

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

Guidance Note 5 corresponds to Performance Standard 5. Please also refer to Performance Standards 1–4 and 6–8 as well as their corresponding Guidance Notes for additional information. Information on all referenced materials appearing in the text of this Guidance Note can be found in the Bibliography.

Introduction

1. Performance Standard 5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons that use this land. Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood¹) as a result of project-related land acquisition² and/or restrictions on land use. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement. This occurs in cases of (i) lawful expropriation or temporary or permanent restrictions on land use and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

2. 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. However, where involuntary resettlement is unavoidable, it should be minimized and appropriate measures to mitigate adverse impacts on displaced persons and host communities³ should be carefully planned and implemented. The government often plays a central role in the land acquisition and resettlement process, including the determination of compensation, and is therefore an important third party in many situations. Experience demonstrates that the direct involvement of the client in resettlement activities can result in more cost-effective, efficient, and timely implementation of those activities, as well as in the introduction of innovative approaches to improving the livelihoods of those affected by resettlement.

3. To help avoid expropriation and eliminate the need to use governmental authority to enforce relocation, clients 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.

¹ The term "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.

² Land acquisition includes both outright purchases of property and acquisition of access rights, such as easements or rights of way.

³ A host community is any community receiving displaced persons.

GN1. Decades of resettlement research have shown that involuntary resettlement associated with public and private sector projects frequently results in the impoverishment of affected households and communities. The main socio-economic risks associated with involuntary resettlement—and therefore those which need to be addressed by developers—are contained in the widely used Impoverishment Risks and Reconstruction Model (Cernea, 1997, 2000), as follows (Performance Standard 5 paragraph references relating to each issue are provided in parentheses):

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

- Landlessness (paragraphs 27–28)
- Joblessness (paragraph 28)
- Homelessness (paragraphs 20–21)
- Marginalization (paragraphs 8 and 19)
- Food insecurity (paragraph 28)
- Increased morbidity and mortality (no specific mention in Performance Standard 5; Performance Standard 1, paragraph 7 requires that the risks and impacts identification process consider all relevant environmental and social risks and impacts)
- Loss of access to common property and services (paragraphs 5 and 28)
- Social disarticulation (paragraph 20).

GN2. Through proper resettlement planning and implementation, the client can avoid or minimize these risks in a systematic manner and, wherever possible, enhance the development impact of a project by enabling affected households and communities to participate in resettlement planning through informed consultation and participation (ICP), and to share in various project benefits and thereby improve their living standards. Investment in local economic and social development can pay dividends to the client in the form of enhanced goodwill within the affected and host communities, and an enhanced corporate reputation. Conversely, without proper planning and management, involuntary resettlement may have negative consequences that diminish the developmental impact of a project and affect the reputation of the client.

GN3. The loss of access to common property resources and natural resources is an important consideration when evaluating a project's impacts on affected communities' and households' livelihoods, as noted in GN1 above. The types of assets to which access might be lost could include, but are not limited to, pasture, fruit trees, medicinal plants, fiber, firewood, and other non-timber forest resources, croplands, fallow lands, woodlots, and fish stocks. Whilst these resources are, by definition, not owned by individual households, access to them is often a key component of affected households' livelihoods, without which they will likely face the risk of project-induced impoverishment.

GN4. Government agencies are often responsible for planning and implementing physical and economic displacement in preparation for private sector projects or as direct sponsors of such projects. Some countries have national legislation guiding the resettlement process. Government agencies follow national legal requirements, while clients are required to ensure that resettlement undertaken on their behalf meets national laws as well as the objectives of this Performance Standard 5. This may require supplementing the Government's efforts in various ways, as outlined in the section on Government led resettlement below (paragraphs GN68–GN74).

Objectives

- **To avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs.**
- **To avoid forced eviction.**
- **To anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost¹ and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.**
- **To improve, or restore, the livelihoods and standards of living of displaced persons.**

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

- **To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure⁵ at resettlement sites.**

⁴ Replacement cost is defined as the market value of the assets plus transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow Affected Communities and persons to replace lost assets with assets of similar value. The valuation method for determining replacement cost should be documented and included in applicable Resettlement and/or Livelihood Restoration plans (see paragraphs 18 and 25).

⁵ Security of tenure means that resettled individuals or communities are resettled to a site that they can legally occupy and where they are protected from the risk of eviction.

GN5. Companies are encouraged to avoid the acquisition of land that results in the physical or economic displacement of people. This requires a meaningful analysis of possible alternatives by the client which incorporates the social and project costs associated with displacement. Where such displacement is unavoidable, adverse impacts on individuals and communities should be minimized through adjustments in routing or siting of project facilities (e.g., pipelines, access roads, plants, depots, etc.).

GN6. If displacement is unavoidable, any project-related eviction should conform to national laws and be conducted in a manner consistent with the objectives of this Performance Standard. More specific guidance is provided in GN55, below. In addition to the guidance provided in paragraph GN55, the international human rights principles laid out in the UN Guiding Principles on Internal Displacement—particularly in Section III: Principles relating to protection during displacement—provide useful guidance regarding rights and protections for internally displaced persons.^{GN1}

GN7. There may be circumstances that require special attention if project-related land acquisition occurs in an area with widespread land disputes or in a post-conflict country/region/area from which people were expelled (or chose to leave) due to conflict, and where the ownership of land is not clear at the moment of acquisition. The client should be aware that acquisition of project-related land in these circumstances will add considerable complexity to the usual challenges in land acquisition and involuntary resettlement, and may potentially exacerbate the existing land conflict. In cases where there has been displacement as a result of conflict, prior to the client's involvement, this Guidance Note supports the application of the aforementioned UN Guiding Principles.

GN8. Compensation for land and other assets should be calculated at the market value plus the transaction costs related to restoring the assets. In practice, those who suffer negative social and economic impacts as a result of the acquisition of land for a project and/or restrictions on land use, may include those having legally recognized rights or claims to the land; those with customary claims to land; and those with no legally recognized claims, as well as seasonal natural resource users such as herders, fishing families, hunters and gatherers who may have interdependent economic relations with communities located within the project area. The potential variety of land and land use claimants renders the calculation of full replacement cost in the above-mentioned situations difficult and complex.

GN9. For this reason, as part of their assessment of legal, social and reputational risks surrounding land acquisition or restriction of use, clients should identify and consult with individuals and communities that will be displaced by land acquisition and/or restrictions on land use as well as host communities who will receive those who are resettled, to obtain adequate information about land titles, claims, and use. All categories of affected households and communities should be consulted, whether individually or through

^{GN1} UN Office of the High Commissioner for Human Rights: Guiding Principles on Internal Displacement: Report of the Representative of the Secretary-General, Mr. Francis M. Deng (February 1998), E/CN.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

representative sampling if the numbers are large, and particular attention should be paid to vulnerable groups. Consultation should capture men's and women's views and concerns. In addition, clients should ensure all households and communities are informed early in the planning process about their options and rights regarding displacement and compensation. Affected households and communities should also have the opportunity for informed participation in key phases of resettlement planning so that the mitigation of adverse project impacts is appropriate and the potential benefits of resettlement are sustainable. More detailed information on consultation and engagement with affected households and communities is provided in Performance Standard 1 and its accompanying Guidance Note.

GN10. Many countries have legally defined rates of compensation for crops and/or land. It is recommended that clients assess the government-established compensation rates and adjust as necessary to meet the replacement rate criterion. The assessment of these rates is best achieved via the commissioning of an experienced agronomist or similarly qualified professional with a working knowledge of the host country's compensation and agricultural pricing systems.

GN11. Compensation alone does not guarantee the restoration or improvement of the livelihoods and social welfare of displaced households and communities. Restoration and improvement of livelihoods often may include many interconnected assets such as access to land (productive, fallow, and pasture), marine and aquatic resources (fish stocks), access to social networks, access to natural resources such as timber and non-timber forest products, medicinal plants, hunting and gathering grounds, grazing and cropping areas, fresh water, as well as employment, and capital. Major challenges associated with rural resettlement include restoring livelihoods based on land or natural resource use and the need to avoid compromising the social or cultural continuity of Affected Communities, including the host communities to which the displaced population may be resettled. Resettlement in urban or peri-urban areas typically affects housing, employment, and enterprises. A major challenge associated with urban resettlement is the restoration of wage-based or enterprise-based livelihoods that are often tied to location (such as proximity to jobs, customers and markets).

GN12. The following are summary recommendations for the design of measures to improve and or restore livelihoods that are land-based, wage-based and enterprise-based:

- *Land-based livelihoods:* Depending on the type of economic displacement and/or the site to which affected women and men are relocated, they may benefit from: (i) assistance in acquiring or accessing replacement land, including access to grazing land, fallow land, forest, fuel and water resources; (ii) physical preparation of farm land (e.g., clearing, leveling, access routes and soil stabilization); (iii) fencing for pasture or cropland; (iv) agricultural inputs (e.g., seeds, seedlings, fertilizer, irrigation); (v) veterinary care; (vi) small-scale credit, including rice banks, cattle banks and cash loans; and (vii) access to markets (e.g., through transportation means and improved access to information about market opportunities).
- *Wage-based livelihoods:* Wage earners in the affected households and communities may benefit from skills training and job placement, provisions made in contracts with project sub-contractors for temporary or longer term employment of local workers, and small-scale credit to finance start-up enterprises. Wage earners whose income is interrupted during physical displacement should receive a resettlement allowance that covers these and other hidden costs. Affected women and men should be given equal opportunities to benefit from such provisions. The location of resettlement housing, in the case of physically displaced persons, can be a significant contributing factor toward socio-

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

economic stability. Careful consideration must be given to the ability of wage earners to continue to access their place(s) of work during and after resettlement; if this ability is impaired then mitigation measures need to be implemented to ensure continuity and avoid a net loss in welfare for affected households and communities.

- *Enterprise-based livelihoods:* Established and start-up entrepreneurs and artisans may benefit from credit or training (e.g., business planning, marketing, inventory and quality control) to expand their business and generate local employment. Clients can promote local enterprise by procuring goods and services for their projects from local suppliers.

GN13. Performance Standard 5 requires provision of adequate housing and a degree of security of tenure to displaced persons at resettlement sites. Adequate housing or shelter can be measured by quality, safety, size, number of rooms, affordability, habitability, cultural appropriateness, accessibility,^{GN2} security of tenure and locational characteristics. Adequate housing should allow access to employment options, markets, and other means of livelihood such as agricultural fields or forests, and also basic infrastructure and services, such as water, electricity, sanitation, health-care, and education depending on the local context and whether these services can be supported and sustained. Adequate sites should not be subject to flooding or other hazards. Whenever possible, clients should endeavor to improve aspects of adequate housing mentioned in this paragraph, including security of tenure, in order to offer better living conditions at the resettlement site, particularly to those without recognizable legal rights or claim to the land they occupy, such as informal settlers (Performance Standard 5, paragraph 17 (iii)) and/or those who are vulnerable as described in Performance Standard 1. Creation of improvement options and setting priorities for such improvements at resettlement sites should be done with the participation of those being displaced as well as host communities as appropriate.

GN14. Security of tenure is an important component of adequate housing. Security of tenure at its highest level means that residents are the legally recognized owners of their land and structures and are free to trade or collateralize their possession. At a minimum, security of tenure affords residents protection from eviction. Eviction means removal of people and their belongings from land and structures against their will and without any legal or other protection. Improving security of tenure can have a positive impact on displaced persons' standard of living. As described in Performance Standard 5, paragraph 17, displaced persons may have formal legal rights to the land; they may have recognized but not formal legal rights to land (e.g., through traditional customary claim to the land or communal possession of community land); or they may have no recognizable legal right to the land they occupy (e.g., informal or opportunistic settlers). In addition, displaced persons may be seasonal or permanent tenants, paying and non-paying or seasonal migrants. Provision of security of tenure for each category of occupant may differ as outlined in the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement (UN Special Rapporteur on the Right to Housing, 2007).^{GN3}

GN15. Displaced persons falling within the meaning of Performance Standard 5, paragraph 17 (iii), are vulnerable to the risk of evictions and displacement in the future by the state or others, particularly if they receive cash compensation but not a place to relocate. As a result, additional protection should be

^{GN2} New housing or shelter, should where appropriate, follow the concept of universal design, and remove the physical barriers that prevent people with disabilities (including the elderly, temporarily infirm, children, etc) from fully participating in social and economic life as explored in the World Bank publication, Design for All (Hotlink to the website: http://siteresources.worldbank.org/DISABILITY/Resources/Universal_Design.pdf)

^{GN3} UN Office of the High Commissioner for Human Rights: Basic Principles and Guidelines on Development-Based Evictions and Displacement: report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari, 11 June 2007, A/HRC/4/18.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

considered. These are described in paragraph GN45. In some cases, tenants may qualify for replacement housing and in other cases they will be resettled in similar housing under similar or improved tenure arrangements.

Scope of Application

4. The applicability of this Performance Standard is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this Performance Standard is managed through the client's Environmental and Social Management System, the elements of which are outlined in Performance Standard 1.

5. This Performance Standard applies to physical and/or economic displacement resulting from the following types of land-related transactions:

- **Land rights or land use rights acquired through expropriation or other compulsory procedures in accordance with the legal system of the host country;**
- **Land rights or land use rights acquired through negotiated settlements with property owners or those with legal rights to the land if failure to reach settlement would have resulted in expropriation or other compulsory procedures;⁶**
- **Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community to lose access to resource usage where they have traditional or recognizable usage rights;⁷**
- **Certain project situations requiring evictions of people occupying land without formal, traditional, or recognizable usage rights;⁸ or**
- **Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, freshwater, medicinal plants, hunting and gathering grounds and grazing and cropping areas.⁹**

6. This Performance Standard does not apply to resettlement resulting from voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail). It also does not apply to impacts on livelihoods where the project is not changing the land use of the affected groups or communities.¹⁰

⁶ This also applies to customary or traditional rights recognized or recognizable under the laws of the host country. The negotiations may be carried out by the government or by the company (in some circumstances, as an agent of the government).

⁷ In such situations, affected persons frequently do not have formal ownership. This may include freshwater and marine environments. This Performance Standard may also apply when project-related biodiversity areas or legally designated buffer zones are established but not acquired by the client.

⁸ While some people do not have rights over the land they occupy, this Performance Standard requires that non-land assets be retained, replaced, or compensated for; relocation take place with security of tenure; and lost livelihoods be restored.

⁹ Natural resource assets referred to in this Performance Standard are equivalent to ecosystem provisioning services as described in Performance Standard 6.

¹⁰ More generalized impacts on communities or groups of people are covered in Performance Standard 1. For example, disruption of access to mineral deposits by artisanal miners is covered by Performance Standard 1.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

7. Where project impacts on land, assets, or access to assets become significantly adverse at any stage of the project, the client should consider applying requirements of this Performance Standard, even where no land acquisition or land use restriction is involved.

GN16. Performance Standard 5 applies to transactions where the buyer acquires land, or land use rights through direct negotiations with the seller, but where the buyer can resort to government authority to gain access to the land or to impose limits on land use (such as easements or rights of way) if the buyer and seller cannot agree on a price, or negotiations otherwise fail. In these cases, the seller does not have the option to retain the land. The seller must accept the buyer's best offer or face expropriation or other legal proceedings based on eminent domain. This process of land acquisition by governments is commonly known as expropriation, compulsory acquisition or eminent domain. Performance Standard 5 seeks to protect sellers from a variety of risks of negotiated transactions that occur under these conditions. It is not relevant to the application of Performance Standard 5 whether the client or the government conducts the negotiations (directly or through third parties), since the seller could feel compelled to accept inadequate compensation if he or she knows that the alternative (expropriation) is even less attractive, or if he/she lacks access to adequate information on market prices. The seller may also be forced to accept a cash settlement in situations where alternative housing or replacement land of equivalent value is not available in the area. In order for acquisition of land to be considered "willing buyer/willing seller," where the affected households voluntarily sell their property and assets, the client must not have the option of compulsory acquisition and the following conditions should apply: (i) land markets or other opportunities for the productive investment of the sales income exist; (ii) the transaction took place with the seller's informed consent; and (iii) the seller was provided with fair compensation based on prevailing market values. These principles should apply to land consolidators, aggregators, or land developers in order to ensure fair property transactions.

GN17. As stated in Performance Standard 5, paragraph 23, the client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility. The client should nevertheless accommodate individuals or groups who are not present at the time of registration but who have a legitimate claim to membership of the Affected Community. Such groups might include absent family members engaged in migrant wage labor or nomadic pastoralists who use local resources on a seasonal basis. If there is a significant time lag between the completion of the census and implementation of the resettlement or livelihood restoration plan, planners should make provision for population movements as well as natural population increase; a repeat census may be required to allow for these natural changes. Similarly, the client should account for people who may not occupy a site required by a project at the time of enumeration, e.g., refugees or other persons internally displaced by civil conflict who may be unable or unwilling to return to a location to exercise their land claims after a conflict. Such scenarios generally occur in post-conflict situations and it is recommended that the client seek the advice of social development professionals familiar with the country context.

GN18. Project situations where involuntary restrictions on land use and access to natural resources cause a community or groups within a community to lose access to resources where they have traditional or recognizable usage rights may include, for example, loss of access to common property resources such as forest, grazing land or fishing grounds. In such situations, the impacts of project-related restriction of access to resources are typically direct, adverse and indistinguishable from the impacts of land acquisition. As noted in GN1, above, loss of access to common property resources has been identified as one of the primary impoverishment risks associated with involuntary resettlement and requires careful mitigation.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

GN19. In the event of impacts by project activities other than land acquisition or restriction of access to land use, the client's social and environmental risks and impacts identification process under Performance Standard 1 should address how these risks and impacts will be avoided, minimized, mitigated or compensated for by the client. Examples include the loss of access to state-owned sub-surface mineral rights^{GN4} by artisanal miners, and/or pollution or project-related disruption of access to water on land not acquired by the project or whose use is not restricted by the project. While Performance Standard 5 will not apply to these situations, the client should nonetheless consider appropriate mitigation measures for the affected people under Performance Standard 1 (see Guidance Note 1). Even if the client's assessment determines at the outset that no significant project impacts are likely to occur, project conditions could subsequently change and affect local communities adversely (e.g., future project-related pollution or the project's extraction of water that affects water resources on which communities depend). If and when such conditions occur in the future, they should be assessed by the client under Performance Standard 1. If direct project impacts become significantly adverse at any stage of the project, so that the relevant communities are left with no alternative except to resettle or become economically displaced, the client should apply the requirements of Performance Standard 5, even where no initial project-related land acquisition was involved. In these cases, an option for the client may be to acquire the relevant land that is subject to significant adverse impact, and apply the requirements of Performance Standard 5.

GN20. Impacts not directly related to land transactions, such as restrictions on land use resulting from the creation of project-related buffer zones or biodiversity offsets, as well as economic displacement associated with freshwater and marine fisheries, are covered under Performance Standard 5 and should be mitigated and compensated for according to the principles of the Performance Standard. Examples of buffer zones might include restrictions on access to fishing areas around ports, docks or shipping lanes; creation of safety zones around mines, quarries or blasting zones; or green spaces around industrial plants. While land rights or the equivalent freshwater/marine rights may not be acquired, restrictions on the use of land or freshwater/marine resources may cause physical and/or economic displacement which is indistinguishable from that associated with land acquisition transactions and must be dealt with according to the requirements of this Performance Standard. Buffer zones impacting sub-surface minerals are covered in Performance Standard 1.

Requirements

General

Project Design

8. The client will consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable.

Compensation and Benefits for Displaced Persons

9. When displacement cannot be avoided, the client will offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance¹¹ to help them improve or restore their standards of living or livelihoods, as provided in this Performance Standard. Compensation standards will be transparent and applied

¹¹ As described in paragraphs 19 and 26.

