



Development Bank of Namibia

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DBN PS5-LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT STANDARD

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a) Version Control

The table below serves to track the key revisions made to this document for change control purposes.

Date	Version	Change Description	Author/Editor
08/02/2016	0.01	Initial Draft for first review	Manager: Environment & Social Development
24/04/2016	0.02	Initial Review	Head: Risk and Compliance –John Jacobs
23/05/2016	0.03	2 nd Review	Risk and Compliance Committee
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10/10/2016	0.05	Second Review	Senior Manager: Risk and Compliance –Saima Nimengobe
07/11/2016	1.00	DBN Board Approval	Chairperson: DBN Board of Directors
10/01/2019	2.00	Change logo on first page	Manager: Environment & Social Development

1. DEFINITIONS, TERMS & ABBREVIATIONS

PROMOTER	The legally authorised and registered entity that obtained or is applying for funding from DBN to implement a project
COMPENSATION	The cost of payment for expropriated land (including trees and crops that cannot be harvested), housing, structures, and other fixed assets, including assets acquired for temporary project use. It includes the costs incurred to help directly acquire substitute properties as well as the cost of acquiring resettlement sites. Compensation applies to vendors, enterprises, and other commercial operations, as well as residential units (households).
DBN	Development Bank of Namibia
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental, and Social Management System
ESMP	Environmental and Social Management Plan
CHANCE FIND	Cultural heritage finds made during a project's construction and/or operation phases
HOST COMMUNITY	A host community is any community receiving displaced persons.
FORCED EVICTIONS	Acts and/or omissions involving the coerced or involuntary resettlement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to
INVOLUNTARY RESETTLEMENT	Refers to: (a) physical displacement (i.e. physical relocation of residence or loss of shelter), and/or (b) economic displacement (i.e. loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition or restriction of access to natural resources.
LAND ACQUISITION	Land acquisition includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.
LIVELIHOOD	Refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade, and bartering.
PROJECT-AFFECTED PERSONS (PAPS)	Refers to all persons impacted by the involuntary resettlement, including all members of a household (women, men, girls, boys, incl. several generations in the case of extended households); the owner and employees of a business; members of an ethnic minority group; tenants; land owners and sharecroppers; informal settlers (i.e. lacking formal titles); holders of customary land-rights; informal business-operators and their employees/assistants.
RESETTLEMENT	Resettlement is a process to assist those displaced to replace their housing, assets, livelihoods, land, access to resources and services and to improve or at least restore their socioeconomic and cultural conditions to those levels existing prior to the project.

Restriction of access to natural resources	The loss of access to marine fishing grounds, loss of access to sub-surface customary mineral rights by artisanal miners, loss of access to grazing land as a result of project activities.
RESETTLEMENT ACTION PLAN (RAP)	The document in which the promoter of a project or other responsible competent authority describes the impacts of the involuntary resettlement, specifies the procedures that will be followed to identify, evaluate and compensate the impacts and defines the actions to be undertaken during all phases of the resettlement.

2. BACKGROUND

The International Finance Corporation (IFC) Performance Standards are an international benchmark for identifying and managing environmental and social risk and has been adopted by many organizations as a key component of their environmental and social risk management.

IFC's Environmental, Health, and Safety (EHS) Guidelines provide technical guidelines with general and industry-specific examples of good international industry practice to meet IFC's Performance Standards.

In many countries, the scope and intent of the IFC Performance Standards is addressed or partially addressed in the country's environmental and social regulatory framework.

The implementation of projects often necessitate land acquisition, expropriation and/or restrictions to affected communities on land use, resulting in the temporary or permanent resettlement of people from their original places of residence or their economic activities or subsistence practices.

When affected persons and communities do not have the choice to refuse such displacement, this process is known as involuntary resettlement.

Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for the Affected Communities and persons, as well as environmental damage and adverse socio-economic impacts in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided as per the Communal Land Reform Act 5 of 2002, Agricultural (Commercial) Land Reform Act 6 of 1995, Agricultural (Commercial) Land Reform Second Amendment Act, 2003 and the Town Planning Ordinance 18 of 1954.

