

# **RESETTLEMENT FRAMEWORK FOR NON-CORE SUBPROJECTS**

## **SUPPLEMENTARY APPENDIX TO THE Report and Recommendation of the President to the Board of Directors**

**on the**

**National Highway Corridor Sector I Project**

**in**

**INDIA**

**National Highways Authority of India**

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## RESETTLEMENT FRAMEWORK FOR NON-CORE SUBPROJECTS

### A. Introduction

1. During the Fact-Finding Mission for 2003 Projects, the Asian Development Bank (ADB) and the National Highway Authority of India (NHAI) agreed to a sector lending approach for highway improvements in India. The 2003 projects included priority sections of the East-West Corridor (EWC) located in the states of Rajasthan, Madhya Pradesh, and Uttar Pradesh with an estimated length of 662 kilometers (km) between Chittorgarh (Rajasthan) and Barah (Uttar Pradesh). The project highway sections were classified into: (i) "core" subproject to be appraised by ADB and (ii) "non-core" subprojects, including private sector investment (PSI) subprojects, to be prepared and appraised by NHAI. Under the above arrangements, the project length was divided into five packages (Table 1).

**Table 1: Project Packages**

Package	Project Roads	Specific Location	Length	State	Consultants
A	Chittorgarh-Kota	NH 76 (212-376)	164 km	Rajasthan	ICT
B	Kota- RJ/MP Border	NH 76 (406-579)	173 km	Rajasthan	SPAN
C	RJ/MP Border-Jhansi (excluding Jhansi Bypass)	NH 76 (579-609) Shvpuri Bypass (27) NH 25 (15-92)	131 km	MP/UP	TransAsia
D	Jhansi-Orai	NH 76 (104-212) and JhansiBypass (16)	124 km	UP	To be Determined
E	Orai-Bognipur-Barah	NH 76 (212-255) NH 2 (422-449)	70 km	UP	Graphs

Km = kilometers, MP = Madhya Pradesh, NH = national highway, UP = Uttar Pradesh.

2. Package C (Rajasthan/MP Border-Jhansi) has been selected as the Core Subproject for project preparation and processing. Following the *National Highways Act (1956)*<sup>1</sup> and ADB policy on *Involuntary Resettlement (1995)*,<sup>2</sup> a Resettlement Plan (RP) has been prepared for Package C.

3. This Resettlement Framework is designed for non-core subprojects as required under the ADB policy. It sets out the policies and procedures to be followed by NHAI in screening and selection of non-core projects prior to submission to ADB for review and approval. A summary screening/checklist form is attached with the framework (Annex 1).<sup>3</sup> The framework applies to all subprojects under the sector loan, including PSI and others to be funded and/or guaranteed by ADB's private sector wing. As the executing agency (EA), NHAI will be responsible for preparing social analysis and resettlement plans for non-core subprojects as outlined in this framework.

### B. Resettlement Policy and Framework

4. In India, compensation for land acquisition and resettlement assistance for project-affected persons is generally governed by the Land Acquisition Act (1894). However, in case of NHAI projects, the NHAI Act (1956) is used to carry out land acquisition through notification of

<sup>1</sup> *The National Highways Act, 1956 (with National Highways Authority of India Act, 1998 and Allied Rules*. Law Publishers (India) Private Ltd, Allahabad, India.

<sup>2</sup> *Involuntary Resettlement*, Asian Development Bank, Manila, 1995.

<sup>3</sup> The requirements with regard to social analysis and resettlement planning are further discussed in the *Draft Manual for Social Assessments and R&R Planning*, NHAI, June 2003.

official gazette by the Central Government. This ensures speedy land acquisition processes, but the valuation and payments of compensation are still done by the District Collectors (DCs) using the provisions of the LA Act (1894) and/or the “circle rate” where applicable. In either case, the valuation of assets is less than the market value/replacement cost. Furthermore, the LA Act (1894) or state-level policies (where available) are inadequate to provide mitigations to many of the project-related impacts.

5. ADB policy requires to (i) avoid or minimize project impacts where possible; (ii) consultation with affected people in project planning and implementation, including disclosure of RP and project-related information; (iii) payment of compensation for acquired assets at the market/replacement value; (iv) resettlement assistance to affected people, including non-titled persons (e.g., informal dwellers/squatters, and encroachers; (v) income restoration and rehabilitation program; and (vi) special attention to vulnerable people and/groups. In the absence of a policy consistent with ADB’s policy on involuntary resettlement, this framework and resettlement procedural guidelines shall apply to all subprojects under the sector loan. This will ensure that persons affected by land acquisition will be eligible for appropriate compensation and rehabilitation assistance.

6. The framework reflects the borrower’s land acquisition laws/regulations as well as ADB’s policy on *Involuntary Resettlement* and other social safeguard guidelines. It stipulates eligibility and provisions for all types of losses (land, crops/trees, structures, business/employment, and workdays/wages). Since land-for-land may not be a feasible option, the affected persons (APs) will be compensated at full replacement costs. In addition to payments by DCs, the APs will receive additional grant to match replacement costs for lost assets (land and houses), transaction costs such as stamps/registration costs (in case of purchase of replacement land) and other cash grants and resettlement assistance such as shifting allowance, compensation for loss of workdays/income due to dislocation. Female-headed households and other vulnerable households will be eligible for further cash assistance for relocation and house reconstruction.

