INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

THE INSPECTION PANEL

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IPN REQUEST RQ 13/09

November 11, 2013

NOTICE OF RECEIPT OF REQUEST

Request for Inspection

Nigeria: Lagos Metropolitan Development and Governance Project (P071340)

Overview

On September 30, 2013, the Inspection Panel received a Request for Inspection ("the Request") related to the Nigeria: Lagos Metropolitan Development and Governance Project (P071340) ("the Project").

The Panel has verified that the Request meets the basic requirements for registration. The Panel confirms that the Request was submitted by at least two people, in relation to a project supported by the World Bank. The Bank's financing for the Project had not yet reached 95% disbursement and the Project had not yet closed by the time the Request for Inspection was submitted. The Requesters assert that they are affected by activities supported by the Bank, and the Request raises issues of harm which are plausibly linked to Bank supported activities and from alleged actions or omissions by the Bank. The Request is not related to procurement issues, and it deals with a subject matter on which the Panel has not made a previous recommendation.

The Panel has decided, however, to postpone its decision on registration of this Request in order to provide an additional opportunity for Requesters and Management to address the concerns about the harm alleged in the Request. The Panel is taking this decision in line with its new "*Pilot approach to support early solutions in the Inspection Panel process*", which has been developed in the context of the update of its draft Operating Procedures.[1] Based on its interactions with both Management and the Requesters, the Panel considers that this Request for Inspection provides an appropriate opportunity to provide additional time and space to see if the concerns of the Requesters can be addressed without the need to register the Request and initiate the full-fledged Panel process.

The basis for the Panel's decision to take this approach to pilot an opportunity for an early solution in the present context, are set forth below.

[1] This is the first Request being considered under this new Pilot.

The Request for Inspection

The Request was sent by a civil society organization based in Lagos on behalf of "*individuals, families and groups living in the Badia area of Lagos State.*" The Requesters asked that their identities remain undisclosed. The Requesters allege that the Project has caused further "*impoverishment and insecurity*" of Badia residents, a vulnerable slum community in Lagos, as a result of evictions that have occurred under the Project "*without prior consultation, notice, compensation or resettlement.*"

The Project

The Project is a Specific Investment Credit approved by the Board on July 6, 2006, and restructured in July 2011. At the time of the receipt of the Request for Inspection, the Project had not yet closed and the disbursement rate was at 58.22%.

According to the Project Appraisal Document ("the PAD"), the Project objective is "*to increase sustainable access to basic urban services in Lagos through carrying out of investments in critical infrastructure.*" The Project has three Components: i) infrastructure (including upgrading of infrastructure, drainage, and solid waste); ii) public governance and capacity building; and iii) urban policy and project coordination.

The first component is of relevance to the Requester's claims. It covers activities such as an infrastructure upgrading program in nine of the largest slums identified in 1995, including Badia, and development of a long-term technical solution to flooding under the Drainage sub-component. The PAD states that two Safeguard Policies are triggered in the context of this Project, the policies on Environmental Assessment and Involuntary Resettlement.

The Financing Agreement for the Project requires that the Project Implementing Entity (the Lagos State Government) carry out the city wide upgrading programs in accordance with acceptable principles including those of the Resettlement Action Plan ("the RAP"). It adds that such principles include that: i) involuntary resettlement would be avoided where feasible; ii) where this is not feasible, displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs; and, iii) 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.

Concerns raised in the Request

The Requesters believe that they have suffered serious harm as a result of actions and omissions of the World Bank. They state that the Bank is "*clearly obliged to ensure that the project is implemented in accordance with its own Operational Policies and to hold Lagos State to its commitments under the LMDGP Project Agreement.*"

More specifically, the Requesters state that on March 6, 2012, over 100 structures in Badia were demolished to make way for the construction of a drainage canal built under the Project. The Requesters add that again on February 23, 2013, hundreds of structures were demolished in the area of Badia immediately adjoining the newly constructed canal, forcefully

evicting about 9,000 of the Project's intended beneficiaries. According to the Requesters, both incidences occurred without prior consultation, notice, compensation or resettlement. The Requesters claim that the evictions and demolitions have resulted in their further impoverishment.