Promoters are encouraged to use negotiated settlements meeting the requirements of this Performance Standard, even if they have the legal means to acquire land without the seller's consent.

3. SCOPE

This Standard applies to the DBN and all components of operations financed by the DBN, including associated facilities, which result in involuntary resettlement. It may further apply to activities resulting in involuntary resettlement that in the DBN's judgment are;

- directly and significantly related to the DBN supported project;
- necessary to achieve its objectives as set forth in the project documents; and
- carried out, or planned to be carried out, contemporaneously with the project.

Failure to comply with the implementation of this standard requirement will be treated as an Event of Default. A no Event of Default will occur if the failure to comply is capable of remedy and is remedied within timeframes as stipulated in the DBN Term Loan Facility Agreement with the promoter.

4. INTENT

The intent of this standard is to guide the promoter to avoid and, when avoidance is not possible to minimise the project induced displacement of people whenever feasible by exploring alternative project designs.

Avoidance and/or the prevention of forced evictions is paramount and the promoter should provide effective remedy to minimise their negative impacts should prevention fail and, provide adequate compensation for loss of assets at replacement cost and, ensure that any eviction which may be exceptionally required is carried out lawfully, respects the rights to life, dignity, liberty and security of those affected who must have access to an effective remedy against arbitrary evictions.

5. PLANNING

- 5.1. Project-induced involuntary resettlement should be avoided by analysing alternative project designs and locations. If it is unavoidable, client/customer, with full involvement in the decision-making process of all stakeholders, and in particular the affected people, should adopt adequate steps to minimise and mitigate its adverse impacts from an early stage.
- 5.2. The promoter is required, as a minimum, to restore the living conditions of those affected by the project and ideally, to work on the continuous improvement of their living conditions.
- 5.3. The promoter is required to carry out a census and a socio-economic baseline survey to establish the number of people to be displaced, livelihoods affected, and property to be compensated.
- 5.4. The surveys should take into account persons affected through anticipated cumulative impacts of the resettlement.

- 5.5. The census date is usually also a cut-off date for eligibility claims. The cut-off date may also be the date of the project area delineation, prior to the census, but only following an effective and documented public information dissemination on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.
- 5.6. The census should include an inventory of losses (assets, access to resources or services, etc.), a detailed measurement survey and valuation of lost assets, and it covers the total affected population.
- 5.7. The socioeconomic baseline survey can be derived from a sample survey and is critical in identifying the current socio-economic, cultural and political profile of the affected persons; their levels of overall resilience or vulnerability; and ensuing degrees and sorts of impacts.
- 5.8. The census and the baseline survey are ideally done in parallel. Alternatively, the socioeconomic survey is done at the preliminary project design stage and the census by the time of the final detailed design. Either way, it is important to consider the timing of safeguards tasks in the project cycle.
- 5.9. Assets like land, structures and others, which are created, encroached or acquired by individuals or groups, after the cut-off dates, will not be eligible for compensation. Issuance of a cut-off date requires the simultaneous clear, public and accessible disclosure of the imminent project activities on the site concerned and their relevant implications for peoples' lives.
- 5.10. A census may be revisited in cases when a long time has lapsed between the census undertaking and the implementation of the Resettlement Action Plan (RAP).
- 5.11. People with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons are eligible for compensation for land.
- 5.12. People who occupy the land but have no formal or informal claim to it, such as squatters, shall be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of the resettlement standards laid out in this Standard, if they occupy the project area prior to a cut-off date established by the promoter and acceptable to the DBN.
- 5.13. Such affected persons shall not be compensated for land but for their land improvements or structures, such as houses and/or small businesses, and may qualify for other resettlement and rehabilitation assistance.
- 5.14. Resettlement assistance can consist of land, cash, jobs, or other forms of assistance determined in consultation with affected people and acceptable to the client/customer. Persons who

encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

5.15. Relocation sites shall fulfil as a minimum the following conditions:

- not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to mental and physical health of the inhabitants;
- not be located in zones identified as potentially subject to disaster risk followed by a natural hazard;
- not be threatened by (imminent) eviction (e.g. public right-of-way), thereby augmenting the multiplying effect of the original displacement impact;
- be identified taking into account their adequacy in terms of (a) legal security of tenure;
- (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) potential for further development; (g) have the capacity to accommodate influx of new settlers at acceptable density levels; and (h) location, and cultural adequacy;
- not be on land used by communities which have been displaced as a result of violence or conflict;
- be available and have the capacity to absorb the influx of resettled persons at acceptable density levels, i.e. resettlement should not lead to new resettlement.

