



**AFRICAN DEVELOPMENT  
BANK GROUP**

**PROJECT : NIGERIA TRANSMISSION EXPANSION PROGRAM (NTEP-1)**

**COUNTRY : NIGERIA**

**SAP CODE : P-NG-FA0-011**

## **RESETTLEMENT POLICY FRAMEWORK**

***20 May 2019***

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# **NIGERIA TRANSMISSION EXPANSION PROGRAM (NTEP-1)**

## **RESETTLEMENT POLICY FRAMEWORK (RPF)**

### **FINAL REPORT**

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**MAY 2019**

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## ACRONYMS AND ABBREVIATIONS

AfDB	African Development Bank
ARAP	Abbreviated Resettlement Action Plan
CSO	Civil Society Organization
E&S	Environmental and Social
EPSR	Electric Power Sector Reform
ERGP	Economic Recovery and Growth Plan
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FGN	Federal Government of Nigeria
FPIC	Free, Prior, Informed and Consented
FRAP	Full Resettlement Action Plan
GRM	Grievance Redress Mechanism
ISS	Integrated Safeguards System
JICA	Japan International Cooperation Agency
LFN	Laws of the Federation of Nigeria
LRS	Livelihood Restoration Strategy
MW	Megawatts
NEEDS	National Economic Empowerment and Development Strategies
NEPA	National Electric Power Authority
NESIS	Nigerian Electricity Supply and Installation Standards
NERC	Nigerian Electricity Regulatory Commission
NGO	Non-Governmental Organisation
NNLTS	Northern Nigeria Land Tenure System
NTEP	Nigerian Transmission Expansion Project
OS	Operational Safeguard
PACs	Project Affected Communities
PAP	Project Affected Persons
PCR	Physical and Cultural Resources
PCR	Project Completion Report
PHCN	Power Holding Company of Nigeria
PS	Performance Standard
PSRP	Power Sector Recovery Plan
RAP	Resettlement Action Plan
ROW	Right of Way
RPF	Resettlement Policy Framework
SNLTS	Southern Nigeria Land Tenure System
SNSC	Safeguards and Compliance Department
TCN	Transmission Company of Nigeria
TL	Transmission Line
TREP	Transmission Rehabilitation and Expansion Programme
TOR	Terms of Reference
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
WB	World Bank Group

## GLOSSARY OF TERMS

<b>Children:</b>	all persons under the age of 18 years according to international regulatory standard (convention on the rights of Child 2002).
<b>Community:</b>	a group of individuals broader than households, who identify themselves as a common unit due to recognized social, religious, economic and traditional government ties or shared locality.
<b>Compensation:</b>	payment in cash or in kind for an asset or resource acquired or affected by the project.
<b>Cut-off-Date:</b>	the date on and beyond which any person who occupies land or assets, or constructs assets on land, required for project use, will not be eligible for compensation. The date is often the day when assessment of persons and their property in the project area commences.
<b>Economic Displacement:</b>	a loss of productive assets or usage rights or livelihood capacities because such assets / rights / capacities are located in the project area.
<b>Entitlement:</b>	The compensation provided to a displaced person including: financial compensation; the right to participate in livelihood enhancement programs; housing sites and infrastructure; transport and temporary housing allowance; and, other short term provisions required to move from one site to another.
<b>Female Headed Household:</b>	a household where a woman is the principal earning member of the family.
<b>Head of the Household:</b>	a person in a household who is running the household and looking after his dependents
<b>Household:</b>	a group of persons living together who share the same cooking and eating facilities and form a basic socio-economic and decision-making unit. One or more households often occupy a homestead.
<b>Involuntary Resettlement:</b>	resettlement without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.
<b>Lost Income Opportunities:</b>	refers to compensation to project affected persons for loss of business income, business hours/ time due to project.
<b>Physical Displacement:</b>	a loss of residential structures and related non-residential structures and physical assets because such structures / assets are located in the project area.
<b>Private property owners:</b>	persons who have legal title to structures, land or other assets and are accordingly entitled to compensation under the Land Act.
<b>Project-Affected Community:</b>	a community that is affected by the project.
<b>Project-Affected Household:</b>	all members of a household, whether related or not, operating as a single economic unit, who are affected by the project.
<b>Project-Affected Person:</b>	any person who, as a result of the project, loses the right to own, use or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily.
<b>Rehabilitation:</b>	the restoration of the PAPs resource capacity to continue with

productive activities or lifestyles at a level higher or at least equal to that before the project.
<b>Relocation:</b> a compensation process through which physically displaced households are provided with a one-time lump-sum compensation payment for their existing residential structures and move from the area.
<b>Replacement Cost:</b> the amount of cash compensation and/or assistance suffices to replace lost assets and cover transaction costs, without taking into account depreciation or salvage value.
<b>Resettlement Action Plan (RAP):</b> Documented procedures and the actions a project proponent will take to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by a project.
<b>Resettlement Assistance:</b> support provided to people who are physically displaced by a project. This may include transportation, food, shelter, and social services that are provided to affected people during their resettlement. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.
<b>Resettlement:</b> a compensation process through which physically displaced households are provided with replacement plots and residential structures at one of two designated resettlement villages in the district. Resettlement includes initiatives to restore and improve the living standards of those being resettled.
<b>Squatters:</b> squatters are landless household squatting within the public / private land for residential and business purposes.
<b>Valuer:</b> the valuer of property, land and the level of compensation for all the affected persons.
<b>Vulnerable:</b> people who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantages, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.



## EXECUTIVE SUMMARY

The Federal Government of Nigeria (FGN), through the Transmission Company of Nigeria (TCN) is taking steps to improve the quality and reliability of Electricity supply, while striving to ensure the sustainability of the power sector. TCN intends to increase the wheeling capacity of its network through expansion of existing substations, construction of additional lines and new substations, and to upgrade existing transmission lines through the replacement of their conductors with higher amperage conductors. To achieve this objective, TCN has developed the Transmission Rehabilitation and Expansion Programme (TREP) to be financed by the African Development Bank (AfDB), World Bank (WB), Agence Française de Développement (AFD) and Japan International Cooperation Agency (JICA).

Under the TREP, the FGN has requested the AfDB financing for the Nigerian Transmission Expansion Project (NTEP). For ease of implementation, TCN has divided the project into two phases, namely NTEP-1 and NTEP-2. The intervention under NTEP-1 includes (i) The reconstruction/upgrade of two (2) 330kV double circuit (Quad) transmission lines (Alaoji-Onitsha and Delta-Benin); (ii) The construction of the Kaduna-Kano double circuit (Quad) transmission line; (iii) The construction of 330/132kV Substations at Zaria and Millennium City; and (iv) The construction of 132/33kV Substations at Rigasa and Jaji.

As part of the Environmental and Social (E&S) safeguards documentation required to support the projects under NTEP-1, a Resettlement Policy Framework (RPF) is required to provide the necessary context to ensure that all projects under the program that will involve land acquisition and/or resettlement and loss of livelihoods of any people will comply with both Nigerian law and the AfDB's Operational Safeguards, particularly Operational Safeguards OS2: Operational safeguard 2 – Involuntary resettlement: land acquisition, population displacement and compensation.

This document presents the RPF that has been developed for the Program to essentially guide the process of preparation of a Resettlement Action Plan which will harmonize the social impacts and ensure that they are minimized. The RPF harmonises the provisions of Nigerian laws, particularly the Land Act, and the principles of the AfDB OS2 in a manner that will ensure displacement is minimal and affected persons are duly compensated in an internationally acceptable manner. The RPF also spelt out the processes of resolving any resettlement related grievances to ensure the overall sustainability of the program.

## CHAPTER ONE: INTRODUCTION

### 1.1 Background

The Federal Government of Nigeria (FGN) approved the Power Sector Recovery Plan (PSRP) in March 2017 within the context of the Economic Recovery and Growth Plan (ERGP). The ERGP 2017 - 2020 builds upon the previous Strategic Implementation Plan of 2015, and has been developed for restoring economic growth. The objectives of the PSRP are: to restore the power sector's financial viability on a contract-based electricity market; to improve power supply reliability to meet growing demand; and to strengthen the sector's institutional framework and increase transparency.

In order to meet these objectives, the FGN, through the Transmission Company of Nigeria (TCN) is taking steps to improve the quality and reliability of Electricity supply, while striving to ensure the sustainability of the power sector. TCN intends to increase the wheeling capacity of its network through expansion of existing substations, construction of additional lines and new substations, and to upgrade existing transmission lines through the replacement of their conductors with higher amperage conductors.

To achieve this objective, TCN has developed the Transmission Rehabilitation and Expansion Programme (TREP) to be financed by the African Development Bank (AfDB), the World Bank (WB), the Agence Française de Développement (AFD) and Japan International Cooperation Agency (JICA). Under the TREP, the FGN has requested AfDB financing for the Nigerian Transmission Expansion Project (NTEP) as one of the components of TREP

NTEP as a subset of TREP is designed to improve the wheeling capacity from 10,000MW to up to about 25,000MW. The program will boost socio-economic activities through the availability of reliable power to drive commercial and industrial activities, create employment and alleviate poverty. The NTEP project cuts across the states of Kano, Kaduna, Borno, Yobe, Adamawa, Delta, Edo, Anambra, Imo and Abia. It includes both green field (i.e. construction of new lines) and brownfield (i.e. reconstruction of existing lines) developments.

The NTEP is divided into two sub projects as set out in Table 1.1 below.

**Table 1.1: Components of the NTEP program**

Program component	Overall Objective	Brief Description
NTEP 1	NTEP1 will strengthen	<ul style="list-style-type: none"> <li>The construction of a 205km 330kV</li> </ul>

Program component	Overall Objective	Brief Description
	and improve the grid wheeling capacity in the North-West and South-South regions where the transmission lines are constrained	<p>double circuit line with quad conductors between Kaduna (Mando) and Kano (Rimi-Zakara) with two 330/132 kV substations (Zaria and Millennium City) and two 132/33 kV substations (Jaji and Rigassa).</p> <ul style="list-style-type: none"> <li>The reconstruction of two 330kV transmissions lines in the south-south of Nigeria, i.e. The 330 kV lines Delta-Benin and Alaoji-Ihiala-Onitsha which will be replaced by double circuit lines with quad conductors.</li> </ul>
NTEP 2	NTEP2 focuses on grid expansion in the North-East region, the poorest region of Nigeria.	<ul style="list-style-type: none"> <li>The construction of five (5) 132kV transmission lines i.e. <ul style="list-style-type: none"> <li>Maiduguri-Bama-Gwoza-Gulak</li> <li>Maiduguri-Mongunu-Marte-Dikwa-Bama</li> <li>Damboa-Chibok-Askira/Uba-Mubi</li> <li>Damaturu-Buni Yadi-Biu</li> <li>Mayo Belwa-Jada-Ganye</li> </ul> </li> <li>The construction of eleven (11) 132/33kV substations at Monguno, Marte and Dikwa, Bama, Gwoza, Jada, Ganye, Askira/Uba, Chibok, Buni Yadi and Kwaya Kusar;</li> <li>The provision of line bay extension to six (6) existing 132/33kV substations at Old Maiduguri, New Maiduguri, Mubi, Mayo Belwa, Damaturu and Gulak.</li> </ul>

The scope of this RPF is limited to the NTEP 1 program components.

