

**ISLAMIC REPUBLIC OF AFGHANISTAN**

**Ministry of Finance**

**Environmental and Social Management Framework  
(ESMF)**

**For the**

**Public-Private Partnerships and Public Investment  
Advisory Project**

**09/01/18**

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## Abbreviations/Acronyms

ALCS	Afghanistan Living Standards Survey
ARTF	Afghanistan Reconstruction Trust Fund
CDC	Community Development Council
CPA	Central Partnership Authority
DC	Development Council
EC	Environmental Clearance
EHS	Environmental Health & Safety
EIA	Environmental Impact Assessment
EIDF	Extractive Industries Development Framework
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental Social Management Framework
ESMP	Environmental & Social Management Plan
ESS	Environmental and Social Safeguards
FCCL	Fiscal Commitments and Contingent Liabilities
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
MACA	Mine Action Centre for Afghanistan
MFD	Maximise Finance for Development
MoF	Ministry of Finance
MoFDP	Ministry of Finance Policy Department
MoMP	Ministry of Mines and Petroleum
NEPA	National Environmental Protection Agency
NGO	Non Governmental Organization
OP/BP	Operation Procedures/Bank Policy
O&M	Operation and Maintenance
PAP	Project Affected Person
PIM	Public Investment Management
PPP	Public Private Partnership
PPPIAP	Public-Private Partnerships and Public Investment Advisory Project
PSD	Private Sector Development
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SIA	Social Impact Assessment
TA	Technical Assistance
ToR	Terms of References
UNEP	United Nations Environment Program
WB	World Bank

## Draft Executive Summary

### Public-Private Partnerships and Public Investment Advisory Project (PPIAP)

#### Project Context

**Project Background:** Public Private Partnership (PPP) provides a mechanism for the Government of Afghanistan (GoIRA) to attract private investment and leverage private sector efficiencies and innovation, by transferring responsibility for technical and financial aspects of project implementation to the private sector. This allows GoIRA to focus on overseeing and regulating project implementation. In the absence of a robust enabling environment, PPP experience to date in Afghanistan has been mixed. The PPIAP project will, therefore, take account of lessons learned and the GoIRA's limited PPP experience and capacity and adopt a flexible approach to private sector investment opportunities that may enable private sector development (PSD) and private sector-led growth.

The proposed PPIAP has been rated Category B under the World Bank Operational Policy on Environmental Assessment (OP4.01).

**Project Objective:** The Project Development Objective is to develop a pipeline of feasible private and publicly funded projects.

**Project Components:** The proposed project has 3 components: Component 1, *Strengthening institutional and technical capacity of MoF and other relevant agencies*, has 2 sub components; (a) Improving and integrating the PIM-PPP framework, (b) Strengthening GoIRA institutional and technical PIM-PPP capacity and awareness; Component 2, *Establishing the Infrastructure Preparation Facility to ensure efficient and sustainable preparation of infrastructure projects*, has 2 sub components (a) Design and creation of the Appraisal Window; (b) Seed capitalization of the PPP Project Development Fund Window; Component 3, *Project Management*.

**Project Area:** The PPIAP is national in coverage and will respond to priorities identified in the GoIRA's National Infrastructure Plan (2017 -2021).

#### **National Policy and Legal Regulatory Context which anchors the ESMF within the PPIAP**

- The Environment Law of Afghanistan (2007)
- National Regulations for Environmental and Social Impact Assessment (ESIA) (2017)
- The Constitution of Afghanistan (2004)
- The Law on Preservation of Afghanistan's Historical and Cultural Heritages (2004)
- Afghan Land Policy (2017)
- Labour Law (2007)
- The Law on Land Acquisition (2017)
- Land Management Law (2017)

#### **World Bank Operation Policies triggered by PPIAP**

##### Safeguard policies

Safeguard Policies Triggered by the Project	Yes	No
<u>Environmental Assessment (OP/BP 4.01)</u>	[X]	[ ]
Natural Habitats ( <u>OP/BP 4.04</u> )	[ ]	[X]
Pest Management ( <u>OP/BP 4.09</u> )	[ ]	[x]
Physical Cultural Resources ( <u>OP/BP 4.11</u> )	[ ]	[X]
Involuntary Resettlement ( <u>OP/BP 4.12</u> )	[X]	[ ]
Indigenous Peoples ( <u>OP/BP 4.10</u> )	[ ]	[X]

Forests (OP/BP 4.36)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Safety of Dams (OP/BP 4.37)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Projects in Disputed Areas (OP/BP 7.60)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Projects on International Waterways (OP/BP 7.50)	<input type="checkbox"/>	<input checked="" type="checkbox"/>

OP/BP 4.11 is not triggered but Chance Find Procedures, aligned with national legislation, are in place.

**Current Environmental and Social Risk Assessment Rating:** Substantial due primarily to weak regulatory environment and very limited capacity within line ministries.

**Potential Environmental & Social Impacts:** Under component 2 b the PPIAP will finance preparatory Technical Assistance (TA) activities for PPP projects including pre-feasibility and feasibility studies. The project will not finance these investments and will, therefore, not itself have any major direct environmental and social impacts but there may be potential substantial indirect impacts from anticipated infrastructure projects in these areas.

**Institutional Responsibility:** The Ministry of Finance (MoF) through the Central Partnership Authority (CPA) has overall responsibility for the proposed PPIAP, including ensuring compliance with ESMF and RPF requirements, while the Sponsoring Ministries together with their private sector partners will take primary responsibility for project preparation including conducting environmental and social assessments as an integral part of the preparation of pre-feasibility and feasibility studies.

### The Environmental and Social Management Framework (ESMF)

**Objective of the ESMF:** to avoid or minimise potential adverse environmental and social impacts and to enhance benefits arising from PPP project activities.

#### Safeguards Requirements Component by Component

Components	Activities to be financed by the Project	Safeguards Instruments	Timing for Preparation and Implementation of Safeguards Instruments
<b>Overall Project level</b>	Components 1-3	ESMF & RPF	Prepared during project preparation, implemented in project.
<b>Component 1: Strengthening institutional and technical capacity of MoF and other relevant agencies.</b>  Sub Component 1a: Improving and integrating the PIM-PPP framework  Sub Component 1b: Strengthening CoIRA institutional and technical PIM-PPP capacity and awareness.	Technical Assistance  Technical Assistance	None	N/A
<b>Component 2: Establishing the Infrastructure Preparation Facility.</b>  Sub Component 2a: Design and Creation of the Appraisal Window	Technical Assistance	None	N/A

Sub Component 2b: Seed Capitalization of the PPP Project Development Fund Window.	Technical Assistance	Limited Environmental and Social Assessments, ESIAs, ESMP, RAP/abbreviated RAP/ as required ECOP application	Limited Environmental and Social Assessments, ESIAs, ESMPs, and Abbreviated RAPs (where needed) prepared during project implementation.
<b>Component 3: Project Management</b>	Technical Assistance services	None	N/A

**Approach to environmental and social management:** A framework approach is adopted as all project investments under sub component 2 b could not be identified at the time of project appraisal. The approach takes account of lessons learned from other projects, sets out a range of screening and review tools for use at both pre-feasibility and feasibility levels to identify and assess potential negative environmental and social impacts of projects and includes guidelines for preparing relevant mitigation management plans. The approach highlights the importance of citizen engagement and environmental codes of practice in effective environmental and social management.

**Incorporating lessons learned in Safeguards Compliance:** A number of important insights gleaned from implementing safeguards in other projects in Afghanistan have resonance for the proposed PPIAP and have been taken account of in the development of this ESMF. These include: the need to build the capacity in all line ministries to identify, manage and monitor safeguards issues; the importance of timely and systematic consultation with all stakeholders; the need to establish a Grievance Redress Mechanism (GRM) at the outset of the project which will also act as an ‘early warning system’ for project management and help preserve project funds and project reputation; the need to make adequate budgetary provision to ensure the effective implementation and management of all safeguards elements in the ESMF.

**Citizen Engagement (CE) – a key underpinning of the ESMF:** Within the proposed PPIAP citizen engagement is based on a two-way interaction and dialogue between government, private investors and citizens. Citizen Engagement (CE) for this project includes stakeholder consultations, a multilevel Grievance Redress mechanism (GRM), including an effective grievance hotline, set up and administered by the MoF and local communities involvement in Third Party or independent monitoring. Consultation with project beneficiaries and affected families will start at the prefeasibility stage and continue throughout a project’s development. Particular emphasis will be placed on seeking the views of vulnerable groups, especially women. The ESMF and RPF include detailed mechanisms for consultation and feedback. Stakeholder representatives will have an opportunity to review key findings from draft feasibility studies (pre-feasibility and feasibility) and their feedback on findings and recommendations from these studies will influence final plans and design of potential PPP projects.

The ESMF sets out a process for grievance handling, including responsibilities of key stakeholders to address public concerns. The CPA/PMU will be responsible for ensuring that an effective GRM is established for each PPP project, which would include: (i) raising public awareness among local communities on how to use GRM services, (ii) establishing of multiple channels and locations for submitting of grievances, (iii) proper registration of all grievances related to project activities to enable tracing and review and (iv) feedback to AP on the outcome of her/his complaint.

The extent of citizen engagement and beneficiary feedback throughout the timeframe of a project will be a key indicator in assessing its results.

The following citizen engagement indicators have been included for PPIAP:

- grievance responded and or resolved within the stipulated service standard for response time: 80%

- beneficiaries (private sector companies and other beneficiaries and stakeholders) reporting satisfaction with key aspects of consultation process (pre-feasibility and feasibility studies): 80%

MoF will engage a consulting firm or individual to conduct a survey to measure beneficiaries' satisfaction in relation to these CE indicators.

**Capacity Building:** The overarching objective will be to build and strengthen the institutional capacity of MoF/CPA, the Sponsoring Ministries and Private Sector partners to better support the development and integration of social and environmental measures in this and future PPP projects. A cascade approach to capacity development will be employed within the PPIAP. Emphasis will be placed on building the capacity of designated safeguards staff within the CPA/PMU to manage safeguards effectively. They, supported by specialists, will then work to build the capacity of safeguards staff within sponsoring ministries and private sector partners and increase awareness and knowledge of environmental and social issues within management teams and construction companies. Sponsoring Ministries will in turn work with local Community Development Councils (CDCs) to organize practical training to build knowledge and awareness of local communities, including women, on social and environmental issues related to proposed project activities.

**Monitoring and Evaluation:** Designated Safeguards staff within sponsoring ministries, together with local communities and local government staff, will be responsible for monitoring the implementation of agreed mitigation measures in Environmental and Social Management Plans (ESMPs). Monthly reports will be submitted to the PMU management by sponsoring ministries. An annual environmental and social technical audit will be conducted by an independent entity agreed by both Ministry of Finance and the World Bank. An External Monitoring Agent (EMA) will be appointed to conduct regular third party monitoring and compliance assessments.

**Safeguards screening procedures:** Environmental and Social screening of all proposed PPP projects will take place at pre-feasibility stage to collect information and assess key environmental and social concerns and identify issues for consideration in more detailed assessments at the feasibility stage. Preliminary safeguards assessment (Screening) at pre-feasibility stage also provides opportunities to establish a dialogue with stakeholders and involve them, especially local communities, in determining factors to be further assessed and helps facilitate early agreement on contentious issues. Feasibility level environmental impact assessments and social impact assessment (EIAs/SIAs) are more detailed, comprehensive and rigorous than pre-feasibility level screening and will be conducted in parallel with required technical studies so that findings from the EIA/SIA can inform final PPP project designs and plans. EIAs/SIA will, *inter alia*, determine whether a proposed project will comply with the GoIRA's and World Bank's regulations and policies, evaluate alternatives and design appropriate mitigation, management and monitoring plans. The review of pre feasibility studies will ensure that those projects which due to size, type and potential impacts fall into category 'A', do not proceed to feasibility stage under the PPIAP.<sup>1</sup> Preliminary safeguards assessment studies at pre-feasibility stage and EIA/SIA, site-specific Social Management Plans (ESMPs) and Resettlement Action Plans (where needed) during feasibility-stage will be prepared for all sub-projects and would be subject to local disclosure and consultation as per the national law and WB safeguards policies. These studies will also be subject to review by the WB.

**Social Safeguards Risk:** The TA activities will not itself have any major direct social impacts and risks, but there may be potential indirect impacts from anticipated sub- projects to be supported under subcomponent 2b of the Project. The overall social risks ratings are likely to be Substantial (S). The key drivers of social risks for PPPPI may include; (i) potential indirect land acquisition impacts from anticipated infrastructure subprojects that will be included for feasibility studies; (ii) labor influx risk

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<sup>1</sup> The GoIRA may choose to continue with feasibility studies of category A projects with a different funding stream.



and community safety risks associated with labor camp and workers coming into area, which are expected to occur during implementation and operation of PPIAP sub-projects; and (iii) low capacity of local companies to conduct social safeguards studies. Labor influx related risks are expected to be substantial, because the private sector companies are expected to hire labors from the outside, especially skilled labor. The SIA will include labor influx risk assessment study to assess labor influx risks, including child labor issues, community safety, disruption to local community. The ESMP will include labor influx mitigation plan and the employees' Code of Conduct (CoC) which be applicable to each site.