6. IMPLEMENTATION AND OPERATION

- 6.1. Affected stakeholders should be consulted on the choice of sites and, as far as possible, offered choices among sites. In cases of physical resettlement, alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those displaced, where possible. If required, an appropriate environmental impact assessment (EIA) is to be undertaken for the resettlement site.
- 6.2. In cases of economic displacement, and where the asset impacted is arable land constituting the primary and sole source of income and subsistence of the affected household, it is equally advisable that land-for-land compensation is suggested, situated as close as possible to the original place of residence.
- 6.3. All affected persons will be paid fair compensation in good time for expropriated assets. Compensation should be provided for any loss of personal, real or other property, goods or assets, including rights or interests in property, for instance, land plots and house structures, contents, infrastructure, mortgage or other debt penalties.
- 6.4. Where land has been taken, affected persons should be compensated with land of commensurate quality, size and value, or better.

- 6.5. The promoter is required to offer to the affected persons an informed choice of either compensation in kind (land-for-land; land plot and house to replace affected land plot and house) or monetary compensation at the outset. The promoter is expected to comply with the choice stated by the affected persons.
- 6.6. Whenever replacement land is offered, affected households should be 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.
- 6.7. In exceptional cases when this is not possible, adequate compensation must be provided. Monetary compensation shall take into account full replacement cost based on market value, productive potential, or equivalent residential quality, including any administrative charges, title fees, or other legal transaction costs.
- 6.8. The value of any improvements to the land, business losses, equipment, inventory, livestock, trees, crops and lost wages or income must also be compensated, along with economically assessable damage, including: property or interests in property, goods, assets, use-rights or rights of access to natural resources, loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services; and costs of salvage and transport. To enable affected persons to make productive use of cash compensation, it should be paid in its entirety and in a timely manner.
- 6.9. In cases of loss of housing, replacement housing offers must satisfy criteria of adequate housing, as defined above. Compensation for houses and other structures should be equivalent to replacement cost plus relocation costs.
- 6.10. The situation of any project-affected persons who were subject to substandard living conditions prior to the project is to be improved following displacement.
- 6.11. Where the option of cash compensation or alternative accommodation is provided, the cost estimates for providing alternative accommodation could be used for calculating cash compensation payable. For movable structures, such as shacks, shebeens or stalls, comparable replacement sites should be offered. A good practice is to calculate replacement cost for such structures as the cost of alternative sites, the cost of replacing improvements (such as foundations), and relocation expenses or other transaction costs.
- 6.12. The promoter is required to have made the payment by check or deposited beforehand the agreed compensation (as per valuation undertaken) to an individual or joint account for the affected person's access.

- 6.13. The promoter must ensure that compensation and income restoration measures are implemented without discrimination based on gender, race, ethnicity, religion, disability or other prohibited grounds.
- 6.14. When possible, resettlement should also provide opportunities to affected and host communities to improve social and public infrastructure with the aim of contributing to the sustainable socio-economic development of their members.
- 6.15. Opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, paying particular attention to the full participation in the consultation process of women, vulnerable and marginalised groups, in accordance with the DBN PS7- Rights and Interests of Indigenous People Standard.
- 6.16. The promoter shall set up and maintain a grievance mechanism that is independent, free and in line with the requirements set out in the DBN PS10-Stakeholder Engagement Standard and that will allow prompt addressing of specific concerns about compensation and relocation from the affected people and host communities and other directly involved entities.
- 6.17. The mechanism should be easily accessible, culturally appropriate, widely publicised, and well integrated in the client/customers project management system. It should enable the promoter to receive and resolve specific grievances related to compensation and relocation by affected persons or members of host communities, and use the grievance log to monitor cases and improve the resettlement process.

