

RP513

MINISTRY OF TRANSPORTATION

GHANA HIGHWAY AUTHORITY
DEPARTMENT OF URBAN ROADS
DEPARTMENT OF FEEDER ROADS

TRANSPORT SECTOR DEVELOPMENT PROGRAM

ROAD SECTOR

RESETTLEMENT POLICY FRAMEWORK

JANUARY 2007



resented by

ALICE ADDAI-YEBOAH (SOCIOLOGIST)
Tel. 0244571474
Owiaba2001@yahoo.com

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LIST OF ACRONYMS

CEPS	Customs Excise and Preventive Service
CHRAJ	Commission for Human Rights and Administrative Justice
DFR	Department Feeder Roads
DUR	Department of Urban Roads
ECOWAS	Economic Community Of West African States
EPA	Environmental Protection Agency
GC	Grievance Committee
GHA	Ghana Highway Authority
GPHA	Ghana Ports and Harbors Authority
GoG	Government of Ghana
HIV/AIDS	Human Immuno-deficiency Virus/Acquired Immune-Deficiency Syndrome
LVB	Land Valuation Board
MoT	Ministry of Transportation
MRT	Ministry of Roads and Transport
NGO	Non Governmental Organisation
OP	Operational Procedures
PAPs	Project Affected Persons
RAPs	Resettlement Action Plan
RPF	Resettlement Policy Framework
RTTFP	Road Transport and Transit Facilitation Program
RSDP	Road Sector Development Program
TCPD	Town and Country Planning Department
TSDP	Transport Sector Development Program
UEMOA	West African Monetary Union
UTP	Urban Transport Program
WATTFP	West African Transport and Transit Facilitation Program

ALTTFP	Abidjan-Lagos Transport and Transit Facilitation Project
SIA	Social Impact Assessment
BP	Bank Policy
LI	Legislative Instrument
OD	Operational Directive
IDA	International Development Association
EMU	Environment Management Unit
PWD	Public Works Department
ROW	Right of Way
PPD	Policy Planning Division

EXECUTIVE SUMMARY

1.0 Background and Objectives

The RPF is an update of the Resettlement/Compensation Policy prepared for the Road Sector Development Program in 2000. The main objective of the RPF is to clarify the policies, principles and procedures that will govern the mitigation of adverse social impacts induced by the TSDP road project operations. The rationale for preparing the RPF is that: a) detailed designs of road operations are yet to be carried out, consequently, the impacts are not known. b) The bulk project roads to be financed under TSDP have yet to be identified. c) The Ministry of Road Transportation found it useful to have a policy document establishing principles and procedures that will govern the mitigation of adverse social impacts induced by the TSDP road project operations, to share with various stakeholders in the road transport sector.

The Resettlement Policy Framework (RPF) covers the following themes:

- Operational Procedures
- Legal Framework
- Institutional Framework
- Assessment of Project Affected Persons
- Eligibility Criteria and Establishing of entitlements
- Valuation Procedures
- Sources of Funding
- Consultation and Participation
- Monitoring and Evaluation and
- Disclosure of Social Safeguards Instruments

2.0 Operational Procedures

To ensure that best practices in resettlement/rehabilitation operations are adopted for the TSDP road sub-sector projects, the Ministry of Transportation and its agencies will

follow procedures consistent with the World Bank operational policies OP 4.12 during all the phases of the project (i.e. identification, preparation, implementation, monitoring and evaluation). This means among others that baseline surveys and a social impact assessment will be carried out based on which a resettlement action plan (RAP) will be prepared and sent for approval by the World Bank.

Following World Bank policy (OP 4.12 paragraph 2), quoted below, project designs will be reviewed to avoid or minimize involuntary resettlement where possible. Project affected persons will be consulted and enabled to participate in the planning, implementation and monitoring of the resettlement.

The World Bank operational policies OP 4.12 states in paragraph 2:

(a) *Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.*²

(b) *Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.*

(c) *Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.*⁴

3.0 Legal Framework

This section addresses all legal frameworks that the RPF needs to comply with. These are the laws of the Republic of Ghana and the Funding Agency, which is the World Bank.

The laws of the Republic of Ghana governing land acquisition are largely consistent with the World Bank policy on payment of compensation for lost assets. Minor inconsistencies identified in the rate and timing of compensation payment will be addressed by adhering to the Bank's policy of paying compensation at full replacement cost, prior to the beginning of civil works, offering resettlement assistance and recognizing all affected groups including tenants and squatters.

4.0 Institutional Framework

Section 4 of the RPF addresses the institutional arrangements available to implement the resettlement operations associated with the TSDP. The Ministry of Transportation and its implementing agencies: Ghana Highway Authority (GHA), Department of Urban Roads (DUR) and the Department of Feeder Roads (DFR) have the ultimate responsibility for the mitigation of adverse project effects. They will identify safeguard issues associated with particular road projects, prepare and implement Resettlement Action Plans to address the adverse impacts. They will also coordinate the roles of other statutory bodies participating in the resettlement/rehabilitation operations such as Land Valuation Board (LVB), Ministry of Finance and Economic Planning, Ministry of Local Government and Rural development and Utility agencies.

5.0 Assessment of Project Affected Persons

An estimated three thousand and twenty five persons (3,025) are expected to be affected under the programmes covered by the RPF. This estimate is based on experience from the RSDP and will be reviewed when all the project roads have been selected. A census/ socioeconomic survey will be undertaken to obtain the total

number, categories and needs and preferences of PAPs as part of the preparations. This will inform the choice of resettlement/compensation options and help estimate compensation cost.

6.0 Organisational Procedures for Delivery of Entitlements

In order to effectively implement resettlement operations, this section of the RPF defines the eligibility criteria noting that the criteria will be specified in each RAP and cover any person who suffers loss of or damage to an asset or loss of access to productive resources, as a result of the carrying out of any of the road projects under the TSDP. Eligibility criteria will be informed by the three criteria given in Clause 15 of the World Bank's Operational Policy 4.12:

- *Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);*
- *Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets – provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan;*
- *Those who have no recognizable legal rights or claim to the land they are occupying.*

7.0 Valuation Procedures

In order to satisfy PAPs, the valuation procedures of all assets to be affected, as a result of the implementation of the programmes have been outlined in section 7. The valuation of lost assets induced by the project will be undertaken jointly by the Valuation Unit of GHA, Consultants and the Land Valuation Board which is the statutory body mandated for valuation associated with government projects. The basis of valuation would comply with the stated legal provisions and this necessitates that the basis of valuation must assess the “Open Market Capital Value” which will ensure that compensation is paid at full replacement cost, in compliance with World Bank Policy.

8.0 Sources of Funding

Section 8 of the RPF presents preliminary estimate for the resettlement/rehabilitation operations associated with the TSDP as 3.5 million US dollars and this will be provided by the Government of Ghana through the Ministry of Finance and Economic Planning.

9.0 Consultation and Participation

To ensure effective participation of PAPs in resettlement/rehabilitation planning and implementation, section 9 of the document addresses the consultation and participation of PAPs, indicating that persons affected by the project, communities, NGOs and all stakeholders will be given opportunity to participate in the resettlement/rehabilitation process. The specific plans/mechanisms for consultation and participation will be detailed in the RAP and will include resettlement committees for PAPs and communities and interagency committees for participating stakeholders.

10.0 Monitoring and Evaluation

The RPF underscores the importance of monitoring and evaluation of the TSDP subprojects and highlights mechanisms for internal and external monitoring in section 10. Internal monitoring of the resettlement/rehabilitation process will be undertaken by the Ministry of Transportation and its agencies following schedules itemized in the RAP, while external monitoring will be done by the Environmental Protection Agency. World Bank supervision missions will also serve as external monitoring mechanisms. Cost of monitoring will be taken care of by individual implementing agencies or stakeholders.

11.0 Disclosure of Social Safeguard Instruments

The final section of the RPF (Section 11) addresses the issue of disclosure of the RPF and RAPS. The Ministry of Transportation will disclose this RPF and the RAPS by making copies available at its head office and those of the agencies in Accra and will make copies available to the local government agencies and other stakeholders of the

TSDP. The Government of Ghana will also authorize the World Bank to disclose this RPF and other social safeguard instruments electronically through its Info Shop.

1.0 BACKGROUND AND OBJECTIVES

This RPF is an update of the Resettlement/Compensation Policy prepared for the Road Sector Development Program in 2000. The main objective of the RPF is to clarify the policies, principles and procedures that will govern the mitigation of adverse social impacts induced by the TSDP road project operations. The rationale for preparing the RPF is that: a) detailed designs of road operations are yet to be carried out, consequently, the impacts are not known. b) The bulk project roads to be financed under TSDP have yet to be identified. c) The Ministry of Road Transportation found it useful to have a policy document establishing principles and procedures that will govern the mitigation of adverse social impacts induced by the TSDP road project operations, to share with various stakeholders in the road transport sector.

1.1 Objectives of RSDP and TSDP

The Government of Ghana (GoG) through the Ministry of Transportation and its agencies is embarking on a Transport Sector Development Program (TSDP). This program is in line with the decision of ECOWAS in 2003 to establish a regional road transport and transit facilitation program to improve the efficiency and competitiveness of the main transport corridors in West Africa. The TSDP is follow-on to the on-going Road Sector Development Program (RSDP) and looks beyond the road sector, at the transport sector as a whole.

The main objectives of the RSDP are to support both continued economic growth and the GoG's poverty reduction strategy by among others:

- Developing the GoG's capacity to regularly maintain the entire road network,
- Upgrading priority roads to improve serviceability standards,

- Improving access to isolated areas and basic social services in district centers by facilitating road traffic; lowering transport and reducing vehicle operation costs,
- Further developing emerging private local road construction and maintenance industry, using labor based methods to generate local employment
- Strengthening the planning, implementation and management capacity of road agencies, through policy and institutional reforms and capacity building support,
- Introducing a Road Safety Improvement Program

An assessment of the impact of the roads that have been rehabilitated (Baseline Studies and Monitoring of Impacts of RSDP roads on poverty reduction pp. 76-79) shows some improvements in accessibility, mobility and welfare indicators along completed roads such as:

- Lower travel time to educational and healthcare facilities,
- Higher frequencies of trips to health facilities,
- Lower transport cost to markets, health facilities,
- Higher average monthly incomes,
- Higher contact per respondent to agricultural extension services
- Lower ratio of transport cost to farm gate prices

Other achievements of the RSDP are attached appendix.

The Ministry of Transportation intends, with the TSDP, to consolidate the gains made in the RSDP and also to achieve synergies in the planning, programmes and implementation of total transport (all modes) programmes. Following the preparation of the TSDP document this objective would be reviewed.

1.2 Components of TSDP

The TSDP includes various road project roads, some have been identified, and others have yet to be identified. Three of projects identified are: the Road Transport and Transit Facilitation program (RTTFP), Urban Transport Planning (UTP) and the Abidjan – Lagos Transport and Transit Facilitation Project (ALTTFP). These projects include multiple sub-projects to be identified and assessed later, during detailed design. The UTP for instance, will provide arterial traffic management measures on six major corridors and intersection improvement as the short term measure and the components are:

1. Institutional Strengthening
2. Traffic management and safety
3. BRT infrastructure design and implementation
4. Monitoring and evaluation

The components of the RTTFP are the following:

- a) Rehabilitation of part of the Kintampo - Tamale – Paga road;
- b) Construction of up to four rest stop areas along the corridor;
- c) Support to Customs and Excise Preventive Service (CEPS) to facilitate movement of transit cargo;
- d) support to Ghana Ports and Harbours Authority (GPHA) to facilitate movement and transit of goods in the port of Tema;
- d) road safety action plan and
- e) HIV/AIDS prevention action plan along the corridor.

The components of the ALTTFP are similar, with the exception of locations that are different, and yet to be identified, and the absence of an HIV/AIDS component, which is addressed by the Abidjan-Lagos Corridor Project. Preparatory activities of these projects have highlighted among other things the need for the preparation of a Resettlement Policy Framework (RPF) as safeguard issues will emerge through the need for land acquisition and

subsequent threat to the standards of living of project affected persons. Also, lessons from RSDP suggest that, whenever road operations are undertaken, there is always some kind of land acquisition (e.g. for borrow pits, diversions); which triggers, resettlement rehabilitation issues and World Bank's safeguard policy (OP 4.12) on involuntary resettlement.

It has therefore become necessary to review the existing Environmental and Resettlement/Compensation Framework prepared for the RSDP in 2000, to serve as a social safeguards instrument for the implementation of the road transport components of the TSDP.

1.3 Review of Environmental and Resettlement/Compensation Policy Framework

The existing Environmental and Resettlement/Compensation Policy Framework dealt with the specific projects that were to be undertaken at the time. Accordingly the various road enhancement projects, details of the scheduled works, the assessed social and environmental impacts and the remedial or mitigation measures were provided.

Most of the issues covered were relevant and worthy of consideration. The environmental concerns brought to the fore were commendable as environmental issues present major challenges for the country.

The framework however was not very comprehensive. Major gaps exist as some crucial matters were not covered or discussed. A comprehensive resettlement policy framework ought to contain among others the principles and procedures to be followed for acquisition of land. Emphasis must be placed on the various categories of people and or interests that are to be adversely affected by the projects and provide details on how their concern would be addressed.

The World Bank has prescribed measures which must be followed by implementing agencies. The World Bank's current policy on involuntary resettlement, OP 4.12, compliments municipal laws in ensuring that adequate safeguards are made for victims of compulsory land acquisitions.

The preparation of the resettlement policy framework has its basis in World Bank policy OP.4.12. Paragraph 26 of the OP. 4.12, states:

*For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see **Annex A**, paras. 23-25). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.*

And OP 4.12 paragraph 28 and 29 specify:

*(para. 28) For other Bank-assisted project with multiple subprojects ²⁶ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see **Annex A**, paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.*

(para 29). For each subproject, included in a project described in para. 26, 27, or 28, that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

2.0 OPERATIONAL PROCEDURES

Operational procedures to be followed during project identification, preparation and implementation will all be routed in World Bank's operational procedures OP 4.12.

At project identification and preparation, a social impact assessments (SIA) of the road project will be conducted to determine, whether or not, a road project(s) would require a RAP as specified in World Bank policy. The principles of compensation/ rehabilitation will be triggered wherever there will be land acquisition and adverse social impacts. Should, however, the SIA findings reveal that more than 200 persons are affected by a subproject a resettlement action plan (RAP) will have to be prepared.

The World Bank operational policies OP 4.12 states in paragraph 2:

(a) *Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.*²

(b) *Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.*

(c) *Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.*⁴

And OP. 4.12 paragraph 25 specifies:

*A draft resettlement plan that conforms to this policy is a condition of appraisal (see Annex A , paras. 2-21) for projects referred to in para. 17(a) above.*²⁴ *However, where impacts on the entire displaced population are minor,²⁵ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see Annex A, para. 22). The information disclosure procedures set forth in para. 22 apply.*

The Ministry of Transportation will ensure that no civil works will start until the RAPs are reviewed and approved by the Bank - and no displacement are made until people receive their entitlements.

As stated in Bank Policy OP 4.12 paragraph 24:

The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises

resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also BP 4.12, para. 16).

2.1 Principles governing the Resettlement Policy Framework

From the procedure discussed above, the principles underlying this Resettlement Policy Framework are summed up below:

1. Involuntary resettlement would be avoided where possible and where population displacement is unavoidable, it would be minimized by exploring all viable project options
2. Persons affected by land acquisition and face relocation or loss of incomes associated with change in land use due to the project would be given compensation so that they can improve or at least maintain their former standard of living.
3. The estimation of the compensation cost and/or benefit would be based on the appropriate method so that the cost of land and other properties taken and demolished are accounted for. This will ensure that the living standards of the project affected persons are maintained or raised to a substantial level.
4. Project Affected Persons would be given full information on the qualification (eligibility), mode of compensation, the restoring plan of production income, and the project's progress and be involved in the enforcement of resettlement arrangements (community participation).

5. The land and/or property affected would be taken only when the PAPs are satisfied with the compensation arrangements.
6. The implementing agency would supervise the resettlement activities including the payment of compensation as well as monitoring and evaluation

2.2 Objectives of the Resettlement Policy Framework

The main objective of the Resettlement Policy Framework is to clarify the policies, principles and procedures that will govern the mitigation of adverse social impacts induced by the TSDP road project operations. Specifically, the RPF is designed to ensure:

- All types of losses are identified, clearly defined and properly categorized to reflect the nature of the loss.
- A standard or measure for defining eligibility and entitlement in order to have a fair basis for assessing compensation for the loss or impact suffered.
- Compliance with provisions under the World Bank Operational Policies (OP 4.12, paragraph 2(b)): That resettlement activity would be conceived and executed as development programs, providing sufficient investment resources to enable the PAPs to share in project benefits.
- Displaced persons will be compensated for their losses at full replacement cost and provided assistance for disturbance prior to the beginning of civil works.
- A comprehensive database, based on which values will be assessed, validated in the event of disputes and more importantly serve as the database for monitoring and evaluation of the resettlement instrument.
- The project affected persons would be consulted and given the chance of participating in the design, implementation and monitoring of the resettlement.

3.0 LEGAL FRAMEWORK

The Ghanaian Law provides that involuntary acquisition of private property must be done in accordance with laid down statutory procedures. In the area of land administration one of the critical policies of the government of Ghana is that fair and adequate compensation is paid or in the alternative resettlement assistance is provided for eligible people who for the sake of national interest have to surrender their interest in land or landed properties to the state for development.

As the road projects of the Ministry of Transportation are land based, various interests and titles to particular pieces of land will to be impacted. Therefore an analysis of the legal framework for the project will be done in the RAP and this will consider the various land holding arrangements in the assessment of compensation for the various interests for lands taken. Some of these interests in land originate from Ghanaian customary law and tradition; and some are derived from English common law which has been assimilated into the Ghanaian law.

3.1 Interest in Land

Five main interests to be assessed are:

- Allodial Title
- Customary Freehold
- Customary Tenancies
- The Common Law Freehold
- The Freehold

3.1.1 Allodial Title

In the Ghanaian context, this is the highest interest capable of being held in land. The Allodial title is customarily communally owned and is generally held or vested in stools or skins. In some traditional areas, it is held by clans, families or individuals. Being generally in the form of communal interest in land it accrues to the entire community and is administered by the recognized traditional authority. The owner of the allodial title has complete and absolute freedom to use and dispose of the land only subject to the restrictions, or limitations or obligations as may be imposed by the general laws of the country.

The mode of acquisition of the allodial title is by: discovery by hunters or pioneers of the stool etc of unoccupied land and subsequent settlement thereof and use by the subject; conquest, purchase or gift.

3.1.2 Customary Freehold

The customary freehold is an interest or title which a member of the larger community which holds the allodial title acquires in the communal land. It is an interest which is held as of right by virtue of being a member of the community. It is of indefinite duration and thus potentially subsists forever.

The member who holds such interest has the right of beneficial occupation; unfettered use (also subject to the laws of the country). Upon death, the interest devolves on his/hers successors in title and infinitum. This interest prevails against the whole world including the allodial title from which it was derived. The customary freehold may however be terminated by the occurrence of any of these occasions; failure of successors, compulsory acquisition by the state; sale or gift by owner, abandonment or forfeiture in rare circumstances where for example the holders denies the absolute title of the allodial owner.

3.1.3 Customary Tenancies

These are lesser interests in land and are created by the holder of the allodial title or customary freehold (or common law freehold). These types of tenancies are in nature share cropping arrangements. They are quite common in Ghana and occur when a tenant-farmer gives a specified portion of the farm produce to the land owner at each harvest time in consideration for use of the land. The two popular tenancy arrangements are the 'Abusa' and 'Abunu' schemes.

Other forms of customary tenancies in which the consideration from the tenant is not sharing of crops but cash or a combination of crops and money exist. The customary license is in this category.

3.1.4 The Common Law Freehold

This is an interest held for an indefinite period. It is derived from the rules of common law. The holder of this interest has the right of beneficial occupation and may subject to the laws of the land use in any manner.

This type of freehold is created only by express grant. The grantor may thus impose terms on the grantee provided such terms are reasonable and not contrary to public policy or unconscionable. Currently, the laws of the land forbid non- Ghanaians from acquiring freehold in lands in Ghana

3.1.5 The Leasehold

This type of interest is also a creation of the common law and not Ghanaian customary law. It is an interest in land for a specified period. The leasehold may be granted by the allodial holder in respect of lands in which no conflicting interest exists; or by a customary freeholder; or common law freeholder.

In Ghana, leasehold may be for a maximum duration of 99 years. (Again non-Ghanaians can only acquire leases up to 50 years). Various terms and conditions may be imposed by the grantor including the payment of rent as consideration for the grant.

3.2 Ghana Laws on Compulsory Acquisition

3.2.1 Constitution of the Republic Of Ghana

The Constitution of the Republic of Ghana (1992) upholds the principle of private ownership of lands. Adequate safeguards from deprivation of private property rights have been provided for, in the 1992 Constitution. Even the state's inherent powers to compulsorily acquire private property rights have been reconsidered and somewhat controlled. Article 20 of the constitution prescribes that under no circumstance should private properties be compulsorily taken unless there are weighty and justifiable grounds for such acquisition, which invariably must be in the public interest.

It is expressly provided in article 20 that "No property of any description or interest in or right over any property shall be compulsorily taken possession of or acquired by the state unless:

***Section 1(a)** The taking of possession or acquisition is necessary in the interest of defence, public safety, public morality, public health, town and country planning or the development or utilization of property in such a manner as to promote public benefit; and*

Section 1(b) *the necessity for the acquisition is clearly stated and is such as to provide reasonable justification for causing any hardship that may result to any person who has an interest in or right over the property.”*

Section 2(a) *That sufficient provision must be made for the prompt payment of fair and adequate compensation.*

Section 2(b) *Aggrieved persons must have right of access to the High court for redress. Article 20 (2) expressly stipulates that where the compulsorily acquisition involves the displacement of any inhabitants the state shall resettle them on suitable alternative site having regard to their Socio-cultural values and economic well being,*

An important provision in the constitution includes the giving back of lands to the owners when such lands are not used for the purpose for which they were compulsorily acquired in the public interest.

3.2.2 The State Lands Act 1962 (Act 125 as Amended)

This is the principal Law under which private lands could be compulsorily acquired. The Law empowers the President to acquire any land for the public benefit.

The Act and its Regulation that is State Lands Regulation 1962 LI 230 details out the mechanism and procedure for compulsorily acquiring lands. It is a mandatory requirement that a copy of the instrument of acquisition be served on any person having an interest in or possession such lands or be affixed at a convenient place on the land and be published thrice in a newspaper circulating in the district where the land is situate.

The Act emphasizes the payment of compensation to the victims of acquisition made under the Act. The basis of the said Compensation should be either the market value or Replacement value. Costs of disturbance and incidental expenses or other damage suffered are to be considered in the award of compensation.

One critical limitation of the Act is that not much premium has been given to the issue of public involvement in the acquisition process. Community consultations and involvement is therefore not mandatory. To ensure that projects implementation achieve the desired results, the acquiring agency will conduct thorough consultations with all the stakeholders especially communities to be affected at every state of project implementation

3.2.3 Administration of Lands Act 1962 Act 123

Act 123 of 1962 was enacted to facilitate the management and administration of stool lands (and other lands). The Act empowers the Minister responsible for lands to manage stool lands in accordance with the provision of the law.

By section 7 of the Act 123 the President of the Republic may by Executive Instrument declare any stool land to be vested in trust and accordingly the state could administer such land as a trustee for the stool involved. In such situation the legal rights to sell, lease, collect rent, litigate and manage generally is taken away from the customary land owners and vested in the state. However, the equitable right in the land, which is right to enjoy the benefits, is retained by the land owner .

Similarly the Act provides in section 10 that “the President may authorize the occupation and use of any land for any purpose which, in his opinion, is conducive to public welfare or the interest of the state”. It is a requirement that a public notice shall be published in the Gazette giving particulars of the lands to

be taken and the use to which it will be put. Persons whose interests are affected by “reasons of disturbance as a result of the authorization” so made are entitled to be compensated.

The entitlements are however to be assessed by giving due consideration to the values of the land (and other losses suffered) and the benefits to be derived by the people in the area (by way of the use to which the state is going to put the land).

The difficulty of this law is that the nature of interest taken is not expressed in definite terms. Again stakeholder consultation and community involvement is not highlighted. It must be observed that the state does not normally use this section of the Act and thus occupation of lands is rarely exercised.

3.2.4 Lands Statutory Wayleaves Act 1963 Act 186

The Lands Statutory Wayleaves Act 1963 Act 186 was enacted to facilitate the entry on any land for the purposes of construction, installation and maintenance of public utility works and creation of right of ways and other similar right for such works.

Works for which right of ways may be created are “highways or works for purposes of, or in connection with any public utility works”. Highways have been defined in the Act as “any road, street, path, pavement, or square and includes any bridge, or other structure associated therewith”.

The Act and its accompanying Regulation, the Lands Statutory Wayleave Regulation 1964 (LI 334) provides the modalities and procedures for the acquisition of the Statutory right of ways. Thus the mechanism for entry for survey works and construction has been spelt out in details. The owner/occupier

is required to be given formal notification at least one week, about the intent to enter, and at least 24 hours prior to actual entry.

The right of way is legally established by the publication of an executive instrument. Losses and damages suffered are to be compensated for in accordance with the states procedure on compensation. Provision has also been made for restoration of affected lands where that is possible. In assessing compensation to be paid consideration must be given to the increases of land values as a result of the installation or construction of works. A right of appeal by an aggrieved person is also provided for.

Clearly the desired issue of public participation procedure and community consultation has not been given serious consideration. Again the provision of compensation assessment is unfair; especially the exemption from payment of compensation in cases where the land affected does not exceed twenty (20) percent of the affected person's total land holdings.

3.2.5 The Ghana Land Policy 1999

The Government of Ghana in 1999 put in place the above policy to serve as a broad framework and policy guidelines for land administration and utilization.

The main objective is to provide guidelines aimed at enhancing land management systems, land use, conservation of land resource and enhancing environmental quality. All these are intended to ensure coordinated and orderly use of land, a vital resource, by present and future generations.