^{GN4} In most countries, surface land rights are legally distinct from sub-surface mineral rights and exploitation by individuals either illegal or highly regulated (unlike surface land rights).

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

consistently to all communities and persons affected by the displacement. Where livelihoods of displaced persons are land-based,¹² or where land is collectively owned, the client will, where feasible,¹³ offer the displaced land-based compensation. The client will take possession of acquired land and related assets only after compensation has been made available¹⁴ and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation.¹⁵ The client will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.

¹² The term “land-based” includes livelihood activities such as subsistence cropping and grazing of livestock as well as the harvesting of natural resources.

¹³ Refer to paragraph 26 of this Performance Standard for further requirements.

¹⁴ In certain cases it may not be feasible to pay compensation to all those affected before taking possession of the land, for example when the ownership of the land in question is in dispute. Such circumstances shall be identified and agreed on a case-by-case basis, and compensation funds shall be made available for example through deposit into an escrow account before displacement takes place.

¹⁵ Unless government-managed resettlement is involved and where the client has no direct influence over the timing of compensation payments. Such cases should be handled in accordance with paragraphs 27–29 of this Performance Standard. Staggered compensation payments may be made where one-off cash payments would demonstrably undermine social and/or resettlement objectives, or where there are ongoing impacts to livelihood activities.

GN21. The potential cost of mitigation for economic and physical displacement should be scoped early in the project design phase and be integrated into consideration of project design and development. Mitigation and compensation for physical and economic displacement can be costly. Early assessment of this cost is important to assess the viability of alternative project designs, technologies, routes, or sites.

GN22. The rate of compensation for lost assets should be calculated at full replacement cost, (i.e., the market value of the assets plus transaction costs). The process used for determining compensation values should be transparent and easily comprehensible to project-affected people. Rates should be adjusted for inflation annually, at a minimum. For losses that cannot easily be valued or compensated for in monetary terms, in-kind compensation may be appropriate. However, this compensation should be made in goods or resources that are of equivalent or greater value, are culturally appropriate and which can be sustainably maintained by the community. With regard to land and assets, replacement costs are defined as follows:

- ***Agricultural or pasture land:*** land of equal productive use or potential, located in the vicinity of the affected land or the new housing site, plus the cost of preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes or customary fees. In situations where blocks of replacement land are identified by the client in areas not immediately adjacent to affected land, the client should establish the difference between present and potential land use to ensure that replacement land is of equivalent potential. Typically this requires an independent assessment of land capacity and/or carrying capacity (e.g., soils surveys, agronomic capability mapping). Compensation for affected land with land of less productive potential may prevent the restoration of livelihoods and require a higher cost of inputs than prior to displacement. Land-based compensation strategies are the preferred form of compensation for agriculturally-based households.
- ***Fallow land:*** market value of land of equal productive value in the vicinity of the affected land. Where value cannot be determined or land for land compensation is not feasible, in-kind communal compensation is recommended.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

- *Land in urban areas*: the market value of land of equivalent area and use, with similar or improved infrastructure and services preferably located in the vicinity of the affected land, plus transaction costs such as registration and transfer taxes.
- *Houses and other structures* (including public structures such as schools, clinics and religious buildings): the cost of purchasing or building a replacement structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor, contractors' fees and transaction costs such as registration, transfer taxes, and moving costs.
- *Loss of access to natural resources*: The market value of the natural resources which may include wild medicinal plants, firewood, and other non-timber forest products, meat or fish. However cash compensation is seldom an effective way of compensating for lost access to natural resources—as discussed in GN22–23 and GN56–66 below—and every effort should be made to provide or facilitate access to similar resources elsewhere, thereby avoiding or minimizing the need for cash compensation.

GN23. Compensation for lost land and assets should be paid prior to the client taking possession of this land or assets and where possible people should have been resettled at their new sites and moving allowances paid to them. However, there may be circumstances where delayed payment of compensation may be justified or beyond the client's control. In addition, certain activities, for example seismic surveys, may lead to temporary disruption of economic activities and damage or destruction of property which can only be assessed and compensated for after the surveys are completed, once the damage is measurable. In such cases, compensation after the fact is acceptable. There are also instances in which economic effects must necessarily be measured over time, for example the re-establishment of croplands and crop yields after temporary disruption caused by pipeline laying; again, staggered compensation payments based on measured impacts may be acceptable.

GN24. As a matter of general principle under Performance Standard 5, preference should be given to land-based resettlement strategies for physically or economically displaced persons whose livelihoods are land-based. When affected households or communities are to be physically displaced these strategies may include resettlement on public land with agreement of government or on private land purchased for resettlement. When replacement land is offered, the combined characteristics of the land, such as productive potential, advantages of location, and security of tenure, as well as the legal nature of the land title or use rights should at least be equivalent to those of the old site. If land is not the preferred option of the displaced persons, or sufficient land is not available, non-land-based options such as employment opportunities or assistance to establish businesses should be explored in addition to cash compensation for land and other affected assets. Transitioning displaced people from land-based livelihoods to non land-based livelihoods is extremely challenging. In cases of economic displacement, the preference for land-based strategies means that the compensation, targeted assistance, and transitional support to be offered to economically displaced persons should be consistent with their land-based livelihood. For additional guidance, see paragraphs GN57–66 below. Persons identified as vulnerable should be assisted to fully understand their options for resettlement and compensation, and encouraged to choose the option(s) with the lowest risk.

GN25. Cash compensation may be offered to those people who do not wish to continue their land-based livelihoods or who prefer to purchase land on their own. When payment of cash compensation is considered, the abilities of the affected population to utilize cash to restore standards of living should be carefully assessed. Because short-term consumption of cash compensation can result in hardship for

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

subsistence-based economies or poorer households, payment of in-kind compensation (e.g., livestock or other moveable/transferrable property) or vouchers earmarked for specific types of goods and services may be more appropriate. Detailed guidance on opportunities to derive appropriate development benefits from the project can be found in [IFC's Handbook for Preparing a Resettlement Action Plan](#).

Community Engagement

10. The client will engage with Affected Communities, including host communities, through the process of stakeholder engagement described in Performance Standard 1. Decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable. Disclosure of relevant information and participation of Affected Communities and persons will continue during the planning, implementation, monitoring, and evaluation of compensation payments, livelihood restoration activities, and resettlement to achieve outcomes that are consistent with the objectives of this Performance Standard.¹⁶ Additional provisions apply to consultations with Indigenous Peoples, in accordance with Performance Standard 7.

Grievance Mechanism

11. The client will establish a grievance mechanism consistent with Performance Standard 1 as early as possible in the project development phase. This will allow the client to receive and address specific concerns about compensation and relocation raised by displaced persons or members of host communities in a timely fashion, including a recourse mechanism designed to resolve disputes in an impartial manner.

¹⁶ The consultation process should ensure that women's perspectives are obtained and their interests factored into all aspects of resettlement planning and implementation. Addressing livelihood impacts may require intra-household analysis in cases where women's and men's livelihoods are affected differently. Women's and men's preferences in terms of compensation mechanisms, such as compensation in kind rather than in cash, should be explored.

GN26. Effective resettlement planning requires regular consultation and engagement with a wide range of project stakeholders. For the purpose of Performance Standard 5, the key stakeholder groups are the economically and/or physically displaced persons and the host community as well as any governmental or other parties responsible for approving and/or delivering resettlement-related plans and assistance. Early communication helps to manage public expectations concerning the impact of a project and its expected benefits. This early engagement is very important where resettlement is envisaged, to enable affected households, communities and other stakeholders to fully understand the implications of such impacts on their lives and to actively participate in the associated planning processes or decide upon trusted representatives to participate for them. While the establishment of resettlement committees can support the resettlement plan and communication efforts, steps should be taken to ensure that all potentially displaced people are informed and invited to participate in decision making related to resettlement.

GN27. As described in Performance Standard 1, informed participation involves organized and iterative consultation, leading to the client's incorporating into its decision-making process the views of the affected households and communities on matters that affect them directly, such as the identification or project alternatives to minimize the need for resettlement, proposed resettlement planning milestones and mitigation measures (e.g., alternative resettlement site selection, eligibility criteria, design and layout of replacement housing and social amenities, timing of relocation and identification of vulnerable persons with the Affected Community), the sharing of development benefits and opportunities, livelihood restoration plans and resettlement implementation issues. The client will document the informed

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

consultation and participation process in the Resettlement and/or Livelihood Restoration Plan. The Resettlement and/or Livelihood Restoration Plan will provide a clear indication as to how directly affected households and communities (including host communities) will be involved in an ongoing process of organized, iterative consultation throughout the process of resettlement planning, implementation and monitoring. As described below in GN41 and GN47, the participation process needs to be adapted to ensure that women's concerns are adequately captured and factored into all key stages of resettlement planning and implementation.

GN28. Disclosure of displacement eligibility and entitlements including compensation and livelihood restoration packages should take place sufficiently early in the project's planning process to allow potentially displaced people sufficient time to consider their options. Engagement of third party experts who can provide additional information on the conditions and benefits of the Resettlement Action Plan for the benefit of the affected people may reduce the imbalance of power and knowledge between the client and the community. Special provisions apply to consultation with Indigenous Peoples (see Performance Standard 7), as well as individuals belonging to vulnerable groups. For requirements and guidance on the informed consultation and participation process (ICP), see the section on Stakeholder Engagement, paragraphs 25 to 33 of Performance Standard 1 and its accompanying Guidance Note 1. Additional guidance on effective public consultation can be found in the IFC publication [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets](#).

