

**GET FiT  
ZAMBIA**

**GET FiT Zambia Solar PV Tender**

**5 February 2018**

**General guidance note on environmental and social standards**

**See Disclaimer at end of document**

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## **General Guidance Note – Environmental and social issues associated with the GET FiT Zambia Solar PV Tender**

This note provides initial guidance on environmental and social issues for potential Developers for the GET FiT Zambia solar PV tender. Developers are expected to remain compliant with Zambian regulations and the IFC Performance Standards on Environmental and Social Sustainability during project development, construction, and operation. This note lists a limited number of issues that Developers should consider and document as part of remaining compliant with the IFC Performance Standards. This list of issues is non-exhaustive and it is essential to consult relevant regulations and standards separately.

Developers are expected to familiarise themselves with relevant Zambian regulations, including the EIA Regulations available on ZEMA's web site (<http://www.zema.org.zm/index.php/publications/environmental-legislation/environmental-regulations/>). ZEMA's web site also includes further guidance on relevant environmental issues, for instance formats for key documents (<http://www.zema.org.zm/index.php/services/procedures/environmental-assessment-formats/>).

Developers are further expected to familiarise themselves with the IFC Performance Standards. These Standards and comprehensive guidance notes are found on the IFC web site ([http://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/sustainability-at-ifc/policies-standards/performance-standards](http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards)).

The Developer should document a functional environmental and social management system and capacity to implement the system. The Developer is expected to undertake an environmental and social impact assessment (ESIA) that identifies risks and impacts as well as applies the mitigation hierarchy (avoid, minimise, mitigate and, if needed, compensate/offset). Environmental and social management plans (ESMPs) that address site-specific issues will be required (ref. IFC PS 1). Necessary environmental and social permits, including for health and safety and other labour related issues, must be acquired. Conditions and requirements in such permits should be reflected in the ESMPs. Stakeholder



engagement should be documented and based on meaningful and balanced information rather than predominantly being an exercise of project promotion.

Labour and working conditions will be key issues to follow up during an intense construction phase (ref. IFC PS 2). The Developer is ultimately responsible for ensuring the work force on site is treated fairly, work under proper health and safety conditions, have appropriate contracts, and that standards apply across all contractors and sub-contractors. Local sub-contractors often require additional follow up to ensure the Client's requirements are met. Developers should be able to document how labour and working conditions across the construction site are maintained. A labour force management plan is expected, including a workers' grievance mechanism that is readily available to all workers and can be used without fear of retribution.

Pollution and waste should as far as possible be avoided and minimised in accordance with the waste hierarchy (ref. IFC PS 3). Developers are expected to be able to document management of waste and hazardous materials on site, including the safe disposal of both general and hazardous waste. A waste management plan is expected.

Most project sites involve certain risks for local communities' health, safety and security (ref. IFC PS 4). Traffic management, separation of work spaces from community areas, sensitisation on risks, readily understood signage, and a readily available grievance mechanism for local people are important elements to manage risks. Potential risks or impacts on local water sources, roads, tracks or other local infrastructure or resources should be explicitly checked and relevant measures to avoid, minimise, mitigate or compensate impacts identified and described in relevant plans.

For several of the projects, land acquisition may be the most challenging issue to manage, partly due to Zambia's dual land tenure system. Developers need to pay particular attention to the risks associated with any physical or economic displacement (ref. IFC PS 5). Careful checks are required and should be documented, including verification of information received from government, traditional authorities and those claiming rights to the land in question. Due to the potential importance of this issue, Annex 1 provides further information about some of issues that should be considered by Developers.