The Requesters state that on December 2012 a retroactive resettlement action plan was completed and provided "*minimal financial assistance to 124 Project Affected Persons displaced during the March 2012 forced eviction, the sums were insufficient to offset the harms suffered, especially in light or the delay of nearly nine months.*" They add that since February 23, 2013, no relief or emergency aid measures have been undertaken to mitigate the extreme suffering of thousands of affected persons. The Request refers to a number of interactions in which these concerns have been raised with World Bank representatives from March 2012 to July 2013.

Piloting an opportunity for an early solution

At the time the Panel received the Request for Inspection, the Requesters informed the Panel that their key concern was to ensure that Resettlement Action Plan(s) relating to the evictions noted in their Request would be finalized, funded and properly implemented to address the concerns of the affected people in Lagos, in accordance with Bank Policy on Involuntary Resettlement and Bank Supervision policy.

Following receipt of the Request, and per its practice, the Panel met with Bank Management to be briefed on the background of the Project and any proposed actions by Management in response to the concerns raised. During the meeting, Management described several actions and commitments by the Bank and the authorities. The Panel subsequently informed the Requesters of the indications from Management regarding actions to address their concerns, and about the potential applicability of the new pilot approach to foster early solutions. The Requesters indicated their interest in exploring this possible avenue, and in receiving a written statement of these actions and commitments.

On October 31, 2013, and in line with the new Pilot approach, Bank Management provided to the Panel a written note of Actions Proposed by Bank Management to address the concerns of the Requesters, including an anticipated timeline. This written note is attached to this Notice as Annex 1. Subsequently, and taking into consideration the actions proposed by Management, the Requesters have informed the Panel that they are prepared to follow the Pilot approach to provide an opportunity to resolve their concerns in light of the actions and commitments indicated by Management.

In this regard, the Requesters have also asked the Panel to mention three important questions in which they ask for documents and information that they believe are needed for effective engagement and dialogue. The Panel has referred these requests to Management. They are for: a copy of the 2012 RAP after the demolition/forced eviction in March 2012; a copy of the most recent revision of the 2013 RAP (or addendum to the 2012 RAP as was originally indicated), along with related documents; and clarification about the timetable for the setting up of the grievance mechanism with reference to certain deadlines identified in the Management proposed actions. In this latter regard, the Requesters indicate that they expect no fewer than 350 persons who feel that they were wrongfully left off the final list to be submitting grievances.

In light of the above, the Panel has decided to postpone its decision on Registration to provide an opportunity for an early resolution of the concerns of the Requesters under the Pilot. In accordance with the steps set out in the Pilot approach, the Panel will ask the Requesters and Management to engage in dialogue directly on these matters, and to keep it updated on progress in addressing the concerns of the Requesters. Also, in line with the Pilot approach, the Requesters have the right at any time to indicate that they are not satisfied and would like the Panel to register their Request.

Not later than three months following the date of submission of this Notice, the Panel will review the situation. If the Requesters are satisfied that their concerns are being successfully addressed, and they so inform the Panel in writing, the Panel will not register the Request, and will issue a Notice of Non-Registration. Otherwise, to be able to inform its judgment on whether to close the matter or register the Request, the Panel may visit the Requesters and the project area to have direct discussions. If the Panel decides to register the Request according to its normal process, it will outline the process undertaken to that point as well as the basis for registering in the Notice of Registration sent to the Board and Management.

The Panel is providing this Notice to the Board to explain the basis for adopting this approach to postpone its decision on registration of the Request, and providing this additional opportunity for Management and Requesters to address the concerns of harm alleged in the Request.

The Request has been assigned IPN Request Number RQ 13/09.

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

October 29, 2013

Annex 1

Nigeria – Lagos Metropolitan Development and Governance Project

Actions proposed by Bank Management

Purpose of the Memo

1. The Purpose of this memo is to outline Bank Management's past and proposed actions to address concerns expressed in the request for inspection of the Nigeria – Lagos Metropolitan Development and Governance Project dated September 30, 2013. This information is for the consideration of the Bank's Inspection Panel for the application of the Early Resolution Pilot procedure, agreed between the Panel and Management.

