



Handling Compensation Cases with Legal and Administrative Impediments

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Handling Cases with Legal and Administrative Impediments

Policy Requirement: SPS requires that no physical or economic displacement will occur until compensation at full replacement cost has been paid to each displaced person (DP) and other entitlements as per the RP/LARP.

Compensation is deemed to have been paid when the amount has been provided to DPs or deposited into their bank account, or in an escrow account. Section 31 of the LAA also allows depositing of the compensation amount in court in case of dispute which can be withdrawn/disbursed once the issue has been resolved.

Impediments may be beyond the control of the EA/IA, but good-faith efforts need to be sufficiently demonstrated and documented.



Handling Cases with Legal and Administrative Impediments

Recent examples of legal and administrative impediments encountered in projects:

1. Pending References in the courts against awards
2. Title dispute and compensation apportionment issues pending adjudication in land revenue and civil courts
3. Land mortgaged to bank or other entities with pending liabilities
4. Obsolete and erroneous land record showing deceased DPs with pending inheritance mutations and incorrect title/entries, etc.
5. Absentee landowners (DPs living overseas or in other parts of the country)
6. Meager amount of compensation
7. Juvenile or mentally retarded DPs with no legal guardian appointed by a competent court under Guardians and Wards Act of 1980 (as amended)
8. DPs lacking documents including valid CNIC, valid claim supporting documents, erroneous entries in land records and
9. Issues related to opening of bank accounts



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Why is it important to address cases with legal and administrative impediments?

1. Prevents the project from assisting DPs to enable them to cope from their displacement and restore/improve their situation/condition
2. Delays project implementation
3. May raise allegation of non-compliance to the policy requirement of compensating DPs before their displacement and expose the project to risks of complaints



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What are considered good-faith efforts to address cases with impediments?

1. Contacting and notifying DPs through their last known address, or through their village heads or kins
2. Informing DPs who to contact or where to proceed to collect their compensation
3. Coordinating with the relevant agencies to help secure the required documentation or identify alternative measures to facilitate compensation payments
4. Conducting continued community consultations and outreach to locate, and assist DPs with impediments
5. Obtaining documents confirming DPs' understanding and agreement to the measures to be taken or requirements to disburse their compensation



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Recent examples of good-faith efforts in projects:

1. Establishment of village level displaced person committees as a local forum for regular consultation and information dissemination among the DPs and Project implementers
2. Screening and documentation of DPs having different impediments through regular consultative and information disclosure meetings
3. Dissemination of information through
 - a) issuance of notices as required, distribution of information brochures and installing hoardings/banners in the project affected villages and
 - b) making public announcements through the village Mosques and by using print and electronic media



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Recent examples of good-faith efforts in projects (continued):

4. Reaching out to village notables/relatives of the absentee owners for documenting contacts and coordinating with them on DPs' current/known addresses
5. Approaching and coordinating with known legal heirs of the deceased DPs and/or the natural guardians of juvenile/mentally retarded DPs to guide them for early inheritance mutation or getting guardian certificate from competent court.
6. Explaining the process and procedure for payment and facilitating the DPs in getting required claim processing documents and opening of bank accounts.



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Discussion on Other Potential Measures to Address Impediments:

1) Meager Amounts

- a) Payment through Cash or open Cheques
- b) Payment through Ubank or Jazz Cash Accounts
- c) Debit Card Payment Mechanism (Similar to Benazir income support program)

2) DPs having title/apportionment disputes

Through consultation with the litigants and respective court, compensation can be deposited in court under Section 31 of LAA 1894



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Discussion on Other Potential Measures to Address Impediments (continued):

3) Addressing issues related to pending mutation or absentee landowners

Through inquiry process under section 5-A and section 9 and 10 of LAA it should be ensured that

- a) the land ownership status of acquired land is reviewed and the cases involving pending mutation issues are identified and documented
- b) The notices to the absentee landowners are served on their known current addresses
- c) The land record could be updated to the extent possible for finalizing of acquaintance roles before announcement of award.



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Capacity/Resource Constraints of Mandated Agencies:

Under the LAA, the LAC is responsible for approaching DPs and processing of compensation, while the Revenue Department is responsible for correction/mutation of land records.

However, LACs/RDs usually have staffing and resource constraints, are overly burdened with other tasks, and cannot fully focus on the LAA activities.



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Addressing Capacity/Resource Constraints of Mandated Agencies:

In consultation with the LACs and RDs, the EA/acquiring department can:

- Deploy adequate numbers of qualified land staff and social mobilization staff under the project
- Provide timely logistic support (i.e. transportation, information dissemination, establishment of field offices, preparation and updating of land record documents) under the project budget