce his position with his personal attributes. Such attributes included charisma, reputation as arbitrators, wealth, capacity to keep together large numbers of followers, ability to manipulate Islamic and genealogical knowledge, and last, but not least, in later times capacity to manipulate colonial and state powers. The Maliks were exercising their functions as mediators as members of special tribal councils called *Jirga* which were organized every time there was a major conflict to settle or a major decision to take. Besides settling inter-tribal disputes, the *jirga* is also used to manage the tribes' relations with outside world¹²

b. The State sphere

62. The State control of tribal areas rests on a specific form of administration that is although different from administration exercised in other provinces in Pakistan but it is homogenous throughout FATA region in all 7 Agencies and 6 frontier regions. As per accession agreements signed with the tribal elders at the time of independence (1947) a semi-autonomous status of the FATA is maintained. The administrative affairs in FATA are performed by the Political Agent with tribal representation to maintain peace as well as law and order situation in the area under his jurisdiction. Each Tribal Agency is an analogous unit to the district in settled areas and a person with equivalent rank to the Deputy Commissioner is appointed as Political Agent in the Agency. While, in 6 Frontier Regions the Deputy Commissioner of adjoin settled district act as Political Agent. The political Agent has the administrative and judicial powers under applicable law the FCR 1901.

63. Generally as a rule of thumb, each Tribal Agency is headed by the PA. Depending on its size, the PA has about 2 to 3 Assistant political Agents, about 3 to 4 Tehsildar and 4 to 9 Naib Tehsildar with the requisite supporting staff to assist the PA in performance of his functions. Each Agency has roughly 2 to 3 thousand Khasadars and levies (tribal police) and 5 to 9 Wings of Frontier Constabulary (FC) for maintenance of law and order in the Agency and responsible for the border's security. The Khasdar/Levis (tribal police) comprise of local tribes men with proportionate representation of each tribe living in the Agency.

¹² The British concluded written treaties with *jirgas*, guaranteeing non-interference in tribal affairs so long as the *jirgas* recognized their suzerainty. The Government of Pakistan honors these treaties and has entered into similar arrangements of its own. Thus, the *jirga* is a normally recognized institution in the tribal areas of Pakistan.

64. This administration is centered on the function of Political Agent (PA) as the highest government officer (with exclusive executive and judiciary roles) and on the functions carried out by his office. However, the Maliks/tribal elders are absorbed into the broader political formation through their formalization as tribal representatives with the state administration while the *jirga* is a common instrument to take decisions involving internal tribal affairs, disputes and feuds. Each tribe and clan is given a specific quota of Maliks positions "official" which is proportionate to their political/military strength and their demographic dimension. The Maliks receive a government stipend and may use the power of the state to enhance their influence within the tribes.

3.5. LEGAL FRAMEWORK IN FATA AND JUSTICE SYSTEM.

65. Administratively, the Tribal Area developed a peculiar culture of its own. Tribal people were granted maximum autonomy and allowed to run their affairs in accordance with their Islamic faith, customs and traditions. Administration in Tribal Areas is often said to be "cost effective" because of the Tribes and elders' collective and territorial responsibilities in maintaining law & order.

66. "Country's criminal and civil laws are not extended to FATA areas and all 7 Tribal Agencies and 6 Frontier Regions in FATA are controlled under Frontier Crimes Regulations 1901 through Political Agents in Tribal Agencies or Deputy Commissioner (DC) of adjoining Districts in Frontier Regions, who are responsible for keeping peace, control on crimes and adjudication of civil matters between tribe's men. For Governance of FATA, Pakistan government has maintained status quo, over a period of time, however by an amendment in 2011 in FCR 1901, legal reforms are introduced in the Tribal Areas to bring FATA legal regime in harmony with other Pakistani Laws. Vide said amendment, section 56 is inserted in the FCR 1901 for protection of property rights and payment of compensation determined with a consensus rate¹³ or Government assessed value¹⁴ as in vogue in settled areas.

67. All civil and criminal cases in FATA are decided under the Frontier Crimes Regulation 1901 with representation of local elders/Maliks through Jirga (council of elders) following local customs. The Council of Elders (Jirga) investigate the issue and give its findings to Political Agent/Deputy Commissioner (as the case may be) to adjudicate the issues according to tribal customs. Based on findings of council of Elders the PA/DC passes the decree. The appellate authority against decisions of PA/DC rests with Commissioner and the FATA Tribunal. Residents of the tribal areas may, however, approach the apex courts (Supreme Court of Pakistan and Peshawar High Court) with a constitutional writ challenging a decision issued under the 1901 Regulation."

3.6. POLITICAL AND ADMINISTRATIVE SETUP.

68. The tribal areas are represented in both Pakistan's lower and upper houses. Previously, tribal people had no party affiliations and could contest as independent candidates, because the Political Parties Act had not extended to the tribal areas. The tribal areas were granted universal adult franchise in 1997 and political parties Act was extended to FATA in 2012 and the country's all leading parties nominated their candidates in FATA during 2013 elections.

69. At federal government level ministry of State and Frontier Region (SAFRON) is responsible for FATA matters but the executive authority rest with President of Pakistan and the Governor of Khyber Pakhtunkhwa act as his agent to exercises its executive powers. The governance system in FATA is changing in line with the Federal Government's policies, which will inevitably affect their historical autonomy. The civil administration was formerly managed by both of the FATA Cells within the NWFP (Now

¹³ Negotiated rate with the affected Person or tribe.

¹⁴ The assessment of compensation rates for affected Land or other Properties are done by the Political Agents for 7 Tribal Agencies and Deputy Commissioners of adjoining settled districts for 6 Frontier Regions through line government departments.

Khyber Pakhtunkhwa) government and the FATA Development Corporation. These line departments and agencies were recently consolidated under the office of the Governor of NWFP as Governor's Secretariat for FATA. The FATA Secretariat is responsible for administration of the development activities and increasing funding for FATA programs. Meanwhile, in the FATA population, the desire for change of administrative system either by integrating FATA into Khyber Pakhtunkhwa Province or declaring it independent Province is increasing.

3.7. LAND MANAGEMENT IN FATA.

70. In tribal areas, land (zmaka or zamin) is regarded as the most important asset, one that may be a primary source of conflict. Who controls land has power over those who use it. Most importantly, land is a fundamental marker of the identity of an individual and of his membership status into a clan. Symbolically, land embeds the link one individual has with his ancestors who inhabited and used that land before. If someone sells land, others will say that he lost his honor as he sold his father and grandfather's bones.

71. The FATA is mostly a land of hilly terrain with very limited availability of cultivable flat terrain. The land management and administration laws not extended to FATA and hence no land settlement records are consolidated. Except limited settlement of land within the urban perimeters the land in entire FATA is regarded as unsettled tribal land.

72. Generally, within the tribal system, each clan is associated with a specific territory held by the clan members as a communal asset. Traditionally Clan territory could be used in terms of usufruct by extended households within the clan under the supervision of lineage and sub-lineage elders and with the understanding that if the use of the land was terminated the plots were returned to the clan domain. Today under the pressure of modern commercial interests, the right of usufruct have been slowly transforming into a more permanent right. Currently plots that have been parceled out for use (residential, agricultural, commercial) are often considered as a property that will remain with the extended family and will be passed in inheritance to the next generations and possibly re-subdivided between the heirs. At times, even, this type of quasi-private land may be sold to outsiders though this is not considered as an honorable practice.

3.8. PROJECT LOCATION WITH AFFECTED PEOPLE.

73. The Project site Torkham is located at Pakistan Afghan Border in territorial jurisdiction of Landi Kotal sub division of Khyber Agency which borders Nangarhar Province of Afghanistan to the north-west, Orakzai Agency to the south, Kurram Agency to west, Peshawar to the east and Mohmand Agency to the north-east. Khyber Agency has three sub divisions including Jamrud, Bara and landi kotal. The Pushtun tribes that dwell in the Khyber Agency include, Afridi, Orakzai, Mulagori, Shilmani and Shinwari. The Khyber Agency has it's headquarter at Peshawar where the Political Agent sits, however a camp office / residence of Political Agent is at Landikotal.



Figure 3.3: Khyber Agency map with Location of Torkham

74. Landi-kotal city and cantonment is nearly 7-8 Km from border crossing point where the Assistant Political Agent has his headquarters. The Assistant Political Agent assisted by Tehsildars, Khasdar force & administrative staff is over all responsible for administration in the Landi Kotal sub-division of Khyber Agency. The Administration is run

through the Malik(s) as per provisions laid down in FCR applicable in FATA region. The administrative setup for Khyber Agency is detailed in figure below.

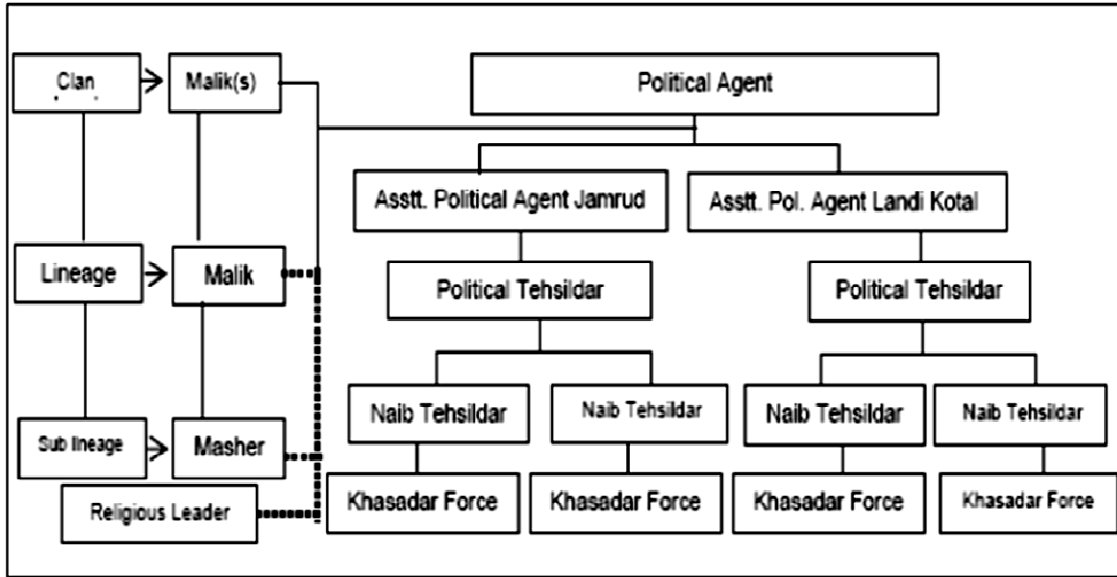


Figure 3.4: Leadership and Administrative Structure

3.8.1. Social Structure and Settlement in Project Area.

75. The project area is inhabited by the Shinwari Tribe of Pushtun origin which has a spread on both sides of the Pak-Afghan Border at Torkham Border crossing point as well as it has its presence near Hangu District in Settled area of Khyber Pakhtunkhwa. The affected community is Khuga Khel Clan of Shinwari Tribe which occupies the project area as their communal land. Followed by the Pushtun social structures, among the DPs, kinship provides the basic regulating mechanism for social action. Among the affected clan each person relates to others based on modalities determined by the degree of blood proximity to common ancestors. Based on this principle those related through paternal kin should stand together against those who are not relatives.

76. Conventionally, in rural settlements, the Pushtun tribal people live in strong and well-fortified compounds, built at respectable distances from each other as well as the common routes/roads. The structures are built as one fort-like compound that includes 10 to 15 one- room dwellings used as common quarters or as sleeping quarters of single nuclear family. As the project site is located along the prominent road and near Torkham border crossing point hence no settlement other than the Torkham itself is identified. However, the identified residential structures (3) are located separately at fair distance from each other on the communal land required for project.

77. Within the ambit of social structure of DPs, the basic residential/economic unit is the patrilocal extended family. Typically, this unit includes an elder's household and his married sons' households. Upon marriage daughters leave the family and are absorbed into their husband's family. Married sons instead generally live in their father's compound, with this latter or the eldest brother exercising authority over the extended family. It is within this social unit that individuals find the basic solidarity group for security and mutual support.

78. As of Pushtun culture, the household structure is joint or extended family headed by a family elder, usually the oldest male who makes decisions on economic and social matters on behalf of the entire family. All family members, male and female are obliged to follow the decisions made by the eldest male member. Due to its location on the border crossing point which is the link and famous trade route between Central Asia and Indian

Sub-continent the economy of the local community is mainly linked to transportation and trade business.

3.8.2. Land Ownership status in Project Area:

79. Mostly the land in and around the project sites is communal/tribal land occupied by the khuga Khel clan of Shinwari Tribe which has three lineages namely Ashraf Khel, Basi Khel and Fatimi Khel. Besides, there are some land parcels owned by the individual households since 1919. So, the land identified includes communal land as well as privately owned by individual 4 affected households (extended families).

Since land management system and records describing shares of each clan, sub clan or family members are neither maintained nor available in the FATA; land resource is considered as joint property of the clan (in case of communal land) or by the extended family (in case of privately owned land); and the tribal elder (Malik of clan or lineages) or the elder of the extended family are responsible for equitable distribution of resources owned. Based on the above this LARP will provide different compensation schemes for the two types of land above described as follows:

- **Communal Land** will be paid to the elders representing the tribal community as a whole and then distributed down by them in accordance to the distribution formula used by the three lineages of Khuga Khel Clan of Shinwari Tribe.
- **Private land** will be compensated directly to the elder of identified affected household/extended family.

3.9. CONCLUSION

80. Above discussion reflect that: the Pushtun dominated area in Pakistan was divided into settled area (now Khyber Pakhtunkhwa) and tribal area (now FATA) more or less for administrative purpose during British regime in India; since after creation of Pakistan in 1947, it has semi-autonomous status and is being governed directly by the federal government under executive authority of the President as per accession agreement signed by the tribal elders; and by virtue, the FATA is an administrative unit of Pakistan with its peculiar administrative framework fitting to its local requirements as other administrative units (provinces) have their own as per their requirements.

81. The entire population of the FATA is Muslim Pashtuns and are not ethnic minority or tribal people living in a state of isolation; rather they are invariably embedded in the broader Pakistani reality in general and particularly have inter-clan linkages with the Pashtuns living in adjoining settled areas of Khyber Pakhtunkhwa and Balochistan Provinces; and are fully embedded in the socio-cultural fabric of the Pushtun community living all around Pakistan. The people from FATA keep moving in and out to access better civic amenities available in the urban centers of settled area of adjoining Khyber Pakhtunkhwa in particular and other metropolitan cities of Pakistan. When in settled are, they adhere to legal and administrative system applicable there and when back in FATA they follow local system and their tribal customs. Flux of Pushtun migration towards mega urban centers and their adoptability and webbing in main stream socio-economic reality is evident from the Pushtun population living in Karachi.

82. The project site (Torkham Border crossing point) is located in Khyber Agency of FATA and the project affected people represent main stream Pushtun population of the region including Khyber Agency, FATA and Khyber Pakhtunkhwa Province in Pakistan. They neither are ethnic minority belonging to a distinct group possessing separate cultural, customary, economic, social or political institutions that are different from mainstream population in Khyber Agency or FATA nor are they isolated tribes living in a state of pristine isolation. Therefore, it is construed that execution of the project for improved border services will not change or impact socio-cultural status of the affected Shinwari Pushtun tribe; and hence the Indigenous People impact benchmarks as detailed by ADB's SPS 2009 and OM Section F1/OP (2010) will not apply.

B. SOCIO-ECONOMIC PROFILE OF PROJECT DISPLACED PERSONS

83. This section provides the baseline information relating to the socioeconomic assessment of the project affected people and project area. Information has been obtained from the available published sources, field surveys in the project area, consultations with the stakeholders; and through visits to the government departments and other agencies. The socio-economic baseline information will provide a basis for monitoring the implementation and impacts of the LARP.

3.10. DATA COLLECTION METHODOLOGY

84. The LARP has been prepared by collecting the data/information from the real field settings. Data/information were collected from primary and secondary sources. During the secondary data collection process, official government documents (such as the District Population Census 1998, Board of revenue records), socio-economic research reports by well-known research organization/experts (such as Social Policy Development Center) and international experiences of LARP were consulted. For primary data collection, different types of field surveys and consultation sessions were held. The respondents belonged to all walks of life and included affected families, passengers, community leaders, key influential persons, women, and farmers. The following surveys were conducted.

- Household Census survey to document the affected persons (APs/AFs), their assets, family profiles and economic status.
- Socioeconomic survey to develop an overall baseline profile of the people of the area in respect of their socioeconomic behaviors, living standards, vulnerability and attitudes towards the developmental activity to be carried out in the area.



Figure 3.5: Survey of DPs
Source: R&D Services Pvt. Ltd

3.11. CENSUS OF APs/ AND THEIR ASSETS

85. Household owners facing loss of land, asset/infrastructure, and source of income or access to resources / workplace are Affected Families. These include mainly the residents, land owners, business operators and owners of assets/structures located within the impacted area. A complete census of the AFs, on 100% basis, was carried out by using a pre-structured questionnaire. The census aimed at to register and document the number and status of APs/AFs likely to be physically displaced or affected as a result of the project and, therefore, entitled to compensation.

86. Compensation eligibility will be limited by a cut-off date which could either be the start or completion date of census of impacts. For preparation of this LARP socioeconomic baseline survey and census survey of DPs (including titled and squatters) was completed in March and accordingly the cut-off date determined is the 31st march 2015. Any displaced person who occupy project area after aforementioned cut-off-date will not be eligible for

compensation. However, he will be given sufficient time (30 days) to remove his belongings from the project area. The cut-off date was disclosed during consultation, however, after approval of draft LARP the cut of date will be publicized with draft LARP disclosure by end July 2015.

3.12. SOCIO-ECONOMIC BASELINE SURVEY

87. As per ADB Involuntary Policy requirements, a detailed socio-economic survey was carried out to develop a general socioeconomic baseline of the affected population.. As affected households were limited in number so efforts were made to conduct detailed socio-economic analysis of 100% project affected persons/entitled shareholders. But due to non availability of few APs in project area a total 24 number of respondents representing all affected households were interviewed for data collection. A pre-structured questionnaire was used for data collection.

3.13. RESULTS OF THE SOCIOECONOMIC BASELINE SURVEY

88. Administratively, the project area is located in Tehsil Landi Kotal in Khyber Agency. The most recent demographic data available for the city of Landi Kotal is based on the 1998 Population Census and a Socio-economic Household Survey conducted by UN-Habitat in 2011. The city of Landi Kotal is only a few kilometers away from the border town of Torkham. Official demographic statistics available for the city of Landi Kotal are shared below::

- Total Population (est. 1998) 22,324
- Total Population (est. 2011) 52,095
- Cantonment Area 1.5 km
- Average Annual growth rate 3.58%
- Male-Female Ratio 0.76

89. **Respondents.** From 5th to 8th March 2015, a 100% census of displaced persons was conducted in Torkham. There were 24 respondents; 100% males. The respondents were representatives of privately owned land, household heads of affected residential structures, affected shop owners/tenants, owners/tenants of affected large commercial units (petrol pump, weigh stations). The dominant tribe in the area, Shinwari is culturally patriarchal. Not only are the elder male members of the households considered the heads of a joint family, but they are also responsible for managing all the external affairs of the house. They are expected to articulate the needs and concerns of the households and women serve as substitutes when male household heads are not available.

90. **Family type.** Generally, 88% of the respondents' families are of joint family systems. For every 10 families of the project-affected households in Torkham, close to nine of them are joint family systems. The rest are nuclear families. A joint family is an extended family arrangement consisting of many generations living in the same home. All the male and women members are bound by the common family relationship rather than by property. The family is headed by a patriarch, usually the oldest male who makes decisions on economic and social matters on behalf of the entire family. All family members, male and female are obliged to follow the decisions made by the eldest male member. They rely and depend on their family members to get assistance and support in all aspects in times of crisis. Usually, in a joint family the income of all earning members is pooled to meet the needs of the joint family. On the other hand, a nuclear or elementary family is a family system consisting of a pair of adults, generally the mother and the father and their children. (Table 3.1).