7. PERFORMANCE MANAGEMENT

- 7.1. The promoter shall develop a resettlement action plan (RAP) in line with the DBN's requirements and will have to receive DBN's non-objection before implementation. Arrangements for the implementation of the plan(s) will be agreed with the DBN and will be incorporated into the RAP and the project finance contract.
- 7.2. Displaying due regard for the equal protection of women and vulnerable groups or minority rights, the RAP delineates measures to:
- mitigate the negative impacts of resettlement and identify potential development benefits;
 - assure that the rights and interests of project-affected people are respected and protected, in particular those deemed vulnerable;
 - establish the entitlements of all categories of affected people, including the host communities;
 - introduce any additional accompanying measures for vulnerable affected persons, if relevant;
 - document all compensation measures and relocation activities;

- establish procedures to document all compensation measures and relocation activities and guarantee due process to the affected people, such as meaningful consultation, adequate information to the affected people and sufficient notice before eviction, together with a free and independent grievance mechanism; and
 - establish organisational arrangements and procedures to monitor the implementation of resettlement plans and take corrective actions as necessary.
- 7.3. The promoter obligations to implement a RAP and to report to the DBN on implementation progress will be provided for in the project's legal agreements. The promoter shall set up necessary systems (i.e. resources, staff, and procedures) to monitor the implementation of a RAP on a regular basis and take corrective action as necessary.
- 7.4. Affected persons will be consulted as part of the monitoring activities. The implementation and effectiveness of the resettlement action plan shall be subject to monitoring and review by qualified resettlement specialists and/or other independent third parties as appropriate and commensurate to the scale and risks involved in the resettlement.
- 7.5. Implementation of a RAP will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan and requirements outlined in this Standard.
- 7.6. It is good practice for the promoter to present to the DBN an accountability report upon the completion of the RAP implementation, prepared by an external party. The accountability audit will include, at a minimum, a review of the mitigation measures implemented by the client/customer, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether any follow-up actions and further monitoring are needed.

8. REVIEW

The principles contained in this standard will be reviewed on an annual basis to facilitate improvement.

9. GENERAL REFERENCES FOR STANDARD METHODS

- Performance Standard 5, Land Acquisition and Involuntary Resettlement, IFC, January 1 2012
- DBN PS7-Rights and Interests of Indigenous People Standard.
- African Development Bank Group Integrated Safeguards System (ISS) - Approved 17 Dec 2013
- DBN PS10-Stakeholder Engagement Standard
- European Investment Bank (EIB) Environmental and Social Handbook, Environment, Climate and Social Office Projects Directorate, Version 9.0 of 02/12/2013

10. BOARD APPROVAL OF STANDARD



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EXTRACT OF THE UNAPPROVED ORDINARY BOARD MINUTES OF THE BOARD OF DIRECTORS' MEETING HELD ON 7 NOVEMBER 2016 AT 12 DANIEL MUNAMAVA STREET, WINDHOEK, NAMIBIA

“7. RISK, COMPLIANCE AND POLICIES

7.1 The Board reviewed and approved without any amendments thereto the following environmental standards,

- 7.1.1 Environmental and Social Management System Standard
- 7.1.2 Occupational Health and Safety, Public Health and Security Standard
- 7.1.3 Rights and Interests of Indigenous People Standard
- 7.1.4 Stakeholder Engagement Standard
- 7.1.5 Labour and Working Conditions Standard
- 7.1.6 Land Acquisition and Involuntary Resettlement Standard
- 7.1.7 Cultural Heritage Standard
- 7.1.8 Emergency Prevention, Preparedness and Response Standard
- 7.1.9 Pollution Prevention and Control Standard
- 7.1.10 Biodiversity and Ecosystems Standard
- 7.1.11 Greenhouse Gas Emissions and Climate Change Standard



Company Secretary

R Brusa

14 December 2016