Federal Republic of Nigeria
Federal Roads Development Project (FRDP)

Road Sector Development Team (RSDT)

RESETTLEMENT POLICY FRAMEWORK

12 April 2006
LIST OF ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Meaning</th>
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<tbody>
<tr>
<td>FGN</td>
<td>Federal Government of Nigeria</td>
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<tr>
<td>FMW</td>
<td>Federal Ministry of Works</td>
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<td>FRDP</td>
<td>Federal Roads Development Project</td>
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<tr>
<td>LGA</td>
<td>Local Government Authority</td>
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<tr>
<td>OP</td>
<td>Operational Policy (of the World Bank)</td>
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<tr>
<td>RAP</td>
<td>Resettlement Action Plan (for an individual road)</td>
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<tr>
<td>RFP</td>
<td>Request for Proposals</td>
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<td>RPF</td>
<td>Resettlement Policy Framework (for the entire project)</td>
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<td>RSDMP</td>
<td>Road Sector Development and Maintenance Program</td>
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<td>RSDT</td>
<td>Road Sector Development Team</td>
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INTRODUCTION

1. The Federal Government of Nigeria, through the Federal Ministry of Works (FMW), is beginning a major reconditioning of Nigeria’s federal road network. It has requested the assistance of the World Bank to meet the immediate and short term funding needs for the roads program, starting with key “Unity Roads” that link major cities around the nation. It has also requested support for Government’s efforts to institute policy and institutional reforms aimed at promoting improved service delivery, road management and financing. The Federal Roads Development project will proceed in several phases, each consisting of several packages for the rehabilitation and sustained maintenance of city-to-city segments of the highways in question. No new roads will be constructed, so there will be no major land acquisition associated with this program, except in one case where the road carriageway will be dualized.

2. To support the use of best practice for treating the impacts of the road rehabilitation works, a framework for good environmental and social impact management within the program is being prepared. In addition, the World Bank requires the preparation of a Resettlement Policy Framework to deal with any new land that may be needed for the works being contemplated, and with encroachment into the existing rights of way.

3. This Resettlement Policy Framework (RPF) is a management tool to enhance the quality and efficiency of the works program. By setting out the general terms under which land needed for the program is acquired, it outlines the steps needed before any occupied land, whether part of the existing rights of way or outside them, can be entered and used in construction and reconstruction tasks. The RPF establishes a process for treating fully and fairly, and in a timely way, whatever rights to occupy such space that individuals and enterprises may have.

DESCRIPTION OF THE PROJECT

4. The development objectives of the project are: (a) To reduce road transport costs along the road links supported by the project; (b) To introduce total asset management methods for delivery and management of federal roads; and (c) To plan and facilitate sustainable financing arrangements for the road sector.

5. Previous engagements show that support for road reforms must be an integral part of support to physical investment if the achievements are to be sustainable. The proposed project will therefore support the finalization and implementation of the Government’s reform initiatives in the road sector.
6. The project components will be designed in line with the strategy to support both the implementation of the proposed reform and the financing of critically needed investments. The three main components are:

(i) **Policy and Institutional Reforms.** Assistance with the implementation of agreed actions including (a) studies to identify needed critical reforms to be supported and plan of action to establish an autonomous Federal Highway Authority (FHA); and (b) implementation of agreed reforms linked to the phasing of the possible IDA assistance through the Project.

(ii) **Institutional Capacity Building.** This will consist of both technical Assistance to support the RSDT and consultancies to implement improved road prioritization, planning and service delivery on the Federal roads network. The required activities will be finalized during the Project preparation and appraisal but with the initial list including a National Transport Master Plan, a 10-year road sector investment plan and support to the RSDT in specific fields of expertise where in-house expertise e.g., management of performance-based contracts and safeguards requirements, is not available.

(iii) **Upgrading, Rehabilitation and Maintenance of Federal Roads.** Assistance with (a) the preparation of the complete Road Sector Development and Maintenance Program (RSDMP); and (b) the design, preparation of bid documents and implementation of selected priority investments with long term performance based contracts using design, build, operate, maintain, and transfer principles. These individual contracts will be about ten years long with the consortium responsible for design and works execution tasks. These tasks could be scheduled, based on actual infrastructure requirements, at any stage of the ten-year contract period.

7. For the purposes of this project, Component (iii) is the key trigger of the Operational Policy on Involuntary Resettlement of the World Bank (OP 4.12). In addition, Component (ii) includes support of contract and regulatory management, including the “safeguards” requirements that span World Bank social and environmental policy issues. Both aspects of this program, safeguard issues related to the works program and regulatory issues in the reform and management program, are included in this RPF.

**PURPOSE OF THE RESETTLEMENT POLICY FRAMEWORK**

8. The World Bank’s Operational Policy on Involuntary Resettlement (OP 4.12) is applied to any project supported by the Bank which displaces people from land or productive resources, and which results in relocation, the loss of shelter, the loss of assets or access to assets important to production, the loss of income sources or means of livelihood, or the loss of access to locations that provide higher incomes or lower expenditures to businesses or persons. The policy applies whether or not the affected persons must move to another location. The Bank describes all these processes and outcomes as “involuntary resettlement,” or more simply “resettlement,” even if people are not forced to move. Resettlement is involuntary if affected people do not have the option to retain the status quo that they have before the project begins. In straightforward investment projects in which the specific investments have been identified, the OP directs that a
“Resettlement Action Plan” be drawn up to deal with any displacement caused by the Project.

9. In the FRDP there will be about nine subprojects involving physical works. They may (in some anticipated cases they certainly will) require the reconstruction of shoulders, intersections, bridges, lay-bys, median strips or other related and abutting land. Some of these areas are occupied by traders, enterprises or dwellings that have grown up despite whatever land and highway legal instruments there are which are supposed to control such occupation. Neither the final list of subprojects, the timing of physical works within each highway management contract, nor the scope and design of such works are currently known. In this case, OP 4.12 provides that there be a Resettlement Policy Framework at the outset of the project to guide the treatment of resettlement issues across the eventual set of subprojects.

10. The FRDP therefore requires two types of resettlement planning. First is this Resettlement Policy Framework (RPF), which will guide and govern the project as subprojects are selected for inclusion. Second are the specific resettlement plans (RAPs, “resettlement action plans”) that will need to be done for each subproject in which any of the displacement described above will take place. FRDP is responsible for preparing these documents. The RPF is being prepared, and must be accepted and disclosed publicly, before the Bank will appraise the project. The RAP for an individual subproject must be prepared, accepted by the Bank and disclosed before that subproject is approved for inclusion in the Bank-supported program. The RPF and the individual RAPs are thus fully complementary to one another. The timing of RAP preparation for the FRDP will be discussed below.

11. This RPF is a statement of the policy, principles, institutional arrangements and procedures that the FRDP will follow in each subproject involving resettlement. It sets out the elements that will be common to all the subprojects. It allows RAP consultants and project implementers, who may be different for different works subprojects, to deal with specific subprojects without having to re-negotiate fundamental agreements. With this RPF in place, each RAP will be a detailed action plan for treating the set of people affected by a particular subproject.

PROJECT IMPACTS

12. The federal highways to be rehabilitated in the FRDP were mainly built, or substantially upgraded, during the 1970s and 1980s. Those linking some secondary cities are two-lane highways. Highways between the largest cities were built as four-lane limited access, dual carriage, expressways along the main transport axes of the country. (The Lagos-Ibadan expressway was designed for six lanes, but the inside lane has never been paved and serves as an inner shoulder.) Typically the new highways were laid at a distance from existing villages and small towns, and there is still not much settlement along substantial segments of the roadways. The highways of that era included new routes between the new capital at Abuja and key cities on the pre-existing highway network. Federal highways are built to standards in the Federal Highways Act of 1971, with a total road right-of-way extending to 50 meters on each side of the centreline of the corridor. Along portions of the dual-carriage routes, a median strip has been left or graded as a drainage way, and cement (“Jersey”) barriers separate the traffic corridor
from the median strip. Maintenance of the highways has been variably attentive over time, but the very limited sample of roads reconnoitred by the consultant -- about six hundred kilometres along four highways likely to be included in the first phase of the project -- were in reasonably good condition, some having recently been patched or resurfaced.

13. Occupation of, or intrusion into, the rights of way observed by the consultant were of at least six major types, as follows. Each type of occupation occurs only intermittently, at what can be called “hot spots,” with long stretches of road corridor between them that are clear of all uses except for crops:

(a) Turn-off dirt roads leading directly to the pavement, allowing access and egress to various settlements and institutions. Some of these are major sources of traffic slowdown and/or precarious manoeuvring, and some are complemented by informal median crossings nearby, so that traffic using the opposite carriageway can also access the turnoff. By and large these are informal roads rather than encroachment issues.

