

Compliance Report

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Kyrgyz Republic: CAREC Transport Corridor 1 (Bishkek-Torugart Road), Project 1

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Abbreviations:

ADB	Asian Development Bank
AP	Affected People
CAREC	Central Asia Regional Economic Cooperation
EA	Executing Agency
GRG	Grievance Redress Group
GRM	Grievance Redress Mechanism
IPIG	Investment Project Implementation Group
JOC	Japan Overseas Consultants
MOTC	Ministry of Transport and Communications
NGO	Non-governmental organization
OSPF	Office of Special Project Facilitator
PHC	Primary Health Center
RMU	Road Maintenance Unit
RP	Resettlement plan
SAAC	State Agency for Architecture and Construction

I. Introduction

A. Goal and Objectives

1. This report was prepared to meet the requirements of the ABD Policy on Involuntary Resettlement (1995) that was triggered with regards to the Transport Corridor CAREC (Bishkek-Torugart), Project 1 so as to minimize and mitigate the adverse impact of the Project on the population of Kara Suu and Kara Bulun villages in At Bashy raion, Naryn oblast. In line with the ADB Policy, the Executing Agency (EA) developed and endorsed a Resettlement Plan (RP) which encompassed removal of 3 small shops, relocation of about 1 572 meter fence, and cutting of 211 trees. Overall, the number of APs totaled 46 (45 private and 1 public entities). The Project did not involve any land acquisition. Considering the impacts described above, the resettlement category was reclassified and the Project was assigned category "B" for resettlement.

2. The goal of the assessment was to ascertain to what extent rehabilitation and compensation measures undertaken in 2 affected villages were implemented in compliance with the principles of the RP. The assessment included all RP components and covered the period from 12 August to 30 September 2011. The objectives of the compliance assessment included the following:

- (i) effectiveness of RP and information brochures disclosure amongst APs in 2 affected villages;
- (ii) extent to which compensation/rehabilitation measures were implemented in line with RP provisions;
- (iii) process and mechanisms for compensation payment;
- (iv) effectiveness of the Grievance Redress Mechanism;
- (v) satisfaction level of the APs with compensation package and RP implementation.

B. Methodology

3. The assessment has drawn upon different methods of collecting and analyzing data, including the desk review, semi-structured interviews with the APs, review of letters, minutes of meetings and other records, focus group discussion with representatives of the EA and local government, NGOs and members of the Grievance Redress Group (GRG).

4. The survey conducted in 2 affected villages following the compensation payment allowed to measure the satisfaction level of the APs with the compensation package and implementation of the RP as a whole. The questionnaires were designed to determine the following aspects of APs' satisfaction:

- (i) Level satisfaction with the public consultations and information disclosure;
- (ii) Level of satisfaction with the overall compensation/rehabilitation package provided to the APs;
- (iii) Level of satisfaction with the process of how compensation payment was organized;
- (iv) The effectiveness of the GRG to register and review the complaints.

The results of the survey were synthesized and further supplemented with the findings of the follow-up in-depth interviews with the APs, complainants, representatives of local government and the EA.

C. Milestones, Timeframe and Implementing Partners

5. ***The implementation of the RP was somewhat delayed compared to the initially planned schedule.*** The process of compensation payment proved to be time-consuming and onerous, not least because of issues with the clearing the title for some APs and logistical issues associated with traveling to the site. The key dates and milestones of the RP implementation process are shown in Table 1.

