

OP 4.03 - Performance Standards for Private Sector Activities

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

OP 4.03
May, 2013

Purpose

1. The aim of this policy is to facilitate Bank financing¹ for private sector led economic development projects by applying environmental and social policy standards that are better suited to the private sector, while enhancing greater policy coherence and cooperation across the World Bank Group.
2. The eight IFC Performance Standards have been adopted by the Bank as the World Bank *Performance Standards for Projects Supported by the Private Sector* ("**WB Performance Standards**") for application to Bank support for projects (or components thereof) that are designed, owned, constructed and/or operated by a Private Entity (as defined below), in lieu of the World Bank's safeguard policies ("**WB Safeguard Policies**").² The eight World Bank Performance Standards are:

- [Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts](#)
- [Performance Standard 2: Labor and Working Conditions](#)
- [Performance Standard 3: Resource Efficiency and Pollution Prevention](#)
- [Performance Standard 4: Community Health, Safety, and Security](#)
- [Performance Standard 5: Land Acquisition and Involuntary Resettlement](#)
- [Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources](#)
- [Performance Standard 7: Indigenous Peoples](#)
- [Performance Standard 8: Cultural Heritage](#)

This OP sets forth the circumstances under which the WB Performance Standards may be applied, the roles and responsibilities of the Private Entity implementing the project, and of the Bank in supporting environmental and social sustainability aspects of the project.

Scope of Application

3. *Private Entity*. For purposes of this OP, a private entity is any natural or legal person, whether privately or publicly owned: (a) which is carrying out or is established for a business purpose, and is operating on a commercial basis; (b) which is financially and managerially autonomous; and (c) whose day-to-day management is not controlled by the government ("**Private Entity**").³
4. *Private Sector Activity*. This OP applies to a Bank supported activity if: (a) the activity is designed, constructed, operated and/or owned, by a Private Entity (or consists of technical assistance in preparation for such activity), is productive and is necessary to meet the development objectives of the member country in which it is implemented; (b) the Private Entity is fully responsible for identifying, assessing and managing the environmental and social risks associated with the activity; and (c) the Private Entity has a generally recognized capacity⁴ to identify, assess and manage the environmental and social risks associated with the activity (and in the case of an activity involving a financial intermediary, to identify, assess and manage these risks associated with the subprojects it finances) ("**Private Sector Activity**"). The Private Sector Activity may constitute the entire Bank supported project, or it may comprise part of a Bank supported project whose other parts do not constitute a Private Sector Activity ("**Non Private Activity**").
5. *Scope of Application*. Subject to the provisions of paragraph 7 below, the Bank may, unless the member country

objects, apply the WB Performance Standards, in lieu of the WB Safeguard Policies, to a Private Sector Activity. The Bank applies the WB Performance Standards as follows:

- (a) if the Private Sector Activity constitutes the entire Bank supported project, the Bank applies the WB Performance Standards to the entire project;⁵ and
- (b) if the Private Sector Activity comprises part of a Bank supported project (or falls within the “area of influence” of such project (see, [OP 4.01](#), *Environmental Assessment*, paragraph 2) whose other parts comprise a Non Private Activity, then, notwithstanding [OP 4.01](#), the Bank applies: (i) the WB Performance Standards to the Private Sector Activity; and (ii) the WB Safeguard Policies to the rest of the project.

6. A Private Sector Activity, as long as it meets the requirements set forth in paragraph 4 above, may take a number of forms, including: (a) an activity involving a public private partnership (“**PPP**”), especially in an infrastructure sector, comprising a contractual arrangement between a public entity or authority and a Private Entity, whereby risks from construction, and/or operations, and/or financing are fully or partially transferred to the Private Entity; (b) an activity that involves medium- or long-term management contracts, affermage/leases, privatizations, concessions, or build-own-transfer, build-own-operate-transfer, build-own-operate, and other similar arrangements; (c) an activity involving a financial intermediary, provided the subprojects financed by the intermediary and supported by the Bank are implemented by Private Entities; and (d) in exceptional cases, an activity implemented by a state-owned entity, provided it meets the criteria of a Private Entity described above.

7. *Limitations*

- (a) The WB Performance Standards do not apply to activities involving provision of goods and services, or civil works or turnkey contracts, for the design or construction of facilities that will be fully owned and operated by the public sector (i.e., activities for which private sector involvement in the project is limited to bidding on public contracts).
- (b) The WB Performance Standards do not apply to activities where the responsibilities for identifying, assessing and managing environmental and social risks and impacts are shared between the Private Entity and the member country and cannot be clearly separated. In such cases, the WB Safeguard Policies apply in their entirety to such activities.
- (c) Subject to paragraph 9 below, the requirements of [OP/BP 7.50](#), *Projects on International Waterways*, and those of [OP/BP 7.60](#), *Projects in Disputed Areas*, apply to any Bank supported Private Sector Activity.