Furthermore, the MoF CPA (through consultants) will conduct social screening of all proposed PPP sub-projects that will take place at pre-feasibility stage. Consulting firms will be engaged to collect information and assess/identify key social risks and identify issues for consideration in more detailed assessments at the feasibility stage. More specifically, with regard to identification of risks and impacts, preliminary social screening and scoping at pre-feasibility stage and SIA, site-specific Social Management Plans (ESMPs) and Resettlement Action Plans (where needed) during feasibility-stage will be prepared for all sub-projects and would be subject to local disclosure and consultation as per the national law and WB safeguards policies.

***Overview of Environmental and Social Screening process and Responsibilities***

<b>Project Screening and Review</b>		<b>Corresponding Safeguards requirements</b>	<b>Responsibility</b>
1.	Preparation of Pre-feasibility studies for PPP projects requiring additional preliminary preparation.	Citizen Engagement  Environmental and Social Screening (annex 1b)	Sponsoring Ministry (through consulting firms)
2.	Pre-feasibility studies for PPP projects screened/reviewed using criteria developed under current WBG TA project	- checking against Negative attributes list (annex 1a.) - pre-feasibility studies screening checklist ( annex 1c) - screening out of projects rated category A	CPA/PMU safeguards staff
3.	Feasibility studies for PPP projects carried out - relevant mitigation plans prepared	Citizen Engagement  Partial Social and Environmental Impact Assessments EIA/SIA ( annexes 2a, 2b and 2c) ESMP ( annex 3) Abbreviated RAP or Full RAP, if required ( annexes 4 & 5) ECOP application	Sponsoring Ministries ( transaction advisory team/ safeguards unit)
4.	Feasibility Studies for PPP projects reviewed	Reviewed to ensure Compliance with GoIRA laws/regulations and WB policies as set out in the ESMF  ESMPs/Abbreviated RAPs -Full RAPs approved/Cleared	CPA/PMU safeguards staff  WB safeguards specialists.

***Preparation and review of Safeguards documents:*** The ESMF contains guidelines on the preparation of site-specific safeguards documents such as an Environmental and Social Management Plan (ESMP) and , where necessary, an Abbreviated Resettlement Action Plan (RAP) and a chance find procedure for heritage resource. The Abbreviated RAP or Full RAP will be prepared in accordance with the standalone Resettlement Policy Framework(RPF) developed for the PPIAP. The ESMP is the key document for managing and monitoring safeguards and should include a brief description of (i) adverse impacts (ii) mitigation measures (iii) monitoring plans (iv) institutional responsibilities (v) capacity building and (vi) associated costs. It should also include labor influx mitigation plan and the employee code of conduct. It will be developed by the sponsoring ministry (through consulting firms to be engaged) in collaboration with its private sector partner and reviewed by the safeguards team within the CPA/PMU prior to submission to NEPA and the WB. Capacity Building and Monitoring and Evaluation plans will be developed as part of the ESMP process. Upon clearance by NEPA and the WB the ESMP will be used by the project implementing partners – both public and private sector - to manage all potential environmental and social impacts for each project .

***ESMF Institutional Arrangements:*** The overall responsibility for ensuring compliance with environmental and social safeguards requirements as set out in the ESMF rests with the Ministry of Finance who has delegated this responsibility to the Director General of the CPA within the Ministry of Finance. A Project Management Unit (PMU) will be established within the CPA which will have overall responsibility for the PPIAP. Three Environmental and Social Safeguards (ESS) staff, at least one of which will be female, will be included within the PMU and will be responsible for ensuring that all proposed projects submitted under sub component 2 b of the project comply with the GoIRA and World Bank’s relevant legal regulatory and policy framework set out below. The PMU safeguards staff will be responsible for reviewing pre-feasibility and feasibility level environmental and social assessments and overseeing compliance with ESMF provisions during preparation, implementation, monitoring and evaluation of PPIAP projects. They will support designated safeguards staff within the sponsoring ministries and private sector partners at national and regional levels whose responsibilities will include facilitating pre-feasibility and feasibility level environmental and social assessments, enabling consultations with stakeholders and development of ESMPs and other mitigation plans if required e.g. RAPs.

***Reporting Requirements:*** Project Management will submit project specific monthly environmental and social progress reports to the sponsoring ministries and the CPA/PMU. The CPA/PMU will be responsible for ensuring that comments on the monthly reports are discussed with private sector partners. The CPA/PMU will prepare and submit quarterly progress reports to the WB.

***Access to Information and Communication:*** An Access to Information and Communications strategy and plan will be developed to help increase the overall effectiveness of the project and maintain an up to date awareness of it by stakeholders and the general public.

***Budget:*** The total cost for ESMF implementation cannot be estimated as the number of projects to be submitted under sub component 2 b is currently unknown. Key elements of the ESMF requiring a cost budget are highlighted and indicative unit costs are shown. These need to be reviewed and revised as necessary.

## I. PROJECT CONTEXT

### 1.1 Background

1. Public Private Partnership (PPP) provides a mechanism for the Government of Afghanistan (GoIRA) to attract private investment and leverage private sector efficiencies and innovation, by transferring responsibility for technical and financial aspects of project implementation to the private sector. Despite the challenging environment, Afghanistan has had some positive PPP experiences. Experience suggests that relatively light PPP structures are suitable in the given context as a starting point to build experience. These include projects where the government and/or donors finance capital and even operating expenses or where multilaterals provide guarantees against payment risk to enhance private sector confidence to invest. The private sector is engaged with the objectives of benefiting from efficiencies, knowledge and management.
2. One potential area for private sector engagement in infrastructure is in power generation, distribution and transmission. For example, projects such as the Mazar-e-Sharif and Bayat Gas-to-Power Projects and the Kajaki Hydropower Project were begun by the private sector, while others such as Kandahar Solar independent power producer (IPP) project and DABS Kandahar Management Support Contract attracted a wide pool of potential bidders during the tender process.
3. The private sector is already a successful provider of telecom services - through contracts awarded to Afghan Wireless, Roshan, MTN, Etisalat, and Wasel. These contracts were competitively tendered, monitored by the Afghanistan Telecom Regulatory Authority, produced over US\$2 billion in private investment, and lowered tariffs by 95 percent since 2002. Thus, 75 percent of the public can subscribe to mobile services. As a result, the number of mobile telephone subscriptions has increased to over 20 million, compared to less than 60,000 a few years ago; and 50 percent of rural households now having access to telecom services. However, the contracts' commercial viability is doubtful, due to falling sector revenues (largely due to the military drawdown) and increased taxes on mobile phones.
4. A 2011 World Bank-supported study identified three main roadblocks to PPPs in Afghanistan.<sup>2</sup> These were gaps in policies/regulations, a lack of GoIRA institutional capacity, and a weak investment climate that discourages private finance. In response to these findings, the World Bank and other donors have been providing technical assistance (TA) to resolve these obstacles. Following a GoIRA request, World Bank TA financed by a Public-Private Infrastructure Advisory Facility (PPIAF) was launched in October 2015, and a second phase was begun in June 2017. The aim is to support a sustainable PPP program, building on earlier support from the U.K. Department for International Development (DFID). The World Bank's TA is creating a PPP legal and policy framework, strengthening institutions and launching the Central Partnership Authority (CPA), and building capacity and training for the GoIRA.
5. Building on foundations developed by previous and ongoing interventions, the proposed project will help develop a PPP and public investment support system and prepare bankable PPP projects that meet development priorities and infrastructure gaps. It will also support better allocation of public finances and maximize private investment. It will

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<sup>2</sup><http://blogs.worldbank.org/ppps/making-ppps-work-fragile-situations>.

address challenges related to institutional and technical capacity in MoF and relevant sponsoring line agencies and establish an Infrastructure Preparation Facility to assure a robust preparation of public infrastructure development projects and PPPs to maximize finance for development (MFD) within the overall budget process.

6. The Project will benefit from the World Bank's experience in accessing global knowledge and expertise to support PPPs in fragile environments, introducing tested solutions for private sector efforts, including operating PPP units, trying innovative approaches to structure PPPs and public projects to attract investors in Afghanistan (mobilizing private and donor capital), and developing market infrastructure. The Project will also build on the World Bank's experience of supporting PPPs and public infrastructure investments in Afghanistan and globally.

## **1.2. Overview of Environmental and Socio-economic baseline of Afghanistan<sup>3</sup>**

### **Environmental Baseline**

7. Afghanistan is a semi-arid land-locked country in the centre of Asia, covering an area of about 652,000 square kilometres. The country's climate is continental, with big differences in temperature from day to night, from one season or region to the next, ranging from 20–45°C in summer in the lowlands to minus 20–40°C in winter in the highlands. The overall average annual rainfall of about 250 millimetres conceals stark variations between different parts of the country, from 1,200 millimetres in the higher altitudes of the northeast to only 60 millimetres in the southwest. Due to its mountainous relief and the convergence of several climate systems, Afghanistan boasts an impressive diversity of ecosystems, land cover and water sources.
8. Almost 80 per cent of the country's population (19 million people) live in rural areas. This portion of the population relies heavily on productive natural resources, which makes it extremely vulnerable to the impacts of local and global phenomena (such as droughts, natural disasters, climate change and desertification) and the degradation of natural resources through erosion and pollution of soil and water. Water is one of Afghanistan's most important resources. However, its unequal distribution may lead to increasingly severe water security in some regions threatening livelihoods and compounding adverse humanitarian conditions. More than 80% of the country's water resources originate in the Hindu Kush mountains and provide a source of water. The Amu Darya River Basin, a focus of the project, covers approximately 15% of the surface area of Afghanistan and holds more than 55% of the country's water resources. However, climate change with the resulting melting of glaciers, severe droughts and poor management of water resources, including depleted aquifers through over exploitation of tube wells for agricultural purposes, are threatening water security. Water resources are also being polluted by both industrial and domestic users.<sup>4</sup>

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<sup>3</sup> This section draws substantially on the Afghanistan Living Conditions Survey 2014. Specific provincial-level sources are limited and most data is fragmented and aligned to specific collecting agency requirements. It is informed by previous studies, including the *Afghanistan Living Conditions Survey 2013-2104*, *National Risk and Vulnerability Assessment*, CSO 2016, *Afghanistan's Environment 2008*, NEPA & UNEP, *Afghanistan, Post-Conflict Environmental Assessment*, UNEP, 2002 and *Afghanistan Humanitarian Needs Overview 2015*. More comprehensive baseline information is included as annex 10. Project specific environmental and social information will be collected as part of the environmental and social screening process and will inform the development of project proposals.

<sup>4</sup> Afghanistan Environment, 2008 UNEP

9. Afghanistan has been severely affected by land degradation for decades. This in turn is a significant contributing factor to increased ecological migration and further stress on the eco system. Environmental degradation together with high population growth and returning refugees are together constraining the amount of available productive land and increasing competition for land in both rural areas ( for agriculture) and urban areas ( for construction). The amount of agricultural land under cultivation or pasture has dropped significantly over the last couple of decades either as a result of abandonment ( lack of water availability or damaged irrigation systems) or degradation ( due to soil erosion, salinization or reduced soil fertility). Soil fertility is being degraded by poor agricultural practices, traditional grazing patterns have been disrupted due to conflict, land claims and drought and irrigation systems have been affected by silting and flooding. This in turn has resulted in mass migration from the country side to urban areas. Sustaining livelihoods in Afghanistan in future will depend to a significant extent on appropriate environmentally sound management of land resources.<sup>5</sup>
10. Afghanistan is a disaster prone country subject to earthquakes, flooding, drought, landslides, and avalanches. Over three decades of conflict, coupled with environmental degradation, and insufficient investment in disaster risk reduction strategies, have contributed to increasing vulnerability of the Afghan people to natural disasters. High levels of poverty, lack of livelihood and income generating opportunities, chronic health problems, and poor state of the infrastructure add to the burden of natural disasters. Afghanistan ranks 176 on the Global Adaptation Index (ND-GAIN), which ranks 177 countries according to vulnerability and ability to cope with climate change.<sup>6</sup> Drought and mismanagement of ground water have caused the water table to drop across most parts of the country, including Kabul. Eco systems, soil water content and rangelands are thought to be most at risk from climate change.

