



Existing Facilities - Avoiding/Handling IR Legacy Issues

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ADB

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Policy Requirement for Existing Facilities (including sites acquired before ADB involvement)

IR Policy applies to land acquisition or land use restriction occurring prior to the project, but which were undertaken or initiated in anticipation of or in preparation for the project.

For projects involving existing sites or previously acquired sites, an on-site environmental and social assessment is needed to identify past or present safeguards concerns.

The borrower/client is expected to conduct an environmental and/or social compliance audit (ESCA) to determine their safeguard compliance status. For existing sites or previously acquired sites, a social due diligence report (SDDR) is prepared to confirm absence of impacts and IR/IP legacy issues. The ESCA/SDDR is disclosed on the ADB website.



Policy Requirement for Existing Facilities (including sites acquired before ADB involvement)

Where non-compliance or legacy issues are identified in the ESCA or SDDR, a corrective action plan (CAP) with implementation schedule and budget is agreed.

If the project involves expansion or upgrade of an existing facility which will have potential impacts on the environment, involuntary resettlement or IPs, then an environmental and social assessments and plans (EIA/IEE, RP, IPP) will be required.

What are Sites with IR Legacy Issues?

- Existing facility or acquired land with pending or unresolved IR issues or sites where the LAA process has not been fully completed wherein
 - a. some APs have not received their compensation or have only received a portion of their compensation,
 - b. some categories of APs were excluded from the compensation
 - c. there are APs who have become worse off and unable to restore their livelihood as a result of their displacement from the acquired land
 - d. there are disputes/unresolved complaints concerning the acquired land including complaints on the valuation and calculation of compensation. In some cases, the dispute/complaint are still awaiting resolution from court
- Sites that were acquired under section 17 (urgency clause) of the LAA. In some cases, site possession was made even if some APs have not receive their compensation
- Sites with ownership dispute



Why Legacy Issues Matter?

- Unresolved IR issues may pose a risk to project implementation if these escalate
- May result in complaints and be raised as a non-compliance issue to ADB

Options When Dealing with Sites with IR Legacy Issues:

- Option 1: Avoid or replace the site
- Option 2: Prepare a time-bound corrective action plan (CAP) agreed with ADB with clear budget and responsible units



Project Example: KP Cities Improvement Investment Project (KPCIP)

Abbottabad Water Supply Scheme

- A total of 6.89 acre was acquired in 2016 using the normal land acquisition procedure of the Land Acquisition Act, from 255 landowners with a total compensation amount assessed by the Board of Revenue (BOR) at PKR 1.8 million (PKR 0.26 million/acre).
- All DPs have remained unpaid at the time of project appraisal. None of the landowners have come forward to collect their compensation due to very low land assessment rates. Consultations were inadequate and GRM is not in place. A corrective action plan (CAP) was prepared.
- As part of the corrective actions, an independent valuation study (IVS) was carried out to determine the current market value and replacement cost of the land as per ADB SPS requirements. The IVS works out a differential of 1346 % higher than the cost determined by the BOR.
- The differential cost in the valuation of the BOR assessed compensation rates and those determined by the third party is to be paid by PMU from their internal resources.



Project Example: KP Cities Improvement Investment Project (KPCIP)

Integrated Solid Waste Management, Peshawar

The Local Government acquired 102.4 acres in 2017 for a landfill site using the urgency clause of LAA. Since the use of urgency clause is against the ADB SPS policy principles, and it was not feasible to find an alternative site, a corrective action plan (CAP) was prepared to bring the subproject in compliance with the ADB SPS requirements.

- Fresh consultations were made with the DPs to seek their views about the acquisition and impacts on their conditions and livelihood
- Social impact assessment was carried out to check if there are impacts that would also need to be addressed or groups that may need additional assistance



Project Example: KP Cities Improvement Investment Project (KPCIP)

Integrated Solid Waste Management, Peshawar

- An independent valuation study (IVS) was carried out by a State Bank of Pakistan (SBP) approved valuator to assess the cost of the land and non-land assets as per the ADB's requirement of replacement cost.
- Part of the ADB loan proceeds was used for the land acquisition and resettlements (to reimburse compensation payments up to the level these are disbursed to the affected persons (APs))



Project Example: KP Cities Improvement Investment Project (KPCIP)

Overhead Reservoirs (OHRs), Peshawar

- A total of 34 OHRs are selected for civil works.
- The EA provided departmental NOCs as evidence of ownership during the Due Diligence process.
- The sub projects were categorized as “C” for IR and the EA assured that any unanticipated impacts will be dealt with as per ADB SPS 2009.
- The EA started construction on 5 OHRs.
- From one construction site there was a complaint to ADB OSPF claiming the ownership of land.
- During further due diligence it became apparent that the EA did not have the land ownership document.
- Civil works are on hold and the complaint is being resolved by project GRM.



Project Example: KP Cities Improvement Investment Project (KPCIP)

OHRs Lessons learnt and agreed actions

- During Due Diligence NOC is not sufficient as a proof of ownership of land proper land record needs to be available/ annexed with DDR.
- More complaints are expected on the same issue on the other OHRs as well.
- Early consultation is necessary during project preparation stage with all stakeholders.
- If unresolved the EA would need to initiate the land acquisition process or negotiated acquisition.