(b) Defined driveways leading to commercial premises (filling stations are a typical category), churches, and other enterprises. Various structures have been situated in the rights of way, including fences, walls, and signboards. There is some trading on the road reserves, by people taking advantage of the entering or exiting traffic. The largest churches (Church of the Redeemer, Church of the Lord [Aladura], and others) on the Lagos-Ibadan expressway cause substantial traffic congestion when services are in progress, with drivers entering and exiting from both sides of the highway, cutting across traffic lanes as needed.

(c) Some villages and towns past which the highways were built have now, if they did not before, expanded to the roadsides. Some seem very much to have respected the road reserve, while others either come very close to or actually impinge on it. Stalls or small shops near the road shoulder are encroachers, but do not seem to interfere with traffic, in part because the shoulders blend directly into the village land. When that is the case, pulling off the road for rest or for purchases is relatively easy. When the village lies on both sides of the road, there are safety issues for residents as children and others try to negotiate crossing, especially where the traffic is dense. Of course outside the villages there may be crops or economic trees planted right down to the road shoulder.

(d) Where roads are to be dualized, there is of course a gamut of activities that will be displaced. Field crops and gardens lie within and beyond the corridor; houses that may have to be removed lie on one side of the existing road or the other; shops and other enterprises and institutions lie within the reserve that will be widened. Because the distances involved in widening the road are long, this resettlement task will entail the largest amount of time and effort.

(e) Road junctions designed into the highway system are found where significant towns were connected by formal interchanges. Because the junctions serve as passenger drops, lay-bys for vehicle checks, and provisioning points, they uniformly give rise to significant market activity accompanied by shops, stalls, vehicle repair yards and other activity. Sometimes these trading activities are all beyond the right of way, but at other intersections, especially where there are major population centres, traders crowd up
against the roadsides and dense lines of stalls or shops operate on the road reserve. At
many of these intersections, there is at least limited opportunity for vehicles to pull off
the road to transact their business.

(f) Old toll gates became major vehicle repair zones, rest stops, and trading areas. The
toll gates are gone, but the intense vehicle stopping zones remain. These zones are
focused on the roadside, not on neighbouring towns or institutions. There are shops,
bars, repair areas, and parked vehicles. At some there are also to be found burned-out
or stripped vehicle carcasses, on the road surface or the shoulder. These areas appear to
be the least safe and busiest of all the roadside areas, and at all of them there is a
general go-slow due to vehicles parking, loading or unloading, cutting across lanes to
the other shoulder, and blocking traffic without being controlled.

14. The types of “roadscapes” at the hot spots observed by the consultant are summarized in
the following figure. The most extensive road reserve encroachment among these types
is highlighted:

<table>
<thead>
<tr>
<th>Type of roadscape</th>
<th>Main uses of roadsides involved</th>
<th>Impacts on and adjacent to the roadway</th>
<th>Impacts off pavement in the right-of-way/road reserve</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turn-off roads</td>
<td>Dirt road accessing villages, towns</td>
<td>Median crossings Pavement chipping</td>
<td>Informal road Drainage issues</td>
</tr>
<tr>
<td>Driveways</td>
<td>Churches, filling stations, houses</td>
<td>Go-slows at churches Median crossings Pavement chipping</td>
<td>Structures, walls Shops and stalls</td>
</tr>
<tr>
<td>Villages</td>
<td>Village activities</td>
<td>Road crossing Parking on shoulders Refuse along shoulders</td>
<td>Shops, stalls Houses</td>
</tr>
<tr>
<td>Crops and Gardens</td>
<td>Crops, gardens, some stalls or sales tables</td>
<td>(Minor)</td>
<td>Lineal use of corridor; Encroachment to road</td>
</tr>
<tr>
<td>Main road junctions</td>
<td>Passenger drops, taxi and bus parks, repair areas and markets</td>
<td>Parking on roadway, passenger and freight loading and unloading, itinerant selling to drivers</td>
<td>Shops, repair yards, stalls,</td>
</tr>
<tr>
<td>Former toll gates</td>
<td>Lorry stops – repairs, loading and unloading, trading</td>
<td>Pavement and shoulder degrading Parking, turning, median crossing Abandoned vehicles on and off pavement Refuse in medians</td>
<td>Shops and stalls, repair yards, vehicle parks,</td>
</tr>
</tbody>
</table>

Figure 1: Current Uses of Road Corridors
15. The FRDP will rehabilitate the highway system. To improve control of the roadways and upgrade safety, investments will be made to prevent or mitigate, among other things, the access, egress, turning and parking issues noted above. Consultants’ studies of the individual roads are to be carried out in mid-2006, and will identify the design changes and improvements that are needed to regain disciplined control of the roads. It is expected that the lay-bys, turn-outs, intersections, access and egress ramps, service roads, median protection and other features that are needed will be laid out in these studies. When the RSDT invites bids for road packages, it expects that bidders may modify some of the specific recommendations if the goals of the recommendations can be achieved by alternate designs. As presently anticipated, the contractors will bid for road upgrading and maintenance contracts that will each have a duration of ten years. The schedule of works may be spread over several years. Neither the specific works to be carried out, nor the schedule of works, is now known.

16. The consultants may or may not recommend clearance of some areas of the road corridor. Unlike the practice in some other countries, however, the Federal Ministry of Works in Nigeria does not require that the road reserves remain clear. The corridor is the domain of the FGN administered by the FMW. Temporary occupation can be allowed that is consistent with the goals of maintaining the reserve, using it as needed for the construction or maintenance needs of the roadways. To manage occupation of the reserves, in 2005 the FMW appointed eight “Controllers of the Rights-of-Way,” one in each the geo-political “zones,” plus one each in Lagos and Abuja. Their Terms of Reference include the annual permitting of occupancy in the corridor against fees for the occupancy rights. They are also supposed to insure that corridor occupancy does not impinge on the efficiency and effectiveness of the roads. While it is still early to make any conclusions about how these new controllers affect the operation of the roads, what is important is the principle established: the road corridors do not have to be cleaned of all occupation. The consultants for the individual road upgrading designs are free to calculate what if any occupancy needs to be removed to accomplish the goals they set out for the roads. Though there are many thousands of occupants of the road corridors in spots of more or less intense encroachment across the full road network, it is not known now what fraction of them will need to be displaced, on what schedule, or with what direct effects.

17. **Recommendation 1.** The individual road design consultants to be contracted over the next few months are to make recommendations as to which users of the road corridor and the reserve will need to be displaced from their present locations. In their Terms of Reference, they should be tasked with determining the displacement needed to achieve the results they plan for the efficient use of the highway in question (see Annex A for the relevant TOR). The principles which follow should guide their work, which should be oriented to causing the least displacement consistent with road design goals, enabling displaced people or enterprises to be reinserted as close to their existing locations as possible, ensuring that those displaced can re-establish their incomes, and compensating some of those displaced for any reasonable losses they incur. Further details follow that should also be incorporated into the consultants’ design principles, scheduling and costing.
PRINCIPLES AND OBJECTIVES FOR RESETTLEMENT PREPARATION AND IMPLEMENTATION.

18. The FRDP does not need to, and does not seek to, remove all encroachers and other occupants of its road reserve. Among the occupants are people with houses in parts of old villages or crops along the highway, services important to the transport trade (from service stations to food sellers), and local roads that reduce pressure on the established intersections. Improved road design, including exit lanes, service roads and upgraded road junctions, can at low cost relieve congestion points at spots where highway traffic and local people an established physical presence in local markets and service areas. The consultants who design individual road upgrades can provide, at low cost, substantially reduced safety risks and annoyances at these spots and still leave many occupants on the road reserves, as monitored and managed by means of the new Rights-of-Way Controllers. Such designs could easily, for example, reorganize roadside traders to two side of a service road that allows drivers to leave and re-enter the main road at appropriate speeds. As one obvious example, the lay-by at Ogere-Remo recently set up for heavy lorries requires that they stop on the roadway, reverse and turn into parking spots just off the shoulder. This area can easily be reorganized to offer the same facility some meters back from the roadway.

19. The overall resettlement objective of the project is to contribute to the safety and efficiency of the federal highway system while removing from the rights-of-way (or from those new land parcels which may be needed as part of new construction) the minimum number of occupants who detract from the larger system goal. Principles which will govern the design of highway rehabilitation are that:

- Road segment rehabilitation consultants will prepare Resettlement Action Plans (RAPs) as part of their assignments (see section on procedures, below). They will define and justify which occupants of the road reserves (and roadways, where applicable) must be displaced to achieve project goals.

- Occupants who must be displaced will be moved at least cost and at least distance as possible. Designs should include local “reorganization” of roadside services to move people “back” but not “away” from current locations wherever possible.

- If there are occupants who cannot be included within the reorganization of a given “spot,” a nearby location will be identified to minimize the dislocation even for this second category of displacement. If available space is insufficient, then consideration will be given to taking adjacent land from the local communities against payment in full for such land, or to moving such excess occupants to other equivalent locations along town roads or at taxi or lorry parks or markets nearby.