### **Socio-Economic Baseline**

11. Afghanistan remains one of the poorest countries in the world. In 2013 Afghanistan was ranked 169th out of 185 countries in the UNDP Human Development Index, Despite significant achievements in the first decade of this century, Afghanistan remains among the most poorly developed countries in the world according to almost all development indicators covered by the Afghanistan Living Conditions Survey 2013-14.
12. The share of the population living below the poverty line has increased from 36.5 percent in 2011-12 to 39.1 in the present survey. The results also indicate that the poorer segments of the population suffered more from per-capita consumption decline than the better-off population, which suggests an increase in inequality. Around one third of the Afghan population is estimated to suffer from food insecurity, with 9.3 million people facing chronic or transitory food insecurity and some 3.4 million severely food insecure. Both quantitative and qualitative food indicators suggest better conditions in urban areas than in rural areas.
13. According to ALCS 2013-14, of all sectors the health sector shows the most consistent improvement. The most impressive improvements are observed for maternal health

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<sup>5</sup> Afghanistan Environment 2008, UNEP

<sup>6</sup> Afghanistan Humanitarian Needs Overview, 2015

indicators. Afghanistan has achieved its MDG target for ante-natal care coverage (50 percent in 2020) far ahead of schedule. The general trend in skilled birth attendance suggests that the MDG 2015 target of 50 percent is within reach. Physical access to health facilities and costs involved in obtaining health services remain major obstacles for many people to obtain the care they need.

14. According to the ALCS, the net attendance ratio for primary education showed a decline to 55 percent, after a peak of 57 percent in 2011-12. The school attendance information suggests that 2.3 million primary school age children and 2 million secondary school age children miss out on education and on the opportunity to learn basic life skills. Transition rates indicate that the problem of Afghanistan's education system is not so much retention and drop out, but first and foremost starting school. An Afghan child of 6 years old can expect to spend on average 7.7 years of his or her life in education, a very short period in international perspective.
15. The age structure of Afghanistan's population shows that population growth remains a critical element in Afghanistan's development process. The proportion of persons under age 15 (47.5 percent) is one of the highest in the world. In the next five years close to 4 million young people will reach working age in a labour market that is already characterised by high levels of unemployment and underemployment. Afghanistan's labour market is under considerable stress, with 39 percent not-gainfully employed and a youth unemployment rate of 30 percent. Around 90 percent of the working population is employed in low-skilled occupations. The average household size in Afghanistan is around 7.4 persons. The households are almost exclusively headed by men. Female-headed households make up only one percent of the total number.
16. Achieving gender equality remains one of the major challenges in Afghan society. Within an overall poor development context, women and girls face especially deprived conditions. Various indicators signify a subordinate and dependent position in the household, leaving little negotiating power in terms of household decisions, sexuality and fertility. Three quarters of women do not leave their homes without the company of another person and about half leave the house four times or less per month. Female decision making on spending money is quite restricted with only 34 percent deciding independently how to spend money they earned themselves.
17. Other vulnerable groups include the *Kuchis* or traditional nomadic people from Southern and Eastern Afghanistan who have been greatly affected by conflict and drought; increasing numbers of Internally Displaced People (IDPs) due to ongoing conflict and economic hardship and people with disabilities who have limited access to appropriate health care education and livelihood opportunities.

### **1.3 Need for the Environmental and Social Management Framework (ESMF)**

18. To comply with WB's safeguard policies a programmatic framework approach is adopted as all investment activities likely to be supported under subcomponent 2 b of the PPIAP could not be identified at the time of appraisal. The preparation of an ESMF ensures that the proposed project has concrete procedures and processes in place to avoid, minimize, and/or mitigate potential adverse environmental and social impacts of future project investments and interventions. The proposed PPIAP has been rated Category B under the World Bank Operational Policy on Environmental Assessment (OP4.01).

19. A standalone Resettlement Policy Framework (RPF), which provides detailed guidance on Involuntary Resettlement ( OP/WB 4.12) has also been developed as an integral element of this ESMF. The purpose of the RPF is to clarify principles for asset acquisition, resettlement and compensation ,as well as organizational arrangements, to be applied as necessary by future projects. Strict adherence to the RPF procedures will not only ensure consistency in land/asset acquisition and resettlement planning but also develop the capacities of the implementing and supervising agencies.
20. This ESMF is a legally binding document to be included in the financial agreement of the PPIAP.

#### **1.4 .Methodology for ESMF preparation**

21. This ESMF was informed by: (a) an extensive review of documents related both to the proposed PPIAP and other relevant WB-funded projects in Afghanistan and elsewhere; (b) discussions with senior managers within the MOF/CPA/PMU (c) the outcome of consultations on the draft ESMF/RPF with a range of stakeholders and (d) regular interaction with the WB task team and social and environmental specialists.

## **II. OVERVIEW OF THE PPIAP**

### **2.1 Project Objective**

22. The Project Development Objective is to develop a pipeline of feasible private and publicly funded projects.

### **2.2. Project Components**

23. The proposed PPIAP will be implemented over 5 years beginning in 2018 through the following 3 components: Component 1 will strengthen the institutional framework and technical capacity to plan, prioritize, and implement infrastructure and other projects including in public service delivery. Component 2 will capitalize an IPF to support project appraisal and preparation. Component 3 will cover project management.

***Component 1: Strengthening institutional and technical capacity of MoF and other relevant agencies (USD 5.0 million)***

24. **This component will create a framework to manage public investments and PPPs.** Applying the World Bank’s MFD approach, it will strengthen the coordination between infrastructure planning and the budget process, and align the latter with the PPP project cycle - vital to maximize limited finances. Also, if institutions and other stakeholders are strengthened so that they can implement the investment program (through the DCs), this will allow for timely, high-quality public investment and PPP projects.

#### **Sub-component 1a. Improving and integrating the PIM-PPP framework**

25. The Project will support capacity building for the MoFPD to oversee pre-feasibility studies for all projects coming up for consideration by the GoIRA. Once a pre-feasibility

study has been completed, it forms the basis for deciding whether a project will be funded privately or publicly. Project to be privately funded will then be handed to the CPA who will oversee detailed feasibility studies and the technical, financial and legal advisory services to support the structuring, tendering and negotiation of the PPP transaction. PPIAP will support MoFPD to oversee detailed feasibility studies for projects to be publicly funded.

26. Applying the PIM-PPP framework may require laws on public finance, expenditures, and procurement to be changed, so that the processes are consistent. This means aligning the budget process with the PPP project cycle so that a project flows smoothly through both. The Project will also assess the PIM-PPP framework to identify inconsistencies and recommend modifications to laws that affect it. Further, it will develop operating guidelines and institutional roles, responsibilities, processes, and standard documents for the new framework. This may mean updating some features under the World Bank PPP TA, including PPP laws, regulations, and guidelines.
27. To attract private investment for PPPs, the GoIRA might have to assume fiscal commitments and contingent liabilities (FCCLs) from financial obligations in the contracts. Since fiscal commitments to PPPs (through current and capital expenditures and/or guarantee instruments) are not defined in the Public Finance and Expenditure Law, it is unclear how PPPs would be captured and managed in the budget process; it is also unclear how Government finances would fit in its debt management strategy. This issue is important, given the terms of the IMF's ECF, which limit new debt, including FCCL from PPPs.
28. The Project will develop ways to measure, monitor, and manage the PPP fiscal impact in support of the implementation of the PIM-PPP framework. It will include instructions/guidelines for classifying guarantees, direct and contingent liabilities, and their accounting treatment in the budget process. The debt management strategy, considering the FCCLs, will be critical as the GoIRA enters PPPs.
29. The FCCLs will be assessed, which will include (a) a preliminary appraisal of proposed infrastructure projects under Budget Cycle 1, (b) a feasibility study of PPP projects, (c) negotiation and award of PPP contracts, and (d) implementing the projects. The Project will develop the FCCLs framework to integrate the commitments into the budget and debt management strategies and define entities' roles, responsibilities, processes, and methods for all PPP projects (in the PIM-PPP framework). The MoF and line agencies sponsoring PPP projects will receive capacity training

Sub-component 1b. Strengthening GoIRA institutional and technical PIM-PPP capacity and awareness.

30. After the PPP law is revised to include DC-level oversight the Project will support the preparation of Rules of Procedure (RoPs), or operating guidelines, which will be included in the PPP Law and describe the roles/responsibilities of the DCs, CPA, line ministries/entities, and other stakeholders. These RoPs will mirror similar operating guidelines in the Public Procurement Law (PL) and guide the NPC operations and its Secretariat (the National Procurement Authority [NPA]) with respect to public investment projects.



31. The Project will provide short-term consultant expertise to ensure the DCs and CPA function smoothly when overseeing the PPPs. The consultants will be experts in technical PPP support, institutional/organizational support, and administrative support. This assistance will be phased out over the life of the Project, as the DCs and CPA build experience and capability.
32. As the GoIRA has less experience with PPPs than with public investments, it needs support to prepare, procure, and implement such projects. To date, the World Bank PPP TA program and other donors have supported capacity building, but more support is needed for the CPA and line ministries/entities. Under the World Bank TA, the CPA skill-level was assessed to determine how well it could function and serve as the main voice for the PPPs. The line ministries/entities' capacities were also assessed and it was recommended that classroom and on-the-job training be provided to cover all aspects of the PPP project cycle. Thus, the Project will add upstream training to plan/prioritize infrastructure needs and identify suitable projects.
33. The Project will finance activities to build PPP capacity in the CPA and line agencies. This support will include:
- (a) Offering hands-on help to the MoF, CPA, and line ministries/entities for all aspects of the PIM-PPP framework and PPP project cycle. This could involve financing short-term resident experts in the MoF/CPA and line ministries/entities, as needed;
  - (b) Creating sectoral PPP units in high-performing line ministries/entities, which will involve producing operating manuals/guidelines for daily PPP activities; and
  - (c) Holding training workshops and/or financing participation in third-party workshops/courses to meet capacity gaps, on topics such as the following:
    - Project identification, screening, and selection (building on training/tools already provided under the World Bank PPP TA program)
    - Feasibility analyses (technical, economic, financial, legal)
    - Transaction structuring, risk allocation, and financing
    - Project financing and sensitivity analysis
    - Assessment and management of the FCCL
    - Bidding and tender preparation and processes, including bid evaluations and awards, and negotiations
    - Implementing/monitoring projects and performance/contracts and resolving disputes
    - Sectoral and municipal-level training for PPPs in certain sectors or municipalities
34. A communication and awareness-building campaign is needed to ensure that the various stakeholders - the GoIRA, public, investors, the domestic private sector, affected communities, and development partners - understand and buy into the program. Leveraging the private sector is a new concept in Afghanistan and not well understood. In sensitive sectors, such as anchor infrastructure sites, frequent communication and outreach with residents and enterprises could determine success or failure; this could be a public-private dialogue (PPD) - an instrument frequently used in World Bank projects -

originally launched by a consultant and turned over to GoIRA/MoF officials by the Project's third year. The Project will also support the forming of a PPP donor consultative group that will meet regularly to discuss issues and donor projects.

***Component 2: Establishing the Infrastructure Preparation Facility (USD 40 million)***

35. Afghanistan's infrastructure investments have lacked up-front planning and funding to prepare projects. Thus, the Project will create an umbrella IPF (a central funding pool with two separate windows), to cover the appraisal and preparation of infrastructure projects. This will help the GoIRA move from an individual project approach to a systematized program to ensure that projects are prioritized and well designed. The IPF will involve an appraisal window to fund initial appraisals and a feasibility study of infrastructure projects and a PPP PDF window to finance line ministries preparing tender documents.
36. The IPF will need seed capital to begin funding the appraisal/preparation of public investment projects and PPPs; the Project will provide it through the ARTF and DFAT funding. The Project will not independently identify/develop infrastructure projects; rather, the IPF will be created as a GoIRA-managed funding facility. This reflects the importance of the integrated PIM-PPP framework and technical capacity described in Component 1. Infrastructure projects will be selected for their fit with overall priorities, and the decision about whether they are procured under public or PPP projects will be based on each project's suitability and bankability.
37. The Project will finance robust appraisal and preparation of public projects and PPPs within the budget process. The MoF Policy Department will screen and prioritize projects that are suitable, considering the following factors:
  - (i) Capital and operating project costs;
  - (ii) Project business models and cash flows;
  - (iii) Risk allocation and structure;
  - (iv) Economic viability, including value for money;
  - (v) Financial viability, including requirement for available gap financing for project bankability and/or guarantees; and,
  - (vi) Private sector interest and ability to implement project.
38. The component aims to support the establishment and seed funding of an Infrastructure Preparation Fund (IPF), that will provide funding for the robust appraisal and preparation of infrastructure projects. As part of the integrated PIM-PPP framework, the IPF will support the planning and prioritization of GoIRA's infrastructure investment program by supporting the appraisal and preparation of public investment and PPP projects submitted under the budget circular process. This component includes a US\$15 million contribution provided by the Australian Department for Foreign Affairs and Trade (DFAT) via the ARTF.

**Sub-component 2a: Design and creation of the Appraisal Window**

39. *Appraisal Window*: The Appraisal Window will have an allocation of [US\$5-10.0 million] to appraise infrastructure projects submitted by line ministries as part of the Budget Cycle 1 process. It will support initial appraisal and pre-feasibilities for all projects coming up for consideration by GoIRA to determine whether each project fits with national development priorities and whether the procurement will be private or public. The Appraisal Window will support detailed feasibility studies for projects that are approved for public procurement under the Budget Cycle 2 process. The MoFPD will manage the appraisal window.