Table 1: Key Dates and Milestones of the RP Implementation Process

Key dates	Milestones
3 July 2011	Distribution of information brochures amongst the APs in Kyrgyz and Russian languages
4 July 2011	Disclosure of the information brochures on the RP in Kyrgyz, Russian and English languages on website of the MOTC and ADB
7 July 2011	Public consultations on the draft RP in 2 affected villages
21 July 2011	Distribution of updated information brochures amongst the APs
26 July 2011	Issuance of Governmental Ordinance approving the Resettlement Plan
29 July 2011	Issuance of the decree by the MOTC endorsing the RP
3 August 2011	Disclosure of the RP in Kyrgyz, Russian and English languages on website of the MOTC and ADB
12 August 2011	Payment of compensations to 33 APs and 3 complainants (85%)
24 August 2011	Payment of compensations to 2 APs and 2 complainants (remaining amount)
2 – 13 September 2011	Assistance to clear the title and payment of compensations to 4 APs
2 August 2011	Registration of 2 grievances by the GRG
23 August 2011	Review and closure of the registered grievances.

6. During RP implementation, the EA was assisted by the local consultants, JOC staff, representatives of the Road Maintenance Unit, local NGOs, the local government of the 2 villages as well as the officers of the ADB.

II. Comparison of the Compensation Package Approved in the RP and the Actual Payments made to APs

7. ***The compensations to APs and 3 complainants were paid according to the entitlement matrix.*** By 30 September 2011, 43 APs, including 3 complainants, were paid compensations according to the entitlement matrix approved in the RP. Remaining 3 APs have not yet received compensations on 4 types of entitlements (see Table 2 for details), as they are to clear the title to avoid dual claims for the compensation by other claimants (relatives). Over the implementation period, from 12 August to 30 September 2011, the total amount of 666 375 KGS were paid in compensations, which constitute 91% of the compensation budget approved in the RP (excluding contingency costs) (see Table 2).

Table 2: Comparative Table of Compensation Payment as of 30 September 2011

	Type of entitlement	Estimated as per RP	Actually paid	Compliance status	Remarks
1	Buildings and structures	329,004	266,888	Compliant	Deductions were made after SAAC issued a legal opinion and the Ministry of State Property provided its comments on valuation methods used. These deductions were discussed and agreed upon between the MOTC and ADB.
2	Fences	18,864	18,664	Compliant	Compensation for relocation of fences for 3 APs is reserved at the escrow of the MOTC until the APs clear the title.
3	Trees	26,494	26, 494	Compliant	Compensation for trees of 2 APs is reserved at the escrow of the MOTC until the APs clear the title.
4	Business	248,314	248,314	Compliant	
5	Severe impact allowance *	10,785	10,785	Compliant	
6	Allowance for vulnerable persons *	86,280	86, 280	Compliant	Allowance for vulnerable persons of 2 APs was reserved at the escrow of the MOTC
7	Resettlement allowance **	9,000	9,000	Compliant	
8	Contingency	75,000	0	Compliant	No contingency costs incurred
	Total¹	803,741	666,625	Compliant	Difference is due to the deductions for the buildings

* It should be noted that the total number of the APs who are yet to be paid and whose compensation were deposited to the escrow of the MOTC is 3. Each of these APs may be entitled concurrently for the compensation for loss of trees, fences and allowance for the vulnerability.

**The allowances were included in line with the requirements of the ADB Policy on Involuntary Resettlement.

8. During the RP implementation period, compensations were also paid to 3 complainants. Beishenbek Usenov, from Kara Suu village received 357 KGS for 4 trees and relocation of the fence; Elmira Tolgonova and Erkin Sagynaliyev from Kara Bulun village were paid 140 706 and 206 465, respectively, for loss of building and rehabilitation of business.

9. There have been some inconsistencies between estimated and actually paid amounts of compensation. However, these discrepancies were attributable to the subsequent impact measurements that were carried out to ensure due diligence to the results of the previous impact assessment. As a result, the amendments were introduced to the impact measurements of 7 APs (5 in Kara Suu and 2 in Kara Bulun). The comparative table showing the differences between estimated as per RP and actually paid amounts is provided below in Table 3 and 4.

¹ As of 09/07/11 the exchange rate was 45.15 KGS per 1 USD.