- Occupants who must be reorganized or moved will be assisted in their moves physically by inclusion of preparatory site work in the works programs of the road contractors, and/or by payments to move shops and trading stalls. No one will move until the new premises are ready for occupancy. Upgrading of service areas by the provision of electricity hook-ups, pipe-borne water, drainage and pollution controls should be included where feasible in such reorganization plans, if demand is demonstrated and willingness-to-pay can be shown. Environmental measures for prevention of oil contamination from repair shops or lorry parks should be provided as needed.
• Consultants will develop the reorganization plans in consultation with the population at each spot, including where appropriate the authorities of LGAs or towns and villages within which the road corridor and/or junction is found. The views of those affected will be taken fully into account.

• A mechanism for resolution of complaints and grievances will be established, to include local leaders in the first instance, and a road segment appeal committee including officials from the FRDP, FMW, area leaders, and a representative of those displaced.

• Road works will be organized to minimize temporary impacts on those servicing the road traffic, through work scheduling and the granting of privileges if possible to local occupants of the right of way to service workers or construction camps.

• These principles shall apply to any land required under the highway rehabilitation program, including materials laydown sites, construction yards, borrow pits, and workers’ camps. Clauses in construction contracts will include obligations to respect these principles (see below, section on individual RAPs).

**RAP PREPARATION, REVIEW, AND APPROVAL**

20. RAP preparation and approval will include several steps that parallel the development of investment programs for individual roads in the FRDP program.

• Individual RAPs will be prepared by the individual road rehabilitation consultants, who shall retain for the purpose expert social scientists and/or consulting firms or other organizations experienced in land acquisition and resettlement. The RAP will be submitted as a free-standing “volume” of the consultant’s report on the road in question.

• FRDP will review and approve the individual RAP as part of its review of the consultant’s report. It will retain the advice of an international consultant to advise on the acceptability of the RAP, as a periodic contract with an honorarium for days worked. Except in complex cases, it is not likely that the reviewer should have to make site visits in connection with the review. Recommendations for revision should be made to the consultant along with the review of the consultant’s main report, and the RAP should be finalized and approved as acceptable by the FRDP.

• Each RAP will be forwarded as approved internally to the World Bank for its review for non-objection. The RAP must be accepted by the Safeguards Review unit of the Africa Region of the Bank, and inserted into the RFP as an implementation task for contractors for road rehabilitation and maintenance of each of the roads in the various contract packages. Implementation packages cannot be established for financing under the World Bank credit without RAP approval.

• The contractor shall submit modifications to the RAP, as well as individual Addendums for any works not contemplated in the individual road RAP (for such items as camps, borrow pits, materials source sites, and laydown areas). These addenda will be done to the same standards as in the RAP itself (that is, to the standards of this RFP), and will be approved by FRDP using its own international consultant. Approval will be required before the works at such sites begin.
ESTIMATED DISPLACEMENT AND CATEGORIES OF AFFECTED PEOPLE.

21. It is impossible to estimate the numbers of people who may need to be displaced as a consequence of this project. Each road segment usually has some congestion and use of the road reserve at its two ends, and at a few “hot spots” of encroachment, as described above, along the route. On eight roads, this could be fifty or more “hot spots,” with occupants ranging from a small set of food vendors to a major vehicle and driver service area with hundreds of service and commodity providers. If an average “spot” has two hundred sellers and enterprises, then there could be, say, 1200 occupants on each highway, or a total nearing 10,000 such occupants of the project-wide road reserves. To this could be added residents of villages along the whole road corridor and owners of fields and gardens as well. Counting all of the people and businesses operating in the reserves along the roads of this first phase of the FRDP could relatively easily give a total of 30,000 or more for the project.

22. Categories of affected people have been sketched in the discussion above. They include:

- Filling station owners with paved drives and walls leading from the roadways back to their main service pumps and bays
- Owners and employees of food, beverage, vehicle service, personal service and other types of enterprises catering to the needs of passing traffic, and operating from kiosks, stalls, shops and yards
- Owners and employees of other small enterprises taking advantage of prominent locations along roadways
- Wholesalers of foodstuffs selling to lorry drivers backhauling otherwise empty vehicles
- Residents of village houses and some buildings in urban areas (e.g., Kaduna, Lagos, Lokoja) that either predate the road construction or who have moved into the road corridor since
- Institution owners who have tried to take advantage of highway locations to spotlight their accessibility and prestige (e.g., churches, hospitals, prayer grounds, hotels)

23. The overall number is, however, only theoretical. It is highly unlikely that the consultants developing the road rehabilitation plans will find that those people would have to move whose houses or fields abut or even encroach onto the reserves. First, as discussed above, the FMW does not require that the road reserves be kept free of encroachment, and sees the reserves as a source of income from permits for temporary occupancy. Second, the total number of encroachers in the hot spots described in paragraphs 13 and 14 above is mostly a function of the traffic patterns on the adjacent road. To the degree that service roads, better constructed road junctions and markets, and more efficient egress to local institutions, the traffic flow will be speeded and there will be far less incentive for vendors to stay on the roads and at the roadsides. If there are 1200 right-of-way occupants on each road spread over six or eight “spots,” then it can be estimated that a third of them will not need to be moved; a third may be moved a few meters as they are reorganized into better designed service areas or along service roads; and a third may require more extensive relocation to new sites. If these
conjectured numbers hold some semblance of the reality, then there may be four or five hundred people per highway to “reorganize” and another four or five hundred to displace to new sites nearby. Few of those requiring reorganization or more serious displacement will be residents of houses, while some may be business owners. It does not appear that there are any resources from which people accustomed to having access and use rights will have to be moved.

24. It is to be emphasized that the numbers given here are not much more than informed guesswork. Higher rural population densities in the southeast, more frequent villages along two-lane roads that were upgraded to the national network rather than newly built across open bush alter the total numbers of people who occupy the rights-of-way. Some of the highways are “federal” right into the cities, while at the outskirts of others the jurisdiction over the roads passes to the state agencies. It will only be when the consultants provide the individual RAPs that a truer total of those impinging on the road corridor will be known. To repeat, the typical issue for a design consultant to deal with will be a hot spot, no matter how many hundreds or thousands of people live along roadsides passing through rural areas.

LEGAL FRAMEWORK FOR RESETTLEMENT IN THE FRDP

25. The legal issues in Nigeria surrounding the FRDP are quite different from most other projects which the World Bank has supported in the country. This is because nearly all the displacement will take place from within the right of way of the federal highways that are to be upgraded. The right of way belongs to the FMW as part of the sovereign domain of the nation. Within the Highway Act, the FMW has the right to dispose of all such land, whether in the roadway itself or in the road reserve, which extends for federal roads to 50 meters on either side of the center line of the highway. Because even dual carriageways with median strips and shoulders together use not more than about thirty meters, there is often more than 35 meters of road reserve on either side of the highway that is federally-owned and managed.

26. Some land to be used in the FRDP will be outside existing road reserves, for example in the possible dualization of the carriageway of certain existing two-lane roads, or where new highway interchanges might be called for. This limited quantity of land is subject to all the usual land laws in force in the country.

27. Non-road corridor land. Land outside the road corridors is, by the Land Use Act of 1978 (modified in 1990) owned by the nation, while land in the territory of each of the states is vested in the Executive Governor of the State administered in trust for the use and common benefit of all Nigerians. Land is controlled by individuals, corporations, local governments and the state government in accordance with the law. Simultaneously operating are two levels of land law, a customary system that varies by ethnic group and family type around the country, and a “statutory” system based in English common law established during the colonial period which operates in many urban areas and selected other areas around the country, usually where institutions of the modern society and economy have established rights under this latter system. Individuals and families hold heritable rights in land assigned to them or their ancestors under customary systems – and grazing rights, rights to economic trees, and cropping rights may overlap physically on a given piece of land. Individuals and corporate entities hold lease rights acquired
within the statutory system or adjudicated by registration from customary tenure into the statutory system.

28. Whatever the legal status of a landholding by individuals, families, or corporations and other entities, government has the right to take land for public purposes. Local Governments in rural areas, and Local Government or the State Governor with respect to developed land, can revoke either statutory or customary rights for public purposes, but the Constitution prescribes that “adequate compensation” shall be paid. On land that is under customary law, Sections 6(5) and 6(6) of the Land Act prescribe that compensation shall be paid for the value of unexhausted improvements on the land, and that alternative land shall be allocated for the loss of agricultural land. Under Section 29(1), where a lease or other statutory right of occupancy is revoked, the holder of the right and the occupier shall be entitled to compensation for the value of their unexhausted improvements. When a community holds the right of compensation, it can be paid to the community, to the chief or leader of the community for the benefit of the community, or into a fund specified by the Governor for the purpose of benefit to the community. Section 29(4) of the law further specifies that compensation will consist of any rent paid during the year of the taking, replacement cost less depreciation for buildings and other improvements, interest on any delayed payment, and the value of any crop on the land. However, Section 33(1) prescribes that alternative accommodation can be provided in lieu of compensation payable, if appropriate to the circumstances.

