

BP 4.00 - Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects

These procedures were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

BP 4.00
March, 2005

Note: *OP/BP 4.00, Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*, were revised on April 2013 to take into account the recommendations in “*Investment Lending Reform: Modernizing and Consolidating Operational Policies and Procedures*” (R2012-0204 [IDA/R2012-0248]), which were approved by the Executive Directors on October 25, 2012. As a result of these recommendations, *OP/BP 10.00, Investment Project Financing*, have been updated to incorporate the content of *OP/BP 13.05, Supervision*, which have consequently been retired (among other changes). *OP/BP 4.00* have consequently also been updated to reflect these changes. General questions on using country systems in World Bank-supported projects may be addressed to the [OPCS Helpdesk](#).

Questions on environmental and social safeguards aspects of pilot operations may be directed to the Safeguard Policies Helpdesk in OPCS (safeguards@worldbank.org).

Revised April 2013

1. Roles and Responsibilities. The country director, supported by the technical teams, consults with the borrower and proposes piloting the use of country safeguard systems. The country director reaches agreement on the proposal with the Operations Policy and Country Services Vice Presidency which collaborates with the relevant Sector Board, the Quality Assurance and Compliance Unit (QACU) in the Environmentally and Socially Sustainable Development (ESSD), and the ESSD and International Law Practice Group (LEGEN). OPCS, QACU, and LEGEN provide broad corporate oversight of the development, implementation, supervision, and evaluation of the pilot operations.

2. Assessing Equivalence and Acceptability. A proposal to use country safeguard systems is based on (a) upstream analysis carried out by the Bank, in cooperation with the borrower and possibly development partners,¹ as part of the ongoing country work program or as part of preparing for the Country Assistance Strategy (CAS) or for the operation itself, and (b) borrower agreement on the safeguard procedures proposed for the operation. The scope of such analysis is as follows:

Review of the requirements-and, specifically, of their intent and application-of the national or subnational legislation, regulations, rules, and procedures the borrower has identified as relevant to the operation;²

- Assessment (e.g., through discussion with experts, field visits, or interviews, as appropriate) of borrower implementation practices, track record, and institutional capacity;
- Identification of aspects of the proposed country systems that would need to be strengthened for them to satisfy the objectives and applicable operational principles set out in OP 4.00, [Table A1](#) and of aspects of implementation that need to be improved for acceptability, and the time needed to put them in place successfully; and
- Specification of any actions the borrower is required to take to (a) achieve and maintain equivalence and (b) achieve and maintain acceptable implementation practices, track record, and capacity. Specification of whether those actions are to be taken before the implementation of relevant project activities.
- The Bank's decision on the use of borrower safeguard systems is based on this analysis. The process involves Bank staff with appropriate policy, environmental, social, and legal expertise.

3. Early Notification and Disclosure. To the extent possible, the proposal to pilot the use of borrower environmental and social safeguard systems, together with its justification, is presented in the CAS or CAS Progress Report. If the subject is not discussed in the country's current CAS, the country director notifies Executive Directors of the proposal to use country systems by circulating to them the Project Information Document (PID)-the initial version and all substantive updates-for the first project in a sector in which such use is being considered. The PID is also made publicly available in accordance with the

disclosure policy.

4. Further Documentation and Disclosure. Staff discuss the proposal to use country systems in the PID, Project Appraisal Document (PAD), and legal agreement.

- **PID.** Because the PID is prepared and disclosed early in the project cycle (after concept review), details on the proposal to use country systems may not be available at first. However, the PID signals and justifies the Bank's intention to use such an approach. As staff update the PID during project preparation, they elaborate on the proposal to use country systems.
- **Analysis.** The analysis of equivalence and acceptability may be undertaken as a safeguard diagnostic review, an element of CEA/CSA, a freestanding study, or project preparatory work. This analysis would include (a) the process followed in determining equivalence and acceptability, (b) the findings on equivalence and acceptability, (c) a description of the main elements of the legal framework that has been or will be applied in the project as well as any supplemental actions that the borrower needs to take to achieve and maintain equivalence and acceptability, (d) the criteria against which compliance will be judged, and (e) risks and risk mitigation measures. The analysis is disclosed in a timely manner before appraisal formally begins.
- **Environmental and Social Safeguard Documents.** As part of due diligence, the Bank confirms that these documents are acceptable to it and disclosed before appraisal formally begins.
- **PAD.** The main text of the PAD specifies which policies apply to the project. It also contains the principal findings of the upstream analysis, justifies the proposal for using country systems in the operation, clarifies any differences between Bank policy and the proposed legal framework, and indicates any actions the borrower or the Bank must take to achieve and maintain equivalence and acceptability. An annex to the PAD provides the analysis of equivalence of the relevant borrower systems and assessment of the acceptability of borrower implementation practices, track record, and capacity as well as additional details, including (a) project supervision modalities, and (b) the arrangements for monitoring and evaluation.
- **Legal Agreement.** The legal agreement³ reflects, as appropriate, the key features of the country systems and any additional measures, as described in the PAD, that the borrower would be required to undertake during project implementation. The legal agreement sets out the remedies available to the Bank if the provisions of the agreement are not followed. Because one of the objectives of the use of country systems is to assist borrowers in improving their legal frameworks, the borrower also undertakes to inform the Bank of any developments in relevant legislation, regulations, rules, or procedures.

5. Changes in Borrower Systems. When the borrower is obliged to carry out the project in accordance with specific laws, regulations, rules, or procedures, the legal agreement specifies that the Bank's contractual remedies apply if the laws, regulations, rules or procedures are changed in a manner inconsistent with the agreed legal framework. If during project implementation the borrower amends applicable national laws, but the implementation of the policy framework is not adversely affected, the Bank and the borrower could agree to amend the legal agreements to reflect these changes, or refrain from any action if it is determined by the Bank that the changes are not significant enough to warrant an amendment. If, however, the Bank determines that the agreed borrower systems or their implementation are not achieving the agreed objectives, it discusses with the borrower, as part of Bank-country dialogue, the implementation of additional measures (beyond the pilot project) to meet those objectives.

6. Supervision. As for any Bank-financed operation, the project results framework provides the basis for monitoring implementation and for project supervision, and Bank staff document their findings in aide-mémoire and Implementation Status and Results reports.⁴

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1. All such analysis carried out by third parties must be of appropriate quality in the Bank's judgment.
 2. The applicable laws and regulations are explicitly cited in the project documentation.
 3. The Loan/Credit Agreement sets forth the amount of the loan/credit and the terms and conditions on which it is being made. It includes undertakings of the borrower to carry out the project and to take other actions necessary to ensure project implementation in accordance with requirements under Bank policies, including procurement and safeguards actions, as appropriate.
 4. See [OP/BP 10.00](#), *Investment Project Financing*.