Zambia is rich in biodiversity and special care is expected by Developers in this respect (ref. IFC PS 6). Developers are required to avoid infrastructure inside protected areas (national parks and wildlife sanctuaries) irrespective of whether these have any international designation or not (e.g. UN World Heritage Site, or Ramsar wetland of international importance). It is further expected that infrastructure will be placed such that there are no significant indirect impacts on such protected areas. 'Critical habitats' as per IFC PS 6 should



also be avoided. 'Game Management Areas', which normally as buffer zones to national parks where people are living, may be acceptable locations for projects. Gazetted forest reserves are unlikely to be appropriate sites. Normally, modified habitats would be preferred locations for projects. Benefits from ecosystem services should be maintained.

The Developers are unlikely to come across Indigenous Peoples (ref. IFC PS 7) when exploring for sites in Zambia. However, a small number of Twa (Pygmy) groups are living in wetland areas as hunter-gatherers and practising fishing (e.g. Bangweulu Swamp, Kafue Flats, Lukanga Swamp). Impacts on Indigenous Peoples may trigger a separate set of requirements that need careful consideration.

In many parts of Zambia, cultural heritage plays an important role in peoples' lives. Cultural heritage should be explicitly considered and refers to tangible moveable or immovable objects, property, sites, or structures of prehistoric, historic, cultural or religious value. Such heritage can also be unique natural features or tangible objects that embody cultural values, such as sacred sites (ref. IFC PS 8). Presence of potential graves or graveyards should be explicitly checked and documented. A cultural heritage management plan may be required.

Developers will normally contract consultants to provide support in managing environmental and social risks, including developing a Scoping Report, an Environmental and Social Impact Assessment (ESIA), Environmental and Social Management Plans (ESMPs), Resettlement Action Plans (RAPs), Livelihood Restoration Plans (LRPs)<sup>1</sup>, etc. Most, if not all, national consultants will claim they undertake ESIA, RAPs, etc. in accordance with IFC Performance Standards. Such claims often warrant a further check to see whether past products have been reviewed and accepted by an international financing institution that require compliance with IFC Performance Standards, or whether the stated IFC PS compliance is only self-proclaimed, in which case it will often be misleading and the consultant may not be fit for the job.

When Developers are developing the Terms of Reference for environmental and social consultants, the key issues to be covered both to meet Zambian regulations and the IFC Performance Standards should as far as possible be explicitly reflected in the ToR and in subsequent documentation such as Scoping Report, ESIA, ESMPs, RAP etc. to minimise the risk that such documentation needs major revisions at a later stage.

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<sup>1</sup> The various documents listed will be required in different phases of the tender process. Full ESIA/ESMP/RAP/LRP are only expected post award. However, it is mandatory that Developers remain compliant with IFC PS throughout the tender process and document this accordingly as required by the IFC PS.



## Annex 1 – Land Acquisition

Zambia has a dual land tenure system, and Developers should be aware that the two forms may be in conflicts with each other. Land can either be:

- Statutory land with formal title registration administered by government in accordance with written laws, or
- Customary land administered by traditional authorities based on unwritten, localised customary laws where chiefs rule with the consent of their people.

Solar PV projects normally have flexibility in terms of where the projects can be placed and are hence required to avoid forced eviction through considering feasible alternative locations. In most instances, it will also be possible to avoid physical and economic displacement. GET FiT assumes that developers in most cases will enter into a genuine ‘willing buyer/willing seller’ transaction.<sup>2</sup> If land acquisition is not on a ‘willing buyer/willing seller’ basis, more elaborate guidelines found in IFC Performance Standard 5 need to be considered carefully (see below). It should be noted that IFC PS 5 also has sections of relevance for land acquisition on a ‘willing buyer/willing seller’ basis.

Acquisition of both statutory land and customary land, even on a ‘willing buyer/willing seller’ basis, may be associated with risks that require dedicated risk management by developers. There are risks of displacement from both customary land and statutory land that must be considered.