GN29. Vulnerable or "at-risk" groups include people who, by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status may be more diversely affected by displacement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits. Vulnerable groups in the context of displacement also include people living below the poverty line, the landless, the elderly, women- and children-headed households, Indigenous Peoples, ethnic minorities, natural resource dependent communities or other displaced persons who may not be protected through national land compensation or land titling legislation. These groups should be identified either through the process of Environmental and Social Impact Assessment (Performance Standard 1) or through the social baseline studies component of resettlement planning. Special measures may include focus groups with vulnerable and at-risk groups; ensuring that resettlement committees include members of vulnerable, at-risk and disadvantaged groups; and ensuring that Project staff has representatives from these groups (such as women, elderly, disabled). In some cases special efforts must be made to ensure that vulnerable members have access to consultation events or discussion forums. Examples of how this can be done include provision of transportation and visits to individual households. Persons identified as vulnerable should be assisted to fully understand their options for resettlement and compensation, and encouraged to choose the option with the lowest risk.

GN30. Regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. Timely redress of grievances through an effective and transparent grievance mechanism is vital to the satisfactory implementation of resettlement and to completion of the project on schedule.

GN31. The client should make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available. The client should ensure that designated staff are trained and available to receive grievances and coordinate efforts to redress those grievances through the appropriate channels, taking into consideration any customary and traditional methods of dispute resolution within the Affected Communities. Affected households and

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

communities should be informed, as part of the consultation effort, of the process for registering grievances, should have access to this grievance mechanism, and know the possibilities of legal recourse available. As with the Resettlement Action Plan (see paragraph 19 of Performance Standard 5), the scope of the grievance mechanism will vary with the magnitude and complexity of the project and its associated displacement. It should be readily accessible to all and provide for fair, transparent and timely redress of grievances and special accommodations for women and vulnerable and marginalized groups to voice their concerns or make complaints. Further guidance on establishing grievance procedures can be found in [IFC's Good Practice Note—Addressing Grievances from Project-Affected Communities](#) (2009).

Resettlement and Livelihood Restoration Planning and Implementation

12. Where involuntary resettlement is unavoidable, either as a result of a negotiated settlement or expropriation, a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project, determine who will be eligible for compensation and assistance,¹⁷ and discourage ineligible persons, such as opportunistic settlers, from claiming benefits. In the absence of host government procedures, the client will establish a cut-off date for eligibility. Information regarding the cut-off date will be well documented and disseminated throughout the project area.

13. In cases where affected persons reject compensation offers that meet the requirements of this Performance Standard and, as a result, expropriation or other legal procedures are initiated, the client will explore opportunities to collaborate with the responsible government agency, and, if permitted by the agency, play an active role in resettlement planning, implementation, and monitoring (see paragraphs 30–32).

14. The client will establish procedures to monitor and evaluate the implementation of a Resettlement Action Plan or Livelihood Restoration Plan (see paragraphs 19 and 25) and take corrective action as necessary. The extent of monitoring activities will be commensurate with the project's risks and impacts. For projects with significant involuntary resettlement risks, the client will retain competent resettlement professionals to provide advice on compliance with this Performance Standard and to verify the client's monitoring information. Affected persons will be consulted during the monitoring process.

15. Implementation of a Resettlement Action Plan or Livelihood Restoration Plan will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan as well as the objectives of this Performance Standard. It may be necessary for the client to commission an external completion audit of the Resettlement Action Plan or Livelihood Restoration Plan to assess whether the provisions have been met, depending on the scale and/or complexity of physical and economic displacement associated with a project. The completion audit should be undertaken once all mitigation measures have been substantially completed and once displaced persons are deemed to have been provided adequate opportunity and assistance to sustainably restore their livelihoods. The completion audit will be undertaken

¹⁷ Documentation of ownership or occupancy and compensation arrangements should be issued in the names of both spouses or heads of households, and other resettlement assistance, such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

by competent resettlement professionals once the agreed monitoring period is concluded. The completion audit will include, at a minimum, a review of the totality of mitigation measures implemented by the Client, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether the monitoring process can be ended.¹⁸

16. Where the exact nature or magnitude of the land acquisition or restrictions on land use related to a project with potential to cause physical and/or economic displacement is unknown due to the stage of project development, the client will develop a Resettlement and/or Livelihood Restoration Framework outlining general principles compatible with this Performance Standard. Once the individual project components are defined and the necessary information becomes available, such a framework will be expanded into a specific Resettlement Action Plan or Livelihood Restoration Plan and procedures in accordance with paragraphs 19 and 25 below.

¹⁸ The completion audit of the Resettlement Action Plan and/or Livelihood Restoration Plan, will be undertaken by external resettlement experts once the agreed monitoring period is concluded, and will involve a more in-depth assessment than regular resettlement monitoring activities, including at a minimum a review of all mitigation measures with respect to the physical and/or economic displacement implemented by the Client, a comparison of implementation outcomes against agreed objectives, a conclusion as to whether the monitoring process can be ended and, where necessary, a Corrective Action Plan listing outstanding actions necessary to meet the objectives.

GN32. Effective resettlement planning entails conducting a detailed socio-economic census of displaced persons and an inventory of affected land and assets at the household, enterprise, and community level. The date of completion of the census and assets inventory represents a cut-off date. Individuals taking up residence in the project area after the cut-off date are not eligible for compensation or resettlement assistance provided that notification of the cut-off date has been well communicated, documented, and disseminated. Similarly, the loss of fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the cut-off date should not be compensated. A common complication encountered with respect to cut-off dates involves “historic” cut-off dates, which were established at the time a project was ready for development but, due to project delays, have become forgotten or outdated. In such scenarios, natural population growth from eligible households leads to “new” households not listed in the initial surveys: these are to be considered eligible for resettlement benefits and assistance. Another complication is the extent to which the government process of establishing the cut-off date can be considered to be adequately documented and disseminated to affected households and communities within the project area. If this is considered not to have been achieved or if the associated census of affected persons is outdated or otherwise inadequate, then additional study is required to re-assess eligibility for benefits under Performance Standard 5. Seasonal resource users, such as nomadic herders, may not be present in the project area during the time of the census and special consideration should be given to the claims of these users.

GN33. Establishment of restrictions on activities such as construction, agricultural activities, and home improvements after the establishment of cut-off dates can represent a moderate to severe hardship for affected households and communities. Often there are delays between the cut-off date (and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. The time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client. The client should also consider ways to minimize impacts from cut-off restrictions such as planning development activities, so that affected farmers can harvest crops prior to displacement. Also a firm timetable should be adhered to

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

or the client must be prepared to pay compensation for the delay. For example, when communities do not plant crops in anticipation of a move, which is then delayed, the community may need assistance in meeting their food needs because they did not have a harvest that year.

GN34. If the affected households or communities reject an offer of compensation from the client that meets the requirements of Performance Standard 5 and, as a result, expropriation or other legal procedures are initiated, the responsible government agencies may offer affected households or communities compensation based on the assessed value of the land. The matter may proceed to litigation and may take a number of years to be resolved. The court's final determination may confirm compensation based on assessed value. Because there is a risk of impoverishment from loss of the income base or livelihood of the affected people or communities from a protracted process and depressed compensation, the client will ascertain whether government or court assessed value in cases of such expropriation is consistent with Performance Standard 5 by requesting information on the level of compensation offered by the government and the procedures used to estimate these values under such expropriation. The client may be asked to verify that these rates reflect the current market replacement values for the assets in question. Compensation payments for those affected by resettlement could be held in an escrow account set up by the client for earmarking the funds until a decision is made regarding the payment timing and amount owed. The client should be engaged during these expropriation processes and support outcomes that are consistent with the objectives of Performance Standard 5. Whether the client will be permitted to play an active role will depend in part on the applicable national law and the judicial and administrative processes and practices of the responsible government agency. See paragraphs GN63–GN69 below related to private sector responsibilities under government managed resettlement for more guidance in this situation.

GN35. The client is responsible for carrying out a Resettlement Completion Audit in circumstances where resettlement is deemed to pose the risk of significant adverse social impacts, i.e., generally in projects which have been categorized "A" solely or partially on the basis of anticipated resettlement impacts. The elevated social risk associated with the close-out audit requirement may be related to the scale of a resettlement, to the particular vulnerability of the affected households (e.g., Indigenous Peoples or others with a strong attachment to particular lands and/or natural resources) or to other social and/or political factors to be determined by competent social science professionals on a project-by-project basis. As stated in Performance Standard 5, paragraph 15, the completion audit will be undertaken by qualified resettlement professionals once the agreed monitoring period is concluded. The key objective of a completion audit is to determine whether the client's efforts to restore the living standards of the affected population have been properly conceived and executed. The audit should verify that all physical inputs committed to in the Resettlement Action Plan have been delivered and all services provided. In addition, the completion audit should evaluate whether the mitigation actions described in the Resettlement Action Plan have had the desired outcome. The socio-economic standards and livelihoods of the affected population should ideally be measured against the baseline conditions of the population prior to resettlement and improved or at least restored to pre project levels. For further guidance, see Annex B: Completion Audit Table of Contents.

GN36. The completion audit should be undertaken once all the key commitments in the Resettlement Action Plan (including any livelihood restoration activities as well as other developmental commitments) have been implemented. The timing of the audit will enable the client to complete time bound corrective actions, if any, as recommended by the auditors. In the majority of cases, the completion of corrective actions identified by the completion audit should bring the client's responsibility for resettlement, compensation, livelihood restoration, and development benefits to a close.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

GN37. In cases of land acquisition based on negotiated settlement that does not result in the physical displacement of people, the client should provide the affected people with information on current property values and methods of value appraisal. The client should document the procedures for determining and awarding compensation in a Livelihood Restoration Framework that: (i) identifies all affected people; (ii) provides an inventory of affected assets; (iii) describes the methods applied for valuing land and other affected assets at full replacement cost; (iv) indicates the rates of compensation to be paid; (v) outlines a schedule of land take and compensation payments and the methods to receive payments; and (vi) describes the process whereby affected people can appeal property valuations they deem to be inadequate. The client should summarize this information for public disclosure to ensure that affected people understand the land acquisition procedures and know what to expect at the various stages of the transaction (e.g., when an offer will be made to them, how long they will have to respond, grievance mechanism, legal procedures to be followed if negotiations fail). The client should provide the affected households and communities the opportunity to participate in the negotiations based on the established procedures.