29. In the road corridor, land is owned by the nation and allocated to the FMW. Spontaneous occupancy of, or encroachment into, the right of way is illegal. Recently, however, the FMW has interpreted occupancy in a different way, seeing it as a legitimate use of the right of way that can be licensed and from which income can be generated. This perspective makes the FMW the landlord of its occupants, and steps are now being taken to routinize that occupation through a system of annual permits. Occupants of the right of way who interfere with the safety or integrity of the road can be removed (especially as only a few have been given permits under the new system), while those who do not create difficulties for the road system can be left in place.

30. Differences between Nigerian expropriation and compensation law and World Bank policy on Involuntary Resettlement (OP 4.12). A comparison of the foregoing discussion of compensation law in Nigeria and the World Bank policy on Involuntary Resettlement (OP 4.12) reveals a number of distinctions in approach and detail. These discrepancies may be summarized in a table of comparisons by types of affected people and assets, as follows:

Table: Comparison of Nigerian law and World Bank OP4.12 regarding compensation

<table>
<thead>
<tr>
<th>Category of Affected People/Type of Assets</th>
<th>Nigerian Law</th>
<th>World Bank OP 4.12</th>
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<tbody>
<tr>
<td>Land Owners: Statutory Rights</td>
<td>Cash compensation based on market value</td>
<td>Preference for land-for-land compensation. If not, cash at full replacement value, including transfer costs</td>
</tr>
<tr>
<td>Land Owners: Customary Rights</td>
<td>Cash compensation for land improvements; compensation in</td>
<td>Preference for land-for-land compensation, land of equal or</td>
</tr>
</tbody>
</table>


kind with other village/district land equivalent value. If not, cash at full replacement value, including transfer costs

<table>
<thead>
<tr>
<th>Land: Tenants</th>
<th>Compensation based on the value of residual rights held under the tenancy agreement</th>
<th>Compensation based on value of residual rights held under the tenancy agreement, plus disturbance allowances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural land users</td>
<td>No compensation for land; compensation for standing crops according to values established from time to time by State governments</td>
<td>Compensation in kind or cash for value of land; compensation at full replacement value for lost crops and economic trees and perennials, fully verifying or updating state lists of values</td>
</tr>
<tr>
<td>Owners of structures</td>
<td>Cash compensation based on market values, taking account of depreciation</td>
<td>In-kind compensation or cash at full replacement value including labor, relocation expenses, and transfer costs. Added disturbance allowances</td>
</tr>
<tr>
<td>Losers of livelihoods (farmers, business people, employees)</td>
<td>No consideration other than cash values for assets as described above by asset category</td>
<td>Key objective is restoration of capacity to generate incomes at least at levels prior to losses. Programs of assistance to achieve this objective. Compensation for periods of lost income.</td>
</tr>
</tbody>
</table>

**ELIGIBILITY CRITERIA FOR VARIOUS CATEGORIES OF AFFECTED PEOPLE**

31. The World Bank policy on Involuntary Resettlement declares that all occupants of an area who must be displaced are eligible for assistance that permits them to replace lost assets, recover their living standards, and maintain their incomes. The policy does not cover those who would “invade” an area to take advantage of compensatory measures to be offered to those who have been living or working in the area for some time: more on this element below. Rather, it recognizes the fact that the management of land in many places has not been as farsighted as could be desired, or has relied on informal measures of land allocation in new types of areas outside the purview of traditional/customary law on the one hand and “modern” law on the other. One of the FMW Controllers of Works puts this issue another way: “The works engineer’s duty,” he says from long experience, is to gauge the community’s reaction” to impending works, and to “create harmonious dealings” between those he finds on a needed site, and the implementers of a project. Whatever the legalities, he says that experience teaches that projects need to “provide a soft landing for people” who are to be affected.

32. The FRDP will need to clear some land in the road reserve it owns, to provide for important safety and efficiency improvements for traffic. It will need to take back that land from traders and service enterprises who have taken over parts of the road reserve to service passing traffic. The technical lesson now to be applied is that if there are no service provisions in the road design or construction budgets – filling stations, repair shops, parks for passenger and freight vehicles-- as there were not, then those needs will
be filled by people entering the reserve without authorization. The FRDP will be able to make up for this planning or implementation gap by legitimizing many of the stopping places that have arisen spontaneously.

33. The first step in establishing the eligibility of those in the road reserves and any others who may need to be displaced is for the consultants to establish a “cut-off date” at the earliest opportunity in their studies. They will do so by doing thorough *censusing and recording of all those in the rights of way*, at least of all those who may possibly fall into areas that may need to be reorganized, opened, or used temporarily or permanently for road purposes. That step will freeze the overall pool of legitimately affected people as of a given date, because the planners will be able to rebut late claims that someone or other was working (or living) in the right of way and is entitled to claim compensation. It cannot be stressed enough that taking this step before people can estimate what land areas may be taken for re-use is the best way to avoid opportunistic “invasion” of the right of way. Prudence also suggests that all zones conceivably to be needed for works should be censused and photographed, for example the unoccupied areas around informal exit roads junctions that could be improved for more regular use, and therefore could become attractive points for occupation.

34. Occupants of the right of way will fall into one of three successive categories. From the total pool of those in the right of way before the cut-off date, the road design consultants will be able to exclude the possibility of displacement for many of the occupants through determinations that they occupy areas that will not need reorganization or reconstruction for roads goals. A second category will be all those whose houses, shops, or other business locations fall into the right-of-way, and whose locations may be needed or could possibly be needed for works tasks. Further design work will localize works interventions more precisely, making choices among designs and sites informed in part by the number of people and enterprises that would need to be displaced and the costs of doing so. This third step, determined in a standard process of siting the works, will determine exactly which people will be displaced, and will provide the list of actual affected cases.

35. Actually affected people will fall into several categories, according to the assets that they will lose or that may be repositioned within the right of way. These “loss” categories include those who will lose: (a) houses; (b) permanent shops of whatever size; (c) enterprises with “light” structures that can be moved (including most kiosks, shipping containers, tables, sheds and lean-tos); (d) enterprises that work in a regular place but without structures (vendors using head trays or other sales points with regular sales points, craftsmen like tyre vulcanizers with tools but no fixed shop, etc.); (e) filling stations; (f) institutions (churches, mosques, schools, clinics); (g) multi-occupant buildings; (h) renters of any of the above; (i) land holders, and (j) mixed categories. Cases within each category will be of various sizes, investments, and portability.

**COMPENSATORY MEASURES**

36. In determining assistance to be offered to those who will have to move, the RAP will consider the “destination” to which people and businesses will go. Some will be reorganized at new spots near where they are, while others may have to leave the right-of-way altogether. The design consultant’s resettlement expert will work out tentative
ideas and diagrams for each “hot spot,” aimed at providing as many spaces as possible for existing occupants, either at current or neighbouring areas. The cost and effort involved in relocating people will depend on whether they will be moved only some few meters, or whether they will have to move long distances.

37. In each case, the residence or enterprise will be moved to a replacement location that can provide the same standard of living or income as the site left behind. Business locations will offer the same or better advantages as before, in terms of visibility, access to clientele, or proximity to related services repeatedly accessed. All this may be simple if a service road through the “hotspot” will move people to spots along its path. It will be more difficult if the spot is so densely occupied that it can be reorganized only by moving some occupants to an alternate or enlarged site. The planning exercise should be done in an indicative manner, subject to consultation with those to be affected and with local officials and local FMW controllers.

38. The relationship between type of asset lost and location of reinstallation can be shown in a series of eligibility matrices, as follows:

**Figure 2: Entitlement Matrix for Structures and Infrastructure**

<table>
<thead>
<tr>
<th>ASSET</th>
<th>NATURE AND EXTENT OF IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Move structure</td>
<td>Demolish and Replace</td>
</tr>
<tr>
<td>Loss of use, rent, wages</td>
<td></td>
</tr>
<tr>
<td>HOUSING</td>
<td></td>
</tr>
<tr>
<td>House</td>
<td>Materials and cost of labor and lost time; moving costs</td>
</tr>
<tr>
<td>Outbuildings (list)</td>
<td>Assistance with move of items if possible</td>
</tr>
<tr>
<td>Improvements</td>
<td></td>
</tr>
<tr>
<td>Tenants</td>
<td>Allowance of 6 months’ rent</td>
</tr>
<tr>
<td>LAND</td>
<td></td>
</tr>
<tr>
<td>Land outside existing corridor, at commercial value for locality</td>
<td></td>
</tr>
<tr>
<td>Crops in or outside corridor, at full market value</td>
<td></td>
</tr>
<tr>
<td>Temporary land use, at commercial value for locality</td>
<td></td>
</tr>
<tr>
<td>BUSINESS PREMISES</td>
<td></td>
</tr>
<tr>
<td>Mobile/itinerant</td>
<td>Disturbance allowance</td>
</tr>
<tr>
<td>Moveable kiosk, table, container</td>
<td>Moving Cost or assistance</td>
</tr>
<tr>
<td>Stall/shed/shop (local materials)</td>
<td>Materials and cost of labor</td>
</tr>
<tr>
<td>Shop/store (modern construction)</td>
<td>Replacement building</td>
</tr>
<tr>
<td>Filling station</td>
<td>Compensation for partial loss or non-operating facility; replacement if functioning</td>
</tr>
<tr>
<td>Repair yards</td>
<td>Equivalent space</td>
</tr>
<tr>
<td>Compensation</td>
<td></td>
</tr>
</tbody>
</table>
39. The road design consultant’s RAP expert may add or modify the categories above as needed, adhering to the principles above.

**INVENTORYING AND VALUING AFFECTED ASSETS**

40. The Lands Department of the Ministry of Housing and Urban Development has an existing process for inventorying and valuing assets.

- It starts with the forwarding of a survey document that shows the land one or another agency wishes to acquire for public purposes. The document requests Lands Department cooperation in the process. Local authorities are notified that an inventory and valuation exercise will be carried out.

- A commission led by valuators from Lands goes to the area to be taken. Representatives of each owner are told to be on their land, with a photograph of the owner to be attached to the inventory, which is the data for a claim for compensation. A local chief or influential leader accompanies the valuators.

- Crops are listed, together with the area planted in each. Individual economic trees are listed by species and state of maturity of each tree. Structures are listed by type, age, floor space, construction materials, and other key features. Land is not taken into account as such, regardless of any payment for lease rights that may have been made in the increasingly commercialized Nigerian land rights markets, where even many rural areas are being broken into surveyed plots leased to all comers.

- The field notes are taken back to the office and converted into an official valuation certificate, using the most recent table of values produced by the state government in question. (Contrary to some reports, there is no federal schedule of values for many years). Each crop or structure is listed, together with the value imputed. The certificate does not show the price used, but only the final result of the computation for each commodity or structure – it is therefore not transparent to the affected person how his compensation value has been arrived at. The certificate is signed by the Lands evaluator involved, the local authority, the requesting department, the engineer or other party who did the survey; it is countersigned by the claimant on acceptance of his copy.

- The total volume of compensation due, estimated on the basis of the predominant land use type in the preliminary survey by the design consultant, is added to the cost of construction as a “preliminary expense.” The contractor pays out the detailed claims that have been established through the process just described, and otherwise plays no role in the process. There is no formalized complaints process, nor any post-payment evaluation of the outcomes of the compensation exercise.

41. The volume of work to be done through this process has since long ago exceeded the capacity of the Lands Department to carry out by itself. In recent years, it has allowed the use of private sector estate valuers to carry out the work of inventorying and appraising values for assets to be taken. For federal roads, whether the list of takings is done by the Department or by private operators, the valuation process depends upon the
schedule of values established by the individual states through their Ministries of Works and their own Lands Departments. The two examples of State rate schedules reviewed for this Resettlement Policy Framework (from Kwara and Cross River States) reveal a disparate approach to valuation. For crops, Cross River uses a set of values per “matured unit” of a long list of particular crops, by stalk, tree, or hectare of crop. It provides 50% of these rates for “immature crops” and 25% for seedlings. Kwara State uses the same fractions, but the values are calculated in a different way from those in Cross River – Kwara uses per hectare values, while Cross River calculates most crops by the individual plant; Kwara compensates for the work of clearing, cultivating and planting; Kwara pays 400 Naira for a pawpaw tree and 693 for a cashew, while Cross River pays 150 and 250 respectively. While it is argued correctly that prices for plants vary across ecological zones, it is extremely difficult for the Federal Ministry of Roads to ensure fairness across states unless it knows much more about how such values have been established, how frequently they have been updated, and whether they represent the actual losses that people suffer as against market or production values of these plants/crops/trees. For the takings to be done under the FRDP, spot research in local markets will need to be done in cooperation with the responsible state agencies to ensure that the World Bank principle of full replacement value is met. This stricture does not preclude values that vary by state, but it requires that the basis of the schedule of values be transparent, full, and equitable across the state boundaries that are crossed by individual segments of the roads to be improved.

42. In recent years a further element has been added to the process. Once the routing of new roads or any expansion that requires a new land take is known, private estate agents visit potentially affected people to offer their services to represent them in dealings with the inventorying, valuation and compensation process. They offer to represent the local people in negotiations with the authorities. There is no reason to suppress or decline to deal with such agents, transparency in the processes used, and in the values and inventories that are established, should reduce the possibility that such agents would have very much to gain by heavily negotiating the compensation packages. It is important for FRDP to make it clear that individuals or groups have little to gain by such negotiations, and transparent processes, including making copies of inventories available to affected people and the basis of calculation available publicly should help to reduce this new “business” of representation.

43. Five gaps between Nigerian federal roads practices and World Bank requirements. There are five major gaps between the practice of compensation as carried out by the FMW, and the requirements for World Bank support.

- First, FMW practice has no provision for assessing damages for assets in the rights of way. Although contractors and engineers are willing to pay such damages, they do so as exceptions to get on with the works they are doing, using contingency funds and negotiating with the FMW after the fact to recover for these and other extraordinary expenditures. To make provisions for such payments up front, it is argued, would condone the illegal occupation of the right of way. This orientation seems to contradict the recent strategy in the FMW of permitting such occupation and collecting fees from what is now defined as “temporary” rather than illegal occupancy. Normalizing the inclusion of such cases would allow cleaner and fuller budgeting and save various later
claims and paper work for relatively minor cost recovery. For this project, therefore, where much of the incidence of compensation will be for occupants of the right of way, the FMW and the project have agreed in advance that the inventorying and valuation process will include occupants of the right of way.

- Second, current practice does not calculate or value business income or lost wages, but rather covers only physical assets. World Bank experience shows that enterprises suffer losses of income/profits until they are re-established in new spots and recover their clientele, while employees may lose income critical to their livelihoods while the enterprise is “down” for the move and during the early recovery period.

- Third, current practice is that when buildings with tenants are valued, the constructed asset is valued, the owner is paid, and it is left to tenants to negotiate with the owner either to refund advance rents paid or otherwise to compensate them for their displacement. Obviously there is little incentive for the owner to make such payments. For the purposes of this project tenants – whether in residential or business premises – must be dealt with directly so that their individual interests are fairly dealt with.

- Fourth, federal practice does not examine whether cash payment for asset loss really enables people to replace what is lost. World Bank practice is directed not only to those aspects of loss that can be calculated in monetary terms, but seeks the substantive goal of ensuring that livelihoods and living standards are restored and that people can provide for themselves in the aftermath of their displacement. This means that the projects the Bank supports must have the ability to inspect the situation of people affected, and not only the losses they suffer. For small losses – for a strip of upland farming along a road, for example -- it can be assumed that the loss is not critical. But for those with enterprises along a road, or with a structure that is rented out, loss of the asset may provide the entire income of a family. The processes of compensation, monitoring and evaluation in the project must be able to appraise such issues before the taking, address them with compensatory measures, and evaluate the outcomes.

- Finally, depreciation of the value of properties is part of federal practice, but is treated very differently in World Bank policy. The thinking that underpins World Bank practice is that affected people who lose structures can only be made “whole” again if they can replace the structures they lose, including appurtenances like doors, windows, plumbing fixtures and equipment or business facilities that cannot be moved. A shop may have built-in counters or showcases that cannot be dismantled and moved; a house may have washbasins, tool sheds or outbuildings that are immoveable. To replace these items and thus carry on in the new location requires rebuilding or replacing such improvements, as well as the buildings themselves. In many of the “hot spots” that are under discussion in this project, replacement structures are not available in the local “market,” because no structures exist other than those to be moved, and there are no available or empty structures that can serve as replacements. Therefore the structures and other facilities will have to be recreated, built new, and re-fitted. The full cost of such replacement must be calculated by the valuation process and included in the compensation actions of the project.

44. **Inventorv and valuation in the FRDP.** To overcome the gaps between current practice and the requirements of the World Bank policy, it will not be necessary to
replace current methods (described in Section 35 above). Additions to processes currently established can meet World Bank standards and help generate results for Nigerian compensation exercises that more nearly match the constitutional commitment to adequate compensation in the face of takings for public purposes.

45. The key addition to the existing process will be a resettlement expert with significant experience of resettlement done to World Bank standards. This person will be a member of the road works design consultant’s team. He/she will work to six requirements: (a) to add any items not normally inventoried and evaluated in current federal practice to the list of compensable items; (b) to produce a supplementary schedule of values representing any differences between the state lists of values held in the Department of Lands and “full replacement value” as defined in the Bank’s OP, as well as values for items not compensated under current practice, including businesses, lease payments forming part of current plot and housing values, tenant contracts, etc.; (c) upgrade the certificates given to affected persons to be fully transparent as to values and calculations, and it will identify the agreed method for dealing with any complaints; (d) define a method for identifying how to ensure that incomes and living standards will be fully replaced. (e) establish a mechanism at the local level to meet the requirement of an affordable and accessible complaints process as well as a mechanism to evaluate the thoroughness and effectiveness of compensation outcomes, and (f) writing a RAP (see Annex C) as part of the specifications for the road segment works and management, and also for submission to the World Bank for approval under this RPF. Full collaboration with the Lands Department will be established, to use this exercise as a pilot for upgrading current standard practice.

ORGANIZATIONAL ELEMENTS AND TIMING OF RESETTLEMENT WORK

46. Carrying out effective resettlement to World Bank standards is a means to enhance project performance, not to derail or delay it. To the maximum extent possible, resettlement planning and implementation will parallel the preparation and implementation of individual road segment planning and the execution of works. For the FRDP, the planning and implementation of individual contracts still has some uncertainty in terms of scheduling: the strategy is to have works and maintenance contracts that run for ten years, with works to take place as needed. It is probable that the works will be carried out near the outset of the contracts, but not certain. To oversee resettlement in parallel with the works, the project will need to have considerable assistance at the outset, but also will need “on call” assistance over several – perhaps all ten – years of the contracts. The roll-out of successive phases of the project will also require recurrent attention to resettlement. On the other hand, neither the overall volume of the works nor the degree of “bunching” requires that FRDP or the FMW add a resettlement unit to their permanent structures at this time.

47. Resettlement expertise will be needed at the following points:

- A design consultant will draw up the works programs for each package of roads under a contract to begin over the next few months. As stated above, this consultant will need significant expertise over the life of his consultancy to prepare the Resettlement
Action Plans that will be required for each road. This will entail drawing up about eight or nine RAPs, depending on the final number of roads to be included in the first phase of the project. The set of eight or nine will be combined into three or four packages to be let as single contracts, so the RAPs will have to be completed for each package. The resettlement expert(s) must be available to the consultant as the works are chosen and sited, so that the enumeration and/or photography is done to establish a “cut-off date” for each element of the works, and to ensure that each element in the works is designed to minimize the amount of resettlement needed, and maximize the “reorganization” of roadside activities that will keep as many people and enterprises occupied as possible, minimizing loss and compensation. A TOR for this expertise is included in this RPF as Annex A. This work will be largely done before the project is approved by the World Bank, and it will be financed as part of the design consultant’s work.

- The general level of compensation will be fixed into the works budgets at the time the works are designed, but the inventorying and compensation will be done closer to the time that the works are actually carried out. This is the point (for each road) when the Lands Department comes in for its part of the job. At this point the resettlement expertise described above in Section 40 is required by FRDP itself, as a part of the survey and compensation process. A full TOR for this expertise is attached to this RPF as Annex B. This work could be done by the same expert as indicated above for the design of RAPs, or it could be independent.

- At the end of year three of the project, an evaluation of the results of the compensation process to date will be carried out. This work should be done as a resettlement audit, which takes account of the designs and of the Bank’s policy, and examines the degree to which the work has not only been done to plan, but the extent to which the objectives of the resettlement policy as embodied in OP 4.12 and this RPF have been met.

**TIMING OF RAP APPROVALS**

48. Each RAP will be approved at the same time as the individual road design. Before the World Bank can grant a no-objection for the invitations to tender for the road contract packages, it will have to satisfy itself that the RAPs for the package meet the Bank’s policy. This is because OP 4.12 requires RAP approval before the RAP is included in the Bank’s approved financing.

49. Nevertheless, it is recognized that some works will be carried out in the second or later years of the management contract. It is possible that the RAP will have to be updated for such works before they begin. If that is necessary, then the FRDP’s resettlement expert, described in Appendix B, should review the RAP in connection with the contractor to make any adjustments that may be needed. Minor changes do not need to be submitted to the World Bank for re-approval, but the Bank should be notified as to the changes made.

**GRIEVANCE REDRESS MECHANISMS**

50. The more that care is taken with designing the works to minimize resettlement, establishing the cut-off date with careful marking of structures and identification through photography, inventorying, and establishing current compensation at full market value,
the less likely it is that valid complaints will arise from the entire compensation process. Nevertheless, an accessible and affordable complaints mechanism to enable people with claims against the process needs to be put into place.

51. Accessible appeal mechanisms start at the local level. At the time the inventory and valuation is done, the signing officers include a local leader, a representative of those displaced, and a representative of the works engineer. This is the group that should hear any complaint, as it includes authorities on the taking itself, on the local social reality, and, in the person of the representative of those displaced, another person who has been through the process. A record should be kept of a hearing concerning the complaint, as well as of the reasons for finding for or against the complainant. A copy of the record, signed by the three officials, should be sent to FRDP, as well as to the complainant. If there is an appeal from this first process, it should be submitted to an independent alternative dispute mechanism outside the ministries concerned. The resettlement experts recruited for the phase of road design should locate such an appeals mechanism within the Federal Ministry of Justice or through some outside agency known for its success at resolving local complaints and disputes (in Lagos such a mechanism exists within the State Ministry of Justice).

BUDGET AND FUNDING ARRANGEMENTS

52. It is not possible to estimate the total budget required for resettlement in the FRDP. Budgets for the compensation and resettlement process will be included as part of the overall works and maintenance budgets for the individual road segments. Estimated generally in the road segment budget as additional “preliminary expenses” for each works contract, the specific amounts attached to resettlement are developed as the inventory and valuation schedules are calculated during the detailed RAP planning.

53. In addition, budget will be needed for the resettlement consultants described in the foregoing sections, and for general resettlement expenses such as the operation of the complaints mechanism.

CONSULTATION WITH, AND PARTICIPATION OF, AFFECTED PEOPLE

54. The FMW work on federal roads has for many years been associated with consensus-building on major decisions. Local authorities have routinely been approached and public meetings with affected communities have been common. Effects on communities have been discussed among local authorities, contractors, supervising engineers and other relevant officers. At the same time, officials involved in the process admit that not all types of losses sustained by affected people have been eligible for compensation, and that compensation mechanisms have been less than generous, sometimes involving serious underpayments for losses sustained.

55. The FRDP will rectify these earlier lapses in transparency and fairness on land acquisition issues, and will establish mechanisms of consultation that are early, serious, and thorough.

56. For the individual hotspots, the design consultant’s resettlement team will manage the consultation process. Because most of the hotspots are islands of roadside activity along roads that bypass the towns they pass, the hotspots are different from the situation of new takings for a new road. The hotspot is almost by definition on the right-of-way,
thus already on federally owned land. Second, it is normally a site of business activity rather than a residential area, though some houses may be included in the site. Third, the businesses are nearly all small-scale and oriented to the transport activity, either to service vehicles or the passengers and cargo they carry. In short, the hotspots are special social situations. A corollary of this status is that people in the towns nearby are not likely to feel threatened in their own homes by the changes to be made at the sites in question along the roads.

57. Stakeholders in the project are the RSDT, the FMW more generally, the Lands Department, the roads contractors, representatives of the transporters, and, above all, the occupants of the hotspots, including all service and goods suppliers, who will be directly affected by the reorganization of hotspots and points of congestion along the roads. Affected people are usually remote from major media outlets, so that consultation will have to be on-site and direct, as planning and implementation proceed. Public consultation will ensure that the occupants of the hotspots are fully informed about plans involving the sites they occupy, and that they have a chance to participate in decision making for the changes they will undergo. Steps in the consultation process will include the following:

- Immediately before the enumeration and cut-off exercise, the design consultant’s resettlement team will, together with the RSDT and other road upgrading specialists, visit local authorities to identify what is going to happen, clarifying the project objectives. The team will identify key leaders at the hot spot itself.

- This identification meeting will be repeated at the hot spot, so that affected people will begin to understand what is planned. It will be important to stress that not all people on the site will be affected, and that indeed some may not be affected at all, even if they are on the right of way. At this point, engineers may identify the options that could be available to reorganize or reconstruct the hot spot to provide for safe interaction with passing traffic. Reactions of the potentially affected people will be elicited and initial responses given. At this time (to avoid opportunistic invasion based on the consultants’ information) the identification of all occupants will be done with photography and the marking of structures, and with the basic enumeration those affected.

- Once the engineers identify options for the hotspot, the resettlement team will present such plans to the occupants of the site for reaction and comment. The resettlement team will then work to calculate how many of the occupants would be retained with or without having to reorganize the site, and how many might have to go to other sites. Considerations of different types and sizes of relevant enterprises will be taken into account.

- A third meeting with occupants and local authorities will then be held, for comments and reactions. To draw up the final site plan, these comments will be taken into account. This meeting will also begin the discussion of what happens to those who cannot be accommodated on the site. Alternatives may or may not be attractive to those on a given site.

