

October 9, 2020

VIA Electronic Mail

Stephanie Amoako, Esq.
Senior Policy Associate
Accountability Counsel
1875 Connecticut Ave NW, 10th Floor
Washington, DC 20009

RE: Response to Comments to DFC Notice on Form DFC-007

Dear Ms. Amoako:

Thank you for your letter dated September 3, 2020. This letter presents the U.S. International Development Finance Corporation's ("DFC") response to comments of the Accountability Counsel and other organizations (the "Commenters") pertaining to the DFC *Federal Registrar* notice, Impact Assessment Questionnaire published on July 10, 2020

DFC-007 is DFC's Impact Assessment Questionnaire and is used by the Office of Development Policy to initiate the assessment of a project's developmental, environmental, and social impacts. This form is meant to provide baseline and five-year projections of the development impacts of the project. The form also serves as a starting point for DFC to understand the project's environmental and social risk profile and current status of their risk assessment work, including human rights and worker rights risks.

There are several critical goals we are looking to achieve with the DFC-007 Form:

- Design a form that provides comprehensive enough information such that DFC analysts are able to initiate their assessments; while at the same time remaining cognizant of not making the form overly administratively burdensome for our clients, and therefore remaining judicious in only asking the essential, critical questions necessary for us to conduct our analysis.
- Create a form that is applicable to all clients that apply for all products of DFC support.
- Ensure that the form is as user-friendly as possible for the individuals completing it, recognizing that some of them may not have the technical expertise required for some of the suggested questions.

Because each DFC project is unique, with the potential to cover a wide variety of sectors and countries of operation, it is not cost effective to design a form that covers every single possible piece of information that could be needed, which is also ill-advised given the administrative burden it would put on clients. As such, when appropriate and necessary, DFC analysts follow up with the client when additional information is needed to complete the analysis.

With these goals in mind, we welcome and appreciate feedback and comments on DFC's Impact Assessment Questionnaire. The Commenters have recommended the following types of changes:

1. Adding additional questions

1100 New York Avenue Northwest
Washington, DC 20527
Office +1 202.336.8400

dfc.gov



2. Expanding current questions
3. Requiring the client to include additional documentation
4. Adding additional information or definitions
5. General feedback

Provided below are DFC's responses to the specific comments and recommendations made on the above-referenced topics.

Expand Current Question: Q202A-Q202G

Commenters' Comments and Recommendation:

Additionally, although DFC-007 currently asks for documentation on the applicant's grievance mechanism, specific details are required to understand the mechanism's functioning and effectiveness. We suggest the following addition (changes highlighted and in bold):

[IF YES TO ANY Q201A – Q201G, ASK]: Q202A – Q202G Please click here to upload this document.
For the grievance mechanism, include information about past and ongoing complaints and whether the mechanism undergoes a regular third party audit to assess its effectiveness.

DFC Response:

Thank you for this recommendation. DFC does not believe the additional language is necessary as the original question is meant to be a starting point for the assessment on the grievance mechanism. Additionally, given our concern with not wanting to impose an overly administratively burdensome process onto the client, we are opting to not go into this level of detail at this time.

Add New Question

Commenters' Comments and Recommendation:

Although DFC-007 does include questions about the project's Environmental and Social Management System (ESMS) and the grievance mechanism in Section 2, it is important for the form to also explicitly ask about the applicant's due diligence processes:

QXX Please attach documentation detailing the Project's plans for environmental, social, and human rights due diligence processes that will be used to assess, avoid, mitigate, and monitor project risks.

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Add New Question

Commenters' Comments and Recommendation:



Q301 Does the Project (or the organization running the Project) have a written human resources policy?
Yes / No

[IF Q301 = YES, ASK]: QXXX If Yes, in which languages are the human resources policies available?

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Expand Current Question: Q315A1

Commenters' Comments and Recommendation:

The Human Resources section (Section 3) can be also strengthened to take into account grievance mechanisms complaints and the actions that the applicant has taken to remedy any violation of the host-country laws (changes highlighted and in bold):

Q315 To the best of your knowledge, has the project experienced any of the following? Yes / No

A. Violation of host country (local) laws or other labor standards

[IF Q315A=YES, ASK]: Q315A1 Please describe the violation of host country (local) laws or other labor standards, and describe the actions taken to remedy the noncompliance.