GN38. Land-based compensation should be offered to affected people in cases where their livelihoods are land-based and the proposed land take is significant enough to render a land holding economically unviable.^{GN5} If it is not possible to offer replacement land (in cases of displaced persons under paragraph 17(i) or 17(ii) of Performance Standard 5), the client will provide opportunities that enable sellers of land to restore their livelihoods and standards of living to levels equivalent to, or better than, those maintained at the time of sale. Persons identified as vulnerable (such as those under paragraph 17(iii) below), should be assisted to fully understand their options for compensation, and encouraged to choose the option with the lowest risk. A detailed description of how this restoration will be achieved should be included in the Resettlement Action Plan and/or Livelihood Restoration Plan.

Displacement

17. Displaced persons may be classified as persons (i) who have formal legal rights to the land or assets they occupy or use; (ii) who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law;¹⁹ or (iii) who have no recognizable legal right or claim to the land or assets they occupy or use. The census will establish the status of the displaced persons.

18. Project-related land acquisition and/or restrictions on land use may result in the physical displacement of people as well as their economic displacement. Consequently, requirements of this Performance Standard in respect of physical displacement and economic displacement may apply simultaneously.²⁰

¹⁹ Such claims could be derived from adverse possession or from customary or traditional tenure arrangements.

²⁰ Where a project results in both physical and economic displacement, the requirements of paragraphs 25 and 26 (Economic Displacement) should be incorporated into the Resettlement Action Plan or Framework (i.e., there is no need to have a separate Resettlement Action Plan and Livelihood Restoration Plan).

GN39. Where physical displacement is unavoidable, resettlement should be planned and executed in a manner that provides displaced persons with opportunities to participate in the planning and implementation of resettlement activities to improve or at least restore their standards of living. The baseline situation—to be established prior to resettlement—may include a socio-economic survey, census and enumeration of household assets. Resettlement planning and implementation should focus

^{GN5} In OP 4.12, Involuntary Resettlement, World Bank, footnote 18, the general principle would apply if the land taken constitutes more than 20 percent of the total productive area.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

on, at a minimum, restoration of people's livelihoods; more specifically, in keeping with the key impoverishment risks identified in GN1, "restoration" should aim to comprehensively address the following (as applicable): providing adequate agricultural land and sufficient assistance to bring this land into production where livelihoods are land-based; ensuring that there is no net loss in employment among affected households as a result of resettlement (i.e., finding or creating employment opportunities where necessary); improving affected persons' housing and access to social services such as education and healthcare; careful consideration of social networks and how these can be re-created at resettlement sites, especially regarding vulnerable people; consideration of and project support to the local institutional structures necessary to implement and support resettlement; design of explicit mitigation measures to address food security, especially in the early phases of resettlement implementation (including provision of direct supplements where necessary); and provision of adequate access to alternative common property and natural resources. Clients are encouraged to explore and implement the principle of benefit sharing for resettled households, in addition to livelihood restoration, in order to improve affected persons' livelihoods wherever possible.

GN40. At a minimum, under the above circumstances of unavoidable resettlement, the following steps should be undertaken: (i) engage effectively to inform affected people of their options and entitlements concerning relocation and involve them in a process that considers alternatives to the project that minimize displacement; (ii) provide technically and economically feasible options for resettlement through a process of informed consultation and participation with affected people and assessment of resettlement alternatives; (iii) provide displaced people with prompt and effective compensation at full replacement value for any loss of assets due to project activities; (iv) provide relocation assistance (see below); and (v) provide temporary housing (if necessary), permanent housing sites, and resources (in cash or in kind) for construction of permanent housing inclusive of all fees, taxes, customary tributes, and utility hook-up charges.

GN41. Women are frequently the first to suffer when resettlement is badly planned or executed as they are often a disproportionately large number of the poor; have more limited access to resources, opportunities, and public services than men; and as a result rely more heavily on informal support networks within their existing communities. The resettlement process should specifically take into account women's situations, adapting the engagement process as necessary to provide women a role in decision making. Special effort should be made to identify women's: (i) means of income generation and livelihoods, including non-formal activities such as gathering natural resources, trading and bartering services and wares; (ii) social and economic networks including extended family ties; and (iii) ownership of affected assets including land and crops in order to appropriately compensate the owners. Women may, for example, put particular emphasis on maintaining the social continuity of the displaced community.

Physical Displacement

19. In the case of physical displacement, the client will develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of this Performance Standard regardless of the number of people affected. This will include compensation at full replacement cost for land and other assets lost. The Plan will be designed to mitigate the negative impacts of displacement; identify development opportunities; develop a resettlement budget and schedule; and establish the entitlements of all categories of affected persons (including host communities). Particular attention will be paid to the needs of the poor and the vulnerable. The client will document all transactions to acquire land rights, as well as compensation measures and relocation activities.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

20. If people living in the project area are required to move to another location, the client will (i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and (ii) provide relocation assistance suited to the needs of each group of displaced persons. New resettlement sites built for displaced persons must offer improved living conditions. The displaced persons' preferences with respect to relocating in preexisting communities and groups will be taken into consideration. Existing social and cultural institutions of the displaced persons and any host communities will be respected.

21. In the case of physically displaced persons under paragraph 17 (i) or (ii), the client will offer the choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and advantages of location or cash compensation where appropriate. Compensation in kind should be considered in lieu of cash. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.²¹

²¹ Payment of cash compensation for lost assets may be appropriate where (i) livelihoods are not land-based; (ii) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual land is economically viable; or (iii) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing.

GN42. Performance Standard 5 requires that compensation be made for all land acquired from persons and communities having legally recognized claims to that land. This condition applies to legal owners, as per 17(i) of the Performance Standard: those who, prior to the cut-off date, have formal legal rights to land. It also applies to claimants, as per 17(ii), who, prior to the cut-off date, do not have formal legal rights to land but who have a claim to such land or assets.

GN43. A Resettlement Action Plan should be prepared for any project that results in physical displacement i.e., projects that involve the relocation of people from their homes. Clients undertaking projects that entail land acquisition but require no physical displacement of people will prepare a Livelihood Restoration Plan, as outlined in paragraph 25 of Performance Standard 5. The scope and level of detail of the Resettlement Action Plan will vary with the magnitude of displacement and the complexity of the measures required to mitigate adverse impacts. In all cases, the Resettlement Action Plan will describe the manner in which the objectives of Performance Standard 5 will be achieved. At a minimum, the Resettlement Action Plan should: (i) identify all people to be displaced; (ii) demonstrate that displacement is unavoidable; (iii) describe efforts to minimize resettlement (iv) describe the regulatory framework; (v) describe the process of informed consultation and participation with affected people regarding acceptable resettlement alternatives, and the level of their participation in the decision-making process; (vi) describe the entitlements for all categories of displaced people and assess risks to vulnerable groups of the various entitlements; (vii) enumerate the rates of compensation for lost assets, describe how they were derived and demonstrate that these rates are adequate, i.e., at least equal to the replacement cost of lost assets; (viii) provide details on replacement housing; (ix) outline plans for livelihood restoration if applicable; (x) describe relocation assistance to be provided; (xi) outline the institutional responsibility for the implementation of the Resettlement Action Plan and procedures for grievance redress; (xii) provide details of the arrangements for monitoring and evaluation and Affected Communities' involvement in this phase; and (xiii) provide a timetable and budget for the implementation of the Resettlement Action Plan. More detailed guidance can be obtained from of [IFC's Handbook for Preparing a Resettlement Action Plan](#). An outline of a Resettlement Action Plan is provided in Annex A.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

GN44. Relocation assistance should be provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during the relocation to their new site. Additional measures, such as the provision of emergency health care, should be designed for vulnerable groups during physical relocation, particularly pregnant women, children, the elderly, and the handicapped. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of relocating to a new location, such as moving and lost workdays.

GN45. In the case of physically displaced persons who do not have formal or customary rights to their land, as under paragraph 17(iii), the client can improve their security of tenure through formalization of their tenure status on replacement land. This could include supporting project affected people in formally registering land for titling, paying for transaction costs associated with titling, and providing knowledge and legal resources to support the titling process.

GN46. The Resettlement Action Plan should include measures to ensure that documentation of ownership or occupancy, such as title deeds and lease agreements, and compensation (including the bank accounts established for payment of compensation), are issued in the names of both spouses or of single women heads of households, as relevant to each situation. Under circumstances in which national law and local customary tenure systems do not give women equal opportunities or rights with regard to property, provision should be made to ensure that the access of women to security of tenure is equivalent to that of men and does not further disadvantage women.

GN47. As a matter of compliance with Performance Standard 5 clients are responsible for ensuring women's circumstances are not worsened by the project in relation to the pre-project situation. Clients are not expected to become involved in law-making but are encouraged to raise the profile of gender related matters in discussions with government agencies and other relevant groups in the course of resettlement planning, and in so doing encourage more equitable treatment of affected women.

22. In the case of physically displaced persons under paragraph 17 (iii), the client will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction. Where these displaced persons own and occupy structures, the client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost, provided that these persons have been occupying the project area prior to the cut-off date for eligibility. Based on consultation with such displaced persons, the client will provide relocation assistance sufficient for them to restore their standard of living at an adequate alternative site.²²

23. The client is not required to compensate or assist those who encroach on the project area after the cut-off date for eligibility, provided the cut-off date has been clearly established and made public.

²² Relocation of informal settlers in urban areas may involve trade-offs. For example, the relocated families may gain security of tenure, but they may lose advantages of location. Changes in location that may affect livelihood opportunities should be addressed in accordance with the principles of this Performance Standard (see in particular paragraph 25).

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

24. Forced evictions²³ will not be carried out except in accordance with law and the requirements of this Performance Standard.

²³ *The permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection.*

GN48. Physically displaced persons with no recognizable legal right or claim to the land they occupy (paragraph 17(iii) above in Performance Standard 5), are entitled to adequate housing with security of tenure. These persons are frequently from the most vulnerable groups in society. For a description of adequate housing and security of tenure, see earlier paragraphs GN13–GN14. Options for providing security of tenure will depend on national law and tenure systems, but may include the following:

- a title deed to land owned by the client
- a title deed to land donated by the local government
- communal titles
- a pay-to-own scheme sponsored by a housing agency
- a long-term leasing or occupancy arrangement
- cooperative housing.

GN49. Where land tenure arrangements are not clearly defined through national legislation or practice, none of the above may be viable options for clients due to the absence of the necessary land titling and transfer systems. In such cases, clients will endeavor to relocate affected persons to land(s) from which there is no likely threat of eviction in the foreseeable future and, where appropriate, to monitor their status over a reasonable period.

GN50. Resettlement sites should be selected for locational advantage in terms of availability of basic services and employment opportunities that enable the displaced persons to improve or at least restore their livelihoods and standards of living. Options should be generated in consultation with the displaced persons so that their priorities and preferences can be reflected in the options from which they can make a selection. Vulnerable groups and people at risk of impoverishment should be encouraged to choose the option with the lowest risk.

GN51. Persons with no recognizable legal right or claim are not entitled to compensation for land, but they should be compensated for the structures that they own and occupy, and for any other improvements to land at full replacement cost. In addition, they should be offered resettlement assistance sufficient to restore their standards of living at a suitable alternative site. Options for resettlement assistance should be generated through consultation with the displaced persons and reflect their priorities and preferences. These provisions apply to persons who are occupying the project area prior to the cut-off date.

GN52. The construction or upgrading of infrastructure projects in urban settings often requires the relocation of residential and commercial structures from areas that are legally required to be free of occupants, such as rights-of-way of roads and transmission lines, sidewalks, parks, and hazardous areas. Families living or conducting businesses in these areas should be offered opportunities to move to sites that can be occupied legally. Compensation in kind that facilitates the transition to the new site (down payment for land, provision of building materials, construction of basic infrastructure at the new site, etc.) is more likely to lead to permanent housing solutions than compensation in cash. Cash payments to illegal occupants are often used for consumption and may also result in informal resettlement in other

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

unsafe or public areas. The absence of opportunities to move to alternative resettlement sites may also prompt displaced persons to resettle in informal settlements elsewhere, perpetuating their informal status and potential illegal settlements in new areas. In designing resettlement plans for both legal occupants as well as informal settlers on private or public lands, clients should take care not to create economic incentives for the displaced persons to occupy public or hazardous areas or to invade and occupy privately or publicly owned land. As stated in Performance Standard 5, paragraph 23 and described in more detail in GN17 above, the client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility.

GN53. In the event that Affected Communities of Indigenous Peoples are to be relocated from their communally held traditional land or customary lands under their use, the client will follow the requirements as described in Performance Standard 7, in addition to the requirements under Performance Standard 5 that pertain to Resettlement Action Plans and/or Livelihood Restoration Plans and their implementation. Where individual members of the Affected Communities of Indigenous Peoples hold legal title, or where relevant national law recognizes customary rights for individuals, the requirements of Performance Standard 5 will apply, rather than those under Performance Standard 7.

GN54. Social disarticulation is, as noted in GN1 above, a significant risk to consider in many resettlement scenarios. Identifying and respecting the existing social and cultural institutions and bonds of the displaced and those of host communities is often a key component of successful resettlement planning and implementation, especially in rural contexts. The social bonds affected by resettlement may be kinship, neighborly ties, or village-specific ties (i.e., people who know and trust each other wanting to remain together); leadership arrangements (so that people know who to turn to in resettlement areas); religious or ethnic ties and so forth.

GN55. The term “forced eviction” is defined by the UN Office of High Commissioner for Human Rights as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”^{GN6} According to the UN, the prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.^{GN7} Performance Standard 5 contains many of the substantive and procedural safeguards necessary for involuntary resettlement to be carried out without resort to forced evictions. When such eviction is unavoidable, it should conform to all the relevant requirements of this Performance Standard. In addition, the UN Office of High Commissioner enumerates the following key procedural protections: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts. Even in such situations, clients should avoid direct involvement in implementing evictions and should exercise caution and monitor the implementation of evictions carefully in order to manage the associated reputational and operational risks. The use of independent third party monitors is

^{GN6} The right to adequate housing (Art. 11.1): forced evictions: 05/20/1997. CESCR General comment 7, paragraph 3, contained in document E/1998/22, annex IV.

^{GN7} Ibid.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

recommended in such situations, in order to ensure independent oversight and effective risk management.

Economic Displacement

25. In the case of projects involving economic displacement only, the client will develop a Livelihood Restoration Plan to compensate affected persons and/or communities and offer other assistance that meet the objectives of this Performance Standard. The Livelihood Restoration Plan will establish the entitlements of affected persons and/or communities and will ensure that these are provided in a transparent, consistent, and equitable manner. The mitigation of economic displacement will be considered complete when affected persons or communities have received compensation and other assistance according to the requirements of the Livelihood Restoration Plan and this Performance Standard, and are deemed to have been provided with adequate opportunity to reestablish their livelihoods.

26. If land acquisition or restrictions on land use result in economic displacement defined as loss of assets and/or means of livelihood, regardless of whether or not the affected people are physically displaced, the client will meet the requirements in paragraphs 27–29 below, as applicable.

27. Economically displaced persons who face loss of assets or access to assets will be compensated for such loss at full replacement cost.

- **In cases where land acquisition or restrictions on land use affect commercial structures, affected business owners will be compensated for the cost of reestablishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery, or other equipment.**
- **In cases affecting persons with legal rights or claims to land which are recognized or recognizable under national law (see paragraph 17 (i) and (ii)), replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at full replacement cost.**
- **Economically displaced persons who are without legally recognizable claims to land (see paragraph 17 (iii)) will be compensated for lost assets other than land (such as crops, irrigation infrastructure and other improvements made to the land), at full replacement cost. The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility.**

28. In addition to compensation for lost assets, if any, as required under paragraph 27, economically displaced persons whose livelihoods or income levels are adversely affected will also be provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living:

- **For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered as a matter of priority.**
- **For persons whose livelihoods are natural resource-based and where project-related restrictions on access envisaged in paragraph 5 apply, implementation of measures will be made to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility.**

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

Where appropriate, benefits and compensation associated with natural resource usage may be collective in nature rather than directly oriented towards individuals or households.

- ***If circumstances prevent the client from providing land or similar resources as described above, alternative income earning opportunities may be provided, such as credit facilities, training, cash, or employment opportunities. Cash compensation alone, however, is frequently insufficient to restore livelihoods.***

29. Transitional support should be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

GN56. A Livelihood Restoration Plan should identify the full range of impacts to livelihoods as a result of project land acquisition or restrictions to land use, identify affected persons and provide a detailed plan for compensation and livelihood restoration. The Plan should, at a minimum, provide the following information: (i) an introduction to the project; (ii) summary of project impacts; (iii) summary of the social baseline; (iv) regulatory framework; (v) results of stakeholder engagement; (vi) eligibility criteria; (vii) entitlement matrix; (viii) timeframe for implementation; (ix) organizational capacity; (x) monitoring, evaluation, and reporting; and (xi) budget and resources.

GN57. Economic displacement results from an action that interrupts or eliminates people's access to jobs or productive assets, whether or not the affected persons must move to another location. In other words, there can be economic displacement with or without physical displacement. While project-related land acquisition or restrictions on land use do not necessarily entail the relocation of people occupying or using the land, they may have an impact on the income, living standards, and livelihood of people who depend on resources located in, on or around that land. For example, a farming family may lose a portion of its land to a project without having to vacate its homestead. Nevertheless, the loss of even a portion of its land may reduce the overall productivity of that farm. This threat is magnified among some agrarian populations where farm fields are typically small and often widely scattered, or are not owned by the people who cultivate them (sharecroppers for example).

GN58. Compensation for economic displacement resulting from land acquisition should be made promptly and wherever possible prior to impact, in order to minimize adverse impacts on the income stream of those who are displaced. In the event that compensation is paid by the responsible governmental agency, the client should collaborate with the agency to help accelerate payments. Where compensation payments cannot be made promptly, due to government policy or practice, the client will explore resettlement assistance options such as an allowance to help the displaced people transition through the period it takes to restore any loss of income.

GN59. In cases where land acquisition affects commercial structures, the affected business owner is entitled to compensation for the cost of reestablishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery, or other equipment. Assistance should also be made available to the employees of the business to compensate for their temporary loss of employment.

GN60. In addition, land acquisition may restrict a community's access to commonly held natural resource assets such as rangeland, pasture, fallow land, and non-timber forest resources (e.g., medicinal plants, construction, and handicraft materials), woodlots for timber and fuelwood, or riverine fishing grounds. The client will provide either land based compensation in the form of suitable replacement land, or access to

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

other areas of natural resources that will offset the loss of such resources to a community. Such assistance could take the form of initiatives that enhance the productivity of the remaining resources to which the community has access (e.g., improved resource management practices or inputs to boost the productivity of the resource base), in-kind or cash compensation for loss of access, or provide access to alternative sources of the lost resource.

GN61. In footnote 9 of Performance Standard 5, natural resource assets are related to the ecosystem service concept incorporated into Performance Standard 6. Ecosystem services are the benefits people, including businesses, derive from ecosystems, as defined in Performance Standard 6, paragraphs 2 and 3, the most important of which is what is referred to as “provisioning services” – the products people obtain from ecosystems. Examples of provisioning services include crops, livestock, capture fisheries, aquaculture, wild foods, timber and wood fiber products, other fibers, biomass fuel, fresh water, genetic resources and natural medicines. Loss of access to these services is an important consideration in the development of a Livelihood Restoration Plan, in particular when assessing the suitability of replacement land and/or access to natural resources for resettlers.

