



RESETTLEMENT AND SOCIAL AUDIT

ABUJA TECHNOLOGY VILLAGE PROJECT

Prepared for

Growth & Employment Project, Block G,
Federal Ministry of Industry, Trade and
Investment, Area 1, Garki-Abuja

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ABBREVIATIONS AND ACRONYMS

| | | |
|-------|---|---|
| ATV | - | Abuja Technology Village |
| CDC | - | Community Development Council |
| ESIA | - | Environmental and Social Impact Assessment |
| ESMF | - | Environmental and Social Management Framework |
| ESMP | - | Environmental and Social Management Plan |
| FCDA | - | Federal Capital Development Authority |
| FCT | - | Federal Capital Territory |
| FCTA | - | Federal Capital Territory Administration |
| FGN | - | Federal Government of Nigeria |
| GEM | - | Growth and Employment |
| GRM | - | Grievance Redress Mechanism |
| ICT | - | Information and Communication Technology |
| IDA | - | International Development Association |
| NGO | - | Non-Governmental Organization |
| OSIC | - | One Stop Investment Center |
| PAD | - | Project Appraisal Document |
| PAP | - | Project Affected Person |
| PIM | - | Project Implementation Manual |
| PMU | - | Project Management Unit |
| RAP | - | Resettlement Action Plan |
| RPF | - | Resettlement Policy Framework |
| STP | - | Science and Technology Park |
| UNFPA | - | United Nation Fund for Population Activities |
| WB | - | World Bank |

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Executive Summary

The Federal Government of Nigeria (FGN) has received support from the World Bank for the Growth and Employment (GEM) Project. The project will contribute to the government's strategy in poverty reduction by improving the welfare and living conditions of many poor and vulnerable communities in the participating states and FCT Abuja. The GEM Project Development Objectives (PDO) are to improve the business environment, increase firm growth and employment in the participating States and support job creation and increased incomes in selected economic clusters.

GEM supports three project components, which includes;

1. An improved investment climate
2. Increased competitiveness of strategic clusters; and
3. Effective project implementation, monitoring and evaluation and communication

In line with its development support agenda, GEM is considering to support the Abuja Technology Village Science and Technology Park (ATV/STP) and Special Economic Zone (SEZ) project. Various documents have been prepared in line with the GEM Project, and they include, an Environmental and Social Management Framework (ESMF), a Resettlement Policy Framework (RPF) an Integrated Pest Management Plan (IPMP), and an Environmental and Social Impact Assessment (ESIA) which is specific to the development of the Abuja Technology Village. This study was commissioned to carry out a Resettlement and Social Audit of the previous resettlement process as the project had already witnessed some implementation phase prior to the request for the World Bank support. Also importantly, the Federal Government of Nigeria had implemented a resettlement program for the ATV project in 2006 which its process and outcome is not sufficiently known. Resettlement and Social Audit is an instrument for assessing risks, liabilities and regulatory compliance status of a project vis-a-viz the applicable legal and regulatory requirements and of its compliance with mitigation measures where applicable. The Resettlement and Social Audit of the ATV project will entail the assessment of factual data that will enable project sponsors to have an assessment of the social risks and liabilities on ground to make informed decisions on the way forward.

The ATV is a government initiative for a Technology Park and free zone development aimed at becoming Africa's preferred destination for technology research, incubation, development and commercialization across four (4) focus sectors of Information and Communication Technology, Biotechnology, Minerals Technology and Energy Technology. The Park offers a balanced lifestyle environment for business operations with competitive advantage, access to Africa's largest consumer market, proximity to every part of Nigeria and easy access to key global destinations. The concept of ATV is to provide technology-driven businesses of varying sizes - and at all stages of maturity - with an opportunity to cluster in an environment to unlock their potential through facilitated knowledge transfer and leveraging on-site research and human capital capabilities. The project site falls within the Abuja Municipal Area Council (AMAC) that houses several districts. It is bordered to the north by the Nelson Mandela Institute of Science and Technology, to the south by Lugbe satellite settlement,

to the west by the Umaru Musa Yar'adua Expressway and to the southeast by Pyakassa. Chika, Aleita and Pyakassa are the three major satellite settlements likely to be affected by the project. These settlements are a heritage of the Gbagyis' who are the most predominant native ethnic group in Abuja. The major occupations among the people from Chika, Aleita and Pyakassa are farming, petty trade, civil service and entrepreneurship. Three Fulani settlements exist within the project areas.

Objectives of the Resettlement and Social Audit

- i. to obtain the background understanding to the project area and the resettlement process carried out to date;
- ii. to develop an understanding of the legacy and social concerns including Project Affected Persons (PAPs) and their livelihood categories;
- iii. to assess the activities of the ATV project and determine the likely World Bank policies triggered and instruments for addressing them;
- iv. to assess the activities carried out by the ATV so far over the project area and how it has complied with relevant regulatory requirements;
- v. to assess the legacy issues involved in the project and the extent to which it can readily be addressed by mitigation measures outlined in the safeguards frameworks prepared by GEM (ESMF, RPF);
- vi. investigate information such as the history of the ATV involvement with project communities including previous environmental damage and social disaccord;
- vii. Based on the findings/observations of the Resettlement and Social Audit provide recommendations on best line of actions for the Bank and ATV.

Findings from the Resettlement and Social Audit

Major findings of the resettlement and social audit are:

1. The Federal Capital Development Authority (FCDA) as the government arm in charge of physical development, planning and land administration in Abuja had initiated a resettlement programme in 2006 for the proposed ATV project affected communities comprising of the three communities mentioned.
2. It was also found that the proposed total land acquisition for the ATV project will have adverse socio-economic impacts on the communities occupying the project area. Impact will include loss of agricultural livelihood (farm land and economic trees), residential houses, shops, worship centers and graveyards. Actual statistical figure per item is not readily known, due to the hostility and resistance faced in obtaining the information from the project communities caused by trust deficit on the government based on the previous resettlement process and implementation.
3. As a function of the previous resettlement experience, the three communities presently occupying the proposed land for ATV have rejected categorically the proposed relocation to Wassa resettlement site and have turned hostile at every step taken by GEM and its consultants to negotiate for resettlement.
4. During the period, the FCDA acquired some part of the land under discussion for the

construction of internal access road networks, and had paid compensation to the owners of economic trees and farm crops on the land.

5. The compensation amount/value paid to PAPs in 2006 was based on the Land Use Act of 1978 entitlement gazette for economic trees and crops, but was considered grossly poor by the project affected community;
6. Information on the actual number of project affected persons and the number of persons that was paid compensation was not provided in the FCDA resettlement report of 2006.
7. Compensation was not paid for land since the existing land law in Nigeria (the Land Use Act, 1978) conferred land ownership right and the power for land acquisition) to the government;
8. The FCDA had pursuant to its resettlement mandate, commenced construction of housing units in Wassa, a community located within Abuja and about 30km from the present ATV project land, for the purpose of resettling/relocating the entire people of Aleita, Chika and Pyakassa when the ATV project is ready for full implementation.
9. Project affected households documented as at 2006 by FCDA was 2018 made up of 485 from Chika community, 449 from Aleita community and 1084 from Pyakasa community. At 9.3 percent population growth rate for Abuja (Pulitzer Center on Crisis Reporting, 2012 and World Bank 2011), this population may have grown to about 4100 in 2014.
10. The affected communities complained of not being carried along in the resettlement and compensation processes by FCDA. Evidence from government (ATV/FCDA) and the project community's shows that the resettlement program of 2006 fell short of best practices and was characterized with a flawed process in community engagement, entitlement valuation and implementation. For instance, the site selection, planning and preparation of the Wassa resettlement area was carried out without the engagement and input of the beneficiary communities.
11. The ATV project will involve massive civil works (including land clearing, construction, and asphaltting, blasting, excavation), bio-technology cluster and use of chemical for agro-based activities as well as land acquisition.
12. The aforementioned project activity of the ATV project triggers some World Bank operational policies, notably, the OP/BP 4.01 (Environmental Assessment), OP 4.09 (Pest Management) and OP/BP 4.12 (Involuntary Resettlement).
13. There are three original Gbagyi communities in the land; namely Aleita, Chika and Pyakassa.
14. The communities are governed traditionally by Esu, the head of the community leadership.
15. The housing patterns in the settlements are a mix of modern story buildings, bungalows and traditional mud houses.
16. About 50 percent of the population of the project community (Aleita, Chika and Pyakassa) are farmers and cultivate guinea corn, maize, rice, tomatoes and vegetables.
17. The size of the built up area consisting of the three settlements/communities within the proposed ATV project land is about 30 percent of the total project land of 702 Hectares.

Legacy issues

There are a number of legacy issues that have contributed to the current poor community relations and a lack of trust.

These include:

- **Inherited land:** the members of the settlement believe that their ancestors bequeathed their land to them. The lands serve the purposes of practicing their farming livelihood and other uses. They believe that leaving their land for another place is not only against their interest but a permanent loss of identity and heritage.
- **Common Natural resource:** the area around the ATV land is blessed with streams and surface water, which serves the purpose of irrigation and is used for domestic animal breeding. Loss of such a legacy as a result of resettlement or civil construction will pose untold hardship to the entire farming community.
- **Graveyards:** this is considered a legacy in the project area. The people stated that they have their ancestors and dead relatives buried in their land (number not given) and cannot exhume them nor abandon them for resettlement. Their position was to continue to occupy their ancestral land.

Observed Gaps

Gap analysis was based on various parameters such as how the previous resettlement and compensation activities complied with relevant Nigerian extant laws, and how those laws and regulations are in agreement with international best practices which is represented in the World Bank policy templates.

Legal and Legislation Policy Gap: Nigerian Land Use Act and World Bank Operational Policy 4.12

Whereas the Nigerian Land Use Act 1978 is the bases for all land management and administration in Nigeria including land acquisition, expropriation and compensation, it is found to give too much right to the government and deprives the project affected persons the fair rights to choice of involuntary resettlement, entitlement and grievance redress. The scope of category of persons entitled to compensation according to the Act is limited to customary right holders and statutory right holders and therefore, undermines the right of users, renters and squatters whose livelihoods are depended on the land being acquired. This is a major departure from the World Bank policy (see details of legislation gap analysis in section 2.5) which stipulates that all project affected persons irrespective of landholding rights are entitled to one form of compensation or the other in order not to be economically worse-off as a result of project activities. The Nigerian Land Use Act also differs from the World Bank policy in the principle of equity in asset valuation and entitlement which according to the Banks guideline should be based on the current market rate for replacement of project affected items. For example, the amount of ₦ 1,500 to ₦2,500 received in 2006 by PAPs that lost their farm crops and economic trees reflects the fixed asset compensation regime as contained in the Land Use Act as at 1978. This does not take into account the current market price of the assets or cost of replacement.

Resettlement Planning, Procedure and Implementation Gap

From the resettlement report of the previous resettlement, efforts was deficit in description of entitlement eligibility, entitlement matrix, fairness in asset valuation and community engagement. It

did not set a mechanism for hearing and addressing potential grievances that emanated from the process and has therefore, left a feeling of denial and deprivation of social and economic right in the minds of the project affected communities. This was a major gap whose consequences may include hostility and resistant to any future investment in the area that may require involuntary resettlement.

Gap in the compliance with Nigerian Legislation

Although the Nigerian Land Use Act has some gap deficits compared to best practices, the implementation of the previous resettlement process did not fully comply with the Act as it were. For instance, while the Nigerian Land Use Act states that the Minister or State Governor should establish a Land Use and Allocation Committee that reviews and solves disputes related to the compensation amounts; there was no evidence that the committee was set up till date. It is also noted that land acquisition and clearing took precedence before compensation.

Conclusions and Recommendations of the Study

Conclusions

1. The activities of the proposed ATV project will trigger some World Bank operational policies, notably, the OP/BP 4.01 (Environmental Assessment), OP 4.09 (Pest Management) and OP/BP 4.12 (Involuntary Resettlement) because civil works, use of chemicals for agro-based sub-component and land acquisition respectively are involved.
2. Nigeria regulatory process in land acquisition and resettlement was not fully complied with.
3. Relative to best practices, the implementation of the previous resettlement programme by government was marred with flawed process, inadequate community engagement, poor asset valuation and under-compensation; thereby resulting in trust deficit and hostility by the project community.
4. The question of how the interest of the huge farming population from the three settlements will be served commensurably without causing social conflicts between them and the original inhabitants of Wassa (land owners) is one yet to be addressed by the government.
5. The poor compensation by FCDA in 2006 has continued to agitate the people of the project area and poses a threat to ATV project sustainability.
6. The position of the project communities is that they are not willing to negotiate with the project team (ATV and GEM) for grievance redress but with the Minister of the Federal Capital Territory.
7. Also importantly, the decision to revisit the previous compensation issue is a government fiscal policy issue because of the funding requirement that will be involved. This funding responsibility is also not within the responsibility of World Bank to undertake because it is an inherited social liability that existed before its involvement in the project. It is concluded therefore, that fixing this gap and the timing for its achievement is outside the scope and powers of both World Bank and the ATV project development team to determine.
8. The risk factors of supporting the project will be overwhelming including financial, social and reputational risks for the World Bank.

9. Supporting the ATV project by GEM/World Bank will imply that the World Bank is in support of the denial of the rights and livelihoods of the project affected communities and persons. This will be contrary to the pro-poor objective of the Bank and is a major reputational risk. ***Therefore, the project implementation will not be sustainable. GEM/World Bank is therefore, advised not to the support project.***

Recommendation

Based on the surrounding negative circumstances (high social and reputational risks) as presented in the findings and the conclusion sections GEM Project/World Bank is advised not to support the ATV project.

SECTION 1: GENERAL INTRODUCTION

1.1 Introduction

The Federal Government of Nigeria (FGN) has received support from the World Bank for the Growth and Employment (GEM) Project. The project will contribute to the government's strategy for poverty reduction by improving the welfare and living conditions of many poor and vulnerable communities in the participating states and FCT Abuja.

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The ATV is a government initiative for a Technology Park and free zone development aimed at becoming Africa's preferred destination for technology research, incubation, development and commercialization across four (4) focus sectors of Information and Communication Technology, Biotechnology, Minerals Technology and Energy Technology. The Park will offer a balanced lifestyle environment for business operations with competitive advantage, access to Africa's largest consumer market, proximity to every part of Nigeria and easy access to key global destinations. The concept of ATV is to provide technology-driven businesses of varying sizes - and at all stages of maturity - with an opportunity to cluster in an environment to unlock their potential through facilitated knowledge transfer and leveraging on-site research and human capital capabilities. The project site falls within the Abuja Municipal Area Council (AMAC) that houses several districts. Chika, Aleita and Pyakassa are the three major satellite settlements likely to be affected by the project. These settlements are a heritage of the Gbagyis' who are the most predominant native ethnic group in Abuja.

1.2 Description of the ATV Project Concept

The ATV master plan sets out to create an environment built to the highest global standards of design, construction and sustainability. It is expected that ATV will attract top-flight companies using a package of incentives including amenities as follows:

Infrastructure:

- Uninterrupted Power
- High Quality Roads and Boulevards
- Security Patrols
- Telecommunications and Broadband Internet services
- Regular, Treated Water
- Smart Buildings and Strict Quality Building codes

Business:

- Incubator Office Suites
- Temporary Office Space
- Large Floor Space Office Buildings
- Empty Leased Plots for Direct Construction (industrial, specialized and anchor tenants).
- Warehousing
- Logistics and Supply Chain Support
- Cafeteria Services

Living:

- Residential Estates developed on site, providing a mix of housing types and service levels
- Child care facilities
- Primary and Secondary Schooling
- Parks and Gardens

Leisure:

- Golf driving range
- Hotels
- Shopping Centers
- Restaurants and Bars
- Cafés
- Sports Grounds and Fitness Facilities
- Clubhouse
- Cultural Centre and Theatre
- Exhibition and Convention Centre

- Cinemas

1.3 Description of Project Area-Abuja

Abuja is situated in the center of Nigeria and has a population of 776,298 (2006 population census) with a growth rate of 9.1% (World Bank, 2011). It has also been reported that some areas around Abuja have been growing at 20% to 30% per year (NSITF, nd). Abuja became the Capital City of Nigeria on 4th February 1976 by Federal Government decree No. 6 (Barbour, Oguntoyinbo et al.1982; Umeh 1993). However, the seat of power was officially moved from Lagos to Abuja on 12th December 1991. The choice of Abuja as the new capital city was amongst other things to correct the several factors and features that made Lagos undesirable as a modern capital city which include, poor or distortion of master plan, over population/overcrowding, poor municipal waste management, etc.

Abuja has tropical dry and wet season and a brief interlude of harmattan. The rainy season begins from April and ends in October and daytime temperatures reach 28 °C to 30 °C and night-time lows hover around 22 °C to 23 °C. In the dry season, daytime temperatures can soar as high as 40 °C and night-time temperatures can dip to 12 °C. Even the chilliest nights can be followed by daytime temperatures well above 30 °C. The annual rainfall is about 1,500mm. The map of the Federal Capital Territory is shown in figure 1 below, highlighting the study area.

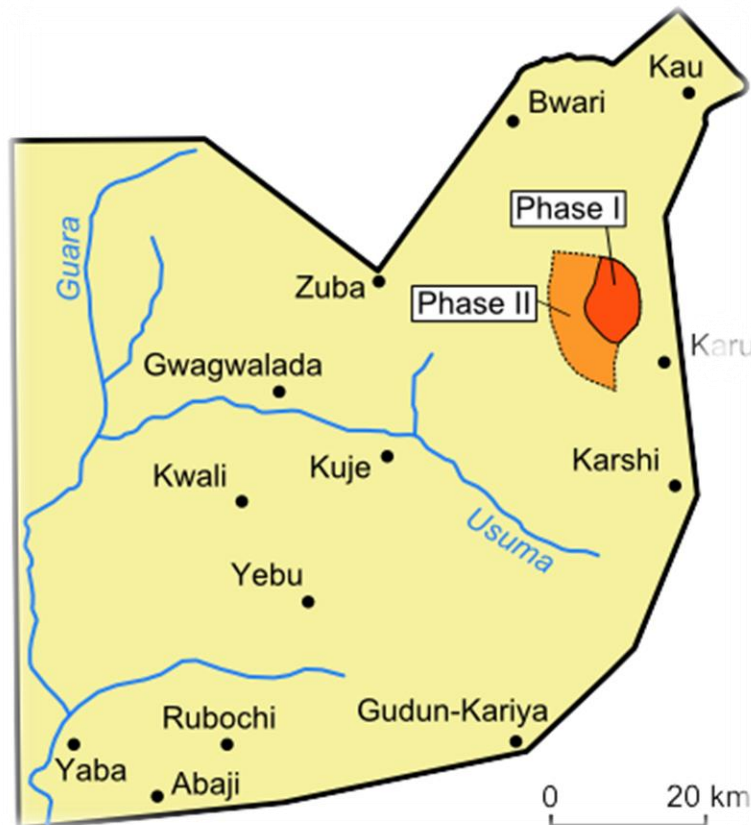


Figure 1: Map of Abuja highlighting the Study Area within Phases 2 and 3

1.3.1 Description of the ATV Project Site and Resettlement Activities

The project site falls within the Federal City Center (FCC) that houses several districts. It is bordered to the north by the Nelson Mandela Institute of Science and Technology, to the south by Lugbe satellite settlement, to the west by the Umaru Musa Yar'adua Expressway and to the southeast by Pyakassa (see figure 2). Chika, Aleita and Pyakassa are the original settlements/communities within the project area. These settlements are a heritage of the Gbagyis' who are the most predominant ethnic group in Abuja. The major occupations among the people from Chika, Aleita and Pyakasa are farming, petty trade, civil service and entrepreneurship