Table 3.1. Respondents' Family Type/Structure		DP Survey	
		Count	%
BASE: All respondents		24	100%
Family Type	Joint	21	88%

Table 3.1. Respondents' Family Type/Structure		DP Survey	
		Count	%
	Nuclear	3	12%

Source: R&D Services Pvt. Ltd

91. **Family gender composition.** Overall, the average number of adult males and females among the respondents is seven (7) and six (6) respectively. The average family size is 23. The average number of kids in each family is 10. Only 12% of the respondent households have 6 to 10 members. Those with 16-20 family members comprise 17%. Half (50%) of the respondents' family composition is 20 and above. Social security is the likely factor behind the need for big family sizes; it is uncommon for male members to live separately from his parents even after marriage. (Table 3.2)

Table 3.2. Respondents' Family Gender Composition		DP Survey	
		Count	%
BASE: All respondents		24	100%
No. of Adult Males in Family	01-03	7	29%
	04-06	8	33%
	07-10	5	21%
	11+	4	17%
Avg. Male		7	
No. of Adult Females in Family	01-03	9	38%
	04-06	8	33%
	07-10	2	8%
	11+	5	21%
Avg. Female		6	
No. of Kids in Family	3-Jan	3	12%
	6-Apr	2	8%
	10-Jul	9	38%
	11+	10	42%
Avg. Kids		10	
Total Family Size	06-10 members	3	12%
	11-15 members	5	21%
	16-20 members	4	17%
	20 + members	12	50%
Avg. Family Size		23	

Source: R&D Services Pvt. Ltd

92. **Educational levels.** Thirty three percent (33%) of the respondents in Torkham were unable to attend formal schooling. However, some 58% were able to attend primary to 9th grade level. (Table 3.3)

Table 3.3. Respondents' Educational Levels		DP Survey	
		Count	%
BASE: All respondents		24	100%
Education	Illiterate	8	33%
	Less than Primary	7	29%
	5 th to 9 th Grade	7	29%
	Intermediate	1	4%
	Graduate	1	4%

Source: R&D Services Pvt. Ltd

93. **Occupation.** The occupational level of the respondents is like a social pyramid. At the base is composed of small shopkeepers/businessmen (42%); followed by skilled workers (29%); and at the apex is shared by big businessmen/factory owners (Table 3.4).

Overall, over 50% of the respondents are engaged in some sort of business linked to the border activities.

Table 3.4. Respondents' occupational background		DP Survey	
		Count	%
BASE: All respondents		24	100%
Occupation	Small Shopkeeper Businessman	10	42%
	Skilled Worker	7	29%
	Large Businessmen/Factory Owner	2	8%
	Job Less	2	8%
	Petty Trader	1	4%
	Medium Businessmen	1	4%
	Retired	1	4%
Source: R&D Services Pvt. Ltd			

94. **Earning skills and training needs.** Only 42% of the respondents have earning skills. Fifty percent (50%) of those with skills are drivers (Table 3.5). The others are earning as employees (12%) and as drivers (12%). The others are unskilled (58%). However, looking at Table 52, 71% of the respondents are earning via trading. They seem not to value trading as a skill'; trade activities have been taking place in this area for over a century. Therefore, the locals may view trading as a learned trait, rather than one which requires training. Only 20% of them expressed the desire to have skills-related trainings. When the BCP project starts, they will likely identify trainings that will help them increase their income potentials.

Table 3.5. Respondents' earning skills & further skills training needs		DP Survey	
		Count	%
BASE: All respondents		24	100%
Skills for Earning	Yes	10	42%
	No	14	58%
Based: Those who have skills for earning		10	100%
Skills Details	Driving	5	50%
	Custom Clearance	1	10%
	Computer Diploma	1	10%
	PCO	1	10%
	Working in NGO	1	10%
	Weight Machine [KANTA]	1	10%
Training Needs	Yes	2	20%
	No	8	80%
Source: R&D Services Pvt. Ltd			

95. **Monthly income & sources of income.** The professional analysis of the displaced persons reflect that their sources of income are mainly trade and transport related business. This is because the land is not a productive agricultural asset and the employment opportunities in other services sector are limited. The average monthly income of the respondents is 26,327. This is equivalent to USD263.27 a month or a daily income of USD8.8 assuming that the exchange rate is USD1:100 Pakistan money.

Table 3.6. Respondents' sources of income		DP Survey	
		Count	%
BASE: All respondents		24	100%
Source of income	Business/Trade	17	71%
	Employment	3	12%
	Driving	3	12%
	Jobless	2	8%
Source: R&D Services Pvt. Ltd			

96. **Livestock Assets.** Only 50% of the respondents own certain livestock. The other 50% do not have. For those that have livestock, sheep (75%), chicken (58%); and cows (17%) are the more prevalent ones. (Table 3.7).

Table 3.7. Livestock assets of displaced persons/households		DP Survey	
		Count	%
BASE: All respondents		24	100%
HH have any type of Livestock	Yes	12	50%
	No	12	50%
Cows	Yes	2	17%
	No	10	83%
Sheep	Yes	9	75%
	No	3	25%
Chicks	Yes	7	58%
	No	5	42%

Source: R&D Services Pvt. Ltd

97. **Possession of transport vehicles.** As shown in Table 56, 58% of the respondents have transport vehicles; 42% of them do not have. For those who have transports, 57% of them have cars or jeeps and some 21% have trucks. (Table 3.8).

Table 3.8. Transport possessions of DPs		DP Survey	
		Count	%
BASE: All respondents		24	100%
Q24: HH have any type of Transport	Yes	14	58%
	No	10	42%
Car / Jeep	Yes	8	57%
	No	6	43%
Truck	Yes	3	21%
	No	11	79%
Taxi	Yes	3	21%
	No	11	79%

Source: R&D Services Pvt. Ltd

98. **Household assets.** One hundred percent (100%) of the respondents have household assets. These are i) electric fans (96%); ii) refrigerators (92%); iii) flat irons (92%); iv) washing machines (79%); v) cell phones (75%); and vi) radio (54%). (Table 3.9).

Table 3.9. Household material possessions of respondents' families		DP Survey	
		Count	%
BASE: All respondents		24	100%
HH have Assets	Yes	24	100%
Television	Yes	7	29%
	No	17	71%
Refrigerator	Yes	22	92%
	No	2	8%
Computer	Yes	7	29%
	No	17	71%
Smartphone	Yes	18	75%
	No	6	25%
Radio	Yes	13	54%
	No	11	46%
Geyser	Yes	6	25%
	No	18	75%
Tablet	Yes	2	8%
	No	22	92%
Electric Fan	Yes	23	96%

Table 3.9. Household material possessions of respondents' families		DP Survey	
		Count	%
	No	1	4%
Electric Cooker	Yes	4	17%
	No	20	83%
Washing Machine	Yes	19	79%
	No	5	21%
Microwave	Yes	3	12%
	No	21	88%
Iron	Yes	22	92%
	No	2	8%
Misc. Items	Yes	1	4%
	No	23	96%

Source: R&D Services Pvt. Ltd

99. **Land ownership.** Seventy five percent (75%) of the respondents own lands. Only 25% do not have lands. (Table 3.10).

Table 3.10. Ownership of arable lands		DP Survey	
		Count	%
BASE: All respondents		24	100%
Land	Yes	18	75%
	No	6	25%

Source: R&D Services Pvt. Ltd

100. **Credit loans.** When asked if they have payable loans, 71% do not owe loans. Only 29% have loans. Relatives (43%) and friends (14%) are the main sources of the loans. There are no formal lending facilities in the community. The amount loaned ranged from 5,000 PKR to 1,200,000 PKR. The purpose of the loan varies from purely home needs to business start-up capital and other personal needs.

101. **Household structures.** Fifty percent (50%) of the respondents' household structures are made of kacha/pakka; 21%, pakka; 21%, kacha; and 8% are made of reinforced concrete cement. (Table 3.11)

Table 3.11. Household structures of respondents		DP Survey	
		Count	%
BASE: All respondents		24	100%
Structure of Household	Kacha/Pakka	12	50%
	Kacha	5	21%
	Pakka	5	21%
	RCC	2	8%

Source: R&D Services Pvt. Ltd

102. **Sources of drinking water and treatment used.** Generally, the source of drinking water by respondents is i) water board pipeline, 33%; and ii) tube wells, 21%. The others fetch from water vendors and/or tankers; homemade boiling; and from private and common dugged wells. Seventy nine percent (79%) of them do not treat the water they drank. The rest of the 19% treat the water by boiling and using solar disinfectant. Some others simply use spring water.

103. **Sources of power and fuel.** Sixty seven percent (67%) of the respondents get their fuel outside the area while 29% of them get it from the valley. (Tables 3.12 and 3.13)

Table 3.12. Sources of Power in Torkham		DP Survey	
		Count	%
BASE: All respondents		24	100%
Sources of Power	Illegal Wire Connection	14	58%
	Generator (Private)	8	33%

Table 3.12. Sources of Power in Torkham		DP Survey	
		Count	%
		Power line	5 21%
		Not Available	1 4%

Source: R&D Services Pvt. Ltd

Table 3.13. Sources of fuel used		DP Survey	
		Count	%
BASE: All respondents		24	100%
Sources of Fuel used	Outside the Area	16	67%
	In the Alley	7	29%
	Sweeper/Garbage Drums	1	4%
	Near to River	1	4%

Source: R&D Services Pvt. Ltd

104. **Toilet facilities.** Open drainage is used by 67% of the respondents' households. Seventeen percent (17%) used pit hole latrine without sewerage line. (Table 3.14)

Table 3.14. Sewerage systems		DP Survey	
		Count	%
BASE: All respondents		24	100%
Toilet Facility	Open Drainage	16	67%
	Pit Hole Latrine without Sewerage Line	4	17%
	Other	3	12%
	Pit Hole Latrine with Sewerage Line	1	4%

Source: R&D Services Pvt. Ltd

105. **Garbage status and disposal system.** Ninety two percent (92%) of the respondents see garbage disposal as a problem in the community. This is because there is no garbage collection in the community (83%). (Tables 3.15 and 3.16)

Table 3.15. Status of garbage disposal		DP Survey	
		Count	%
BASE: All respondents		24	100%
Garbage is a problem	Yes	22	92%
	No	2	8%

Source: R&D Services Pvt. Ltd

Table 3.16. Garbage collection mechanism by government		DP Survey	
		Count	%
BASE: All respondents		24	100%
Sources of Fuel used	No collection service	20	83%
	Collected by the government	4	17%

Source: R&D Services Pvt. Ltd

106. **Educational facilities used by boys and girls.** Basically, the boys go to i) private schools (92%); ii) government schools (50%); iii) religious institutes (46%); and iv) vocational institutes (46%). This means that the boys in a family may go to any of these entities. On the other hand, the female in the family go to i) private schools (46%); ii) religious institutes (29%); and iii) government schools (17%). Forty two percent (42%) of the girls do not go to schools. (Table 3.17).

Table 3.17. Educational facilities used by boys and girls		DP Survey	
		Count	%
BASE: All respondents		24	100%
Boys used Educational Facilities	Private School	22	92%
	College	12	50%
	Government School	11	46%

Table 3.17. Educational facilities used by boys and girls		DP Survey	
		Count	%
	Religious Institute	11	46%
	Vocational Institute	1	4%
	None	1	4%
Girls used Educational Facilities	Government School	4	17%
	Private School	11	46%
	College	2	8%
	Religious Institute	7	29%
	None	10	42%

Source: R&D Services Pvt. Ltd

107. **Health facilities used.** The respondents use two major health facilities: private dispensaries/clinics (71%) and government dispensaries. (Table 3.18)

Table 3.18. Health facilities used		DP Survey	
		Count	%
BASE: All respondents		24	100%
Health Facilities used	Private Dispensaries/Clinics	17	71%
	Govt Dispensaries	11	46%
	Homeopathic	1	4%

Source: R&D Services Pvt. Ltd

108. **Vulnerable persons in the family.** Of the 24 respondents, only 20% of them have vulnerable (physically or mentally disabled) members in their family. The analysis showed that the vulnerable household members include children and adults in 5 affected household. Of disabled household members (children and adults) 67% and 33% are mentally and physically disabled, respectively, and all of the disabled are male family members. (Table 3.19).

Table 3.19. Vulnerable persons in the family		DP Survey	
		Count	%
BASE: All respondents		24	100%
Disabled/vulnerable persons in Family	Yes	5	20%
	No	19	80%
Based: Those family have Disabled/vulnerable persons		5	100%
Vulnerable –Kids	Physically Disable	1	33%
	Mentally Disable	2	67%
Vulnerable -Adult Male	Physically Disable	2	67%
	Mentally Disable	1	33%

Source: R&D Services Pvt. Ltd

109. **Businesses established.** Fifty four percent (54%) both live and run business in the community. Only 17% of the respondents simply live in the area but do not have business endeavors. The major businesses set up by them are shops (40%). Their employees are from the area (40%) while some are from nearby streets (45%). Forty five percent (45%) of them do not hire support staff. They perform multiple roles: salesperson, cashier, and other pertinent functions. They also require their children to help them attend the shops when they are free from school. For those who hired employees, 36% of them only have an average of one (1) employee. (Table 3.20).

Table 3.20. Nature of Business		DP Survey	
		Count	%
BASE: All respondents		24	100%
Living Status	Only Living , No Business	4	17%
	Both Live and Business	13	54%
	Live outside but Business	7	29%
Based: Those Respondent have business setup		20	100%
Type of Business	Shop Keeper	8	40%
	Driver	3	15%
	Labor	2	10%

Table 3.20. Nature of Business		DP Survey	
		Count	%
	Custom Work	2	10%
	Hotel Business	1	5%
	Photocopy Machine	1	5%
	Weight Machine Business [KANTA]	1	5%
	Petrol Pump	1	5%
	No Particular Business	1	5%

Source: R&D Services Pvt. Ltd

SECTION 4

PUBLIC CONSULTATION, PARTICIPATION AND DISCLOSURE

4.1. GENERAL

110. In line with the twin aims of information dissemination and collection of stakeholders' concerns, the development of LARP Torkham BCP involved a robust public consultation and information disclosure process. Consultation and participation play a central role in ADB's SPS (2009). It emphasizes the importance of a well-informed consultation process with displaced persons and communities for land acquisition and resettlement. Effective stakeholder consultation incorporates the principles of timely engagement, transparency, inclusiveness and meaningful participation.

111. Regardless of the technical soundness of a LARP, an ineffective consultation process can not only delay project delivery, but can also become a basis for poorly executed project outcomes. On the other hand, when stakeholders are directly engaged from the outset of the project, stakeholders feel part and parcel of the process of project delivery.

112. This section covers the process and outcomes of the first stage of the stakeholder consultation and information disclosure process. The findings of the stakeholder engagements at this stage of the project cycle will determine the scope of the public consultation and participation to be carried out after the development of a draft LARP and during project implementation.

4.2. IDENTIFICATION OF PROJECT STAKEHOLDERS

113. Three major categories of project stakeholders were identified for the Torkham BCP: (i) government institutions who are involved in the management of border activities at Torkham (ii) border communities that reside or have commercial interests in the border environs (iii) frequent users of the border facilities. These stakeholders have been identified in Table 4.1.

Table 4.1 Stakeholders and Consultation Tools for Torkham BCP

S. #	Stakeholder Type	Stakeholders	Consultation Tools
1	Border Managers	<ul style="list-style-type: none">▪ FBR▪ Office of Political Agent, Landi Kotal▪ Assistant Political Agent, Landi Kotal▪ NLC	<ul style="list-style-type: none">▪ Consultative meetings▪ Scoping sessions
2	Border Communities	<ul style="list-style-type: none">▪ Jirga (communal land)▪ Residential and Commercial DPs▪ Women	<ul style="list-style-type: none">▪ Focus Group Discussion▪ Semi-structured interviews
3	Border User Groups	<ul style="list-style-type: none">▪ Truck Drivers▪ Pedestrians	<ul style="list-style-type: none">▪ Semi-structured interviews

4.3. CONSULTATION WITH THE STAKEHOLDERS

114. Consultations were conducted with all stakeholders using various social tools identified in Table 4.1. The main objectives of these consultations were to gather the views of the stakeholders regarding the proposed border improvement plans and identify measures to ensure minimizing project LAR issues to reduce project's negative impacts on the local community and in particular the project affected persons. These consultation objectives were shared at the outset of each meeting as outlined below:

- (i) To identify the positive and negative impacts of improvements to Torkham Border Crossing on the community
- (ii) To identify suggestions to mitigate the expected adverse impacts of the project
- (iii) To identify concerns/suggestions of the community regarding environmental impacts of the project and mitigation measures
- (iv) To identify the existing structure of grievance redress in the community
- (v) To identify suggestions for public consultation and disclosure in the community with regards to the project

115. The stakeholder consultations for Torkham BCP were held in March, 2015 as illustrated in Table 4.2

Table 4.2: Stakeholder Consultations Conducted for Torkham BCP

S. #	Stakeholder	Tools	Date	# of Participants	Venue
1	Political Agent, Khyber Agency	Consultative Meeting	02-03-15	7	Office of PA, Peshawar
2	Assistant Political Agent, Khyber Agency	Consultative Meeting	03-03-15	14	Office of APA, Landi Kotal
3	Deputy Collector Customs, FBR	Consultative Meeting	02-03-15	5	Office of DC, Customs, Peshawar
4	Project Affected Persons: Local Businesses	Focus Group Discussion	05-03-15	24	Office of Tehsildar, Torkham
5	Project Affected Persons: Landowners (Communal Land)	Focus Group Discussion	08-03-15	9	Office of APA, Landi Kotal
6	Women	Focus Group Discussion, Semi-structured interviews	07-03-15	18	Selected households in community
7	Truck Drivers	Semi-structured-interviews	05-03-15 to 06-03-15	22	Trade Terminal, Torkham
8	Pedestrians	Semi-structured interviews	05-03-15 to 06-03-15	22	Passenger Terminal, Torkham

4.4. INFORMATION DISSEMINATED

116. During the consultation meetings with communities including affected persons and local women, the following information was disclosed:

- Scope of the project and its various components
- The stakeholders involved and their roles and responsibilities
- The process of land acquisition and calculation of compensation
- Description of the entitlement matrix to be developed for DPs
- The importance of a Grievance Redress Mechanism and the role of the community in GRM
- Overview of land acquisition and resettlement related impacts on communities
- Concerns and suggestions of the DPs regarding the projects' impacts on their assets and livelihoods.



Figure 4.1: Consultation with DPs (Left) and Jirga (Right)

Source: R&D Services Pvt. Ltd

4.5. FINDINGS OF FGDs WITH LOCAL RESIDENTS AND BUSINESSES

117. A Focus Group Discussion was held with representatives of local communities and businesses that will face impacts due to land acquisition for Torkham BCP. A participants' profile, major outcomes of the FGD and a summary of key concerns and suggestions are presented in this section.

Table 4.3 Participants' Profile of FGD with Local Residents and Businesses

S. #	Names	Occupation
1	Haji Shan Badshah	Owner, Total Petrol Pump
2	Nadir Shah	Owner, Nadir Shah Weigh Station
3	Haji Tawab	Clearing Agent
4	Shah Muhammad	Shop Owner (Spare Parts)
5	Shahzad Gul	Shop Owner (General Store)
6	Haji Khanzad Gul	Clearing Agent

4.5.1. Outcomes of FGD with Local Residents and Businesses

- a. Representatives overwhelmingly welcomed the government's initiative to modernize the border facilities and were hopeful that the project would increase trade, and thereby improve business activities in the area.
- b. All the representatives claimed that their businesses suffered due to the poor road conditions between Peshawar and Torkham which often resulted in delays and accidents. Improvement of this road network should complement the proposed development of Torkham BCP.
- c. Business owners shared that due to local geo political situations in FATA region, most of the business community at Torkham BCP are the local residents of Khuga Khel Clan of Shinwari Tribe residing on both sides of the border. In the existing scenario, they and their Afghan counterparts are able to cross the border easily and there are no barriers to trade between the two borders. With the development of the new facilities, enforcement of immigration laws, procedures and fees may implicate free movement of the local tribal community on both sides of the border resulting in reduced business potential. They suggested flexibility in administrative measures and specific legal instruments to regularize and encourage cross border movement and business of local residents/business community.
- d. During consultation, representatives of Business community also pinpointed that job/employment opportunities for local people should be created during the construction and post-construction phases of the project.

- e. The Torkham BCP lacks banking facilities and the local business community has to travel either to Landi Kotal or to Peshawar for availing banking service facilities. So, to institutionalize the business and financial activities at Torkham BCP, the business owners highlighted that proper banking facilities and better communication infrastructure should be incorporated in the newly designed terminal.
- f. Generally, business owners do not foresee any environmental hazards to their area due to the project. However, they mentioned shortage of potable water in the project area and apprehended that exploiting water from existing water sources for execution of civil works may further aggravate local water supplies and suggested for avoiding use of local water supply during execution of the project.
- g. They were concerned about the limitations of the existing roads and when construction will begin and there will be an influx of construction vehicles; they feared there would be more delays for departure/arrival of their goods. It was suggested that construction activities at new trade and passenger terminals should not interfere the free movement of traffic passing through the existing roads and the movement of construction vehicles should be regulated in such a way to avoid any road blockades and interruption in the business. Besides, the existing terminals and the ongoing business should be kept operative as per its potential to avoid any negative impacts on the business/trade.