GN62. Where possible, the client should allow local communities and Indigenous Peoples to exercise pre-existing access or usage rights to client-controlled land. The exercise of such rights, however, is subject to reasonable measures by the client to maintain a safe and healthy working environment for workers under Performance Standard 2, safeguards for community health, safety and security under Performance Standard 4, and the client’s reasonable operating requirements.

GN63. For example, nomadic peoples may have rights—whether legal or customary—to pass through client-controlled land periodically or seasonally, for subsistence and traditional activities. Their rights may be linked to certain natural resources such as an oasis or water spring, herds of migratory animals or plants that grow naturally and can be harvested only at a particular time of the year. In its due diligence, the client should establish whether nomadic peoples have such rights, and, if possible, with the safeguards mentioned above, the client should allow them to exercise these rights on company-controlled land.

GN64. Also, if the client purchases or leases land containing essential resources necessary for the livelihood or survival of the local community (e.g., water, timber, or plants used for natural medicine) the client should, subject to the safeguards mentioned above, take measures to safeguard local community access to the resources on the land or provide alternative access to such resources, or ecosystem services.

GN65. In cases where project-related land acquisition results in loss of livelihoods or income of those without any legal title or legally recognized or recognizable claim to land, they are normally entitled to a range of assistance, including compensation for lost assets and any structures on land, as well as targeted assistance and transitional support. The nature and extent of such assistance will in part depend on whether the livelihood of those affected is land-based, wage-based, or enterprise-based (see guidance under paragraph GN12 above). Land-based compensation in these circumstances does not necessarily mean title to land, but may include continued access to land under similar tenure arrangements to enable the affected people to maintain their land-based livelihoods. It will be necessary to tailor compensation and entitlement options to the needs of the displaced. In cases where land acquisition does not result in the loss of livelihoods or loss of income, the client will pay fair compensation for the acquired land and lost assets on such land, as appropriate, at their replacement cost.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

GN66. Special attention should be paid to economically displaced people who are vulnerable and/or marginalized as these groups are typically less resilient to change and may be made more vulnerable by project impacts. These groups may include households headed by women or children, people with disabilities, the extremely poor, the elderly and groups that suffer social and economic discrimination, including Indigenous Peoples and minorities. Members of vulnerable groups may require special or supplementary resettlement assistance because they are less able to cope with the displacement than the general population. Elderly farmers, for example, may not be able to clear replacement fields; increased distance from agricultural fields to homes may mean that disabled farmers cannot walk the extra distance. Indigenous communities may be more attached to their customary lands, natural resources and/or unique physical features of an affected area than other social groups. Compensation and restoration packages for vulnerable people should include additional forms of support, and should favor the lowest risk mitigation options wherever possible, e.g., in-kind compensation over cash-compensation. It is good practice that the identification of vulnerable households and individuals is undertaken or at least verified by community leaders, community based organizations (CBOs, e.g., church groups) and/or Non-Governmental Organizations (NGOs), whose grasp of local socio-economic realities may be more reliable or provide important local context to complement the results of standard-form surveys undertaken by external consultants.

GN67. In the event that Affected Communities of Indigenous Peoples are physically or economically displaced as a result of project-related land acquisition, the client will follow the requirements under Performance Standard 7, in addition to the requirements under Performance Standard 5 that pertain to Resettlement Action Plans and/or Livelihood Restoration Plans and implementation. In certain cases, this may include obtaining the Free, Prior and Informed Consent (FPIC) of the Indigenous Peoples prior to displacement taking place. The circumstances requiring FPIC are described in paragraphs 13 through 22 of Performance Standard 7.

Private Sector Responsibilities Under Government-Managed Resettlement

30. Where land acquisition and resettlement are the responsibility of the government, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with this Performance Standard. In addition, where government capacity is limited, the client will play an active role during resettlement planning, implementation, and monitoring, as described below.

31. In the case of acquisition of land rights or access to land through compulsory means or negotiated settlements involving physical displacement, the client will identify and describe²⁴ government resettlement measures. If these measures do not meet the relevant requirements of this Performance Standard, the client will prepare a Supplemental Resettlement Plan that, together with the documents prepared by the responsible government agency, will address the relevant requirements of this Performance Standard (the General Requirements and requirements for Physical Displacement and Economic Displacement above). The client will need to include in its Supplemental Resettlement Plan, at a minimum (i) identification of affected people and impacts; (ii) a description of regulated activities, including the entitlements of displaced persons provided under applicable national laws and regulations; (iii) the supplemental measures to achieve the requirements of this Performance Standard as described in paragraphs 19–29 in a way that is permitted

²⁴ Government documents, where available, may be used to identify such measures.

Guidance Note 5 Land Acquisition and Involuntary Resettlement

January 1, 2012

by the responsible agency and implementation time schedule; and (iv) the financial and implementation responsibilities of the client in the execution of its Supplemental Resettlement Plan.

32. In the case of projects involving economic displacement only, the client will identify and describe the measures that the responsible government agency plans to use to compensate Affected Communities and persons. If these measures do not meet the relevant requirements of this Performance Standard, the client will develop an Environmental and Social Action Plan to complement government action. This may include additional compensation for lost assets, and additional efforts to restore lost livelihoods where applicable.

GN68. Host governments are often responsible for planning, and implementing the physical and economic displacement, carrying out the land acquisition, compensation payments, and resettlement in preparation for a private sector project or as a direct sponsor of such projects. The outcome of this process should be consistent with the requirements of Performance Standard 5. In such cases, clients should take an active role during the preparation, implementation and monitoring of the process and should coordinate with the relevant government authorities those aspects of the process that can be facilitated more efficiently by the client or other agents such as consultants or civil society organizations. Whether the client will be permitted to play an active role will depend in part on applicable national law and the judicial and administrative processes and practices of the responsible government agency. Some countries have national legislation guiding the resettlement process though this may not meet all the requirements of this Performance Standard. Government agencies follow national legal requirements, while clients are required to ensure resettlement undertaken on their behalf meets the objectives of this Performance Standard. The client will assess at appraisal the extent to which the client will be able to collaborate with the responsible government agency and agree on the key outcomes that need to be achieved to ensure consistency with Performance Standard 5. Where the client ascertains that the outcome of the government-managed resettlement is unlikely to meet the requirements of Performance Standard 5, and the client is unable or not permitted to fill the gaps required to meet those requirements, consideration should be given to not proceeding with the project.

GN69. Because there is a risk of impoverishment from loss of the income base or livelihoods of the affected households or communities from a protracted expropriation process and depressed compensation under government-managed resettlement, the client will review such expropriation to ascertain consistency with Performance Standard 5.

GN70. Under certain circumstances, a government agency or other authority may provide a client with an unoccupied project site, unencumbered of any current claims, whose prior residents or land users were displaced. If resettlement from the site has occurred in anticipation of the project, but not immediately preceding project implementation, the client should make a determination as to whether those resettled were compensated in a manner consistent with the requirements of Performance Standard 5 and, if not, any corrective action is feasible to address the situation. Under such circumstances, the following factors should be considered: (i) the length of the intervening period between land acquisition and project implementation; (ii) the process, laws and actions by which the resettlement was carried out; (iii) the number of people affected and the significance of the impact of land acquisition; (iv) the relationship between the party that initiated the land acquisition and the client; and (v) the current status and location of the people affected. If corrective action is feasible and would improve the standard of living of the displaced people, the client should undertake corrective measures prior to the implementation of the project.

Guidance Note 5

Land Acquisition and Involuntary Resettlement

January 1, 2012

GN71. Under government-managed resettlement, the client should collaborate with the appropriate agencies to establish methods for determining and providing adequate compensation to the affected people in the Resettlement Action Plan or Framework. Where national law or policy does not provide for compensation at full replacement cost, or where other gaps exist between national law or policy and the requirements with respect to displaced people detailed in Performance Standard 5, the client should apply alternative measures to achieve outcomes consistent with the objectives of Performance Standard 5. Such measures could range from making or arranging for the payment of supplementary allowances in cash or in kind, to arranging for the provision of dedicated support services. These gaps and measures should be addressed in a Supplemental Action Plan.

GN72. The client should collaborate with local government authorities in the distribution of compensation payments. Those eligible for compensation should be given advance notice of the date, time and place of payments via public announcement. Receipts should be signed by all those receiving compensation payments and retained for auditing purposes. In cases where illiteracy is an issue, culturally acceptable alternative communication and signature processes (for example finger-printing) should be identified. The payment of compensation and resettlement assistance should be monitored and verified by representatives of the client as well as representatives of the Affected Communities, which can often include CBOs. It may be appropriate for the client and the government authorities to engage the services of a registered auditing firm to monitor compensation payments.

GN73. Where the responsible government agency will enable the client to participate in the ongoing monitoring of affected persons, the client should design and carry out a program of monitoring with particular attention to those who are poor and vulnerable so as to track their standards of living and effectiveness of resettlement compensation, assistance, and livelihood restoration. Because resettlement can be stressful on individuals, households and communities, it may have gender-differentiated consequences on nutrition and health status, particularly of children. The client and the responsible agency should agree to an appropriate allocation of responsibilities with respect to completion audits and corrective actions. Where the client is prevented from adequately monitoring the implementation of the Resettlement Plan and there exists a risk that the Plan will not be monitored according to Performance Standard 5, the client may choose not to proceed with the project.

GN74. While government agencies are often mandated to lead resettlement efforts, experience indicates that there are generally opportunities for clients to either influence or supplement the planning, implementation and monitoring of government-led resettlement to achieve outcomes consistent with Performance Standard 5.