DFC Response:

Thank you for this recommendation. DFC does not believe this addition is necessary as the original question Q315 is a series of "YES/NO" questions. The question is meant to be a starting point for an assessment on any possible violations of this nature and a "YES" response here would prompt additional follow-up by DFC analysts.

Expand Current Question: Q315B

Commenters' Comments and Recommendation:

The Human Resources section (Section 3) can be also strengthened to take into account grievance mechanisms complaints and the actions that the applicant has taken to remedy any violation of the host-country laws (changes highlighted and in bold):

Q315 To the best of your knowledge, has the project experienced any of the following? Yes / No

B. Labor-related lawsuits **and grievance mechanism complaints** against the project

DFC Response:

Thank you for this recommendation. DFC does not believe this addition is necessary as the original question Q315 is a series of "YES/NO" questions. The original question is meant to indicate existing legal disputes as a factor in assessing the potential for elevated labor risks for a project. An assessment of the project-specific grievance mechanisms and past or existing grievance mechanism complaints is



conducted during the review of the project. DFC's experience is that a conversation with the appropriate counterparties is a more constructive way to understand past or ongoing grievance mechanism functionality and complaints.

Expand Current Question: Q315B1

Commenters' Comments and Recommendation:

The Human Resources section (Section 3) can be also strengthened to take into account grievance mechanisms complaints and the actions that the applicant has taken to remedy any violation of the host-country laws (changes highlighted and in bold):

Q315 To the best of your knowledge, has the project experienced any of the following? Yes / No

B. Labor-related lawsuits against the project

[IF Q315B=YES, ASK]: Q315B1 Please describe the labor-related lawsuits **and grievance mechanism complaints** against the project:

DFC Response:

Thank you for this recommendation. DFC does not believe this addition is necessary as the original question Q315 is a series of "YES/NO" questions. The original question is meant to indicate existing legal disputes as a factor in assessing the potential for elevated labor risks for a project. An assessment of the project-specific grievance mechanisms and past or existing grievance mechanism complaints is conducted during the review of the project. DFC's experience is that a conversation with the appropriate counterparties is a more constructive way to understand past or ongoing grievance mechanism functionality and complaints.

Expand Current Question: Q1201

Commenters' Comments and Recommendation:

Projects that respect the rights of project-affected communities are only possible when communities are consulted early in the project development process and continuously throughout the project cycle. DFC must ensure that applicants have processes in place to ensure robust consultation and must acquire Free Prior and Informed Consent (FPIC) from affected communities. DFC-007 includes a question on community consultations and requires attaching documentation. To make this question more robust, the question should be revised in the following manner (changes highlighted and in bold):

Q1201. Will the Project engage with communities impacted by the project **throughout every stage of Project design and implementation** (including disadvantaged and vulnerable groups)? Yes/No

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Expand Definitions

Commenters' Comments and Recommendation:

Additionally, the examples of disadvantaged and vulnerable groups included in the pop-up for this question and other questions in DFC-007 should be expanded to include populations that are marginalized because of social status, disability, sexual orientation or gender identity, age (including children), health status or political opinion, and those who have little flexibility to rebound when disruptions to their livelihoods occur due to their economic and social circumstances.

DFC Response:

Thank you for this recommendation. The examples listed in the pop-up are not meant to be exhaustive and are there to provide guidance to the client. However, DFC has added “and other marginalized groups” to the pop-up bubble.

Expand Current Question: Q1202

Commenters' Comments and Recommendation:

Given the important role that IAMs and NCPs play in addressing harm caused by internationally financed projects and multinational enterprises, DFC-007 should specifically ask clients about their engagement in these processes. This can provide useful information on both the applicant's practices, including environmental and social practices and its willingness to rectify problems that may occur (changes highlighted and in bold):

Q1202 Has the Project been involved in a community dispute or complaint resolution process, **including at an Independent Accountability Mechanism of an International Financial Institution?** Yes / No

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Expand Current Question: Q1202a

Commenters' Comments and Recommendation:

Given the important role that IAMs and NCPs play in addressing harm caused by internationally financed projects and multinational enterprises, DFC-007 should specifically ask clients about their engagement in these processes. This can provide useful information on both the applicant's practices, including environmental and social practices and its willingness to rectify problems that may occur (changes highlighted and in bold):

[IF Q1202 and **QXX=YES, ASK**] Q1202a Please describe the **nature and status of the** dispute or complaint and list steps being taken to resolve it **and attach supporting documentation.**

DFC Response:

Thank you for this recommendation. DFC does not believe this addition is necessary as this question is only answered if a client answers “YES” to Q1202 and a “YES” response to Q1202 would prompt additional follow-up by DFC analysts.