4.5.2. Concerns raised by Affected Persons

- All the owners of the small residential structures are willing to shift to a nearby location as long as they are appropriately shifted to similar location on nearby communal land and compensated for their structures.
- The owner of one residential structure showed concerns regarding shifting of his residential structure located on communal land and acquisition of his privately owned land at project site.
- All the commercial structures located on new terminal land (petrol pump and weigh stations) and small (shop owners) commercial interests are willing to relocate within the new premises of Torkham BCP as long as they are appropriately compensated for their transition period.

4.6. FINDINGS OF FGD WITH AFFECTED LANDOWNERS

118. To safeguard community concerns and negotiate acquisition of communal land to be acquired for the project, a nine member committee representing three clans of Khuga Khel Tribe (three members nominated by community from each clan) was also consulted to discuss the project features and the community concerns on different aspects including acquisition of land and grievance redress mechanism for the project. In this regards, a Focus Group Discussion was held with the 9-member Jirga representing the three clans who own communal land in the area. This nine members committee on behalf of the community participates in all meetings with FATA authorities and government agencies responsible for execution of the project to discuss and agree on the land acquisition process and benefit sharing methodology. A brief participants' profile, major outcomes of the FGD and a summary of key concerns and suggestions made by the Jirga are presented in this section.

Table 4.4: Participants Profile of FGD with Jirga

S. No.	Names	Representing Clan	Age	Education
1	Haji Naseer	Fatimi Khel	62	F.A.
2	Haji Naib Shah	Fatimi Khel	50	Middle-School
3	Wali Khan	Fatimi Khel	29	M.A.
4	Shah Hussain	Bassi Khel	45	Graduate

S. No.	Names	Representing Clan	Age	Education
5	Ajar Khan	Bassi Khel	40	Matric
6	Muhammad Zakria	Bassi Khel	40	M.A.
7	Haji Shafiq	Ashraf Khel	63	Middle-School
8	Zulfiqar Khan	Ashraf Khel	43	Matric
9	Tajuddin	Ashraf Khel	38	B.A.

4.6.1. Outcomes of FGD with Jirga

- a. The community representative committee/Jirga recognizes that: the government has taken a big step of modernizing the existing Torkham Border crossing point which is sole livelihood earning source for local community. The improved facilities and services will enhance cross border trade resulting in better livelihood opportunities and improved living standards of the local community given the community's stakes are protected.
- b. The Jirga members showed their satisfaction towards the government's proactive steps for holding consultations to discuss concerns of the community on land acquisition and resettlement issues and agree on the means and mechanism for acquiring land and involving the community in the project development process.
- c. It was raised that the entire community is beneficiaries of income from the communal land being used for commercial activity as Car Parking Stand and markets near the existing terminal and suggested that the commercial land under markets and taxi stand should not be acquired for construction of new trade and passenger terminals. The project design was shared with the committee and it was explained that the government has given due consideration to avoid economic displacement of the individuals as well as community and accordingly the new trade terminal is proposed in hilly barren terrain at a distance of about 2 km away from the commercial area. Besides, the government will acquire land on consensus rate as per local customs and traditions to ensure that lost assets are compensated fairly and fully on replacement cost basis before taking possession of land
- d. Further, to avoid any economic displacement, the affected business/shop owners will be provided with replacement structure either in the business center/service areas designed in new trade terminal or will be compensated for the structure loss on full replacement cost basis to enable the affected person to construct new structure.
- e. The Khuga Khel tribes is settled on both sides of the Border at Torkham and local community has blood relations across the border; currently the local people visit their relatives easily on a frequent basis as there are no strict immigrant regulations enforced. The Tribal Committee suggested that the new facilities should ensure that border crossing remains a hassle-free process so that local businessmen and immigrants from their community could cross the border with minimum documentation and waiting time.
- f. As per local customs and law (FCR 1901) all issues are settled through consensus between the elders/influential persons of the community locally known as Jirga. The members of the Committee (Nine Members) are nominated by the local community through consensus to negotiate and settle Land Acquisition issues and protect stakes of local community with government. As the community has shown confidence on the committee members, so for redress of grievances if any, the same committee will remain intact during project implementation period to act as Jirga and shall participate in grievance redress mechanism to be put in place for the project.
- g. Besides above, the Jirga members raised that the entire area of Torkham is water stressed. Development of the new terminal should take in to account this water

shortage in the area and should ensure that water availability is not further compromised for meeting residential and commercial needs.

4.6.2. Status of Consultation on Land acquisition

119. The 9-member Jirga representing the interests of the communal landowners are engaged in a rigorous consultations with government to arrive a consensus on terms and conditions for releasing land and resettlement of the affected households. On government's behalf, the Political Agent Khyber Agency through his Assistant Political Agent APA Landi Kotal is leading the negotiation process and till the finalization of this draft LARP, consensus on mechanism for land acquisition as well as terms and conditions for relocating the affected structures was not arrived. However, during consultations with the local Jirga and the government authorities it was apprised that instead of selling land the community agrees to release land on long term lease as per previous traditions and practices in the area and the negotiation on land acquisition is based on following principals:

- The lease term and compensation rates including land lease rate with payment mechanism as well as benefit sharing (employments in the project during construction and operation or an allowance per crossing truck or both) formula will be finalized during course of negotiation.
- For relocation of affected commercial assets located on communal land either government will provide compensation to construct structure with similar dimensions and type at alternate communal land or will provide replacement structure within the new border crossing facilities or the place provided by the community for such purpose.
- While for residential structure government will provide compensation to reconstruct new structure of similar dimensions and type at nearby communal land which will be allowed as such by the Communal Jirga.
- The negotiations will be documented and when consensus arrived a tripartite agreement covering terms and references for payment of compensations and benefit sharing formula will be signed between the communal Jirga, Political Agent Khyber Agency and Project executors particularly NLC as PIU.

120. The LARP consultants team informed the affected persons and local jirga that:

- The actual scope of the LARP includes the identification, evaluation and compensation of land and land based as well as non-land assets of encroachers and squatters if any, to determine impact significance and compensation entitlement against each asset lost including measures for rehabilitation and restoration of APs living standard at pre-project level. The Basic design layout is synchronized with the ADB Safeguard Policy principles which require avoiding or minimizing resettlement impacts to possible extent without compromising the project objectives and perceived benefits for economic development.
- The acquisition of land will follow negotiated settlement between the land owners and the government as per local customs and practices.
- Compensation of land and structures will be done at replacement value, either through the replacement of land or structures of equivalent or higher value and quality or through cash compensation at replacement cost. Replacement cost involves fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments without depreciation. The entitled compensations for land and other assets will be fully paid before dislocation of the APs and sufficient time will be provided to construct replacement structures. The income restoration and rehabilitation measures will be put in place to ensure that the living standard of the APs is maintained if not improved.
- During construction phase, the contractor will be mandated to give priority to local people especially the project displaced persons for all unskilled and semi-skilled jobs as per their abilities to improve the quality of life of the people.

- In the project design, services areas and business have been proposed to facilitate the local people especially Project Displaced Persons facing economic loss due to lost commercial structure where they will be accommodated through secure tenure basis to safeguard their livelihood.
- During construction and operation local water resources will not be exploited and in particular the places where local women fetch water will be avoided by construction labor.

4.7. GENDER INVOLVEMENT IN THE CONSULTATION PROCESS

121. One of the overarching pillars of meaningful consultation is the inclusion of vulnerable groups, including women in the consultation process. Regardless of socio-cultural and customary restriction to interact with women in Federally Administered Tribal Areas, efforts were made to engage the women from local community to discuss the gender issues and project impacts on the women. To this end, semi-structured interviews were conducted randomly with 18 women from the community. The key findings from consultation with women are shared here. Apart from recording women's socio-economic profile, women were asked to comment on existing issues of women in the area, access to education and health facilities and their opinion regarding project impacts. A brief socio-economic profile of the women interviewed is presented in Table 4.5 and women's role in decision-making is presented in Table 4.6.

Table 4.5: Socio-economic Profile of Women at Torkham BCP

<ul style="list-style-type: none"> • Mean age of women surveyed was 35 years • All the women surveyed were illiterate • All the women surveyed were married; the average age at the time of marriage was only 16 years • The mean size of children in the family was 7 with an average ratio of 3:4 for male and female children • All the women surveyed were housewives • 72% of women are desirous to learn new skills to meet their household needs; majority wanted to learn embroidery & stitching • Women play a significant role in decision-making regarding household chores and upbringing of children and to some extent they have a say in expenditures on household items and family matters.
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Table 4.6: Role of Women in Decision-Making on Different Issues

		TOTAL	
		Count	%
BASE: All Respondents		18	100%
Daily household chores	Yes	18	100%
	No	0	0%
Upbringing, Education and Marriage of children	Yes	16	89%
	No	2	11%
Expenditures on household items	Yes	8	44%
	No	10	56%
Contribution to household income	Yes	2	11%
	No	16	89%
Purchase and disposal of household property	Yes	1	6%
	No	17	94%
Dispute resolution regarding their family matters	Yes	10	56%
	No	8	44%
Discussion on household problems with neighbors/local community	Yes	6	33%
	No	12	66%
Matters related to outdoor activities of male family members	Yes	1	6%
	No	17	94%

4.7.1. Key Findings from the Women's Survey

- a. 56% of the women were aware of the project prior to the survey, while 72% were in favor of execution of the project.
- b. Under local customs and traditions, the women are not allowed to participate in outdoor income earning and social activities; the women are seldom allowed go out of their houses without accompanying male members of their family which limits the social circle of women upto near relatives and neighbors living around. Hence, the role of women in the society is limited to household works with no involvement in outdoor activities and accordingly the participation of women in development process could not be perceived.
- c. Except for household chores and upbringing of children, the women have limited authority to participate in decision making related to family matters and all the issues related to purchase or disposing household property and other outdoor activities of male family members are decided by the male members.
- d. The most pressing needs identified by women for the village are a reliable provision of water supply, availability of electricity, development of proper schools and improvement of road conditions in the area.
- e. During the construction phase of the project, women viewed mobility of their family members as the biggest concern. They expressed that the project proponents should ensure that access to schools and health facilities are not hampered due to construction activities.
- f. During the post-completion phase of the project, women felt that the area will get an economic uplift with increased business opportunities and improved road conditions.

122. During consultations, the women were informed by the consultant's team that in project design efforts have been ensured for their mobility and access to resources as usual. In this regard, the contractor will be obligated to avoid use of local routes and ensure that outside construction labour may not intermingle with local community. During construction phase, to mitigate dust and pollution issue, the implementation of EMP provisions will be ensured. The project executors will make their own water arrangement for construction and operation of project and places where women fetch water will not be exploited to ensure community may retain its access to its resources as usual without any interruption.

4.8. FUTURE CONSULTATIONS AND PARTICIPATION

123. The consultation is ongoing process throughout LARP planning, preparation, updating and implementation phases. As the first round of consultation was conducted during preparation of draft LARP and above discussions reflect it accordingly. Meanwhile the consultation process between the local community Political Agent and EA is ongoing to arrive a consensus on the methodology of land acquisition and agreement on terms and conditions for LAR processing and implementation. So, the consultation process will be kept continued and recorded by the EA, to arrive a consensus on land acquisition and LAR processing. All such consultations will be documented and summarized when LARP is updated based on final design. In addition to this, future consultation will aim to share the key findings of the LARP including compensation, eligibility matrix and other key aspects. This will be an opportunity for APs to gain insight in to the findings of the LARP and similarly provide project executants an opportunity to fill in any gaps.

4.9. DISCLOSURE OF LARP

124. Key features of this LARP have already been disclosed to the DPs during focus group discussions, census and socio-economic surveys and field level corner meetings

between the DPs, consultants, NLC, and FBR. However, following steps will be undertaken for disclosure of LARP.

125. The draft LARP will be disclosed to DPs in the shape of a booklet that will serve to inform DPs about key aspects of the compensation and entitlements established for Torkham BCP and the implementation and monitoring mechanisms that will ensure transparent and fair execution of these aspects. For this purpose, an information booklet having summary of impacts, asset valuation, unit rates, eligibility criteria, compensation entitlements, compensation delivery and grievance redress mechanism with institutional arrangements for implementation of LARP will be prepared. This information booklet will be translated into Urdu and will be distributed to all the Displaced Persons (DPs). This information booklet will be prepared and distributed by the National Logistics Cell within one month of preparation of the draft LARP for Torkham. As per LARP implementation schedule the draft LARP will be disclosed by placing it on ADB and FBR web site and sharing information with APs by August 2015

126. When detailed engineering design is available and land acquisition process is completed, the draft LARP will be updated as final implementation ready LARP including final impacts inventory and compensation costs. The final LARP will be endorsed by the GoP for ADB's review and approval by April 2016. After approval by the ADB, the final LARP will also be uploaded on FBR and ADB websites while hard copies of the approved LARP will be placed in relevant government departments managing border activities and will be shared with the local Union Council's Office. Summary LARP will be translated into Urdu by FBR covering information about project impacts; asset valuation, unit rates, eligibility criteria, compensation entitlements, compensation delivery and grievance redress mechanism with institutional arrangements and shall be disclosed to the DPs including women and other stakeholders by Project Office through Resettlement Specialist in PIU before start of LARP implementation i.e. by June 2016.

127. A schedule explaining the date, time and venue for disbursement of compensation cheques for each affected village, compensation claim sheets for each DP & compensation disbursement and asset removal notices will be prepared in Urdu and distributed to all DPs. This information will be shared with the DPs within 1 month of finalization of the LARP for Torkham.

SECTION 5

GRIEVANCE REDRESS MECHANISM

5.1 GENERAL

128. It is very common that the affected persons have grievances related to project actions including identification and assessment of their lost assets and compensation delivery during different stages of Land acquisition and Resettlement process in a development project, especially where land acquisition and resettlement aspects are involved. Particularly, during implementation of the Land Acquisition and Resettlement Plan (LARP), DPs and their families may have concerns regarding various aspects of the land/assets acquisition process. Their major complaints on LAR process can include but not limited to the following issues:

- Incorrect identification of losses;
- Disconnect between compensation and entitlement matrix;
- Dispute over ownership;
- Delay in disbursement of compensation;
- Unfair distribution of compensation, especially in case of joint ownership/communal land

129. The FATA has distinctive legal and administrative framework known as Frontier Crime Regulation of 1901 (amended in 2011) and the administrative and judicial systems of the country are not applicable in the FATA. Although a legal mechanism is available in the form of the Land Acquisition Act, 1894 in settled areas of Pakistan; which include provisions to address concerns related to assessment and valuation of acquired assets, apportionment and delivery of compensation to legal title holder only; but, the Act *ibid* is not applicable in Federally Administered Tribal Area (FATA) of Pakistan. In FATA the acquisition of land and process for redress of grievances is followed under provisions of FCR (1901) through a consultative process with the local elders as per customs and traditions in vogue. Under LAA 1894 and FCR 1901 regulations, the issues pertaining to payment of compensation costs for acquired land and other assets to the entitled persons are taken care off; while costs for resettlement and rehabilitation/ livelihood restoration of affected persons are not considered under the applicable legal system.

130. This leaves gap in land/asset acquisition process followed under local legal frameworks and ADB policy as far as compensation for resettlement and rehabilitation aspects are concerned. In order to address these gaps and resulting concerns or grievances of DPs, an effective grievance redress mechanism that is fully commensurate with local customs and legal framework is required for timely resolution of grievances and achieving transparency in resettlement process. Hence keeping in view the customary dispute resolution system in project area and applicable legal and administrative framework a grievance redress system that is fully responsive to local customs and applicable legal framework is proposed for the project.

131. Accordingly, to address the complaints and grievance that may arise during project implementation, a three-tier grievance redress mechanism is proposed for the project which includes: Local Jirga (including sub PMU¹⁵, PIU and Community representatives), ii) Grievance Redress Committee at Project Level (headed by Assistant Political Agent) and iii) FATA administration i.e. Political Agent (PA), Khyber Agency in case the grievance is not resolved at GRC level. The main objective of the grievance redressed procedure is to provide a mechanism to mediate conflict fully commensurate with the local customs and

¹⁵ A sub PMU headed by Project Coordinator will be established at each BCP to carry out onsite functions on behalf of PMU in FBR and provide interdepartmental coordination with relevant Provincial government and FATA ministries/departments, for smooth implementation of project.

administrative framework¹⁶ and cut down on lengthy litigation, which often delays projects. Sections below outline the procedures to resolve the issues at different levels of the GRM.

5.2 JIRGA LEVEL

132. As per local customs in FATA, the disputes are resolved through mediation by the elders or notables of the family/tribe/area. Locally, the process of mediation is known as Jirga. The Jirga is constituted with consensus of disputing parties as and when any issue arises. In project area, the acquired assets are owned by Khuga Khel tribe which has three clans. The tribe has already nominated a 9 members committee (Jirga) consisting three nominated members from each clan to engage with the government and project executing authorities to safeguard the concerns of the local community and for negotiated settlement of land and assets acquisition. On the government side a three member committee including members from Project Implementation Unit (NLC) and FBR is coordinating with the tribal committee for negotiated settlement of land acquisition and other stakes of local community. Both Committees are already involved in the process of mediation as per local customs so it is proposed that the same will constitute Jirga to address grievances if any and shall continue to work throughout project implementation period for resolution of grievances resulting from implementation of LARP and execution of project.

133. As and when a complaint is received, it will be recorded in the complaint register by the resettlement specialist immediately and sent to Project Coordinator sub PMU at Torkham BCP site for forwarding it to the Jirga and sending an acknowledgment to the complainant of this affect. The complaint will be referred to the Jirga (including members from the government committee and community committee) for examination of the issue and its resolution at local level and an acknowledgment to this effect will be send to the complainant within 5 days of receipt of complaint. Thus, during project execution, the Jirga will serve as the first step where concerns and grievances of local people will be recorded, discussed and resolved as per local customs and traditions. The Jirga will investigate the issues, hear and record concerns of the aggrieved party and will examine the evidences produced and shall adjudicate the complaint with 20 days of its receipt by Jirga.

134. The Jirga will have support from sub PMU and PIU for required documentation of the complaints and oversight regarding problem resolution within the ambit of the LARP for Torkham BCP and the resettlement specialist at PIU will participate in all meetings of the Jirga to record the proceedings and facilitate the Jirga members to adjudicate the issue/compliant with the LARP provisions as per eligibility and entitlements defined. The Resettlement Specialist will also monitor the progress on complaints and facilitate the sub PMU and PIU to ensure that the proposed remedial actions are executed and complaints are closed as duly resolved. Moreover, the Jirga through sub PMU/PIU will ensure that those issues that cannot be solved at the Jirga Level are elevated to the Grievance Redress Committee established under the chairman ship of the Assistant Political Agent Landi Kotal.

5.3 GRIEVANCE REDRESS COMMITTEE

135. If a grievance is not resolved at the Jirga Level, it will be elevated to the project-specific Grievance Redress Committee established under the chairmanship of the Assistant Political Agent Landi Kotal. It will be the responsibility of Resettlement Specialist in sub PMU/PIU to provide the required feedback to the Grievance Redress Committee regarding the complaints and efforts exhausted at Jirga Level to resolve the issue. After receiving a complaint, the first step will be the entry of complaint in the office record and within 7 days the GRC will convene meetings with the aggrieved person (s) and Jirga members to assess the problem and find plausible solutions on scheduled date and times. After preliminary assessment, the APA as administrative head of the area will investigate the complaint

¹⁶ In FATA all administrative and legal issues are settled through consultative process with tribal Malikis following Tribal custom through **Jirga** under applicable legal and administrative frame work known as Frontier Regulation of 1901 as amended in 2011.

Jirga means gathering of elders of tribe/tribes to discuss and resolve tribal issues.

through local administration which will share its facts finding report with APA in 15 days of receipt of complaint. After receipt of the facts findings report, within next 7 days the GRC chaired by APA will convene its meeting and shall adjudicate the issue as per eligibility and entitlement provisions outlined in LARP of Torkham BCP fully consistent with local customs, legal and administrative framework of the area.

136. The GRC shall decide the complaint, share its decision with the sub PMU/PIU and complainant within 30 days of receipt of complaint for further implementation/execution of the decision and subsequent closure of complaint accordingly. However, if the complainant/aggrieved person are not satisfied with GRC decision, he/she can request the GRC to elevate his/her complaint to next higher level i.e. the Political Agent, Khyber Agency.

5.4 OFFICE OF THE POLITICAL AGENT, KHYBER AGENCY

137. In the case the complaint is not resolved at the level of the GRC or the complainant is not satisfied with the GRC decisions and he desires so, within 7 days of GRC's decision communicated to the complainant and PIU, the issue with all GRC record will be forwarded to the Political Agent (PA), Khyber Agency for his review and taking cognizance under legal and judicial framework applicable in FATA. Upon receipt of complaint, the Political Agent will review the record and call the complaint/complainants to hear and record their concerns, and initiate any further investigations (if required) for resolution of the complaint. During investigation the PA will be at the liberty to hold meetings with the, sub PMU/PIU GRC, Jirga and any other stakeholders, as required, for resolution of the complaint. After this second round of fact-finding is complete, the PA will make a decision regarding the complaint and inform the aggrieved person, the sub PMU & PIU, GRC and Jirga for required execution on-ground and closure of the grievance process or will refer the matter to Council of Elders under regulation 8 of FCR 1901 for its findings as per Riway (Custom). In case the matter is referred to council of elders, the PA will nominate the Council of Elders and shall refer the issues in dispute on which the findings of council of elders will be required. And upon receipt of finding from the Council of Elders, the PA shall pass a decree on the issues.