Statutory land may have legacy issues that require further exploration by Developers. There have been reports of lack of or insufficient consultation with affected communities and lack of or insufficient compensation and livelihood restoration associated with transfer of land. A title is not a guarantee that there are no legacy issues. The Zambian Government also recognises that illegal land allocation has taken place both on customary and statutory lands.<sup>3</sup> An Developer is expected to check and document whether there are legacy issues, including consultation with government at central and district levels, with traditional authorities and, importantly, with local communities. Legacy issues tend to be challenging to address and are likely to result in delays, for instance in determining which families are

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<sup>2</sup> IFC Performance Standard 5 considers this a voluntary land transaction such as a market transaction where 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 country in question. The following conditions should also 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.

<sup>3</sup> See for instance the National Resettlement Policy (October 2015).



eligible for compensation or resettlement, and who are opportunistically trying to claim rights without being eligible.

Acquisition of customary land requires dedicated efforts by an Developer to engage with any directly affected communities as well as communities around the site to verify the land situation as well as to disclose relevant information on the planned project. People should also be made aware of opportunities to present grievances such that the Developer can receive and address any concerns about the land issues. Consultations with traditional authorities and government at central and district levels are essential, but never a substitute for community level consultations.

If a 'willing buyer/willing seller' situation is not achieved, more comprehensive sections of IFC PS 5 become relevant. Performance Standard 5 relates to project-related land acquisition and restrictions on land use. IFC PS 5 is concerned with both physical displacement (relocation or loss of shelter) and economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) because of project-related land acquisition or restrictions on land use. It is essential for Developers to acknowledge that those who suffer negative social and economic impacts as a result of the acquisition of project land and/or restrictions on land use, are not only those having legally recognized rights or claims to the land. Those who have customary claims to land, those with no legally recognized claims, and seasonal natural resource users such as herders, fishing families, hunters and gatherers who have dependencies on the land, should be considered. The potential variety of land and land use claimants can result in challenging situations, and careful consideration is required, and the Developers must properly document the outcomes.

Where avoidance of physical and economic displacement is not possible, the adverse social and economic impacts from land acquisition or restrictions on land use by should be minimised by (i) providing compensation for loss of assets at replacement cost<sup>4</sup> and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected. All categories of affected households and communities should be consulted, whether individually or through representative sampling if the numbers are large. Particular attention should be paid to vulnerable groups. Consultation should capture men's and women's views and concerns. Developers should be mindful that when entering a local community, they are likely to be

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<sup>4</sup> 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. The valuation method for determining replacement cost should be documented. Many countries have legally defined rates of compensation for crops and/or land. It is recommended that developers assess the government-established compensation rates and adjust as necessary to meet the replacement rate criterion.



met by the more powerful rather than the marginalised. Marginalised and vulnerable groups are likely to require targeted efforts during consultations.

Developers are strongly encouraged to use negotiated settlements while meeting the requirements of IFC PS 5 and Zambian regulations, even if they have legal means to acquire land without the seller's consent.

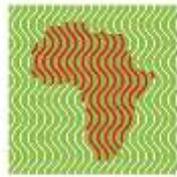
The livelihoods and standards of living of displaced persons should be improved, or as a minimum restored. Compensation alone does not guarantee the restoration or improvement of the livelihoods and social welfare of displaced households. An Developer needs to consider livelihood restoration for various types of livelihoods associated with acquired land, including land-based, wage-based and enterprise-based livelihoods. For physically displaced persons, adequate housing with security of tenure<sup>5</sup> at resettlement sites should be provided. Even if the resources are not owned by individual households, access to them can be important for affected households' livelihoods. Therefore, developers need to consider potential loss of common property resources and natural resources such as access to pasture, harvesting of trees or non-timber products, medicinal plants, croplands, fallow lands, water resources, and fish stocks.

For further information, reference is made to IFC Performance Standard 5 and associated guidance notes.

For any further clarification, please contact us at [solar@getfit-zambia.org](mailto:solar@getfit-zambia.org).

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<sup>5</sup> *Security of tenure means that resettled individuals are resettled to a site that they can legally occupy and where they are protected from the risk of eviction.*



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