- Further consultations will then depend on how complicated it is to provide other options for those occupants who must be moved. A subsidiary market, a spot at a new intersection, or relocation into town may be options to consider. Increasingly these
consultations will be one-on-one with affected people. Agreements to reorganize or move will be recorded for project records, with a copy signed by and given to affected people. Each affected person and business will eventually appear on an origin-destination map or sketch, so that each person can see how the whole plan hangs together.

- The Lands Department, the local authority, the RSDT and the resettlement team will each record their clearance on the plan thus agreed.

- During implementation, contractors will meet with the same groups as the work proceeds, to indicate work steps and the need to be ready to move as new sites are ready. Temporary arrangements should be made for traders if the site they are on is being reorganized and they will lose business days while the site preparation proceeds.

**MONITORING AND EVALUATION ARRANGEMENTS**

58. Arrangements for monitoring the progress and effectiveness of resettlement under the project will run in parallel with the implementation of the works and maintenance program for each road, together with an overall evaluation at the end of three years after the first road management contract is let, or as part of the preparation for a subsequent phase of the project, whichever comes first.

59. The resettlement expert recruited by FRDP will set up a monitoring system for each road segment, based on the preliminary identification and enumeration database for the hot spots along the road in question. This monitoring will be done monthly during the period of active resettlement along the road in successive hot spots, and then at the end of the period of construction of the major works done for the whole road. It will report on: (a) the number of people enumerated in each hot spot, (b) the number moved but “reorganized” within the space in and immediately around the hot spot; (c) the number removed from the hot spot and resettled elsewhere, whether in a newly organized roadside location or another area altogether. It will identify the proportion of people who have received the compensation calculated, and whether the compensation is paid in a timely way, that is, before implementation of the works which entail their being displaced. It will also identify whether measures for enabling people to replace their incomes and living standards, according to the resettlement objectives of the project, are succeeding. It will also report on trouble cases that may have arisen, whether they are being handled informally in the project or through the regular grievance mechanism, and the progress and outcomes of any such grievances or trouble cases.

60. An evaluation of the results of resettlement will be done at the end of the major road works for each road in the project. It will summarize the results of earlier monitoring, and identify the outcomes of resettlement at each hot spot on the road. It will contain a summary table that judges whether people and enterprises affected by the project are (a) living at a higher standard than before, living at the same standard, or are actually poorer than before.

61. This final evaluation for each road subproject should be done by an independent third-party evaluation specialist, recruited by FRDP in relation to each package of roads in the project. Consulting firms, research organizations, or NGOs experienced in project social impact evaluation should be invited to bid for these evaluation contracts.
ANNEX A

TERMS OF REFERENCE FOR RESETTLEMENT EXPERTISE
FOR ROAD DESIGN STUDIES

1. The Federal Roads Development Program is commissioning a consultant to prepare the plans for the rehabilitation and maintenance of up to ten federal roads in the first phase of a long-term program to maintain the federal road system. As part of that consultancy, a specialist in involuntary resettlement, land acquisition and compensation is needed to prepare individual Resettlement Action Plans (RAPs) for each road segment. Responsibilities will entail drawing up about eight or nine RAPs, depending on the final number of roads to be included in the first phase of the project. The total set will be combined into three or four packages to be let as single contracts, so the RAPs will have to be completed for each package in parallel with the road works designs themselves.

2. Each road design will involve the rehabilitation of the road itself and the improvement of safety along the road. There are “hot spots” along the roads where for various reasons traffic uses the off-road area for services, junctions, or other purposes. At many such points, congestion increases as encroachers occupy the roadsides to take advantage of opportunities provided by the diverted traffic. In a few places, new junctions or the dualizing the road carriageway will require new land acquisition. There are several such hot spots on each road in the project. Reducing the problems for safety and road integrity caused at these hot spots will be done by designing access ramps and safety features (laybys, service roads).

3. The encroachers or occupants at each hot spot will have to be dealt with. Many may be enabled to stay in the improved area at each spot. Some, however, may have to be moved to other areas or away from the road altogether. The task of the resettlement expert is to work with the works designers to minimize the need for excluding present occupants from the reorganized areas, and to provide for the resettlement of those that cannot be accommodated. The work is to be done in conformity with the project Resettlement Policy Framework adopted as part of the project agreements between Nigeria and the World Bank, the World Bank policy on Involuntary Resettlement, and the laws of the Federal Republic of Nigeria.

4. Tasks of the resettlement expert include the following:

   • Establish a “cut-off date” after which any new arrivals at the “hot spot” will be barred from benefiting from the replanning or resettlement exercises. The robustness of the cut-off date will be established by the next step.
   • Identify and mark each enterprise, structure, house owner or tenant within the legal right of way at the hot spot in question, and establish a computerized register of such potentially affected people, enterprises, and structures. Photography of enterprises, structures and individuals are essential elements of this database. Erect signs at the hot spot and notify local authorities to publicize the “freezing” of occupation at the cut-off date.
• Contribute social information to the re-design of hot spots and other roadside areas to maximize the “reorganization” of roadside activities, consistent with good practice for safety and road integrity, that will keep as many people and enterprises occupied as possible, minimizing loss and compensation. Work with the FMW “Controllers of Rights-of-Way” to ensure that people left in the right of way are adequately informed of their rights and obligations.

• For those who cannot be accommodated at their current sites, design a resettlement plan. To inventory and valuate in detail any assets that will be lost, work in collaboration with the valuation team in the Federal Ministry of Lands and Urban Development, working from the database to provide full valuations. This part of the exercise will include:

  (a) adding any items not normally inventoried and evaluated in current federal practice to the list of compensable items;
  (b) producing a full schedule of values representing both those items compensated under current Lands Department practice and the values that meet the definition of “full replacement value” in the Bank’s OP, as well as values for items not compensated under current practice, including businesses, lease payments forming part of current plot and housing values, tenant contracts, etc.;
  (c) upgrading the valuation certificates given to affected persons to be fully transparent as to values and calculations, and identifying the agreed method for dealing with any complaints;
  (d) defining the strategy by which the project will ensure that the incomes and living standards of people seriously affected will be fully replaced,
  (e) establishing a mechanism at the local level to meet the requirement of an affordable and accessible complaints process as well as a mechanism to evaluate the thoroughness and effectiveness of compensation outcomes, and locating or designing an independent appeals mechanism which can provide services that will command the respect of all parties.
  (f) writing a RAP (see Annex C) as part of the specifications for the road segment works and management, and also for submission to the World Bank for approval under this RPF.

5. Level of effort: It is recognized that as many as nine separate RAPs, each including several “hot spots” along a given road, will need to be produced within the duration of the road design contract. It is therefore suggested that the consultant propose a team of resettlement experts that can carry out the full work program as needed.
ANNEX B
TERMS OF REFERENCE FOR LAND ACQUISITION AND
RESETTLEMENT EXPERTISE FOR IMPLEMENTATION OF THE
FEDERAL ROADS DEVELOPMENT PROGRAM (FRDP)

Preface: FRDP investments will be focused on the rehabilitation of about ten segments of the major interstate Federal highways. The design phase will identify the specific segments to be improved, and will design the works to be carried out on each one. A resettlement consultant will work with the design engineers to write the individual resettlement plans (RAPs) necessary for each segment, in accordance with the Resettlement Policy Framework that governs the entire project. The timing of implementation of each RAP will depend on the agreements struck with the operators of each segment, within parameters set up by the design engineers. As a result, the schedule of RAP implementation – the level of effort for each one, the sequencing of implementation periods, and the total volume of work – is not yet known. The Terms of Reference in this Annex specify the nature and objectives of the work, the expertise needed, and the overall program. Further specifics will need to be added once the Engineering Design and the individual RAPs have been identified and designed.

Introduction

The Federal Roads Development Program (FRDP) is preparing plans for the rehabilitation and maintenance of up to ten federal roads in the first phase of a long-term program to maintain the federal road system. As part of the engineering design, a specialist in involuntary resettlement, land acquisition and compensation is being recruited to prepare individual Resettlement Action Plans (RAPs) for each road segment. Responsibilities will entail drawing up about eight or nine RAPs, depending on the final number of roads to be included in the first phase of the project. The total set will be combined into three or four packages to be let as single contracts, so the RAPs will have to be completed for each package in parallel with the road works designs themselves.

Implementation of these individual RAPs will be the work of the consultant to be recruited under this Terms of Reference. Each road design will involve the rehabilitation of the road itself and the improvement of safety along the road. There are “hot spots” along the roads where for various reasons traffic uses the off-road area for services, junctions, or other purposes. At many such points, congestion increases as encroachers occupy the roadsides to take advantage of opportunities provided by the diverted traffic. In a few places, new junctions or the dualizing the road carriageway will require new land acquisition. There are several such hot spots on each road in the project. Reducing the problems for safety and road integrity caused at these hot spots will be done by designing access ramps and safety features (lay-bys, service roads).