5.5 CONSTITUTION AND FUNCTION OF THE GRC

138. The GRC will be chaired by the APA, Landi Kotal and will constitute a total of 4 permanent members and 4 rotating members. Apart from the APA, the permanent members will include the Project Coordinator for Torkham BCP, Resettlement Specialist for Torkham BCP, and Senior Manager NLC as PIU member. Three members from the Jirga (1 nominated member from each clan) will represent the community. The resettlement specialist in PIU will participate the GRC proceedings and facilitate it to maintain the GRC proceedings record. In routine the GRC meetings will take place on a monthly basis. Coordination of the GRC meetings and recording and issuance of minutes will be the responsibility of the Office of the APA supported by the Resettlement Specialist. The function of the GRC will be to resolve any complaints regarding asset ownership, resettlement benefits, apportionment of compensation, and any other assistance as per local custom/Riway and ensure implementation of the same. Early formation of the GRC will ensure that complaints and concerns are minimized during project execution.

5.6 INFORMATION DISSEMINATION AND COMMUNITY OUTREACH

139. The Grievance Redress Mechanism for the project will be complimented by a robust information dissemination and community outreach component. As part of this component, the EA will be required to provide relevant information regarding their rights to the DPs as per the policies and regulations outlined Frontier Crime Regulation 1901 (as amended 2011), ADB's SPS (2009) and the approved LARP. All relevant information will be translated in Urdu and Pushto to ensure acceptance by local communities. The DPs will be informed about the three different tiers of the grievance redress procedure, including the roles of the Jirga, the GRC and the Office of the PA in grievance resolution. The DPs will be provided information about contact details of the focal points for each of the three tiers

of the GRM and the process for lodging complaints. Once a DP has lodged a complaint, DPs will be acknowledged about the receipt of complaint and field visits plan of GRC for investigation of the issues and problem identification as well as the scheduled of hearing will be communicated to ensure that aggrieved person is available during field investigations and hearing proceedings. Moreover, the Resettlement Specialist and his team will maintain close liaison with the DPs and keep them updated regarding the progress towards grievance resolution and final decisions.

SECTION 6

LEGAL AND POLICY FRAMEWORK

6.1 LEGAL AND POLICY BACKGROUND

140. The compensation and rehabilitation program detailed in this LARP has been based on the requirements of Pakistani legislation and of the ADB Safeguards for involuntary resettlement and Indigenous People as outlined in SPS 2009 and OM Section F-1/OP 2010. This section details the Torkham LARP's legal background, compares Pakistani Law and ADB policies, indicates differences and ways to reconcile them.

6.2 CONSTITUTIONAL AND LEGAL FRAMEWORK FOR FATA & TRIBAL PEOPLE

6.2.1 Provisions is in the Constitution

141. The Khyber Agency is a part of Federally Administered Tribal Areas (FATA), as defined in Article 246(c) of the constitution of Islamic Republic of Pakistan. Since accession agreement signed in 1947, Pakistan also retained the semi-autonomous status of the area with the Governor General assuming direct administrative jurisdiction over it. Except for minor changes, the 1956, 1962 and 1973 constitutions of Pakistan retained the same arrangements. Accordingly, under Constitution of 1973, the executive authority over FATA rest with President who exercises his authority through the Governor of Khyber Pakhtunkhwa Province as his agent. Under article 247(3) of the Constitution of Pakistan, acts of Parliament do not apply to Federally Administered Tribal Areas unless the President so directs. So, the National laws including criminal code of Pakistan and judicial system under national laws does not apply to the tribal areas and even, the jurisdiction of the country's high courts and the Supreme Courts is debarred under constitution. However, the people from tribal area can approach High Court Peshawar and Supreme Court of Pakistan by invoking constitutional writ under Article 184 of constitution.

142. The constitution guarantees full independence of the tribal agencies and any interference by the government has been prohibited. As these areas enjoy a special status in the constitution, and the laws of the country do not operate in the project belt. Following the same principle, the body of laws and practices relative to Land acquisition which are embedded in the Land Acquisition Act of 1894 (as amended) are not applicable in Tribal areas (as with most other laws of Pakistan)

143. The present constitutional status of FATA is enshrined in Articles 246 and 247 of the 1973 constitution of the Islamic Republic of Pakistan, conferring continuity of status enjoyed during British rule. The constitution provides for a special mode of governance under tribal customs and traditions through a Political Agent (PA), who acts as a representative of the federal government. The unique status of the tribal area confers three special privileges, i.e. a) the legislation is the responsibility of the President of Pakistan, b) Federal and provincial laws of Pakistan have to be specifically extended to the area under Presidential Order and c) the superior courts of the country have no jurisdiction and its independent status cannot be altered without the prior consent of the people of the tribal areas.

144. The gap left void by the non-applicability of the national regular law in Tribal Areas is filled by the Frontier Crimes Regulation (FCR) of 1901. On the one hand the FCR sanctions the tribal customary rules as the appropriate means to deal with crimes and civil matters in tribal areas, establishes the authority and the jurisdiction of the Political Agent (PA) as the supreme representative of the Government in those areas, and stipulates that legal rulings are to be taken by the PA in agreement with the Tribal leaders.

145. By successive amendments and through its jurisprudential history of application over the years the FCR also establishes the general mechanisms through which tribal customs and practices are to be taken into consideration in the administration of daily

affairs including management, administration and maintenance of law and order situation with involvement of local tribal elders/Maliks. In particular the FCR stresses the importance of consultation and implies the need of agreement between the PA and the representatives of the Tribes while administering the affairs of the tribal areas. This applies as well to the execution of tasks such as land acquisition and valuation and adjudication of inter or intra tribe civil disputes through involvement of local Jirga (Council of elders). Within these horizons the FCR provides a situation conducive to the implementation of the ADB's LAR related safeguards requirements as stipulated in SPS 2009 without major modifications of the established practice.

6.3 LAND ACQUISITION & RESETTLEMENT BACKGROUND (PRACTICES IN FATA)

146. The 1894 Land Acquisition Act (LAA) with its successive amendments is the main law regulating land acquisition for public purpose in Pakistan. LAA implementation rests on the Provincial Governments and more specifically on the Provincial Board of Revenues through their District Land Revenue Officers designated as Land Acquisition Collectors. As already noted, the land acquisition act is not extended to Federally Administered Tribal Area (FATA) and project implemented in those locations follow completely different legal and administrative stipulations as outlined in the FCR. The same will be valid also in the case of this Project.

147. In FATA under recent amendment in FCR 1901, regulation 56 is inserted to for protection of property rights which provides that no person shall be compulsorily deprived of his property unless he is paid adequate compensation with consensus rate or government assessed value in vogue in settled areas. Land Acquisition for this Project will be carried out in accordance to the processes in place in FATA which are based on the principle of negotiation and agreement between the Pakistani Government, (locally represented by the Political Agent (PA)), and the Maliks. In order to fit with the requirements of the ADB policy, land acquisition and resettlement will be carried out through the use of principles fitting the customary land rights and ownership system as well as previous practices in vague in project area in a manner consistent with ADB safeguard requirements.

148. As the ADB policy on Involuntary Resettlement and the situation/principles of the local system may be at variance, efforts were made to establish acceptable compromises. In particular, the ADB policy requires that compensation for acquired assets is on replacement cost basis, which in the case of land is generally equated to current market rate. As in tribal territories it is not possible to speak of market rates because selling of land is considered immoral and land is seldom sold. Even for execution of the project communal land is provided to government on prolonged lease without forgoing the land title or free of cost in community's interest. In the project area such land leasing is in practice since British rule. Accordingly, in the instant case, instead of alienating customary land title by selling land for project implementation, the local Jirga (communities representatives) is negotiating with government the terms and conditions for leasing of land with community's interest fully safeguarded. In such arrangement, the land title of local community will not be forgone and, the barren land will become a permanent source of productivity for the community. However, if ongoing negotiation on release of land through lease agreement is unsuccessful, the process for compulsory acquisition may follow as per provisions laid down in FCR 1901. If it is the case, the compensation rate will have to be agreed through consensus between the Local Maliks/landowners and the PA following regulation 56 of the FCR. Hence for this LARP replacement cost will be either cash compensation agreed between Tribal elders and Political Agent in case of release of land on lease or cash compensation to sell land at consensus rate as long as the agreement is transparent and clearly documented.

6.4 ADB's SAFEGUARDS REQUIREMENTS UNDER SPS 2009

6.4.1 Involuntary Resettlement Safeguard Requirements

ADB's SAFEGUARD POLICY 2009

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

- i. **Screen the project** early on to identify past, present and future involuntary resettlement impacts & risks and determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks;
- ii. **Carry out meaningful consultations** with affected persons, host communities, and concerned non-government organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring & evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase;
- iii. **Improve, or at least restore, the livelihoods of all displaced persons** through (i) land-based resettlement strategies when affected livelihoods are land-based where possible, or cash compensation at replacement costs for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- iv. **Provide physically and economically displaced persons with needed assistance**, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- v. **Improve the standards of living** of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas, provide them with legal and affordable access to land and resources; in urban areas, provide them with appropriate income sources and legal and affordable access to adequate housing.
- vi. **Develop procedures** in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.

- vii. **Ensure that displaced persons without titles** to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- viii. **Prepare a resettlement plan** elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- ix. **Disclose a draft resettlement plan or** the compensation matrix, eligibility criteria or rates determined for the affected land, structures, trees etc., including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- x. **Conceive and execute involuntary resettlement as part of a development project or program.** Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- xi. **Pay compensation and provide other resettlement entitlements before physical or economic displacement.** Implement the resettlement plan under close supervision throughout project implementation.
- xii. **Monitor and assess resettlement outcomes,** their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. ADB policy also require disclosure of monitoring reports.

6.5 COMPARISON OF KEY PRINCIPLES AND PRACTICES OF PAKISTAN'S FCR 1901 AND ADB'S IR SAFEGUARDS-SPS 2009.

150. The Land Acquisition Act of 1984 is not applicable in FATA and land acquisition follows the FCR 1901 provisions which provides an administrative set-up for FATA including acquisition of asset for public purpose projects. A comparison of Land acquisition under Pakistan's FCR 1901 applicable in FATA and the ADB's Policy on Involuntary Resettlement (IR) shows that there exist major differences in the two instruments. The objective of this comparison is to identify if and where the two sets of procedures are in conformity with each other and more importantly where there are differences and gaps. The key consideration is that by following the ADB assessment procedures, the requirements of the Pakistan and FATA regulatory systems are in compliance. The key ADB Policy Principles are (i) the need to screen the project early on the planning stage (ii) carry out meaningful consultation (iii) at the minimum restore livelihood levels to the pre-project conditions and improve the livelihoods of the affected vulnerable groups (iv) prompt compensation at full replacement cost is to be paid, (v) provide displaced people with adequate assistance (vi) ensure that displaced people who have no statutory rights to the land that they are working are eligible for resettlement assistance and compensation for the loss of no-land assets and (vii) disclose all reports. Table 6.1 below presents a gap-analysis between the Pakistan's FCR 1901 and ADB's Safeguard Policy Statement (2009).

Table 6.1: Comparison of Pakistan’s Frontier Crime Regulation (FCR) 1901 applicable in FATA and ADB’s Safeguard Policy Statement (2009)

Key LAR Aspects	Frontier Crime Regulation (FCR) 1901 of FATA, Pakistan	ADB IR Safeguards-SPS 2009
IR Policy	Government does not have a national policy on resettlement and rehabilitation of affected persons.	ADB Safeguard Policy Statement provides a policy on involuntary resettlement with principles, objectives and procedures for implementation.
LAR Planning	No requirement of LARP	Preparation of draft and final LARP.
Consultation, information and participation of DPs	The consultation about project objectives, land requirements and acquisition mechanism as well as compensation rates are carried out with local affected tribal community.	Meaningful consultation, timely disclosure of relevant information and participation in LAR planning
Disclosure of LARP	No LARP Requirement as such.	Disclosure of draft & final LARP to DPs and on ADB website
Grievance redress	Project specific GRM not established, however, all issues regarding land and other social disputes are settled as per local customs by the PA through involvement of local Jirga/Council of elders as per local customs.	Establish GRM scaled to risks and impacts of project at project and field levels.
Assessment of social impacts	No requirement in FCR	Census, socio-economic survey, detailed measurement survey and valuation of lost assets
Cut-off date	No specific requirement under FCR, however with initiation of consultation affected properties and communities are listed for eligibility purposes.	Eligibility for entitlements under ADB’s IR requirements is limited by a cut-off date, determined at the time of social impacts assessment (SIA) survey, census of displaced persons (DPs), inventory of losses (IOL) and socioeconomic baseline survey.
Involuntary LAR	Governed through negotiated settlement on consensus rates.	Eminent domain is recognized while negotiated land acquisition is encouraged subject to social safeguards provisions.
Eligible DPs	No land records available thus all physically and economically displaced persons occupying land before project are eligible to the extent of usufruct right as per local customs.	All physically and economically displaced persons, including titled and non-titled, with differential entitlements.
Compensation of structures	The valuation of structures is based on consensus rates without depreciation and salvage allowed to affected household paid through elder.	Replacement of structures or cash compensation at replacement value, salvage material allowed without deduction for all DPs, titled and non-titled.
Community and public resources	Damages done to land and structures are to be paid for rehabilitation.	Restoration/provision of civic infrastructure and community services.
Replacement cost	Compensation on Consensus rate agreed between the Asset	Full replacement cost includes fair market value, transaction costs,

Key LAR Aspects	Frontier Crime Regulation (FCR) 1901 of FATA, Pakistan	ADB IR Safeguards-SPS 2009
	Owners and the cover transitional and restoration costs while without depreciation and tax as tax laws are not extended to FATA.	interest accrued, transitional and restoration costs and other applicable payments without depreciation. In case land market nonexistent, land valuation to be done by qualified and experienced experts.
Income restoration and livelihood support	Only compensation for lost assets with no resettlement allowances and/or any income restoration support.	Enhance, at least restore, DPs' livelihoods. Compensation of lost incomes and livelihood sources at full replacement cost; credit, training and employment assistance; project development benefits.
Women and Vulnerable persons	No provision in law.	Improve livelihoods to at least national minimum standards. Due consideration of women in census and surveys, consultation, grievance redress, as well as compensation and rehabilitation.
Relocation assistance	No provision in LAA.	Secure tenure, better housing, transitional support, infrastructure and services.
Timing and notification of displacement	FCR protects the property rights and requires compensation before depriving the affected person of his assets	No physical or economic displacement before compensation has been paid, other entitlements have been provided and income and livelihood program is in place.
Monitoring and evaluation	No requirement on FCR.	Monitoring and assessment of IR outcomes; disclosure of monitoring reports.

6.6 REMEDIAL MEASURES TO BRIDGE THE GAPS

151. In order to establish a land acquisition and resettlement policy framework for the Project, which reconciles Pakistan's legal and regulatory system (FCR 1901) applicable in FATA for LAR and ADB's IR Safeguards as in SPS 2009, and addresses the gaps between the 2 systems, the following principles (as mentioned under the project LAR policy below) will be adopted. The following "Project LAR Policy" encompassing all the gap filling measures will be adopted for implementation of Torkham IBSP.

6.7 PROJECT LAR POLICY

- i. The Projects will avoid, minimize or mitigate involuntary LAR impacts causing physical and/or economic displacement and a LARP will be prepared to compensate all displaced persons.
- ii. Displaced persons and other stakeholders will be consulted and informed as well as given an opportunity to participate in LAR planning in a form accessible and understandable to them.
- iii. Each draft, final or updated LARP will be submitted to ADB for review/approval, endorsed by the borrower/client and disclosed on the ADB website as well as by placing its copies in an accessible place in a manner and language understandable to Affected Persons.
- iv. A grievance redress mechanism fully consistent with FATA customs and practices with representation of all stakeholders will be established at the time of project inception.
- v. A comprehensive assessment of social impacts, involving (i) a census of all displaced persons, and an inventory of their lost assets (ii) a socio-economic survey of a sample

- of at least 25 percent of displaced persons, & (iii) a detailed measurement survey and valuation of all lost assets as well as an assessment of lost incomes will be carried out.
- vi. An eligibility cut-off date will be declared and formalized on the date of completion of social impacts assessment survey and census of DPs.
 - vii. In accordance with local customs and legal requirements, land acquisition will through negotiated settlement of land compensation and mechanism for release of land for project with all negotiation proceeding fully recorded and documented. The ADB SPS SR2 requirements apply to such negotiated settlements.
 - viii. For collective barren land (unoccupied) whole tribal clan occupying land to be acquired by the project will be eligible for compensation, relocation and rehabilitation measures as per local customary usufruct rights through its Malik. While in case of settled private land or collective land occupied under residential structure or put under other beneficial uses, the household occupying that land will be eligible for compensation, relocation and rehabilitation measures as applicable, regardless of whether the impacts are permanent or temporary, full or partial. Non-titled DPs without legally recognizable claims to land will be eligible for all compensation, relocation and rehabilitation measures, except land. The full eligibility of non-titled DPs with legally recognizable claims to land is recognized as per local customs.
 - ix. Compensation of land and structures will be done at consensus rate and mechanism agreed through cash compensation at replacement cost. Replacement cost involves fair market value, transaction costs, interest accrued, transitional and restoration costs and other applicable payments without depreciation. For replacement of land or structures all transaction costs will be paid by the project or included in compensation payments to the DPs. The value of structures will not be depreciated for age.
 - x. All lost civic infrastructure and community services will be either restored or newly provided at relocation sites.
 - xi. Incomes and livelihood sources lost, including but not restricted to crops and trees or interruption of business activities and employment, will be fully compensated at replacement cost. DPs permanently losing incomes and livelihood sources as well as poor and vulnerable DPs are entitled to credit, training and employment assistance to maintain or improve their livelihoods.
 - xii. All DPs will be provided opportunities on preference to share development benefits of the Project, if feasible.
 - xiii. Relocated DPs will receive secure tenure to replacement land, better housing, transitional support and access to civic infrastructure and services.
 - xiv. DPs will not be physically or economically displaced before compensation has been paid, other entitlements have been provided and an income and livelihood program is in place.
 - xv. The implementation of LARP provisions, delivery of compensation and resettlement and rehabilitation assistance for income losses and restoration of livelihoods of the DPs will be monitored during and evaluated after LARP implementation.

6.8 COMPENSATION ELIGIBILITY AND ENTITLEMENTS

152. Land Acquisition and Resettlement tasks under the Project will be implemented according to a compensation eligibility and entitlements framework in line with Pakistan's law/ regulations, local customary rights in FATA and ADB Policy. Land acquisition process followed under FCR 1901 and ADB safeguard policy both watch the interests of APs, if there is any contradiction in policy and law, ADB policy will prevail.

6.8.1 Land Acquisition Process for Torkham and Achievements

The process of land acquisition for the Project was initiated based on preliminary basic design. In FATA the governing law for acquiring assets for project in public interest project is FCR 1901 as amended in 2011. Regulation 56 of FCR provides property protection rights by inhibiting compulsory acquisition of assets. Thus, in project area the only available mechanism for acquiring land is through negotiation between the landowners either individual or the tribe as a whole which best fits with ADB's safeguard policy on involuntary resettlement. From government side such negotiations are led by the Political

Agent while from community side the household elders (for individual land) or the tribal elders/Maliks (for communal land) are the major stakeholders in the negotiation process. Since land resource is taken as joint property of the clan (in case of communal land) or by the extended family (in case of privately owned land) and land record showing shares of each entitled clan, sub clan or family members are not maintained in the FATA; and resource distribution follow their customary rights and practices wherein the tribal elder (Malik of clan or lineages for communal asset) or the elder of the extended family (for family owned asset) are responsible for equitable distribution of resources within the tribe or the family. For compensating lost assets local customary practice will be followed and compensation for land will be delivered as under:

- i. **Communal Land** will be paid to through elders/Maliks representing the tribal community as a whole.
- ii. **Private land** will be compensated directly to the elder of identified affected extended family.