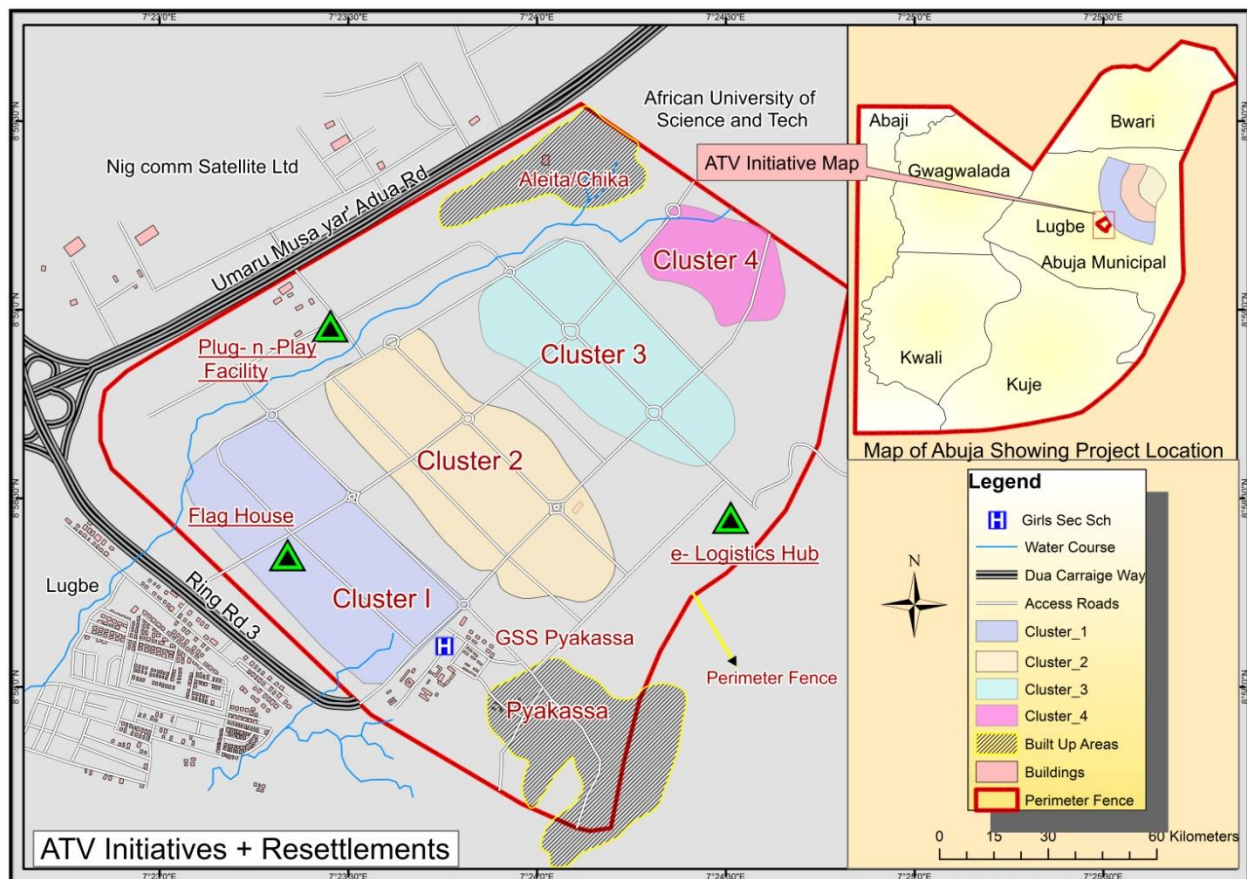


Figure 2: Map of Abuja showing the Investment Clusters and Settlements within the Project Area

The activities of GEM component 2 (Increased competitiveness of strategic clusters) which it is considering to support in ATV will involve large scale construction and land acquisition which will entail displacement of the existing settlements on the land area.

Prior to the request for the World Bank credit to support the ATV project development, the Government of Nigeria through the Federal Capital Development Authority (FCDA) had initially taken steps toward the implementation of the project. The government had acquired some part of the ATV project land from the original settlers for construction of access road network. It was reported

during consultations that the FCDA had in 2006 paid compensation to the project affected persons for the loss of their economic trees and crops.

In furtherance of the ATV master plan, a complete land acquisition of about 700 hectares of land designated for the project is required. This will entail total displacement and resettlement of the settlements (Aleita, Chika and Pyakasa) presently occupying the area.

Against the backdrop that there have been previous resettlement programme and widespread complain by project affected communities on the inadequacy of the purported previous resettlement efforts. This Resettlement and Social Audit was required to appraise the process for and adequacy of the previous resettlement efforts.

1.3.3 Overview of the Resettlement and Social Audit

The Resettlement and Social Audit is an instrument for assessing the legacy risks, liabilities and regulatory compliance status of a project or an organization against set standards such as sector and national laws as well as international best practices, for the overall aim of improving project social sustainability. For the ATV project, the resettlement and social audit examined the compliance status of the project implementation with the Nigerian Land Use Act in the conduct of its previous land acquisition and resettlement activities. It will also entail the analysis of the country law with the World Bank policy as well as the assessment of factual data that will enable project sponsors to have an assessment of the social risks and liabilities on ground to make informed investment decision on the project.

1.4 Justification for the Resettlement and Social Audit

A decision was reached by the World Bank safeguard team in May 2015 to carry out a Resettlement and Social Audit instead of Resettlement Action Plan (RAP), because the project had already witnessed some implementation phase prior to the request for the World Bank support. Also importantly, the government of Nigeria had implemented a resettlement program for the ATV project in 2006 which process and outcome might influence subsequent investment decisions in the project.

Specifically, this resettlement and social audit is justified on the following grounds:

- The ATV project is a brown field as indicated by the existing sub-project activities which are already under implementation, such as the ATV internal access road construction;
- The risk and liabilities created by previous land acquisition and resettlement programme needed to be known;
- The inventory of the scale of impact of the previous land acquisition and perception of the communities, which are important, are better captured through audit;
- The applicable laws, regulations and policies for land acquisition, involuntary resettlement and legacy matter, and the extent of compliance by the project are also best determined through audit;

- An audit helps to ascertain the right measures for filling gaps inherent in project implementation for the overall project sustainability, including the determination of the instrument required for addressing safeguard concerns.

1.5 Objective of Resettlement and Social Audit

- To obtain the background understanding to the project area and the resettlement process carried out to date;
- Develop an understanding of the legacy and social concerns including project affected persons (PAPs) and their livelihood categories;
- To assess the activities of the ATV project and determine the likely World Bank policies triggered and instruments for addressing them
- To assess the activities carried out by the ATV so far over the project area and how it has complied with relevant regulatory requirements ;
- Assess the legacy issues involved in the project and the extent to which it can readily be addressed by mitigation measures outlined in the safeguards frameworks prepared by GEM (these include the Environmental and Social Management Framework [ESMF], Resettlement Policy Framework [RPF]);
- Investigate information such as the history of the ATV involvement with project communities including previous environmental damage and social discord;
- Based on the findings/observations of the Resettlement and Social Audit provide recommendations on best line of actions for the Bank and ATV.

1.6 Approach and Methodology of the Study

1.6.1 General Approach

This study involved the combination of three audit investigation methods as described below:

- 1) **Desk review:** this entailed the review of the relevant documents such as the ATV resettlement report carried out by the FCDA in 2006, the Nigerian Land Use Act of 1978, World Bank guidelines including the Resettlement Policy Framework (RPF) prepared by GEM Project and the Involuntary Resettlement Policy guideline (OP 4.12) of the World Bank. Detail discussion and relevance of the reviewed documents to the present assignment is presented in the section on Administrative, Legal and policy framework of this report.
- 2) **In-depth interview and consultations:** this took place at two different phases. The first phase took place between 20th of May 2014 and 14th June 2014 when the objective of the assignment was to prepare a Resettlement Action Plan. The second phase took place between May 12th 2015 and June 8th 2015, when a decision had been taken by the Bank to reverse to a resettlement and social audit. Stakeholders were interviewed and consulted on different relevant aspects of the project activities undertaken by the proponent. The GEM consultant in collaboration with GEM-PIU and ATV staff consulted with the three project communities.

Those interviewed included the desk officers at ATV, the head of resettlement at FCDA and leaders of the three project communities.

- 3) **On-site Visit:** this was initially undertaken in the form of field reconnaissance visit. This took place between May 18th and 20th 2014 under the guide of the staff of the ATV. Another round of site visit was necessitated by the need to carry out a social audit of the project site for observation and spatial data gathering in the project area aimed at validating or otherwise the evidences recorded from the in-depth interview and the desk review. This took place between June 8th and 10th 2015. This site visit was undertaken exclusively by the consultant team, and involved movement around the built up area of the site and the areas where road construction had taking place.

1.6.2 Planning and Organization

- **Inception Meeting**

Inception meeting was held with the GEM-PIU and ATV management at ATV office on May 4th 2014. Those present were two staff from GEM, the consultant and management staff of ATV. The meeting discussed project development objective of the ATV, the engineering designs and its sub-projects. It also discussed the steps ATV has taken to date with respect to the work status, land and legacy issues. The meeting culminated in the collection of relevant project documents including the FCDA Resettlement Report of 2006 and the Project Initiation Document for the Digitization of the 2006 manual enumeration of captured data of original inhabitants/communities within the project coverage area. The meeting resolved that ATV will delegate its staff to take the GEM consultant to the project site and work with the team during the field work.

- **Development of Social Audit Checklist**

A screening checklist was designed by the audit team for assessing management commitment and compliance with the extant laws and policies on land acquisition, resettlement and safeguards management in general. The checklist also probed for the understanding and capacity of the proponent to coordinate and implement environmental and social safeguard requirements of the project. The social screening checklist is attached as Annex 2.

1.7 Structure of the Resettlement and Social Audit

The Resettlement and Social Audit structure and contents are highlighted below:

Section 1: General Introduction

Section 2: Administrative, Policy and Regulatory Framework

Section 3: Legacy issues and stakeholder consultations

Section 4: Findings, Discussion and Analysis of Findings

Section 5: Identified Gaps

Section 6: Suggested Safeguards Corrective Measures/Plan

Section 7: Conclusion and Recommendations

SECTION 2: ADMINISTRATIVE, POLICY AND REGULATORY FRAMEWORK

2.1 Introduction

This section concerns with the review of the following: 1) administrative structure and policies of Abuja as it affects land management, 2) the Nigerian extant laws on involuntary resettlement, 3) World Bank guideline on involuntary resettlement, 4) comparative gap analysis of the Nigerian extant law (Land Use Act) and World Bank policy on involuntary resettlement.