Ultimately the policy seeks to give protection to proprietary rights and promote the concept of prompt payment of adequate and fair compensation for compulsorily acquired lands and also create the enabling environment for community participation in sustained land management.

3.3 World Bank Policy on Involuntary Resettlement (Op 4.12)

The World Bank's policy on involuntary resettlement will be applied in any sub-project of the TSDP that displaces people from land or productive resources and which results in relocation, the loss of shelter, loss of assets or access to assets important to production, the loss of income sources or means of livelihood. For such projects the Bank requires the preparation of a resettlement policy framework to guide the project as sub-projects are selected and specific resettlement action plans (RAPs) for each sub-project are prepared. The RPF must be ready, accepted and publicly disclosed before the Bank will appraise the project and it is expected to define the principles and procedures for resettlement operations: land acquisition; valuation; compensation and reporting; for the road sector investment; in accordance with national and Bank safeguard policies related to involuntary resettlement; (OP4. 12 and BP12).

The Bank's policy (in paragraph 2) therefore advocates that where feasible, involuntary resettlement should be avoided or minimized, the resettlement must be conceived and executed as a sustainable development program, providing sufficient investment resources to enable persons displaced by the project share in project benefit. Persons displaced must be:

- (i) Meaningfully consulted and should have opportunity to participate in the planning and execution of the resettlement.
- (ii) Compensated for their losses at full replacement cost prior to civil works,
- (iii) Assisted with the move and supported during the transitional period in the resettlement site and
- (iv) Assisted in their effort to improve their former living standards, income earning capacity and production levels or at least to restore them.

3.4 Comparing the Ghana Law and the World Bank OP 4.12

The World Bank Operational Policy explicitly makes adequate provision for project affected persons who are either displaced or suffer other losses, as a result of projects, to be adequately catered for. Livelihoods of persons to be affected must be preserved, but in cases when this is inevitable, minimal displacements should occur. In instances where displacement is unavoidable, compensation should be paid to PAPs to help them to restore their social, economic and environmental livelihoods.

The Ghana statutes makes provision for compensation to be paid to only persons who have suffered any loss and can produce any form of title that is legal in the form of deeds, leaseholds, or legally binding tenancy agreement to the land in question. However the Operational Directive expects all forms of losses without exception to be catered for.

Under the Ghanaian statute, it is the preserve of the minister to assess loss due to works done but the World Bank OP 4.12, advocates the involvement of the project affected persons through for a, surveys etc. to ensure that the project enjoys the full support of the Bank and affected persons.

The Operational Policy advice that project affected persons be assisted during their transition period in the resettlement site and efforts made to restore their livelihoods whereas the Ghana laws are silent on that. Table 1 highlights some comparison between the Ghanaians Laws and the World Bank policy.

To operate within the directives of the Bank, the RFP is being developed in line with the OP 4.12, OD 4.30 with the involvement of affected persons through consultations and compensation paid based on full replacement cost, disturbance and restoration of livelihood.

Table 1: Comparison of Ghanaian laws with World Bank Policies

Topic	Ghanaian Laws	World Bank Policy Requirement
Timing of compensation payment	Prompt	Prior to displacement and relocation
Calculation of compensation	Fair and adequate	Full replacement cost
Squatters	No provision, they are deemed not to be eligible	Are to be provided supplementary assistance
Resettlement	In situations where inhabitants have to be displaced, the state is to resettle all on “suitable land with due regards for their economic well being and social and cultural values”	Affected persons who are physically displaced are to be provided with residential housing, or housing sites, or as required, agricultural sites...at least equivalent to old site. Preference to be given to land-based resettlement for displaced persons whose livelihoods are land-based.
Resettlement Assistance	No specific provision with respect to additional assistance and monitoring	Affected persons are to be offered support after displacement, for a transitional period
Information and consultation	The owner/tenants on the land must be formally notified at least a week in advance of the intent to enter, and be given at least 24 hours notice before actual entry.	Displaced persons and their communities ...are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementation and

Grievances	Formal and informal mechanisms and formal access to court of law	monitoring of resettlement Appropriate and accessible grievance mechanisms to be established
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The above texts constitute the basis for the compensation procedures established by the Ministry of Transportation and are likewise, the national legal framework for the present resettlement and rehabilitation policy framework.

Furthermore, by signing the credit agreements for the TSDP projects with IDA, the Republic of Ghana will commit itself to abide by the involuntary resettlement policy of the World Bank. Thus, the legal frameworks of the TSDP are: The 1992 Constitution of Ghana and the World Bank Operational Policy (OP) 4.12 on involuntary resettlement. As OP 4.12 paragraph 23 states: The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

4.0 INSTITUTIONAL FRAMEWORK

Various institutions will participate in the implementation of resettlement/rehabilitation process of the TSDP in Ghana. The ultimate responsibility, however, rests with the Ministry of Transportation and its implementing agencies. For the purpose of this RPF, the activities of the major institutions are highlighted.

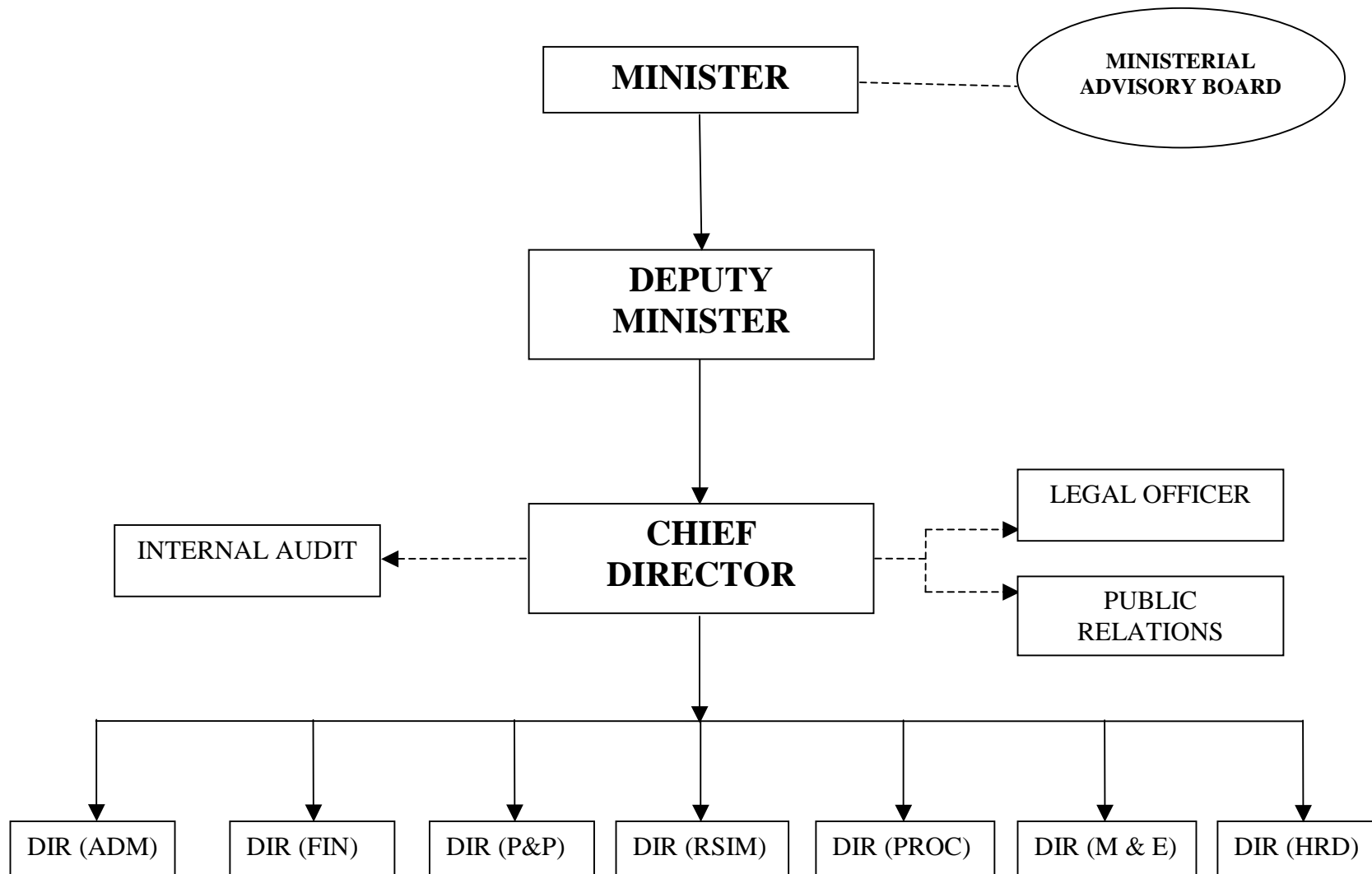
4.1 Ministry of Transportation (MoT)

Until March 1997 the Ministry of Roads and Highways was responsible for road infrastructure and the Ministry of Transport and Communications for the road transport services and other transport modes. The two ministries were amalgamated to become the Ministry of Roads and Transport (MRT) in that year, and later on following re-designation and realignment of functions became the Ministry of Transportation (MoT). The MoT has responsibility for the:

- Formulation and implementation of integrated transport policy and planning;
- Promotion of strategic investment in the sector;
- Development, implementation, monitoring of road projects; and
- Regulation of standards.

The MoT has the specific task of coordinating and guiding the activities of the executing agencies in the road sector under the ministry. These are the Ghana Highway Authority (GHA), the Department of Urban Roads (DUR) and the Department of Feeder Roads (DFR). The other related organisations under the ministry include: the Driver and Vehicle Licensing Authority, the Road Safety Commission and the Metro Mass Transit Limited and the Road Fund Secretariat. The MoT has a Road Safety, Environment and Social Unit under the Policy and

Planning Office, manned by a Deputy Director who has direct responsibility to monitor the resettlement. The following diagram is the organogram of MoT.

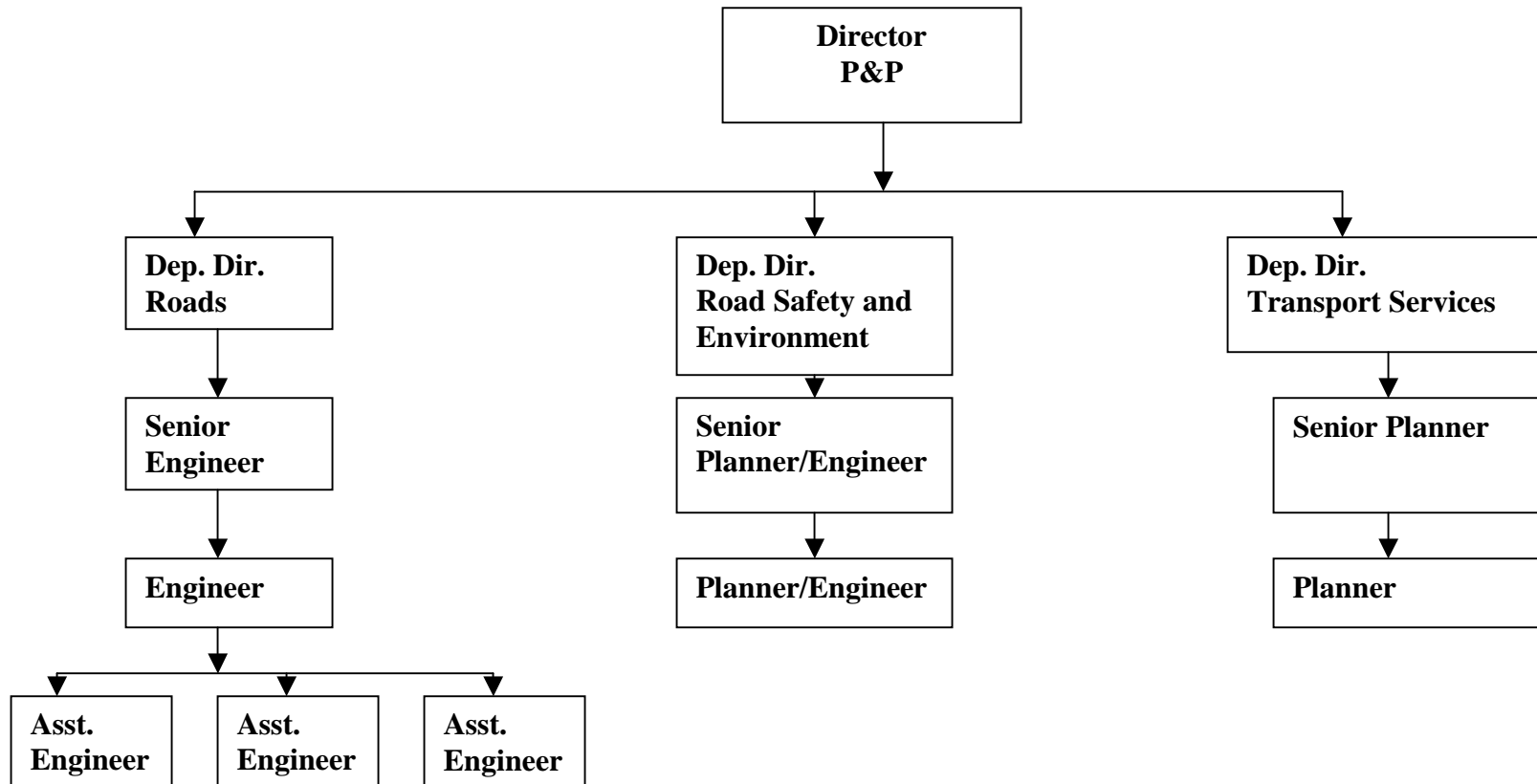


LEGEND

ADM = Administration
 FIN = Finance
 P & P = Policy and Planning
 RSIM = Research, Statistics and Information
 PROC = Procurement