153. For land acquisition purpose, a nine member Jirga comprising of three members from each lineage (Ashraf Khel, Basi Khel and Fatmi Khel) of Khuga Khel Clan of Shinwari Pashtun Tribe is nominated by the community to negotiate terms and conditions with mechanism to acquire land for the project. Initially it is arrived that instead of selling the land community will release land for project on lease basis and the Local Jirga and the PA through its Assistant Political Agent are negating the details for lease tenure, compensation rates and relocation options of affected property to ensure the income losses if any are restored. The negotiation process to outline and tune terms of reference for lease tenure and compensation rates with mechanism for payment of compensation and benefit sharing is under process. The border frame work of ongoing negotiation revolves around:

- The lease term and compensation rates including land lease rate with payment mechanism.
- Provisions of replacement structure of similar type and dimensions within service and business area proposed in the new border crossing facilities or construction of replacement structure on alternate land to be provided by the community, or compensation of affected structure on consensus rate.
- Employment opportunities for tribal communities in new terminal facilities and allowance/toll for each freight vehicle using the terminal at a consensus rate.

154. Instead surrendering their land title, the local community is negotiating release of land on leases basis and it will take time to arrive a consensus on the terms of reference about land lease rates, tenure and compensation mechanism, so at this point of time it is impracticable to provide details in the draft LARP about leasing agreement and compensation details for the release of land. Hence, keeping in view ongoing negotiation, the draft LARP is finalized with entitlement provisions for loss of land and other assets based on the broader negotiation frame work with the understanding that all such negotiations will be convened and documented to the satisfaction of the ADB's safeguards requirements and a tripartite agreement covering terms and references for land lease arrangement, payment of compensations and benefit sharing formula will be signed between the communal Jirga, Political Agent Khyber Agency and Project executors particularly NLC as PIU as and when consensus arrived.

6.8.2 Unit Rates for Compensation

A. Land rates.

155. As the efforts in process are to arrive a consensus to release land on lease basis without foregoing land title by the land owners is ongoing and it is elusive to propose lease compensation rates in the Draft LARP when the negotiation is under process. Besides, if required, permanent acquisition will also follow the principal of consensus rates for compensation under local customs and legal frame work which is consistent with ADB's preference for land valuation. Current endeavors are to settle the lease terms, however, to determine the tentative replacement value, if the land is acquired on permanent basis, previous precedents of land sale and purchase in nearby town (Landi-Kotal) were looked

into. Nonetheless, the land is seldom sold in the area; it is observed that, land for establishment of a Grid Station is acquired recently wherein the market rate arrived for compensation is about Pak Rupees 5.0 million/Acre and same is adopted as tentative unit rate for estimating budget on replacement cost for land Losses.

B. Crops and Trees.

156. The project is located in uncultivable land, hence no crop losses identified. The trees grown in the land are generally wood trees and the compensation of the trees will also base on negotiated settlement. However, for providing tentative budget in the draft LARP the tree compensation unit rate is based on wood volume of the tree. Accordingly the estimated unit rate for compensation of trees is Pak Rupees 4000/- with salvaged material allowed. **Fruit Trees:** if any will be compensated at yearly production value calculated 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.

C. Structures

157. Buildings & structures i.e. houses and commercial structures valued at replacement cost based on current market cost of materials, labor and other costs required for construction of a structure of similar type and dimensions without deducting salvaged material. Accordingly, a tentative budget is worked out for lost assets (other than land) including commercial & residential structures on replacement cost basis for reconstruction of replacement structures as per ADB’s safeguard Policy Principals.

Table 6.2: Unit rates of construction per sq.ft

Type of structure construction	Katcha	Semi Pucca	Pucca	RCC
Cost per sq.ft	900	1200	1400	1600
Source: R&D Services Pvt. Ltd				

SECTION 7

ENTITLEMENTS, ASSISTANCE AND BENEFITS

7.1 GENERAL

158. This section defines affected persons' entitlements and eligibility, and describes all resettlement assistance measures in terms of an entitlement matrix; identify and document the households who will be eligible for transitional livelihood support; specifies all assistance to vulnerable groups, including women, and other special groups; and outlines opportunities for APs to derive appropriate development benefits from the project.

159. Land Acquisition and Resettlement tasks under the Project will be implemented according to a compensation eligibility and entitlements framework in line with Pakistan's law/ regulations applicable in FATA and ADB Policy. FCR 1901 and ADB safeguard policy (2009) will protect the interests of APs, if there is any contradiction in policy and law, ADB's policy will prevail.

7.2 COMPENSATION ELIGIBILITY

160. Since land management system and records describing shares of each clan, sub clan or family members are neither maintained nor available in the FATA; land resource is considered as joint property of the clan (in case of communal land) or by the extended family (in case of privately owned land); and the tribal elder (Malik of clan or lineages) or the elder of the extended family are responsible for equitable distribution of resources owned. Besides the identified impacts include the renter business operators and the lease holders of privately owned land. Hence for compensation eligibility following principals will be followed as per local customs.

- All land owning APs losing land or non-land assets, i.e., trees whether covered by legal title or legalizable traditional land rights;
- APs losing the use of structures and utilities, including titled and non-titled owners, registered, unregistered, tenants and leaseholders plus encroachers and squatters.
- APs losing business, income and salaries of workers or a person or business suffering temporary effects, such as disturbance to land, crops and business operations both permanently and also temporarily during construction.
- Loss of communal property, lands, and public infrastructure.
- Vulnerable affected persons identified through the social impact assessment.
- In the event of relocation, all entitled APs will receive transitional and other support to re-establish shelter and livelihoods.

7.3 CUT-OFF DATE

161. Compensation eligibility will be limited by a cut-off date which could either be the start or completion date of census of impacts. For preparation of this LARP socioeconomic baseline survey and census survey of DPs (including titled and squatters) was completed in March and accordingly the cut-off date determined is the 31st march 2015. Any displaced person who occupy project area after aforementioned cut-off-date will not be eligible for compensation. However, he will be given sufficient time (30 days) to remove his belongings from the project area.

7.4 COMPENSATION ENTITLEMENTS

162. Although without forgoing the land title, release of land through leasing is preferred option by the local community and the negotiations to agree on terms and conditions including lease term, rate and compensation delivery mechanism are in progress. In this case it is perceived that the land acquired will not tantamount to permanent acquisition of land and thus the compensation package to the extent of acquired land will follow the terms and conditions agreed between the land owners and the government. Besides, the assets located on the land including commercial and residential structures as well as the income and livelihood losses will be compensated as per provisions of the ADB's Policy and LAR requirements outlined below.

163. However, in case the land acquisition through lease is unsuccessful and the government proceeds for permanent acquisition of land, it will also follow the principal of consensus rate as per provisions of the FCR 1901. Hence, keeping this in view, as per LARP provisions, replacement value is the basic principle guiding the allocation of entitlements, i.e. the compensation packages provided for lost assets and income will be fair enough to replace in kind or cash what is lost in terms of land, structures, livelihood, community facilities and services, with special provisions for the improvement of livelihoods of vulnerable displaced persons. The LARP is prepared based on full census of affected assets linked with affected persons as of preliminary design and LARP entitlements are proposed accordingly. However, unanticipated impacts (if any) identified later will be compensated on full replacement cost following LARP entitlement provisions in entirety.

164. Entitlement provisions for APs losing land, houses, and income losses and rehabilitation subsidies will include provisions for permanent and temporary land losses, house and buildings losses, crops and trees losses, a relocation subsidy, and a business losses allowance based on their average income as per Census survey and/or lump sums. These entitlements are detailed below:

7.4.1 Land (Communal/Private) Loss entitlements¹⁷

165. As discussed earlier preferably the land will be acquired through lease agreement for which negotiations are under process and the terms and conditions covering the lease tenure, rate and compensation delivery mechanism are indescribable at this stage of time. However, under local customs and the legal framework, the terms and conditions arrived through consensus will be documented as tripartite agreement (with Malik's of the Khuga Khel Clan and household elders for communal and private land respectively) covering minute details regarding lease term, rate, compensation delivery and relocation of affected structures/households out of project site. So, all such details could be detailed in the final LARP entitlements when the negotiations are finalized. In Draft LARP the entitlements are proposed keeping in view the negotiation framework as well as if the government opts for permanent acquisition in case negotiated settlement of Land lease is unsuccessful. Hence for LARP purpose following entitlements are proposed against land losses:

- Land Losses (unoccupied barren land and/or commercial land): (In case Lease arrangement): The compensation for land and other assets on consensus rate as per agreed terms and conditions of tripartite lease agreement between NLC (PIU), Political Agent and Maliks of Khuga Khel Clan (communal land) or elders of household (individual land).
- (In case Permanent Acquisition of land): The compensation for land and other assets on consensus rate as replacement cost for land as agreed between NLC (PIU), Political Agent and Maliks of Khuga Khel Clan (communal land) or elders of household (individual land).

¹⁷ In case of land for each category, lease agreement rates or sale rates to be finalized through consensus between PA and tribes leaders/ community elders, while in case of other assets/ structures, trees etc either consensus rate or the current market rates for construction of structure of similar type and dimensions.

- The Maliks of the clan (for communal land) and the household elders (for individual land) whatsoever the case is will be entitled for compensation for internal distribution as per their local customs and traditions.
- Communal Land Losses (occupied by residential structure): In case the communal land is released through lease agreement, provision of replacement land in nearby available communal land to relocate the residential structure or compensation for land on consensus rate as replacement cost for land agreed between NLC (PIU), Political Agent and Jirga of community (Maliks/elders of Khuga Khel Clan).
- In later case, the compensation will go directly to elder of affected household/extended family.

166. **Land Lease holders (if any):** During census of impacts and affected persons no lease holders identified on communal land however two lease holders identified on the privately owned land have been using the leased land for commercial purpose but the lease agreement and terms and conditions of the lease were not shared by the parties to determine the entitlements precisely. However, to compensate such losses due to acquisition of leased land for the project purpose, following entitlement provisions will apply for leases holders with or without formal agreement.

- Provision of replacement land in the new terminal premises on a secure tenure basis to relocate their business; or
- Land Lease termination support equaling the lease agreement rate for remaining period as per consensus on term or for a period maximum up to three years if applicable.

7.4.2 Residential and commercial Structure Loss (Communal Land)

167. **Residential Structure Loss** To minimize the impacts on residential structures and subsequent displacement, acquisition of land through the built-up area is avoided and during detailed design phase efforts will be ensured to fit all project works in the acquired land and further minimize impacts if possible. As per basic design, 03 residential structures are identified on communal land under acquisition. Along with land compensation as per entitlements discussed above following compensation entitlements will apply for residential structures owners to ensure compensation is on full replacement cost.

- Compensation of structure on full replacement cost calculated on prevailing market rates to construct new structure of same type and dimensions at replacement communal land proposed by the community/Jirga or at some other place in the area as opted by the AP himself.
- Salvage material will be the property of affected person and no salvage cost will be deducted.
- One time Transportation/ Shifting Allowance @ Rs. 25,000.0 on lump sum basis to cover transportation cost and shifting of the salvage material and belongings to the relocation site.
- Livelihood Assistance Allowance equal Pak Rupees to lump sum 03 months of minimum wage declared by the government or lump sum to cover livelihood loss during construction of house.
- Compensation for shifting of utilities (electricity, water supplies and telephone) if applicable.

7.4.3 Commercial Structure Loss (Communal)

Near passenger terminal 9 communal shops owned by the Khuga Khel Clan and rented out for commercial activity will face impact due to restricted access resulted from enclosed pedestrian lanes provided along the road. To compensate loss of communal shop, following entitlements will apply:

- Replacement structures of similar type and dimensions will be provided in the alternate land without deducting salvage material in consultation with the community/Jirga or

compensation calculated on replacement costs basis will be provided to the communal Jirga for reconstruction of structure at their own.

- Compensation for shifting of utilities (electricity, water supplies and telephone) if applicable.

7.4.4 Tree Losses

The entire land is unproductive hilly barren land with no agricultural activity, however in the acquired land sporadic tree plantation was observed. The identified trees fall in wood tree category out of which 8 are grown by affected households in front of their houses and the remaining 30 were scattered on communal land. The trees grown by affected households will be compensated through elders of the household while the compensation for trees grown on communal land will go to community on replacement cost as below:

- Fruit Trees: compensated at yearly production value calculated 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-fruit trees: The compensation is to reflect the market value of tree's wood content, based on the girth of trunk at current market rates. The compensation for tree grown by affected households will go to the elders of the household while trees grown on communal land will go to community through Maliks.

7.5 INCOME RESTORATION AND REHABILITATION ASSISTANCE FOR LOSS INCOME.

168. The following constitutes the income restoration and rehabilitation assistance for the APs losing their employment due to this project:

7.5.1 Loss of Source of Income

All APs in business category whose livelihoods will be affected are supported for their income losses for a period of 06 months or 03 months in case of permanent or temporary income loss as transitional support to facilitate the APs to re-establish their business at replacement sites. The compensation entitlements for lost business or income will be as under in addition to entitled compensation of lost assets:

- For permanent income loss the compensation for 06 months period calculated on actual basis on production of some valid documentary proof or in absence of such documents equal to government announced minimum wage rate.
- For temporary income loss the compensation for 03 months period calculated on actual basis on production of some valid documentary proof or in absence of such documents equal to government announced minimum wage rate.
- The Affected persons falling in employee category will be compensated for lost income due loss of livelihood source for a period of 03 months based on government announced minimum wage rate.

7.5.2 Assistance to vulnerable

The households identified vulnerable during social assessment will be provided with additional allowance equivalent to 03 months minimum wage rate announced by the government over and above other entitled compensation under LARP entitlements for their lost assets as discussed above. Further they will be preferred in project related employment.

7.5.3 Project-related Employment

The Steering Committee on Integrated Transit Trade Management System (ITTMS) the apex body in its meeting (February 2015) headed by the Finance Minister of Pakistan has decided that the local community will have first right to employment (class IV) in improved border crossing point at Torkham. Besides this high level commitment to provide employment in BCP facilities, there will be employment opportunities during construction phases of the project as well. Hence, to provide livelihood opportunities, vulnerable groups in particular and the affected households losing land in general, will be given priority for

project-related employment during construction phase of the project as well. To this end specific provisions will be included in the bidding documents to ensure the affected persons and vulnerable people are provided construction related employment as per their skills.

7.5.4 Relocation Assistance for Structure Owners (Residential and Commercial)

169. All APs facing loss of residential and commercial structures will be assisted by providing transportation to shift their salvage material, belongings and family members to relocate the resettlement site or relocation site of their choice or relocation assistance to meet transportation cost for shifting. Following compensation has been provided as relocation and rehabilitation assistance.

- For loss of rented in business structure rental assistance for 03 months period will be paid to APs doing business in rented in shops either at the rate of rent being paid on production of rent payment receipt or on lump sum @ rate of Rs. 5,000/- per month.
- One time paid Shifting Allowance @. 25,000/- on lump sum basis for household facing structure loss and Rs. 25,000 for business operators to relocate his belongings from affected structures as determined on the basis of discussions during the public consultation sessions.

7.6 ENTITLEMENT MATRIX

170. Based on the eligibility criteria described above, the entitlement matrix for LARP Torkham has been developed in Table 7.1 below. Keeping in view the ongoing consultation/negotiation between the local land owners and the government for acquisition of land through lease, the entitlements for acquisition of land are based on two alternatives including i) through long term lease arrangement for which the negotiations are in process but not concluded yet, or ii) permanent acquisition of land on replacement cost bases in case the ongoing negotiation for lease arrangement is unsuccessful. However, keeping in view the worst case scenario, the land compensation costs are worked out for permanent land acquisition on replacement cost bases to estimate the LARP budget.

Table 7.1: Entitlement Matrix for LARP Torkham

Asset	Specification	Affected People	Compensation Entitlements
Communal tribal Land ¹⁸	Collective land (Barren/hilly terrain and occupied under community shops)	Khuga Khel Clans of Shinwari tribes	<ul style="list-style-type: none"> ▪ In case land is acquired on lease: Cash compensation as per agreed terms and conditions of lease agreement between the Communal Jirga and Political Administration; or ▪ In case the land is acquired permanently: Cash compensation on replacement cost basis i.e. consensus sale price as negotiated by the Communal Jirga and Political Administration. Compensation will be paid to Malik/elder of clan for downward distribution to clan members as per custom.
	Collective land under residential structures,	Affected Extended family/ Households	<ul style="list-style-type: none"> ▪ Replacement land plot in adjoining communal land if the communal land is released on lease basis by the community; <li style="text-align: center;">Or ▪ Cash compensation on replacement

¹⁸ For land losses (communal or private owned land) two alternatives which are (i) land acquisition under lease arrangement or (ii) compulsory acquisition of land on permanent basis, are considered to propose compensation entitlements.

Asset	Specification	Affected People	Compensation Entitlements
			<p>cost i.e. basis at consensus rate as negotiated by the Household elder/Communal Jirga and Political Administration if land is acquired permanently</p> <ul style="list-style-type: none"> ▪ In later case, compensation will go to elder of the affected household.
Private Household Plots	Privately owned barren land/ land under commercial uses	Affected Extended Family / household	<ul style="list-style-type: none"> ▪ In case land is acquired on lease: ▪ Compensation in cash as per agreed terms and conditions of lease agreement between the household elder or Communal Jirga with Political Administration Or ▪ In case of permanent land acquisition: Cash compensation on replacement cost basis i.e. consensus sale price as negotiated by the Household elder/Communal Jirga and Political Administration. ▪ Compensation will be paid through Household elder for distribution in family members.
Lease holders	Leased out privately owned land	Lease Holders	<ul style="list-style-type: none"> ▪ Land Lease termination support equaling the paid up cost for remaining tenure as per lease agreement rate if substantiated with documentary proof or for a period maximum up to three years if applicable.
Structures (Residential/Commercial/religious))	Residential Structure on Collective Land	Affected Extended family/Households	<ul style="list-style-type: none"> ▪ Cash compensation at replacement rates for affected structure; and Compensation for other fixed assets free of salvaged materials depreciation and transaction costs. ▪ Compensation will go to elder of household. ▪ Livelihood Assistance Allowance equal Pak Rupees to lump sum 03 months of minimum wage declared by the government or lump sum to cover livelihood loss during construction of house. ▪ Advance notice for 03 months minimum to relocate out of project site.
	Commercial Structures on leased land	Lease holders	<ul style="list-style-type: none"> ▪ Provision of replacement land in the new terminal premises on a secure tenure basis to relocate business; ▪ Cash compensation at replacement rates for affected structure; and compensation for other fixed assets free of salvaged materials, depreciation and transaction costs. ▪ Sufficient advance notice (minimum 6 month) to re-establish commercial structure on replacement place before dismantling the existing to avoid interruption in facility and business.

Asset	Specification	Affected People	Compensation Entitlements
	Commercial Structures (Shops) on	Khuga Khel Clans of Shinwari tribes	<ul style="list-style-type: none"> ▪ Replacement structures of similar type and dimensions will be provided at alternate communal land, without deducting salvage material. Or ▪ Cash compensation on replacement costs basis/consensus rate including compensation for utilities (electricity, water supplies and telephone) free of depreciation and transaction costs will be provided to the communal Jirga for reconstruction of structure at their own and salvage material is allowed.
Trees	Trees affected	Affected Extended family/Households/ Respective clan	<ul style="list-style-type: none"> ▪ Fruit Trees: compensated at yearly production value calculated 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-fruit trees: The compensation is to reflect the market value of tree's wood content, based on the girth of trunk at current market rates ▪ The compensation for trees on private land will go to the elder of household and the tree on collective barren land will be compensated to the Community through elder of the clan.
Business Loss Employment/li velihood loss	Businesses Losses renter business operators in communal shops.	Relevant individuals	<ul style="list-style-type: none"> ▪ Cash compensation (03 months period) on actual basis on production of some valid documentary proof or equal to government announced minimum wage rate. ▪ Rental assistance (03 months period) either at the rate of rent being paid on production of rent payment receipt or on lump sum @ rate of Rs. 5,000/- per month.
	Employees	Relevant individuals (if any)	<ul style="list-style-type: none"> ▪ Cash compensation (03 months period) equal to government announced minimum wage rate in case employment loss.
Relocation	Transport/transition livelihood costs	Affected extended family/household	<ul style="list-style-type: none"> ▪ Provision of sufficient allowance to cover transport expenses for transportation of salvage material and belongings to relocation site. For the project the allowance has been set at Rs.25, 000.
Cultural and community structures	Affected community assets	Manager of structure	<ul style="list-style-type: none"> ▪ Reconstruction of affected community structure (if any) as part of project to ensure community rituals are not interrupted, Or ▪ Cash compensation for affected community structure on replacement cost basis.
Public utilities	Affected public utilities	Appropriate department	<ul style="list-style-type: none"> ▪ Relocation and installation costs for water wells/pumps,

Asset	Specification	Affected People	Compensation Entitlements
			<ul style="list-style-type: none"> ▪ Electric pools and transformers and other similar immovable assets if any as project component.
Vulnerable AP livelihood		AP below poverty line or disabled	<ul style="list-style-type: none"> ▪ Vulnerability allowance equivalent to 03 months minimum wage rate announced by the government over and above other entitled compensation; and ▪ Employment priority in project-related jobs.
Unanticipated Impacts			<ul style="list-style-type: none"> ▪ Unanticipated impacts if identified at final design or during implementation of the project will follow the entitlement provisions listed above and ADB SPS requirements.

SECTION 8

RELOCATION, REHABILITATION AND INCOME RESTORATION

8.1 GENERAL

171. This section describes options for relocating housing and other structures, including replacement cash compensation, and/or self-relocation; outlines measures to assist affected persons for establishing at new sites; describes income restoration programs, including multiple options for restoring all types of livelihoods and describes special measures to support vulnerable groups and women.

8.2 RELOCATION OF APs

172. The land acquisition impacts for proposed IBSP at Torkham Border varies considerably between communal and private land. Of the total land to be acquired, approximately, $\frac{3}{4}$ is communal land whereas the remaining $\frac{1}{4}$ is owned privately. The majority of the communal land facing acquisition is unoccupied, except for nine small shops and three residential structures. On the other hand, the private land that has to be acquired is currently occupied by commercial units including a petrol pump (which with service area) and two weighing stations.

173. The structures located on the acquired **communal land** including 09 shops (communal) and 03 residential structures will be affected to an extent of 100% and will be relocated/shifted due to project activity. All the shops are communal owned and rented out to the identified business operators and residential structures have been established on communal land by the affected households. The relocation/shifting options were discussed in detail with the owner of the affected houses and other structures during consultation process. For relocating the **residential structures** the community will provide adjoining communal land in case the land is released on the lease basis, while in case it is permanent acquisition the effected house hold will be provided with compensation for land occupied under his residential structure on replacement cost basis to relocate at his own. This issue will be dealt with at the level of the government committee on LAR issues at Torkham and the 9-member Jirga representing communal land owners. The commercial structure/shops will be constructed on replacement place as agreed with communal Jirga for its continued uses as such in the locality. All such shops are rented out to 9 affected persons for earning their livelihood and due to impacted shops they will suffer income losses due to interrupted business if not provided alternate location. Accordingly, as per compensation entitlements following relocation strategy has been adopted.

- The Occupants of the residential structures will be compensated for the total structure loss at replacement cost basis either with replacement land in case communal land released on lease or land compensation on full replacement costs; while renter business operators will be paid business / transitional allowance equal to 03 months income losses on production of tax record or equal to minimum wage rate announced by the government if the tax record is unavailable.
- Transport facility or Transportation charges for shifting of salvage material and belongings to the relocation site.
- The owner of the residential structures will be given 03 month advance notice for vacation of affected structure at the time of payment of compensation amount.

174. The structures located on the acquired individually owned land include 03 commercial structures (two owned by the lease holders and one by the land owner himself). The identified structures include two weigh bridges and one filling station with service area for truckers and freight vehicles that use existing border facilities for cross border movement. As these commercial structures have a direct link with operation of

existing Border crossing facilities, hence these three structures will have to be kept in operation not only during construction phases of the project but there after as well. Hence, these structures will be adjusted in the improved border crossing facilities by providing replacement land on secure tenure basis for their relocation. Accordingly following relocation strategy is proposed for three commercial structures to ensure that the available services for existing BCP operation and local community are not disrupted and compromised:

- Provisions of Replacement land in proposed border facilities;
- Replacement cost based compensation of structure including cost for relocation of installation and establishment of similar facility at replacement land designated for the purpose.
- Adequate time will be given to establish the facility at relocation site, meanwhile the existing business will kept in operation to provide uninterrupted services and supplies to the transport and freight using the BCP.

175. With this arrangement it is perceived the relocation of the commercial structures will not pose any additional impact on business/income of the commercial business operators and livelihood of the employees engaged. However, if some unanticipated impacts are identified that will be compensated as per income restoration provisions provided in entitlements section.

8.3 REHABILITATION OF AFs/ APs

176. Entitlement provisions for the APs / APs losing land, structures; and income losses and rehabilitation subsidies include provisions for land losses, house and buildings losses, trees losses, a relocation subsidy, and a business losses allowance based on their average income as per census survey and / or lump sums. Each category of affectees is described in more detail as follows:

8.3.1 Communal Land

177. A total of 37.3 acres will be acquired from the three clans that jointly own the communal land planned for acquisition under BSIP Torkham. The 9-member Jirga with three representatives of each of the three clans is engaged in a negotiation process with the Government's Committee on LAR Torkham chaired by the PA, Khyber Agency. The clans have decided to lease out their land to the government for the Project. Once the terms of a rental lease agreement have been finalized, the EA will ensure that the agreed final rates and the prescribed time period are followed and the interests of the three clans are protected. As per agreement between the three clans, the final compensation will be shared amongst them based on the existing agreed sharing formula of the three clans.¹⁹ Clan representatives will then divide the compensation amongst all heads of family. The residential and commercial structures on communal land will also be compensated on replacement cost basis. In case of residential structures, transportation allowance, transition allowance and utilities expense will be covered under the project budget.

8.3.2 Private Land

178. A total of approximately 13 Acres of private land will be acquired from three families for Torkham BSIP. The Government Committee on LAR Torkham in consultation with private landowners will finalize an appropriate compensation rate based on the existing land use. Currently, about 25% of the private land is being used for commercial propose (petrol pump, weigh stations); whereas the rest is unoccupied barren land. Besides providing compensation for land on consensus unit rates, the other assets located on acquired land will be compensated on full replacement cost bases to ensure

¹⁹ Currently, the three clans share all income/profit from communal land based on the 1976 population of the three clans.

that the affected households can reestablish their assets in nearby location to continue their livelihood sources as before.

8.4 APs INCOME RESTORATION

179. The project envisages the construction of facilities by acquiring minimum required area avoiding involuntary resettlement as much as possible. During planning of LAR the prime focus was to ensure minimum impact on income generating sources of affected person. Besides, the AP's losing business structures will be preferred to provide replacement business place in the service areas proposed in the project design. Due to limited business potential near security sensitive border location, the commercial / business structures are non-existent and the major source of livelihood for locals and affected population are the import and export processing areas in existing border crossing trade terminal. The implementation of construction works for new import and export processing areas are planned to be carried out in such a way that the operation of existing terminal are not hampered and the major livelihood source of the locals and affected population is intact. All livelihood and income restoration activities will be implemented as given in the entitlement matrix. The following constitutes the income restoration strategy for this project for APs who suffer livelihood losses.

8.4.1 Income Loss/Livelihood Allowance

180. The project has a significant impact on income from land holdings which are compensated and taken care off in entitlement provisions. It is apprehended that the AFs in employee category face loss of their income/livelihood source due to lost commercial structure or the structure owners who may become engaged in reconstruction resulting into interruption in their routine livelihood earning activities. To restore any such loss of income all AFs whose livelihoods are affected will be supported for their income losses calculated on the basis of minimum wage rate announced by the government for a period in which they are unable to attain their routine livelihood earning activities which could be up to 03 months maximum.

8.4.2 Transitional Support Allowance

181. Although with the relocation strategy proposed above there are bleak chances for business/income losses, however there is likelihood that the APs in business category (renter business operators) may face temporary basis interruption for a period required to relocate their business in the replacement structures provided either in the service areas/business center in new terminal or the relocation site proposed by the Communal Jirga So to provide compensation for temporary business interruption period, in addition to compensation for their lost assets a transitional allowance equal to 06 months (permanent business loss) or 03 month (Temporary income loss) will be provided on actual loss on production of tax payment record or on calculated on government announced monthly wage rate for respective period as per entitlement provisions. A total of 9 shops have been identified facing temporary loss due to loss of their structure/shops.

8.4.3 Project Related Employment: (For Unskilled and Semi-Skilled Tasks during Construction)

182. At construction phase of project job opportunities related to construction works and allied services will be created for local community for both semi-skilled and unskilled workers. The affected persons in general and the vulnerable in particular will be given preference to project related employment during construction phase. To this end specific provisions will be included in the bidding documents to ensure the affected persons and vulnerable people are provided construction related employment as per their skills. The progress of the employment provided will be monitored during construction phase.

183. (For Unskilled and Semi-Skilled Tasks during Operation): The operation of new facilities will require engagement of additional staff for watch and ward of the new terminal and operation of the facilities. To this end the government has already decided in the meeting of Steering Committee held in February 2015 to prefer hiring suitable personals

(as per skill) from local community. Meanwhile, with new facilities trade between Pakistan and Afghanistan through Torkham will increase manifold and will require additional human resource. Hence in services sector, more job opportunities for both unskilled and semi-skilled workers will be generated. Besides, due to peculiar security sensitivity along border locations and perceived social conflicts between locals and out sided work force, the locals are preferred. With this potential, improved trade terminal is likely to accommodate most of the unskilled and semi-skilled workforce of the affected area.

184. The designed facility also includes service areas within import and export processing units where space for auto mechanic facilities, small canteens and snack stalls will be provided. During operation phase, such facilities will be provided to the willing members of affected households at secured tenure basis for augmenting their livelihood earning and improve living standard. The compliance to this effect will be monitored and reported in post construction evaluation of the LARP implementation.

SECTION 9

RESETTLEMENT BUDGET

9.1 GENERAL

185. This section provides the indicative compensation cost estimates for land acquisition, building structures and rehabilitation of the affectees. Efforts were made to work out realistic cost estimates / values that are applicable for fair compensation to the affectees on replacement cost basis for affected communal and private land with other assets at Torkham. For this reason, local Jirga authorities & concerned government departments were consulted and market surveys were carried out in order to evaluate and apply unit rates based on the ground realities.

9.2 COMPONENTS OF THE COST ESTIMATES

186. All the land to be acquired and land based assets/structures falling in the right of way have been identified and listed. In case, the affected part of the building structure is substantial and becomes of no use to the owner, would be compensated fully. In addition to this, resettlement and rehabilitation costs for the affected and costs of communal and private assets have been estimated.

9.2.1 Compensation Costs (CC)

187. Compensation costs (CC) includes the cost of land and commercial structure, wood and fruit trees, crops, transitional period assistance and shifting charges for the affectees falling within the ROW.

188. Quantification of all these items has been made based on the data collected through physical measurements conducted in the field. The affected structures have been categorized based on construction material used. Quantities and costs have been developed in consultation with local authorities.

9.2.2 Land Acquisition Costs

189. As the efforts in process are to arrive a consensus to release land on lease bases without foregoing land title by the land owners and it is elusive to propose lease compensation rates in the Draft LARP. Besides, if required, permanent acquisition will also follow the principal of consensus rates for compensation under local customs and legal frame work which is consistent with ADB's preference for land compensation. Accordingly, to determine the tentative replacement value, if the land is acquired on permanent bases, previous precedents of land sale and purchase in nearby town (Landi-Kotal) were looked into. It is observed that, land for establishment of a Grid Station is acquired recently wherein the market rate arrived for compensation is about Pak Rupees 5.0 million/Acre and same is adopted as tentative unit rate for estimating budget on replacement cost for land Losses. The compensation for private land or communal land occupied under residential structures will go to household elder while compensation of communal land will go to the tribe (Khuga Khel Clan) through respective Maliks/Elders as per their customs and traditions. The tentative cost calculated for land on replacement cost bases is **Rs. 251,500,000/= (251.5 million)**.

Table 9.1 - Summary of Affected Land and Costs

Affected Area	Compensation		
	Land ^(a) (Acre)	Unit Rate ^(b) (PKR Million)	Cost ^(axb) (PKR)
Private Land	13.0	5.0	65.0
Communal Land	37.3	5.0	186.5
Total	50.3	5.0	251.5

9.2.3 Cost of Affected Structures

190. While during construction of project, total 15 structures including 09 communal shops, 03 commercial structures (01 Petrol Pump and 02 weigh stations) of different construction types will be impacted. Depending on type of construction the estimated compensation cost on replacement value is worked out as **Rs. 71,322,400 (71.3224 Million)**. APs of these affected structures would also be allowed to take their salvage material. Moreover, no depreciation cost was considered while estimating structure prices. The 09 shops are communal property and the compensation will go to the tribe through Malik for reconstruction of shops on alternate communal land while compensation for residential structures and the 3 commercial structures will go to respective structure owner households.

Table 9.2 – Summary of Affected Structure Costs

S. No.	Affected Asset	No. of Structures	Construction	Affected Covered Area (sq.ft)	Unit rate	Cost
	Type		Type	Area	PKR	PKR
1	Shop	2	Katcha	2448	900	2,203,200
2	Shop	2	RCC	816	1600	1,305,600
3	Shop	5	Pacca	6356	1400	8,898,400
4	House	1	Katcha	1632	900	1,468,800
5	House	2	Semi-Pacca	27,200	1200	32,640,000
6	Petrol Pump, Weigh stations	3	RCC	15504	1600	24,806,400
Total Structure cost						71,322,400

9.2.4 Tree Losses

191. As per impact inventory fruit trees are not identified in the project site. The project will impact 38 wood trees (non-fruit) that include eight (8) trees grown by the residential structure owners and 30 are on un-occupied communal land. Table 9.3 shows the number and cost of affected non-fruit and fruit trees. The total cost is worked out to be **Rs. 152,000 (0.152 million)**. Cost for wood trees is valued on the girth of trunk on wood volume bases at current market rates. The compensation will be paid to the household elder in case the tree are grown by the affected house hold while compensation for trees grown on unoccupied land will go to the khuga khel clan through Malik/elders as per local customs and traditions.

Table 9.3 - Summary of Affected Non Fruit/Wood Trees

S. No.	Type	No.	Girth size	Unit rate	Total Cost (PKR)
1	Wood Trees (private)	8	< 24"	4000	32,000
2	Wood Trees (Communal)	30	< 24"	4000	120,000
Total		38	< 24"		152,000

9.2.6 Business/Transition Allowance

192. The commercial structures (one petrol pump and two weigh stations) have a direct link with operation of existing Border crossing facilities, hence these three structures will be kept in operation not only during construction phases of the project but there after as well. Accordingly, these structures are be adjusted in the improved border crossing facilities by providing replacement land on secure tenure basis for their relocation without interrupting the facilities available. However, these structure owners are paid costs for other fixed assets to re-establish their commercial structures at alternate place as shifting charges at the rate of 5.0 million for Petrol Pump and 2.0 million for the Weigh bridges. The total compensation cost for shifting charges of the three structures is **PKR. 9,000,000/ (9.0 Million)**.

193. Besides above, due to 09 impacted communal shops the business of renter business operators will be affected temporarily for shifting their business in other rented in shops or in replacement shops provided in the BCP facilities. Accordingly keeping in view temporary business loss all such business operators are compensated for their businesses losses during the period of interruption. They will be entitled for the business loss for the transition period of 3 months calculated on minimum monthly wage rate which comes Rs 0.297 million and a rental assistance allowance for a period of 03 months calculated on actual bases as per paid rent or @ Rs 5000 if rental receipts are not produced which amounts to Rs 0.135 million. The total amount of cash compensation for Transition support to 09 shop proprietor is estimated as **Rs.432,000 (0.432 Million)**.

9.2.7 Lost Income/Livelihood Allowance

194. According to the census survey, 3 residential structures will require relocation and the affected household may face livelihood interruption during construction of new houses at replacement land. So all three households are compensated for livelihood assistance for a period of 03 months based on government announced minimum wage rate. The total amount of cash compensation for **Rs. 99,000 (0.099 Million)** is estimated under this head.

9.2.8 Transportation/Shifting Allowance

195. All APs falling in residential structure owner category and the business operators of rented in shops will be assisted by providing transportation to shift their salvage material, belongings and family members to the relocation site or relocation assistance to meet transportation cost for shifting. One time paid Shifting Allowance @ 25,000/- on lump sum basis for business operators will be paid to 12 affected households. Therefore, provision has been made for transportation allowance and estimated to be **Rs. 300,000 (0.3 Million)**.

9.2.9 Electricity Allowance

196. The APs by 03 commercial enterprises will need electricity connection at their new place of shifting. Therefore, provision has been made for new electricity connection as allowance for all these APs. The electricity charges will be estimated **Rs. 300,000 (0.3 Million)** proposed to be paid.

9.2.10 Vulnerable People Allowance

197. As per census, 05 affected household have disabled members in their family and are taken as vulnerable. They will be provided with additional allowance equivalent to 03 months minimum wage rate announced by the government over and above other entitled compensation under LARP entitlements for their lost assets. Further they will be preferred in project related employment. The cost estimation of vulnerability allowance is estimated to be **Rs.165,000 (0.165 Million)**.

9.2.11 Monitoring and Evaluation

198. Monitoring and evaluation of the LARP implementation process is required for fair compensation. A sum of **Rs 16.66 million** is provided in the budget @ 5% of total cost.

9.2.12 Administration Cost

199. Administration cost for the implementation of LARP is also required and provided in the budget amounting **Rs. 3.33 million @ 1%** of the total cost. The cost will be incurred to meet expanses (if any) required for logistic and administrative arrangements during implementation of LARP provisions.

9.2.13 Contingencies

200. Contingencies cost @10% has been added to cover various unforeseen/ contingencies expenditure for LARP implementation and inflation which amounts to **Rs. 35.33 million**.

9.2.14 Taxes

201. Federal or provincial taxes are not applicable on any item included in compensatory package.

9.3 SOURCE OF FUNDING AND MANAGEMENT

202. As per LARP entitlements, the compensation package includes, compensation cost on replacement cost bases for impacted asset (land, structures trees and crops), relocation, rehabilitation and income restoration costs to ensure resettlement and rehabilitation of the affected households. All Compensation costs as identified in Resettlement Plan will be met from government finances resources allocated for land acquisition and resettlement in the PC-I for improving border services project. In this regards 550 (five hundred and fifty) million rupees are provided in PC-I that will be placed at disposal of the Project Director PMU. The cost required for Wagha LARP will be placed in the project account opened at PIU level at Wagah for disbursement of compensation by the PIU head.

203. For compensation delivery, a compensation disbursement committee headed by Project Director PIU will be notified to ensure transparency in compensation disbursement. Compensation will be delivered through cross cheques in the name of the entitled person. All compensation claims will be reviewed and verified by Resettlement Specialist as per entitlement provisions of resettlement plan. Afterwards, disbursement cheques, jointly signed by Project Director and Accounts officer, will be prepared and delivered to APs in person through compensation disbursement committee. APs who show unwillingness to open bank accounts due to smaller compensation amount or non-availability of Bank in nearby vicinity, his compensation will be delivered through bank account of legal Attorney duly nominated by respective AP, after due verification of record. Fees, levies or depreciation costs will not be charged for delivery of compensation cheques. A computerized database for RP implementation will be managed and complete record for compensation delivery with support documents (original) will be maintained as hard copies for ADB's review. However, in case negotiated land acquisition is unsuccessful, the BOR assessed land cost will be deposited in treasury as and when required so for completion of land acquisition process under LAA provisions while the compensation costs other than land costs not covered under LAA provisions i.e. compensation costs for resettlement, rehabilitation and income restoration will be directly delivered by the PIU.

9.4 LARP IMPLEMENTATION BUDGET ESTIMATES

204. The summary of total estimated funds for compensation costs, rehabilitation, and mitigation cost amounting to **388.59 Million** is given in **Table 9.5**. With these financial provisions, satisfaction of the project affectees is ensured and the grievances would be minimized.

Table 9.5 SUMMARY OF BUDGET²⁰

S.#	Description of Item	No. / Area	No. of Affected Household	Unit Cost in PKR	Cost (PKR.)
A	Land Acquisition Cost	50.3 Acres	4 & (1)	5,000,000	251,500,000
B	Cost of Affected Structures	15	6 & (1)	Refer Table 9.2	71,322,400
C	Tree Losses	38	3 & (1)	Refer Table 9.3	152,000
D	Business/Transition Allowance				

²⁰ The Costs indicated in table are tentative which are subject to revise in the Final LARP in line with updated impacts inventory and consensus based decision on land acquisition mode and compensation costs.