Add New Question

Commenters' Comments and Recommendation:

Given the important role that IAMs and NCPs play in addressing harm caused by internationally financed projects and multinational enterprises, DFC-007 should specifically ask clients about their engagement in these processes. This can provide useful information on both the applicant's practices, including environmental and social practices and its willingness to rectify problems that may occur (changes highlighted and in bold):

**QXX Is the Project, applicant, any related party or affiliate of the applicant, or any supplier to the project currently or previously associated with an OECD National Contact Point complaint?
Yes/No**

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Add New Question

Commenters' Comments and Recommendation:

Per our previous recommendation, the following question should be added to this section:

QXX Is the Project, applicant, any related party or affiliate of the applicant, or any supplier to the Project currently listed on any publicly available debarment lists at an International Financial Institution, including the World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, and Inter-American Development Bank? Yes/No

[IF QXX= YES, ASK]QXX Please provide additional information.

DFC Response:

Thank you for this recommendation. DFC does not believe this additional question is necessary as this information is publicly available. To ensure that DFC supports reputable investors and projects, know-your-customer ("KYC") policies and procedures are used to assess the character of parties and beneficial owners in DFC-supported projects. DFC uses a wide array of resources to conduct KYC due diligence. These resources include general background checks and checks against sanctions and other publicly available lists.

Add New Questions

Commenters' Comments and Recommendation:

Globally, individuals defending their human rights and the environment have increasingly faced intimidation, violence, and reprisals. DFC-007 should include a question on the applicant's protocol for preventing and addressing threats of and actual retaliation against complainants or those associated with project complaints or grievances. We recommend adding the following question in Section 12:

QXX Does the Project have a protocol to prevent and address threats of or actual retaliation against grievance mechanism complainants and those associated with Project complaints or concerns? Yes/No

[IF QXX= YES, ASK] QXX Please describe the Project’s protocol and attach supporting documentation.

DFC Response:

DFC agrees with this recommendation and will incorporate it as recommended. Thank you for this helpful suggestion.

Add New Question

Commenters’ Comments and Recommendation:

In Section 12, we commend the questions regarding displacement and resettlement. However, considering the impacts of involuntary resettlement, DFC should require more information on the resettlement action plan (highlighted and in bold):

Q1204d Physical displacement and resettlement of people in the host country Yes / No

[IF Q1204d=YES, ASK] Q1204d1 How many households will be displaced? _____

[IF Q1204d=YES, ASK] Please describe and attach the Resettlement Action Plan.

DFC Response:

Thank you for this recommendation. DFC does not believe this addition is necessary as a “yes” to Q1204d DFC would result in a series of follow up questions and further assessment, including requesting or requiring the Resettlement Action Plan.

General Feedback

Commenters’ Comments and Recommendation:

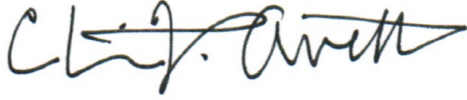
Furthermore, these questions should also be included in the section for financial services clients and projects. Although investing in financial intermediaries (FIs) can help mobilize funds and attract private capital for economic development, this type of lending also comes with significant risks, particularly around clients’ adherence to environmental and social safeguards. It is therefore crucial that DFC’s FI clients have robust environmental and social practices, including human rights, environmental, and social due diligence and monitoring of sub-projects as well as accountability and access to remedy, including through DFC’s IAM, for project-affected communities. DFC must properly screen and identify potential clients that lack these practices.

DFC Response:

DFC agrees with this recommendation and will include Section 12 for financial services projects. Thank you for this helpful suggestion.

DFC appreciates the Commenter's comments and recommendations to the DFC-007. Thank you for your engagement with us, and the thoughtful suggestions you provided.

Sincerely,



Claire F. Avett
Vice President, Office of Development Policy
U.S. International Development Finance Corporation

CC: