



Technical Assistance Consultant's Report

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TA 7566-REG: Strengthening and Use of Country Safeguard Systems

Subproject: Training and Knowledge Sharing for
CSS Strengthening in the Pacific (Regional)

ACCESSING LAND FOR DEVELOPMENT: INTERNATIONAL BEST PRACTICES AND COUNTRY SYSTEMS TRAINING PROJECT READING MATERIAL VII

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Asian Development Bank

Accessing Land for Development

International Best Practices and Country Systems

Consultation and Participation (vii)

A key aspect of LAR planning and implementation is the engagement of project owners with affected communities, groups, or individuals in consultations, information disclosure, and participating in LAR programs. Such engagement facilitates understanding of the concerns of affected people, and how such concerns can be addressed in project design and mitigation measures.

Why Consultation and Participation Important?

- ✓ Help borrower maintain a constructive relationship with affected communities.
- ✓ Promote resettlement performance of project
- ✓ Provide means for adequate engagement with affected communities
- ✓ Ensure resettlement information is disclosed
- ✓ Ensure stakeholders have access to project information
- ✓ Ensure affected communities could raise issues and grievances
- ✓ Provide an arena for borrower to manage such issues and grievances.

This chapter recognizes the importance of open and transparent engagement between the project owner, communities affected by the project, project workers, and, where appropriate, other stakeholders as an essential element of good international practice. Effective stakeholder engagement can improve the social sustainability of projects, and enhance project acceptance. In particular, effective community engagement appropriate to the nature and scale of the project promotes sound and sustainable environmental and social performance, and can lead to improved financial, social and environmental outcomes, and enhanced community benefits. It is central to building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social risks and impacts. Stakeholder engagement is most effective when initiated at an early stage, and continues throughout the life-cycle of the project. It is an integral part of the assessment, management and monitoring of the project's environmental and social risks and impacts.

Free, Prior, and Informed Consent

Where indigenous peoples are present in, or have a collective attachment to, the proposed project area, the project owner undertake a process of meaningful consultation with the affected indigenous peoples in a culturally appropriate and inclusive manner. Indigenous peoples may be particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources. In recognition of this vulnerability, it is helpful to obtain free, prior and informed consent (FPIC) for a project in order to ascertain the degree of impact of a project on them, their ancestral domain, and compensatory actions that they expect from the project.

There is no universally accepted definition of FPIC. It does not require unanimity and may be achieved even when individuals or groups within or among affected indigenous peoples explicitly disagree. What is in fact needed is broad community support for the project and careful engagement of indigenous peoples in project process and benefit sharing. When the project owners are unable to ascertain that such consent is obtained from the affected indigenous peoples, international development agencies such as ADB do not proceed further with the aspects of the project that are relevant to those indigenous peoples. In such cases, the project owner has to ensure that the project will not cause adverse impacts on such indigenous peoples through further meaningful consultations and negotiations with affected indigenous peoples.

Meaningful Consultation

Consultation with APs and communities is not limited to distribution of project and resettlement information. Meaningful consultation is a two-way process. When they are likely to be affected by potentially significant adverse project impacts, the project owner will undertake a process of meaningful consultation in a manner that provides stakeholders with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the project owner to consider and respond to them. Meaningful consultation will be carried out on an ongoing basis as the nature of issues, impacts and opportunities evolve. The project owner will maintain adequately documented evidence of stakeholder engagement in such consultations.

Consultations with Affected Women

- The consultation process will obtain affected women's perspectives and factor in their interests into all aspects of LAR 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.

The consultation with project-affected communities will be undertaken in a manner that is inclusive and culturally appropriate. Where appropriate, the consultation will also include, beyond the project-affected communities, any groups or individuals who have been identified as other stakeholders.

