

Resettlement Planning Document

Resettlement Framework
Document Stage: Draft for Consultation
Project Number: 37266
March 2006

NEP: Proposed Road Connectivity Sector I Project

Prepared by Ministry of Physical Planning and Works, Department of Roads

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RESETTLEMENT FRAMEWORK FOR NON-CORE SUBPROJECTS

GLOSSARY

ADB	Asian Development Bank
AP	Affected Person
BS	Bikram Sambat (Nepali Calendar)
CDO	Chief District Officer
DDC	District Development Committee
DoR	Department of Roads
EA	Executing Agency
ha	Hectare
HH	Households
HMGN	His Majesty's Government of Nepal
IP	Indigenous People
IPDP	Indigenous Peoples Development Plan
M&E	Monitoring and Evaluation
NGO	Non-government Organization
RF	Resettlement Framework
RP	Resettlement Plan
NRs	Nepali Rupees
VDC	Village Development Committee

Definitions

1. The definitions of the key terminologies or concepts used in the RF are as follows:

- Land Acquisition means the process whereby land and properties are acquired for the purpose of the project construction;
- Compensation means payment in cash or in kind of the replacement value of the acquired property.;
- Grievances Resolution Committee means the committee established under each sub- project to resolve the local grievances;
- Project Affected Person (AP) the affected person includes any people including encroachers/ squatters, households, or firms who, on account of changes that result from the project will have their (i) standard of living adversely affected; and/or (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adverse affected, in full or in part, permanently or temporarily;
- Significantly Project Affected Person (SAP) means those APs who lose 10 percent or more of their total land or income;
- Replacement Cost means the method of valuing assets to replace the loss at market value before the project or dispossession, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs;
- Resettlement means all the measures taken to mitigate all or any adverse impacts of the project on the APs property and/or livelihoods including compensation, relocation (where relevant), and rehabilitation;
- Relocation means the physical relocation of APs from their pre-project place of residence;
- Rehabilitation means the measures provided under the resettlement plan other than payment of the compensation of acquired property;
- Baseline Surveys mean two types of surveys that are conducted early in the resettlement planning process: (a) a census of all affected persons and assets, and (b) a survey of the socio-economic conditions of the affected persons.

Resettlement Framework

A. Introduction

1. The Government has formulated a 20 Year Road Plan (RMP) with the main objective being the development of the Strategic Road Networks (SRN) by (i) strengthening administrative and political linkages; (ii) poverty alleviation; (iii) development and utilization of social, economic and cultural potential; (iv) minimization of total transportation cost, and (v) minimization of adverse effects on the environment.

2. The implementing strategies of the plan include all weather road connection to the district headquarters (DHQ) and provision of road linkages from the DHQ to the adjacent road network of the neighboring countries. The Project will provide assistance to the Government in improvement to feeder road connectivity from the SRN to rural areas and to increase the capacity and efficiency of the road network in the country. The Project envisages construction/upgrading of about 490 km of roads in all hilly regions of Nepal. For preparing the road investment project for loan processing resettlement plans have been prepared for three core roads. For each subsequent subproject (non-core road), DOR will be responsible for preparing a resettlement plan (RP). This resettlement framework (RF) is intended to guide the preparation of non-core road subprojects having involuntary resettlement impacts. The RF was prepared following the ADB requirement for sector loan in accordance with the ADB's Policy on Involuntary Resettlement (1995).

3. The RF identifies the broad scope of the project and outlines the policy, procedures and institutional requirements for preparing resettlement plans for non-core sub-projects based on detailed design. It sets out the policies and procedures to be adopted by DOR in preparation of non-core subproject resettlement plans based on detailed design for submission to ADB for review and approval prior to award of civil works contract.

B. Resettlement Policy and Framework

Nepal Resettlement Policy

4. The Land Acquisition Act, 2034 (1977) is the main legislation to guide the compulsory acquisition of the land in Nepal. In Article 3 of the Act, there is a provision to acquire land for any public purposes, subject to the award of compensation, such compensation to be paid in cash at current market value. The compensation rate is determined by a Committee formed under the chairmanship of Chief District Officer (CDO) of the respective district where the project is located. The committee should also include other representative from other related district level government offices, including the Chief of Land Revenue Office, an Officer assigned by CDO, a representative from District Development Committee (DDC), the concerned Project Director and chairman of the concerned Municipality/VDC. In addition, it has become the practice to include representatives from the Affected Persons (APs).

