



REPORT IN RESPONSE TO the FY15 CONSOLIDATED AND FURTHER APPROPRIATIONS ACT (H.R. 83)

The Overseas Private Investment Corporation report on its plan to implement recommendations by OPIC's Office of Accountability pertaining to Liberia.

Executive Summary

In February of 2014, the OPIC President and CEO requested an independent review by the Office of Accountability (OA) of OPIC's support of a biofuel project in Liberia in 2008 ("OA Report"). This review was not required under the OA procedures; rather, it was a management-initiated effort to derive lessons learned for OPIC and other actors engaged in complex development projects in post-conflict countries like Liberia.

The OA Report made several constructive and actionable recommendations that relate to improving OPIC's policies, procedures, and resources. Many of these enhancements had already been implemented in the years since the project was approved and several others have been undertaken specifically as a result of the OA Report.

Specifically, since 2010, OPIC has:

- Adopted the International Finance Corporation's ("IFC") Social and Environmental Performance Standards, which are widely recognized as international best practice;
- Disclosed and fully implemented OPIC's Environmental and Social Policy Statement ("ESPS");
- Harmonized its approach to environmental and social impact review with that of other major Development Finance Institutions ("DFIs") around the world;
- Developed and implemented requirements over and above those of the IFC for projects with heightened potential for worker rights issues;
- Introduced a review of OPIC clients' management capacity to implement necessary measures to protect people and the environment;
- Committed to review the ESPS, with public input, to identify further opportunities for improvement; and
- Increased OPIC staff and contractual resources to conduct due diligence and monitoring for those projects that may pose a heightened risk of negative environmental, labor, or human rights impacts.

In response to specific recommendations made in the OA Report, OPIC:

- Developed enhanced screening procedures to better identify factors contributing to higher human rights related risk associated with projects in post-conflict environments.
- Requires more frequent monitoring of projects with higher human rights related risks by independent consultants, and more robust grievance mechanisms that enable those who may be harmed by a project to raise concerns.
- Deploys specialized social consultants with direct experience in sensitive human rights matters to project sites as part of project due diligence.
- Ensures that additional staff and resources are available to review and monitor these types of complex projects.

The following is an update on the status of implementation of the recommendations made in the OA Report.

Improvements to OPIC's Policies and Procedures

OPIC has fully implemented the 2010 Environmental and Social Policy Statement (“ESPS”) which adopts the International Finance Corporation (IFC) Performance Standards as a standard of assessment. In addition to the adoption of the IFC Performance Standards, the ESPS also included the establishment of a “Special Consideration” classification for projects that pose a heightened risk with respect to worker rights. That classification, which is unique among OPIC’s peer development finance institutions, involves enhanced procedures to both better identify and monitor those risks. Projects with a similar labor profile to the biofuel projects supported in Liberia would today be categorized as “Special Consideration” and as a result receive additional review on worker rights risks consistent with the recommendations of the OA Report.

As to the human rights-related risks identified in the OA Report, OPIC continues to consult with the U.S. Department of State on human rights matters for projects in a range of countries. Further, the IFC Performance Standards provide an integrated platform for analysis of human rights-related risks. OPIC and IFC both explicitly commit to respecting human rights in their policy guidance, and also require that their clients respect human rights through applying applicable host country requirements, and the requirements in the IFC Performance Standards.

A key element of the adoption of the IFC Performance Standards was the requirement for all OPIC clients to develop, implement and maintain a management system consisting of resources, policies, and procedures to support a project’s performance towards achieving positive environmental, social, labor and human rights performance. An evaluation of the client’s management capacity is now central to OPIC’s review.

In 2012, the IFC issued a Revision to the Performance Standards (also adopted by OPIC), which introduced more explicit and detailed guidance for assessment and mitigation of potential human rights impacts, including guidance on where and when more formal human rights risks assessment is required prior to project approval.

Improvements to the Approach to Projects in High Risk Environments

OPIC’s experience in Liberia illustrated the risks posed by projects operating in post-conflict countries, and in particular, the increased potential for human rights violations, labor abuse or unrest,

environmental impacts to ecosystem services, and impacts felt by people potentially affected by a project.

Although OPIC's ESPS and the IFC Performance Standards provide a robust framework for assessment for most projects, additional safeguards may be appropriate in post-conflict countries. OPIC has therefore reiterated its commitment to a formal review of its ESPS this year, to include solicitation of input from OPIC's stakeholders.

Enhanced Screening

OPIC has already strengthened how it screens and manages risk of negative impacts by developing enhanced screening procedures to better determine what elements of enhanced due diligence would be required to ensure social risks are identified and understood, and that OPIC's client has the capacity and resources to appropriately mitigate and monitor the identified risks.

Guided in large part by the findings of the OA Report, the enhanced screening procedures incorporate more detailed analysis of conditions created by past and on-going conflicts, and the impact of those conditions on the respect for human rights. The analysis also evaluates a potential client's management experience and capacity to effectively deal with those challenging conditions. This enhanced screening includes an assessment of internal accountability for environmental and social issues, policies and procedures governing the heightened human rights risks, human resources management, internal and external controls that address heightened human rights risks, reputation, and experience in the sector and country.

Enhanced Monitoring and Reporting

For those projects that that pose a heightened risk of negative environmental, labor, or human rights impacts, OPIC has supplemented the normal monitoring procedures with enhanced monitoring and reporting as the project progresses. For example, the enhanced screening procedures include options for more frequent monitoring by specialized consultants and third-party verification of required reporting. Depending on the capacity and resources of the project, and the degree of heightened risk, increased internal monitoring and reporting may need to be expanded or complemented by external controls.

Additionally, under the due diligence and monitoring contracts for Independent Engineers, OPIC also uses environmental and social consultants to conduct specialized monitoring for projects that pose a heightened risk of negative environmental, labor, or human rights impacts.

Enhanced Grievance Mechanisms

OPIC is requiring more robust grievance mechanisms that include community engagement and are easier for community members as well as workers to access. These mechanisms are also more responsive to human rights complaints.

Enhanced Risk Management Framework

Regarding the OA Report's broader recommendation that OPIC consider its risk management framework, in 2014 OPIC created an internal risk management committee to monitor and assess potential agency risk related to client, credit, reputation, and resources.

Resources

One of the recommendations made in the OA Report is that OPIC ensure that it has adequate resources available for projects with similar profiles as the projects supported in Liberia. In considering such projects, OPIC has taken steps to ensure that sufficient capacity and resources are available to review and monitor those projects and is making efforts to expand those resources within the FY16 budget cycle. For example, OPIC allocated additional internal resources to support successful implementation of the ESPS with the recruitment of social specialists in 2012 and 2014. Recruitment for additional environmental and labor/human rights analysts is underway and will be finalized by mid-2015.

OPIC is also currently expanding its network of specialized social consultants with the capacity to support the due diligence and monitoring process.

Finally, and also directly in response to the Report recommendation that OPIC work more closely with technical assistance partners in higher risk environments, OPIC is exploring opportunities to engage donor resources on projects like those in Liberia.

OPIC has committed considerable staff resources to review the OA Report and its recommendations, and consider them in the context of OPIC's increasingly robust environmental and social impact review standards. The OA Report provides this agency with important lessons learned related to its activities in particularly challenging global markets. OPIC will continue to improve its capacity and procedures to ensure positive development impact through Agency-supported projects in the years ahead.