## 1.2 Rationale for the RPF

Involuntary resettlement involves the displacement of people arising from development where the project affected people are not in a position to refuse the activities that result in their physical, cultural or economic displacement. What distinguishes involuntary from voluntary resettlement is that the former involves people who may be displaced against their wishes, as they are often not the initiators of their movement.

The NTEP 1 program is made up of projects, which may have the potential to result in significant physical and economic displacement of project affected persons. The RPF sets out a unified framework, which will be used to develop the Resettlement Action Plans (RAPs) of each project in the program.

The Resettlement Policy Framework (RPF) provides the necessary context to ensure that all subprojects under the program that will involve land

acquisition and/or resettlement and loss of livelihoods of any people will comply with both Nigerian law and the Bank's Operational Safeguards, particularly Operational Safeguards OS2: Operational safeguard 2 – Involuntary resettlement: land acquisition, population displacement and compensation.

**The RPF should be read in conjunction with the Environmental and Social Management Framework (ESMF) for the program. The ESMF has been prepared as a separate document specifically for guiding the preparation of the ESIA and ESMPs associated studies for each of the sub projects under the NTEP 1.**

### **1.3 Purpose of the Resettlement Policy Framework**

The RPF has therefore been prepared to appropriately deal with matters such as the necessity for land acquisition, compensation and resettlement of people affected by the implementation of the projects in NTEP 1 program

The RPF describes the design criteria for the resettlement of affected persons in the course of implementation of the projects under the program, the legal context, the process for the preparation of a RAP, the expected content of RAP (aligned to the requirements of AfDB's Operational Safeguards 2), the process for its execution and finally the required institutional organization towards livelihood improvement.

The RPF outlines the resettlement principles, organizational arrangements and design criteria to be applied to projects under NTEP 1 program which will be prepared during project implementation. The RPF will also guide the process of preparation of a Resettlement Action Plan which will harmonized the social impacts and ensure that they are minimized

### **1.4 Objectives of the Resettlement Policy Framework**

The overall objective of the RPF is to provide guidance on how to deal with issues relating to land acquisition, compensation and resettlement during the implementation of sub projects within the NTEP1 program. This will ensure that displaced and resettled persons are compensated for their loss at replacement cost, given opportunities to share in project created benefits, and assisted with the move and during the transition period at the resettlement sites or locations as applicable.

The specific objectives of the RPF are as follows:

- i. to minimize, as much as possible, acquisition of land for implementation of project sub-components, where such acquisition or project related activities will result in adverse social impacts,
- ii. to ensure that where land acquisition is necessary, this is executed as sustainable programs to enable people share in the project benefits,
- iii. to ensure meaningful consultation with people to be affected or displaced; and
- iv. to provide assistance that will mitigate the negative impacts of the project implementation on the livelihoods of people affected in order to improve their livelihoods or at least restore to pre-project levels.
- v. Outline roles and responsibilities by various stakeholders in the planning, implementation, monitoring and evaluation of resettlement activities.
- vi. Allow redress among communities affected by project activities; and
- vii. Reduce stress on project affected communities/households.

The operational objective of the framework is to provide guidance to stakeholders participating in the mitigation of adverse social impacts of the project, including rehabilitation/resettlement operations, in order to ensure that project affected persons (PAPs) will not be impoverished by the adverse social impacts of the projects within the NTEP 1 program.

The target groups for the RPF are all the stakeholders relevant to the implementation of the projects within the NTEP 1 program. This includes project-affected persons (PAPs), communities, NGOs and CSOs as applicable.

The ESMF was prepared after extensive field visits (northern and southern components of NTEP 1) and engagement with a wide range of stakeholders between the 15 and 26 of April 2019.

## CHAPTER TWO: PROGRAM DESCRIPTION

### 2.1 Project Overview

With financing to be provided by AfDB, TCN is planning to build in the North-West region of Nigeria a 330kV double circuit line with quad conductors between Kaduna (Mando) and Kano (Rimi-Zakara), two 330/132 kV substations and two 132/33 kV substations. In the South-South region, TCN is planning the reconstruction of two 330 kV transmission lines is planned. The 330 kV lines Delta-Benin and Alaoji-Ihiala-Onitsha shall be replaced by double circuit lines with quad conductors. The sub-projects were conceived for improvement of the transmission system operation and reliability of the transmission network in both the Northern and Southern region. A brief description of the components of the program is presented below.

The NTEP 1 program, includes the following:

1. The construction of a double circuit, Quad Conductor (4 lines) of 330kV type with a total length of about 205.05km, between the proposed TCN substations at Mando in Kaduna State and the substation at Rimi Zakara, Kano State. As part of the line, 4 new substations will be constructed at Zaria, Jaji, Rigasa and Millennium city
2. Upgrade of existing transmission lines with a total length of about 107km between the existing substations at Benin, Benin State and Ugheli, Delta State to a 330kV double circuit, quad conductor lines.
3. Upgrade of existing transmission lines with a total length of about 137km between the existing substations at Alaoji, Abia State and Onitsha, Anambra State to a 330kV double circuit, quad conductor lines.

The detail specifications of the substations and transmission lines being considered under NTEP-1 are described in Table 2.1.

**Table 2.1: NTEP-1 Sub-projects**

S/N	Region	Location	Type of Project	Description/Components
<b>Construction of the 203km 330kV T Line between Mando and Rimi Zakara with associated substations</b>				
1	Kaduna	Zaria	Construction of 330kV Substation	<ul style="list-style-type: none"> <li>• Installation of 2nos 150MVA 330/132/33 kV Transformer</li> <li>• 2nos 150MVA 330kV Transformer</li> </ul>

S/N	Region	Location	Type of Project	Description/Components
				<ul style="list-style-type: none"> <li>• 2nos 60MVA 132/33 kV Transformer</li> <li>• Installation of 6nos 132 kV line bays</li> <li>• Installation of 4nos 330 kV line bays</li> </ul>
2	Kaduna	Jaji	Construction of 132kV Substation	<ul style="list-style-type: none"> <li>• Installation of 2nos 60MVA 132/33 kV Transformer</li> <li>• Installation of 4nos 132 kV line bays</li> <li>• Installation of 6nos outgoing 33 kV feeders</li> </ul>
3	Kaduna	Rigasa	Construction of 132kV Substation	<ul style="list-style-type: none"> <li>• Installation of 2nos 60MVA 132/33 kV Transformer</li> <li>• Installation of 5nos outgoing 33 kV feeders</li> <li>• Installation of 4nos 132 kV line bays</li> </ul>
4	Kaduna	Millennium City	Construction of 330kV Substation	<ul style="list-style-type: none"> <li>• Installation of 2nos 150MVA 330/132/33 kV Transformer,</li> <li>• Installation of 4nos 330 kV line bay</li> <li>• Installation of 6nos 132 kV line bay</li> <li>• 2nos 60MVA 132/33 kV Transformer and</li> <li>• 23number associated outgoing 33 kV feeders.</li> </ul>
5	Kaduna	Kaduna (Mando)-Kano (Rimi Zakara	Construction of 330kV Transmission line Kaduna - Kano	<ul style="list-style-type: none"> <li>• Construction of Quad 330 kV double circuit lines</li> <li>• Installation of appropriate towers to carry the quad lines</li> <li>• Length of line is 205.05km</li> </ul>
<b>Reconstruction of 2 South –South lines</b>				
6	Benin	Benin – Delta (Ugheli)	Reconstruction of Delta to Benin 330 kV Transmission Line	<ul style="list-style-type: none"> <li>• Upgrading of existing line to double circuit 330 kV</li> <li>• Removal of existing towers</li> <li>• Installation of appropriate towers to carry the quad lines</li> <li>• Length of line is 107km</li> </ul>
7	Port-Harcourt	Alaoji (Abia State) – Onitsha (Anambra State)	Reconstruction of Alaoji to Onitsha 330 kV Transmission Line	<ul style="list-style-type: none"> <li>• Upgrading of existing line to double circuit 330 kV</li> <li>• Removal of existing towers</li> <li>• Installation of appropriate towers to carry the quad lines</li> <li>• Length of line is 183km</li> </ul>

## 2.2 Project Phases and Activity Sequence

It is expected that each project within the NTEP 1 program will be delivered in a number of phases typical of linear projects of this scale and magnitude. The project activity order for the proposed sub-projects transmission line is given in Table 2.2 below. This does not however show the interdependencies of the activities.

**Table 2.2: Project Implementation Phases and Activities**

Project Component	Description
<b>Project Components</b>	<p><b>Transmission lines</b></p> <ul style="list-style-type: none"> <li>• Above ground power transmission lines</li> </ul> <p><b>Transmission Towers</b></p> <ul style="list-style-type: none"> <li>• Steel, wood or aluminium towers and pylons.</li> <li>• Power Distribution Lines</li> </ul> <p><b>Substations</b></p> <ul style="list-style-type: none"> <li>• One or more transformers, as well as switching, control, and protection equipment.</li> <li>• Substations can be located in fenced enclosures, underground, or inside buildings.</li> </ul> <p><b>Temporary construction components</b></p> <ul style="list-style-type: none"> <li>• Temporary construction facilities (e.g. workshops, laydown areas, working corridors along the RoW, workers' accommodation, etc.).</li> <li>• Temporary access roads within and between construction areas / temporary facilities.</li> </ul>
Pre-construction	<ul style="list-style-type: none"> <li>• Surveys (including topographic survey)</li> <li>• Conceptual Design</li> <li>• ROW acquisition programme</li> <li>• EPC contract award</li> <li>• Mobilization</li> <li>• Check survey of EPC contractor</li> <li>• Transmission line detail design</li> <li>• Material production (conductor, insulator, line hardware)</li> <li>• Material testing</li> <li>• Material shipment</li> <li>• Tower production</li> <li>• Tower testing</li> <li>• Tower shipment</li> </ul> <p>Clear and grub site along transmission line corridor</p>
<b>Construction</b>	<p>Monitoring of ESMP performance. Monitoring of compliance with loan covenants. Monitoring of sub-contractor contract provisions</p> <p>Construction activities will include:</p> <ul style="list-style-type: none"> <li>• Establishing temporary access to work and ancillary areas, demarcating clearance zones, establishing access control.</li> <li>• Clearance and levelling of the transmission line route.</li> <li>• Construction of pylons / towers and installation of overhead power lines.</li> <li>• Construction of substations.</li> </ul>



Project Component	Description
	The equipment required will include heavy mobile plant (e.g. excavators) and temporary fixed plant such as power generators.
<b>Operation and Maintenance</b>	Project implementation: Compliance Monitoring
	During operation impacts will generally be small, related to visual, safety and electromagnetic impacts, and to disruption of aerial routes used by birds and bats.
	RoW maintenance is required to protect the system from windfall, and contact with trees and other vegetation. This involves mowing with heavy-duty equipment, use of herbicides, trimming and pruning. Maintenance of power lines and substations will entail many of the activities described above for the construction phase, although they are likely to be smaller in scale and spatial extent.
<b>Decommissioning (Closure)</b>	Project Completion: Compliance Report
	<p>Where temporary access roads are developed during construction they should be decommissioned and rehabilitated in accordance with a site-specific closure plan developed in consideration of international good practice.</p> <p>Both for temporary facilities and ultimately the transmission line and associated facilities, the closure process will include site clearance, removal of all equipment including underground power lines, appropriate disposal of waste materials and reinstatement / revegetation as appropriate.</p>

## **CHAPTER THREE: LEGAL AND ADMINISTRATIVE FRAMEWORK GOVERNING RESETTLEMENT**

### **3.1 Introduction**

The legal framework relating to displacement and involuntary resettlement issues consists of the various Nigeria legislations and AfDB Operational Safeguards (OS2).

The legal basis for resettlement in Nigeria is the Land Use Act of 1978, modified in 1990. According to the Act, all land in Nigeria is vested in the Governor of each State, to be held in trust for the use and common benefit of all people. The administration of urban land is directly under the control and management of the Governor, whereas non-urban land is under the control and management of the Local Government Authority. The Governor has the right to grant statutory rights of occupancy to land while the Local government has the right to grant customary rights of occupancy. Since the Land use Act gives to the State ownership of all land, compensation by projects and sub-projects is restricted to structures, installations, and improvements on the land, not the land itself. However, the Act does require the State or Local Government to provide alternative land for affected people who will lose farm land, residential (commercial/industrial) plots.

### **3.2 Applicable Legal and Administrative Framework (Power Sector)**

#### **3.2.1 Land Use Act – 1978**

The principal piece of legislation for the expropriation of land in Nigeria is the Land Use Act, 1978 Cap L5, and Laws of the Federation of Nigeria (LFN) 2004. The law establishes the legal framework for government expropriation of land from individuals and communities, when it is required for “overriding public interest/good”. It prescribes the circumstances under which the State can revoke rights of occupancy to the land and the compensation provisions that are required.

Before 1978, the principal land tenure systems differed in Northern Nigeria and Southern Nigeria, with the Northern Nigeria Land Tenure System [NNLTS] and the Southern Nigeria Land Tenure System [SNLTS]. Traditionally, NNLTS was based on the premise that land belongs to the Government (i.e. no private ownership), while the SNLTS was based on the premise that land belongs to communities, families and individuals.

The Land Use Act came into force on 29th March 1978 and replaced all pre-existing land tenure systems in Nigeria. The Act essentially does three things:

- It places land into two categories: urban land and non-urban land, as designated by the Governor of a state wherein the land lies.
- It redefines title in land to be a right to occupy or use the land, rather than to own it; namely:
  - a statutory right or a deemed statutory right of occupancy for land in urban areas; and
  - a customary right or a deemed customary right of occupancy for land in non-urban areas.
- It empowers the Governor of a state to revoke rights of occupancy.

There were several key repercussions as a result of the Act:

- There is now a common Land Tenure System throughout the country;
- Control and management of land is in the hands of Government;
- A system of registration of titles has been introduced and paper titles (Certificates of Occupancy) are issued; and
- The process of acquiring land is deemed to have been simplified for developers.

The most significant change in the land tenure system, brought about by the Land Use Act, is the empowerment of the Governor of a state to revoke rights of occupancy compulsorily, for public purpose. Section 28(1) makes it lawful for the Governor to revoke a right of occupancy for “*overriding public interest*”.

Sections 28 (2) (b) and (3) (a) define this to mean, among other things, “...*the requirement of the land by the state for public purposes within the state*”. This means that a governor can revoke the right of occupancy to land (i.e. expropriate) for use either by the State, Local or Federal authority for overriding public interests. As per the provisions of the Land Use Act, this can include telecommunication, power projects, hospitals, market places, mining activities or agricultural use etc. When rights of occupancy are subject to revocation in this way, holders of rights of occupancy are, under the Land Use Act, entitled to compensation.

However, this compensation is for the value of land improvements (“*unexhausted improvements*”) at the date of revocation (section 29). Depreciation is considered when assessing the value of these improvements based on the national process of land-taking. The term “*unexhausted improvement*” is defined in Section 51 of the Land Use Act as:

*“anything of any quality permanently attached to the land directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf and increasing the productive capacity the utility or the amenity thereof and includes buildings, plantations of long lived crops or*

*trees, fencing, wells, roads and irrigation or reclamation works, but does not include the result or ordinary cultivation other than growing produce."*

Where occupancy rights are not claimed by any one individual, the Act states that the recipient of the compensation may be:

- a. the community;
- b. the chief or leader of the community, to be disposed of by him for the benefit of the community in accordance with the applicable customary law; or
- c. a community fund, to then be utilised for the benefit of the community (section 29(3)).

All rights of occupancy whether granted by the State or Local authority are typically for a fixed tenure and not usually more than 99 years. A person may not be entitled to compensation if the leasehold has expired.

The Land Use Act has provisions for compensation in kind, rather than cash, through the provision of Resettlement Land. Section 33 of the Land Use Act stipulates that, when alternative land has been given, compensation will be deemed to have been made. The concerned party is thereby prevented by law from demanding further financial compensation.

The provision of Section 43 of the Constitution affirms the fundamental rights of persons and communities to own and hold land or property. It stipulates that any authority taking such land must do so in accordance with a law made in that regard. Importantly, such authority is required to pay the affected party compensation. Additionally, they must afford the right of access to the relevant adjudicatory forum, where any grievances regarding the amount of compensation to be paid and/or interest to the land in question, can be raised and resolved.

### **3.2.2 Electric Power Sector Reform (EPSR) Act - 2005**

This piece of legislation repeals and replaces the Decree 24 of 1972, to enhance service delivery in all facets of its operation i.e. generation, transmission and distribution.

The EPSR Act details the consultations Nigeria Electricity Regulatory Commission (NERC) has to undertake with both the rights holders and Commissioner of Land of relevant State of the Federation before land can be legally expropriated from person and communities (Sections 77(1), (2) and (3) EPSR Act).

The EPSR Act affords rights holders and/or land occupiers to challenge the declaration by the Commission. It states that any person or group of persons including the right holders or occupiers affected by the decision of the Commission may apply to the Commission for a review of the Commission's

decision (Sections 77(8), 50(1) and 78(4), EPSR Act). The EPSR Act also affords the concerned aggrieved party the opportunity of being heard publicly in accordance with Sections 36 and 44 (1) (b) of the Constitution, 1999 as amended. Moreover, an aggrieved party may further appeal against the decision of the Commission to the Federal High Court (Section 49, EPSR Act).

It is not possible for the President or the Electricity Commission to *suo motu* (effectively acting under its own volition) revoke the right of occupancy over a piece of land deemed necessary for a power/other project. Rather, the Governor is vested with this responsibility and is required to exercise it carefully, with appropriate engagement with project stakeholders.

### **3.2.3 Nigeria Electricity Regulatory Commission (NERC)**

NERC is the independent regulatory body for the regulation of the electric power industry in Nigeria. Established through the EPSR Act of 2005, NERC is responsible for the review of electricity tariffs, subsidy policies, promotion of efficient and environmentally friendly electricity generation and enforcing standards for electricity creation and use in Nigeria. NERC is largely responsible for regulating tariffs of power generating companies <sup>1</sup>.

NERC has the following legislation in place, *Acquisition of Land Access Rights for Electricity Projects Regulations, 2012*, to provide a regulatory framework for:

- a. the acquisition of land and access rights for electricity projects in Nigeria;
- b. making provisions for the payment of compensation and resettlement of persons affected by the acquisition of their land for the establishment of electricity projects; and
- c. the monitoring and evaluation of project designs of licensees to ensure compliance with environmental standards.

The Regulations apply to the acquisition of land access rights for electricity in Nigeria, including projects related to generation, transmission and distribution of electricity.

### **3.2.4 Nigerian Electricity Supply and Installation Standards (NESIS) Regulations 2015**

These Regulations provide guidance, license terms and conditions to any person engaged in the generation, transmission, distribution, system operation, and trading in electricity or in any aspect in the value chain of electricity supply, including but not limited to engineering designs, installations, commissioning, decommissioning and maintenance of electric power systems for the purpose of achieving safe and reliable supply, and utilization of electricity in Nigeria. The regulation also states among other things Health, Safety and Environment issues including approved Right of Way for Transmission and Distribution lines in Nigeria. According to the NESIS 2015,

Right of Way (RoW) is the distance of any structure from the middle conductors of overhead power lines of any voltage level. The approved Right of Way for different voltage Levels are presented in Table 3.1

**Table 3.1: Right of Way**

Voltage Levels	Right of Way from centre line in Meters
330kV	50
132kV	30
33kV	15
11kV	11

### **3.2.5 Acquisition of Land Access Rights for Electricity Projects Regulations, 2012**

This is a Nigerian Electricity Regulatory Commission Act which provide a regulatory framework for the acquisition of land and access rights for electricity projects in Nigeria. This Act also stipulates provisions for the payment of compensation and resettlement of persons affected by the acquisition of their land for the establishment of electricity projects as well as the monitoring and evaluation of project designs of licensees to ensure compliance with environmental standards. The Regulations apply to the acquisition of land access rights for electricity in Nigeria, including projects related to generation, transmission and distribution of electricity.

### **3.2.6 Transmission Company of Nigeria (TCN)**

TCN was incorporated in November 2005, emerging from the defunct National Electric Power Authority (NEPA) as a product of the merger of the Transmission and Operations sectors on April 1, 2004. Being one of the 18 unbundled Business Units under the Power Holding Company of Nigeria (PHCN), the company was issued a transmission license on 1st July, 2006. TCN licensed activities include: electricity transmission, system operation and electricity trading which is ring fenced.

TCN has the following legislation in place, *Harmonised Rates for Economic Trees and Cash Crops for Compensation Assessment, July 21, 2009*. Because of the unstable prices of assets and the harmonised rates keeps changing for different regions. What will be adopted for the RAP will be the current rates as at the time of preparation of RAP and this will be benchmarked against the current market value after which the best values will be adopted.

### 3.3 Overview of the Land Take process in Nigeria

The process involves the following steps:

#### **Step 1: Preparation of a Survey Description**

This is a preliminary survey / mapping of the property intended for land-take. The survey description is to be prepared by the Ministry of Lands and should contain the following information:

- Position and dimensions of the land parcel to be acquired;
- Spatial relation to other properties in the area; and
- A list of all the communities on the property.

The survey description provides the basis / information upon which approval for the chosen property to be acquired is provided and the property is thus surveyed or marked out with suitable marking points (see Step 3).

**For the projects within the NTEP 1 program, this will entail clearly defining the transmission line routes, substation locations, the right of ways and applicable buffers. Constraints mapping with the help of high-resolution satellite imagery will be required.**

**It is expected that the requirements of NTEP 1 will be detailed in the Project Scoping Report.**

**The Scoping report shall also include a comprehensive Stakeholder Engagement Plan (with a fit for purpose grievance redress mechanism) that will be used to guide the entire RAP process**

#### **Step 2: Publication of a Notice of Acquisition**

This is usually prepared by the Ministry of Lands and is then published in two newspapers (one national and the other local) and the government gazette, in order to enable any claims or objections to the intended acquisition to be made. These claims have to be made within the given period stated in the publication.

The notice must also be approved and signed by the Governor, along with the survey description, before publication. Both documents are usually forwarded to the Governor with a covering memo prepared by the Permanent Secretary and signed by the Honourable Commissioner for Lands.

Claims are then usually forwarded in writing to the Ministry of Lands within the stipulated period stated in the publication of the notice, following which the processing of claims and the negotiation of compensation can begin.

**For the projects within the NTEP 1 program, the Stakeholder Engagement Plan (SEP) developed for each project will identify all potential stakeholders (Federal, State, Local government, NGOs, CSOs, communities, PAP, law enforcement, etc.) who would be involved in the RAP process.**

**Step 3: Surveying the Property**

Surveying can be conducted immediately, and before the expiration of the notice period. The time that this takes to complete depends on the speed with which the survey fees are agreed and funds dispersed to the Ministry of Lands. It is understood that the Ministry of Lands has the sole right to do the surveying work when (in the case of the projects in the NTEP 1 program) it is the State that is acquiring the land. However, this does not prevent independent surveyors from being employed by the NTEP 1 program in order to ensure compliance with international standards. This step incorporates detailed consultation with local communities on the RAP principles and the start of the direct consultation process directly with the affected individuals. Individual PAPs or their representatives will have access to the project developer to verify issues relating to their properties through GRM.

**TCN through their in house surveyors and external consultants shall carry out the survey of all properties to be affected by the projects under NTEP 1 program. This will allow independent assessment from both State Governments and TCN**

**Step 4: Assessment**

This is essentially a State enumeration and valuation of unexhausted improvements on the land (estimates of compensation amounts due to affected individuals) to determine the compensation liability of government and for tax purposes (in cases involving private purchase of land). The compensation amounts arrived at are then discussed with the affected community or its attorney where the evaluator is present. Once agreement is reached, the compensation is paid. In some cases, direct disbursement takes place to each household. In other cases, the compensation is provided to the attorney who is then responsible for onward distribution. However for projects in NTEP 1 program, payments for compensation will not be made to attorney but directly to the PAPs. For land take, the bank prefers land for land compensation and this should be prioritized while cash compensation should be the last option.

**Payment of agreed compensations should be done directly to PAPs with documented evidence**

**Step 5: Registration and Stamping**

This process involves placing land sale agreements (including survey plans / maps clearly delineating the piece of land in the sale transaction) at the



lands registry / records after they have been stamped at the office of Commissioner of Stamp Duties, upon the payment of a fee. The Certificate of Occupancy is also registered at the Lands Registry for records purposes, after stamping of the documents. In the case of compulsory land-take (as in the Project case) there are no sale documents for stamping or registration; however, the Certificate of Occupancy issued to the Project Company may be registered with the Lands Registry.

**TCN will ensure that land within each state is registered on the land data base to the level of issuance of Certificate of Occupancy**

#### ***Step 6: Preparation of Certificate of Occupancy***

The Certificate of Occupancy is then prepared by the Ministry of Lands and signed by the Governor, after which it is issued to the applicant. The overall land acquisition process may be concluded within approximately **twelve to eighteen weeks**.

**The end product of the RAP process will ensure that there is a Certificate of Occupancy issued to the project by the Governor of states concerned. This is to prevent future encroachment as available land title will prevent double allocation.**

### **3.4 Legal Mechanisms for Resolving Land-related Grievances**

#### ***3.4.1 The Constitution***

The Constitution specifically guarantees the right of individuals to acquire and own immovable property [Section 43]. It further gives individuals the right to dispute decisions made in the courts of the country. If any person feels that their right to own and acquire property is threatened or their entitlement to compensation has been overlooked or underestimated, they may approach the High Court of a State for necessary redress [Sections 44 (a) and (b) and 46 of the Constitution].

**NTEP 1 program will follow the provisions of the Constitution as well as the requirements of OS2 of the AfDB in land acquisition for the projects.**

### **3.4.2 Land Use Act**

The Land Use Act only makes provisions for a dispute in relation to compensation payable; stating that it should be referred to the relevant committees established by the governor of the concerned state. There are no provisions in place for challenges against the legitimacy of a revocation order by the governor. This may be connected to the Trusteeship position of the governor and the fact that such revocation is seen to be based on the overriding public good of the people.

An aggrieved party may approach the high court of a state in relation to compensation payable for improvements on land (Section 39 (2)). In urban areas, aggrieved persons or group of persons are to raise their grievances with the Land Use and Allocation Committee. For non-urban areas, such disputes are laid before the Land Allocation Advisory Committee. These two committees are constituted by the governor of a state.

#### **3.4.2.1 Scope of the Land Use and Allocation Committee**

The Terms of Reference of the Land Use and Allocation Committee are described in Section 2(2) (a) – (c) of the Land Use Act and includes:

- advising the governor on any matter connected with the resettlement of persons affected by revocation of right of occupancy on the grounds of overriding public interest; and
- determining disputes as to the amount of compensation payable under the Act for improvement on land.

The Committee is made up of at least two (2) people who are qualified under the civil service to be appointed estate surveyors or land officers.

### **3.5 Traditional Land Tenure in Nigeria**

The legal context of land tenure in Nigeria is complex, resulting from the co-existence of traditional (at times with Islamic influence) and state systems, neither of which is dominant.

Traditional land tenure in Nigeria is based on traditional laws under which land is considered community property. Title to land under traditional law is vested in the community; no individual within the unit can lay claim to any portion of it as a formal owner. Individuals only ever retain rights to use. Normally, the village chief of a community acts as the 'manager', holding the land for the use of the whole community, and they mediate disputes involving traditional landholdings.

An individual enjoys rights to the land for farming within his lineage or community area. The individual possesses the land to the extent that he uses it for his family's or society's benefit and passes the land on to heirs (i.e.

traditional rights to land can be inherited) or pledges its use to satisfy a debt. The right of disposal belongs to the community only, which, acting through traditional authorities or family representatives, exercises this right in accordance with traditional law.

Where decisions about land use need to be made within a family, representative members of different branches are selected (e.g. from different branches within a polygamous family) and come to agreement about the issue. This happens most often regarding transactions between the family and third parties in conjunction with the village chief.

Under traditional land tenure women can inherit land from their fathers, but not from their husbands. While women may be “granted” plots by their husbands, often for crop production, they do not retain the right to use this land following their husband's death. Rather, the total land holdings of the husband are subdivided equally according to the number of wives, and use rights pass directly to the children. This includes passing to female children, so women are able to inherit land from their fathers, through their mothers. They are then free to pass this land on to whomever they choose.

### **3.5.1 Certificates of Occupancy**

The Nigerian mechanism to formalise customary land ownership is a Certificate of Occupancy, which is issued by an authorised Government Office as evidence of a holder's right to occupy and use a specific piece of land under certain terms of contract. Certificates of Occupancy afford customary rights of occupancy to land in non-urban areas for agricultural, residential, grazing and other uses. Certificates of Occupancy can be granted for a period of time up to 99 years.

## **3.6 Institutional Framework**

Compensation and resettlement issues fall under the jurisdiction of various levels of government in Nigeria. They are also governed by a range of legislation. Some of the principal government institutions and laws and their impacts are described below.

### **3.6.1 Federal Government**

Nigeria functions under a Presidential system of government. The President, elected for a maximum of two terms of four years each, serves as both head of state and head of government. The President wields executive power through the Federal Executive Council, which is also composed of the Vice President and a representative of each state as Ministers.

Legislative power is vested in the bicameral National Assembly of Nigeria, whose members are popularly elected for four-year terms. The upper house (Senate) comprises 109 members while the lower house (House of

Representatives) has 360 members. The Senate and House of Representatives have concurrent legislative functions. Bills are not deemed to be validly passed if they have not received the joint assent of both houses.

The Federal Government typically has limited involvement in land acquisition and resettlement, except in cases related to federal property, which is not the case for this Project.

### **3.6.2 State Government**

Nigeria is a federal republic comprised of 36 states and a Federal Capital territory in Abuja. The executive powers of each state are vested in the governor, who exercises these powers directly or through the deputy governor, commissioners or other designated state officials. The legislative powers of a state are vested in the House of Assembly. The House of Assembly has power to make laws for the peace, order and good government of the state.

In light of the fact that the Land Use Act (1978) prohibits challenge to the acquisition of land and gives the Governor of the State/Local Councils authority to issue (or revoke) statutory or traditional rights of occupancy, the main focus of government engagement for land acquisition and resettlement is at the State and Local Government levels.

The ministries and parastatals at the state level that will have some input into or provide some oversight regarding land acquisition, land-take and resettlement planning include the Ministry of Land; Ministry of Agriculture; Ministry of Environment; Ministry of Water Resources; Ministry of Commerce; Ministry of Local Government; Ministry of Justice and Ministry of Women Affairs.

### **3.6.3 Local Government**

At the local level, Project and sub projects falls within a particular Local Government. A typical LGA is headed by an Executive Chairman, and has a Vice Chairman, Secretary to the Local Government, Treasurer and a Council Manager who, together with the department supervisors, form the Executive Committee. Key departments at the local government level which are likely to be of relevance to this Project include: Women's Affairs and Poverty Alleviation; Education (specifically the Local Government Education Authority); Agriculture and Rural Development (including Culture and Tourism, and Community Development Associations); Works and Housing; and Health (Medical Officer of Health).

Local government administrations usually have a wide variety of functions prescribed under the Constitution, including but not limited to:

- Construction and maintenance of roads, streets, street lightings, drains, parks, gardens and open spaces.
- Provision and maintenance of public conveniences, sewage and refuse disposal
- Registration of births, deaths and marriages.
- Assessment of privately owned houses or tenements for the purpose of levying such rates as prescribed by the House of Assembly of the State.
- Participation in the provision and maintenance of primary, adult and vocational education.
- The development of agriculture and natural resources, other than the exploitation of materials
- The provision and maintenance of health services.
- Establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm.

#### **3.6.4 Traditional Leadership**

The traditional leaders are the custodians of the land who oversee day to day activities in the various communities. They are relevant for the engagement with affected persons and information dissemination. They also have local knowledge which could be relevant to the Project and are key in achieving community buy in. Their role is to facilitate stakeholder engagement at the community level, manage disputes and grievances, and provide information on community preferences and livelihood restoration options.

**For each of the NTEP 1 projects, a comprehensive Stakeholder Engagement Plan (SEP) and Grievance Redress Mechanism (GRM) will need to be developed.**

**The goal of the SEP shall be to improve and facilitate decision making and create an atmosphere of understanding that actively involves project-affected people and other stakeholders in a timely manner, and that these groups are provided sufficient opportunity to voice their opinions and concerns that may influence Project decisions.**

**Develop a Grievance Redress Mechanism and make it operational to take care of issues arising from land take. The Grievance Redress Committee should have members of traditional leadership of communities as members**

#### **3.6.5 International Standards and Guidelines related to Involuntary Displacement**

In addition to the need to adhere to Nigerian legislative requirements, RAPs of the NTEP 1 program projects will also need to be aligned to international best practice standards in involuntary land acquisition and compensation. As

the main funding agency, the RAPs will need to be aligned with the requirements of the AfDB's Integrated Safeguards Standards (ISS) Operational Safeguards 2: Involuntary resettlement: land acquisition, population displacement and compensation as well as the Bank's Involuntary Resettlement Policy of 2003. The policy was developed to cover involuntary displacement and resettlement of people caused by a Bank financed project and it applies when a project results in relocation or loss of shelter by the persons residing in the project area, assets being lost or livelihoods being affected.

### **3.6.6 The African Development Bank Group's (AfDB) Integrated Safeguard System (ISS)**

In 2013, the African Development Bank Group updated their policy on Involuntary Resettlement and created an Integrated Safeguards System (ISS) to improve clarity, coherence and consistency as well as overall operational effectiveness. Resettlement is covered under Operational Safeguard 2 (*Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation*), which includes comprehensive notions of livelihood and assets, accounting for their social, cultural, and economic dimensions. It also adopts a definition of community and common property that emphasises the need to maintain social cohesion, community structures, and the social interlinkages that common property provides. It furthermore stresses the importance of improving living conditions for PAPs through a Livelihood Restoration programme.

OS 2 has the following specific objectives to:

- avoid involuntary resettlement where feasible, or minimise resettlement impacts where involuntary resettlement is deemed unavoidable after having explored all other alternative project designs;
- ensure that displaced people are meaningfully consulted and given opportunities to participate in the planning and implementation of resettlement programmes;
- ensure that displaced people receive significant resettlement assistance under the project, so that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels;
- mitigate the negative impacts of displacement and resettlement, actively facilitate social development and establish a sustainable economy and society; and
- set up a mechanism for monitoring the performance of involuntary resettlement programs and remedying problems as they arise so as to safeguard against ill-prepared and poorly implemented resettlement plans.

### 3.7 Benchmarking of Relevant Nigerian Legislation and the AfDB's OS2.

The primary difference between national legislation and AfDB's resettlement standards is that Nigerian law concentrates on compensation for lost assets, whereas the AfDB Safeguard have an additional focus on livelihood enhancement (or, as a minimum, restoration). Emphasis is not only on compensation for lost assets but also on assisting people to improve (or at least restore) standards of living, incomes, and livelihoods. This includes providing access to income-earning opportunities such as agricultural production or to natural resources deemed critical for subsistence.

Nigerian legislation does not provide any compensation for the value of lost land (except for reimbursement of any rent paid by the occupier during the year in which the right of occupancy was revoked). **OS2 of the AfDB stipulates that affected people are compensated for all their losses at full replacement costs before their actual move; before land and related assets are taken; and, if the project is implemented in phases, before project activities begin for each particular phase.** The borrower or client gives preference to land-based resettlement strategies and as a matter of priority offers land-to-land compensation and/ or compensation-in-kind in lieu of cash compensation where feasible; further, the borrower or client clearly explains to affected people that cash compensation very often leads to rapid impoverishment.

With regard to loss of access to commonly held resources, Nigerian legislation provides that, where a right of occupancy of land owned by the community is revoked for public purposes, compensation for unexhausted improvements on the land, taking account of depreciation, may be paid to the community at the relevant governor's discretion and such payment may be to the relevant chief on behalf of the community or into a specially designated fund for the benefit of the community. OS2 on the other hand provides for compensation to offset restrictions on access to communal resources. Assistance measures may include initiatives to enhance the productivity of the remaining resources, to which the community will continue to have access, in-kind or cash compensation for the loss of access, or access to alternative sources of the lost resource.

The NTEP 1 program will follow the Nigerian legislation and will also implement such additional measures as necessary to achieve outcomes that are consistent with AfDB OS2 requirements.

Table 3.2 below compares the AfDB Operational Safeguard 2 (OS2) and to Nigerian legislation for those categories of displacement impacts that Project activities are expected to incur. The table also prescribed what will be adopted for NTEP 1 program.

**Table 3.2: Benchmarking of Nigerian Law and principles of the AfDB on Involuntary Displacement**

Category	Nigerian Legislation (Land Use Act)	AfDB OS 2	To be adopted by the NTEP 1 program
<b>Minimise Land Take and Involuntary Displacement</b>	Explore all viable alternative project design options to ensure minimisation of impacts (Land Use Act of 1978)	Project proponent to consider feasible alternative project designs, including re-siting and re-routing, to avoid or minimise physical or economic displacement.	AfDB OS 2
<b>Consultation and Disclosure</b>	A notice of acquisition is usually prepared by the Ministry of Lands, in conjunction with the survey description. This notice is then published in two newspapers (one national and one local and the government gazette)	Open, inclusive and effective consultation with local communities is required	AfDB OS 2 and Land use Act
<b>Eligibility</b>	Under Nigerian legislation, all land rights constitute occupancy rights rather than ownership rights and accordingly eligibility for compensation for loss of land is not provided for. Anyone possessing a statutory or customary right of occupancy to affected land is entitled to compensation for unexhausted improvements made to that land. Encroachers are not recognised as an eligible group, and are thus not entitled to any compensation provisions.	<p>AfDB identifies three groups of displaced people that shall be entitled to compensation or resettlement assistance for loss of land or other assets taken for project purposes:</p> <ul style="list-style-type: none"> <li>Those who have formal legal rights to land or other assets recognised under the laws of the country concerned.</li> <li>Those who may not have formal legal rights to land or other assets at the time of the census / asset survey but can prove that they have a claim that would be recognised under the customary laws of the country.</li> </ul> <p>Those who have no recognisable legal right or claim to the land they are occupying in the project area of influence, and who do not fall into either of the two categories described above, but are entitled to resettlement assistance in lieu of compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, improvements (structures and crops) etc.), provided that they themselves or witnesses can demonstrate that they occupied the project area of influence for a reasonable time (at least six months) prior to a cut-off date established by the borrower</p>	AfDB OS 2



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Category	Nigerian Legislation (Land Use Act)	AfDB OS 2	To be adopted by the NTEP 1 program
		or client and acceptable to the Bank.	
<b>Census and Asset Inventory</b>	A survey to record the dimensions of the affected land parcels needs to be carried out. The enumeration process is asset driven and not household driven. There is no particular format which is currently used by the Land Department. The process mostly comprises of generic questions that are administered orally.	A census, asset inventory and comprehensive socioeconomic survey is required with gender disaggregated information.	AfDB OS 2
<b>Livelihood</b>	No provisions	Strategies to improve livelihoods of PAPs are required.	AfDB OS 2
<b>Gender</b>	No provisions	Special consideration has to be paid to the needs and rights of women. In the context of gender vulnerability, the client must give careful consideration to actively facilitating consultation with both women and men in ways that are sensitive to the social and political constraints and barriers that women and men may face. The land-taking report (RAP or LRF/LRP) must include a specific protocol specifying safeguards for the quality and quantity of land to be allocated to women, especially widows and divorcees, to ensure their means to generate income and achieve food security. Specifically, applicable to resettlement, land titles at the resettlement site are to be in the name of both spouses or of single heads of household, regardless of gender, if this does not conflict with the borrower or client's own laws and legislation. Compensation payments to families are made to both husbands and wives when this is technically feasible and socially acceptable.	AfDB OS 2
<b>Cut-off date</b>	Though a cut-off date is not defined by Nigerian legislation, there is a six-week notice period given for land to be acquired by a Project. This is not,	There is a requirement to establish a cut-off date for eligibility that is acceptable to project financiers/lenders. The borrower or client documents the cut-off date and disseminates information about it throughout the project	AfDB OS 2

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Category	Nigerian Legislation (Land Use Act)	AfDB OS 2	To be adopted by the NTEP 1 program
	however, a formal cut-off date.	area of influence in a culturally appropriate and accessible manner, before taking any action on clearing land or restricting local community access to land.	
<b>Timing of Compensation</b>	Once the compensation amounts have been discussed with the affected people.	Compensation is to be made before land and related assets are taken; and, if the project is implemented in phases, before project activities begin for each particular phase.	AfDB OS 2
<b>Compensation</b>	Cash compensation is generally made based upon government rate as well as depreciation value. Whilst in principle there is allowance for in-kind compensation or replacement of assets, cash compensation is common practice	PAPs are compensated for all their losses at full replacement cost. PAPs can be offered a range of different compensation packages, resettlement assistance, and livelihood improvement options. Engagement is key to determine the appropriate compensation packages.	AfDB OS 2
<b>Communal resources</b>	Section 29 sub section 3 only provides for compensation where the holder or the occupier of land entitled to compensation is a community	Page 32 of the ISS mentions compensation for the loss of communal resources.	AfDB OS 2
<b>Livelihood Assistance</b>	No provisions	Displaced people are provided with targeted assistance with the aim of ensuring that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels.	AfDB OS 2
<b>Vulnerable People</b>	Many Nigerian policies address the needs of vulnerable people, such as the Gender Policy, Child Act or NEEDS framework. However, there are no specific provisions related to physical or economic displacement.	Special attention needs to be paid to vulnerable groups and special provisions required in the livelihood restoration process.	AfDB OS 2
<b>Grievances</b>	Section 30 of the Land Use Act 1990 6 v: "Where there arises any dispute as to the amount of compensation	There is a requirement to establish a culturally appropriate and accessible grievance and redress mechanism to resolve, in an impartial and timely manner, any disputes	AfDB OS 2

RPF FOR THE NIGERIA TRANSMISSION EXPANSION PROGRAM (NTEP-1)

Category	Nigerian Legislation (Land Use Act)	AfDB OS 2	To be adopted by the NTEP 1 program
	calculated in accordance with the provisions of section 29, such dispute shall be referred to the appropriate Land Use and Allocation Committee."	arising from the land-taking process and compensation procedures. PAPs must be informed about the mechanism.	
<b>Monitoring</b>	No provisions	An independent third party is required to monitor the implementation of large-scale or complicated resettlement or livelihood restoration plans, with regular feedback from PAPs. For largescale displacement operations quarterly reviews are recommended, and in-depth reviews of 6 months progress, consistent with the overall project scheduling, are critical.	AfDB OS 2

### **3.8 Compensation Framework**

Compensation refers to payment in cash or in kind for loss of land, access to land, and immoveable asset or resources that is acquired or affected by a project.