S.#	Description of Item	No. / Area	No. of Affected Household	Unit Cost in PKR	Cost (PKR.)
i	Re-establishment of Petrol-pump	1	1	5,000,000	5,000,000
ii	Re-establishment Weigh Bridges	2	2	2,000,000	4,000,000
iii	Business/Transition Allowance 03 months (shop proprietors)	9	9	11,000	297,000
iv	Rental Assistance 03 months (Shop Proprietors)	9	9	5,000	135,000
F	Lost Income Allowance 03 months (Residential structure owners)	3	3	11,000	99,000
G	Transportation/Shifting Allowance (One time Lump Sum)	12	12	25,000	300,000
H	(One time lump-sum)	3	3	100,000	300,000
I	Vulnerable People Allowance (03 months)	5	5	11,000	165,000
J	SUB-TOTAL				333,270,400
K	Monitoring and Evaluation @ 5% of SUB-TOTAL				16,663,520
L	Administration Cost @ 1% of SUB-TOTAL				3,332,704
M	TOTAL (J + K + L)				353,266,624
N	Contingencies @ 10% of TOTAL				35,326,662
O	GRAND TOTAL (M + N)				388,593,286 (388.59 Million)
Note: The figure in parentheses represents communal land/asset					

SECTION – 10

INSTITUTIONAL ARRANGEMENTS

10.1 INSTITUTIONAL REQUIREMENTS

205. The Federal Board of Revenue (FBR) is the Executing Agency (EA) for Improving Border Services Project to implement integrated trade and transit and foster the envisioned benefits of regional trade through Pakistan's Borders. Keeping in view the role of different stakeholders including government departments in financial management, revenue generation, operation of trade and transit routes and on border crossing point security checks for both passengers and freight crossing over; a high level decision taking steering committee is constituted by the Government to implement the "Integrated Transit and Trade Management System (ITTMS) project. The ITTMS steering committee has been mandated to assign specific roles to different stakeholders and oversee finalization of the planned targets and coordinate with development partners for soliciting their technical and financial support. The compensation and rehabilitation components in this LARP follow a distinct set of procedures to be executed by different stakeholders. These processes will be implemented through a combination of established institutional and project-specific institutional arrangements. The Federal Board of Revenue (FBR) and National Logistic Cell as the Executing Agency (EA) and Implementation Agency (IA) respectively, and Office of the PA, Khyber Agency constitutes the major bodies that will coordinate to ensure implementation of the LARP for Torkham BCP.

10.2 FEDERAL BOARD OF REVENUE (FBR) AS EXECUTING AGENCY (EA)

206. As the EA, FBR has overall responsibility for project implementation including acquisition of land and other assets in compliance with ADB's Safeguard Policy Statement (SPS) 2009. A project-specific Project Management Unit (PMU) along with three regional coordination offices designated as sub PMU at each BCP level with required technical, financial and administrative authority is being established in the FBR with a mandate of management role and employer under FIDIC conditions. On behalf of FBR, the PMU will be the responsible institution to oversee the safeguards implementation progress of improving border services project. PMU's safeguards management roles and responsibilities are discussed in sections below.

207. At Border crossing point level the National Logistic Cell (NLC) is already operating existing trade terminals in the available land owned by the NLC. Hence keeping in view the NLC's role in border management and operating of existing terminals the ITTMS Steering committee in its meeting dated 25 February, 2015 assigned the role of project implementation unit to NLC for site supervisions of day to day activities and acquisition of additional land for the project. Hence, at Torkham the safeguards management responsibility will reset with PIU who will be responsible for day to day planning, implementation and monitoring of LARP implementation.

10.3 POLITICAL ADMINISTRATION KHYBER AGENCY UNDER FATA REGULATIONS

208. Besides the above institutional arrangements, the tribal nature of the project area calls for arrangements specific to the tribal areas. Under FATA regulations, not only does the Political Administration bear the responsibility for general law & order situation in the area, they are well-versed with the tribal systems under their control and thereby are able to play a pivotal coordination role between the project executants and the local Jirga. It necessitates the involvement of the Political Administration at all levels of the project cycle including preparation, implementation, conflict resolution and monitoring. Based on project locus in FATA, the LAR and IR affairs could only be dealt with direct involvement of the Office of the Political Agent (PA), Khyber Agency and Office of the Assistant Political Agent (APA), Landi Kotal. Hence, the PA, Khyber Agency will provide coordination

support as facilitator at the PMU level while the Assistant Political Agent, Landi Kotal will perform the necessary functions at sub PMU and PIU level to facilitate the project executors during land acquisition, LARP preparation, implementation and monitoring as well as resolution of grievances if any. These arrangements will be managed by a series of project-specific coordination committees including the Project Implementation Committee at PMU Level, Land Acquisition and Resettlement Coordination Committee and Grievance Redress Committees at the sub PMU/PIU level. The institutional arrangements proposed/required for effective delivery on safeguards management is discussed in sections below.

10.4 PROJECT MANAGEMENT AND IMPLEMENTATION UNITS.

209. For implementation of the Improving Border Services Project a Project Management Unit (PMU) will be constituted in the FBR to supervise over all implementation progress and ensure timely deliverables and on time project completion. The financial costs for establishment of PMU are included in PC-I approved by the government. At BCP level, National Logistic Cell (NLC) will act as Project Implementation Unit (PIU) to supervise day to day project implementation activities and assist PMU at FBR for timely delivery of the project. The PMU at FBR will be headed by a Project Director having full financial and administrative powers with technical, financial and safeguards management staff hired from the market on compatible salary package and the sub PMU will be headed by a Project coordination Officer at BCP level to carryout functions at site on behalf of PMU and coordinate with the PIU in smooth implementation of the project. At sub PMU and the PIU level technical expertise will be augmented through hiring project management consultants who will be recruited outside and attached to PIU.

210. The overall responsibility for delivery on safeguards management rests with FBR as EA through PMU and PIU's to be established at FBR and Border crossing points. The existing capacity of PMU and PIU is reviewed and the institutional arrangement available and to be put in place for delivery on safeguards management and preparation, implementation and monitoring of Land Acquisition and Resettlement Plans are discussed as under:

10.4.1 Safeguards Management Cell at PMU

211. As the PMU at FBR will be over all responsible for the delivery on safeguards management, hence at PMU level in FBR a an Environmental and Social Safeguards Management Cell (ESC) from within staff at PMU will be established / notified to oversee and monitor Land acquisition and Resettlement Progress and coordinate ADB safeguards management team throughout project implementation period. However, keeping in view the distinctive legal and administrative frame work in tribal area, the coordinative role of FATA administration i.e Political Agent Khyber Agency and his subordinate's office is essential to plan and implement the LARP provisions as per policy. Hence, it is suggested that the Political Agent Khyber Agency will be coordinated by the ESC for extending his support during implementation of safeguards initiative as and when required. The Safeguards Management Unit at PMU will include:

- Project Director PMU Chairman
- Director Coordination PMU Member
- Project Coordinator Torkham sub PMU Member
- Social Safeguards Management Specialist PMU Member
- Environmental Management Specialist PMU Member

212. On behalf of EA, the unit shall oversee planning and implementation of the safeguards management and ensure the LAR deliverables are submitted to ADB in a timely manner. It shall perform following functions.

- i) The unit shall act as a steering body for the LAR activities at the project and shall formally assemble once a month for routine LAR matters to review LAR planning and implementation issues. Special meeting/routine discussions can take place, as and when required.
- ii) It shall coordinate with ADB and share LAR planning, implementation and monitoring progress reports as and when required and discuss the LAR issues to seek guidance on ADB's policy requirements and ensure the LAR planning and implementation is consistent with ADB's safeguards requirements.
- iii) It shall ensure timely implementation of LAR activities and monitor the progress thereon during execution of the civil works and shall share LAR implementation progress and monitoring reports with ADB.
- iv) It will act as a support mechanism for the PA, Khyber Agency who in his role at the 2nd level of GRM discussed in Chapter 5, is the final decision-maker on unresolved grievances at the Jirga and GRC levels.
- v) The unit shall coordinate on regular basis with the Land Acquisition and Resettlement Units, Grievance Redress Committee and local Jirga established / notified at PIU level to provide guidance and support in LAR implementation and grievances redress in a manner consistent with ADB's safeguards requirements.

10.4.2 Land Acquisition and Resettlement Unit (LARU) at PIU.

213. At Torkham Border Crossing Point site the Project Management Unit will exercise its safeguards management related functions through its sub-PMU and Project Implementation Unit (PIU) that will be led by the National Logistic Cell (NLC) already operating at Torkham. At sub PMU/PIU level a Land Acquisition and Resettlement Unit/committee will be notified to process acquisition of land and other assets under LAA provisions, prepare and update land acquisition and resettlement plans as per SPS 2009 requirements, carry-out day to day LAR implementation and monitoring activities and deliver compensation to the affected households for acquired assets and lost livelihood and income sources. The Project Management and Implementation Units will be facilitated by Land Acquisition and resettlement Unit (LARU), to ensure timely establishment of Grievance Redress Committee and Jirga at the local level. The LARU will also ensure effective coordination between line government departments, concerned stakeholders and displaced population during updating, implementation and monitoring of this RP.

214. LARU shall comprise the following members with their respective functions:

- i. Regional Project Coordinator sub PMU Torkham
Unit Leader.
- ii. Director Land NLC (PIU) Member
- iii. Senior Manager NLC (PIU) /Deputy Collector Custom, Torkham BCP Members
- iv. Resettlement Specialist (PMC) Member/Coordinator
- v. Junior Sociologist (PMC) Community Liaison

215. The Resettlement Specialist (RS) as LARU member will facilitate and support other LARU team members as focal person in resettlement planning, updating and implementation of resettlement plans to ensure compliance with SPS requirements. Moreover, the RS will provide guidance to team members during consultations and information dissemination of resettlement activities. Besides he will be a focal person to monitor the day to day implementation progress and compile periodic internal monitoring reports to be shared with ADB through safeguards management unit at PMU. The LARU

will have one Junior Sociologist to assist Resettlement Specialist and the LARU team in consultation meetings, disclosure of project information, information sharing with APs related to disbursement of compensation and related tasks as well as to retain a close liaison with the local Jirga to facilitate them during periodic meetings and resolution of their issues at local level or elevate AP's complaints/grievances at 1st level of GRM. The scope of work of LAR Unit includes:

- i) The unit shall exercise its functions as LAR planning and implementation unit at site and with its routine functions shall formally assemble once in a month to discuss progress on land acquisition matters, and preparation, updating implementation and monitoring of LARPs implementation in field. However, for routine LAR matters, special meeting/routine discussions can take place, as and when required.
- ii) It shall implement LAR activities and monitor the progress thereon during execution of the civil works.
- iii) In order to efficiently deal with APs grievances, the unit shall coordinate on regular basis with the grievance redress committee and local Jirga.
- iv) Coordinate with Office of APA, Landi Kotal to follow-up progress on land acquisition and delivery of compensation to affected land owners.
- v) LARU will hold meaningful consultations with the APs and other stakeholders including government and non-government organizations to, discuss the LAR issues of the project and remedial measures to offset the adverse impacts; maintain the record of consultative meetings; ensure disclosure of the draft and approved RP; disseminate project related information to relevant stakeholders including eligibility criteria, entitlement provisions, asset valuation, compensation delivery and grievance redress mechanisms etc.
- vi) Facilitate the Safeguards Management Unit in PMU during their visits to the land acquisition and resettlement sites; prepare and submit updated LAR implementation progress reports to PIU and PMU on regular basis and; assist PMU and PIU in review of LAR issues and prepare and implement corrective actions to ensure LAR activities during execution of civil works are consistent with SPS requirements.
- vii) LARU shall track day to day LAR implementation progress and make adjustments in implementation schedule to achieve the targeted timelines as well as preparing quality internal monitoring reports and consolidating quarterly monitoring reports for sharing with PMU and ADB and uploading on FBR website for disclosure.

10.4.3 Grievance Redress Committee

216. The project site is located in FATA that have distinctive legal and administrative frame work. The country laws and judicial systems are not extended to FATA hence; the grievance procedures that are provided in the Land Acquisition Act 1894 are not applicable in FATA; and the FCR regulation 1901, lacks mechanism for resolving grievances related to the resettlement and rehabilitation issues of the project affected persons. In this context as discussed in chapter 5 a three tiered GRM is proposed for handling and resolution of land and non-land based grievances arising due to acquisition of land and other assets as well as during execution of the project civil works under ADB policy principals outlined in SPS 2009. The first level of grievance redress mechanism at PIU level will be achieved by the Jirga comprising of members from both local community and the project implementing authorities. However, keeping in view the legal and administrative framework of the project area, a Grievance Redress Committee is being constituted as under to handle all safeguards related grievances including land acquisition matters:

- i. Assistant Political Agent (Landi Kotal) Convener
- ii. Project Coordinator sub PMU Torkham BCP Deputy Convener/Member

- | | | |
|------|---|---------------------|
| iii. | Manger NLC (PIU) /Deputy Collector (Custom) Torkham BCP | Member |
| iv. | Resettlement Specialists (PMC) | Focal person Social |
| v. | Environment Specialist (PMC) | Focal person Envr. |
| vi. | One representative from each clan of Khuga Khel Tribe | Member |

217. The scope of work of Grievance Redress Committee for social safeguards is discussed as below.

- a) The GRC shall prepare a register for the purposes of entering each and every complaint either received directly from the AP or through, PMU, FBR or other outside agencies i.e. Contractor or Supervision Consultants or ADB.
- b) These complaints shall be carefully categorized in separate heads as against price fixation of Land (*if any*), crop, trees, structures etc. Or problems in relocation and seeking assistance for rehabilitation etc. Such complaints shall be disposed of within 30 days.
- c) The GRC shall acknowledge the complainant about his complaint and initiate the field investigation of issues raised by the complainant through land/technical staff assisted with resettlement specialist and junior sociologist for fact finding to determine eligibility and entitlement of the complainant.
- d) GRC after review of record including fact finding report on complaint and visiting the site (if deem necessary) shall summon the complainant for hearing and produce evidence of his claim (if required), shall recommend the remedial measures consistent with RP provisions to resolve the issue and communicate its recommendations/report to the LARU/Project Directorate for implementation and resolution of the problem accordingly.
- e) The Resettlement Specialist will be the focal person of GRC who shall maintain all record of complaints and coordinate the meetings of the GRC and will minute the proceedings of all such meetings.
- f) The Resettlement Specialist shall assist the GRC convener to prepare a monthly progress report regarding complaints received and disposed off in each monitoring month and such reports shall be submitted as part of internal monitoring reports (IMR) to heads of project LARU and PMU on monthly basis.
- g) The GRC shall ensure that all field visits and consultations with the APs are properly documented, snapped, and recorded on the video; such record shall be placed in the Project Office (PO) at site in original and copies of the record will be sent to PMU at FBR.
- h) In case of disagreement by AP with GRC's recommendations/decision the GRC shall send the complaint with its record to 2nd level of GRM (Office of PA, Khyber Agency) for its review and decision if AP opts so.
- i) GRC shall communicate its decision / recommendations to the complainant and project directorate for execution and shall close the complaint file with prior approval from the PMU head.

10.4.4 Jirga (Council of Local Leaders)

218. A traditional council of village elders (Jirga) has already been constituted with the direct guidance of the APA, Landi Kotal. The Jirga will act as coordination node between the project executing authorities and the affected persons for coordination and information dissemination to keep them informed about day to day development on the project,

particularly about the RP implementation and grievance resolution progress. The Jirga will act as first level for redress of grievances and will provide a platform for APs to raise and discuss their concerns, resolve petty issues at local level with assistance from sub PMU, and coordinate with project executors to implement the LARP provisions, recommendations of the Jirga and GRC to address community concerns regarding social issues.

10.4.5 Project Management Consultants

219. In coordination with the sub PMU at Torkham BCP, the overall responsibility for day to day implementation is with NLC as PIU, so to augment that capacity of the sub PMU and PIU in technical, financial, procurement and contract administration, and safeguards management, project management consultants will be recruited. Under PMC following experts with proven track record will be recruited and placed in sub PMU/PIU Torkham to facilitate Land Acquisition and Resettlement Team to handle and manage safeguards fully consistent with ADB's requirements:

- (i) Resettlement Specialist (RS): to facilitate in planning, updating implementing and day to day monitoring of the LARP
- (ii) Junior Sociologist/Social Mobilizers: under supervisions of Resettlement Specialist will facilitate in community coordination, consultation and to and forth dissemination of information on safeguard issues.

220. The RS will be responsible for a diverse number of inter-related activities and output for implementation of LARP. The Resettlement Specialist will be responsible for all LARP updating work including:

- (i) Detailed measurement of affected assets, updating of the list of affected persons as per final impacts (land and other assets) and updating of the LARP budget based on compensation entitlements for lost assets and resettlement and rehabilitation and livelihood restoration measures.
- (ii) Updating of draft LARP as final implementation ready LARP and disclosure of LARP provisions to the affected communities and other stakeholders;
- (iii) Sharing draft LARP with sub PMU and PIU at site and ESC in PMU for EA's endorsement before submitting to ADB for review and clearance.
- (iv) Coordination with the affected communities for submission of compensation claims and collection of their compensation
- (v) Preparation and processing of compensation claims as per LARP provisions
- (vi) Stakeholders consultations and information dissemination on project implementation and compensation delivery
- (vii) Monitoring of day to day LARP implementation, identifications of implementation lags and issues, suggests corrective measure to update implementation plan for overcoming the lagging components in LARP implementation
- (viii) Preparation of LARP implementation progress (monthly) reports for review of PIU and PMU as well as periodic internal monitoring reports to be shared with ADB for review, concurrence and uploading on ADB and FBR websites.

10.5 COORDINATION INITIATIVES

10.5.1 Steering Committee for Integrated Trade and Transit Management System

221. A high level committee chaired by Minister Finance with Secretary Finance and Ministers as well as administrative Secretaries of Foreign affairs, Defence, Commerce,

Communication, Railways departments as members has been constituted for inter departmental coordination and implementation of the project. ITTMS steering committee is the highest decision making authority for project implementation issues and provide over all guidance for all agencies involved in project implementation.

10.5.2 Project Implementation Committee (PIC)

222. At PMU level, a Project Implementation Committee (PIC) consisting of senior officers (not below the rank of Additional Secretary) from Ministry of Commerce, Ministry of Defence, Revenue Division FBR, Political Agent, Khyber Agency, Director General (NLC), and Project Director PMU is proposed to be established that will guide PMU and PIU, review the progress of implementation and shall coordinate with relevant Ministries/Departments to sort out any project implementation problems.

SECTION 11

IMPLEMENTATION SCHEDULE

11.1 INTRODUCTION

223. Implementation of LARP consists of compensation to be paid to the DPs for affected land, structures and rehabilitation and resettlement activities. The time for implementation of the LARP will be scheduled as per the overall project implementation. All activities related to the land acquisition and resettlement are planned to ensure that compensation is paid prior to displacement and commencement of civil works. Public consultation, internal monitoring and grievance redress will be undertaken intermittently throughout the project duration. However, the schedule is subject to modification depending on the progress of the project activities. The civil works contract for the project will only be awarded for construction work, after all compensation and relocation has been completed for project and rehabilitation measures are in place, as confirmed by independent Monitor.

11.2 SCHEDULE FOR LARP IMPLEMENTATION

224. The draft LARP is prepared based on the preliminary project design and efforts were made to identify and assess all impacted assets including land, structures, trees and crops. In line with the tribal nature of the project area, impacted assets were linked with the local Jirga representing the three sub-tribes (Ashraf Khel, Bassi Khel, and Fatimi Khel for communal land and with extended family elders for privately owned land. For identification of impacted land and other assets linked to communal land, the Office of the APA, Landi Kotal and the local Jirga were consulted. With respect to privately owned land, the local Patwari shared records of extended families that own the land. Through community consultation and field survey work, efforts were made to verify the information gathered from the Local Administration and Patwari's offices to ensure that all impacts are linked to the affected persons to a certain degree of precision. However, the list of land affected persons could only be made final when the acquaintance role for payment of compensation is finalized after concluding ongoing negotiation between the parties.

225. The proposed project's resettlement activities are divided into three broad categories based on the stages of work and process of implementation. The details of activities involved in these three phases-project i.e., i) Updating/Finalization of draft LARP as final implementation ready LARP with final census linked impacts and compensation budget, ii) LARP Implementation phase includes payment of all entitled compensations to respective APs and rehabilitation measures put in place, iii) Monitoring and Reporting phase. Accordingly, the implementation schedule is prepared and discussed below

11.2.1 LARP Preparation/Updating Phase

226. The draft LARP is prepared on the basis of preliminary design however it will be updated and finalized when land acquisition process or detailed design is completed. As per the laws of FATA and local customs, the compensation for acquired assets (land and structures) will be based on consensus rates between government and local community. Assisted by the Office of the PA, Khyber Agency and Assistant Political Agent, Landi Kotal the consultation process for LAR with the APs and their representatives is in progress. In this regard, the representatives of FBR (EA) and NLC (IA) and Political Administration have held several meetings with the local Jirga and family elders to arrive a consensus on land acquisition process and the compensation rates and mechanism for communal and individual owned lands. Negotiations are currently underway to finalize the compensation unit rates and agreement details. It could take a minimum of 6 months to complete all the tasks for land acquisition at Torkham. Hence, the final LARP budget and list of compensation for entitled persons under law could be finalized when the negotiations are concluded and terms and conditions with compensation entitlement for land acquisition

are agreed. . Thus the draft LARP will require updating when the land acquisition process with compensation details is finalized and signed by both parties.