2.2 Administrative Structure and Policies of Abuja Relevant to the Study

2.2.1 Establishment and Functions of the Federal Capital Development Authority (FCDA)

Abuja was established as the Federal Capital Territory (FCT), by the Decree No. 6 of 1976. The same Decree also provided for the constitution of the Federal Capital Development Authority (FCDA), charged with the responsibility of planning, designing and developing the FCT.

FCDA's function includes:

- Choosing a site within the Capital Territory for the location of the Capital City;
- Preparing a Master Plan for the use of land in the Capital City as well as the rest of the Capital Territory;
- In charge of land administration, allocation and acquisition in the FCT;
- Providing public/community services within the Capital Territory;
- Establishing infrastructure such as roads, railways, bridges, reservoirs, water course buildings and other such works as may be necessary in the FCT;
- Coordinating the activities of the Area Councils, Departments and other Agencies of the government of the Federation within the FCT.

Therefore, the FCDA is referred to in this study as the 'Landlord' to ATV because it is responsible for the allocation of the proposed ATV project land.

2.2.2 Resettlement and Compensation Department of the FCDA

The Department of Resettlement and Compensation is a department within the FCDA charged with the responsibilities of policy formulation, guidelines and implementation of resettlement schemes; and the payment of compensation for crops, economic trees and structures. The department reports to the executive secretary in FCDA in all matters within its jurisdiction. The creation of the department provided the opportunity to bring under one umbrella all issues pertaining to resettlement and

compensation which hitherto had been fragmented in the Department of Urban and Regional Planning, Development Control and Land Administration.

The Department has three divisions and they are:

1. Valuation and Compensation
2. Planning and Resettlement
3. Monitoring and Logistics

2.3 Country Regulatory Framework and Practices on Land Tenure and Involuntary Resettlement

Nigeria has the national guideline for environmental audit as its framework for environmental and social audit standards and regulations. On the other hand, involuntary resettlement in Nigeria is guided by the Land Use Act of 1978, while the Operational Policy 4.12 is the World Bank guideline for involuntary resettlement. These guidelines and their procedures are described in this section with a view to examining their potencies, similarities and gaps.

2.3.1 *National Guidelines for Environmental Audit in Nigeria, 1992*

According to the National Guidelines for the Environmental Audit, 1992 an audit is the process of reviewing activities and records against defined standards or procedures to establish what is being done and how far the process is complying with requirements.

It describes various ways by which environmental audit can be grouped or carried out as:

- **Self-audit:** This involves the audit carried out by selected members of a team from the unit by which an audit is to be carried out. This could be by the senior operatives in the unit being audited.
- **Internal audit:** This involves the audit carried out by selected members of staff from various units of an organization to audit a particular unit, but not the unit being audited. The aim is to identify and report problems without bias.
- **External audit:** This involves the audit carried out by selected team from outside the establishment and may be assisted by employees of the organization being audited.

External auditors could be Consultants or Regulators. It is important especially where third party benchmarking and neutrality is required. However, environmental audits can be classified based on **what** is to be audited in an organization.

This resettlement and social audit is consistent with the Nigerian national guideline for environmental audit as it shares a common purpose of enshrining neutrality and sound assessment of the performance of the project via external audit.

2.3.2 Nigerian Land Use Act 1978, as Extant Law on Land Acquisition and Administration in Nigeria

The Land Use Act of 1978 which is the contemporary extant law regulating land tenure, acquisition and compensation in the country intended to regulate the land rights in order to bring uniformity in the laws governing land-use and ownership, control speculation in urban land and equalize legal access to land rights by Nigerians. It also aimed at facilitating the Federal and State Governments to acquire land for large-scale projects (housing, irrigation schemes, industries, etc.) and unify rural lands arising from both the application of traditional principles of inheritance and/or population growth and the consequent pressure on land.

Prior to the enactment of the Act in 1978, the process of land tenure and acquisition in Nigeria was based on the traditional or customary laws that recognizes land ownership by inheritance and community collective ownership. By inheritance land can be owned by fathers and fore fathers and bequeathed to descendants who continue to enjoy the ownership of such land parcels. Land can also be owned by a clan or community for collective use of the people of the community. Although, the land Use Act is the legal benchmark for land acquisition, resettlement and land administration, its application has not been without controversies. This development has led to a scenario where the legal law (Land Use Act) is applied side by side with the traditional/customary right laws in negotiating land acquisition matters by investors in Nigeria.

The provisions of the Land Use Act vest every parcel of land in every State of the Federation in the Executive Governor of the State. He/she holds such parcel of land in trust for the people and government of the State. The Act categorized the land in a state to urban and non-urban or local areas. The administration of the urban land is vested in the Governor, while the latter is vested in the Local Government Council Chairman. The Federal Capital Territory Abuja does not have a state governor. Therefore, the Federal Minister appointed by the President of the country performs all the functions and rights to land in the FCT as applicable to governors for the lands within the states.

The Land Use Act of 1978 prescribes that where a right of occupancy is revoked on the ground either that the land is required by the Local, State or Federal Government for public purpose or for the extraction of building materials, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements. This is further described to include buildings, plantations of long-lived crops or trees, fencing walls, roads and irrigation or reclamation works, but does not include the result of ordinary cultivation other than growing produce.

The Act explicitly states that compensation is paid to the holder of a statutory right of occupancy and/or the holder of a customary right of occupancy and not to squatters on the land or those that own the land by inheritance.

In sum, the provisions of the Land Use Act with a view on compensation are as follows:

- Compensation is not paid for fallow or undeveloped land i.e. with no physical improvements resulting from expenditure, capital or labor.
- Compensation is estimated based on the value of improvements.
- The provision of Section 6(5) of the Act, which defines that the “holder” and the “occupier” of customary right of occupancy are entitled for this compensation, is rather confusing and vague as it fails to acknowledge that the holder of the certificate of occupancy might be different from the occupier /user of the land, just as the user of improvement on land (e.g. House) may be a tenant rather than the owner, who is the holder of certificate of occupancy.
- When the right of occupancy is revoked in respect of a part of a larger portion of land, compensation shall be computed in respect of the whole land for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked less a proportionate amount calculated in relation to the area not affected by the revocation; and any interest payable shall be assessed and computed in the like manner. When there are buildings, improvement or crops on the portion revoked, the compensation amount shall follow the principle outlined above.
- The Act makes no clear description of how the public or the PAPs will be consulted in the process of involuntary resettlement and again remains rather vague by saying “*there shall be a public notice so that those who have interest in the affected land will indicate their interest*”. The need for stakeholder consultation and meaningful engagement that takes the views of PAPs into account was missing.

2.3.3 Land acquisition procedures in the Federal Capital Territory, Abuja

Prior to the establishment of the Abuja Geographical Information System (AGIS) in 2003, land acquisition and allocation had been undertaken at three levels:

- Anybody could purchase land outright from the original Gbagyi chief or traditional head for house or commercial purposes. This informal land allocation method does not vest the buyer with a recognized customary or statutory right.
- Application for land allocation is made to the area councils or to the department of land allocation and administration in the Federal Capital Development Authority (FCDA). Land owner after receiving an offer letter applies for a Right of Occupancy (R of O) for the Area Council lands or Certificate of Occupancy (C of O) for the Federal Capital City land. Although simple in legal terms, this solution does not protect the purchaser from competing claims that may arise after the purchase has taken place and might therefore result in a situation where some parcels need to be purchased twice.

To curtail the risk of multiple allocations, land use abuse and inefficient system of land allocation and administration, the government of the FCTA in 2003 established a computerized land administration unit. This unit is known as the Abuja Geographical Information System (AGIS). AGIS is responsible for land allocation, revalidation, delineation, computerization and management. The jurisdiction of AGIS was for urban lands (statutory title) while the area councils were also in control of lands within its domain, and issues customary rights /right of occupancy to land right holders.

In 2009, a policy was created to harmonize land management within the area councils in order to check abuses in land allocation and management. It was based on this that a sister agency known as Accelerated Area Council and Sectional Title Re-Issuance Scheme (AACSTRS) was established. Its function is to revalidate all land titles from the Area Councils and issue a C of O to the land title holders. The function of AACSTRS is to bring the area council land administration at par with that of the urban land. This is why all customary land certificates are now re-issued after verification with statutory right certificate. The advantage of the re-issuance to statutory right certificate apart from curbing land management abuses is that it improves the value on land as an instrument/ collateral for business transaction with investors and Banks.

Although changes or improvements in land administration have been attained in Abuja, it is imperative to note that all land acquisition procedures in the FCT is derived from the Land Use Act (LUA), 1978. According to the existing national legislation (LUA 1978), the compulsory land acquisition needs to follow these steps:

- The investor requests land from the State Governor, who in turn instructs the Commissioner of Land to obtain the land through compulsory land acquisition.
- The Commissioner of Land instructs the Surveyor General to demarcate the land and conduct a land survey i.e. identifies the owner and establishes the compensation entitled under the national legislation.
- After the Commissioner of Land has reviewed and approved the survey results, the Director of Land issues a public announcement to the concerned communities that invites all right holders to identify themselves to the authorities.
- After the end of the public disclosure period a final survey is conducted to confirm validate the findings of the land survey and/or register any changes.
- After the survey results have been either accepted by the right holders or confirmed by the Director of Lands, compensation is paid and the land becomes the possession of the State government, which then in turn can issue a certificate of occupancy to the investor.

To conduct this process the State Governor/Minister is required to establish a Land Use and Allocation Committee that reviews and solves disputes related to the compensation amounts. In addition, the State Government is required to set up a Land Allocation Advisory Committee, to advise the Local Governments on how to identify and allocate replacement land, when customary rights of occupancy on agriculture land are expropriated.