Steps of Meaningful Consultations

- Identify social risks and impacts on-going basis during the project cycle
- Consult after the disclosure of relevant and easily accessible information
- Pay attention to socio-cultural background of affected communities
- Avoid manipulation, interference, coercion, or intimidation
- Enable meaningful participation of the community; use local languages
- Focus inclusive engagement on project-affected communities;
- Document the process and decisions and follow-ups
- Incorporate feedback for future consultations

Borrower's Responsibility in Stakeholder Engagement

The nature, scope, and frequency of stakeholder engagement will be commensurate with and proportionate to the nature and scale of the project and its potential impacts on affected communities. In order to tailor the engagement to the specifics of the Borrower and the project, the Borrower or client:

- (i) Identify stakeholders and group them. Determine how each group of stakeholders may be affected and the likely extent of potential impacts. An adequate level of details will be included in the stakeholder identification and analysis so as to determine the level of communication that is appropriate for the project.
- (ii) Engage stakeholders by providing them with access to timely, relevant, understandable and accessible information, and by consulting in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation.
- (iii) Engage stakeholders in project planning, disclosure of information, consultation and participation, grievance acceptance and response, and ongoing reporting to project-affected communities

Why Stakeholder Engagement is Necessary?

Help/facilitate:

- ✓ Identify stakeholders and their concerns
- ✓ social assessment, project design and implementation
- ✓ Disclose appropriate project information
- ✓ Meaningful consultation with stakeholders
- ✓ Stakeholders to comment/raise grievances

Information D

Disclosure Requirements

- ✓ The borrower or client disseminate information to project-affected persons and consult with them in a manner that commensurate with the anticipated project impacts on the affected communities.

- ✓ Borrowers inform and consult with the project-affected persons on land acquisition and resettlement processes and compensation options during resettlement planning and implementation.
- ✓ Disclosure of project and LAR information must precede consultations. Stakeholders are to be informed of project activities and expected outcomes and benefits, before they are consulted on such issues.

Benefits of Resettlement Information Disclosure

- Increase affected persons understanding about the project and its benefits.
- Helps promote local decision making and participatory development strategies.
- Creates a two-way flow of information between the project and affected people
- Enhances the sense of project ownership among project-affected persons.
- Promotes transparency, good governance, and accountability in project operations.

A good practice is to disclose safeguard documents among all stakeholders. An example in this regard is ADB's disclosure schedule of resettlement planning documents.

Disclosure Schedule of Documents on the ADB Website

Document	Timing of Disclosure	Responsibility
Draft resettlement plan/resettlement framework, endorsed	Before project appraisal	ADB
Final resettlement plan, endorsed	After completion of the census of the affected persons	ADB
New or updated resettlement plan	After resettlement plan has been revised or a new resettlement plan has been prepared due to a change in technical design or change in scope	ADB
Corrective action plan	During project implementation (upon receipt)	ADB
Resettlement monitoring reports	Upon receipt from borrower (semiannually)	ADB

Disclosure Phases

Project Planning Phase

Disclosure of relevant project information helps stakeholders understand the risks, impacts and opportunities of the project. If communities are likely to be affected by LAR impacts, the project owner will provide them with access to the following information:

- ✚ The purpose, nature and scale of the project;

- ✦ The duration of proposed project activities;
- ✦ Any risks to and potential impacts on communities and proposed mitigation plans;
- ✦ The envisaged stakeholder engagement process, if any, and opportunities and ways in which stakeholders can participate;
- ✦ The time and venue of any envisaged public consultation meetings, and the process by which meetings are notified, summarized, and reported; and
- ✦ The process and means by which grievances are raised and managed.

The information will be disclosed in local language(s) and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project because of their status or groups of the population with specific information needs.

Project Implementation Phase

The project owner will continue to provide project information to the project-affected communities during the implementation phase of the project. Additional information is disclosed at key stages in the project cycle. For example, it is good practice to disclose progress of the project and LAR status prior to start-up of project operations, and information on any specific issues stakeholders would like to know. This ongoing engagement will build upon the channels of communication and engagement established during the stakeholder engagement. Project owners use appropriate stakeholder engagement practices to disclose information and receive feedback on the effectiveness of the project and the implementation of the mitigation measures included in LARP. The project owner also checks project-affected communities' ongoing interests and concerns about the project. Where appropriate, other stakeholders will also be included in the ongoing engagement. If there are material changes to the project that result in additional risks and impacts of concern to the project-affected communities, the project owner inform them how these risks and impacts are being addressed.

The project owner will respond to concerns of project-affected communities related to the project in a timely manner. For this purpose, the project owner will provide a grievance redress mechanism – a procedure to receive stakeholders' concerns and grievances regarding LAR performance. The grievance redress mechanism will be scaled to the risks and potential adverse impacts of the project. Where possible, such grievance redress mechanism will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements.