Sub Component 2B: Seed capitalization of the PPP Project Development Fund Window

40. *PPP Project Development Fund(PDF) Window*: The PPP PDF Window will have an allocation of [US\$30-35.0 million], and will be managed by the CPA. It will support detailed feasibility studies for projects approved for financing under PPP arrangements and the technical, financial and legal advisory services for structuring and negotiating PPP transactions.
41. It is important to note that the Project will not independently identify and develop infrastructure projects. Rather, the Project is designed to fit within GoIRA's budget circular and infrastructure planning processes, and the IPF will be established as a GoIRA-managed funding facility. This underscores the importance of building the integrated PIM-PPP framework and technical capacity described in Component 1. It is expected that infrastructure projects will be selected based on their strategic fit with GoIRA's development and infrastructure priorities, and the decision on whether to procure projects under public procurement or PPP projects will be based on each project's PPP suitability and bankability, keeping in mind the principles of MFD.

***Component 3: Project Management (USD 5.0 million)***

42. A Project Management Unit (PMU) in the CPA will implement the Project and this subcomponent will finance the PMU until it is mainstreamed into the Afghan civil service (the *Tashkeel*). Also, it will fund the technical expertise needed in other project components.
43. A Project Preparation Grant has been made available to the CPA/MoF which has been used, since January 2017, to recruit short-term experts, fund PPP training courses, raise awareness of the new PPP framework, further develop the PPP legal and institutional framework, and build practical capacity across line ministries through pilot projects. This facility will be terminated when PPIAP is approved by the Board.

**2.3 Project Beneficiaries**

44. The Project will benefit two main groups of stakeholders:
- (a) Government institutions in the form of technical assistance and capacity-building training, mainly to the MoF CPA and Policy Department, relevant Community Development Councils (CDCs) and other agencies sponsoring PPPs.
  - (b) Large, medium, and small private investors by helping to identify and prepare infrastructure and other projects, and addressing investor concerns.

## 2.4. Project Area

45. The PPIAP will be national in coverage and will respond to priorities identified in the GoIRA's National Infrastructure Plan (2017 -2021).

## 2.5 Implementation Approach

46. The proposed PPIAP would build on the experience and lessons learned from the WBG PPP TA program to MoF and the PPG with Ministry of Mines and Petroleum and Ministry of Public Works (MoMP/MPW). In addition, PPPP-1 incorporates lessons learned and generalized experience of the task team working in Afghanistan and other fragile, conflict and violence (FCV) contexts. Key lessons learned include the need to (a) *incorporate sufficient flexibility in program design* to take account of the highly unpredictable nature of local events including the challenging security context, regular changes to key administrative staff and evolving national priorities and strategies b) *ensure high level oversight* to facilitate inter-ministerial coordination (c) *simplify the project design* (d) *have modest goals* for new activities and *scale up if successful* (e) *include sufficient budget for program management and administrative costs* as implementation support will be substantial (f) *invest in a comprehensive communication and public relations strategy* for the project to ensure two way information flow between stakeholders and counter rumors and provide systematic opportunities for consultation of all stakeholders, especially within affected communities, including GRM information, (g) *be aware of the government's vulnerability to capture* by private sector interest (h) *ensure donor coordination*.
47. The Ministry of Finance (MoF) will be responsible for the overall implementation of the project through the Central Public Private Authority (CPPA).

## 2.6. Potential Environmental and Social Impacts

### 2.6.1. Overall Impacts

48. Component 2b of the proposed PPIAP project will finance preparatory TA activities, for infrastructure projects which will be identified or selected by MoF/CPA based on their strategic fit with the GoIRA's national development and infrastructure priorities. The PPIAP will not finance these projects and therefore will not have major impacts or high environmental or social risks. Each pre-feasibility study will be a stand alone document designed to allow the GoIRA to make an informed decision on whether to proceed with a PPP project. Decision making will be further guided by a pre-feasibility check list prepared under the current WBG PPP TA support project. All projects that proceed to the feasibility stage will be screened to ensure that they are classified as category B or lower and will, therefore, not have high environmental or social risks.

### 2.6.2 Potential Environmental Impacts

49. The proposed project will not have significant direct environmental impacts but the potential indirect and downstream impacts due to the anticipated future infrastructure related-activities in proposed project areas may be substantial. Potential environmental impacts of projects that might be implemented later on might include:
- soil erosion* as a result of earth moving and heavy machinery and equipment
  - increased demands on the ecosystem and natural resources*.

- c. *loss , reduction or disturbance to natural habitat and wildlife* caused by clearance of land for construction site, barrow pits, quarry sites from which materials used in construction are extracted
- d. *poor air quality and noise pollution* due to material extraction and transport movement in and close to construction sites
- e. *Congested and heavy use of existing road networks* due to the frequent movement of heavy construction vehicles on roads during construction
- f. *health and safety hazards* from inadequate disposal of dangerous waste from construction camps as well as construction materials.
- g. *Occupational Health and Safety issues for labor and communities.*

The severity of potential environmental impacts both in terms of their intensity and scale will be evaluated as part of the feasibility studies in Environmental and Social Assessments and mitigated and managed through environmental and social management plans. Also, application of the WB EHS Guidelines ( <http://www.ifc.org/ehsguidelines> for the relevant subsectors as well as the country national regulation related to labour laws.

50. In compliance with World Bank’s Safeguards policies, Afghanistan Environmental Law and Regulations, projects with significant adverse impact should receive Environmental Clearance (EC) from NEPA.

### **2.6.3. Potential Social Impacts/Risks**

51. The TA activities will not itself have any major direct social impacts and risks, but there may be potential indirect impacts from anticipated sub- projects to be supported under subcomponent 2b of the Project. The overall social risks ratings are likely to be Substantial (S). The key drivers of social risks for PPPPI may include; (i) potential indirect land acquisition impacts from anticipated infrastructure subprojects that will be included for feasibility studies; (ii) labor influx risk and community safety risks associated with labor camp and workers coming into area, which are expected to occur during implementation and operation of PPIAP sub-projects; (iii) low capacity of local companies to conduct social safeguards studies and (iv) existing land and water disputes may be fueled by infrastructure development and disrupt project development. Selection of investments will be screened at feasibility stage in order to avoid this situation.
52. Labor influx related risks are expected to be substantial, because the private sector companies are expected to hire laborers from outside the area where the project is being implemented, especially skilled labor. The SIA will include a labor influx risk assessment study to assess labor influx risks, including child labor issues, community safety, disruption to local community. The ESMP will include labor influx mitigation plan and the employees’ Code of Conduct (CoC) which be applicable to each site.
53. Furthermore, the MoF CPA (through consultants) will conduct social screening of all proposed PPP sub-projects that will take place at pre-feasibility stage. Consulting firms will be engaged to collect information and assess/identify key social risks and identify issues for consideration in more detailed assessments at the feasibility stage. More specifically, with regard to identification of risks and impacts, preliminary social screening and scoping at pre-feasibility stage and SIA, site-specific Social Management Plans (ESMPs) and Resettlement Action Plans (where needed) during feasibility-stage will be prepared for all sub-projects and would be subject to local disclosure and consultation as per the national law and WB safeguards policies.
54. A standalone Resettlement Policy Framework (RPF) has been developed for this project and sets out procedures for managing land acquisition, asset loss and resettlement. The

ESMF also includes guidelines for identifying and assessing the impacts of potential investments on existing heritage structures and sites. ( annex 5) Systematic involvement of local people, including women and other vulnerable groups, throughout the planning and implementation of projects will underpin the identification and implementation of any mitigation measures to be included in ESMPs and RAPs.

55. PPP activities are expected to provide increased employment opportunities and enhanced household incomes within local communities. This in turn may lead to improved health status of families and more children attending school in the project locality

## 2.7. Project Environmental and Social Risk Assessment

56. Overall Environmental and Social risks are rated as substantial.

**Table 1**

<b>RISK ASSESSMENT MATRIX</b>		
<b>Description of key risks</b>	<b>Risk Rating</b>	<b>Proposed Risk Management Measures</b>
<i>1. Limited Safeguards Management capacity within the MoF and Sponsoring Ministries together with weak capacity of local firms to carry out SIAs and EIAs and prepare RAPs</i>	Substantial	<p>1.Adequate budget included in project proposals to enable compliance with ESMF requirements.</p> <p>2.Establishment of safeguards unit within the MoF and dedicated safeguards staff in each sponsoring ministry at national and provincial levels.</p> <p>3.Responsibility for safeguards allocated to a senior ministerial position within MoF in order to ensure support for/ coordination with safeguards staff within sponsoring ministries.</p> <p>4..Systematic Capacity Building for safeguards staff and sponsoring ministries and private sector partners' management teams. Capacity building plan developed as part of the ESMP</p>
<i>2. Degradation of Natural Habitats, soil erosion, poor waste management, water and air pollution</i>	Low	<p>1.Environmental screening and Assessment as part of pre-feasibility and feasibility studies.</p> <p>2.Adherence to Afghan laws and international good practice.</p> <p>3.Avoidance/mitigation measures included in final design of projects and ESMPs.</p> <p>4.Close cooperation with National Environment Protection Agency.</p>
<i>3.Negative Impact on ecosystem</i>	Moderate	1Environmental screening and Assessment as part of pre-feasibility and feasibility studies.

		<p>2. Adherence to Afghan Laws and international good practice.</p> <p>3. Avoidance/mitigation measures included in final design of projects and ESMPs.</p> <p>4. Close cooperation with National Environment Protection Agency.</p>
<p>4. <i>Disputes between local communities and project management resulting in delays to project development</i></p>	Substantial	<p>1. Stakeholder Engagement strategy prepared as part of feasibility level studies</p> <p>2. Build capacity of sponsoring ministries to conduct and document consultations.</p> <p>3. Systematic consultations with all groups of stakeholders, especially PAPs from a project's outset.</p> <p>4. Establish and maintain functional GRMs</p>
<p>5. <i>The concerns of women and other vulnerable groups such as the landless and disabled are not properly taken account of in project development and may be further disadvantaged by it.</i></p>	Substantial	<p>1. Appointment of women in safeguards teams in MoF and sponsoring ministries.</p> <p>2. Consultations with women and other vulnerable groups take place throughout the project cycle at an appropriate time and venue for each group</p>
<p>6. <i>Labour Influx during construction phase leading to: a) conflict arising from increased demand on services and existing infrastructure, b) increase in communicable diseases © increase in gender-based violence and child labour</i></p>	Substantial	<p>1. Setting up and maintaining functional GRMs. Including establishing dedicated hotline for grievance redressal.</p> <p>2. Stakeholder engagement plan - systematic liaison with community representatives.</p> <p>3. Support to community services e.g. healthcare.</p> <p>4. Identification and compensation of PAPs</p> <p>5. Strict adherence to Labour Law and application of ECOP</p>
<p>7. <i>Damage or destruction of cultural resources e.g. shrine and burial grounds and historical heritage sites</i></p>	Low	<p>1. Guidelines for Chance Find Procedures in line with national Afghan Law will be followed.</p>

### III. LEGAL, REGULATORY and POLICY FRAMEWORK ANCHORING THE ESMF

#### 3.1 Key National Laws and Regulations

57. The primary relevant laws and regulations framing social and environmental issues of the PPIAP project are: the Environment Law of Afghanistan (2007); the National Policy for Environmental and Social Impact Assessment (2017), National Regulations for Environmental and Social Impact Assessment (2017); the Constitution of Afghanistan (2004), Afghan Land Policy (2017), the Labour Law (2007) the Law on Land Acquisition (2017); the Land Management Law (2017); the Water Law (2009) and Water Sector Strategy (2012); the Law on the Preservation of Afghanistan's Historical and Cultural Artifacts (2004), and the Law on Disaster Management (2012). Key provisions of these laws/regulations are highlighted as follows:

- *The Environmental Law (2007)*: The law was developed based on international standards taking into account the environmental conditions in Afghanistan and is considered comprehensive. It stipulates that the active involvement of local communities in decision making processes is required for the sustainable use, rehabilitation and conservation of biological diversity, forests, land, and other natural resources as well as for prevention and control of pollution, conservation and rehabilitation of the environment quality. It also states that the affected persons must be given the opportunity to participate in each phase of the project. The law requires the proponent of any development project, plan, policy or activity to apply for an environmental permit (called the Certificate of Compliance or CoC) before implementation of the project by submitting an initial environmental impact assessment to the National Environmental Protection Agency (NEPA) to determine the associated potential adverse effects and possible impacts. The law also establishes a Board of Experts that reviews, assesses and considers the applications and documents before NEPA could issue or not issue the permit. The EIA Board is appointed by the General Director of the NEPA and is composed of not more than 8 members. The EIA Board of Expert's decision can be appealed.
- *National Regulations for Environmental and Social Impact Assessment (2017)* These update the *EIA Regulations (2008)* and grant the National Environmental Protection Agency (NEPA) formal oversight responsibility for social impact assessment in addition to environmental impact assessment. There are now merged into a single Environmental and Social Impact Assessment process. The updated regulations sets out the administrative procedures for conducting ESIA's. The regulations provide examples of projects expected to create adverse impacts (Category 1) and those that may create significant negative impacts (Category 2) before describing specific processes and procedures, and the required documents for each category. After receipt of the application form and other relevant documents NEPA will, according to the requirements: (i) issue a CoC, with or without conditions, (ii) advise the applicant in writing to review the technical reports and address the concern of NEPA, or (ii) refuse the CoC with written reasons. Once permission is granted the proponent must implement the project within three years otherwise, the permit expires.