2.3.4 Resettlement Efforts and Policies in the Federal Capital Territory

Following the creation of Abuja as the Federal Capital territory in 1976, about 8000sq/km land was carved out from the old Kwara (now Kogi), Niger and Plateau (now Nasarawa) states respectively. The Gbagis, who were the inhabitants of Abuja, were also affected – they lost their land, natural resources, socio-cultural dignity to the modern civilization that the emergence of the FCT brought.

In accordance with the provisions of the Federal Capital Territory Act of 1976, the inhabitants of the FCT were to be evacuated and resettled in their respective states of origin (that is in the neighboring states from which FCT was carved out).

The first controversy arose when the population which was supposed to be sparse (since the lands being taken were deep forests) had more people than expected. The initial policy considered by the Federal Government then was to move and resettle them into their states of origin and a sum of ₦2billion (two billion naira) was needed. By 1978, this policy was reviewed- only people who had resided in the Federal Capital City i.e. 250sq/km, Abuja would remain. That was not all; there would be an exodus and a resettlement to other parts of the territory as soon as city development knocked on their doors. An agreement was also reached that villages which do not fall within Abuja; Gwagwalada, Bwari, Kuje, Abaji, Kwali would be allowed to stay put, no resettlement but without the rights of indigene ship.

In 1992, the Gado Nasko administration of the FCT adopted a new policy called ‘integration policy,’ which would retain, integrate and assimilate the original inhabitants within the Federal Capital City (FCC). Though more humane and economical, it created an environmental disaster. An example is the Garki village, which has the highest population of natives. This policy only succeeded in alienating the people it sought to protect with many negative consequences. Though it was agreed that it would be absorbed into the Abuja master-plan, it would have to be modified to meet up with acceptable standards.

Again, former FCT Minister, Engr. Mohammed Abba Gana built a resettlement village for the natives of Wuse and Maitama at Dei-Dei, another satellite town. They rejected the houses citing that the houses provided for them were too small for their large families. It was later resolved by paying the indigenes cash compensation.

The Administration of Mallam Nasir El-Rufai held a meeting with the settlers of the 250sq/km that constitute the FCC: Kuchingoro, Aleita, Chika, Pyakasa, Garki Village, Apo Village, Apanjeyan Village, Utako, Kpanda, Jabi-Samul, Jabi Yakubu, Zhilu, Maje and Mabushi. At the meeting, it was agreed that these villages would be demolished as development of the FCC catches up with them and the people would be resettled. The policy faced great resistance as any attempt to demolish the affected communities was met with stiff resistance from the people thereby resulting to the use of “Force” by the government to demolish the structures and acquire the lands.

During his time as the Minister of the FCT, Dr. Aliyu Modibbo Umar, promised the indigenes of the 250sq/km area fairness and justice because “these are people who have involuntarily relinquished their land for the building of the Federal Capital Territory. However, the fulfillment of the social justice appears not to have been fulfilled as the affected populations have continued to express dissatisfaction and forceful demolition of their houses and acquisition of their farm lands.

2.3.5 Description of Wassa Resettlement Site in Abuja

Wassa resettlement area is located on the outskirts of Abuja. It is one of the three resettlement sites in Abuja for the resettlement of indigenes and communities within the FCC. Other resettlement areas are Apo and Galuwyi/Share. Wassa resettlement site is planned for the resettlement of the villages along the Airport Road including Kuchingoro, Puweyi, Karamaji and the two proposed project communities; Aleita and Chika.

Wassa is also an original native community in the FCT with indigenes also of Gbagyi extraction. The indigenes are mainly local farmers and grow crops such as yam, maize and guinea corn. The community however lacks basic social amenities like primary & secondary school, access road, electricity supply, water supply and health centers.

2.4 The World Bank Guidelines/Policies Relevant to the Project.

The World Bank has 10+2 operational policies with which it uses to address safeguard issues related to projects supported by it. Details of these operational policies are contained in annex 3.

The operational policies that were triggered based on the activities or sub-projects under ATV are as follows:

- OP 4.01: Environmental Assessment;
- OP 4.09: Pest Management; and
- OP 4.12: Involuntary Resettlement

The 'plus 2' policies triggered are:

- Use of Country System (OP 4.00) and
- Access to Information

OP 4.01 (Environmental Assessment) is triggered by ATV project because the sub-project activities involve civil works that will potentially affect the environmental elements such as soil, air and surface water. OP 4.01 is therefore, an instrument for addressing the environmental and social issues to ensure sound environmental and social sustainability of the project.

OP 4.09 (Pest Management) is triggered because ATV project will involve biotechnology and plant/specie nursery which might involve the use of chemicals (insecticides and pesticides). Pest management plan may be required to ensure that banned chemicals are not used and also to ensure safe use of the chemicals.

OP 4.12 (Involuntary Resettlement) is the Bank's policy for addressing land acquisition, legacy and resettlement matters triggered by the investment.

Prior to the request to support ATV project, GEM had prepared three safeguards documents based on its broad area of support focus and spatial scope; namely, the Environmental and Social Management Framework (ESMF), the Resettlement Policy Framework (RPF) and the Integrated Pest

Management Plan (IPMP). They are frameworks that describe the categories of the environmental, social and legacy risks due to project activities and how these risks will be managed.

i. The Environmental and Social Management Framework (ESMF)

The ESMF was prepared when specific projects, detail design and locations of projects to be supported by GEM in each state and sector had not been known in sufficient detail. Aside providing an appraisal of environmental and social risks of project for Bank's investment decision, the ESMF relative to the ATV project describes clearly the process for preparing acceptable environmental and social impact assessment (ESIA) by the proponent. The objective is to outline the guidelines and processes for potential sub-project's ESIA/ESMP that will mitigate the environmental and social risks to be identified. Although this audit is concerned only with the previous resettlement activities and social issues, the ESMF and ESIA reports will be useful as benchmark documents for the future environmental and social audit of the project.

ii. The Resettlement Policy Framework (RPF)

The RPF was prepared by the Nigerian Government for GEM project in 2010. It is a framework report that is project specific but whose principles and procedures are consistent with, or drawn from the involuntary resettlement guideline of the World Bank (see sub-section 2.4 (iii) on World Bank involuntary resettlement guideline). The objective of the GEM RPF is to outline the policies and guidelines/framework for any potential resettlement that will then be mitigated by a resettlement action plan. It identified a range of potential social and legacy impacts that could result from projects that will receive support from GEM such as ICT Infrastructure, Hospitality, Real Estate Development, etc. The RPF provided a guideline in line with the OP 4.12 of the World Bank. The relevance of the RPF to the present audit is that it helps to assess or compare the standard of the resettlement carried out for the ATV by the Nigerian government and the adequacy of its implementation.

iii. World Bank involuntary resettlement operational policy (OP4.12)

The World Bank's involuntary resettlement guideline operates to provide borrowers with the Bank's policy and acceptable procedures for preventing and mitigating potential adverse impacts associated with land acquisition and displacements triggered by projects receiving Banks support. It is a guideline that provides the principles to be followed in the preparation of a resettlement policy framework (when specific project location is not known before project appraisal) and/or a resettlement action plan (when project specific location and area of land to be acquired or encroached upon is known).

The guideline covers direct economic and social impacts that result from Bank-assisted investment projects, and are caused by (a) the involuntary taking of assets resulting in: relocation or loss of shelter; loss of assets or access to assets; or loss of income or means of livelihood, whether or not the affected persons must move to another location, (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the affected persons.

Generally, the principles of the World Bank involuntary policy are as follows:

- Involuntary Resettlement should be avoided or minimized exploring all viable alternatives project designs.
- Where it's not feasible to avoid, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable persons affected by the project to share in project benefits.
- Affected people should be consulted and should have opportunities to participate in planning and implementing resettlement programs.
- Impacted persons should be assisted in their effort to improve their livelihoods and standards of living or at least to restore them to pre impact levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- The Principles recognizes that lack of formal legal title to land is not a bar to compensation and other assistance. This may apply to a range of people affected, e.g. informal dwellers, land users with traditional or customary rights, squatters or those with adverse possession rights but no formal legal title to land and assets. Appropriate assistance should be provided to address the needs of the poorest affected persons such as female-headed households, and other vulnerable groups to help them improve their status.

According to OP 4.12, the Resettlement Plans (RAP or ARAP) should include measures to ensure that the affected persons are:

- Informed about the options and rights pertaining to impacts caused by project activities;
- Consulted on, offered choices among, and provided with technically and economically feasible alternatives; and
- Provided prompt and effective compensation at full replacement cost for losses attributable directly to the project;

If impacts include physical relocation, the RAP/ARAP includes measures to ensure that affected persons are:

- Provided assistance (such as moving allowance) during relocation; and
- Provided with residential housing or housing sites or as required.

2.5 Gap Analysis between the Nigeria Land Laws and the World Bank Operational Policy (OP 4.12)

Usually, the World Bank mainstreams country policy into project planning and regulation. However, where such country policy is adjudged to be weak or below best practices, measures are taken to fill the gap before finalization of RAP report through meaningful stakeholder engagement and expertise inputs.

The relevant sections of the two laws and the gaps analysis is presented in the table 1, while measures to fill the observed gap will be considered, if the findings of this audit supports the need to prepare a RAP for the project.