Private Entity and Bank Roles and Responsibilities

8. The Private Entity is responsible for developing an environmental and social management system (“**ESMS**”) and for identifying, assessing and managing environmental and social risks and impacts associated with the Private Sector Activity, all in accordance with the WB Performance Standards. Financial intermediaries are required to develop an ESMS, acceptable to the Bank, which the intermediary applies in identifying, assessing and managing environmental and social risks and impacts under its Bank-supported portfolio of subprojects.

9. The Bank reviews the Private Sector Activity, the ESMS, and environmental and social assessment and management plans prepared for activities under the ESMS for consistency with the WB Performance Standards.⁶ The Bank categorizes the activity on the basis of the nature of the potential environmental and social risks and impacts of the Private Sector Activity. As part of its review, the Bank takes into account country environmental studies, country assistance or partnership strategies, sector strategies, or comparable Bank-financed studies or programs. The Bank ensures that the notification requirements under [OP/BP 7.50](#), *Projects on International Waterways*, related to the activity are met; and the Bank may rely on any such notification being undertaken by a WB Group Entity if such notification is found acceptable to the Bank. Finally, the Bank monitors the social and environmental aspects of the Private Sector Activity with respect to the applicable WB Performance Standards.

10. Since the Private Entity will normally have undertaken significant work in developing the Private Sector Activity long before the Bank’s involvement, the Bank bases its decision, on whether to support a Private Sector Activity, in part on the work already undertaken by the Private Entity in the development of the activity, decisions already made regarding the activity, and permits and approvals already issued by the

member country.

11. The Bank explains in the project documents: (a) the rationale for applying WB Performance Standards; (b) the role of the Private Entity in developing, implementing, owning and/or operating the project; (c) the role, if any, of the public sector in developing and implementing the project; (d) the role and responsibility of each of the Private Entity and public sector in identifying, assessing or managing the social and environmental aspects of the project; and (e) parts of the project, if any, that are subject to WB Safeguard Policies.

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1. In this OP, unless the context requires otherwise, the term: (a) "**Bank**" means IBRD and IDA (whether acting in its own capacity or as administrator of trust funds funded by other donors); (b) "**WB Group Entity**" means IFC or MIGA (or both); and (c) "**financing**" means any loan, credit, or grant made, or any guarantee issued, by the Bank from its resources or from trust funds funded by other donors and administered by the Bank, or a combination of these.
 2. See, *Proposed Adoption and Application of World Bank Performance Standards for Private Sector Projects Supported by IBRD/IDA*; June 26, 2012; R2012-0130; IDA/R2012-0161. The IFC Performance Standards which comprise the WB Performance Standards can be found at [www.worldbank.org/safeguards]. IFC's "*Policy on Environmental and Social Sustainability*" and IFC's "*Access to Information Policy*" are not Bank policies and are therefore not included in the WB Performance Standards. While the Guidance Notes and Interpretation accompanying the IFC Performance Standards are similarly not Bank policies, and therefore not included in the WB Performance Standards, they may be consulted for good practice guidance. For purposes of this OP, the World Bank Safeguard Policies comprise the following: [OP/BP 4.00](#), *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-supported Project*, [OP/BP 4.01](#), *Environmental Assessment*, [OP/BP 4.04](#), *Natural Habitats*, [OP 4.09](#), *Pest Management*, [OP/BP 4.10](#), *Indigenous People*, [OP/BP 4.11](#), *Physical Cultural Resources*, [OP/BP 4.12](#), *Involuntary Resettlement*, [OP/BP 4.36](#), *Forests*, [OP/BP 4.37](#), *Safety of Dams*, [OP/BP 7.50](#), *Projects on International Waterways*, and [OP/BP 7.60](#), *Projects in Disputed Areas*.
 3. In the IFC Performance Standards, the Private Entity is referred to as the "client".
 4. Ability to raise commercial funds in the market under the Equator Principles, or existence of a satisfactory management system may indicate such capacity.
 5. These provisions apply equally to a Bank supported project comprising several components, each of which is a Private Sector Activity but each is implemented by a different Private Entity.
 6. In the case of financing involving a financial intermediary, the Bank reviews the intermediary's ESMS.