#### **3.8.1 Compensation Principles**

The main compensation principles include the following:

- Provide transparent, fair and timely compensation (prior to land clearance or taking land) for displacement, including compensation for assets in accordance with national regulations and international standards, specifically the AfDB OS2;
- Compensate for lost assets at full replacement value; and
- Restore the livelihoods and welfare of PAPs and local communities such that their well-being is at the least, equal to their pre-resettlement conditions, or that they are better off.

**Table 3.3. Categories of PAPs and compensation according to Nigeria guideline and AfDB requirements**

S/N	Category of PAPs	Nigeria Law (Land Use Act)	AfDB OS2	What will the NTEP 1 program do
1	Land owners	Cash compensation based upon market value.	Entitled to compensation for land, priority is given to land-to-land compensation and/or compensation-in-kind in lieu of cash compensation. When cash payments are made, the affected people should be provided with counselling to ensure that they have the knowledge to use the compensation wisely. Compensation for other assets at full replacement costs.	Adopt the provisions of AfDB OS2
2	Land Tenants	Entitled to compensation based upon the amount of rights they hold upon land	Entitled to resettlement assistance and compensation for all their assets such as crops, structures and other livelihood activities at full replacement cost.	Adopt the provisions of AfDB OS2
3	Land users/Squatters	Not entitled to compensation for land, entitled to compensation for crops	Not entitled to compensation for land but are entitled to resettlement assistance including compensation for loss of livelihood activities, structures, crops etc to improve their former living Standards.	Adopt the provisions of AfDB OS2
4	Owners of "Non-permanent" Buildings	Cash compensation based on market value.	These groups are entitled to resettlement assistance to improve their former living standards (compensation for loss of livelihood activities, structures, crops etc.).	Adopt the provisions of AfDB OS2
5	Owners of "Permanent" buildings	Cash Compensation is based on market value. (that means depreciation is allowed)	Entitled to resettlement assistance and compensation for all their losses at full replacement costs before their actual move.	Adopt the provisions of AfDB OS2
6	Losers of livelihoods (farmers, business people, employees)	No consideration other than cash values for assets as described above by asset category	Compensation factors in the "total economic cost" including the social, health, environmental and psychological impacts of the project and the displacement, which may disrupt productivity and social cohesion. Considerations are given to the loss of livelihood and earning potential of the affected people.	Adopt the provisions of AfDB OS2

RPF FOR THE NIGERIA TRANSMISSION EXPANSION PROGRAM (NTEP-1)

S/N	Category of PAPs	Nigeria Law (Land Use Act)	AfDB OS2	What will the NTEP 1 program do
			Affected people are provided with targeted resettlement assistance with the aim of ensuring that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels.	
7	Grievance Procedure	No specific requirement for establishing an independent grievance mechanism	Requires the establishment of a culturally appropriate and accessible grievance redress mechanism to resolve, in an impartial and timely manner, any disputes arising from the resettlement process and compensation procedure as early as possible in the resettlement process. The borrower or client is required to work with informally constituted local committees made up of representatives from key stakeholder groups and, in particular, vulnerable communities to establish the grievance and redress mechanism. The grievance redress mechanism, which should be monitored by an independent third party should not impede access to judicial or administrative remedies but must inform affected people about the Bank's Independent Review Mechanism (IRM).	Adopt the provisions of AfDB OS2
8	Rejection of Compensation	No categorical statement	No categorical statement	Put the compensation value in an ESCROW account and continue to negotiate using the GRM to resolve issues before proceeding with take over

### 3.8.2 Eligibility Principles

PAPs are eligible for compensation entitlements if they are the owners or users of immovable built or planted assets within the Project site footprint. This includes structures (such as fences or sheds), land, crops, trees, and other natural resources. PAPs are eligible for compensation for their assets if they have formal or recognisable rights to these assets.

The typical eligibility criteria for compensation which may be implemented on subprojects is presented in Table 0.

**Table 04. Eligibility Criteria for Compensation**

PAP Classification	Eligible for		
	Compensation	No Compensation	Assistance
Those with legal right	Land or asset at replacement cost	For land, assets, and structure on the land after the cut-off date	Assistance needed
Those with temporary or leased rights at cut-off date	Land and assets at replacement cost	For land, assets, and structure on the land after the cut-off date	Assistance needed
Those who use land without any form of right	Assets on land at replacement cost	Assets on land after cut-off date	Assistance needed
Those with no legally recognized right but arrived before cut-off date.	Assets at replacement cost except that compensation may be "topped off" to allow the PAP to acquire a new residence.	Assets on land after cut-off date	Assistance needed
Those who arrived after Cut-off-date	<b>None</b>	<b>None</b>	<b>None</b>
Those with business located within the Community	Assets and lost income as a result of lost business during project duration	For business located in community after the cut-off date and outside the affected area.	Assistance needed

### 3.8.3 Establishment of Entitlement Cut-off Date

Prior to the commencement of a census survey during the RAP preparation, consultations will be conducted to explain to PAPs that a last day of a census survey (to be carried out during the LRP stage) will constitute **a cut-off date**, after which any individual or a family who moved into the project area but is not listed in the census list of PAPs, will not be entitled to compensation.

**To ensure smooth running of the RAP process, each affected community should have a CLO from the community appointed through active consultations with the communities. The CLO shall be the link between the project and the community.**

**The Cut-off date will be communicated officially to the community in writing as well as in print media and radio advert.**

#### **3.8.4 Entitlements**

Each project within the NTEP1 program will have defined range of appropriate compensation entitlements and suggested livelihood restoration measures.

Based on the preliminary findings of site visits undertaken along the line routes in April 2019, the categories of assets that are likely to be affected are:

- Farmland/land plots;
- Crops and economic trees.
- Completed commercial Buildings
- Uncompleted Commercial buildings
- Residential buildings both completed and uncompleted
- Cultural facilities such as shrines
- religious centres such as Churches and Mosques
- Community facilities such as boreholes, markets, schools etc.
- Livelihood/Business premises

An example of an entitlement matrix which may be applicable to each of the sub projects is presented the table below:



**Table 3.5. Example of an entitlement matrix that could be applied in sub projects**

Asset	Impact	PAPs	Nigeria Requirement	Additional compensation or measures in line with AfDB OS2	Livelihoods Support
<b>Land</b>	Permanent/ Temporary land take	Registered owners with title deed for land	<ul style="list-style-type: none"> <li>• Compensation at state rates or support to find replacement land of similar size and quality.</li> </ul>	<ul style="list-style-type: none"> <li>• PAPs are consulted to confirm their compensation preferences (land-for-land or cash).</li> <li>• Compensation at replacement value (in-cash) or where possible, replacement land of the same quality and close to the location of the original land plot.</li> <li>• Livelihood restoration and alternative income earning opportunities e.g. skills training offered.</li> <li>• Support before, during and after taking cultivated land plots to cover a reasonable period of time necessary for PAPs to re-establish their new land plots (which they either were allocated, or bought with the received cash compensation).</li> </ul>	<ul style="list-style-type: none"> <li>• Livelihood restoration options to affected farmers: continuous crop cultivation on alternative plots, agricultural skills improvement training, or small livestock package</li> <li>• Land Plot Transfer allowance - 10 % of market value payment (as one-off) in cash, to cover all administrative fees related to the purchase or provision of replacement land.</li> </ul>
<b>Crops and Economic Trees</b>		Non-registered occupants of land who either cultivate such land based on customary ownership rights	<ul style="list-style-type: none"> <li>• Compensated for lost assets other than land (such as crops and structures) at replacement value.</li> </ul>		

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Asset	Impact	PAPs	Nigeria Requirement	Additional compensation or measures in line with AfDB OS2	Livelihoods Support
	Loss of crops and productive trees (fruit/nut)	All PAPs regardless of legal status	<ul style="list-style-type: none"> <li>• None (crops are typically harvested prior to displacement)</li> <li>• Compensation for perennial crops at existing compensation rates</li> <li>• Trees are categorised as: saplings, productive, or old.</li> </ul>	<ul style="list-style-type: none"> <li>• Cash compensation at replacement value on the basis of type, age and market price of tree and crops (the compensation amounts to be determined by a certified evaluator during the LRP stage)</li> </ul>	<ul style="list-style-type: none"> <li>• Crops-Training in improved agriculture methods and seeds provided for three seasons (18 months)</li> <li>• Trees-Training in improved agriculture methods and saplings provided for fruit trees and perennial crops</li> </ul>
<b>Permanent loss of Structure</b>	Loss of homes / dwellings  Tenants	Tenants and original owners of the house and land  Physically displaced  Economically displaced	<ul style="list-style-type: none"> <li>• Cash compensation for loss of built-up structures at full replacement costs.</li> <li>• Owners of affected structures will be allowed to take and reuse their salvageable materials for rebuilding and rehabilitation of structure.</li> <li>• In case of relocation, transfer allowance to cover cost of shift (transport plus loading/unloading) the effect and material will be paid on actual cost basis or</li> </ul>	<ul style="list-style-type: none"> <li>• Housing unit at chosen relocation site; or</li> <li>• Cash compensation at replacement cost value;</li> <li>• Relocation assistance such as transport of belongings within 25 km radius, etc.</li> <li>• One-time cash assistance equivalent to 4-month rent moving to alternate premise.</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation for loss of livelihood or livelihood development support for economically displaced</li> <li>• Transfer allowance to cover cost of shifting (transport plus loading/unloading) personal effects paid on actual cost basis or on current market rates</li> </ul>
	Owners of the structure other than house, whether or not the land on which the structure stands is legally occupied.	Tenants and original owners of the structure and land			

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Asset	Impact	PAPs	Nigeria Requirement	Additional compensation or measures in line with AfDB OS2	Livelihoods Support
	Tenants		on current market rates		
<b>Cultural, Religious and community structure facilities</b>	School, church, Mosque, water channels, pathways, and other community structures	All PAPs regardless of their legal status	Complete rehabilitation/ restoration by the project; cash compensation for restoring affected cultural/community structures and installation to the recognize patron/ custodian.	<ul style="list-style-type: none"> <li>Construction of structure as other forms of compensation by the project where possible.</li> </ul>	<ul style="list-style-type: none"> <li>Additional monetary incentives to succour losses</li> </ul>
<b>Special provision for vulnerable PAPs</b> Re-establishing and/or enhancing livelihood	Women headed household, disabled or elderly persons and the landless	Women headed household, disabled or elderly persons	<ul style="list-style-type: none"> <li>Needs based special assistance to be provided either in cash or in kind.</li> </ul>	<ul style="list-style-type: none"> <li>Empowerment training to be carried out alongside cash support.</li> </ul>	<ul style="list-style-type: none"> <li>Support before, during and after training.</li> </ul>

RPF FOR THE NIGERIA TRANSMISSION EXPANSION PROGRAM (NTEP-1)

Asset	Impact	PAPs	Nigeria Requirement	Additional compensation or measures in line with AfDB OS2	Livelihoods Support
Change in livelihood for women and other vulnerable Aps that need to substitute their income because of adverse impact	Vulnerable PAPs , particularly women.  Owners whose landholding has been reduced to less than 5 acres	Vulnerable PAPs particularly women	Restoration of livelihood (Vocational training) and subsistence allowance at agreed rate per day for a total of 6 month while enrolled in a vocational training facility	Needs based special assistance to be provided as incentives.	Support before, during and after training.
Loss of grazing area	Cattle Rearers	Cattle Rearers	Relocation to new grazing area where possible assist the cattle herdsmen to locate new grazing field.	Consider possible compensation for loss income for the period of locating new grazing area	Same as additional compensation or measures.