Table 1: Gap Analysis between the Nigeria Land Laws and the World Bank Operational Policy

| Category | Nigerian Law | World Bank OP4.12 |
|---|--|--|
| Minimization of resettlement | No requirement to consider all options of project design in order to minimize the need for resettlement or displacement | Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs |
| Information and Consultation | It's lawful to revoke or acquire land by the Governor after issuance of notice. No consultation is required. | PAPs are required to be meaningfully consulted and participate in the resettlement process |
| Timing of Compensation | The law is silent on timing of payment | Compensation implementation takes precedence before construction or displacement |
| Livelihood restoration | Makes no proscription on livelihood restoration measures | Requires that vulnerable PAPs be rehabilitated |
| Grievance Process | The land use and allocation committee appointed by the Governor is in-charge of all disputes/grievances and compensation matters | Requires that a grievance redress mechanism be set early constituting the representative of PAPs and, prefers local redress mechanism. The law court is the last resort when available mechanism or outcome is unsatisfactory to PAP |
| Owners of economic trees and crops | Compensation for an amount equal to the value as prescribed in the Land Use Act valuation gazette | Compensation for the market value of the yield, including the cost of nursery to maturity (for economic tree) and labour |
| Community land with customary right | Compensation in cash to the community, chief or leader of the community for the benefit of the community | Land for land compensation or any other in-kind compensation agreed to with the community |
| Agricultural land | Entitled to alternative agricultural land | Land for land compensation |
| Fallow land | No compensation | Land for land compensation |
| Statutory and customary right Land Owners | Cash compensation equal to the rent paid by the occupier during the year in which the right of occupancy was revoked | Recommends land-for-land compensation or other form of compensation at full replacement cost. |

| Category | Nigerian Law | World Bank OP4.12 |
|--|--|--|
| Land Tenants | Entitled to compensation based upon the amount of rights they hold upon land. | Are entitled to some form of compensation whatever the legal recognition of their occupancy. |
| Squatters, settlers and migrants | Not entitled to compensation for land, but entitled to compensation for crops. | Are to be provided resettlement assistance in addition to compensation for affected assets; but no compensation for land |
| Owners of “Non-permanent” Buildings | Cash compensation based on market value of the building (that means depreciation is allowed) | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. |
| Owners of “Permanent” buildings, installations | Resettlement in any other place by way of reasonable alternative accommodation or Cash Compensation based on market value. | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. |

SECTION 3: LEGACY ISSUES AND STAKEHOLDER CONSULTATIONS

3.1 Background

This resettlement and social audit sought among other things to document the legacy issues, impacts of the previous resettlement and outcome as well as the estimate or description of the social risks of the present land acquisition being proposed for the overall ATV perimeter land. For firsthand information, reference was made to the 2006 ATV resettlement report carried out by the Federal Government of Nigeria. The report stated that about 2018 households were affected and have been compensated. However, the report did not provide a description of the categories and statistical information of affected assets and legacy issues. It also did not capture data on the description of the entitlement and eligibility of the project affected persons as at 2006.

On the basis of this gap, this audit assignment relied mainly on primary data collection through stakeholder consultation and site visits. It should be noted that much of the consultations especially with the project community took place in 2014 as reported in section 1.6, when the focus of this assignment was to prepare a RAP. However, steps were also taken where necessary, to elicit information update from stakeholders to meet the objective of the revised document to a resettlement and social audit.

3.2 Identification of Primary Stakeholders Relevant to the Audit

Although the ATV project development will attract many stakeholders, for the purpose of this audit, relevant stakeholders include:

1. The original communities/settlers, farmers, women and youths) whose land/assets are affected (Aleita, Chika and Pyakasa).
2. The Resettlement and Compensation Department, FCDA
3. The ATV Project organization
4. World Bank/GEM PMU

3.3 Stakeholder Engagement Strategy

The members of the communities were engaged in consultations, through existing community governance mechanism in which the community leader through the community messenger extended meeting invitation to the community members to gather at the community town hall or the traditional ruler's palace.

3.4 Summary of Consultations Outcomes with Project Communities

Consultations were carried out in all three project communities from the 20th of May 2014 to 14th June 2014. Chika community was consulted on the 20th of May 2014 at the Esu (traditional head) palace. On the 21st of May 2014, the meeting with Aleita community held at Esu palace in Aleita while that

of Pyakassa held at the Pyakassa town hall on 24th of May 2014; and following the inconclusiveness of the meeting, it was adjourned and completed at the same venue on the 14th of June 2014. Attendees at all the meetings included the traditional heads of each of the communities (Esu), cabinet members, community men and women (including affected/aggrieved persons from the previous resettlement efforts), youths, the ATV staff and GEM Project representative. These consultations were comprehensive and took place when the focus of the assignment was to carry out a resettlement action plan for the ATV project before the reversal to a resettlement and social audit.

The objectives of the consultations were to:

- To ascertain if the communities are aware of the ATV project and their perception about the project;
- To hear from the project affected communities about their involvement in the project to-date, specifically, their position and involvement in the previous resettlement efforts of government;
- Their willingness to embrace resettlement following the need to acquire the land where they are presently occupying
- To inform them about their right to involuntary resettlement
- To ascertain the different categories of assets affected in the previous resettlement program
- To know what adverse impacts (if any) that was created on livelihood by the previous resettlement
- To know the legacy issues that are triggered by resettlement actions and how all of those could be managed
- To know the traditional procedures for grievance handling in the communities.

Most of these information and data are relevant to this audit. Therefore, the outcome of the consultation as applicable to this audit is summarized in the sections below:

3.4.1 Legacy issues

The concerns of the three settlements/communities on legacy issues were quite homogenous and include the following:

- **Inherited land:** the settlements believe that their land was bequeathed to them by their ancestors. The land serves the purposes of practicing their farming livelihood and other uses. They believe that leaving their land for another place is not only against their interest but a permanent loss of identity and heritage.
- **Common Natural resource:** the area around the ATV land is blessed with streams and surface water which serves the purpose of irrigation and is used for domestic animal breeding. Loss of such a legacy as a result of resettlement or civil construction will pose untold hardship to the entire farming community.
- **Grave yards:** this is considered a legacy in the project area. The settlements stated that they have their ancestors and dead relatives buried in their land (number not given) and

cannot exhume them nor abandon them for resettlement, their position to continue to occupy their ancestral land.

3.4.2 Socio-economic Impacts

Existing and potential adverse impacts of the project was audited. This implied eliciting information from the project community on the adverse impacts from the previous land acquisition in 2006 and the likely impacts future land acquisition and resettlement would cause the community.

The following section presents the summary of the impacts based on previous resettlement impacts and future resettlement impacts respectively

3.4.2.1 Adverse Impacts and Consequences from Previous Resettlement Efforts of Government

The adverse impacts and consequences on the project communities from previous resettlement exercise from the accounts of the three communities are as follows:

- Loss of farm lands due to the first phase land acquisition in 2006;
- Loss of crops and economic trees;
- Pollution and silting of natural watercourse from the activities of the road construction by ATV in the project area;
- Hearing impairment suffered by more than 15 persons linked to rock blasting during the road construction implemented by ATV in the area;
- Loss of income from loss of crops and economic trees which provide some form of livelihoods;
- Lack of trust for government led initiative (including future resettlement) as a function of its failure to adequately compensate for community land and affected assets.
- It is however, stated by the communities that the previous resettlement exercise did not affect buildings, shops or structures as only area of fallow land was acquired and,
- There was no physical displacement of households and communal social network.

3.4.2.1 Potential Adverse impacts and consequences of future Land Acquisition

The views expressed by the 3 communities on the likelihood of future land acquisition and plan for involuntary resettlement includes the following:

- That there will be loss of residential houses some of which the cost of replacement will be far above what government can provide as an option in resettlement.
- There will be fragmentation of existing community social network.
- That their community members will suffer loss of shops and businesses
- There will be loss of farm lands, crops and economic trees whose consequences will be loss of livelihood, employment and income
- Local conflict may arise due to competition for land use
- It will entail loss of worship buildings (churches and mosques)

- The people will suffer loss of common natural resources such as streams and forest trees

3.5 Consultation with Resettlement and Compensation Department, FCDA

The audit team was at FCDA on the 8th of June, 2015 for consultation and administration of audit survey checklist. The objective of the consultation was to:

- 1) Ascertain the position of the FCDA on the concerns raised by the project communities. Some of which include the fact that they were not adequately compensated, informed or carried along in the previous resettlement process;
- 2) To determine to what extent the procedures of the Land Use Act was followed during the resettlement process;
- 3) To ascertain the outcome and extent of resettlement implementation attained by the authority.

The deputy director of the resettlement department who received the team informed that the resettlement process for the ATV project has been on-going since 2006. He stated that the 3 project communities were to be resettled at Wassa community located about 30km away and that about 900 housing units had been built, while budgetary constraint has been the reason for the delay in project completion.

He stated further that the people from the communities were consulted. Census of affected households was taken and compensation for crops was paid. It was allude that many people were aggrieved by the position of the government on resettlement plan, but the FCDA's action was based on the provision of the extant law and master plan of the federal capital city.

On the account of grievance, the spokesperson informed that he is aware of some agitations from members of the communities; but stated that it is normal for some people to be aggrieved in such circumstance, especially, when people are ignorant of the provision of the law.

The Authority also informed on the issues with compensation for the farmland entitlement. They stated that compensations are made for farm crops but not for land, as stipulated in the Nigerian Land Use Act. He stated that no buildings were demolished during that phase of land acquisition.

3.5 Consultation and administration of Audit Survey Checklist to ATV Management

Consultation with ATV Project Office for information and data gathering started as soon as the contract for the consultancy took place. In the course of the update/revising of this consultancy assignment, nomenclature to a resettlement and social audit from the previously suggested RAP, a checklist was prepared and took to ATV management on the 8th of June 2015 by the consultant team. Summary of the analysis of the checklist as completed by ATV shows as follows:

- ATV has an environmental and social policy which is in compliance with the regulatory standard of the government of Nigeria.

- From ATV point of view, the settlements in the project area were aware of the project development initiative.
- ATV has in the past 4 years or more been involved in the implementation of its social corporate responsibility to the project communities through their ATV foundation initiative, which provided medical support and academic materials to the people of the project communities.
- Following the outcry about dissatisfaction with previous resettlement efforts of government, ATV had in 2013 initiated a revalidation exercise, which started with digitization of existing enumeration records and has a future ambition of undertaking a comprehensive digital data capture of all the households and persons in the entire ATV project area.
- They had acquired portion of the ATV land area through the FCDA for purpose of internal access road construction
- ATV has paid compensation to the project affected persons for their crops and economic trees but not for land.
- Previous land acquisition and clearing did not affect housing, or any form of structures
- ATV alluded that civil works such as road construction have begun in the project area.
- They had carried out the parameter fencing of the ATV project land which it considered a pre-requisite by law for a free trade zone (FTZ) operation.