227. Meanwhile, for LARP updating, implementation and monitoring requisite institutional arrangement that will be put in place include, establishment of PMU in FBR and sub PMU & PIU at Torkham with safeguards management staff and units/committees responsible for land acquisition and resettlement and grievance redress committee (GRC) as discussed in section-10 (institutional arrangements) notified and operational as well as hiring of an independent monitor for monitoring and evaluation of LARPs implementation will be initiated at this stage. Nonetheless, the information campaign & community consultation process about affected assets, compensation delivery and grievance redress will be initiated from this stage and will continue project completion.

11.2.2 LARP Implementation and Monitoring Phase

228. After the LARP preparation/updating phase the next stage is its implementation, which includes issues like disclosure of approved LARP, compensation of award by EA; payment of all eligible assistance; relocation of DPs; initiation of economic rehabilitation measures; redress of grievances and complaints if any; removal of structures/assets and taking over possession of acquired land; site preparation for delivering the site to contractors for construction and finally starting civil work. Besides, the internal monitoring and reporting requirement starts immediately with LARP implementation process and continues till end of the LARP implementation is completed in all respects. So, in this phase the monitoring consultant will monitor the LARP implementation progress on daily basis and compile and share monthly internal monitoring reports with PMU in FBR and ADB.

229. The independent monitoring of the LARP implementation will be the responsibility of independent monitor procured as such for the project. EMA will start his monitoring from start of implementation and submit periodic reports on a monthly basis till complete implementation of LARP.

11.3 LARP IMPLEMENTATION SCHEDULE

230. A composite implementation schedule for LARP activities in the subproject including various sub tasks and time line matching with civil work schedule is prepared and presented in the form of Table: 11.1. However, the sequence may change or delays may occur due to circumstances beyond the control of the Project and accordingly the time can be adjusted for the implementation of the plan.

Table: 11.1 R&R Implementation Schedule

Activity	Time Line							
	2015			2016				
	2nd Quarter	3rd Quarter	4th Quarter	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
RP Prepraton, updating, implementation and redress of grievances								
Phase-1 Prepraton, review and disclosure of Draft RP								
Prepraton of Draft RP	=====							
Review of and approval of draft RP by ADB		=====						
Disclosure of Draft RP			=====					
Redressal of Grievances		◆=====▶						
Consultation and information dessimination		◆=====▶						
Phase 2: Updating of draft RP as final LARP and ADB's Approval								
Establishment of PMU in FBR and PIU at Torkham with LARU and GRC notified and functional at PIU level.		=====						
Hiring and mobilization of Design and Supervisions Consultants and Project management Consultnats to assist PMU and PIU to implement the project.		=====						
Finalization of detailed Design.				=====				
Detailed measurement of impacted assets completed and relocation options settled through negotiation.	=====							
Updating of LARP impact inventory based on final design and land awards announced					=====			
Upating of Draft LARP as final larp with final impact inventory, entitlements and compensation costs and shared with ADB for review and concurrence.						=====		
ADB Approved Final LARP							=====	
Phase 3: Implementatio and Monitoring of RP								
A: ADB Approved RP Disclosure and Implementation started.								
Disclosure of Final RP and implementation started							=====	
Transfer of LAR compensation cost in PIU account according to final LARP budget for payment of compensation and resettlement costs as per entitled resettlement						=====		
Issunce of Notices to APs for submission of claims							=====	
Full Compensation Payment (Compensation for Lost assets / assistance, with other entitled compensation as per RP)							=====	
Contract Award and mobilization of Civil Works Contarctor								=====
Handing over possession of land for commencement of civil works.								=====
B: RP Implementation Monitoring and Reporting								
Internal Monitoring of RP implemntation progress and submission of monthly reports to ADB						●.....●.....●.....●.....●.....▶	
Hiring and mobilization of Extrnal Monitor						=====		
Submission of bi-annual External Monitoring Reports for ADB review, concurrence and disclosure.								◆=====▶

SECTION 12

MONITORING AND REPORTING

12.1 NEED FOR MONITORING AND REPORTING

231. Periodic monitoring provides a regular assessment of planned activities providing an update of achievements against targets. Within the scope of involuntary resettlement, monitoring and reporting are critical activities that help in assessment of implementation progress, rescheduling of key activities, early identification of hurdles to targeted delivery and, most importantly timely resolution of problems faced by the DPs. The monitoring mechanism LARP of Torkham BCP will have both internal monitoring (IM) and external monitoring (EM) components. Internally, the LARP implementation for the subproject will be closely monitored (Internal Monitoring) by the EA through the PIU and the Resettlement Specialist mobilized through the Project Management consultants. An independent external monitoring agency will be hired as an External Monitor. The IM and EM are required to.

- Establish and maintain procedures to monitor the progress of the implementation of safeguard plans.
- Verify their compliance with safeguard measures and their progress toward intended outcomes.
- Document and disclose monitoring results and identify necessary corrective and preventive actions in the periodic monitoring reports,
- Follow-up on these actions to ensure progress toward the desired outcomes,
- Retain qualified and experienced external experts to verify monitoring information for projects with significant impacts and risks,
- Submit periodic monitoring reports (monthly, quarterly and annually) on safeguard measures as agreed with the ADB.

232. A timetable for submission of reports has been provided in figure 11.1 with reporting frequency/timing for internal and external monitoring report specified. Both internal and external monitoring will take place on a monthly basis with a reporting gap of 15 days to allow for incorporation of feedback from internal reporting before initiation of external monitoring activities.

12.2 INTERNAL MONITORING

233. One of the main roles of sub PMU at site and PIU will be to oversee the proper and timely implementation of all activities in LARP with periodic monitoring of implementation progress. The Resettlement Specialist for Torkham BCP will play a critical role in the IM process and will support the sub PMU and PIU monitoring unit during LARP implementation monitoring process and ensure required technical guidance and timely coordination of IM activities. Monthly reports will be the first reporting tool that will be based on progress data collected from the PIU at the site level and provide an overview of the implementation status of key activities. The monthly reports will also provide alternative actions/activities for delays or any other hurdles to targeted implementation. Therefore, the entire process of IM will help to realign the project activities to ensure timely and efficient delivery of planned outcomes.

234. Internal Monitoring (IM) indicators will relate to process outputs and results. The monthly IM reports will be consolidated into quarterly internal monitoring reports by the Resettlement Specialist. These Quarterly IM reports will be shared by the ADB. Specific IM benchmarks will be based on the approved LARP and cover the following:

- a. Information campaign and consultation with DPs;
- b. Status of land acquisition and payments on land compensation;
- c. Compensation for affected structures and other assets;
- d. Payments for loss of income and income restoration activities implementation; and
- e. Ensure the gender mitigation measures are adhered to during the internal monitoring and reporting process.

235. The gender disaggregated information will be collected by the internal Monitoring Consultant at PIU, which will monitor the day-to-day resettlement activities of the project through the following instruments:

- a. Review of census information for all DPs.
- b. Consultation and informal interviews with DPs.
- c. Key informant interviews; and
- d. Community public meetings.

12.3 MONITORING BY EXTERNAL EXPERT

236. The EA is required to engage a qualified and experienced External Monitoring Agency (EMA) to verify the EA's monitoring information. The EMA will be hired at the start of the LARP implementation and will be engaged throughout the project execution period. The main objective of the EM process is to provide a third-party independent review of LARP implementation and provide necessary recommendations. The external monitor will review the IM reports, collect/validate information in the field and determine whether resettlement objectives and goals have been achieved. The EMA will also monitor the restoration of livelihoods and living standards of DPs. The external monitor will identify the gaps in LARP implementation and advise the EA on safeguard compliance issues. The key tasks during external monitoring will include:

- a. Review and verify internal monitoring reports prepared by sub PMU/PIU;
- b. Review of the socio-economic baseline, census and inventory of losses of pre-affected persons;
- c. Identification and selection of impact indicators;
- d. Impact assessment through formal and informal surveys with the affected persons;
- e. Consultations with DPs, officials, community leaders for preparing review report;
- f. Assessment of resettlement implementation progress, efficiency, effectiveness and sustainability; and
- g. Review of adherence to the gender mitigation measures during monitoring period.

237. The following will be considered as the basis for indicators in external monitoring and evaluation of the project:

- a. Socio-economic conditions of the DPs in the post-resettlement period;

- b. Communications and reactions from DPs on entitlements, compensation, options, alternative developments and relocation timetables etc;
- c. Quality and frequency of consultation and disclosure;
- d. Changes in housing and income levels;
- e. Rehabilitation severely affected people, and different vulnerable groups;
- f. Valuation of property and ability to replace lost assets;
- g. Disbursement of compensation and other entitlements;
- h. Level of satisfaction of DPs in the post resettlement period;
- i. Grievance procedures, including recording, reporting, processing and redress of grievances.

238. Based on the external monitor's report, if significant issues are identified, a corrective action plan (CAP) for remedial actions will be prepared. The CAP will be shared with ADB for review and approval and consequently, disclosed to the DPs. However, Internal and external monitoring and reporting will continue until all LAR activities have been completed.

12.4 DATABASE MANAGEMENT AND STORAGE

239. A computerized user-friendly resettlement database is part of the LARP for Torkham BCP and will be accessible to implementing agencies and ADB. This database not only records socio-economic profiles, economic impacts and affected assets information for all DPs, but it will also serve as a monitoring tool for the EMA to gauge the achievement of LAR objectives.

12.5 REPORTING REQUIREMENTS

240. The external expert will be responsible for submission of an external monitoring report to the EA and the ADB SPS (2009) on a bi-annual basis. Findings of the EMA should be summarized in the reports, including the following: (i) progress on LARP implementation vis-à-vis defined objectives and targets (ii) identification of problems/concerns and recommendations for mitigation measures including roles and responsibilities matrix (iii) progress on mitigation measures identified in the previous report.

241. The monitoring reports will confirm whether resettlement goals have been achieved, more importantly whether livelihoods and living standards have been restored/ enhanced and suggest suitable recommendations for improvement. Additionally, ADB will monitor projects on an ongoing basis until a project completion report is issued.

12.6 DISCLOSURE

242. All monitoring reports will be translated and disclosed as per ADB's SPS and Communications policy requirements, i.e by posting at ADB website as well as to affected persons by placing its copies at an accessible place in a manner and language understandable to affected persons.

ANNEX – I
DP's DATABASE

Border Crossing Point Improvement Project: Census Linked with Impact inventory of Land and Land Based Assets (Torkham Border).

S#	TORKHAM BCP		DP's Basic Social Profile						Vulnerability Status	DP's Land Holding and Occupied Land in each category				DP's Land Facing Impacts			Loss of Trees		Impacted Structures owned/occupied by the DP												
	BCP Site		Name of Mouza / Settlement	Landholding ID	DP ID No.	Affected Assets	DP's Names and Status				Land Owned/Occupied by the DP				DP's Land Facing Impacts			Loss of Fruit Trees	Loss of Wood (Non-Fruit) Trees	Structure Category	Structure Type				Total Area of affected structure			Acquired/Affected Area of Structure			
	Trade Terminal	Passenger Terminal					Entitled Elders (of Extended Families)	Identified Affected Household Heads (For Extended Families Only)		DP Status					DPs household size	Total Land Occupied by DP					Total Land Acquired/cleared (ROW)	Sum Total of all affected fruit trees by one AP	Sum Total of all affected Non-fruit trees by one AP.	Open Area / Open Yard	Built / Covered Area	Total Area	Open Area / Open Yard	Built / Covered Area	Total Area		
											Family members > 15 years	M	M	Sq.ft		Total Acres	M	Sq. ft	Total Acres											Sq.ft	Sq.ft
	Male	Land Type (Agri / Barren / Resd. / Comm)					M	M		Sq.ft	Total Acres	M	Sq. ft	Total Acres	Sq.ft	Sq.ft	Sq. Ft	Kacha	Pacca		Semi-Pacca	RCC	Sq.ft	Sq.ft	Sq. Ft	Sq.ft	Sq.ft	Sq. Ft			

I. AFFECTED PERSONS : COMMUNAL LAND

1	TT	-	Torkham	1	1.1	Shop (Communal)	PEER MUHAMMAD S/O KHAN ZAKI	Not Applicable	Rentee Business Operator	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	0	544	544	0	544	544		
											Residential	7	1,904	0.04	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	2	544	0.01	2	544			0.01	Other	-	-	-	-	-	0	-	-	0	
2	TT	-	Torkham	2	2.1	Shop (Communal)	MUHAMMAD NAZAR S/O SARDAR KHAN	Not Applicable	Rentee Business Operator	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	RCC	0	272	272	0	272	272
											Residential	140	38,080	0.88	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	1	272	0.01	1	272			0.01	Other	-	-	-	-	-	0	-	-	0	
3	TT	-	Torkham	3	3.1	Shop (Communal)	ARIF ULLAH S/O MAHMOOD	Not Applicable	Rentee Business Operator	1	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	0	544	544	0	544	544	
											Residential	20	5,440	0.13	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	2	544	0.01	2	544			0.01	Other	-	-	-	-	-	0	-	-	0	
4	TT	-	Torkham	4	4.1	Shop (Communal)	EWAZ ULLAH S/O AZMAT ULLAH	Not Applicable	Rentee Business Operator	1	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	36	1,052	1,088	36	1,052	1,088	
											Residential	40	10,880	0.25	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	4	1,088	0.03	4	1,088			0.03	Other	-	-	-	-	-	0	-	-	0	
5	TT	-	Torkham	5	5.1	Shop (Communal)	MUHAMMAD TAHIR S/O RAFIQ ULLAH	Not Applicable	Rentee Business Operator	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	0	2,176	2,176	0	2,176	2,176	
											Residential	20	5,440	0.13	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	10	2,720	0.06	8	2,176			0.05	Other	-	-	-	-	-	0	-	-	0	
6	TT	-	Torkham	6	6.1	Shop (Communal)	BABU KHAN S/O MARSALEEN	Not Applicable	Rentee Business Operator	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	RCC	0	544	544	0	544	544
											Residential	5	1,360	0.03	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	2	544	0.01	2	544			0.01	Other	-	-	-	-	-	0	-	-	0	
7	TT	-	Torkham	7	7.1	Shop (Communal)	NIHMAT ULLAH S/O BABU SHAH	Not Applicable	Rentee Business Operator	1	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	640	174,080	4.00	0	0			0.00	Commercial	-	-	-	0	1,088	1,088	0	1,088	1,088	
											Residential	0	0	0.00	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	4	1,088	0.03	4	1,088			0.03	Other	-	-	-	-	-	0	-	-	0	
8	TT	-	Torkham	8	8.1	Shop (Communal)	ASHFAQ S/O HABIB ULLAH	Not Applicable	Rentee Business Operator	1	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	80	21,760	0.50	0	0			0.00	Commercial	-	-	-	0	2,992	2,992	0	2,992	2,992	
											Residential	20	5,440	0.13	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	11	2,992	0.07	11	2,992			0.07	Other	-	-	-	-	-	0	-	-	0	
9	TT	-	Torkham	9	9.1	Shop (Communal)	AZEEM ULLAH S/O ASLAM KHAN	Not Applicable	Rentee Business Operator	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	-	-	0	-	-	0		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	136	680	816	136	680	816	
											Residential	80	21,760	0.50	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
											Commercial	3	816	0.02	3	816			0.02	Other	-	-	-	-	-	0	-	-	0	
10	TT	-	Torkham	10	10.1	House	ABAD KHAN S/O KHAUSTA MEHAR	Not Applicable	Head of Household	-	Agri Arabale	0	0	0.00	0	0	0	0	Residential	-	-	-	816	1,632	2,448	816	1,632	2,448		
											Barren	0	0	0.00	0	0			0.00	Commercial	-	-	-	-	-	0	-	-	0	
											Residential	9	2,448	0.06	9	2,448			0.06	Other	-	-	-	-	-	0	-	-	0	
											Commercial	0	0	0.00	0	0			0.00	Other	-	-	-	-	-	0	-	-	0	
11	TT	-	Torkham	11	11.1	House	SABIR KHAN	Not Applicable	Head of	-	Agri	0	0	0.00	0	0	0.00	0	6	Residential	-	-	-	5,4	5,440	10,880	5,44	5,440	10,88	

						S/O MEHAR WALI		Household				Arabale								40		0		0
												Barren												0
												Residential	40	10,880	0.25	40	10,880	0.25					0	
												Commercial	0	0	0.00	0	0	0.00					0	
																							0	
												Agri Arabale	0	0	0.00	0	0	0.00					0	
12	TT	-	Torkham	12	12.1	House	SH.KAREEM S/O MUHAMMAD AKBAR	Not Applicable	Head of Household			Barren	0	0	0.00	0	0	0.00					0	
												Residential	120	32,640	0.75	120	32,640	0.75					0	
												Commercial	0	0	0.00	0	0	0.00					0	
																							0	
																							0	
																							0	
13	TT	-	Torkham	13	13.1	Communal Land	KHUGA KHAIL CLANS (ASHRAF KHEL, BASSI KHEL, FATIMI KHEL) OF SHINWARI TRIBE	Not Applicable	Not Applicable														0	
<p>The total land owned by Khuga Khail is a vast barren area with various structures, it is not possible to determine their exact land ownership</p> <p>After accounting for residential structures (1.06 acres) and commercial structures (0.24 acres) on communal land, total barren communal land facing impacts is determined as 36.0 acres</p>																								
<p>Note: This section identifies all the commercial and residential structures on communal land including impacted area. The remaining communal land is barren and jointly owned by the three identified sub-clans of Khuga Khail. The area of unoccupied barren communal land has been determined after accounting for the area occupied by the structures.</p>																								

II. AFFECTED PERSONS: PRIVATE LAND

14	TT	-	Torkham	14	14.1	Weighing Station + Barren Land	HAJI MUHAMMAD ASLAM	Ilyas, Younas, Khan Alam, Jan Alam, Syed Aslam, Gul Aslam, Nuro, Akram Lakho, Khan Akram, Taj Akram, Haji Akram, Muhd Akram, Shah Shah, Yar Akram	Representative of Private Land/Owner of Jan Weigh Station			Agri Arabale	0	0	0.00	0	0	0.00					0	
												Barren	8,000	2,176,000	50.00	336	91,392	2.10					0	
												Residential	40	10,880	0.25	0	0	0.00					0	
												Commercial	80	21,760	0.50	80	21,760	0.50					0	
15	TT	-	Torkham	15	14.2	Barren Land	GHALIB KHAN S/O SHARABAT KHAN	Aqal Mir, Battu, Cheeru, Taqweez	Representative of Private Land			Agri Arabale	0	0	0.00	0	0	0.00					0	
												Barren	352	95,744	2.20	336	91,392	2.10					0	
												Residential	0	0	0.00	0	0	0.00					0	
												Commercial	80	21,760	0.50	80	21,760	0.50					0	
16	TT	-	Torkham	16	15.1	Commercial Land	NAIAZ AMEEN S/O SAPIAN GULL	Bakhtiar, Wazir Gul, Haji Abdul Rahim, Mustaqeem, Akram, Gul Mash	Representative of Private Land			Agri Arabale	0	0	0.00	0	0	0.00					0	
												Barren	67	18224	0.42	0	0	0.00					0	
												Residential	10	2,720	0.06	67	18,224	0.42					0	
												Commercial	340	92,480	2.13	340	92,480	2.13					0	
17	TT	-	Torkham	17	15.2	Petrol Pump, Shop, Hotel	SHAN BADSHAH S/O ZAR BADSHAH	Not Applicable	Tenant (Private Land)			Agri Arabale	-	-	-	0.00	-	-	0.00					0
												Barren	-	-	-	0.00	-	-	0.00					0
												Residential	140	38,080	0.88	-	0	0.00					0	
												Commercial	240	65,280	1.50	240	65,280	1.50					0	
18	TT	-	Torkham	18	15.3	Shah Weighing Station	SAEED SHAH S/O HIYAL MEER	Not Applicable	Tenant (Private Land)	1		Agri Arabale	0	0	0.00	0	0	0.00					0	
												Barren	0	0	0.00	0	0	0.00					0	
												Residential	160	43,520	1.00	0	0	0.00					0	
												Commercial	100	27,200	0.63	100	27,200	0.63					0	
19	TT	-	Torkham	19	16.1	Barren Land	MAILK ZADA MUHAMMAD KHALID KHAN S/O MALIK AMEER DOST	Muhammad Zaib, Nafees	Representative of Private Land			Agri Arabale	0	0	0.00	0	0	0.00					0	
												Barren	2,160	587,520	13.50	1,262	335,648	7.89					0	
												Residential	0	0	0.00	0	0	0.00					0	
												Commercial	3	816	0.02			0.00					0	

Note: This section identifies the four extended families that own the private land to be acquired for Torkham BCP. Elders of each extended family have been identified along with other household heads in each extended family. The three commercial structures on these private lands have also been identified along with their occupancy status (owner, tenant). The land facing impacts for all three extended families is the total private land to be acquired for Torkham BCP.