5. The Act also envisages the possibility of two separate rates of compensation, distinguishing between families who lose all land and those who lose only some part of land. In determining the compensation, the committee must consider the loss suffered by persons due to acquisition of land, shift of residence or place of business to another place. If the land has to be acquired for institutions other than the Panchayats (local committees) and institutions fully owned by the Government, the Committee has to consider the following in fixing the compensation amount (i) price of land prevailing at the time of notification of land acquisition; (ii) price of standing crops and structures, and (iii) loss incurred by the APs by being compelled to shift residence or place of business in consequence of the acquisition of land. The existing policy/legal provisions are inadequate to meet the ADB's resettlement policy requirements. Hence, this RF outlines project-specific resettlement principles

and entitlement policies to be adopted before submission of future RPs to ADB for review and approval.

ADB Resettlement Policy

6. The essential guiding principle of ADB's Policy on Involuntary Resettlement (1995) is to ensure that APs are at least as well off as they were without the project. In addition, the absence of legal title to land should not be a bar to compensation. Those below the poverty line, female-headed households, other vulnerable groups such as indigenous people (IP), the elderly and the disabled should receive special attention. The ADB's main policy guidelines are:

- Involuntary resettlement (IR) should be avoided or reduced as much as possible by reviewing alternative alignments for the project;
- Where IR is unavoidable, APs should be assisted to re-establish themselves and improve their quality of life;
- Gender equality and equity should be ensured and adhered to throughout the policy;
- APs should be fully involved in the selection of relocation sites, livelihood compensation and development options at the earliest opportunity. RPs should also be prepared in full consultation with APs, including disclosure of RP and project related information;
- Replacement land should be an option for compensation in the case of loss of land; in the absence of replacement land cash compensation should be an option for all APs;
- Compensation for loss of land, structures, other assets and income should be based on full replacement cost and should be paid promptly. This should include transaction costs;
- All compensation payments and related activities should be completed prior to the commencement of civil works;
- The RP should be planned and implemented with full participation of local authorities;
- To assist those affected to be economically and socially integrated into the host communities, participatory measures should be designed and implemented;
- Common property resources and community/public services should be provided to APs;
- Resettlement should be planned as a development activity for the APs;
- APs who do not have documented title to land should receive fair and just treatment;
- Vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards.

C. Eligibility and Entitlement

7. ADB's *Policy on Involuntary Resettlement (1995)* require compensation for the lost assets at replacement costs to both titled and non-titled holders and resettlement assistance for lost income and livelihoods. In the Project, the absence of formal titles will not constitute a bar to resettlement assistance and rehabilitation. Further, the principles adopted herein contain special

measures and assistance for vulnerable APs, such as female-headed households, disabled persons, ethnic groups and households living below the poverty line. Persons affected by land acquisition, and relocation and/or rehabilitation of structures/assets (businesses, houses, etc.) are entitled to a combination of compensation measures and resettlement assistance, depending on the nature of ownership rights of lost assets and scope of the impact, including social and economic vulnerability of the affected persons. Thus the affected persons in the Project will be entitled to various types of compensation and resettlement assistance that will help in the restoration of their livelihoods, at least, to the pre-Project standards. A detailed entitlement matrix is provided in Table 1.

D. Relocation Strategy

8. Consultation will be carried out with APs in terms of the choice of their relocation options. The affected households who would have to relocate their residential and commercial structure, the Project would assist in identifying sites that minimize the social disruption and have access to services and facilities similar to those available in the lands affected. The affected households can also opt for resettlement sites and the Project would carry out necessary consultation with the affected households in site selection, consultation with host population, necessary environmental assessment and provide sufficient civic infrastructure prior to relocation.

E. Procedure for RP Preparation

9. DOR assisted by Social Development/Resettlement Specialist (Specialist) from the feasibility study, design and construction supervision consultant (Consultant) will update RPs for the core subprojects and prepare RPs for non-core subprojects based on detailed design. A screening will be done through social assessments to determine the category of the likely resettlement impact. The sub-project categories will be as follows (i) roads with ‘significant’ resettlement impact¹ will be Category A and will require full resettlement plan (RP); (ii) roads with “insignificant” resettlement impact will be Category B and require short RP; and (iii) roads with no resettlement effects will be Category C and will not require any resettlement plan. .