Annex A

Outline of a Resettlement Action Plan

1. *Description of the project:* General description of the project and identification of the project area.
2. *Potential impacts:* Identification of
 - a) the project component or activities that give rise to resettlement;
 - b) the zone of impact of such component or activities;
 - c) the alternatives considered to avoid or minimize resettlement; and
 - d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.
3. *Objectives and studies undertaken:* The main objectives of the resettlement program and a summary of studies undertaken in support of resettlement planning / implementation, e.g., census surveys, socio-economic studies, meetings, site selection studies...etc.
4. *Regulatory framework:* Relevant laws of the host country, client policies and procedures, performance standards.
5. *Institutional framework:* Political structure, NGOs.
6. *Stakeholder engagement:* Summary of public consultation and disclosure associated with resettlement planning, including engagement with affected households, local and/or national authorities, relevant CBOs and NGOs and other identified stakeholders, including host communities. This should include, at a minimum, a list of key stakeholders identified, the process followed (meetings, focus groups etc), issues raised, responses provided, significant grievances (if any) and plan for ongoing engagement throughout the resettlement implementation process.
7. *Socioeconomic characteristics:* The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including results of household and census survey, information on vulnerable groups, information on livelihoods and standards of living, land tenure and transfer systems, use of natural resources, patterns of social interaction, social services and public infrastructure.
8. *Eligibility:* Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.
9. *Valuation of and compensation for losses:* The methodology used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.
10. *Magnitude of displacement:* Summary of the numbers of persons, households, structures, public buildings, businesses, croplands, churches, etc., to be affected.
11. *Entitlement framework:* Showing all categories of affected persons and what options they were/are being offered, preferably summarized in tabular form.
12. *Livelihood restoration measures:* The various measures to be used to improve or restore livelihoods of displaced people.

Guidance Note 5

Land Acquisition and Involuntary Resettlement

January 1, 2012

13. *Resettlement sites*: Including site selection, site preparation, and relocation, alternative relocation sites considered and explanation of those selected, impacts on host communities.
14. *Housing, infrastructure, and social services*: Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.
15. *Grievance procedures*: Affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.
16. *Organizational responsibilities*: The organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.
17. *Implementation schedule*: An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts, and implementing the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.
18. *Costs and budget*: Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.
19. *Monitoring, evaluation and reporting*: Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Annex B

Completion Audit Table of Contents

1. *Executive Summary:* Concise summary of resettlement undertaken to date, need for any on-going resettlement, magnitude of displacement, activities undertaken, grievances and key issues addressed, outstanding and on-going monitoring and evaluation processes and key recommendations.
2. *Background:* A brief description of the monitoring process to date covering the project and impacted communities, magnitude of displacement, key resettlement and livelihood impacts, legal framework, eligibility criteria and entitlement framework, timing of the various components of physical and economic displacement undertaken, resettlement and/or livelihood restoration activities and compensation provided and major or outstanding issues or grievances.
3. *Review Objectives:* Outline of the main objectives of the resettlement and/or livelihood restoration plan and a summary of studies and activities undertaken in support of resettlement implementation and livelihood restoration (e.g., preliminary and on-going consultation, stakeholder mapping and census surveys, asset surveys, socio-economic baseline studies, participatory planning meetings, site selection studies, organizational structures for implementation), and assessment of the process and evaluation of the outcome (including any participatory monitoring and evaluation methodologies used).
4. *Key Findings:* Issues to be considered may include, among others:¹
 - Extent of public information and consultation in advance of land acquisition, and adequacy of ongoing consultation
 - Types of compensation provided and adequacy of that compensation (e.g., sufficient to cover replacement costs of lost assets, housing conditions, compensation/entitlements, income restoration and livelihood sustainability measures)
 - Level of participation of affected people in decisions regarding compensation rates, location of new resettlement sites and options for livelihood restoration
 - Adequacy of replacement housing in terms of physical structure, location, and access to resources and services (such as health, education, water and sanitation, transportation, social and medical security, agricultural and pastoral land, employment opportunities and training and community development initiatives);
 - Effectiveness of livelihood restoration measures
 - Integration into host communities
 - Impact on cultural property
 - Measures taken to protect (affected) vulnerable persons and groups
 - Adequacy of the grievance redress process and outcomes
 - Monitoring and evaluation process and outcomes.
5. *Conclusion and Key Recommendations/Corrective Actions:* Concise summary of conclusions and recommendations, and for any gaps or outstanding issues, provide a proposed time bound Corrective Action Plan with Key Actions, dedicated Human Resources, proposed Timeline for close-out and a Budget.

¹ Content will vary on a project-by-project basis, depending on the level of impact and local circumstances.

Annotated Bibliography

Cernea, Michael M. 1997. "The Risks and Reconstruction Model for Resettling Displaced Populations." *World Development* 25 (10): 1569–87.

———. 2000. "Risks, Safeguards, and Reconstruction: A Model for Population Displacement and Resettlement." In *Risks and Reconstruction: Experiences of Resettlers and Refugees Experiences*, edited by Michael M. Cernea and Chris McDowell, 11–55. Washington, DC: World Bank.

GRI (Global Reporting Initiative) and IFC (International Finance Corporation). *Embedding Gender in Sustainability Reporting: A Practitioner's Guide*. Amsterdam: GRI; Washington, DC: IFC. http://www1.ifc.org/wps/wcm/connect/Topics_ext_content/ifc_external_corporate_site/IFC%20Sustainability/Publications/Publications_Report_GenderSustainabilityReporting_WCI_1319577300362?id=032d1d8048d2eb75bed7bf4b02f32852&WCM_Page.ResetAll=TRUE&CACHE=NONE&CONTENTCACHE=NONE&CONNECTORCACHE=NONE&SRV=Page. The 77-page book describes how gender roles and rights differ in various countries. See also the Women, Business and the Law database at <http://wbl.worldbank.org/> and explore the topics.

IFC (International Finance Corporation). 2001. *Handbook for Preparing a Resettlement Action Plan*. Washington, DC: IFC. http://www1.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/publications/publications_handbook_rap_wci_1319577659424. The 100-page book provides step-by-step guidance through the resettlement planning process and includes practical tools such as implementation checklists, sample surveys, and monitoring frameworks. It also gives detailed guidance on opportunities to derive appropriate development benefits from the project.

———. 2007. *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets*. Washington, DC: IFC. http://www1.ifc.org/wps/wcm/connect/Topics_ext_content/ifc_external_corporate_site/IFC%20Sustainability/Publications/Publications_Handbook_StakeholderEngagement_WCI_1319577185063?id=9036808048d2ea68ba36bf4b02f32852&WCM_Page.ResetAll=TRUE&CACHE=NONE&CONTENTCACHE=NONE&CONNECTORCACHE=NONE&SRV=Page. The 201-page book explains new approaches and forms of engagement with affected local communities, including guidance on both grievance mechanisms and the engagement of women.

———. 2009. "Addressing Grievances from Project-Affected Communities: Guidance for Projects and Companies on Designing Grievance Mechanisms." Good Practice Note 7, IFC, Washington, DC. http://www1.ifc.org/wps/wcm/connect/Topics_ext_content/ifc_external_corporate_site/IFC%20Sustainability/Publications/Publications_GPN_Grievances?id=c45a0d8048d2e632a86dbd4b02f32852&WCM_Page.ResetAll=TRUE&CACHE=NONE&CONTENTCACHE=NONE&CONNECTORCACHE=NONE&SRV=Page.

UN-HABITAT (United Nations Human Settlement Programme). 2003. *Handbook on Best Practices, Security of Tenure and Access to Land*. Nairobi: UN-HABITAT. <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1587>. This 117-page book identifies recent innovations at the global level in the field of land management, and it pinpoints land-tenure trends.

Guidance Note 5

Land Acquisition and Involuntary Resettlement

January 1, 2012

- . 2004. *Global Campaign for Secure Tenure: A Tool for Advocating the Provision of Adequate Shelter for the Urban Poor*. Nairobi: UN-HABITAT. <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1482>. The 80-page book provides a framework on how to improve the conditions of people living and working in slums and informal settlements around the world.
- . 2005a. *Indigenous People's Rights to Adequate Housing: A Global Overview*. Nairobi: UN-HABITAT. <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=1799>. The 219-page book includes a comprehensive set of recommendations on improving the housing and living conditions of indigenous peoples, and it calls for further attention to be given to this critical human rights concern.
- . 2005b. *Shared Tenure Options for Women*. Nairobi: UN-HABITAT. <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=2304>.
- OHCHR (United Nations Office of the High Commissioner for Human Rights). 1997. "The Right to Adequate Housing (Art. 11.1): Forced Evictions: 05/20/1997." Committee on Economic, Social, and Cultural Rights General Comment 7, paragraph 3, contained in document E/1998/22, annex IV. Geneva: OHCHR. <http://www.unhchr.ch/tbs/doc.nsf/0/959f71e476284596802564c3005d8d50?Opendocument>.
- . 1998. "Guiding Principles on Internal Displacement." Report of Francis M. Deng, the representative of the secretary-general, in February 1998, E/CN. Geneva: OHCHR.
- . 2007. "Basic Principles and Guidelines on Development-Based Evictions and Displacement." Annex 1 to the report of Miloon Kothari, the special rapporteur on adequate housing as a component of the right to an adequate standard of living, on 11 June 2007, A/HRC/4/18. Geneva: OHCHR. http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf.
- . 2001. *Operational Manual*. Washington, DC: World Bank. <http://go.worldbank.org/DZDZ9038D0>. See in particular OP 4.12—Involuntary Resettlement, footnote 18 <http://go.worldbank.org/GM00E1Y580>. The note explains that the general principle would apply if the land taken constitutes more than 20 percent of the total productive area.
- . 2004. *Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects*. Washington, DC: World Bank. http://publications.worldbank.org/ecommerce/catalog/product?item_id=2444882. The 468-page book provides guidance on resettlement design, implementation, and monitoring, and it discusses resettlement issues particular to development projects in different sectors, such as urban development, natural resource management, and the building of dams.
- World Bank. 2008. *Design for All: Implications for Bank Operations*. Washington, DC: World Bank. http://siteresources.worldbank.org/DISABILITY/Resources/Universal_Design.pdf. New housing or shelter should, where appropriate, follow the concept of universal design and should remove the physical barriers that prevent people with disabilities (including the elderly, temporarily infirmed, and children) from fully participating in social and economic life as explored in this World Bank publication.