Summary of the harm alleged in the Request

2. The Requesters state that they are representing communities which have been adversely affected by the following events during implementation of the LMDGP:

> *"On March 6, 2012, without prior consultation, notice, compensation or resettlement, Lagos State Government demolished over 100 structures in Badia to make way for the construction of a drainage canal built under the LMDGP. Some homes were set on fire in the middle of the night; the others were demolished the following morning."*
>
> *"On February 23, 2013, without prior consultation, notice, compensation, or resettlement, Lagos State Government demolished hundreds of structures in the area of Badia immediately adjoining the newly constructed canal, forcefully evicting an estimated 9,000 Badia residents, the intended beneficiaries of the LMDGP."*

3. The requesters state that efforts by the Government to mitigate the impacts of the cited events have been insufficient to date:

> *"While a retroactive Resettlement Action Plan (RAP) completed in December 2012 provided minimal financial assistance to 124 Project Affected Persons displaced during the March 2012 forced eviction, the sums were insufficient to offset the harms suffered, especially in light or the delay of nearly nine months. Since the February 23, 2013, no relief or emergency aid measures have been undertaken to mitigate the present and extreme suffering of thousands of affected persons."*

Summary of Actions taken so far

4. There are two demolitions referred to in the request: The first demolition occurred in 2012 in connection with the construction of a canal and a road located in the Badia area of Lagos. Management considered that, as the demolitions had occurred in the right-of-way of the canal, the Project-Affected Peoples (PAPs) should be compensated. After months of consultation with the community and a complex process of community verification a retroactive Resettlement Action Plan (RAP) was prepared and implemented by January 2013.

5. The second demolition occurred on February 23rd, 2013, in a section of Badia East. This demolition was not undertaken as part of project implementation. However, the Financing Agreement for the project states that *all* works related to upgrading urban facilities in Lagos – whether financed by the project or not – need to be carried out in accordance with the project's Resettlement Policy Framework (RPF).

6. Immediately after the 2013 demolitions the Bank team contacted the LMDGP team and the Government of Lagos. The Bank's Country office engaged in fact finding and reached out to representatives of the Social and Economic Rights Action Centre (SERAC), the NGO acting on behalf of affected people. The Bank team visited the demolition site in mid-March and met with SERAC. Soon after, the Country Director met with the Lagos Government to express the urgency of adhering to Bank policies applicable to the project.

7. A meeting with the Governor of Lagos was held on April 26, 2013, in Washington to agree on the way forward. Bank Management agreed to assist the Government of Lagos with the development of a detailed and time-bound action plan to address the demolition's impacts on the affected people. During the meeting, the Bank management requested that no further demolitions should take place except in accordance with the RPF, as provided for in the Financing Agreement/Project Agreement and that the people affected by the demolitions in Badia East need to be supported in a manner that is consistent with the provisions of the project's RPF.

8. During a safeguards mission May 6-10, 2013 the Bank Team met with the Lagos Government officials, the representatives of the affected people, SERAC, and the LMDGP team. It was then agreed that:

a. By July 31, 2013 the Lagos Government would submit to the Bank a census and socioeconomic assessment to identify more precisely the affected population and lost assets and structures. The Bank team indicated to the Government that SERAC is also in the process of compiling a detailed list of all affected people. The Attorney General agreed that there was sufficient information to carry out a credible census.

b. By August 31, 2013, an addendum to the 2012 RAP would be shared with the Bank. This would include entitlements to compensation consistent with and using the same valuation methodology as in the 2012 RAP. The Government representatives clearly understood that the issue of equity and expectations needed to be managed and therefore the same level of compensation will be provided to people most recently affected by demolitions as those who affected by the 2012 demolitions. The Bank team

also explained to the Government that, in accordance with OP 4.12, the RAP addendum would need to explain why people could not be relocated to another site and why the Government was offering only the option of cash compensation. The Government representatives further agreed to ensure that the PAPs were provided with skills training, micro-credit, and employment opportunities since cash compensation only was being offered. All of these points as well as a schedule of activities and a budget will be in the addendum to the RAP.

9. The Bank team also stressed the need to have a strong complaints handling mechanism and that people would have recourse to go to court if they were not satisfied with the compensation offered. The Bank team reiterated that it will continue to monitor the effective implementation of the RAP beyond project closure.

10. The Lagos Government has submitted the two reports as per the due dates. Further Bank missions took place to support the RAP preparation. The Bank's comments on the draft RAP were sent to the Lagos Government on September 11, 2013, suggesting that the Government's Technical Committee: i) move forward with consultations with Community Representatives and SERAC on the final census and financial proposal and ii) finalize implementation plans and arrangements, while iii) simultaneously improving the quality/technical elements of the document itself (the Bank letter included an annex with detailed comments on the RAP).