10. DOR will be responsible for carrying out social impact assessment surveys (100% census and 20% socio-economic survey of the households) based on detailed design. The date of the census will be the cut-off date for non-title holders and any claim after that date will not be compensated. The RP would include measures to ensure that socio-economic condition, needs, and priorities of women are identified, and that the process of land acquisition and resettlement will not disadvantage women. If there are new categories of affected persons and types of losses are identified, entitlements will be included in accordance with ADB’s Policy on Involuntary Resettlement. RPs will be prepared in close consultation with APs, along with active participation of secondary stakeholders, such as local or national government, policy makers, advocacy groups, elected officials and NGOs and the local VDC Chairperson and will be disclosed to the APs. All disclosure followed with consultation with APs will ensure that there is consensus between EA/IA and APs on various entitlements and any grievances can be addressed by EA/IA at this stage. RPs will be reviewed by the EA/IA and submitted to ADB for review and approval. No civil work contract will be awarded before the approval of RP by ADB. If any adverse impacts on the indigenous people (IPs) are identified, they will be addressed adequately through an Indigenous Peoples Development Plan (IPDP) or specific actions.

¹ Significant” impacts means 200 or more people (Not households) experience major impacts, which are defined as (i) physically displaced from housing, or (ii) losing 10% or more of their productive assets

F. Institutional Responsibilities

11. MPPW will be the EA and DOR will be the IA for the Project. A PIU headed by Director of ADB Project Directorate (Director) will be established, which will be responsible for the overall execution of the Project. NGOs with adequate experience in resettlement, rehabilitation and livelihood restoration will be identified. The Director will engage such experienced local NGO/s for implementation of resettlement plan and activities. The IA will depute an officer in the rank of Divisional Engineer as the Chief Resettlement Officer (CRO) in charge of land acquisition and resettlement operations and IPs issues, who will report to the Project Director. CRO will work in close coordination with the respective Divisional Offices under DOR, District Project Support Unit (DPSU)/field-based offices and Project NGO/s on the day-to-day activities of the RP implementation. The Specialist from the Consultant will support the CRO updating the core road subproject RPs based on detailed design. The Specialist will also provide support to CRO in preparation of the non-core subproject RPs based on detailed design and in supervision and coordination of all activities related to resettlement implementation for all the sub-projects.

11. The IA will establish DPSU/field offices for each of sub-projects headed by officers in the rank of Assistant Engineer. At the subproject level, Subproject Level Committees (SLCs) will also be established with representations from APs, political parties, vulnerable groups, business community and local NGOs. These SLCs will assist the DPSUs and NGOs in informing people about the likely resettlement impact and solicit views of the affected people regarding compensation and relocation options.

12. The CRO with support from the specialist through the DPSUs/ field offices, SLCs, CDOs of the respective districts and Project NGO will execute and monitor the progress of the work. He will ensure coordination between the relevant departments, NGO, the Grievance Redress Committee (GRC) and APs. Close coordination will be ensured between District authorities and PIU on a day to day basis. If delays are experienced in land acquisition and compensation, DOR will engage special revenue officials for this purpose. Delays at District level will be minimized through close coordination and with the assistance of CDOs. The concerned staff at the headquarters and in the DPSUs/field offices related to the Project's resettlement activities, including CRO, Revenue Department officials and NGO staff will undergo a week-long orientation and training in resettlement policy and management prior to the implementation of resettlement activities.

13. Each RP will be disclosed by EA/IA to the public before submitting them to ADB. ADB will post these documents on ADB's resettlement web site. The RF and RPs will also be publicly available at both central and district level project offices. Further, summary RPs in Nepali language will be made available to the local level NGOs, public offices in the sub-project sites.

14. For grievance redress, a GRC will be established in each sub-project road under the chairmanship of VDC Chairperson; other members of the committee will be two representatives of APs (one man and one woman), representative from DOR, Consultant/NGO representative, and representative from the Project. The APs may submit their concerns or grievances verbally or in writing to this Committee. All complaints/grievances will be documented properly by the Committee. The Committee shall make field-based assessment to verify/examine the grievances, if necessary. After proper examination/verification of the grievances, the Committee shall facilitate DOR, APs and other concerned parties to agree on a time-bound action plan to resolve the grievance if found to be genuine. Attempts will be made to settle the issues at the sub-project level through involvement of social and resettlement experts, NGOs, mediators and facilitators as required. All cost incurred in resolving the complaints will be borne by the Project.