M & E = Monitoring and Evaluation
 HRD = Human Resource Development

**MINISTRY OF TRANSPORTATION
DIRECTORATE OF POLICY AND PLANNING
ORGANIZATIONAL STRUCTURE**

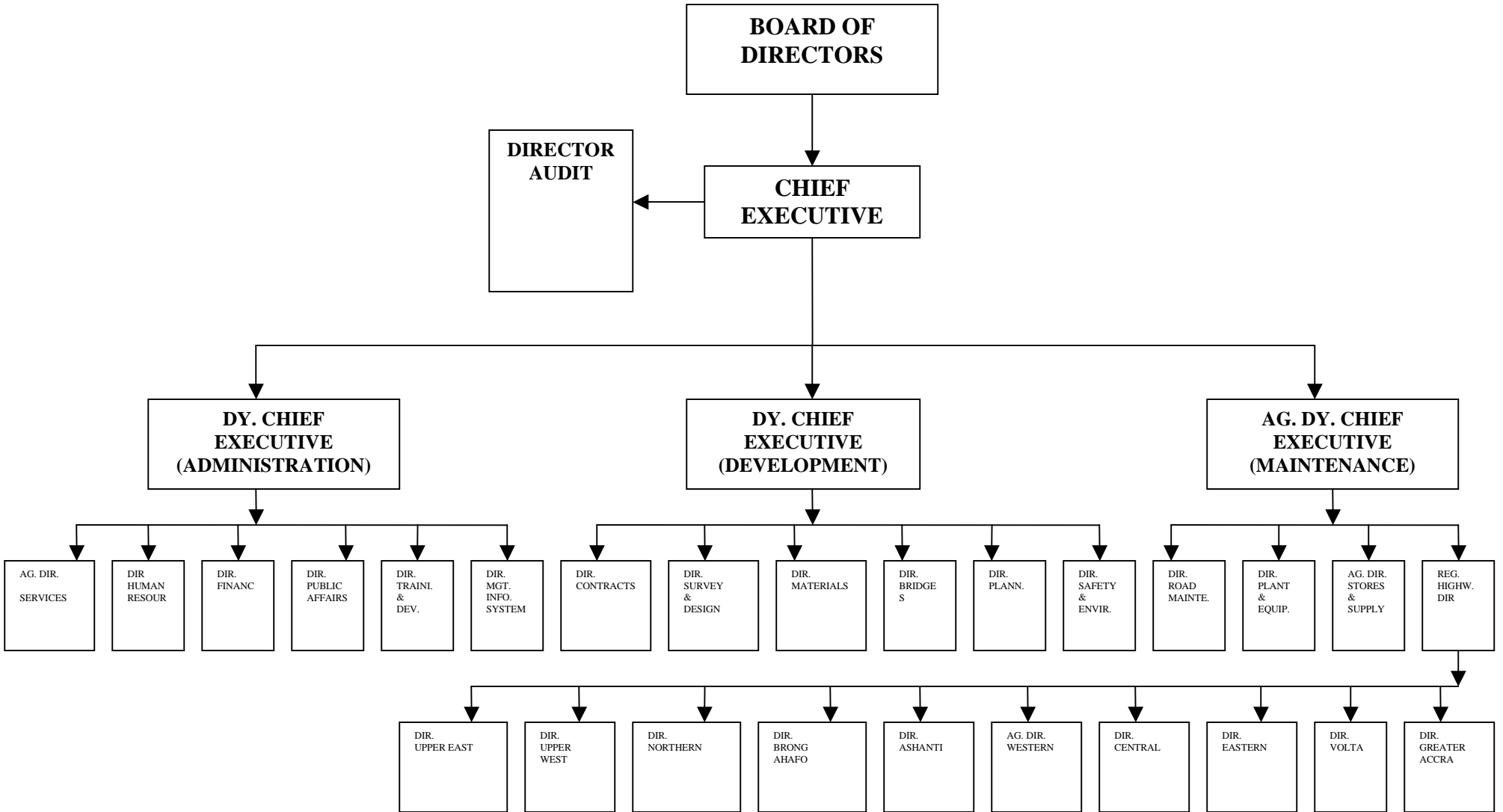


4.2 The Ghana Highway Authority (GHA)

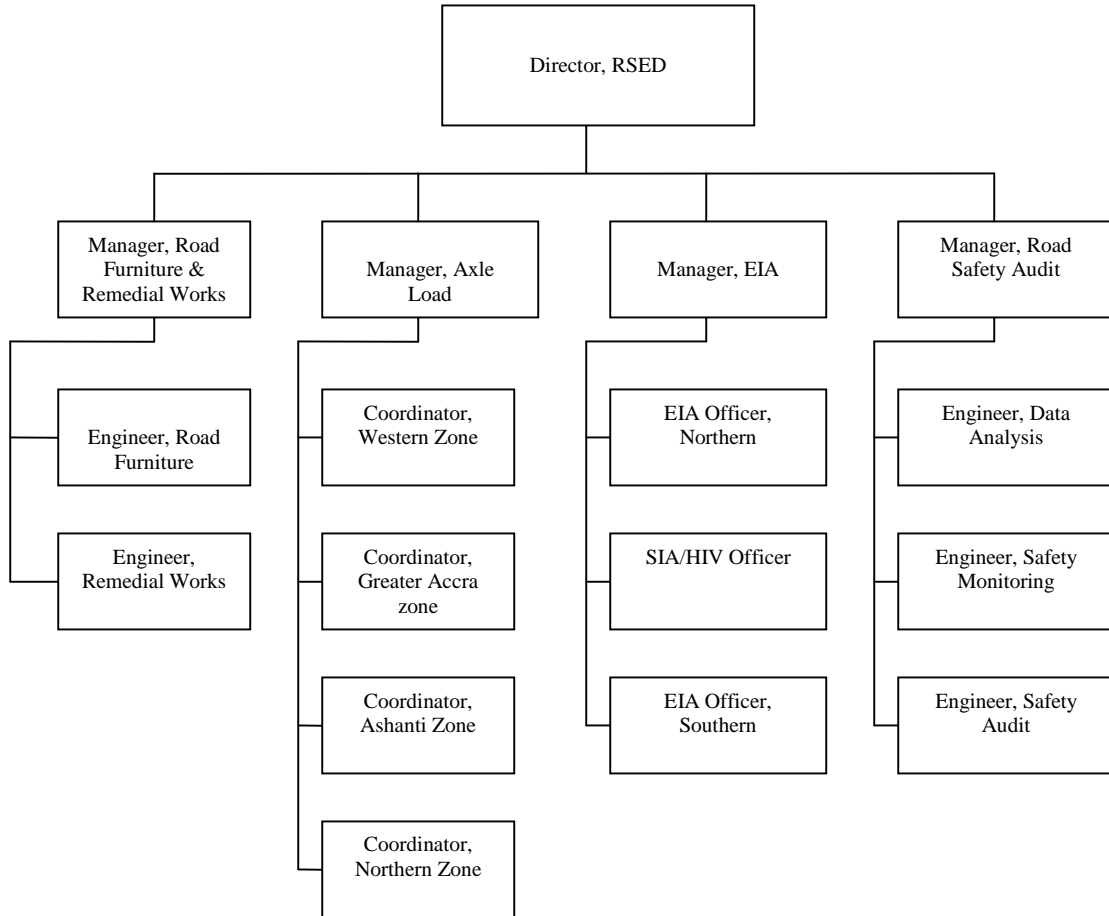
Ghana Highway Authority is a semi autonomous body with a responsibility for the provision and management of trunk roads. It was originally established in 1974 as the organisation responsible for the development and administration of the entire national road network. Since the GHA Act of December 1997, its role is limited to the administration, control, development and maintenance of trunk roads and related facilities subject to the policies of the MoT.

The GHA has a 4-person Environmental Management Unit (EMU) that has oversight on environmental and social issues of the sector and has direct responsibility for resettlement operations. The organisational structure of GHA and that of the Road Safety and Environment Division are as presented:

ORGANIZATIONAL STRUCTURE OF GHANA HIGHWAY AUTHORITY



Ghana Highway Authority Road Safety & Environment Division

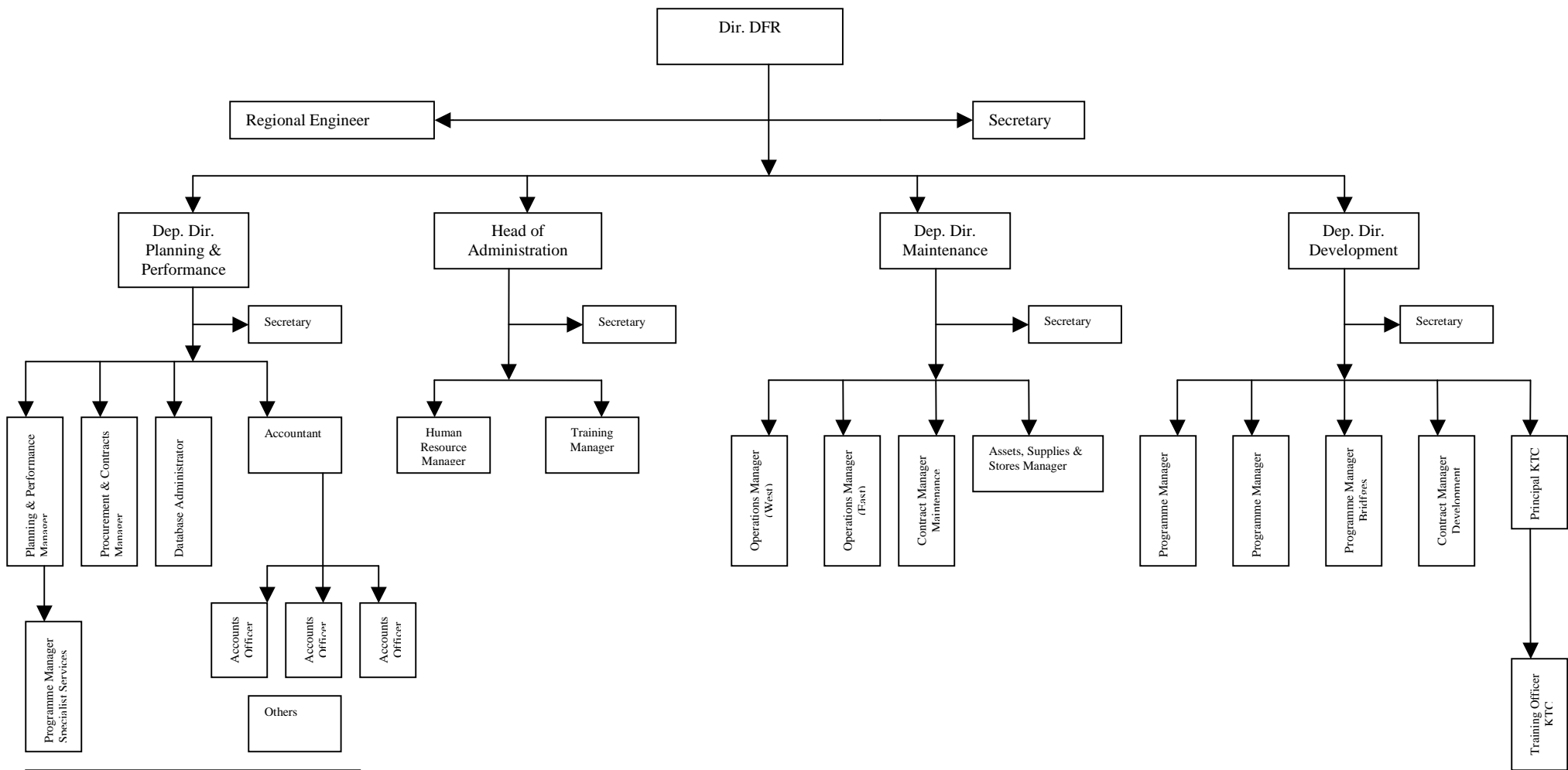


4.3 The Department of Feeder Roads (DFR)

The Department of Feeder Roads is a civil service institution responsible for rural roads. It was set up under Government instrument in 1981 to have the sole responsibility for the planning, development and maintenance of rural roads.

Prior to its establishment the responsibility for rural roads shifted from one agency to the other, such as the Public Works Department (PWD), Department of Social Welfare, Department of Rural Development, GHA, and the then Cocoa Marketing Board. The DFR has an Environmental Desk Officer responsible for environmental and social issues associated with the feeder road sub-sector. The Organisational Structure of the DFR is as follows.

ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF FEEDER ROADS



Support Services (excluding Finance & KTC)

Admin & Records
 Chief Executive Officer
 Records

Secretarial Staff
 Directors and Deputy Directors:
 Other:

Messenger:

Supplies
 Senior Supply Officer
 Store Keepers

Human Resources/Personnel
 Personnel Officer

Vehicle Assets
 Chief Mechanical Engineer
 Principle Technician Engineer (Transport)

Engineering Resources

Chief Engineer Maintenance (Principal)
 Chief Engineer Development (Principal)
 National Coordinator
 Principal Engineer
 Principal Engineer
 Principal Engineer Bridges (Senior)
 Engineer
 Bridge Maintenance Engineer
 Relations Donors DANIDA, DHD, EU (Assistant Engineer)
 Engineer (Senior or Principle)
 Training Officer

QS Resources
 Chief Quantity Surveyor (Principal)
 Quantivy Surveyor

Technical Engineer Resources
 Chief Technician Engineer
 Senior Technician Engineer
 Principal Technician Engineer

Survey
 Principal Geodetic Engineer (Senior Engineer)
 Surveyors
 Draughts men

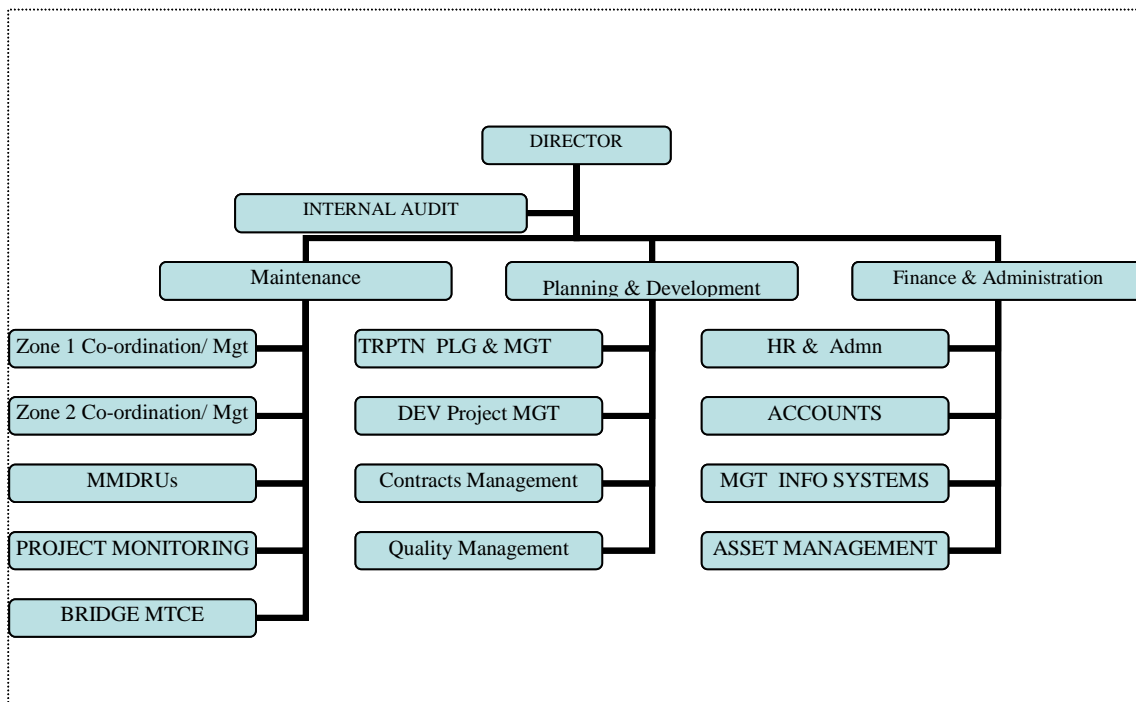
Planners
 Chief Planner
 Assistant Planner

4.4 The Department of Urban Roads (DUR)

The Department of Urban Roads is a civil service institution responsible for the provision of roads other than trunk roads in the metropolitan areas. It was established in 1989 as an implementing agency within the then MRT (now MoT). Prior to its establishment the responsibility for urban roads were with the PWD and the then City Councils (now Municipal and Metropolitan Assemblies), and later with the GHA.

The DUR has an Environmental Desk Officer responsible for environmental and social issues that arise in the pursuit of the DUR's functions and activities. The organisational structure of DUR is as follows:

ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF URBAN ROADS



4.5 The Lands Commission

This is the state agency charged primarily with the management and administration of state and vested lands. It is responsible for advising on policy framework for development of particular areas so as to ensure that development of such areas is coordinated. The functions of the Commission are spelt out in Article 258 of the 1992 Constitution and the Lands Commission Act (Act 483) 1994.

The Commission's role in the area of compulsory acquisition is that it serves as a Member/Secretary to the site selection committee, a technical committee that considers request for compulsory acquisition by state agencies and recommends its acceptance or otherwise. The proprietary plan covering the site to be acquired is plotted by the Commission in the government records. Also recommendation on the acquisition is processed by the Commission for the approval of the Minister responsible for lands, before an executive instrument would be issued and gazetted.

4.6 The Land Valuation Board

The Land Valuation Board (LVB) was formally set up in 1986 to perform functions related to valuation of various properties for specified purposes. The LVB is accordingly the statutory agency responsible for the processing of compensation claims on compulsory acquisitions.

The compensation valuation list from the LVB is forwarded to the acquiring agency for processing for payment. Prompt payment has in most cases not been possible because the compensation valuation list from the LVB delays. Project

implementation schedule therefore is affected as property owners cannot be forced out, and the structures demolished when payments have not been made.

4.7 Ministry of Finance and Economic Planning

The Ministry of Finance and Economic Planning is the agency that manages the central government's budget. The Finance Ministry is responsible for releasing money to be paid to victims of projects undertaken by state agencies.

Upon receipt of the approval of the compensation figures, the Ministry, subject to the availability of funds releases the total amount for subsequent payment to the affected people.

4.8 Ministry of Local Government and Rural Development

The local government structures (District Assemblies and Regional Coordinating Councils) in the various districts and regions within which the road projects will be implemented will participate in the planning, implementation and monitoring of the resettlement/rehabilitation operations.

4.9 Town and Country Planning Department

The Department was set up among others to ensure that developments are done orderly and that land use is maximized. It is responsible for the preparation of layouts for towns and cities. It also vets and approves layout by prospective developers (especially the Private Estate Developers) and specifies all reservations based on projected land use plans.

The TCPD receives applications for development permits, vets them and recommends their approval or otherwise. The current local government system has placed the Town and Country Planning under the District Assemblies.

The TCPD ensures that the ROW is implemented as per the approved planning schemes on each road.

4.10 Environmental Protection Agency

The Environmental Protection Agency (EPA) was established by Environmental Protection Agency Act 1994 (ACT 490). The EPA was charged with the duty of prescribing standards and guidelines relating to environmental protection and/or pollution. The Agency may by notice in writing direct any developer carrying on any project to submit an Environmental Impact Assessment covering the project.

The Environmental Assessment Regulation 1999 has listed the developments that require clearance with the EPA. Development of road network is one of the undertakings that require the issuance of environmental permit before construction could be done. The EPA will monitor the resettlement/rehabilitation operations.

4.11 Attorney General's Department

The Attorney General's Department has redress mechanisms in place for aggrieved persons. Affected persons who are not satisfied with compensation due them are empowered by the constitution to seek redress in the court of law. When this happens, the Attorney General's Department represents the government in the court's proceedings. The Attorney Generals Department is also responsible for drafting the Executive Instrument for acquiring the needed land for the project.

4.12 Utilities Agencies

The Utility companies that play some roles in the resettlement schemes are: the Electricity Company of Ghana; Ghana Telecom and Ghana Water Company Limited.

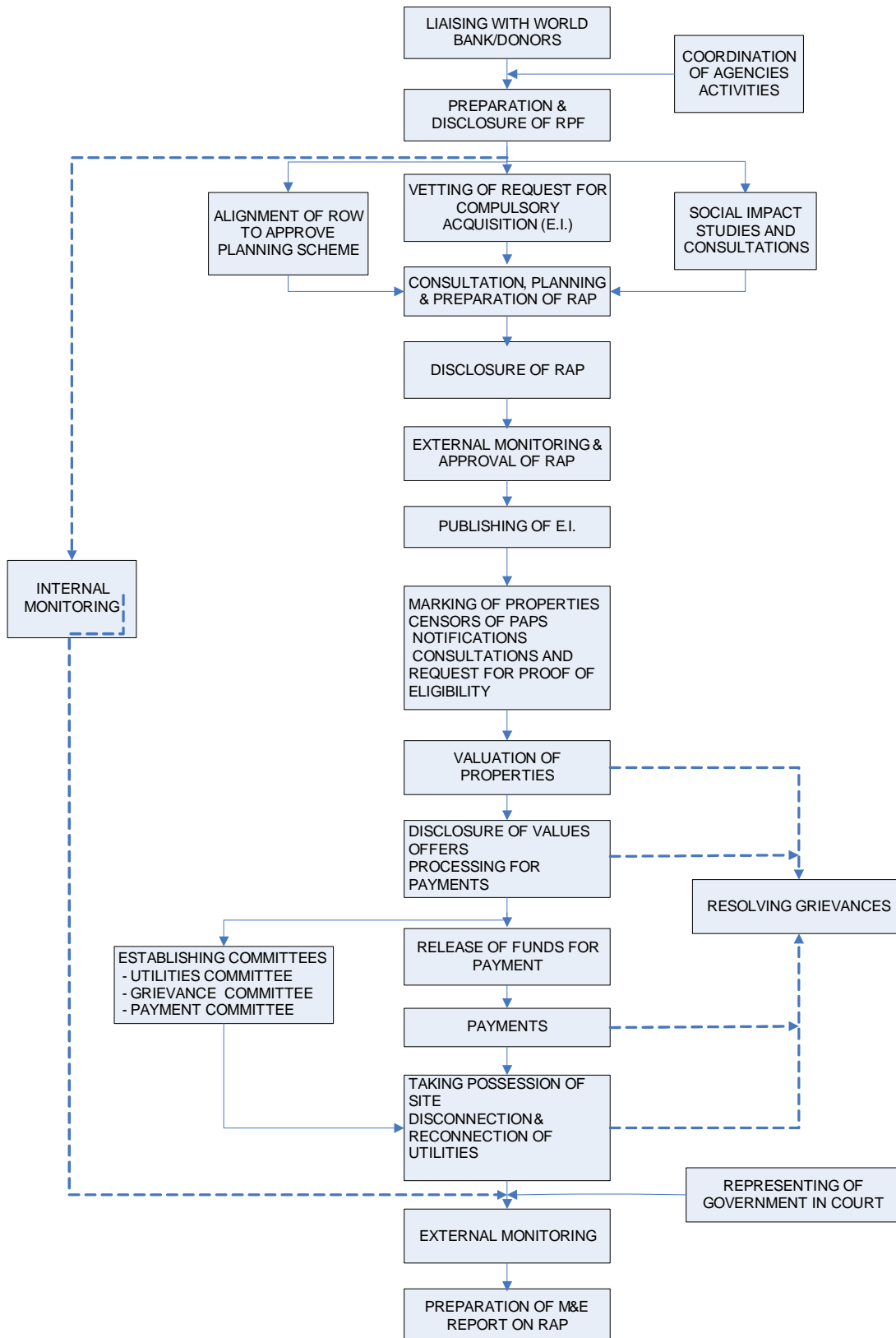
These agencies at the appropriate times disconnect and reconnect PAPs to their services before and after relocation as the case may be. Thus special consideration is given to PAPs so that they are not treated as normal applicants for services to their new places. A Utilities committee would be put in place to ensure that PAPs have access to utility services without difficulty and added cost.

4.13 Resettlement/Rehabilitation Activities

NO	ACTIVITY	RESPONSIBILITY
1	Liaising with World Bank/other Donors	MOT/Agencies
2	Coordination of Activities of Agencies	MOT/ PPD
3	Preparation and Disclosure of RPF	MOT/Agencies
4	Alignment of ROW to approved planning scheme	Agencies/TCPD
5	Vetting of request for compulsory acquisition of land	Lands Commission/Ministry of Land, Forestry and Mines, Regional Coordinating Office
6	Social Impact studies (conduct social impact assessment and property impact studies)	Agencies through Consultants
7	Internal Monitoring	MOT/PPD
8	Consultations, planning and Preparation of RAP	Agencies
9	Disclosure of RAP	Agencies/MOT
10	External Monitoring and Approval	EPA, NGO, World Bank
11	Gazette/Publishing of E.1	Lands Commission, Attorney General's Office, Ministry of Land, Forestry and Mines
12	- Marking of affected properties - Inventory of affected properties - Notifications	Agencies, LVB Local Assembly

	<ul style="list-style-type: none"> - Request for proof of eligibility - Consultations 	
13	Valuation of Properties	LVB, Agencies
14	<ul style="list-style-type: none"> Establishing of Committees - Utilities Committee to conduct an inventory of properties with utility services - Grievance Committee establish procedures for dispute resolutions - Payment Committee establish payment modalities 	<ul style="list-style-type: none"> Agencies Utility companies Agencies/MOT LVB Agencies/MOT LVB
15	<ul style="list-style-type: none"> Disclosure of values. Making of offers Processing for payments 	<ul style="list-style-type: none"> Agencies/MOT LVB
16	Release of funds for payment	Ministry of Finance and Economic Planning, Agencies/MOT
17	Payments	Payment Committee (Agencies/MOT, LVB)
18	Grievance and dispute resolutions	Grievance Committee (Agencies/MOT LVB)
19	Taking possession of site	Agencies
20	Disconnect and reconnection of utilities	Utility Committee (Agencies, Utility Companies)
21	External Monitoring	EPA, NGO World Bank
22	Representing government for any law court redress cases	Agencies, LVB Attorney General's Office
23	Preparation of Monitoring and Evaluation Report of RAP and Disclosure	Agencies/MOT and PPD, EPA

FLOWCHART



5.0 ASSESSMENT OF PROJECT AFFECTED PERSONS

Project affected persons (PAPs) according to the World Bank policy refers to people who are directly affected socially, economically and spiritually by bank-assisted investment project. A good knowledge of the population affected, their categories and special needs early in the planning process is critical to a successful resettlement operation.