### 3.8.5 Entitlement Planning

The entitlement planning process entailed two primary tasks:

- Preliminary identify the appropriate cash compensation rates at replacement value to compensate for specific impacts to eligible households, including crop compensation rates; and
- Design of complementary supportive measures to further mitigate the impacts of land-take, including livelihoods restoration initiatives, and vulnerable person assistance measures.

To establish the applicable rates (which will be confirmed and verified by a **certified evaluator** during the RAP stage), an independent valuation expert will be contracted at the RAP stage to advise on the market values of affected land, crops and economic trees in the Project area. The evaluator will be requested to prepare a Valuation Report which will be presented as part of the RAP and included as an Annex in the main report.

### 3.8.6 Method of Compensation

Individual and household compensation will be made in cash, in kind, and/or through assistance in the knowledge and presence of both man and wife and adult children or other relevant stakeholders where applicable. The type of compensation will be an individual choice although every effort will be made to instil the importance and preference of accepting in-kind compensation especially when the loss amounts to more than 20% of the total loss of productive assets.

It should be noted that when land holdings necessary for the livelihood of affected persons are taken away or reduced in size by project works, the preferred form of compensation is to offer an equivalent parcel of land elsewhere, i.e. "land for land." Where such land is not available, cash payment can be an option even though cash compensation is not the preferred form of compensation in such cases. It should be noted that, under this framework, cash compensation is only appropriate where there is a market for land or other lost assets in the area of the impact. It is unacceptable to offer cash compensation to, say, a farmer, when he/she has no possibility of acquiring new land in the same area.

### 3.8.7 Entitlement for Compensation

Entitlements for compensation shall be based on the eligibility criteria and the various categories of losses identified in this RPF and the actual field consultations during the preparation of the RAP. Unless otherwise indicated, payment of compensation and other entitlements and the extension of assistance will be made to PAP households and individual PAPs, as the case may be. In dealing with compensation, preference shall be given to land based resettlement strategies for PAPs whose livelihoods are land-based

Where sufficient land is not available at a reasonable price, non-land based options centered on opportunities for employment or self-re-employment should be provided in addition to cash compensation for land and other assets lost. However, this lack of land shall be documented and justified. Palliative assistance should be avoided, i.e. assistance that is not sustainable such as temporary payments or food donations.

### **3.8.8 Valuation**

Valuation methods for affected land and assets will depend on the type of asset. The following land asset types identified under Nigeria law in this policy framework include:

#### **3.8.8.1 State (urban and non-urban) owned Land**

State owned land will be allocated free by the Governor or Local Government (perhaps except for processing and registration fees). The State Agency will be expected to pay compensation to acquire land in this category in cases where the state-owned land is being used by landlords or squatters, settled upon or otherwise being used.

#### **3.8.8.2 Privately owned Land**

Privately owned property, will be acquired at replacement value. The guiding principle is that whoever was using the land to be acquired will be provided other land of equal size and quality or compensation.

#### **3.10.8.3 Assets held under Customary Law**

According to Nigeria law, assets held under customary rights are in the Local Government jurisdictions only and will be valued according to the following method and compensation paid for. The project will compensate assets and investments, including buildings, and other improvements, according to the provisions of the resettlement plan. Compensation rates will be replacement cost as determined by surveys of recent transactions of similar assets in the same area as of the date and time that the replacement is to be provided. Under customary law land belongs to chiefdoms, towns and villages. The permanent loss of any such land will be covered by community compensation, which will be in-kind only. A customary land owner or land user on state owned land will be compensated for land, assets, investments, loss of access etc. at replacement rates at the time of the loss.

In ensuring that during the project implementation, PAPs will be provided full replacement cost of lost structures and other impacted assets and are able to rebuild or replace their structures/assets without difficulties. The valuation will estimate asset compensation rates based on full replacement cost without depreciation. The replacement cost approach is based on the premise that the costs of replacing productive assets is based on damages caused by project operations.

Relevant data to be captured during valuation will include:

- Location details of the land, boundaries of the area/section of the land to be affected. Affected immovable properties: detailed measurement of buildings, shops, other assets, and structures;
- Property details including noting accommodation, constructional details of affected property external works (fence walls, gates, pavements) affected details etc. were relevant.
- Categorizing temporary structures based on constructional details (wall materials), size of structure and use of structure (business/residential/institutional/agricultural); and, Data on households affected (tenants, owners, relative apprentices/trainees and livelihood).

Valuation shall be based on comparisons to recent comparable transactions/costs and comparable assets or land and not simply on general tables that may be out of date and may be based on non-comparable assets or land.

An indicative table with the Valuation Methods that could be used on sub projects is presented in Table 3. below.

**Table 3.6. Indicative Valuation Methods**

S/N	Loss of Land	Comparative Method	Sales	Based on the open market value of comparable recent land transactions
1	Loss of Buildings, structures and other civil works	Replacement Cost Method or Comparative Sales Method (which ever gives a commensurate value)		Full replacement cost value as if new, recent construction cost rates
2	Loss of Business Income and Loss of Business Good will	Comparative Method		Based on the average monthly net profit
3	Loss of Income from Rent and Expenditure Incurred for Alternative Accommodation during reinstatement period	Comparative Method	Sales	Based on the comparable rent passing, rent advance paid
4	Expenditure incurred for Transfer of movable properties and temporary structures	Comparative Method		Based on truck/transport hiring charges
5	Loss of Wages, -Loss of Fees from Apprentice, - Loss of Job Training	Comparative Method		Based on Current Fees and Wages
6	Loss of access to land used for agriculture	Comparative Method		Based on Crop compensation Resettlement assistance: Economic Rehabilitation assistance:

**The regular or unpredictable fluctuations of Naira due to inflation, the RAP process shall consider inflation when calculating the rates.**

### **3.8.9 Arrangements for Compensation**

A **Compensation and Relocation Committee** will be set up and be responsible for planning, coordinating and monitoring of compensation and relocation activities. The compensation process for the subproject will involve several steps to be carried out in accordance with the resettlement and compensation plan and the RAP. This will be in accordance with the individual project resettlement and compensation plans as outlined below:

#### **3.8.9.1 Public Participation**

This process seeks the involvement and concerns of the PAPs and the communities in a participatory approach with the project, from the beginning to implementation. Public participation with local communities is an ongoing process throughout resettlement planning and this will have taken off at the screening stage. PAPs will be notified as early as possible and consulted throughout the ESIA and RAP process. The subsequent socio-economic survey will record all relevant information about the PAPs and ensure that this is accurately reflected in the RAP in order to allocate the appropriate compensation. Periodic monitoring will ensure that PAPs have been consulted and that compensation and relocation has been carried out satisfactorily. This will ensure that no affected individual household is simply “notified” one day that they are affected in this way.

#### **3.8.9.2 Notification**

Landowners will be notified by the TCN that their property is required for development of the subproject. The user will be informed through both a formal notification, both written and verbal, to be delivered in the presence of the community heads and the Coordination Committee. To ensure that any sensitive areas are accurately identified during this procedure, all necessary community heads, religious leaders, other elders and individuals will accompany the project team to the site.

**Prior development of Stakeholders Engagement Plan will help in this stage of the process. The community leaders and PAPs who have already been identified and included in the SEP shall have good understanding of the process thereby making it easy for notification to be disseminated.**



### **3.8.9.3 Documentation of Holdings and Assets**

TCN and the local community will arrange meetings with the project affected persons in the presence of the agency of government in charge of land to discuss the compensation process. For each individual or household affected, the project officials complete a compensation dossier containing necessary personal information on, the affected party and those individuals considered as household members, total land holdings, inventory of assets affected, and information for monitoring future arrangements. The dossier shall be confirmed and witnessed by village/community officials and will be kept up-to-date. This is necessary because it ensures monitoring of an individual over time. All claims and assets should be documented in writing.

### **3.8.9.4 Agreement on Compensation and Preparation of Contracts**

The types of compensation shall be clearly explained to the individual or household involved. TCN will draw up a contract, listing all property and/or land being surrendered, and the types of compensation (cash and/or in-kind). A person selecting in-kind compensation has an order form, which is signed and witnessed. The compensation contract and the grievance redress mechanisms are to be read aloud in the presence of the affected party and the representative of the local government chairman (or his/her representative), the project officials, and other community leaders prior to signing.

## **3.9 Compensation Payments**

All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, representative of the state environmental agency and the community officials. Inflation rate shall be considered during valuation and implemented during payment.

### **3.9.1 Community Compensation Payments**

Community compensation will be in-kind only for a community as a whole in the form of Corporate Social Responsibilities. Examples of community compensation include; School Building (public or religious), Public Toilets, Well or borehole, Market Place, Taxi Park, Road, Storage warehouse, etc. Community compensation may in itself require land take and people may be affected, thus a change of impacts which will be compensated.

### **3.9.2 Procedures for Delivery of Compensation**

The procedure for delivery of compensation will be detailed in each RAP. TCN will follow approved procedures ensuring that:

- Full payment of compensation is carried out before possession of acquired sites and before works begin.
- TCN formally make offers to affected persons and allow persons to accept or reject offer, offer a counter claim and seek redress under the grievance procedures established

- Land/Asset valuation committee communicates the amount to be paid to the acquiring agency and the Ministry of lands will ensure that the amounts are fair and adequate.
- Cheques in the name of the beneficiary or deposits to the beneficiary's bank account shall be the preferred and first mode of payment.
- Payments are made to the affected person personally in the presence of Land/Asset Valuation Committee and an independent witness of the affected person/opinion leader
- Proper receipts are issued and copies given to the affected person, the Finance Department of the State Agency and the Land/Asset Valuation committee;
- Comprehensive reports on payment made are submitted for review by Management of the TCN Project Implementation Unit (PIU) and the Land/Asset Valuation committee.

### **3.10 Monitoring and Evaluation**

Monitoring is a crucial element for the success of any resettlement project as it is important to accurately verify the information related to implementation of the Resettlement Plan, and should be planned and costed as early as possible in the project. The monitoring will provide feedback to project management which will help keep the programs on schedule and successful.

#### **3.10.1 Monitoring Process**

In order to comply with the AfDB requirements, the overall internal monitoring procedures will include internal performance monitoring, Impact monitoring and final external evaluation.

### **3.11 Livelihood Restoration**

The Livelihood Restoration Strategy (LRS) is to prevent and mitigate the potential adverse impacts to the vulnerable PAPs as a direct result of the resettlement process.

#### **3.11.1 Key Principles Guiding Livelihood Restoration Planning**

The sustainable approach to livelihood restoration is based on the following principles:

- Livelihoods are multi-faceted strategies and a combination of approaches is therefore required to support restoration of income and the reestablishment of community support networks;
- Active participation of intended beneficiaries in planning and decision making to ensure proposed support reflects local realities / priorities and have PAPs active buy-in;

- PAPs should be provided with choices so that they can self-determine how their household will best benefit from the livelihood restoration options;
- Vulnerable households are, by definition, less able to adapt to changes and therefore require targeted support through the planning and implementation of livelihood restoration;
- Transition allowances are necessary, but require clear eligibility and end points;
- Capacity building should be incorporated into livelihood restoration activities to develop PAPs skills, including in agricultural practices. Capacity building acknowledges the different needs of women, men, youth and vulnerable groups with respect to skills development.

### **3.11.2      *Process for Determining Livelihood Restoration Options***

The livelihood restoration options shall be based on the information gathered from the socio-economic baseline interviews undertaken for the Project. From these activities, the following key subjects may emerge.

- Livelihood options and roles varying for women, men and youth.
- PAP welcome livelihood options and view them as part of their expectations of the Project's development.

Continuous Engagement should continue with PAPs and local communities throughout the project life-cycle, and with traditional leadership and the relevant authorities to discuss the livelihood programmes to make sure that they are meeting the needs of PAPs.

### **3.11.3      *Livelihood Restoration Plans***

To recognize the potential and magnitude of adverse impacts and develop Livelihood Restoration Plans, the following approach should be considered:

1. LRP for vulnerable PAPs should refer to the ecological conditions, livelihoods and socio-cultural characteristics possessed by PAPs.
2. The LRP should be able to support the PAPs to gain a similar or even better livelihood, independently. It is important that the land acquisition and resettlement process will not cause a dependency to the project which eventually would make more problems in the future.
3. The LRP should be focused on the characteristics of the vulnerability and potential sources of livelihood assets owned by each household, either in the form of Natural Capital, Human Capital, Financial Capital, Social Capital and Physical Capital.
4. Involving representatives of both communities, the project-affected people and host populations, in the consultation process to build

familiarity and to resolve disputes that are expected to arise during and after the resettlement process.

### 3.12 Outline of a Resettlement Action Plan (RAP)

#### Introduction

The OS 2 requires the borrower or client prepares a Full Resettlement Action Plan (FRAP) which is compliant with OS2 and the Bank's Resettlement Policy of 2003 for the following nature of displacement:

- i. any project that involves 200 or more persons (as defined by the involuntary resettlement policy), or
- ii. any project that is likely to have adverse effects on vulnerable groups.

The outline of a typical RAP can be found in Annex A of the Involuntary Resettlement policy and the related IESIA Guidance Note<sup>1</sup>.

For any project in which the number of people to be displaced is fewer than 200 people and land acquisition and potential displacement and disruption of livelihoods are less significant, the borrower or client prepares an Abbreviated Resettlement Action Plan (ARAP). Annex B of the Involuntary Resettlement policy describes an ARAP, and related guidance can also be found in the relevant IESIA Guidance Note.

As per AfDB guidance, the expected content of each RAP of the subprojects within the NTEP 1 program will be as set out in Table 3.7 below.

**Table 3.7. Outline of a RAP**

S/No	Chapter	Description
	<b>Executive Summary</b>	<ul style="list-style-type: none"> <li>Summary of the RAP report</li> </ul>
	<b>Introduction</b>	<ul style="list-style-type: none"> <li>Introduce the need for RAP. The RAP should be in line with the AfDB OS 2 and the Bank's resettlement policy of 2003.<sup>2</sup></li> </ul>
		<ul style="list-style-type: none"> <li></li> </ul>
1	<b>Description of the Project</b>	<ul style="list-style-type: none"> <li>Define the Project, and its components and the Project Site (s)</li> <li>Determine whether the Project will require land acquisition and relocation of persons</li> <li>Describe the amount of land acquisition and resettlement required</li> <li>Identify options of reducing amount of resettlement</li> <li>Quantify the options of minimizing resettlement</li> </ul>
2	<b>Potential Impacts</b>	<ul style="list-style-type: none"> <li>Description of project components that can give rise to resettlement</li> <li>Detailed description of impacts and alternatives considered to minimize resettlement</li> </ul>

<sup>1</sup> See Annex 13 (Format of a Full/Abbreviated Resettlement Action Plan, A/FRAP) of the AfDB ESAP.  
[https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/SSS\\_%E2%80%93vol1\\_%E2%80%93Issue4\\_-\\_EN\\_-\\_Environmental\\_and\\_Social\\_Assessment\\_Procedures\\_ESAP\\_.pdf](https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/SSS_%E2%80%93vol1_%E2%80%93Issue4_-_EN_-_Environmental_and_Social_Assessment_Procedures_ESAP_.pdf)

<sup>2</sup> <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/10000009-EN-BANK-GROUP-INVOLUNTARY-RESETTLEMENT-POLICY.PDF>

S/No	Chapter	Description
3	<b>Organizational responsibility</b>	<ul style="list-style-type: none"> <li>• Identification of institutions for execution of the RAP</li> <li>• Evaluation of capacity and commitment of such institutions to carry out resettlement plan</li> <li>• Consideration for strengthening institutions and steps to be taken together with timetable for implementation and budget</li> <li>• Involvement of local people and CSOs in planning implementation and monitoring of resettlement</li> </ul>
4	<b>Community Participation</b>	<ul style="list-style-type: none"> <li>• Detailed description of consultation and participation of displaced and host communities in design and implementation of the resettlement activities.</li> <li>• Details of views expressed and how they were taken into account during preparation of resettlement plan</li> <li>• A review of resettlement alternatives presented and choices made by displaced person including compensation and resettlement assistance</li> <li>• Description of procedure for redress of grievances by project affected people which shall be accessible throughout planning and implementation</li> </ul>
5	<b>Integration with Host Community</b>	<ul style="list-style-type: none"> <li>• Details of consultations with host communities and local governments and arrangements for prompt tendering of any payments due to host for land and other assets</li> <li>• Details of addressing any conflict between resettlers and host community (if any)</li> <li>• Details of efforts made to augment public services e.g. water, education, health etc.</li> </ul>
6	<b>Socio-Economic Studies/Census</b>	<ul style="list-style-type: none"> <li>• Population census covering affected community/individual and their assets. Baseline information on livelihoods and standards of living of the displaced population</li> <li>• Inventory of assets of displaced households, extent of physical and economic displacement.</li> <li>• Information on disadvantaged groups or persons whom special provisions may have to be made</li> <li>• Updated information on displaced person's livelihood and standards of living at regular intervals</li> <li>• Description of land tenure system in place, lot sizes and any cultural heritages/values that may be restricted by the project</li> <li>• Description of type and size of infrastructure and other services that may be impacted</li> <li>• Summarize impacts of the project for each categories of affected groups</li> <li>• Social and cultural characteristics of displace communities</li> </ul>
7	<b>Legal/Institutional Framework, including mechanisms for conflict resolution and appeal</b>	<ul style="list-style-type: none"> <li>• Details of local agencies responsible for resettlement</li> <li>• Details of applicable legal and administrative procedures including a description of the remedies available to displaced persons in the judicial process</li> <li>• Details of laws and regulations relating to agencies responsible for implementing resettlement activities.</li> <li>• Details of legal steps necessary to ensure the effective implementation of resettlement activities</li> </ul>
8	<b>Institutional framework</b>	<ul style="list-style-type: none"> <li>• Details of agencies responsible for resettlement activities and NGOs that may have role in project</li> <li>• Details of institutional capacity of agencies and CSOs</li> </ul>
9	<b>Eligibility and Entitlements</b>	<ul style="list-style-type: none"> <li>• Definition of displaced persons and criteria for determining eligibility for compensation and other resettlement assistance.</li> <li>• Details of cut-off date</li> </ul>
10	<b>Valuation of, and compensation for losses</b>	<ul style="list-style-type: none"> <li>• Appoint Registered/District Valuer for compensation purposes</li> <li>• Carry out consultation with affected persons</li> <li>• Identify and inspect affected assets for valuation</li> </ul>

S/No	Chapter	Description
		<ul style="list-style-type: none"> <li>• Process Valuation Report and prepare Compensation Schedule</li> <li>• Determine whether additional income assistance is necessary</li> <li>• Details of methodology used for valuation</li> </ul>
11	<b>Identification and selection of resettlement site, site preparation and relocation.</b>	<ul style="list-style-type: none"> <li>• Determine need for relocation and discuss with affected person</li> <li>• Select site for relocation and make arrangement for land titling in favour of resettlers</li> <li>• In consultation with respective District Settlement Planning Department, prepare Resettlement Plan</li> <li>• Discuss outsourced services if any and draw up cost implications</li> <li>• Ensure Plan comply with environmental consideration</li> <li>• Evaluate the impact of the Plan on host community</li> <li>• Determine any special assistance measures necessary to vulnerable groups</li> <li>• Identify risks associated with the Plan and chart out ways of overcoming them</li> <li>• Provide information on updating of the Plan</li> <li>• Details of legal arrangements for regularizing tenure and transferring titles to resettlers</li> </ul>
12	<b>Shelter, Infrastructure and social services</b>	<ul style="list-style-type: none"> <li>• Details of social development services planned to be implemented for host communities</li> </ul>
13	<b>Environmental protection</b>	<ul style="list-style-type: none"> <li>• Details of environmental impacts of proposed resettlement and mitigation measures</li> </ul>
14	<b>Implementation schedules</b>	<ul style="list-style-type: none"> <li>• Details of implementation schedule for resettlement from preparation to final implementation including target dates for achievement of expected benefits to resettlers</li> </ul>
15	<b>Costs and Budget</b>	<ul style="list-style-type: none"> <li>• Prepare a financial plan with emphasis on responsibilities and accountability</li> <li>• List sources of funds</li> <li>• Identify components of the sub-project that may require additional external funding</li> <li>• Discuss provisions for handling price fluctuations, contingencies and excess expenditure</li> <li>• Prepare a template for Project Cost Estimate/budget</li> </ul>
16	<b>Monitoring and Evaluation</b>	<ul style="list-style-type: none"> <li>• Discuss measures for external and internal monitoring</li> <li>• Define monitoring indicators</li> <li>• Determine mode and frequency of reporting and content of internal monitoring</li> <li>• Discuss feedback mechanism</li> </ul>
	<b>Annex</b>	<ul style="list-style-type: none"> <li>• Compensation Valuation Rate for Project based on their location</li> <li>• Checklist of Resettlement Screening</li> <li>• Affected Plot sheet</li> <li>• Affected Building Sheet</li> <li>• Affected Household Sheet</li> <li>• Sample of Grievance Log</li> <li>• List of Stakeholders Consulted</li> </ul>