11. In the second half of September 2013, efforts were made by both sides – the Government and representatives of the PAPs – to agree on: i) the list of affected people and ii) the compensation levels. The Bank team participated in some of these negotiations and observed the good progress which was achieved. In particular, the Government agreed to increase the monthly rental allowance to reflect an understanding that the community members may need to move to more expensive premises; the Government also agreed to add a 5% contingency to the costs of replacement of structures to reflect possible variations in price, etc. The draft RAP was cleared by Bank Management on September 30, 2013, with the proviso that it may be further updated to address some conditions that need to be worked out further or clarified, pending discussions with the Technical Committee.

12. Since the closing date, Management has regularly followed up with the Government of Lagos on the implementation of the RAP. A meeting was held in Abuja on October 8, 2013 with the Director of the Lagos State Technical Committee to review the RAP implementation plan including: (i) review of compensation levels, (ii) completion of list of beneficiaries, (iii) RAP support to the livelihoods of the affected people ; (iv) the RAP complaints handling mechanism and; (v) the timetable for implementation. More specifically the Bank team raised the following issues for consideration by the Lagos State Government:

a. Rental Information: Lagos State Government has been requested to provide rental information for the PAPs. This will ensure that displaced persons have adequate information on rental and are able to secure legal housing.

b. Grievance mechanism: The Citizens Mediation Centre (CMC) is a core component of the grievance mechanism for the implementation of the RAP. As some concerns were

raised the Bank has asked the Government to provide more information on the independence of the state-run CMC.

c. RAP Disclosure: It is important for Lagos Government to ensure that the RAP is disclosed to the public in Lagos (especially to all the PAPs).

d. RAP Implementation: Preparations for the effective implementation of the RAP will need to start immediately. Implementation modalities will need to be completed and appropriate human resources mobilized from the core PIU following project closure.

Proposed actions going forward

13. Management intends to continue its efforts to address the concerns raised by the requesters which have been mentioned earlier. This will include the following actions:

a. In May 2013, the Bank team had followed up with the community and SERAC regarding the December 2012 RAP. No concerns about compensation amounts were raised and the community expressed appreciation for the prompt handling of the matter by the Bank and the Government. As this issue has been raised in the Request, the Bank team will seek clarification from SERAC on the nature of these claims and the reasons why these could not brought to the attention of the Bank team. The Bank team will review these claims and follow up with the Government on redress as appropriate.

b. The Lagos Government is expected to submit the revised RAP on October 28, 2013. The Bank team will review it and ensure that it reflects the commitments made earlier and follow up on its disclosure to and consultation with the community.

c. The Lagos Government has committed to compensation payments by December 16, 2013. IDA is financing US$ 3 million for the compensation to the PAPs; the Government will supplement this amount as and when necessary. The Bank team will work with the Technical Committee on speeding up the disbursement to ensure the payments are made within the grace period of the credit (January 31, 2014). If delays occur in the payment schedule, Bank management will seek an extension of the grace period.

Management would like to underscore the following points which in Management's view provide a sound basis to implement the actions described above:

14. ***Government Commitment.*** The Government has recognized and acknowledged its continued obligation to implement the mitigation measures spelled out under the Bank's safeguard instruments notwithstanding the closure of the project. The Government has assured the Bank of its commitment to do so.

15. ***Funding for compensation payments has been secured.*** As stated above, the Bank has cleared the draft RAP and will clear the final RAP shortly. The Bank has set aside funds for the

RAP, which takes into account the Government's estimate and includes a margin for any contingencies. Bank Management is ready to consider extending the grace period to accommodate the time requirements to reach agreement between the two sides on the exact number of beneficiaries and the amount of compensation for the majority of the cases.

16. ***The Bank has and will continue to supervise the RAP implementation.*** Bank Management is committed to continue the close supervision of the implementation of the RAP by: a) regular visits to Lagos by project team and management (the next mission is scheduled for October 24, 2013), b) mobilizing an experienced local consultant paid by the Bank to provide assistance to the Lagos Government in ensuring close adherence to Bank resettlement policies.

17. ***Legal Remedies available to the Bank.*** The Bank has had good relationship with the Lagos Government which has delivered on all of the agreements. Bank Management expects that this positive and collaborative attitude will prevail in the next months in addressing the impacts of the demolitions. This relationship is embedded in a strong on-going lending program with the State anchored by the preparation of a Development Policy Operation which is an important element in the Government's program. Notwithstanding this relationship, the Bank has always the opportunity and the right to invoke all the remedies that are available under its legal agreements.