7. Table 2 presents a general entitlement matrix that would apply to non-core subprojects, based on specific projects impacts.

**Table 2: Entitlement Matrix**

Type of Losses	Application	Definition of APs	Entitlement	Details
1. Loss of agricultural land by titled owners	Land on the project right of way (ROW)	(I) Title Holders; and (ii) Affected peoples (Apes) with traditional land rights	Compensation at market/ Replacement value	<ul style="list-style-type: none"> <li>• If the replacement value of land is more than the compensation determined by district connectors (Daces)/Competent authority, the difference will be paid as grant by the project directly to the APs. The difference will be determined in accordance with guidelines set by the Land/Asset Valuation Committee (LAVC) to be formed by the project.</li> <li>• Apes with traditional title/occupancy rights will also be eligible for full compensation for land, plus the difference or additional grant.</li> <li>• In case of severance of agriculture land, an additional grant of 15% of the amount paid for land acquisition.</li> <li>• Refund of transaction costs - registration cost, stamps etc. incurred for purchase of replacement land to be paid by the project as additional grant; (i) replacement land must be bought within one year from the date of DC payment; (ii) the registration costs to be paid will be on the amount received from DC.</li> <li>• Sharecroppers/tenants affected by land acquisition will be paid compensation in accordance with the land acquisition law (see 5).</li> </ul>
2. Loss of homestead and commercial land	Land on the project ROW	(i) Title holders; and (ii) APs with traditional land rights	Compensation at market Replacement value	<ul style="list-style-type: none"> <li>• Cash compensation under the LA Act, plus the replacement value as determined by the LAVC.</li> <li>• Refund of transaction costs - registration cost, stamps etc. incurred for replacement land to be paid by the project; (i) replacement land must be bought within a year from the date of DC payments; and (ii) the registration cost to be paid will be on the amount received from DC.</li> </ul>
3. Loss of residential and commercial structures by owners	Structure with the ROW	(i) Owners of structures identified by DC;	Compensation at replacement cost	<ul style="list-style-type: none"> <li>• Cash compensation under the law to be paid by DC (a depreciation value is deducted by DC based on the age of structure).</li> <li>• The depreciated value thus deducted will be paid by the project as grant for rebuilding houses.</li> <li>• A lump sum transfer grant of Rs2, 000 to Rs5, 000 (based on the type of structures) for shifting households assets and other belonging to relocated sites</li> <li>• Rental assistance of Rs1, 000 per month in the form of grant to cover a maximum three months rental accommodation.</li> <li>• Right to salvage material from the demolished structure</li> <li>• Compensation for informal /squatter structures (see 8).</li> </ul>
4. Income from business/land through wage earning and other laborer's	Households Affected by ROW	Individual	Lump sum	<ul style="list-style-type: none"> <li>• This is valid for persons indirectly affected due to the employer having being displaced, on a case-by-case, based on local wage rates for three months.</li> <li>• Alternative economic rehabilitation grant for vulnerable groups at the rate Rs. 3000/per eligible person on lump sum basis.</li> <li>• Training for up-gradation of skills for vulnerable groups and linked to employment opportunities - Rs2, 000 lump sum.</li> </ul>

				<ul style="list-style-type: none"> <li>• A person may be eligible for both training and alternative economic rehabilitation grant</li> </ul>
5. No perennial crops	Households affected by ROW	Household	Notice to harvest standing crops	<ul style="list-style-type: none"> <li>• Sharecroppers/tenants affected by land acquisition will be paid compensation at the market value by the DC as per laws</li> <li>• Grant towards crop lost before harvest due to forced relocation, equal to market value of crop lost plus cost or replacement of seeds for the next season harvest.</li> </ul>
6. Trees/perennial crops	Households affected by ROW	Household	Compensation at "market value"	<ul style="list-style-type: none"> <li>• Compensation for trees based on timber value at market price to be determined by Forest dept for timber trees; for other perennial trees by Horticultural department.</li> <li>• In case of perennial trees, compensation value will be multiplied at least 3 to 5 times, depending on the nature of the perennial crops.</li> </ul>
7. Encroachers	Households affected by ROW	Household	No compensation for land but assistance for assets to the vulnerable	<ul style="list-style-type: none"> <li>• Encroachers will be notified a time in which to remove their assets to be affected</li> <li>• Encroachers who are vulnerable (under BPL) to be assisted case-by-case by considering relevant facts on family income and existing assets</li> <li>• Compensation for structures at replacement cost to the vulnerable person</li> </ul>
8. Loss of structure by squatters and informal settlers	Households affected by ROW	Household	No compensation for land but compensation for structure at replacement costs and other assistance	<ul style="list-style-type: none"> <li>• Compensated for loss of structure at replacement cost to be paid by the project</li> <li>• A lump sum shifting allowance of Rs1,500 for temporary, Rs2,000 for semi-permanent structures and Rs5,000 for permanent structures.</li> <li>• Transitional allowance @ Rs2,500 per family lump sum.</li> <li>• Additional assistance to female-headed households and households with disabled family members</li> <li>• Access to training, which includes income generating assistance</li> </ul>
9. Loss of primary source of Income	Households affected by ROW	Individual	Additional assistance for income restoration and training	<ul style="list-style-type: none"> <li>• The assistance will be equal to Rs2,000 for income generating vocational training option as per APs choice.</li> <li>• The training includes starting suitable production or service activity.</li> <li>• Access to training, which includes income generating assistance</li> <li>• Economic rehabilitation support and training</li> <li>• Preferential employment opportunity in the project construction work with particular attention to women and the poorest</li> </ul>
10. Any other impact not identified, whether loss of assets or livelihood	Household affected by ROW	Individual	Additional assistance	<ul style="list-style-type: none"> <li>• Unforeseen impacts will be documented and mitigated based on the spirit of the principles agreed upon in this policy framework</li> </ul>