**Table 3: Inconsistencies in Compensation Amounts as per RP and Actual Payments
(Kara Suu)**

		Fences			Trees				TOTAL:
		Length	1m/KGS	Total (KGS)	Diameter	Quantity	Cost (KGS)	Total (KGS)	
1. Beishenbek Usenov	Actually paid	11m	12	132	0,3	4	56	225	357
	As per RP	11m	12	132	15 cm less	15	56	840	972
2. Medet Jumakadyrov	Actually paid	140m	12	1 680	0,3	13	56	731	2 411
	As per RP	120m 20m	12	1680	15 cm less	15	56	840	2 520
3. Keneshbek Tentimishev	Actually paid	80m	12	960	0,3	7	56	394	1 354
	As per RP	80m	12	960	15 cm less	76	56	4256	5 216
4. Boobek Abdyraeva	Actually paid	100m	12	1 200	0,3	83	56	4669	5 869
	As per RP	100m	12	1 200	15 cm less	160	56	8960	10 160
5. Nurlan Kasymov	Actually paid				0,3	3	56	169	6 525
					0,6	4	169	675	
					0,9	17	281	4781	
					1,2	1	394	4777	
	As per RP				1,2	1	506	394	506
					50 cm less	60			

**Table 4: Inconsistencies in Compensation Amounts as per RP and Actual Payments
(Kara Bulun)**

		Fences			Trees				TOTAL:
		Length	1m/KGS	Total (KGS)	Diameter	Quantity	Cost (KGS)	Total (KGS)	
1. Muhtarbek Malik uulu	Actually paid	30m	12	360	0,3 0,6 0,9 1,2	4 1 2 4	56 169 281 394	225 169 563 1575	2 891
	As per RP	30m	12	360	15-30cm	1			Calculation is not clear
2. Rahat Akmatov	Actually paid				0,3	6	56	338	2 701
					0,6	2	169	338	
					0,9	4	281	1125	
					1,2	1	394	394	
	As per RP				1,2	1	506	506	Calculation is not clear
					32 trees 15 cm; 1 tree, more than 50cm	33			

10. The compensation amount approved in the RP for 3 shop owners were reconsidered in response to the legal opinion on the valuation report issued by the State Agency for Architecture Construction (SAAC) and the comments provided by the Ministry of State Property. The deductions and valuation methods used were discussed and agreed upon between the MOTC

and ADB. As a result, some deductions were made from the initially approved amounts for all 3 shops. Specifically, the amount payable to the government for the outstanding debt of unpaid lease for the bus sheds were reviewed, as well as the estimated compensation for the lost building was corrected, as the valuation report erroneously calculated the cost of the salvage materials (roofing slabs, showcase, covering) towards the compensation to be paid to the shop owners. The deductions made for 3 shops are provided in Table 5.

Table 5: Deducted Amounts after Recalculation of Compensations for 3 Shops

	As per RP	Actually paid	Deducted
Elmira Tolgonova, shop “Bahtiar” (complainant)	157 420	140 706	16 714
Erkin Sagynaliyev, shop “Nur” (complainant)	229 459	206 465	22 994
Shekerbek Kabaev, shop “Adis”	213 819	191 411	22 408

III. Process of Implementing the Resettlement Plan

11. ***The compensation process took nearly 2 months and incurred in some delay due to the time needed for the APs to clear the title.*** The compensation payment began on 12 August 2011 in both villages, and as many as 36 APs (78 %), including the 3 complainants, received compensations. The payments were organized at the Community Recreation Centre in Kara Bulun and in Kara Suu. Many independent observers participated, including ADB officers, the OFSP consultant and representatives of local NGOs, the NGO Forum for ADB, the Office of Ombudsman for Naryn oblast and the local government of both villages..

12. By 31 August 2011 the shop owners of “Nur” and “Bahtiar” (Kara Bulun) and “Adis” (Kara Suu) were paid the remaining amount of compensation that was withheld from them until the MOTC received clarification comments from the Ministry of State Property regarding the valuation methodology for the unpaid lease for bus sheds and salvage materials. One more AP received the compensation during this period.