Though the sub-projects are yet to be selected, experience with the RSDP shows that extensive adverse impact should be expected and mitigation measures planned. The widening of the Kintampo-Paga stretch for instance, would affect farmlands, townships or buildings along the road, roadside markets as well as sites for borrow pits. Far more than 200 people are expected to be affected and thus preparation of resettlement plan would be necessary for this sub-project. Based on the experience of the RSDP a total of 4,025 persons is estimated to be affected with a breakdown as listed:

- RTTFP 700
- UTP 1,000
- ALTTFP 1,000
- TSDP 1,325

These figures will be reviewed when all the project roads have been selected. A census/ socioeconomic survey will be undertaken to obtain the total number, categories and needs and preferences of PAPs as part of the RAP preparations. This will inform the choice of resettlement/compensation options and help estimate compensation cost.

The size of the population affected is determined by the project design which would be finalized early. In a situation where the design is reviewed, the data on

PAPs will be updated to correspond to the current design. The census will be done as early as possible to avoid the inflow of other individuals into the affected right of way (ROW).

The likely displaced persons will be categorized using identifiable groupings or demographics (such as occupational groups, gender, age groups) and their standards of living and specific needs identified, described and assessed. The socioeconomic survey will constitute the basis for evaluating the success of the resettlement operations in terms of whether the PAPs have been able to restore their incomes and improve their standards of living. The needs of vulnerable households such as the underlisted will be particularly noted:

- a. female headed households with dependents
- b. disabled household heads
- c. households falling under the generally accepted indicator for poverty
- d. elderly households with no means of support
- e. indigenous minorities

6.0 ORGANISATIONAL PROCEDURES FOR DELIVERY OF ENTITLEMENT

Implementing agencies will follow appropriate procedures for assessing and delivering entitlements to affected persons. These procedures will be specified in the RAPs and will cover: Eligibility criteria and Entitlements.

6.1 Eligibility Criteria

Any person who suffers loss of or damage to an asset or loss of access to productive resources, as a result of the carrying out of any of the road projects under the TSDP will be considered eligible for compensation and/or resettlement assistance, provided the damage or loss is induced by the project and satisfies the conditions of the cut-off date (which will be set and enforced during the socio-economic survey). This is consistent with the laws of Ghana and the World Bank policy. For instance, provisions under Clause 15 of the World Bank's Operational Policy 4.12 suggest the following three criteria for eligibility which will be followed in the TSDP:

- *Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);*
- *Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets – provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan;*
- *Those who have no recognizable legal rights or claim to the land they are occupying.*

The eligibility will be based on the category of losses at the cut-off date identified through the various interest and rights derived from customary laws, common law and international conventions and in specific cases as agreed with affected

community. Eligible persons would include, but not be limited to those listed in Table 2:

Table 2: Type of Loss and Eligible Persons

Type of Loss	Eligible persons
Loss of Land (Urban or Rural)	Various interest and rights – allodial title holder, freeholder, leaseholder, tenant, licensees
Loss of Structure	Various interest and rights – freeholder, leaseholder
Business Losses	
- Loss of business income	- Business owner/operator
- Loss of business goodwill	- Business owner/operator
- Loss of rent income	- Landlord/Lessor
- Loss of wage income	- Business employees/attendants
- Loss of fees from trainees or apprentices	- Trainer/Person offering apprenticeship job training
Loss of Business, Residential or Industrial Accommodation or Room	- Residential/Commercial/Industrial Tenant - Owner of building during the reinstatement period
Loss of location for temporary structure	- Owner of temporary structure
Loss of training or apprenticeship	- Apprentice/Trainee
- Loss of economic or perennial trees	Various rights and interest holders –
- Loss of food crops	Sharecroppers, Licensees, Lessees
- Loss of grazing land	

6.2 Proof of Eligibility

The implementing agencies will consider various forms of evidence as proof of eligibility to cover:

- Affected persons with formal legal rights, documented in the form of land title registration certificates, leasehold indentures, tenancy agreements, rent receipts, building and planning permits, business operating licenses, utility bills among others. Unprocessed/unregistered formal legal documents will not bar eligibility and procedures for confirming authenticity of such documents will be established in the RAP.
- Affected persons with no formal or recognized legal rights -

Criteria for establishing non-formal, undocumented or unrecognised claims to eligibility shall be established paying particular attention to each situation and its peculiarities. Alternative means of proof of eligibility will include:

- Affidavit signed by landlords and tenants;
- Witnessing or evidence by recognized traditional authority, customary heads, community elders, family heads and elders and the general community.

6.3 Defining Entitlements and Preparing an Entitlement Matrix

The basis of what is to be paid as compensation will be determined by identifying the most appropriate entitlement for each loss. Based on the entitlements, resettlement options would be selected in accordance with Bank Policy OP 4.12 (6a (ii)) and the merits of the option

An Entitlement Matrix which sets the measure for the payment for all losses or impacts will be included. The Entitlement Matrix will list the type of loss, criteria for eligibility and define entitlement as presented in Table 3.

Table 3: Entitlement Matrix

Type of Loss	Eligibility Criteria	Entitlement
Loss of Land (Urban or Rural)	Various interest and rights – allodial title holder, freeholder, leaseholder, tenant, licensee	Compensation – Capital Market Value of Asset
Loss of Structure	Various interest and rights – freeholder, leaseholder	Compensation – Capital Market Value of Asset
Business Losses		Supplementary Assistance based:-
- Loss of business income	- Business owner/operator	- average net monthly profit;
- Loss of business goodwill	- Business owner/operator	- monthly rent passing;
- Loss of rented income	- Landlord/Leaser	- equivalent of rent advance to be refunded
- Loss of wage income	- Business employees/attendants	- monthly wages earned;
- Loss of fees from trainees/ apprentices	- Trainer/Person offering apprenticeship job training	- training fees to be refunded
		Calculated for a specific period taking into consideration reinstatement period.
Loss of Business, Residential or Industrial Accommodation or Room	- Residential/Commercial/Industrial Tenant - Owner of building during the reinstatement period	Supplementary Assistance based:- - comparable open market rent for alternative accommodation based on specific period (reinstatement period);

Loss of location for temporary structure: Owner of temporary structure
Squatters

- expense for moving structure
- Loss of utility service line

Loss of training or apprenticeship

- Loss of economic or perennial trees
- Loss of food crops
- Loss of grazing land

- Apprentice/Trainee

Various rights and interest holders – Sharecroppers, Licensees, Lessees

and

- transportation rates for the transfer of chattels or movable properties

Supplementary Assistance based on :

- transportation rates for the transfer of structure
- Disconnection of utility service lines at old site
- Reconnection of utility service lines at new (

Comparable fees for alternative training

Open Market Value for assessed crops/plants

7.0 VALUATION PROCEDURES

7.1 The Process of Valuation Inspection/Referencing

The process of valuation inspection and referencing differs depending on the implementing agency. For GHA projects, the Valuation Unit jointly undertakes the inspection/referencing exercise with the regional offices of the Land Valuation Board according to the regions where the project is located. The town offices however, prepare independent reports/valuations applying rates of value/costs determined by the Board.

DUR and DFR do not have Valuation Units and depend on Consultants and/ or LVB directly. Key points which the valuation will take care of are as follows:

- i. Collection of all relevant primary and secondary data on the affected property during final detailed valuation inspection and referencing to serve as basis for assessment of loss;
- ii. A comprehensive primary database for monitoring, evaluation and audit.

Some relevant data to be captured by the valuers will be:

1. **Land**
 - Capture location details of the land
 - Identify the boundaries of the area/section of the land to be affected.
 - Take detailed measurement of the land area to be affected along the affected boundaries.
2. **Buildings (Immovable Structures)**
 - Photograph all affected immovable properties - Detailed internal measurement of buildings will be done
 - Collate property details which will include noting affected accommodation details, constructional details of affected

parts and external works (fence walls, gates, pavements) affected owner's details etc.

3. **Crops**

During the inspection and enumeration exercise details such as type, age, stage of growth size of farm (or number of crops for isolated economic/perennial trees) nature of farm etc are captured.

4. **Temporary Structures (Movable Properties)**

Collate data on temporary structures by categorizing temporary structures based on constructional details (wall materials, affixed to concrete slabs or not), size of structure and use of structure (business/residential) and type of business.

5. **Borrow pit**

Royalties on borrow pits will be assessed based on quantities of materials taken from the pits. Contractors will be advised to keep record of or find a way of calculating quantity of materials taken from each borrow pit. The recorded quantities will be submitted to the Valuation Section of the GHA and other implementing agencies for assessment of the appropriate royalties

6. **Intangible Assets (loss/impact arising from disturbance)**

Obtain relevant data on households affected (tenants, owners, relatives), apprentices/trainees and determine intangible loss on households, business and livelihoods

7.2 Identification and Categorization of Loss and Impact

Project affected persons will be identified by the types of losses they suffer or the impact of the project on them. Project personnel will:

- i. Ensure that identification and categorization of the likely loss or impact is undertaken during the planning and design stages of each sub-project;
- ii. Establish the magnitude and coverage of impacts early in the project planning in order to justify the resettlement instrument to adopt. General categorization of losses will be done to reflect extent of loss in terms of the following:-
 - Permanent or Temporary Loss;
 - Full or Partial Loss;
 - Minimal or Significant Loss.
- iii. Determine specific losses or impacts to reflect the exact nature of loss whether visible and tangible or intangible and categorize into the following losses:-
 - Physical loss of assets which will be determined by assessing the interest or right to ownership, occupation and possession;
 - Loss of income, loss of livelihood and opportunities to employment;
 - Impacts arising from disturbance/disruptions

Categories of losses will be as indicated in Tables 4a and 4b below:

Table 4a: Physical Loss of Assets

Category	Type of Loss
Land	<ul style="list-style-type: none">- Loss of urban land for residential, commercial or industrial use- Loss of rural land for agriculture, forestry, pasturing

Structures	<ul style="list-style-type: none"> - Main Buildings - Ancillary Buildings - Fence walls -Other Civil works – pavements, concrete kerbs, concrete wells or reservoirs
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Table 4b: Loss of Income and Livelihood

Category	Type of Loss
Business	<ul style="list-style-type: none"> - Loss of business income - Loss of business goodwill - Loss of rented income - Loss of wage income - Loss of fees from trainees or apprentices
Impact on accommodation	- Loss of Business, Residential or Industrial Accommodation or Room
Opportunity to Livelihood	- Loss of training or apprenticeship
Plants & Crops	<ul style="list-style-type: none"> - Loss of economic or perennial trees - Loss of food crops - Loss of grazing land

Table 5: Impacts arising from Disturbance/Disruptions

Category	Type of Loss
Temporary structures	- Loss of location and expense for moving structure
Impact on Access to Utilities	- Disconnection of utility services
Disturbance	- Removal of chattels, movable

	assets – incurring removal expenses - Loss of peaceful enjoyment of property
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7.3 The Basis and Method of Valuation

The basis of valuation would comply with the stated legal provisions and this necessitates that the basis of valuation must assess the “Open Market Capital Value”. The methods for valuation for the various losses are presented in Table 6.

Table 6: Method of Valuation

Type of Loss	Method of Valuation	Basis
- Loss of Land	Comparative Sales Method	Based on the open market value of comparable recent land transactions
- Loss of Buildings 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
- Loss of Trees, Perennial Crops, Food Crops	Comparative Sales Method/ Replacement Cost Method	Based on going market rates
- Loss of Business Income and Loss of Business Goodwill	Comparative Method	Based on the average monthly net profit
- Loss of Income from Rent and Expenditure Incurred for Alternative Accommodation during reinstatement period	Comparative Sales Method	Based on the comparable rent passing, rent advance paid
- Expenditure incurred for Transfer of Chattels, Movable	Comparative Method	Based on truck/transport hiring charges

Properties and Temporary structures		
- Loss of Wages - Loss of Fees from Apprentice - Loss of Job Training	<i>Comparative Method</i>	Based on Passing or Going Fees and Wages

7.4 Procedures for Delivery of Entitlements

The procedure for delivery of entitlements will be detailed in each RAP. The Acquiring agencies will follow approved procedures ensuring that:

- i. Full payment of compensation is done before possession of acquired sites;
- ii. Land Valuation Board communicates the amount to be paid to the acquiring agency and the Ministry will ensure that the amounts are fair and adequate. Approval for payments will be given by the Minister for Transportation.
- iii. The acquiring agency formally makes an offer to affected persons and allow persons to accept or reject offer, offer a counter claim and seek redress under the grievance procedures established;
- iv. Payments are made to the affected person personally by the acquiring Agency in the presence of Land Valuation Board and an independent witness of the affected person/opinion leader;
- v. Cheques shall be the preferred and 1st mode of payment; however payment may be by banker's draft where the amounts involved are "minimal". The acquiring agency shall make arrangements with nearest bank to effect payments by banker's draft;
- vi. Proper receipts are issued and copies given to the affected person, the Accounts Department of the Agency and the Land Valuation Board;
- vii. Comprehensive reports on payment made are submitted for review by Management of the Agency and the Land Valuation Board.