Implementation constraints include (i) effective application of ESIA procedures by private and public proponents; (ii) monitoring of the implementation of the ESMP; (iii) the expertise and means for quality analysis necessary to determine compliance reports; (iv) the ownership of the EIA process by line ministries; (v) limited knowledge, experience, and capacity of staff; and (vi) the coordination, monitoring, and harmonization of various requirements by international agencies involved in technical and financial supports.

- *The Constitution of Afghanistan* (2004) contains some articles that relate specifically to compensation and resettlement issues. These include Article 40 ‘No one’s property shall be confiscated without the order of the law and decision of an authoritative court. Acquisition of private property shall be legally permitted only for the sake of public interests and in exchange for prior and just compensation.
- *The Law on Preservation of Afghanistan’s Historical and Cultural Artifacts* (2004) According to The Law on the Preservation of Afghanistan’s Historical and Cultural Artifacts operations which causes destruction or harm to recorded historical and cultural sites or artifacts is prohibited (art .11, art. 16). The law provides guidelines for how to deal with chance finds. This is considered consistent with the World Bank OP 4.11 on physical cultural resources. ESIA’s will include screening for existence of physical cultural resources in the potential area of impact.
- *Labour Law* (2007) contains a number of articles relevant to infrastructure development: Article 30 states that an organization ‘can increase or decrease the hours of work during the week providing that the total working hours during a week do not exceed 40 hours’. Articles 107 – 119 in Chapter 10 of the Law set out a range of specific requirements to ensure health and occupational safety conditions in a workplace. For example, Article 112 requires that when working in ‘conditions harmful to health’ special clothing/footwear etc should be put at the disposal of employees free of charge; Article 114 requires that First Aid Medical kits should be available and the treatment of an employee’s illness should be at the employer’s expense.
- *An Afghan Land Policy* was approved by the cabinet in 2017. Important relevant provisions of the current policy include: *Land Tenure/Land Acquisition* (i) Land policy provides that compensation for the expropriation of ownership or of rights over land as enshrined in the Constitution be strictly enforced by law. Property rights may only be expropriated under defined legal procedures and for defined legal purposes; (ii) it also provides that no law may permit arbitrary deprivation of property rights. In the event that the government decides to implement a development project in the interest of the public, the value that the land had prior to the announcement of the expropriation will form the basis for the amount of monetary compensation to the owners of the property. *Protection of Property Rights* (i) It is a national policy that the national and provincial governments take measures to protect citizens including residents of informal settlements from arbitrary and forcible eviction. Eviction and relocation of unplanned settlement residents shall be undertaken with community involvement only for necessary spatial rearrangement that should take effect in

accordance with the public's interest (ii) Compensation for expropriation of rights over land must be provided equitably in accordance with the law.

- *The Law on Land Acquisition (2017)* replaces *The Law on Land Expropriation (2009)* in providing the legal basis for land acquisition and compensation. Article 4 confirms Municipalities in urban areas and ARAZI in rural areas as the enforcement authorities of the law. Article 5 sets out the range of public interest projects, including a range of infrastructure projects, for which an individual's property and assets may be expropriated; Article 6 reconfirms the types of properties ( cultural and historic) and land ( required for environmental protection) where expropriation is either prohibited or limited; Articles 9-12 set out the various responsibilities of the expropriating authority, affected person and evaluation committee; Articles 13-18 describe the different types of expropriation; The arrangements for transfer of Government Property in order to enable a Project are described in Articles 19- 21. Articles 22 -37 are devoted to a set of issues around the valuation of expropriated properties including the establishment of a Panel of Developing Bill of Valuation of Expropriated Properties in every province ( article 22), appraisal of compensation for different assets ( articles 25-33) ; Articles 36 and 37 deal respectively with expropriation of property of an absent person and timing of compensation payments; Articles 38-41 set out the Resettlement procedures and responsibilities of the Resettlement Committee.; various miscellaneous provisions related to land acquisition including assessment of property related conflicts and enforcement are set out in articles 42-53.
- The new *Land Management Law (2017)* replaces the *Law on Managing Land Affairs (2008)* and aims to create a legislated unified, reliable land management system. This Law also aims to provide a standard system for land titling, land segregation and registration; prevent illegal land acquisition and distribution; access to land to people; and conditions for appropriation of lands. Under the new Law the judiciary will no longer have a dominant role in land registration, issuance of land documents and land titling thus removing any potential conflict of interest with its key role in dispute resolution.
- *The National Disaster Management Law (2012)*: The new Law regulates activities related to response, preparedness and risk reduction for natural and manmade disasters including the institutional arrangement responsible for implementation. The National Disaster Management Commission (NDMC) and the Afghanistan National Disaster Management Authority (ANDMA) are responsible for decision-making, regulation and coordination of disaster preparedness, response, and enforcement. At provincial and district levels, a separate commission is established to implement the decisions made by the NDMC. With assistance from international communities, a number of policy and planning documents necessary for guiding directions in disaster risk management have been prepared.

### **3.2 Key International Environmental Conventions and Agreements**

58. Afghanistan is a signatory of many international environmental agreements, treaties and conventions. NEPA and MAIL play important roles as the focal points for these

agreements <sup>7</sup>. Afghanistan has signed but not ratified the Basel Convention regarding trans-boundary movement and disposal of hazardous waste, and is in the process of acceding to the Convention on Migratory Species and the Ramsar Convention on Wetlands.

### 3.3. World Bank Safeguard Policies Triggered by PPIAP

#### Safeguard Operational Policies

Safeguard Policies Triggered by the Project	Yes	No
<u>Environmental Assessment (OP/BP 4.01)</u>	[X]	[ ]
Natural Habitats ( <u>OP/BP 4.04</u> )	[ ]	[ X]
Pest Management ( <u>OP/BP 4.09</u> )	[ ]	[X]
Physical Cultural Resources ( <u>OP/BP 4.11</u> )	[ ]	[X]
Involuntary Resettlement ( <u>OP/BP 4.12</u> )	[X]	[ ]
Indigenous Peoples ( <u>OP/BP 4.10</u> )	[ ]	[X]
Forests ( <u>OP/BP 4.36</u> )	[ ]	[X]
Safety of Dams ( <u>OP/BP 4.37</u> )	[ ]	[X]
Projects in Disputed Areas ( <u>OP/BP 7.60</u> )	[ ]	[X]
Projects on International Waterways ( <u>OP/BP 7.50</u> )	[ ]	[X]

59. The rationale for triggering the above policies is set out below:

- *Environmental Assessment (OP/BP 4.01)*: This OP covers impacts on the natural environment, human health and safety, transboundary and global environmental concerns. It is triggered because the proposed project will finance preparatory TA activities, including pre feasibility and feasibility studies of potentially significant infrastructure investments across a range of sectors. Although not financed by the PPIAP these future investments when implemented may potentially lead to significant and widespread adverse environmental and social impacts if capacity in the relevant agencies and in the private entities is not enhanced. The nature, type and physical locations of future investment projects will be determined by feasibility studies to be carried out during implementation of the proposed project. Through the ESMF for the PPIAP the Borrower will ensure a process is put in place that would ensure the required environmental and social assessments and plans are prepared when these investments are identified, in compliance with Afghanistan's own requirements and with OP4.01 and other triggered Bank safeguards policies.

The extent and type of environmental and social assessment required is based on its screening category. The WB classifies projects into one of three categories ( A, B and C), depending on the type, location, sensitivity and scale of the project and the nature and magnitude of its potential environmental and social impacts.

<sup>7</sup> NEPA is the focal point for the ozone treaties, the Vienna Convention and the Montreal Protocol, and the UN Framework Convention on Climate Change (UNFCCC) while MAIL is the focal point for the UN Convention on Biological Diversity (UNCBD), the UN Convention to Combat Desertification (UNCCD) and the Convention on International Trade of Endangered Species (CITES).

## World Bank EA Screening Categories

<b>Category “A”</b>	An Environmental and Social Impact Assessment (ESIA) is always required for projects that are in this category. Impacts are expected to be ‘adverse, sensitive, irreversible and diverse with attributes such as pollutant discharges large enough to cause degradation of air, water, or soil; large-scale physical disturbance of the site or surroundings; extraction, consumption or conversion of substantial amounts of forests and other natural resources; measurable modification of hydrological cycles; use of hazardous materials in more than incidental quantities; and involuntary displacement of people and other significant social disturbances.
<b>Category B</b>	When the subproject’s adverse environmental impacts on human populations or environmentally important areas (including wetlands, forests, grasslands, and other natural habitats) are less adverse than those of Category A subprojects. Impacts are site – specific; few, if any, of the impacts are irreversible; and in most cases, mitigation measures can be designed more readily than for Category A subprojects. The scope of environmental and social assessment for a Category B subproject may vary from subproject to sub-project, but it is narrower than that of a Category A sub-project. It examines the subproject’s potential negative and positive environmental and social impacts and recommends any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance.
<b>Category C</b>	If the subproject is likely to have minimal or no adverse environmental impacts. Beyond screening, no further environmental assessment action is required for a Category C sub-project.

The PPIAP is rated as Category B. All projects receiving TA support for preparation of feasibility studies under the PPIAP will also be classified as category B or category C. A “Category B” project may have some significant adverse environmental impacts that are sensitive, diverse, or unprecedented. Few if any these impacts are irreversible. Feasibility level Environmental and Social Assessments will identify and examine potential negative and positive environmental and social impacts and through relevant plans (ESMP, RAP, CHMP) recommend measures to avoid, mitigate or compensate adverse impacts and enhance positive outcomes. Generic Terms of Reference for limited environmental and social assessments and a more detailed ESIA are included under annex 2. OP/BP4.01 requires that the ESMF be subject to participatory and culturally appropriate consultations in the project areas and publicly disclosed in both Dari and Pashto languages, locally and at the Banks InfoShop, before appraisal of the project.

- *Involuntary Resettlement (OP/BP 4.12)*: This policy covers not only physical relocation but any loss of land or other assets resulting in a) relocation or loss of shelter b) loss of or access to assets © loss of income sources or means of livelihood whether or not affected people must move to another location. It is triggered because, although no direct land acquisition and resettlement is anticipated as a result of this TA project, the feasibility studies for future PPP projects may recommend some land acquisition resulting in asset loss and resettlement. As the nature, type and physical locations of the PPP sub-projects for full feasibility studies cannot be identified before project appraisal, the Borrower has prepared an Environmental and Social Management Framework (ESMF) and a stand-alone Resettlement Policy Framework (RPF) for the proposed project to guide preparation of Limited environmental and social assessments, ESIA and RAP(s) (where needed.) The ESMF includes provisions for carrying out environment and social due diligence. The RPF sets out procedures for handling land acquisition and resettlement in prospective sub projects and provides detailed guidance on developing RAPs and Abbreviated RAPs( annexes 4 and 4b)

OP/BP 4.11 is not triggered but Chance Find Procedures, aligned with national legislation, are in place ( see annex 5).

Safeguard policies also require compliance with the WB group’s environmental health and safety guideline (EHS) (Annex 6: ECOP, section 1.5)

#### IV. ESMF: OBJECTIVES AND MANAGEMENT APPROACH

60. The overall purpose of the ESMF is to ensure that investments and activities (technical assistance) to be financed under the PPIAP project and anticipated future PPP investments, will not create adverse impacts on either local communities or their environment and that any potential adverse impacts will be adequately mitigated in line with national regulations and the WB’s safeguard policies and potential benefits enhanced.

61. The objectives of the Framework are to help ensure that activities under the project and anticipated future PPP investments will:
- a. Protect human health and safety;
  - b. Prevent or compensate any loss of livelihood;
  - c. Prevent environmental degradation as a result of either individual sub-projects or their cumulative effects;
  - d. Enhance positive environmental and social outcomes; and,
  - e. Ensure compliance with Afghanistan’s laws and regulations and World Bank safeguard policies.

**Table 2: Safeguards Requirements Component by Component**

<b>Components</b>	<b>Activities to be financed by the Project</b>	<b>Safeguards Instruments</b>	<b>Timing for Preparation and Implementation of Safeguards Instruments</b>
<b>Overall Project level</b>	Components 1-3	ESMF & RPF	Prepared during project preparation, implemented in project.
<b>Component 1: Strengthening institutional and technical capacity of MoF and other relevant agencies.</b>  Sub Component 1a: Improving and integrating the PIM-PPP framework  Sub Component 1b: Strengthening GoIRA institutional and technical PIP-PPP capacity and awareness.	Technical Assistance  Technical Assistance	None	N/A
<b>Component 2: Establishing the Infrastructure Preparation Facility</b>  Sub Component 2a: Design and Creation of the Appraisal Window  Sub Component 2b: Seed Capitalization of the PPP Project Development Fund Window	Technical Assistance  Technical Assistance	Limited	Limited Environmental and Social Assessments, ESIA's,

		Environmental and Social Assessments, ESAs, ESMP, RAP/abbreviated RAP as required ECOP application	ESMPs, Abbreviated RAPs (where needed) prepared during project implementation.
<b>Component 3: Project Management</b>	Technical Assistance services	None	N/A

#### 4.1. Approach to environmental and social management in the PPIAP

62. A framework approach is adopted as all project investments under sub component 2b could not be identified at the time of project appraisal. Consistent with existing national legislation, the ESMF prescribes policies, guidelines, procedures, and codes of practice to be considered during project planning and implementation. The framework sets out a range of screening tools to assess potential negative environmental and social impacts of sub projects and guidelines for preparing relevant mitigation management plans. The approach takes account of lessons learned in other project, highlights the importance of citizen engagement and access to information and communication in underpinning effective environmental and social management and describes screening procedures.

##### 4.1.1. Incorporating Lessons Learned on Safeguard Compliance

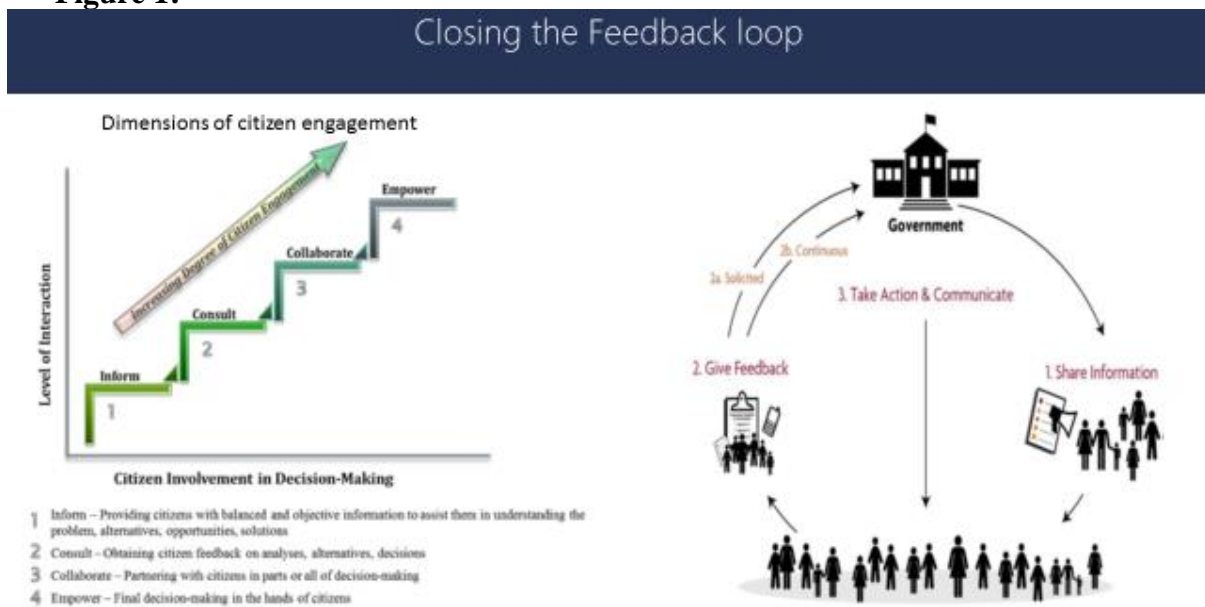
63. In addition to lessons learned set out in section 2.4, a number of important insights gleaned from implementing safeguards in other projects in Afghanistan have resonance for the PPIAP project and future sub project investments and have informed the development of this ESMF. These include:

- Adequate provision for building the capacity of ministry staff responsible for ESMF compliance within the project budget. Lack of capacity to identify potential adverse environmental and social impacts and determine, manage and monitor appropriate mitigation measures poses a substantial risk to achieving successful outcomes of future PPP projects.
- Timely and systematic public consultation is a key mitigation measure for participatory problem-solving, managing expectations and decision making,
- Priority should be given to outreach to, and consultations with all stakeholders especially women and other vulnerable groups,
- An effective Grievance Redress Mechanism (GRM), including MoF level hotline for grievance handling, established at the outset of sub project development acts as an ‘early warning system’ for project management and helps preserve project funds and project reputation.
- In the event that a project requires land acquisition and/or settlement of people:
  - All land acquisition must be categorized (involuntary acquisition of private land and government land) must be documented and available for review. It is important to note that voluntary land donations are not acceptable under location specific investments as envisaged under the PPIAP.
  - The number of PAPs must be agreed by relevant agencies and communities
  - Systematic monitoring is required to ensure that agreed compensation is paid to PAPs in a timely way to avoid misunderstanding and distrust building between a sub project and local communities.
  - All compensation payments must be recorded.

#### 4.1.2. Citizen Engagement

64. Within the PPIAP citizen engagement is a two way interaction between citizens and Governments and/or the Private Sector that gives citizens an informed say about proposed infrastructure investment while enabling PPP management teams to hear public perceptions/concerns and suggestions. Involving various stakeholders from the beginning of a project development helps avert problems and costly delays and can create important support for a project. It is anticipated that initial stakeholder consultations will be enhanced throughout project implementation to facilitate learning and feedback and smooth adjustments to projects as necessary. Key elements of citizen engagement within the PPIAP include, *stakeholder consultations* during the development and implementation of all projects supported under the PPIAP, the effective implementation of a *Grievance Redress Mechanism* which needs to be established by the MoF and cover all projects, development of a citizen feedback mechanism and the involvement of communities in *Third Party Monitoring*.

**Figure 1:**



8

#### Stakeholder Consultations

65. Wide-ranging consultations are essential at all stages of the proposed investments from appraisal to evaluation. Such consultations help: (i) ensure that people, including vulnerable groups, especially women, are made aware of a subproject and have the opportunity to comment on it (ii) improve responsiveness, accountability and transparency on the part of project management (iii) promote better decision-making and (iv) increase cooperation between communities and government/private investors during project design and implementation. Consultation mechanisms include:

- a. Public Meetings
- b. Focus Group Meetings
- c. Key Informant Interviews

<sup>8</sup> Strategic Framework for Mainstreaming Citizen Engagement, World Bank

- d. Public Hearings
- e. One to One meetings with Project Affected People

66. Initial meetings with stakeholders provide a forum not just for dissemination of information about a sub project and its potential impacts, but also constitute an important opportunity to hear people's concerns, manage their expectations and take on board their recommendations to the extent possible in project design. These meetings also will lay the foundations for systematic consultation and participation of the community in all subsequent stages of an investment scheme's development. For the PPIAP project, consultations are also critical in assessing whether key business assumptions of future investment sub projects, e.g. payment of tariffs and fees, are realistic and enforceable. Key informants are likely to include the head of men and women's CDCs, imams/mullahs, mirabs, teachers, staff in health centres etc.
67. Stakeholders fall into two categories: (i) Direct stakeholders who will be directly affected by an investment scheme e.g. local communities and local businesses (ii) Indirect stakeholders who have an interest in the project, or who could influence its outcome, e.g. national and local government agencies, donors, NGOs and private companies.
68. Following stakeholder identification, participatory methods such as focus group discussions, semi-structured interviews, key informant interviews will be used by safeguards staff within the sponsoring agency to conduct meetings with representatives from each group - both to inform the development of safeguards instruments and to consult stakeholders through the lifetime of a sub project. Meetings will be arranged at times to ensure the maximum participation of stakeholders.
69. Separate meetings will be held with women and other marginalized groups. Project management will ensure that either female safeguard staff or a woman is recruited to enable outreach and effective consultation with women interested in or already working in SMEs. It is essential that women's views and concerns are properly taken account of in the final plans and designs of a project.
70. The prevailing security context is likely to determine the location of most meetings. All meetings with stakeholders must be properly documented and filed for easy retrieval.
71. Consultation with indirect stakeholders will be conducted in parallel to those with communities. These will include meetings with representatives from relevant government departments/programs and agencies including District Governors, NEPA, and representatives from other related projects, private sector investors and NGOs working in the target areas to enhance consistency and potential positive impacts of PPIAP project.
72. The Communication and Awareness building campaign ( component 1b) of the PPIAP emphasizes the critical importance of frequent communication with and systematic outreach to various stakeholders including local communities to build consensus on the proposed sub project. Under this component broader principles and practice of Public Private Dialogue will be introduced to the MoF and other government sponsoring agencies and private investors in line with the those set out in the Public Private Dialogue Charter [http://www.publicprivatedialogue.org/charter/PPD\\_Charter.pdf](http://www.publicprivatedialogue.org/charter/PPD_Charter.pdf)



73. Consultations on this ESMF were held in Kabul on 17 December 2017 to deepen various stakeholders’ understanding of the environmental and social safeguards procedures, including the GRM. Key aspects of the discussions are reflected in the final version of the revised ESMF, and the minutes of these consultations are attached as Annex 12.

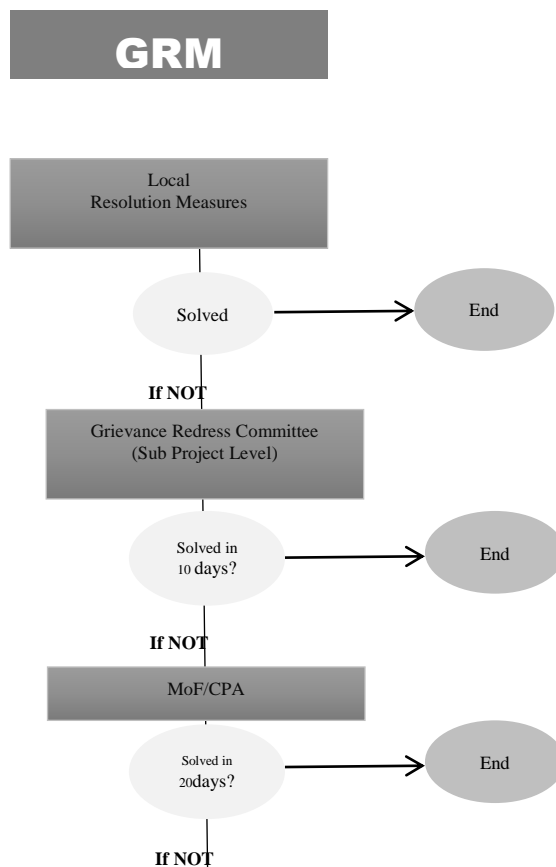
*Grievance Redress Mechanism (GRM)*

74. Safeguards staff within the MoF/CPA and the sponsoring agencies, together with local government representatives, must inform community representatives about the GRM and explain the various ways of accessing it during initial meetings. Safeguards staff should explain that a range of mitigation measures to reduce potential negative environmental and social impacts of sub project activities on communities - including the concept of just compensation for any involuntary acquisition of land a/or assets, will be discussed and agreed with community representatives as an integral part of sub project development. These will be included within a sub project’s ESMP and should reduce the number of potential grievances.

*GRM process*

75. The Project Director of the PMU will be responsible for ensuring that each project establishes an effective multi-level GRM to handle all grievances, related to sub project activities. The GRM will function at 3 levels: at community level where every effort will be made to resolve the issue; at sub project level where Grievance Redress Committee will be established and as an appeal mechanism at National Level.

**Figure 2**



76. In addition the MoF will set up a grievance ‘hotline’ within the Ministry allowing anonymous telephone reporting of grievances by telephone, as well as reporting by e mail and the web. This service will most probably be contracted out to an external supplier such as independent call centre which will operate a manned telephone hotline around the clock, 7 days a week and 365 days a year. This service will cover all WB-MOF supported projects, including public concerns relating to MoF services.
77. Where an individual has a grievance with regard to a specific investment activities she or he should, in the first instance, be encouraged to make use of existing local-level structures (e.g. in rural areas CDCs and village leaders and neighborhood or *gozar* level structures in urban areas) to try to resolve quickly any concerns or grievances related to project development and implementation.
78. If intermediation at local level is unsuccessful, the individual or Affected Person (AP) can take his or her complaint to a formal Grievance Redress Committee (GRC) at sub project level which will record the grievance and try and resolve issues relating specifically to the implementation of a sub project. (Annex 9). A GRC will include the Affected Person (AP), the sponsoring agency’s representative at Provincial Level, a representative from local government, a representative from the AP’s community CDC/which may be a representative from a women’s CDC, a local NGO representative and the contractor.
79. The AP (or his/her representative) may submit his/her complaint in a number of ways e.g. by written letter, phone, sms messages and email to the GRC or, raise his/her voice in a public or individual meeting with project staff. Alternatively, the AP may prefer to use the grievance ‘hotline’ in the MoF. A very simple grievance form in local language will also be available at each project site to be filled in by the complainant.
80. The GRC will meet to try and resolve the matter at community level and make a recommendation usually within 7-10 working days from receipt of complaint. If there is no decision after 10 days the AP can refer the complaint to the CPA in Kabul. The Director General of the CPA will chair an Appeals Committee, which will then examine and provide feedback to the AP on the outcome of her/his complaint within 20 days. It is recognized that some complaints may take longer to resolve due to their complexity. For example, those related to land disputes.
81. All submitted complaints and grievances will be registered at project level and added to a database within the PMU which will be updated regularly by designated staff. Each complaint and grievance should be ranked, analysed and monitored according to type, accessibility and degree of priority. The status of grievances submitted and grievance redress will be reported to the Project Manager of the PMU through the monthly report.
82. Project management as well as staff in the CPA/PMU and sponsoring ministries will receive training on the development and effective implementation of GRMs.

83. Key indicators for monitoring the implementation of a GRM- Citizen Engagement include:
- a. grievance responded and or resolved within the stipulated service standard for response time: 80%
  - b. beneficiaries (private sector companies and other beneficiaries and stakeholders) reporting satisfaction with key aspects of consultation process (pre-feasibility and feasibility studies): 80%
  - c. Percentage of project beneficiaries that have access to a GRM. 100%
84. The MoF will engage a consulting firm or individual to conduct a survey to measure beneficiaries' satisfaction in relation to these CE indicators.

#### *Third Party Monitoring and Independent Technical Audits*

85. A third party monitoring agent will produce regular reports on selected projects and will assess safeguards compliance using indicators included in site specific ESMPs and RAPs/ if prepared. The agency's reports will be informed by field observation visits and, crucially, discussions with community representatives and various members of the project team.

#### ***4.1.3. Access to information and Communication***

86. Sub Component 1b of the PPIAP includes a focus on Communication and Awareness building. It is anticipated that this component will complement and reinforce the priority this ESMF places on access to information and communication through (i) consultations with a range of stakeholders on the development of safeguards instruments and (ii) liaison with government officials and other development actors on environment, social development, and gender issues at both national and regional levels. A communication strategy, including a public awareness campaign to inform local communities of their legal entitlements, rights, and responsibilities in respect of projects developed under the PPIAP, will be developed. It is anticipated the PMU safeguards unit will liaise closely with the staff responsible for developing and implementing the communication and awareness building campaign.
87. In order to ensure that affected communities are made aware of changes and have the opportunity to comment on it and to reduce possible misinformation about proposed activities, it is vital that a communication strategy is put in place early in the project's implementation. Key objectives of the communication strategy will be to:
- Provide relevant and up-to-date information to affected communities about the project through appropriate communication channels;
  - Facilitate a meaningful two way exchange of information with different groups of stakeholders throughout the lifetime of the project;
  - Build trust between project staff and communities and promote collaboration among all stakeholders; and

- Facilitate collaborative relationships with local and national government departments, private partners and other development agencies.
- Build awareness of the project with the general public

88. The strategy will give priority to communication through relevant media channels: The PMU’s safeguards unit will liaise closely with safeguards staff in the national and regional focal teams and the private sector management teams to assess community and other stakeholder’s access to, and use of, broadcast and print media and explore how the most appropriate outlets might be used to raise awareness of, and provide feedback on, the project. Key activities may include, but are not limited to,:

- a. Distribution of easily understood information to all affected communities;
- b. Communication through locally relevant channels. Safeguards Officers will identify trusted ways in which different groups within communities, particularly poor and vulnerable groups, receive and communicate information (e.g. Village meetings, mosques, women and male CDCs, markets etc.) and will make use of these channels to convey and receive information, consult and hold dialogues with the different groups throughout the life of the project;
- c. Liaison with relevant provincial government departments and other agencies: provincial safeguards staff will meet regularly with government staff in key regional departments. such as NEPA, DRRD, Department of Health, DAIL
- d. Meetings with general public to enhance awareness of the project and the role of PPP in national development.

#### 4.1.4 Safeguards Screening Procedures

89. Pre-feasibility and Feasibility studies will be developed and submitted by sponsoring ministries to the CPA/PMU under the PPP PDF window of sub component 2 b. Environmental and Social screening of all projects will take place at pre-feasibility stage to collect information and assess *inter alia* key environmental and social concerns and identify issues for consideration in more detailed assessments at the feasibility stage. Screening at pre-feasibility stage also provides opportunities to establish a dialogue with stakeholders and involve them, especially local communities, in determining factors to be further assessed and helps facilitate early agreement on contentious issues ( see annexes 1b and 1c). Feasibility level environmental and social impact assessments (EIAs/SIAs) are more detailed, comprehensive and rigorous than pre-feasibility level screening and will be conducted in parallel with required technical studies so that findings from the ESIA can inform final PPP project designs and plans. ESIA will determine whether a proposed project will comply with the GoIRA’s and World Bank’s regulations and policies , evaluate alternatives and design appropriate mitigation, management and monitoring plans ( see annexes 2a, 2b, and 2c). The review of pre feasibility studies will ensure that those projects which due to size, type and potential high adverse impacts fall into category ‘A’, do not proceed to feasibility stage under the PPIAP.<sup>9</sup>

**Table 3: Overview of Screening and Assessment process and responsibilities**

Project Screening and Assessment Process	Corresponding Safeguards	Responsibility
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<sup>9</sup> The GoIRA may choose to continue with feasibility studies of category A projects under a different funding stream.

		<b>requirements</b>	
1.	Preparation of Pre-feasibility studies for PPP projects requiring additional preliminary preparation.	Citizen Engagement  Environmental and Social Screening (annex 1)	Sponsoring Ministry (through consulting firms)
2.	Pre-feasibility studies for PPP projects screened/reviewed using criteria developed under current WBG TA project	- Negative attributes list (annex 1a.) - pre-feasibility studies screening checklist ( annex 1 b and 1c) - screening out of projects rated category A	CPA/PMU safeguards staff
3.	Feasibility studies for PPP projects carried out - relevant mitigation plans prepared	Citizen Engagement  Limited Social and Environmental Assessments ESIA ( annexes 2a, 2b and 2c) ESMP ( annex 3) Abbreviated RAP and CHMP prepared, if required ( annexes 4 & 5) ECOP application	Sponsoring Ministries ( transaction advisory team/ safeguards unit)
4.	Feasibility Studies for PPP projects reviewed	Reviewed to ensure Compliance with GoIRA laws/regulations and WB policies as set out in the ESMF  ESMPs/Abbreviated RAPs approved/Cleared	CPA/PMU safeguards staff  WB safeguards specialists.

90. The CPA/PMU, together with project focal teams in sponsoring agencies and private sector partners will apply the relevant ESMF requirement as set out in table 3 above.

## **V. ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)**

91. An ESMP sets out feasible and cost effective measures to address all identified potential negative environmental and social impacts. It will be required for each PPP project and will be informed by the findings from environmental and social assessments and consultations with various stakeholders, especially community groups. The ESMP should include brief description of: (i) adverse impacts (ii)mitigation measures (iii) monitoring plans (iv) institutional responsibilities (v) capacity building and (vi) associated costs. The costs of mitigation measures need to be well defined and included in the project implementation costs. The ESMP will also include labor influx mitigation plan and the employee code of conduct (COC).

92. The ESMP will be developed by designated safeguards staff in sponsoring ministry although this responsibility may be shared at a later date with the private sector partner. The ESMP will be reviewed by the safeguards team within the CPA/PMU prior to submission to NEPA. Upon clearance by NEPA and the WB the ESMP will be used by both the sponsoring ministry and the private sector

implementing partners to manage all potential environmental and social impacts for each project investment. (Annex 4 and 4b)

## 5.1. Key elements of an ESMP

### 5.1.1. Capacity Building

93. The overall objective is to build and strengthen the institutional capacity of:
- a. CPA/MoF to better support the preparation, implementation, supervision, monitoring, and reporting of safeguard performance in PPP projects and
  - b. designated staff within sponsoring ministries to effectively apply ESMF guidelines to the preparation, management and monitoring of PPP projects.

#### *Approach to capacity development*

94. The first step will be to identify the capacity gaps and needs of the various stakeholders. Capacity building should be viewed as more than training. It is human resource development and includes the process of equipping individuals with the understanding, skills and access to information, knowledge and training that enables them to carry out their responsibilities effectively. Capacity building will mostly be in the form of workshops, seminars and on the job training.
95. A cascade approach to capacity development will be employed within the project. The World Bank environmental and social safeguards specialists will support the MoF to strengthen/ build the capacity of its designated safeguards staff within the CPA/PMU to manage safeguards effectively within the PPIAP. They in turn will work to build the capacity of safeguards staff within sponsoring ministries and private sector partners and increase awareness and knowledge of environmental and social issues within management teams.
96. A training manual will be developed by the PMU. Safeguard training for relevant staff within the PMU, sponsoring ministries and private sector companies will initially prioritize the preparation, implementation and supervision of ESMPs and the development and implementation of the GRM. Additional training to improve understanding and enhance knowledge of key issues such as ECOPs will be introduced. Involvement of other key project staff and NEPA in the process of safeguard training and capacity building will be strengthened throughout the project implementation process.
97. The target groups for capacity building are MoF/CPA/PMU, Sponsoring Ministries at national and provincial levels, private sector companies, local government, NEPA and other relevant agencies and communities.

**Table 4: Key Trainings/ Awareness Raising directly linked to implementation ESMF**

	PMU/CPA	Sponsoring Ministries	Private Sector	Local Government	Other Agencies Including NEPA	Local Communities
Role of ESMF and RPF in PPIAP	A	A	A	A	A	A

Policy and Regulatory Environment – GoIRA and WB	A	A	A	A	A	
Use, application, of ESMF,RPF tools (Screening checklists, ESIA, limited environmental and social assessments ,RPF, (RAP)	T	T	T	T	T	A
Reviewing application of ESMF and RPF tools – implementation and enforcement	T	T	T	A	A	A/T
Citizen Engagement: - Conducting consultations with and providing feedback to local communities and other stakeholder groups _ developing and maintaining functional GRMs including setting up ‘hotline’ to MoF -developing relevant citizen feedback mechanisms	T	T	T	T	T	A/T
Collecting baseline information and conducting environmental and social scoping/assessments	T	T	T	T	T	A
Identification of environmental and social Impacts – determining negative and positive impacts of investment projects	T	T	T	T	T	T
Identification of mitigation measures and development Environmental Management Plans	T	T	T	T	T	T
Monitoring implementation of ESMPs - identification of Indicators	T	T	T	T	T	T
Reporting	T	T	T	T	T	

\* T=Training, A=Awareness Building

98. The training and capacity building exercises will take into consideration during their development, the integration and fulfilment of the requirements of the GoIRA and the World Bank’s legal, regulatory and policies related to social and environmental policies. Where institutional capacity is currently inadequate, the project will ensure qualified support for this through hiring of appropriately qualified staff to provide necessary expertise.

99. Training directly linked to the implementation of the ESMF & RPF should be undertaken first and subsequently followed with regular interval training on aspects influencing success of ESMF.

100. *Private Sector Partners:* A preliminary assessment of awareness and knowledge of safeguards among selected local private enterprises was carried out as part of the ESMF & RPF preparation. A more comprehensive knowledge and skills gap analysis of the sector will be carried out by the PMU team during the first year of the project and the findings used to develop a capacity building strategy which will be incorporated into the safeguards training schedule for the project.

101. *Local communities and local authorities:* Safeguard staff from sponsoring ministries at provincial and municipal level will work through local Community Development Councils (CDCs) and other relevant forums to organize practical training to build the knowledge and awareness of local authorities and local communities, including women, on social and environmental issues related to proposed project activities. Training will also be provided to build the skills of local people to participate actively in identifying appropriate mitigation measures to avoid or reduce potential negative impacts of project activities.
102. *Contractors and supervision consultants* as part of best practice, and in order to comply with international standards for Occupational, Health and Safety (OHS), will be provided with awareness raising and environmental and OHS training on site. Contractual bidding documents will also indicate a requirement for ESMF compliance.

### **5.1.2. Monitoring and Evaluation**

103. To ensure effective implementation of measures in the ESMP, the PMU will put in place the following Monitoring and Evaluation system which includes both internal monitoring and reporting and external monitoring and evaluation.