The encroachers or occupants at each hot spot will have to be dealt with. Many may be enabled to stay in the improved area at each spot. Some, however, may have to be moved to other areas or away from the road altogether. The task of the resettlement expert is to work with the works designers to minimize the need for excluding present occupants from the reorganized areas, and to provide for the resettlement of those that cannot be accommodated.
The work is to be done in conformity with the project Resettlement Policy Framework adopted as part of the project agreements between Nigeria and the World Bank, the World Bank policy on Involuntary Resettlement, and the laws of the Federal Republic of Nigeria. Depending on the volume and scheduling of displacement, Resettlement Action Plans for further activities causing displacement may have to be written later.

Implementation of each RAP will have to be done in time for works to proceed in accordance with the engineering design. Therefore the project needs resettlement implementation expertise on a contingent basis to carry out any anticipated displacement actions in accordance with any approved RAP. This expertise will not be needed for the life of the project, but rather for short periods. The schedule of RAPs will be added to this TOR once the resettlement work associated with the engineering design has identified the works to be done.

**Scope of Work**

**Objectives**

The objective of Resettlement Action Plan (RAP) implementation will be to deliver rights of way or to the Federal Roads Development Agency and to the contractors chosen for long-term rehabilitation and maintenance agreements with the Agency. Delivery of the rights of way will need to be done in a timely way that does not delay road improvement works and operations. The land acquisition and resettlement (LAR) implementation specialist will work from each RAP to eliminate “hot spots” and other impediments to the various rights of way. The LAR specialist will oversee the project’s and the FRDP’s interests in having the RAP implemented completely, on time and within budget, and in ensuring compliance with the RAP, and with the World Bank policy on resettlement that underlies the RPF’s and each RAP’s specific plans and measures.

**Responsibilities**

The LAR specialist will have the following responsibilities:

1. Review the RAP and mobilize whatever team and specialists may be needed for the implementation of the action plan. The RAP itself will specify the skills and profiles needed for the work. Review the timetable, and coordinate with the Project unit and the contractors involved the schedules and deadlines under which the RAP must be implemented. Suggest any changes that could expedite the work, for example by starting the works at some alternative location away from any occupants of the sites to be treated under the RAP.

2. Follow up on next steps under implementation, which may involve processing documents through various agencies, securing the cooperation of departments in a variety of ministries, and working with certified valuers, estate agents or others in case of any documentation missing from the RAP.

3. Make sure that the affected areas and communities are informed as to what will happen. The RAP will have been disclosed publicly in any area where displacement will take place, but the LAR specialist may have to hold meetings to explain fully what is
happening and why, and what the details are of the mitigation or compensation that is to be forthcoming.

4. Convene the actors needed for each RAP. This may include surveyors, business or estate valuers, village or “hot spot” management committees, and other interested and affected parties to be involved in the program. Ensure that the implementation team keeps to schedule, and direct the team in overcoming any bottlenecks that may arise from issues of coordination among government agencies, the contractors, or other official parties. Arrange for compensation in cash to be paid in a secure manner, and expedite the reorganization of sites and acquisition of materials by those affected parties who may require assistance under the RAP.

5. Monitor relationships and provide liaison with governmental, private sector, and civil society organizations if they will be undertaking any of the implementation activities. On behalf of the project, assist in building and maintaining relationships between the implementation team and the wide range of stakeholders from whom permissions, information, approvals, or other consensual action is needed to achieve the goals of the RAP in a timely way.

6. Advise the contractors, project management and other interested parties on how to control further encroachment or use of the rights of way or facility sites, by examining reported cases, advising on actions such as signage, fencing and other measures to prevent encroachment, and finding proactive ways to deal with spontaneous and unsanctioned use of lands or rights of way needed for the project or for continued operation of its facilities.

7. Establish with FRDP management a coordinating committee for confirming the legal and administrative authoritativeness in dealing with the displaced persons or firms. Where compensation is to be paid or some compensatory action is to be agreed, the LAR specialist must involve agents with the correct authorities to sign and deliver for the project.

8. Document all processes and actions undertaken during implementation of the RAP. Provide a Final Implementation Report for each RAP.

9. Support where necessary the activities of the complaints mechanism for resettlement, as set out in the RPF and the RAP. Maintain a dynamic log of current data on the status of complaints at each level of the complaints process, ensure that complaint resolution is thorough and timely and that it is seen to be fair and equitable for all parties. Regularly keep project management aware of the status of complaints and their resolution.
ANNEX C

TEMPLATE FOR AN INDIVIDUAL

RESETTLEMENT ACTION PLAN (RAP)

RAPs for individual project roads will complement the project’s Resettlement Policy Framework. The scope and level of detail of the RAP will vary with the magnitude and complexity of resettlement on the road in question.

In general the subproject (individual road) RAP will include the nature of the subproject, the resettlement impact, the number of people affected, baseline census and descriptive data, a matrix that shows – in the same terms as the RPF – the entitlements of the categories of affected people, a description of any resettlement sites and programs for improvement or restoration of livelihoods and standards of living, the subproject budget and implementation schedule, and a commitment to follow the RPF guidance and requirements in all general matters.

The individual RAP should provide background or discussion of any questions for which the general terms of the RPF are in need of supplementation on account of differing local laws, or special situations or effects on people. The RAP is based on up-to-date and reliable information about the proposed resettlement and its impacts on the displaced persons and other adversely affected groups.

The RAP covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan. Where sufficient discussion of a given item is given in the RPF, the RAP should merely reconfirm that such an item is not different in the given local situation.

1. Description of the project. General description of the road in question, and identification of the general road impact area (the geography and economy of the area through which the road passes).

2. Potential impacts. Identification of
   (a) the “hot spots” which will need to be addressed through reconstruction, reorganization, or resettlement.
   (b) the likely impacts of such actions with respect to the hot spots along the road in question;
   (c) the alternatives considered to avoid or minimize resettlement;

3. Objectives. The main objectives of the resettlement program devised for each hot spot or area of resettlement along the road.

4. Social Information. A description and relevant tables covering:
   (a) results of the identification process listing people, enterprises, and structures found in the right of way at the site(s) in question (and established to provide the basis for the cut-off date);
   (b) a description of the particular site, characterizing the social structure and networks at the site and the relationship between the encroachers and the road and its traffic.
(c) the magnitude of the expected loss—total or partial—of assets, and the extent of displacement, physical or economic;

(d) information on vulnerable groups or persons as provided for in OP 4.12, para. 8, for whom special provisions may have to be made, if any;

(e) any public infrastructure and social services that will be affected; and

(f) a description of any formal and informal institutions (e.g., community organizations, market associations, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

5. **Legal framework.** A discussion of the legal framework, if conditions in the local area under consideration require any discussion different from that in the Resettlement Policy Framework (RPF).

6. **Institutional Framework.** The findings of an analysis of the institutional framework for implementing resettlement, insofar as it is different from that established in the RPF.

7. **Eligibility.** Definition of displaced persons and their eligibility for compensation and other resettlement assistance, in the terms established in the RPF, but with any modifications as needed for the road in question.

8. **Inventory, valuation of and compensation for losses.** The methodology used in valuing losses to determine their replacement cost, if these are different from what is prescribed in the RPF; a description of the proposed types and levels of compensation and such supplementary measures as are necessary to achieve replacement cost for lost assets.

9. **Resettlement measures.** A description of the packages of compensation and other resettlement measures that will assist displaced persons to achieve the objectives of the resettlement policy and the RPF. For many people, direct compensation in cash may be sufficient, but for those whose livelihoods are tied up in investments in the affected areas, there should be a demonstration that the measures contemplated will enable people to restore their livelihoods and ability to earn at least their former incomes. The relevant packages of measures will be prepared in consultation with those affected.

10. **Site selection, site preparation, and relocation.** Description of any sites to which people may need to be moved, whether in reorganized hot spots or in alternative relocation sites, together with information on any site preparation needed, any special measures for moving people to their new locations, and the agreement and conditions of the FMW and/or local authorities to use such sites for resettlement purposes.

11. **Environmental protection and management.** A description of any measures needed for good environmental management of the new sites, including such issues as water supply, drainage, or oil collection and disposal at repair sites. Measures to mitigate and manage environmental impacts

12. **Community participation.** Involvement of resettlers and others at the hot spots in planning their reorganization or resettlement, including

   (a) a description of the strategy for consultation with and participation of resettlers in the design and implementation of the resettlement activities;
(b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
(c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, or to sustaining existing patterns of group organization, and
(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

13. Grievance procedures. The measures established for each road to provide for third-party settlement of disputes arising from resettlement;

14. Organizational responsibilities. If different from the RPF, the organizational framework for implementing resettlement.

15. Implementation schedule. An implementation schedule covering all resettlement activities, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

16. Costs and budget. Tables showing itemized cost estimates for all resettlement activities on the subproject road.

17. Monitoring and evaluation. Arrangements to ensure the monitoring of resettlement activities on the subproject road according to the provisions of the RPF, or by alternative arrangements if appropriate to the RAP in question.