7.5 Arrangements for Demolition

Demolition shall occur only after full payment of compensation has been made. Adequate notice will be served to affected persons concerning date of demolition, removal or destruction, to afford affected persons the opportunity to conveniently move out and/or salvage any building materials.

Adequate notice includes serving individual notices, notice through local media, posters at churches/mosque/community buildings and publicity through public address systems and consistently over an adequate period of time, usually two weeks. The presence of affected persons or representatives on the actual date of demolition, removal or destruction shall be ensured to avert any dispute in portions marked to be affected and those actually affected.

7.6 Grievance Redress Mechanisms

The Ministry of Transportation shall be responsive to the concerns of the people affected by the project as it recognizes that, unsatisfactory handling of the effects of developmental projects may lead to upheavals and social discontent, which may trigger negative public reactions, thereby affecting project implementation. Both formal and informal dispute resolution mechanisms will be employed.

Usually, disputes from PAPs relate to physical counts of crops to be affected and in the case of structures, the extent of impact. In some cases the concerns are about inadequacy of compensation or the implementation of the resettlement plans.

The conflict resolution mechanisms will be addressed in the RAP. The implementing agencies will facilitate the setting up of grievance committees (comprising members nominated by the PAPs directly and opinion leaders) in each of the affected settlements.

Complaints may first be lodged with the grievance committees (GC.) If the GC's are unable to address the concerns (or the affected persons decide not to use the GC's) a formal report may be made to the Land Valuation Board or the implementing agency either by the PAP or his/her representative.

If the PAP is dissatisfied with the solution provided at that level he/she may seek redress at the Commission for Human Rights and Administrative Justice (CHRAJ) or the Court. The 1992 Constitution and the State Lands Act allow for the right of access to the High Court by any person who has an interest or right over any property. In practice, judicial intervention in dispute resolution is not often invoked or resorted to, as most of the affected people are generally satisfied with the administrative responses. In some cases the PAPs are able to negotiate for acceptable awards.

8.0 SOURCES OF FUNDING

The Ghanaian component of the WATTFP (or the RTTFP) has been tentatively budgeted to cost US\$60 million and the UTP estimated to cost US\$36 million. Funding for these projects is expected to be borne mostly by the IDA with counterpart funding from the Government of Ghana. Out of this preliminary budget the component for the resettlement/rehabilitation procedures are as presented in the Table 7. These preliminary estimates will be revised based on the specific routes selected.

Table 7: Preliminary Budget for Resettlement/Rehabilitation operations

Project	Estimated number of PAPs	Cost of Resettlement USD
RTTFP	700	2,000,000
UTP	1,000	3,500,000
ALTTFP	1,000	3,500,000
TSDP	1,325	5,000,000
Total	4,025	14,000,000

Funds for resettlement/rehabilitation will be provided by the Government of Ghana through the Ministry of Finance.

Final Resettlement cost estimates and budget will consider items covered in the following matrix:

Table 8: Resettlement Cost Estimation

Resettlement and Compensation cost	<ul style="list-style-type: none">• Cost of census and survey of PAPs and inventory of assets• Cost of information and consultation• Compensation for lost assets (land, structures etc)• Cost of replacement land• Cost of preparation of replacement farmland
Relocation and transfer	<ul style="list-style-type: none">• Cost of moving and transporting movable items• Cost of replacement housing• Cost of site and infrastructure development and services• Subsistence allowance during transition• Cost of replacement businesses and downtime
Income restoration plan	<ul style="list-style-type: none">• Cost estimates for income restoration plans (e.g. training, small business, community enterprise, etc)• Cost of incremental services (extension, health, education)• Environmental enhancement package (forestry, soil conservation, grazing land etc)
Administration costs	<ul style="list-style-type: none">• Physical facilities (office space, staff housing, etc)• Transport/vehicles, materials• Operational staff (managerial, technical) and support staff• Training and monitoring• Technical assistance• Evaluation by independent agency

Source: Cernea, Michael, 1988. Involuntary Resettlement in Development Projects, the World Bank, Washington DC

9.0 CONSULTATION AND PARTICIPATION

The project affected persons will be consulted and involved in all resettlement activities: planning, implementation and monitoring. Their involvement provides them with greater understanding of the project, the resettlement issues and gives them opportunities to voice out their concerns about the project, and they may offer alternatives and compromises that tend to promote implementation.

Mechanism for community entry, consultation and participation of PAPs will be addressed in the RAPs for the sub-projects and will be defined by cultural prescriptions which will be carefully studied and adhered to in each affected community. The mechanisms will include public meetings, participation in site preparation, resettlement committees for PAPs and communities and interagency committees for participating stakeholders.

- a) Public meetings: meetings with Community leaders, opinion leaders, utility agencies, Assembly men and PAPs as individuals (as during the survey) and in their groups.

At the meeting with the project affected persons, the resettlement team will explain the various options of resettlement so that they can choose what they want; for instance cash compensations, alternative land or building, or group resettlement.

Group resettlement ensures that social networks and community institutions are not disintegrated and is appropriate for projects affecting whole settlements or sites. Usually, transport projects such as highways, railways, canals etc often involve linear resettlement.

PAPs will also be briefed on the compensation/resettlement process and each affected person will be given the chance to air their views on a draft resettlement plan on issues of concern to him or her.

b) Involvement in site preparation

Participation will also be fostered through use of local know-how and materials; the contractor will be encouraged to use local people to supply materials and goods needed for the sub-project implementation.

c) Group formation: using existing groups or assisting PAPs to form groups provides institutional framework for participatory resettlement

d) Involvement in resettlement committees and monitoring teams: participation in committees would be one of the key mechanisms for involvement of PAPs in the planning, implementation and monitoring of the RAPs.

10.0 MONITORING AND EVALUATION

Monitoring and evaluation will be a continuous process and will include internal and external monitoring.

10.1 Internal Monitoring

Internal monitoring of the resettlement/rehabilitation operations will be undertaken by the Ministry of Transportation and its agencies following the schedules in the RAPs.

The day-to-day field supervision will be conducted by the Resident Engineers and captured in the monthly and quarterly progress reports which are subject to review by the MoT Deputy Director in charge of Environmental and Social issues. The MoT will continuously take stock of all expropriation and compensation report and discuss them on regular basis. GHA, DUR and DFR will produce quarterly report for the ministry. Cost of monitoring will be taken care of by individual implementing agencies or stakeholders.

10.2 External Monitoring

External monitoring will be done by the Environmental Protection Agency (EPA) national and regional offices. Also, NGOs, will be considered in the external monitoring.

10.3 Completion Audit

An audit will be done to determine whether the efforts to restore the living standards of the affected population have been properly designed and executed.

This completion audit will verify that all physical inputs earmarked in the RAP have been delivered and all services provided. The audit will also evaluate if the mitigation actions prescribed in the RAP have had the desired effect. The baseline conditions of the affected parties before the relocation will be used as a measure against their socio-economic status after the resettlement.

To be effective, the completion audit will take place after all RAP activities have been completed including development initiatives, but before the financial commitments to the programme are finished. This will allow the flexibility to undertake any corrective action that the auditors may recommend before the project is completed.

11.0 DISCLOSURE OF SOCIAL SAFEGUARDS INSTRUMENTS

The Ministry of Transportation will disclose this Resettlement Policy Framework by making copies available at its head office and those of the agencies in Accra and will make copies available to the local government's agencies, the Environmental Protection Agency and other stakeholders of the TSDP. The Government of Ghana will also authorize the World Bank to disclose this RPF electronically through its InfoShop.

Likewise, all RAPs to be prepared under TSDP, will be disclosed by the Ministry, which will make copies available at its head offices in Accra, and will make copies available to the local governments and other stakeholders of the TSDP. The Government of Ghana will also authorize the World Bank to disclose the RAPs electronically through its InfoShop.

APPENDICES

APPENDIX 1:

RESETTLEMENT INSTRUMENTS

Three types of resettlement instruments supported by the Bank's policy will be needed in the TSDP, namely:

- a) Resettlement Policy Framework
- b) Resettlement Action Plan
- c) Process Framework

1. Resettlement Policy Framework

The Resettlement Policy Framework provides general guidelines for how persons who are affected by any of the TSDP sub-projects would be resettled or compensated. This constitutes part of the Bank's pre-appraisal requirements.

2. Resettlement Action Plan

For every specific sub-project which requires land acquisition and which leads to displacement of people, a resettlement action plan will be prepared for the Bank's approval. The RAP will be abbreviated or detailed depending on the magnitude of displacement. In projects involving minor impacts or where fewer than 200 people are displaced, an abbreviated resettlement action plan will be prepared.

The full Resettlement Action Plan will cover the following areas:

1. Description of project and project area of influence
2. Potential impacts
3. Organisational Responsibility
4. Community consultation and participation

5. Integration with host communities
6. Socio-economic studies
7. Legal framework
8. Mechanism for conflict resolution and appeals
9. Eligibility criteria (including vulnerable groups)
10. Valuation of and compensation for losses
11. Identification and selection of alternative sites (if required); site preparation and relocation
12. Detailed Budget
13. Implementation schedule
14. Framework for monitoring, evaluation and reporting

3. Process Framework

If any of the sub-projects under the TSDP involves restriction of access to any natural resource, a process framework will be prepared for appraisal by the Bank.

APPENDIX 2:

RSDP – Status of Key Performance Indicators

OBJECTIVES	KEY PERFORMANCE INDICATORS/EXPECTED OUTPUT	STATUS AS AT THE END OF SEPTEMBER 2006				REMARKS
Sector related CAS goal. Alleviating key infrastructure deficiencies, particularly roads, for the promotion of economic Growth, poverty alleviation, rural development, agricultural growth and regional equality	Sector Indicators: .Average VOC of transporting agricultural products reduced by at least 10%	Studies is ongoing under Baseline Studies and monitoring of the impact of RSDP on poverty reduction				
	Number of fatalities and injuries through accidents per vehicle-km reduced by at least 10%	Fatality Risk as at end of 2005 stands at 9 deaths per 100,000 population.				Figure is provisional and is yet to be confirmed by the BRRl
Project Development Sustainable improvement in the supply and performance of roads and road transport services in a regional equitable manner.	Improve road condition mix from 35% good, 45% fair 20% poor in 2000 to 59% good, 27% fair and 14% poor by the End of the programme(EOP).	GHA: 46% Good, 29% fair and 26% poor (December 2006) DFR: 43% Good, 33% Fair and 24% Poor DUR: 33% Good, 3% Fair and 64% Poor NATIONAL AVERAGE: 36% Good, 27% and 37% Poor (Year 2005)				The Road Condition Mix for DFR is based on a road network of 32,600km
	.Average Travel Time between districts capitals reduced by at least 15% by EOP.	Studies are ongoing under Baseline Studies and Monitoring of the impact of RSDP on poverty reduction.				
	.Amount of maintainable feeder increase from 11,500km in 2000 to 16,220km in 2003.	Maintainable feeder roads in 2005 is 27,000 km.				
	.DVLA inspection of total vehicle registered increase by 20% by EOP.	Year	Population Of Vehicles	Number Inspected	Percentage	
		2002	595,250	400,522	67.3%	
		2003	643,324	441,357	68.6%	
		2004	702,872	442,885	63.0%	
		2005	767,791	461,483	60.1%	
Jun-06	804,306	253,475	31.5%			
.NRSC to reduce fatality rate of 73 per 10,000 by 5% by 2005.	Fatality rate (deaths/10,000 veh) as at end of 2005 was 23.				Figure is provisional and is yet to be confirmed by the BRRl	
.Increase fuel levy to ¢230/litre in 2001; ¢310/litre in 2002; ¢395/litre in 2003.	Fuels levy between the years 2001-2005 were as follows: - ¢230/litre in 2001; ¢230/ litre in 2002; ¢400/litre in 2003; ¢400/litre in 2004; ¢600/litre in 2005.					
Component						

1: Routine Maintenance Targeted routine mtce, carried out annually by: GHA DFR DUR	11,600 km coverage 13,900 km coverage 1,750 km coverage	Agency	2002 (KM)	2003 (KM)	2004 (KM)	2005 (KM)	Jan-Sep 2006	
		GHA	8,848.5	9,369.0	13,074.5	12,127.0	9,042.0	
		DFR	11,782.0	15,200.0	18,463.0	17,119.0	9,750.0	
		DUR	986.0	3,616.0	2,449.7	3,313.2	3,313.2	