#### ***Internal monitoring and reporting***

104. At provincial/municipal level, designated safeguards officers within the sponsoring ministries, together with local (district and village) government, local communities and PPP project management will be responsible for monitoring the implementation of mitigation measures, set out in Environment and Social Management Plans (ESMPs). Relevant practical indicators to enable effective monitoring will be identified by safeguards staff in close liaison with community representatives during consultations on possible impacts of sub project activities during project preparation and included in ESMPs.
105. Monitoring information together with other information collected from various stakeholders (e.g. representatives of men and women's CDCs, local government officials in project locations, local NGOs and contractors) together with observations of project activities will be reported monthly to safeguards staff in the relevant sponsoring ministry at national level in Kabul using standard reporting forms.
106. Monthly monitoring reports from provincial/municipal level safeguards staff, informed by reports from private sector partners where relevant, will include:
- a. List of consultations held, including locations and dates, name of participants and occupations
  - b. Main points arising from consultations including any agreements reached
  - c. A record of grievance applications and grievance redress
  - d. Monitoring data on environmental and social measures detailed in ESMPs.
  - e. Number of construction supervision reports that include assessment of contractor's compliance with safeguards in accordance with ECOP
  - f. Number of trainings of community groups in environmental and social issues



107. Safeguards staff at the national level within the sponsoring ministry will prepare consolidated quarterly monitoring reports on all PPP projects which in addition to the above data will include:
- a. Number of national, provincial/municipal staff and counterparts trained on ESMF compliance.
  - b. Number of consultations and groups consulted
  - c. Progress on Environmental and Social Assessments/ESIAs
  - d. Number of cleared ESMPs
  - e. Update on grievances including pending cases
108. These reports will be submitted to the PMU Director and filed to permit easy retrieval and indicators will be incorporated into the overall PPIAP project M & E system.

### ***External Monitoring***

109. A third party monitoring agent will be appointed to assess performance in PPP investments which will include assessment of safeguards compliance using site specific ESMPs and RAPs/CHMPs if prepared. The safeguards assessment will, assess whether (i) the ESMF process is being correctly adhered to (ii) relevant mitigation measures have been identified and implemented effectively and whether these need to be adjusted to reflect changing circumstances (iii) the extent to which all stakeholder groups are involved in sub project implementation. The agency's reports and recommendations will be informed by field observation visits and, crucially, discussions with community representatives, various members of the project team and will be submitted to the PMU and the WB. Safeguards staff from the PMU and Government sponsoring agencies will meet regularly with the Third Party Monitor to review their safeguards findings and recommendations. The role of the Third Party Monitor is increasingly important as security considerations make it difficult for World Bank staff to visit most sub projects.

## **VI. RESETTLEMENT ACTION PLAN (RAP)**

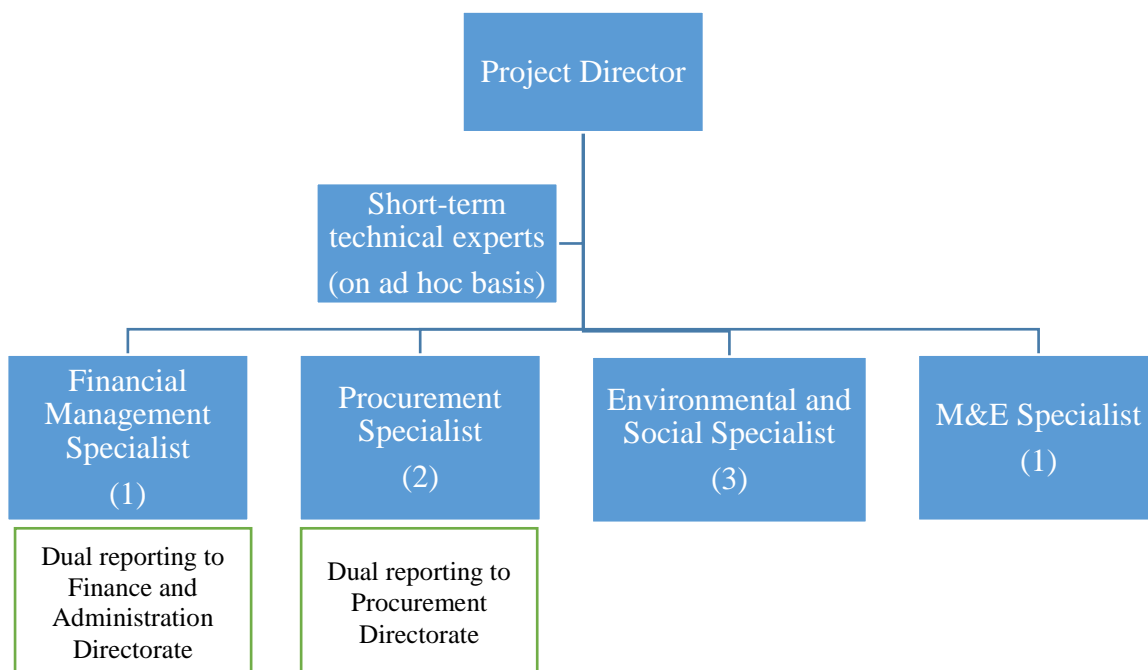
110. A RAP is required when project activities displace people from land or productive resources, and which result in the loss of shelter, the loss of assets or access to assets, and the loss of income sources or means of livelihood whether or not the affected persons must move to another location. An abbreviated RAP, where fewer than 200 people will be affected by a proposed project, is designed to ensure that impacts arising from land acquisition, displacement and relocation are avoided, minimized or mitigation at least to restore the livelihoods of affected people to pre- project level. In addition, the pre-feasibility studies may identify areas where there may be restrictions to natural resources and livelihoods. The abbreviated RAP, informed by policies and procedures detailed in the Resettlement Policy Framework (RPF), included as a standalone annex to this ESMF, focuses on people affected by land acquisition, asset loss, relocation and restriction of access and defines a strategy for formalizing arrangements and mitigating negative impacts. The content of a full and abbreviated RAP are included in Annexes 4 and 4b.

## **VII ESMF IMPLEMENTATION ARRANGEMENTS**

## 7.1 Institutional Responsibilities

111. The overall responsibility for ensuring compliance with environmental and social safeguards requirements as set out in the ESMF rests with the Director General of the CPA within the Ministry of Finance.
112. National - PMU: At the national level, a Project Management Unit (PMU) will be established within the CPA and will act as project coordinator and project focal point,. The Project Director of the PMU will report to the directly to the Director General of the CPA. Three Environmental and Social Safeguards staff (ESSS), at least one of which will be female, will be included within the PMU and report directly to the unit's Project Director. Specific responsibilities of the PMU safeguards staff will include:
- a. Liaising with designated ESS staff in focal teams in each of the GoIRA ministries and agencies which are sponsoring PPP projects selected for preparatory support under the PDF.
  - b. Conducting regular trainings on ESMF guidelines for both management and designated safeguards staff within the sponsoring ministries. Priority will be given initially to conducting environmental and social assessments, establishing GRMs, developing and implementing ESMPs and implementing ECOP.
  - c. Review of Environmental and Social Assessments conducted as part of pre-feasibility and feasibility studies for selected sub projects under the PDF
  - d. Facilitating Limited Environmental and Social Impact Assessments and, if required, Abbreviated Resettlement Action Plans (RAPs) and Cultural Heritage Management Plans (CHMPs) including developing relevant ToRs, reviewing consultants' interim and final reports.
  - e. Coordinating implementation of PPIAP's environmental and social commitments and initiatives with relevant government agencies including the National Environment Protection Agency (NEPA) and Afghan Land Authority (ARAZI)
  - f. Clearing and monitoring ESMPs prepared by safeguards team/ designated safeguards staff within the sponsoring ministries.
  - g. Monitoring GRM – review of registered grievances and their resolution
  - h. Coordinating with, and receiving feedback from and recommendations of, the Independent Third Party Monitoring Agency.

### Figure 3: Proposed PPIAP-1 PMU Structure



113. National – Sponsoring Ministries: Specific responsibilities of designated ESS staff, of which at least one will be female, within the sponsoring ministries will include:

- a. Liaising with PMU safeguards staff and designated staff of private partner on all aspects of ESMF compliance.
- b. Ensuring that environmental and social scoping and screening forms part of all pre-feasibility studies.
- c. Prior screening of environmental and social content of pre-feasibility studies before submission to the CPA against ESMF negative check list
- d. Liaising with relevant procurement teams to recruit appropriately suitable expertise/qualified consultants to conduct Environmental and Social Assessments and develop ESMPs, liaising with and providing support to consultants etc.
- e. Initial review of environment and social assessments.
- f. Ensuring systematic liaison with provincial/municipal level staff to ensure that all stakeholders are identified, consultations on the proposed PPP takes place with each group of stakeholders and that findings from consultations inform ESMP development.
- g. Supervision of ESMP implementation within the PPP by provincial/municipal level government team and/ or private sector partners.
- h. Establishing functional GRMs in each PPP – review of registered grievances and their resolution at regular intervals.
- i. Training designated staff within provincial/ local government teams, private sector partners and local community representatives on relevant environmental and social issues including ESMP development and implementation and the GRM

114. Provincial/Municipal level: Specific responsibilities of designated female and male safeguards staff within the sponsoring ministry and the private sector partner will include:

- a. facilitating the work of consultants conducting environmental and social assessments
- b. Identification of stakeholders; hold consultations with different groups of stakeholders especially local communities, including vulnerable groups especially women, and local government officials on impacts of proposed interventions.
- c. Establishing ( at the outset of a project) a GRM and ensuring its effective functioning.
- d. Ensure systematic consultation with communities and other local level stakeholders throughout the life cycle of the project .
- e. Supervision and monitoring of implementation of mitigation measures in ESMPs
- f. Providing monthly reports on safeguards matters to national safeguards team within sponsoring ministry.

115. Designated safeguards staff in the PMU, sponsoring ministry staff at national and provincial levels and their private sector partners, and project management will receive training to enable them to carry out their responsibilities to ensure safeguards compliance to an acceptable standard.

116. The CPA will ensure that mechanisms are put in place both within the PMU and CPA more widely to foster knowledge sharing across the MoF and sponsoring ministries: (i) the benefits of including environmental and social safeguards in planning and implementing PPP projects and (ii) the content and requirements of the PPIAP ESMF. Consultant organizations and/or NGOs hired to conduct sub project studies and surveys will be required to include women as members of their consultancy teams in order to ensure women’s involvement in the various assessments at community level. A partnership will be formed with an appropriate NGO to work with the PMU and focal teams in the sponsoring ministries on the development, implementation and monitoring of any Resettlement Action Plans (RAP).

## 7.2. Reporting

117. Provincial/Municipal safeguards teams will submit project specific monthly environmental and social progress reports to the national safeguards team in the sponsoring ministry who will discuss any issues noted in these reports with private sector counterparts. The national safeguards team will report monthly to PMU’s safeguards team. The PMU will prepare and submit quarterly progress reports to the WB on compliance with safeguards requirements.

## 7.3 Key elements of a budget for ESMF compliance

The total cost for ESMF implementation cannot be estimated because the number of projects submitted under sub component 2b is unknown. The table below however, highlights the key elements of the ESMF that require a cost budget. Indicative unit costs are included but these need to be reviewed and confirmed. The costs of preparing and implementing ESMPs, RAPs and CHMPs would be included in relevant PPP project budgets.

**Table 5: Key elements of an ESMF budget**

Activity	Description	Unit cost, US\$	No	Total Cost, US\$
Environmental and Social Assessments				

Conducting Pre-Feasibility level environmental and social screening and preparing report	Recruitment of Consultants to prepare studies	15,000		
Conducting Feasibility level Environmental and Social Assessments, preparing assessment reports and related safeguard management plans ( e.g. ESMP, abbreviated RAPs, CHMPs etc)	Recruitment of Consultant Specialists to prepare and review environmental and social assessments	40,000		
<b>Capacity Building and Awareness Raising</b>				
Conducting skills assessment in MoF and sponsoring ministries, preparation of environmental and social safeguards capacity building plan	Recruitment of consultants to conduct skills assessment/identify gaps, prepare capacity building plan and training manual.	40,000		
Capacity building for MoF/CPA, sponsoring ministries and private sector partners.	Training workshops/seminars ( see Table?)	200,000		
Study tours	Regional study tours to related or similar sites for environmental and social champions participating in the PPIAP	200,000		
Development of a Communications Strategy to raise awareness about PPIAP and the ESMF	Communications strategy would reflect the ways in which different stakeholders access and communicate information. It would also include mechanisms to raise broader awareness of the project	30,000		
Awareness raising for PPP project management staff and contractors	Raising awareness of ESMF and related issues	10,000		
Awareness raising of local communities	Raising awareness of communities about the PPP project and training on how to engage with project management on environmental and social issues that directly affect them	10,000		
Awareness raising of general public	Use of a range of mechanisms including Radio, TV discussions, Newspaper adverts on issues relating to ESMF	50,000		
<b>Translation</b>				
ESMF and RPF	Translation into Dari and Pashto	10,000		
Training Manuals and other training materials	Translation into Dari and Pashto	20,000		

## 7.4 Disclosure

118. This Environmental and Social Management Framework (ESMF) was developed by the MOF.

119. This updated ESMF and RPF were cleared by the World Bank on January 9<sup>th</sup>, 2018 and re-disclosed in country on the MoF website and on the MoF website and on the WB's external website on January 10<sup>th</sup>, 2018.