13. Finally, over the period from 2 to 13 September 2011, 4 more APs were compensated for the affected property, constituting the 89 % of APs who received compensation by mid September. Given that a number of APs encountered difficulties clearing the title, the EA provided extensive advisory and technical assistance so as to accelerate the payment process. Specifically, the EA prepared and handed to remaining APs the step-by-step instructions on clearing the title, organized individual consultations with the property lawyer, and provided transportation for some elderly APs to travel to raion centers to settle title-related matters.

14. By 30 September 2011, the total of 43 APs (93 %) received compensation. The compensation due for the remaining 3 APs (7 %) who are yet to clear the title to avoid multiple claims for the compensation was agreed to be reserves at the escrow of the EA for 1 year. The remaining APs and their relatives were informed that the compensation will be paid immediately after the title for the property is cleared from the dual claims.

IV. Public Consultations and Information Disclosure

15. ***The activities envisaged in the RP to consult local communities and disclose the information were fully implemented.*** On 7 July 2011, the representatives of MOTC conducted public consultations in 2 villages, where the contents of the RP were explained and thoroughly discussed with the participants. The consultations specifically focused on the principles and mechanisms for paying compensations, the valuation methodology for different types of

property losses, and procedures for registering and reviewing grievances by the Grievance Redress Group. In Kara Bulun 13 (68 %) out of 19 APs participated, whereas in Kara Suu 14 (52 %) out of 27 APs turned up. In addition, the consultations were attended by the representatives of local government, local NGO, NGO Forum for ADB, Office of Ombudsman for Naryn oblast, officers of the ADB and other community members.

16. 3 days prior to the public consultations, the information brochures on the RP were distributed amongst the APs, and copies of it were sent to local NGO, Forum NGO for ADB, and local governments of 2 villages. Overall, 39 (84 %) out of 46 APs received information materials personally; 7 APs (16 %) were away when information brochures were being distributed, therefore, brochures were handed to their relatives (please see Table 6). The information brochures and the RP were prepared and disclosed in Kyrgyz and Russian languages.

Table 6: Results of the Public Consultations and Information Disclosure

	Brochures	Public consultations	Updated brochures
Kara Bulun	17 AP (2 did not receive personally)	13 AP (among over 40 participants)	16 AP (3 did not receive personally)
Kara Suu	22 AP (5 did not receive personally)	14 AP (among over 30 participants)	23 AP (4 did not receive personally)

17. During the consultations the participants were able to ask questions, receive additional clarifications on valuation methods of lost trees, point to the inaccuracies found in the RP, and communicate suggestions on the compensation and rehabilitation package for the APs. Following the consultations in Kara Bulun the entitlement matrix was complemented by the Landscaping Program aimed to plant trees along the road sections within 2 villages. The program was planned to start in spring 2012. In addition, 3 representatives from the APs from each village were nominated and approved at the consultations to represent and protect the interests of the APs during the deliberations of the GRG.

18. After the public consultations, the RP was further updated to reflect the suggestions and concerns of APs, NGOs and local governments. The updated brochures were circulated amongst APs on 21 July 2011; the RP was printed out (20 copies in each language) and deposited in the office of the local government of the two villages on 2 August 2011. The APs and local communities were notified about the RP disclosure through the heads of village municipalities, village heads and local consultants.