OBJECTIVES	KEY PERFORMANCE INDICATORS/EXPECTED OUTPUT						STATUS AS AT THE END OF SEPTEMBER 2006						REMARKS
Component 2 Periodic Mtce, Rehab. and Upgr. Targeted Km carried out annually by GHA DFR DUR	2002 (KM)	2003 (KM)	2004 (KM0)	2005 (KM)	2006 (KM)	TOTAL (KM)	2002 (KM)	2003 (KM)	2004 (KM0)	2005 (KM)	2006 (KM)	TOTAL (KM)	
	1380	1300	1300	585.7	992	5,558	201.5	891.1	484	479.93	217	2,273.53	
	4080	4915	4000	3582	3221	19,798	3607	4278	3688	3560.3	1369.5	16,502.80	
	211	666	735	734.3	531.17	2,877	95.2	60.6	323	236.37	236.37	951.54	
Component 3 Maj. Rehab and Reconstruction Targeted Km carried out annually by GHA DFR DUR	2002 (KM)	2003 (KM)	2004 (KM0)	2005 (KM)	2006 (KM)	TOTAL (KM)	2002 (KM)	2003 (KM)	2004 (KM0)	2005 (KM)	2006 (KM)	TOTAL (KM)	
	265	253	160	248	200	1126	-	52	18	209.75	109.37	551.12	
	20	20	20	0	0	60	-	-	-	-	-	-	
	7	76	102	0	0	194	-	-	-	9	-	9.00	
Component 4. Traffic Mgt & safety Planned action completed to improve traffic Mgt & Safety GHA DUR	-No. of traffic signals installed -No. of road safety hazard sites treated						Installation of calming devices, 21 hazardous sites been treated by GHA						
	-No. of traffic signals installed -3500km of road with line marking												
MRT NRSC MTU	-Road traffic bill when passed to supersede existing ordinance						Road traffic Act has been enacted (Act 683)						Regulation on the road traffic Act has been prepared and forwarded to Cabinet

APPENDIX 3

1992 CONSTITUTION, ARTICLE 20

(1) No property of any description, or interest in or right over any property shall be compulsorily taken possession of or acquired by the state unless the following conditions are satisfied—

- a. The taking of possession or acquisition is necessary in the interest of defence, public order, public morality, public health, town and country planning or the development or utilization of property in such a manner as to promote the public benefit; and
- b. The necessity for the acquisition is clearly stated and is such as to provide reasonable justification for causing any hardship that may result to any person who has an interest in or right over the property.

(2) Compulsory acquisition of property by the State shall only be made under a law which makes provision for —

- a. the prompt payment of fair and adequate compensation; and
- b. a right of access to the High Court by any person who has an interest in or right over the property whether direct or on appeal from any other authority, for the determination of his interest or right and the amount of compensation to which he is entitled.

(3) Where a compulsory acquisition or possession of land effected by the State in accordance with clause (1) of this article involves displacement of any inhabitants, the State shall resettle the displaced inhabitants on suitable alternative land with due regard for their economic well-being and social and cultural values.

(4) Nothing in this article shall be construed as affecting the operation of any general law so far as it provides for the taking of possession or acquisition of property—

- a. by way of vesting or administration of trust property, enemy property or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons or bodies corporate or unincorporated in the course of being wound up; or
- b. in the execution of a judgment or order of a court or
- c. by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants; or
- d. in consequence of any law with respect to the limitation of actions; or
- e. for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry; or
- f. for so long as may be necessary for the carrying out of work on any land for the purpose of the provision of public facilities or utilities, except that

where any damage result from any such work there shall be paid appropriate compensation.

(5) Any property compulsorily taken possession of or acquired in the public interest or for a public purpose shall be used only in the public interest or for the public purpose for which it was acquired.

(6) Where the property is not used in the public interest or for the purpose for which it was acquired, the owner of the property immediately before the compulsory acquisition, shall be given the first option for acquiring the property and shall, on such re-acquisition refund the whole or part of the compensation paid to him as provided for by law or such other amount as is commensurate with the value of the property at the time of the re-acquisition.

APPENDIX 4

THE STATE LANDS ACT, 1962

THE HUNDRED AND TWENTY FIFTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE STATE LANDS ACT, 1962

An act to provide for the acquisition of land in the national interest and other purposes connected therewith.

DATE OF ASSENT: 14TH JUNE, 1962

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:

1. Acquisition

- 1) Whenever it appears to the President in the public interest so to do, he may , by executive instrument, declare any land specified in the instrument, other than land subject to the Administration of land Act, 1962 (Act 123), to be land required in the public interest; and accordingly on the making of the instrument it shall be lawful for any person, acting in that behalf and subject to a month's notice in writing to enter the land so declared for any purpose incidental to the declaration so made.
- 2) An instrument made under the preceding subsection may contain particulars in respect of the date on which the land so declared shall be surrendered and any other matter incidental or conducive to the attainment of the objects of the instrument including an assessment in respect of the compensation that may be paid.
- 3) On the publication of an instrument made under this section, the land shall, without any further assurance than this subsection, vest in the President on behalf of the Republic, free from any encumbrance whatsoever.

2. Publication of Instrument

A copy of the instrument made under the preceding section shall,

- a) be served personally on any person having an interest in the land; or
- b) be left with any person in occupation of the land; and
- c) be affixed at a convenient place on the land; and

- d) be published on three consecutive occasions in a newspaper circulating in the district where the land is situate.

3. Tribunal

- 1) The President may, in consultation with the Chief Justice by executive instrument, establish a Tribunal consisting of three persons one of whom shall be a Judge of the High Court who shall be chairman.
- 2) The decision of the Tribunal on any matter referred to it under this Act shall be final save that the Tribunal may reserve for the consideration of the Supreme Court any question of law and section 11 of the Court Act, 1960 (C.A. 9) shall apply accordingly.
- 3) The President may, by legislative instrument, and after consultation with the Chief Justice, make Rules governing the functions and procedure of the Tribunal.

4. Claims and Compensation

(1) Any person claiming a right or having an interest in any land subject to an instrument made under section 1 of this Act or whose right or interest in any such land is affected in any manner shall, within three months from the date of the publication of the instrument made under the said section 1, submit in writing to the Minister,

- a) Particulars of his claim or interest in the land;
- b) The manner in which his claim or interest has been affected by the instrument;
- c) The extent of any damage done;
- d) The amount of compensation claimed and the basis for the calculation of the compensation,

and the Minister may, having regard to the market value or the replacement value of the land or the cost of disturbance or any other damage suffered thereby, pay compensation in respect of that land or make an offer land of equivalent value.

(2) Where there is a dispute as to the right or interest claimed by reason of conflicting claim or interest, or any person is not satisfied with the compensation assessed by the Minister, the Minister may refer the matter to the Tribunal.

(3) In assessing compensation under this Act no account shall be taken of any improvement on the land made within two years previous to the date of the publication of the instrument made under section 1 of this Act unless the improvement was *bona fide* and not made in contemplation of acquisition under this Act.

5. Leases and Licenses

The President may grant a lease or license in respect of any land acquired under this Act.

6. Regulation

The Minister may, by legislative instrument, make Regulations prescribing fees to be paid under this Act and for the better carrying into effect of the principles of this Act.

7. Interpretation

In this Act, unless the context otherwise requires, “cost of disturbance” means the reasonable expenses incidental to any necessary change of residence or place of business by any person having a right or interest in the land;

“market value” means the sum of money which the land might have been expected to realize if sold in the open market by a willing seller at the time of the declaration made under section 1 of this Act;

“Minister” means the Minister responsible for lands;

“other damage” means damage sustained by any person having a right or interest in the land or in adjoining land at the date of the declaration made under section 1 of this Act, and shall be the amount required for reasonable re-instatement equivalent to the condition of the land at the date of the said declaration.

8. Repeals

- 1) The provisions of section 4 to 18 of the State Property and Contracts Act, 1960 (CA. 6) in so far as they relate to land shall cease to have effect.
- 2) The Housing Schemes (Acquisition of Land) Ordinance (Cap. 85) is hereby repealed.

9. Saving

Notwithstanding the repeal of the enactments specified in the preceding section, any subsidiary legislation made thereunder and in force immediately prior to the commencement of this Act shall continue to have effect as if made under this Act.

**APPENDIX 5
WORLD BANK OPERATIONAL POLICIES ON INVOLUNTARY
RESETTLEMENT**



THE WORLD BANK OPERATIONAL MANUAL

Operational Policies

OP 4.12
December 2001

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

Involuntary Resettlement

This Operational Policy statement was revised in April 2004 to ensure consistency with the requirements of [OP/BP 6.00](#), issued in April 2004. These changes may be viewed [here](#).

OP 4.12 (revised April 2004) applies only to projects that are governed by [OP/BP 6.00](#), *Bank Financing* - that is, those in countries with [approved country financing parameters](#). Other operational policy statements governing Bank financing that have been amended to reflect OP/BP 6.00 also apply to these projects, click to view a full [Table of Contents \(blue\)](#).

Projects in countries without approved country financing parameters continue to be subject to other operational policy statements governing Bank financing; click here for a full [Table of Contents \(yellow\)](#) that includes these statements.

Note: OP and [BP 4.12](#) together replace OD 4.30, *Involuntary Resettlement*. These OP and BP apply to all projects for which a Project Concept Review takes place on or after January 1, 2002. Questions may be addressed to the Director, Social Development Department (SDV).

1. Bank¹ experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:

- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.²
- (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- (c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.⁴

Impacts Covered

3. This policy covers direct economic and social impacts⁵ that both result from Bank-assisted investment projects⁶, and are caused by

- (a) the involuntary⁷ taking of land⁸ resulting in
 - (i) relocation or loss of shelter;
 - (ii) lost of assets or access to assets; or
 - (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or
- (b) the involuntary restriction of access⁹ to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank-assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12](#), para. 7).¹⁰

Required Measures

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

- (a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are
 - (i) informed about their options and rights pertaining to resettlement;
 - (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
 - (iii) provided prompt and effective compensation at full replacement cost¹¹ for losses of assets¹² attributable directly to the project.

- (b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are
 - (i) provided assistance (such as moving allowances) during relocation; and
 - (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.¹³

- (c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are
 - (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;¹⁴ and
 - (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a) (iii), such as land

preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

(a) specific components of the project will be prepared and implemented;

(b) the criteria for eligibility of displaced persons will be determined;

(c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and

(d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,¹⁵ ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A](#), para. 11).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation,

prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30).

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area,¹⁶ or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction¹⁷ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

Eligibility for Benefits¹⁸

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A](#), para. 6(a)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A](#), para. 7(f)); and¹⁹

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance²⁰ in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.²¹ Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included

in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](#));

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified (see [Annex A](#)); and

(c) a process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the “resettlement instruments”), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs.²² The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the “without-project” circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.²³

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also [BP 4.12](#), para. 16).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A](#), paras. 2-21) for projects referred to in para. 17(a) above.²⁴ However, where impacts on the entire displaced population are minor,²⁵ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A](#), para. 22). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see [Annex A](#), paras. 23-25). The

framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex A](#), paras. 23-25). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential subborrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects²⁶ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A](#), paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in paras. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

Process Framework

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

Assistance to the Borrower

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing

(a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;

(b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;

(c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and

(d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

1. "Bank" includes IBRD and IDA; "loans" includes IDA credits and IDA grants, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) adaptable program lending; (b) learning and innovation loans; (c) PPFs and Institutional Development Funds (IDFs), if they include investment activities; (d) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (e) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs under development policy lending operations.

“Borrower” also includes, wherever the context requires, the guarantor or the project implementing agency.

2. In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include [OP 4.01](#), *Environmental Assessment*, [OP 4.04](#), *Natural Habitats*, [OP 4.10](#), *Indigenous Peoples*, and [OP 4.11](#), *Physical Cultural Resources*.

3. The term “displaced persons” refers to persons who are affected in any of the ways described in para. 3 of this OP.

4. Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.

5. Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.

6. This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see [OP/BP 8.50](#), *Emergency Recovery Assistance*).

7. For purposes of this policy, “involuntary” means actions that may be taken without the displaced person’s informed consent or power of choice.

8. “Land” includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.

9. For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

10. The *Involuntary Resettlement Sourcebook* provides good practice guidance to staff on the policy.

11. “Replacement cost” is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see [Annex A](#), footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.

12. If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.

13. The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

14. Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements
15. See [OP / BP 4.10](#), *Indigenous Peoples*.
16. See [OP 4.04](#), *Natural Habitats*.
17. As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.
18. Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).
19. Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.
20. Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.
21. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.
22. For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under [OP 4.01](#), *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts.
- See [The World Bank Policy on Disclosure of Information](#), para. 34, (Washington, D.C.: World Bank, 2002).
24. An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of Bank Management (see [BP 4.12](#), para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.
25. Impacts are considered "minor" if the affected people are not physically displaced and less than 10% of their productive assets are lost.
26. For purpose of this paragraph, the term "subprojects" includes components and subcomponents.