3.6 Site Visit/Field Data Collection

The site visit was carried out by the Consultant team of 3 personnel from the 8th to 10th of June 2015. It entailed a walk-through along the project site and particularly, the built up area where the three communities namely; Aleita, Chika and Pyakassa are residing. The site visit activities involved observation and data capture using digital camera.

Essentially, the site visit was to take account of the social activities and development in the project area so as to predict the magnitude of impact or risk that the project will be preparing to mitigate in the eventual situation of involuntary resettlement.

SECTION 4: FINDINGS, DISCUSSION AND ANALYSIS OF FINDINGS

4.1 Findings

Major findings of the resettlement and social audit are:

- The ATV project will involve massive civil works (including land clearing, construction, and asphaltting, blasting, excavation), bio-technology cluster and use of chemical for agro-based activities as well as land acquisition.
- The aforementioned project activity of the ATV project triggers some World Bank operational policies, notably, the OP/BP 4.01 (Environmental Assessment), OP 4.09 (Pest Management) and OP/BP 4.12 (Involuntary Resettlement).
- There are three original Gbagyi communities in the land; namely Aleita, Chika and Pyakassa.
- The communities are governed traditionally by *Esu*, the head of the community leadership.
- The housing pattern is a mix of modern story buildings, bungalows and traditional mud houses.
- About 50 percent of the population of the project community (Aleita, Chika and Pyakassa) are farmers and cultivate guinea corn, maize, rice, tomatoes and vegetables.
- The size of the built up area consisting of the three settlements/communities within the proposed ATV project land is about 30 percent of the total project land of 702 Hectares.
- The Federal Capital Development Authority (FCDA) as the government arm in charge of physical development, planning and land administration in Abuja had initiated a resettlement programme in 2006 for the proposed ATV project affected communities comprising of the three communities mentioned.
- During the period, the FCDA acquired some part of the land under discussion for the construction of the ATV project internal access road networks, and had paid compensation to the owners of economic trees and farm crops on the land.
- The compensation amount/value paid to PAPs in 2006 was based on the Land Use Act entitlement gazette for economic trees and crops, but was considered grossly poor by the project affected communities;
- Information on the actual number of project affected persons and the number of persons that were compensated was not provided in the FCDA resettlement report of 2006.
- Compensation was not paid for land since the existing land law in Nigeria (the Land Use Act, 1978) conferred land ownership right and the power for land acquisition) to the government;
- The FCDA had pursuant to its resettlement mandate, commenced construction of housing units in Wassa, a community located within Abuja and about 30km from the present ATV project land, for the purpose of resettling/relocating the entire people of Aleita, Chika and Pyakassa when the ATV project is ready for full implementation.
- Project affected households documented as at 2006 by FCDA was 2018 made up of 485 from

Chika community, 449 from Aleita community and 1084 from Pyakasa community. At 9.3 percent population growth rate for Abuja (Pulitzer Center on Crisis Reporting, 2012 and World Bank 2011), this population may have grown to about 4100 in 2014.

- The affected communities complained of not being carried along in the resettlement and compensation processes by FCDA. Evidence from government (ATV/FCDA) and the project communities show that the resettlement program of 2006 fell short of best practices and is characterized with a flawed process in community engagement, entitlement valuation and implementation. For instance, the site selection, planning and preparation of the Wassa resettlement area was carried out without the engagement and input of the beneficiary communities.
- It was also found that the proposed total land acquisition for the ATV project will have adverse socio-economic impacts on the communities occupying the project area. Impact will include loss of agricultural livelihood (farm land and economic trees), residential houses, shops, worship centers and grave yards. Actual statistic figure per item is not readily known due to the hostility and resistance faced from the project communities caused by trust deficit on the government based on the previous resettlement process and implementation
- As a function of the previous resettlement experience, the three communities presently occupying the proposed land for ATV rejected categorically the proposed relocation to Wassa resettlement site and turned hostile at every step taken by GEM and its consultants to negotiate for resettlement;
- Other reasons for the hostility and unwillingness of the project communities to embrace resettlement are the legacy issues which include their belief to keep all inherited lands, common natural resources and grave yards of their ancestors.

4.2 Discussion and Analysis of Findings

There is sufficient evidence that land acquisition carried out in the project area in 2006, handled by the FCDA did not follow regulatory processes and/or acceptable international best practices. Although the implementation of that resettlement effort was anchored on the Land Use Act 1978, the process of asset valuation, identification and consultation of PAPs as well as implementation was marred with flaws. While the Land Use Act states that the Minister or State Governor should establish a Land Use and Allocation Committee that reviews and solves disputes related to the compensation amounts, there was no evidence that the committee was set up as issues of poor compensation continues to grieve the people of the project area.

Also, the Land Use Act upon which the 2006 resettlement exercise was based upon has some pitfalls comparative to World Bank policy standards. For instance, the Land Use Act of 1978 prescribes that compensation and entitlement is paid only to the holder of a statutory right of occupancy and/or the holder of a customary right of occupancy and not to squatters, users, farmers or those that own the land by inheritance. Best practices as enshrined in the Operational Policy 4.12 of the World Bank upholds that project affected persons irrespective of legal right to land are entitled to one form of

compensation or another so long as the PAPs are those that have assets or access to assets within the affected area during and before the cut-off date of census. The Land Use Act misses out on the right of PAP to fair adjudication, entitlement, consultation and restoration of livelihood. Therefore, the Act on its own has gaps that needed to be addressed to meet best practices.

The fact that the total land area where the people of the three communities live and operate their livelihoods is drawn into the ATV project area makes a case for involuntary resettlement. However, the loss of confidence in the government based on the poor implementation of the 2006 resettlement plan has made the people to be resistant and unwilling to any further discussion on involuntary resettlement

It is incumbent on the government therefore to take into cognizance the livelihood configuration of the settlement. As more than 50% of the people are primarily into crop farming, there is need to consider the social and economic impacts on the people with respect to future land acquisition and displacement of the entire settlement. The potential conflict over land competition between the original inhabitants of Wassa community and other settlements to be resettled into the area should be taken in perspective.

SECTION 5: IDENTIFIED GAPS

The study identified the following major gaps:

5.1 International Legislation/Best practice Gap

A comparison of the Land Use Act vis-a vis best practices which the World Bank OP 4.12 represents (refer to section 2.5) shows that the Act gives too much right to the government and deprives the project affected persons the fair rights to choice of involuntary resettlement and grievance redress. The scope of category of persons entitled to compensation according to the Act is limited to customary right holders and statutory right holders and therefore, undermines the right of users, renters and squatters whose livelihoods are depended on the land being acquired. The Act did not lay emphasis on public consultation, principle of equity in asset valuation and entitlement. This explains why the 1978 gazette value for crops and economic tree was used in compensation of project affected persons as against the best practices which is premised on replacement cost which is the current market value.

5.2 Resettlement Planning, Procedure and Implementation Gap

The resettlement report of the previous resettlement efforts is deficit in its description of entitlement eligibility, entitlement matrix, fairness in asset valuation and community engagement. It did not set a mechanism for hearing and addressing potential grievances that emanated from the process and has therefore, left a feeling of denial and deprivation of social and economic right in the minds of the project affected communities. This is a major gap whose consequences may include hostility and resistant to any future investment in the area that may require involuntary resettlement.

5.3 Country Legislation Compliance Gap

The FCDA in the implementation of the ATV project did not adequately adhere to its own Land Use Act requirements. The Nigerian Land Use Act states that the Minister or State Governor should establish a Land Use and Allocation Committee that reviews and solves disputes related to the compensation amounts; but there was no evidence that the committee was set up as issues of poor compensation by FCDA in 2006 continues to worry the people of the project area who were not provided with a platform to get fair hearing and redress. Also, the act of land clearing and civil works commencement in the area is in breach of the provision of the land use act, which supports compensation payment prior to project implementation.

SECTION 6: SUGGESTED SAFEGUARDS CORRECTIVE MEASURES/PLAN

6.1 Addressing the Gaps

The critical gaps which are needed to be addressed in order to ensure that the ATV project is sustained and implemented in a conducive and safe social environment are:

- 1) Grievance redress of the previous resettlement efforts of the government which resulted from non-compliance to regulatory standard and also weak resettlement laws;
- 2) Abridging the Nigerian extant law position where it conflicts with best practices.

The first gap which has to do with the issue of grievance redress requires revisiting and addressing the previous compensation implementation, through engaging the affected community and persons in a reconciliatory negotiation. The position of the project communities is that they are not willing to negotiate with the project team (ATV and GEM) but with the Minister of the Federal Capital Territory. This therefore, compels a high-level government involvement.

The government needs to compensate commensurably to restore PAPs lost means of livelihoods and thereby, creating a new understanding between government and project community. While this is doable, it does not automatically translate to a buy-in to involuntary resettlement plan by the project community if the views expressed during consultation with them are anything to go by; particularly, on their stand with the legacy implications involved.

Also importantly, the decision to revisit the previous compensation issue is a government fiscal policy issue because of the funding requirement that will be involved. This funding responsibility is also not within the responsibility of World Bank to undertake because it is an inherited social liability that existed before its involvement in the project.

It is concluded therefore, that fixing this gap and the timing for its achievement is outside the scope and powers of both World Bank and the ATV project development team to determine.

The second critical gap requires adopting the more stringent policies between the country law and that of the Bank. This is readily achievable judging from several World Bank projects in Nigeria in which policy and legislative gaps were resolved often by the proponent agreeing to adopt the World Bank policies. However, the policy and regulatory gap cannot be addressed until the issues/gaps of legacy and grievances of the previous resettlement efforts are successfully resolved.