V. Grievance Redress Mechanism

19. ***The overall performance of the Grievance Redress Group to identify and review the complaints was assessed as satisfactory.*** Established by the decree of the MOTC on 29 July 2011, the GRG was to register and redress the grievances at local, regional and central levels. The decree also stipulated the composition of the GRG and timeframe for reviewing the complaints at each level. Most active members who participated in deliberations of the GRG included the representatives of the following organizations and groups:

- (i) Mirlan Beksultanov, Local Point of Contact, JOC consultant, MOTC (Kara Suu)
- (ii) Emirlan Toguzakov, Assistant of LPC, JOC consultant, MOTC (Kara Bulun)
- (iii) Adilet Eshenov, Director of Naryn-based NGO “Coalition for Democracy and Civil Society”
- (iv) Beishenbek Usonov, representative of the APs from Kara Suu village

- (v) Kairat Barktabasov, representative of the APs from Kara Bulun village

The other members of the group, nominated and approved by the decree, had not participated in all deliberations of the GRG due to various reasons associated with their immediate work.

20. Over the course of the RP implementation, the GRG registered and reviewed 2 complaints from Kara Suu village. The complaints were reviewed by the local level GRG and closed within 3 weeks since the complaint was registered with the Local Point of Contact. The decisions made by the GRG were based on and informed by the results of interviews with complainants, neighbors, land specialist and site visits. The protocols of deliberations, pictures of the site visits, and chronology of the events prompting the complaints have been filed and deposited with the Local Point of Contact and the MOTC.

21. Having reviewed the cases, the GRG found one complaint invalid and by the request of the complainant filed the complaint to the regional level of the GRG (see Table 7). The other complaint was not reviewed as the complainant did not turn up to the agreed GRG meeting twice. No grievances were registered from Kara Bulun village. The complaint was found invalid based on the field investigations of the local agricultural specialists who found no difference in growth volume between the fields of the complainants and the surrounding fields of other users of the same irrigation system. It was also noted that all users of the irrigation system were well informed of the change in irrigation schedules as demonstrated by the fact that nearly all of them were able to adjust as needed their irrigation patterns.

22. Both complaints related to the fact that the complainants could not water their land plots on time due to ongoing works to replace the irrigation pipes at the road section (411+098) in early April 2011. The complaint alleged that by the end of April the water reached the land plots of their neighbors; however, the complainants were not able to water their land plot as it was not their turn to access the water. As a result, the land plots yielded less hay compared to average annual yield. The damages caused to 2 households by the delayed irrigation were estimated by the complainants to equal 6000 - 6500 KGS.

Table 7: Results of GRG's deliberations

	Name	Complaint Registration Date	Complaint Review Date	Date of Issuing the Decision	Remarks
1.	Dayirbek Kerimkulov, Kara Suu	2 August 2011	The complainant did not turn up for the GRG meeting twice	Found ineligible	
2.	Sultan Mukashov, Kara Suu	2 August 2011	23 August 2011	The complaint was found invalid. It was submitted for review of GRG at the regional level	The request to file the complaint to the regional level was submitted on 23 August 2011. As of 30 September the complaint has not been reviewed yet.

VI. Satisfaction Level by APs

23. The survey aimed to assess the satisfaction level of APs was carried out in 2 distinct stages. Firstly, the questionnaires were administered in 2 villages following the public

consultations and disclosure of the information brochures and the RP to the affected communities. Then, the second round of questionnaires was distributed towards the end of the RP implementation process. The survey was designed to assess the following aspects of the satisfaction by the APs: compensation package for the APs, public consultations and information disclosure, process and mechanism of paying compensations, and effectiveness of the GRG to review complaints. The survey results were complemented by the findings of the follow-up interviews and focus group meetings.

24. The findings of the survey indicated that the majority of APs were satisfied with the compensation package, public consultations, and information disclosure in 2 villages (see Tables 8 and 9). However, some APs expressed disappointment with the amount of compensation paid as they expected to receive more and did not agree with the valuation methodology for lost trees and fences. Other reasons for concerns amongst some APs included: a) methodology of determining the amount of compensation was not clear for everyone; b) limited involvement of APs in the process of the RP preparation and implementation; c) complex methods of calculating compensation for lost trees.