### **C. Procedures for RP Preparation**

8. The non-core subprojects RP will be prepared as follows: (i) NHAI to carry out social impact assessment surveys for identified subprojects, based on preliminary technical designs; (ii) if impacts are found to be “significant”, full RPs will be prepared for each subprojects; and (iii) if subproject impacts are less than significant, short RPs would be sufficient for project preparation.<sup>4</sup> NHAI consultants for preparatory studies should include expert resettlement specialist familiar with ADB policy and procedures for preparation of non-core subprojects RPs. The RPs must comply with ADB’s policy on *Involuntary Resettlement* and other social safeguard guidelines. RPs for the core subprojects will be used as “models” for preparation and implementation of non-core subprojects. Approval of subproject RP by ADB will be condition for contract of civil work, including compensation payments prior to displacement.

### **D. Institutional Responsibilities**

9. For sub-projects RPs, NHAI will have overall coordination, planning, implementation and financing responsibilities. The EA fully recognizes the complexity of the resettlement in the Sector project. Therefore, experienced NGOs will be hired for RP implementation with clearly defined tasks, including community-based social development programs as appropriate. The General Manager – ESDU (or Manager-Resettlement) will supervise the implementation work. The appointed NGO will open field offices and will involve affected persons, including women, in the implementation process. Local level Resettlement Implementation Committees will be formed to coordinate and supervise the RP implementation.

10. NHAI will ensure that the consultants/agency responsible for RP preparation for subprojects is aware of the framework and procedures for resettlement planning so that appropriate entitlements and mitigation measures are established in the RP. NHAI will further ensure resettlement budgets are delivered on time to the DC office and the implementing NGOs for timely RP implementation.

### **E. Disclosure, Consultation and Grievances**

11. Each subproject RP will be prepared and implemented in close consultation with the stakeholders and will involve focus group discussion (FGD) and meetings, particularly with the project-affected people. This RP framework will be made available in local language(s) during FGD meetings at the village/community level. Copies of draft RPs will be available at the local level to stakeholders for local inputs. The summary of LARP will be disclosed on the ADB Website and the consultation will continue throughout the project implementation period.

12. Complaints and grievance procedures will be outlined in each RP and grievance redress committees (GRCs) will be established for each subproject with representation from the EA, APs, women/ vulnerable groups, local government and NGOs. The Head of *Zila Parishad*

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<sup>4</sup> Resettlement is significant when: (i) fewer than 200 people are displaced from housing; (ii) fewer than 200 people will lose fewer than 10% of their productive assets (income generation); or 500 people or less experience minor impact. When fewer than 100 indigenous people/scheduled tribes (individuals) are affected, a full IPDP is not required but impact and mitigation measures can be dealt through the resettlement plan. Short RP is required for insignificant resettlement. However, short RP must (i) summarize the impacts and extent of losses; (ii) the policies and legal framework applicable; (iii) arrangements made for asset valuation, payments of compensation and relocation; (iv) responsibilities in delivering entitlement, consultation with APs, grievance resolution; (v) cost estimates; and (vi) monitoring.

(elected local body) will chair the GRC. Other than disputes relating to ownership rights under the court of law, GRC will review grievances involving all resettlement benefits, relocation and other assistance. Grievances will be redressed within two to four weeks from the date of lodging the complaints.

#### **F. Monitoring and Evaluation**

13. The EA will establish a quarterly monitoring system involving EA and implementing NGO staff, and prepare progress reports on all aspects of land acquisition/resettlement activities. The report will contain progress made in RP implementation with particular attention to compliance with the principles and matrix set out in the plan. Independent monitoring agency/experts will be hired by the EA with ADB concurrence to carry out external monitoring of the resettlement operations. The monitoring consultant will be selected within three months of the loan approval. The monitoring will be carried out every year during project implementation.