SECTION 7: CONCLUSIONS AND RECOMMENDATIONS

7.1 Conclusions

Major conclusions of the study are:

1. The activities of the proposed ATV project will trigger some World Bank operational policies, notably, the OP/BP 4.01 (Environmental Assessment), OP 4.09 (Pest Management) and OP/BP 4.12 (Involuntary Resettlement) because civil works, use of chemicals for agro-based sub-component and land acquisition respectively are involved.
2. Nigeria regulatory process in land acquisition and resettlement was not fully complied with.
3. Relative to best practices, the implementation of the previous resettlement programme by government was marred with flawed process, inadequate community engagement, poor asset valuation and under-compensation; thereby resulting in trust deficit and hostility by the project community.
4. The question of how the interest of the huge farming population from the three settlements will be served commensurably without causing social conflicts between them and the original inhabitants of Wassa (land owners) is one yet to be addressed by the government.
5. The poor compensation by FCDA in 2006 has continued to agitate the people of the project area and poses a threat to ATV project sustainability.
6. The position of the project communities is that they are not willing to negotiate with the project team (ATV and GEM) for grievance redress but with the Minister of the Federal Capital Territory.
7. Also importantly, the decision to revisit the previous compensation issue is a government fiscal policy issue because of the funding requirement that will be involved. This funding responsibility is also not within the responsibility of World Bank to undertake because it is an inherited social liability that existed before its involvement in the project. It is concluded therefore, that fixing this gap and the timing for its achievement is outside the scope and powers of both World Bank and the ATV project development team to determine.
8. The risk factors of supporting the project will be overwhelming including financial, social and reputational risks for the World Bank.
9. Supporting the ATV project by GEM/World Bank will imply that the World Bank is in support of the denial of the rights and livelihoods of the project affected communities and persons. This will be contrary to the pro-poor objective of the Bank and is a major reputational risk. ***Therefore, the project implementation will not be sustainable. GEM/World Bank is therefore, advised not to support project.***

7.2 Recommendation

Based on the surrounding negative circumstances (high social and reputational risks) as presented in the findings and the conclusion sections, GEM/World Bank is advised not to support the ATV project.

REFERENCE

ATV Resettlement Framework Report (2013)

Environmental and Social Management Framework (ESMF) for GEM (2010)

Nigerian Land Use Act (1978)

Nigeria Social Insurance Trust Fund- NSITF (n.d.), *Social Housing for Nigerian workers*. Available online < http://www.nsitf.gov.ng/nsitf_brochure.pdf > [Accessed 30th September, 2015]

Pulitzer Center on Crises Reporting (2012)

Opara I. C (2002), *Practical Guide to Environmental Auditing; Excellence Environmental Systems limited*, Lagos

Resettlement Policy Framework for GEM (2010)

ANNEXES

Annex 1: Template Received for Conduct of Resettlement and Social Audit

Executive Summary

Section 1: General Introduction

- Introduction
- Justification for Audit/ History of project
- Objective of Audit

Section 2: Approach/Methodology

- Introduction
- Literature review
- Consultation/Interviews/Meetings
- Site visit/ Field Data Collection

Section 3: Findings and Discussion and analysis of Findings

Section 4: Identified Gaps

Section 5: Suggested Safeguards Corrective Measures/Plan

Section 6: Conclusion and Recommendations

Annex 2: Social Audit Checklist

Section A: Proponents Environmental & Social Policy and Responsibilities

| Subsection and Requirements | Yes or No | Future Action Recommended |
|--|-----------|---------------------------|
| Policy | | |
| Does ATV have an Environmental policy in place? | | |
| Does ATV have a social policy in place? | | |
| Is the Environmental & Social policy defined within the context of the regulatory requirement? | | |
| a) Is the environmental & social policy communicated, implemented and maintained at all levels in the operation? | | |
| b) Made publicly available? | | |
| c) Commitment to continual improvement of environmental & social policy | | |
| d) Does it indicate how the environmental & social objectives will be made publicly available? | | |
| e) Capacity within ATV to implement environmental and social management plan | | |
| Social/Due diligence Responsibility | | |
| Does the ATV project involve construction, blasting and excavation? | | |
| Are there indigenous people within the area? | | |
| Are there protected forest likely to be affected? | | |
| Has civil works commenced at the project sites | | |
| What activities have commenced at the project area? | | |
| Does the project entail land acquisition? | | |
| What is the size of the land for the project? | | |
| What are the main livelihoods of the people of the area? | | |
| Is the land to be acquired from the original communities more than 10 percent of their total land holding? | | |
| Are the project communities informed about the project? | | |
| Are the project communities informed/ aware of their rights and entitlements on involuntary resettlement | | |

Section B: Legal & Regulatory Compliance and Due Diligence

| Subsection and Requirements | Yes / No or Sighted | Future Action Recommended |
|---|---------------------|---------------------------|
| Evidence of ESIA prepared prior to work at the site | | |
| Nigerian EIA Act complied with | | |
| Was the procedure of the Land Use Act followed prior to construction? | | |
| Evidence of compliance with the provision of the Land Use Act followed prior to construction | | |
| Does the environmental & social due diligence procedure that was followed meet World Bank safeguards policies requirements? | | |

Section C: About the Project Area and Community

| Subsection and Requirements | Yes/No or narrate | Future Action Recommended |
|---|-------------------|---------------------------|
| What is the population of the community? | | |
| What proportion of the community will be affected by the proposed land acquisition | | |
| What is the proportion of farmers to population? | | |
| Is there a surface water within this project area | | |
| What are the economic importance of this water to the community | | |
| Is this community aware of the ATV project development and benefits? | | |
| Are you satisfied with the community consultation/engagement by the ATV? | | |
| Do you have complaints against the project in your area? | | |
| Will you be willing to embrace relocation/resettlement if this will be necessary in the interest of this project? | | |
| If no, what is your reason? | | |

Annex 3: Summary of World Bank Environmental and Social Safeguard Policies

(10+2)

1. **Environmental Assessment (OP 4.01).** Outlines Bank policy and procedure for the environmental assessment of Bank lending operations. The Bank undertakes environmental screening of each proposed project to determine the appropriate extent and type of EA process. This environmental process will apply to all sub-projects to be funded by the proposed project.
2. **Natural Habitats (OP 4.04).** The conservation of natural habitats, like other measures that protect and enhance the environment, is essential for long-term sustainable development. The Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs.
3. **Pest Management (OP 4.09).** The policy supports safe, effective, and environmentally sound pest management. It promotes the use of biological and environmental control methods. An assessment is made of the capacity of the country's regulatory framework and institutions to promote and support safe, effective, and environmentally sound pest management.
4. **Involuntary Resettlement (OP 4.12).** This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by (a) the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets, or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons. The ESMF and RPF reports discuss the applicability of this policy in detail.
5. **Indigenous Peoples (OD 4.20).** This directive provides guidance to ensure that indigenous peoples benefit from development projects, and to avoid or mitigate adverse effects of Bank-financed development projects on indigenous peoples. Measures to address issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves.
6. **Forests (OP 4.36).** This policy applies to the following types of Bank-financed investment projects: (a) projects that have or may have impacts on the health and quality of forests; (b) projects that affect the rights and welfare of people and their level of dependence upon or interaction with forests; and (c) projects that aim to bring about changes in the management, protection, or utilization of natural forests or plantations, whether they are publicly, privately or communally owned.
7. **Physical Cultural Properties (OP 4.11).** Assist in preserving physical cultural resources and avoiding their destruction or damage. PCR includes resources of archaeological, paleontological, historical, architectural, religious (including graveyards and burial sites), aesthetic, or other cultural significance.
8. **Safety of Dams (OP 4.37).** For the life of any dam, the owner is responsible for ensuring that appropriate measures are taken and sufficient resources provided for the safety to the dam, irrespective of its funding sources or construction status. The Bank distinguishes between small and large dams.
9. **Projects on International Waterways (O 7.50).** The Bank recognizes that the cooperation and good will of riparians is essential for the efficient utilization and protection of international waterways and attaches great importance to riparians making appropriate agreements or arrangement for the entire waterway or any part thereof.
10. **Disputed Areas (OP/BP/GP 7.60).** Project in disputed areas may occur the Bank and its member countries as well as between the borrower and one or more neighbouring countries.

+ 2 Policies:

11. ***Use of Country Systems (OP 4.00)***. The Bank's environmental and social ("safeguard") policies are designed to avoid, mitigate, or minimize adverse environmental and social impacts of projects supported by the Bank. The Bank encourages its borrowing member countries to adopt and implement systems that meet these objectives while ensuring that development resources are used transparently and efficiently to achieve desired outcomes..
12. ***Disclosure Policy (OP 17.50)***. Supports decision making by the Borrower and Bank by allowing the public access to information on environmental and social aspects of projects. Mandated by six safeguard policies that have specific requirements for disclosure in country (Before project appraisal in local language and in English) and World Bank INFO-Shop (Before project appraisal in English). Documents can be in draft but must meet WB standards).

Annex 4: Cross cutting Pictures from Project Site



Picture 1: Community Consultation at Pyakassa



Picture 2: A section of women sitting during Community Consultation at Aleita



Picture 3: Town Hall meeting at Chika Community



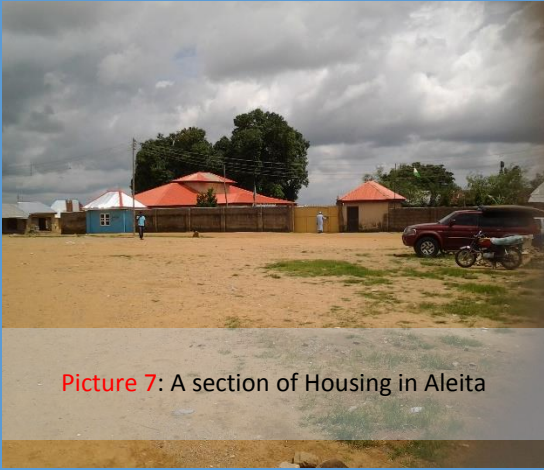
Picture 4: Consultation in progress at Aleita community



Picture 5:
Access Road
constructed at the
Pyakassa Project area

Picture 6: ATV and the consultants at the project site





Picture 7: A section of Housing in Aleita



Picture 8: A view of Housing pattern in Chika-Aleita

Types of housing structures in Chika-Aleita Project Area



Picture 9: Side View of Chika-Aleita
Secondary School



Picture 10: House under construction at Pyakassa



Picture 11: A view of settlement pattern in Pyakassa



House in Pyakassa



Picture 13: Settlement pattern in Pyakassa

Pictures showing the settlement pattern and type of housing in Pyakassa project area