G. Implementation Schedule and Budget

15. The RPs for all sub-projects will be implemented from January 2007 to October 2008. All costs related to land acquisition and resettlement budgets would be borne by the Government. The EA will ensure that funds are delivered on time to the CDO and the implementing NGOs for timely RP implementation. Civil works contracts will not be awarded unless required compensation payment has been completed. However, income rehabilitation measures may continue and be completed even after civil works has begun.

H. Monitoring and Evaluation

16. The DOR will establish a quarterly monitoring system and prepare progress reports on all aspects of land acquisition and resettlement activities. Quarterly reports of RP implementation will be submitted by DOR to ADB. The activities will be monitored internally by DOR, and evaluated externally through an independently appointed agency, to provide feedback to management on implementation and to identify problems and successes as early as possible. Within 3 months of loan effectiveness, external monitors will be engaged by the DOR with ADB concurrence. A set of monitoring indicators and terms of reference for the external evaluation agency will be developed and included in the RP. Biannual independent monitoring will be carried out during implementation. The independent monitoring agency/monitoring expert will submit its report directly to ADB with a copy to EA.

Table 1 Entitlement Matrix

Nature of Loss	Application	Definition of AP	Entitlements	Result of Action	Responsibility
A. Land Acquisition					
Loss of agricultural /residential /commercial land by landowners	Additional land and other assets required for construction and improvement works beyond the existing road and Land acquired temporarily by contractors	Person(s) with land records verifying ownership	<ul style="list-style-type: none"> • Cash compensation based on current market rate / replacement value. Absentee landlords will receive only compensation at current market / replacement value. • The CFC and the sub-project level committee through the process of community consensus valuation will fix the compensation amount. • All fees, taxes and other charges, as applicable under relevant laws incurred in the purchase, relocation and resource establishment are to be borne by the project. 	Compensation for lost assets.	DoR and CDO
Loss of agricultural / residential /commercial land by permanent tenants		Renter or share-cropper of land	Cash compensation to the share cropper/ tenants of the affected plots as per the prevailing laws	Compensation for lost of tenancy.	DoR and CDO
Loss of land temporarily for the use of contractors during construction		Person(s) with land records verifying ownership	Contractor to negotiate a contract agreement on the rental rate with the owner for temporary acquisition of land. Project and the contractor to ensure that persons other than the owner affected as a result of temporary acquisition are compensated for the temporary period. Land should be returned to the owner at the end of temporary acquisition period, restored to its original condition or improved as agreed with the AP.	Compensation for temporary loss of assets.	DoR and Contractor
B. Loss of Income Generating Assets					
Loss of agricultural crops, and fruit and wood trees by owner	Land purchased or reclaimed for road purposes	Owner of crops or trees Includes crops /trees owned by encroachers/ squatters	Advance notice of 1 month to be provided to APs to harvest their crops. Cash compensation for loss of agricultural crops at current market value of mature crops, based on average production. Compensation for loss of fruit trees for average fruit production for next 15 years to be computed at current market value. Compensation for loss of wood-trees at current market value of wood (timber or firewood, as the case may be).	Cash income for lost crops/trees.	DoR and CDO
Loss of agricultural crops, and fruit and wood trees by share-cropper/ tenant	Land purchased or reclaimed for road purposes	Share cropper/ tenant	Advance notice of 1 month to be provided to APs to harvest their crops. Cash compensation for loss of agricultural crops at current market value of mature crops, based on average production. Compensation for loss of fruit trees for average fruit production for the next 15 years to be computed at the current market value.	Cash income for lost crops/trees	DoR, CDO and NGO
Loss of income by agricultural laborers / wage earners	Work opportunities reduced	Persons working the affected lands	One time financial assistance equivalent to 30 days wage to be computed on the basis of local wage for respective district for respective categories.	Short-term assistance/ compensation for loss of income.	DoR , CDO and NGO

