**HA-L1103**

**JUSTIFICATION FOR THE LEGAL CONDITIONS INCLUDED IN THE ESMR**

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| **CONDITIO** | **JUSTIFICACIÓN** |
| **1. Conditions to be Met Prior to the First Disbursement of the Grant.**The Beneficiary or the Executing Agency shall present evidence that (a) it has the resources required to implement ESHS requirements; (b) that the Executing Agency has put in place the ESHS governance structure, including 1 staff at OREPA Ouest specifically hired for the execution of this Project, and training of staff for monitoring of environmental and social issues; (c) that a stakeholder engagement plan, disaster risk assessment, disaster risk management plan and grievance mechanism have been designed for the construction phase of the Project, in terms agreed upon with the Bank, and has been put in effect and has been integrated in the Operational Manual; and d) that a socio-economic study has been conducted to determine affordable service rates for water, e) Prior to starting works in Diquini if economic displacement cannot be avoided through identified mitigation measures that livelihood and restoration plan has been prepared and implemented.. | Ensure that (i) the Executing Agency Will have the conditions necessary to assure that the Project will be compliant with the Bank’s environmental and social safeguards policies applicable; and (ii) the project will not start construction without the applicable environmental and social safeguards in place, including required plans. .. |
| **2. Conditions of Execution for Compliance During the Execution of the Project.**  a) The Beneficiary shall cause the Executing Agency and every other contractor, operator or any other person performing Project related activities to, design, build, operate, maintain and monitor the Project in compliance with: (i) the Bank's environmental and social safeguards policies, as well as their respective implementation guidelines, including: the Access to Information Policy (OP-102), the Environment and Safeguards Compliance Policy (OP-703), and the following, as applicable, the Disaster Risk Management Policy (OP-704); the Involuntary Resettlement Policy (OP-710); the Policy on Gender Equality in Development (OP-761); and the Operational Policy on Indigenous Peoples (OP-765); (ii) the ESHS requirements established by the ESMR, the Project’s Environmental and Social Assessments and the Project EIAs, and all updates agreed to by the Bank; and (iii) any specific ESHS plans, including Corrective Action Plans, (hereinafter, the “environmental and social requirements” or “ESHS requirements”). | Ensure that the Executing Agency will act in accordance with the plans and operational documents approved by the Bank and also mitigate the risk that third parties acting for the Program will create environmental and social liabilities by acting in a manner that is not consistent with the Bank's environmental and social safeguards policies and the Project documents approved by the Bank. |
| b) Any substantive changes to the ESHS provisions or ESHS plans referred to herein shall be in writing and approved by the Bank in a manner consistent with the Bank's environmental and social safeguards policies. | Ensure that all changes made in the ESHS plans approved by the Bank will be consistent with the Bank’s environmental and social safeguards policies. |
| c) The Executing Agency shall implement the Project stakeholder engagement processes that are consistent with the recommendations in the Stakeholder Engagement Framework to ensure that affected communities are informed and consulted about the progress of the work and the ESHS management of the Project and have access to grievance resolution mechanisms. | Ensure that the Executing Agency will execute the Project in compliance with the consultation and access to grievance mechanisms required in the Bank’s environmental and social safeguards policies, as they are specified in the Project documents approved. |
| d) The Executing agency shall prepare and execute detailed ESMPs for the construction and operational phases of the sample project consistent with the ESMPs that were developed | Ensure that the Executing Agency will implement the Project in compliance with requirements of OP-703/B.5 |
| e) With respect to the Project, the Executing Agency shall notify the Bank in writing within ten (10) days of any (1) potential or actual material noncompliance with the environmental and social requirements; (2) accidents, incidents or other significant events ; (3) significant actual or imminent social conflicts; (4) ESHS regulatory action; or (5) any newly identified environmental and social risks and impacts, that may affect the environmental and social aspects of the Operation; in each case such notice shall include actions taken or proposed with respect to such events. | Ensure that the Executing Agency will promptly inform the Bank of any potential risks that could affect the Bank’s reputation or the environmental and social sustainability of the Project. |
| f) A disaster risk management plan be developed prior to commencement of work in Artibonite. | Ensure that the Project will be compliant with the requirements of OP-704. |
| g) In the event the Bank determines that a Corrective Action Plan (CAP) is required, the Executing Agency shall submit a CAP, including the corresponding schedule and budget, that is satisfactory to the Bank within thirty days of the Bank’s request. | Ensure, through a CAP, that the Program will not remain in breach of the Bank's Environmental and Social Safeguards Policies. |
| h) The utilization of the resources of the Financing shall be subject to compliance with the ESHS provisions of the Grant Agreement and Operations Manual. | Ensure that all projects financed by the Bank will be compliant with the environmental and social policies, as they are translated in the ESHS provisions and OM. |
| i) Implementation of a livelihood restoration plan prior to starting works in areas where economic displacement cannot be avoided through identified mitigation measures. | Ensure compliance with requirements of OP-710 |
| j) that EAs including their accompanying ESMPs, DRAs, and DRMPs will be prepared for the operational and maintenance phase of each project not part of the sample and to be included in the Program. | Ensure compliance with requirements of OP-703 (B.3, B.5., B.10 and B.11) |
| **3. Monitoring, Reporting and Supervision.**  For the purposes of monitoring and supervision of ESHS compliance, the following requirements shall apply:   1. The Beneficiary, or the Executing Agency on behalf of the Executing Agency, shall prepare and present to the Bank’s satisfaction, an ESHS Compliance Report (ESCR), in the form and content agreed upon with the Bank, quarterly during construction, and biannually for two years after construction is completed; |  |
| b) The Beneficiary, or the Executing Agency on behalf of the Executing Agency, shall fully cooperate with the Bank, or an ESHS Consultant on its behalf, to carry out Project supervision and prepare supervision reports in order to (i) verify compliance of the implementation of the ESHS requirements for the Project; and (ii) address any ESHS impact or liability that has not been adequately mitigated or compensated. | To ensure that the Executing Agency will demonstrate compliance with the Bank’s ESHS requirements and avoid potential environmental and social liabilities. |
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