25. During the interviews, few APs also pointed out the poor organization of the compensation payment process. The representatives of the MOTC did not arrive on the day scheduled for compensation payments, nor did they notify local consultants responsible for conveying information to the community members, nor the APs about the changed date. The shop owners also pointed to some delay in paying the remaining amount of compensations.

Table 8: Satisfaction Level of APs in Kara Bulun

		Satisfied	Unsatisfied	Abstained
1	Compensation package	53 % (8 APs)	33 % (5 APs)	14% (2 APs)
2	Compensation package	59 % (8 APs)	22 % (5 APs)	18 % (2 APs)

Table 9: Satisfaction Level of APs in Kara Suu

		Satisfied	Unsatisfied	Abstained
1	Compensation package	63 % (15 APs)	12 % (3 APs)	25% (6 APs)
2	Compensation package	63 % (15 APs)	25 % (6 APs)	12 % (3 APs)

VII. Conclusion

26. To sum up, the measures stipulated in the RP to compensate and rehabilitate the APs were effectively implemented, although there were some deficiencies in the implementation of the RP associated largely with the organization of the compensation payment process, complex valuation methodology for the lost trees, and inaccuracies in the final figures of the compensation amounts. Apart from these, overall process of the RP implementation can be judged as satisfactory.

27. As of 30 September 2011, as many as 43 APs (93 %), including 3 complainants, were fully compensated. The remaining 3 APs have not yet received compensation, as they are still to clear the title to avoid multiple claims for the compensation. The compensation for the remaining 3 APs was reserved at the escrow of the MOTC for 1 year until APs finalize the process of clearing the title from claims by other claimants. These arrangements were communicated to the 3 APs or their relatives as well as to the Ministry of Finance of KR.

28. There were variations in the figures of the compensation initially approved in the RP. The inaccuracies found in the final figures of the compensation were ascribed to the subsequent impact measurements that were warranted to ensure due diligence to the quality of the previous impact

assessment. The other changes in the compensation amounts related to the legal opinion of the SAAC and clarification comments provided by the Ministry of State Property to the valuation methods used in the RP. As a result, the compensation due to 3 shop owners was re-calculated for the unpaid lease amount and value of the salvage materials that was erroneously calculated towards the compensation to be paid to the shop owners.

29. The measures carried out to consult the communities and disclose the information on the RP were effectively implemented. The EA successfully held public consultations in 2 affected villages, distributed brochures and copies of the RP among APs in Russian and Kyrgyz languages, and disclosed information materials on MOTC and ADB websites. Following the public hearings the RP was complemented with participants' suggestions, and updated brochures were distributed among APs. There were some concerns raised, however, regarding the complexity of the valuation methods for the lost trees as the some AP found it difficult to fully understand the methodology used. Otherwise, the APs indicated their satisfaction with the public consultations and information disclosure, as shown by the survey results.

30. Over the course of the RP implementation, the GRG registered and reviewed 2 complaints from Kara Suu village. The GRG found one complaint ineligible and by the request of the complainant the complaint was lodged with the regional level of the GRG. The other complaint was not reviewed as the complainant did not turn up to the agreed GRG meeting twice. No grievances were registered from Kara Bulun village. The decisions made by the GRG were based on and informed by the results of interviews with complainants, neighbors, land specialist and site visits. It should be noted, however, that the complaint filed with the regional level of GRG has not been reviewed as of 30 September 2011.

31. Overall, the implementation of the RP is judged as satisfactory, which has been also confirmed by findings of the AP satisfaction survey. The majority of APs from the 2 villages expressed their satisfaction with the compensation package as well as other measures implemented under the RP (e.g. public consultations and information disclosure). At the same time, the some respondents pointed to some deficiencies in the RP implementation process, notably complex valuation methodology for the lost tree and poor organization of the compensation payment process. The above is explainable with the fact that the LARP had to be prepared under tight logistic and time requirements conditions. For future LARPs it is recommended that the methodology for compensating trees is simplified and made clearer to the APs.