Loss of income by structure owner / tenants for conducting business	Business adversely affected by road construction	Owner of business / business tenants	One-time lump sum grant; minimum one-month's income based on the nature of business and type of losses assessed on a case-to-case basis.	Short-term compensation for loss of income.	DoR , CDO and NGO
Loss of business premise by owners / renters	Structure on acquired land and/or legally confirmed ownership rights	Owner /renter of business	One-time cash assistance equivalent to 2-month rent for moving to alternative premise for re-establishing the businesses. Shifting allowance (transport plus loading/unloading charges) will be paid to affected businessmen (if applicable), on actual cost basis. The amount of deposit or advance payment paid by the business tenant to the landlord will be deducted from the payment of the landlord.	Removal /relocation assistance.	DoR , CDO and NGO
Loss of wages by employees	Income reduced during period of readjustment	Employees of business	One-time financial assistance to hired employees equivalent to 30 days wages to be computed on the basis of local wage rates as determined by CFC formed under CDOs for respective district for respective categories. APs who are eligible for semi-skilled and unskilled labor will be given priority in employment opportunities in the Project's implementation works.	Short-term compensation for loss of income.	DoR , CDO and NGO
Loss of income by mobile roadside vendors	Business affected temporarily during road construction.	Mobile business operators on footpaths/roadside	One-time cash assistance; minimum one-month's income based on the nature of business and type of losses assessed on a case-to-case basis as determined by CFC formed under CDOs . Shifting allowance will be paid to the affected (if applicable), on actual cost basis.	Short-term compensation for loss of income.	DoR , CDO and NGO
Additional assistance to vulnerable groups	Household income affected as a result of road construction	Women-headed households; disabled or elderly persons; ethnic/occupational caste people; APs who live under official poverty line	Special assistance of NRs. 2,000 ² for a period of three months to the affected vulnerable persons for restoring their livelihoods. Skill development training per family for any productive activity at the rate of NRs 3,000.	Income restoration assistance.	DoR , CDO and NGO
Livelihood assistance and skill development training to the family having complete loss of property and income sources	Severely affected Families	Family having more than 10 percent loss of total land or income holding affected by the project; absentee landlords will not eligible for this provision	Skill development training per family for any productive activity at the rate of NRs 3,000. One-time economic rehabilitation grant of NRs 2,000 for a period of three months.	Income restoration assistance.	DoR , CDO and NGO

C. Loss of Residential, Commercial, Community Property

Loss of residential structures and commercial structures by owners including squatters	Land on which property stands purchased or reclaimed for road purposes	Owners of the structure	Cash compensation for loss of structures at full replacement costs. Owners of affected structures will be allowed to take/reuse their salvageable materials for rebuilding/rehabilitation of structure without deducting any costs. In case of relocation, transfer allowance to cover cost of shifting (transport plus loading/unloading) the effects and materials will be paid on actual cost basis or on current market rates. Assistance from project to locate alternative plot for relocation; OR relocation to a resettlement site developed by the project if opted by AP.	Restoration of residence / shop.	DoR and CDO
Loss of residential structures and commercial structures by encroachers		Owners of the structure	Compensation for structure (but not for land) at replacement cost to the vulnerable person only. Encroachers will be notified a time in which to remove their assets to be affected. Encroachers who are vulnerable /below poverty line to be assisted case-by-case considering relevant facts on family income and existing assets.	Restoration of residence / shop.	DoR , CDO and NGO
Loss of residential / commercial structures by tenants (Renters)		Renters of house / commercial structure	One time cash assistance <u>equivalent to 1 months</u> rent moving to alternate premise. Transfer allowance to cover cost of shifting (transport plus loading/unloading) personal effects paid on actual cost basis or on current market rates.	Assistance to make alternative arrangements	DoR , CDO and NGO
Loss of cultural & community structures /facilities		Monastery/Temple/ Religious Tree/ Graveyard	Complete rehabilitation/restoration by the Project; or, Cash compensation for restoring affected cultural/community structures and installations, to the recognized patron/custodian.	Replacement /restoration of structure /facility	DoR , CDO and NGO
Unanticipated adverse impact due to project intervention or associated activity		The EA and project implementation authorities will deal with any unanticipated consequence of the project during and after project implementation in the light and spirit of the principle of the entitlement matrix.			