



Detailed Guidance on Reporting for the Proposed Reporting Requirements on Responsible Investment in Burma

The Guidance that follows was originally annexed to the *Comment of EarthRights International on the Paperwork Reduction Act Review for Proposed Reporting Requirements on Responsible Investment in Burma*, which was submitted to the U.S. State Department on October 4, 2012. Once enacted, the Reporting Requirements on Responsible Investment in Burma will be a mandatory framework for all U.S. persons investing in Burma/Myanmar that requires, among other things, extensive public reporting on investors' policies and practices with regard to human rights, environmental performance, anti-corruption, land acquisition, and labor standards.

EarthRights International (ERI) submitted the Comment, which is posted in full in conjunction with this Guidance on ERI's website, in order to provide suggestions for strengthening the Reporting Requirements. The Annexes that follow are a compilation of key elements of best practice and standards drawn from widely accepted international frameworks that were current at of the time of submission; they do not purport to reflect the full range of best practice or to comprehensively summarize international standards, which are evolving rapidly in many relevant respects. In addition to this Guidance, ERI's Comment also recommends 1) that the Reporting Requirements should clearly apply to the operations of investors' business partners and related entities over which they have significant influence, and 2) that the Reporting Requirements should not allow investors to self-designate information as confidential business information that can be withheld from the public.

Annex A -- Human Rights Policies & Due Diligence¹

1. *Policy Commitment to Respect Human Rights.* The submitter should have a publicly available statement articulating the submitter's commitment to respect for Human Rights.
 - Is this policy statement approved at the most senior level of the enterprise?
 - Is it informed by relevant internal and or external expertise?
 - Does it stipulate the human rights expectations of personnel, business partners, and other parties directly linked to the submitter's operations, products, or services?
 - Is it publicly available and communicated internally and externally to all personnel, business partners and other relevant parties?
 - Is it reflected in operational policies and procedures necessary to embed it throughout the enterprise?

¹ The Guidance in this Annex is drawn primarily from the OECD Guidelines for Multinational Enterprises, IFC Performance Standards, UN Guiding Principles on Business and Human Rights, and the Voluntary Principles on Security and Human Rights. Similar due diligence is expected for environmental practice and workers' rights. For the environment, see OECD Guidelines for Multinational Enterprises, Ch. IV. Environment; IFC Performance Standard 1: Assessment and Management of Environmental and Social Impacts. *See also* IFC Performance Standard 2: Resource Efficiency and Pollution Prevention; IFC Performance Standard 4: Community Health, Safety, and Security; and IFC Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources. For workers' rights, *see* OECD Guidelines Ch. V. Employment and Industrial Relations; IFC, Performance Standard 2: Labor and Working Conditions. *See also* IFC Guidance Notes 1, 2, 4, & 6.

2. *Company Processes for Identifying & Analyzing Potential and Actual Human Rights Risks & Impacts.* The submitter should have processes in place to conduct human rights due diligence to identify and assess potential and actual human rights risks that may be associated with its activities, operations, and relationships.

- *Conducting Human Rights Impact Assessments*

- Do these processes include specific measures to identify potential human rights impacts?
- Is identification and assessment of human rights impacts undertaken as part of a broader risk assessment/management mechanism, or on its own as a separate process? If the submitter assesses human rights risks as part of a broader risk management system, does it go beyond simply identifying and managing the material risks to the submitter itself and include risks to rights-holders?
- Does it include explicit references to internationally recognized human rights?
- Does the process utilize internal and/or independent external human rights expertise?
- Does the process involve meaningful consultation with potentially affected groups and other relevant stakeholders? How are these stakeholders identified, informed and consulted?

- *Rights to Be Considered*

- Does the process incorporate and make reference to the internationally recognized human rights expressed in the International Bill of Human Rights – consisting of the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights – and the principles concerning fundamental rights in the 1998 ILO Declaration on Fundamental Principles and Rights at Work?
- Does the process incorporate and make reference to any other internationally recognized human rights?
- Does the process take the specific country context into account, including in particular (i) a consideration of recent conflict and the potential for renewed conflict; and (ii) attention to the human rights record of the country as a whole and specific entities of the state (including public security forces, paramilitaries, and local and national law enforcement)?²
- How does risk assessment take into account (i) security risks, especially considering political, economic and social factors; (ii) potential for violence; (iii) rule of law, including the local prosecuting authority and judiciary's capacity to hold accountable those responsible for violations of international humanitarian and human rights law; and iv) conflict analysis?

- *Integration of Findings from Impact Assessments*

- How does the submitter integrate the findings of its assessments across relevant internal functions and oversight processes?

² Useful guides on these matters include the Global Compact's Business Guide for Conflict Impact Assessment and Risk Management; the Global Compact's Guidance on Responsible Business in Conflict-Affected and High Risk Areas: A Resource for Companies and Investors; and the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones

3. *Policies and Processes for Managing, Preventing, and Remediating Impacts.* The submitter should have processes in place for handling actual and potential impacts on human rights that are identified through human rights due diligence or other means.
 - What concrete steps does the submitter take to prevent or mitigate adverse impacts that are directly linked to its business operations, products or services by a business relationship, even if its does not contribute to those impacts?
 - Does the submitter consider feedback from internal and external stakeholders on these processes?
 - What emergency response measures does the submitter have in place in the event of accidents or other emergencies that impact human rights?
4. *Continuous monitoring, review and tracking of response to human rights impacts.* To verify whether adverse human rights impacts are being adequately addressed, the submitter should track and account for the effectiveness of their responses to such impacts.
 - What are the submitter's qualitative and/or quantitative indicators and metrics for measuring human rights impact mitigation?
 - How does the submitter communicate externally about its steps to address human rights impacts?
 - How does the submitter respond to concerns about human rights impacts when raised by or on behalf of affected stakeholders.
 - Does the submitter practice human rights due diligence as an ongoing process?
5. *Grievance Mechanisms.* The submitter should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely affected by the submitter's activities. (See Annex E).
6. *Stakeholder Engagement at Each Stage.* Stakeholder engagement is vital, and an engagement plan should be developed at the outset of the project.
 - Does the submitter identify stakeholders at the earliest stage and engage with them in the initial analysis and planning of project?
 - Does the submitter have policies and practices for disclosing and disseminating information to stakeholders? Do these disclosures include the following?
 - The purpose, nature, scale of project;
 - The duration of the proposed project or activities;
 - Any risks to and potential impacts on communities;
 - Relevant mitigation measures;
 - The envisioned stakeholder engagement process;
 - Grievance mechanisms
 - Does the submitter have grievance mechanisms appropriate to address stakeholder concerns?
 - Are communities of indigenous peoples engaged and their free, prior, informed consent obtained when a project could have a potentially adverse impact on them?

Annex B -- Anti-Corruption Policies & Procedures³

1. *No Offering, Promising, Giving, Requesting or Accepting of Undue Pecuniary or Other Advantage.* The submitter should not offer, promise or give undue pecuniary or other advantage to public officials or the employees of business partners, nor should it request or agree to or accept undue pecuniary or other advantage from public officials or employees of business partners.
2. *Company Policy Against Corruption & Demonstrated Commitment.* The submitter should have a clearly articulated and visible corporate policy prohibiting foreign bribery and other forms of corruption.
 - What does senior management do to show strong, explicit, and visible support for anti-corruption policies and internal controls?
3. *Internal Controls, Ethics & Compliance Programs and Measures to Prevent Corruption.* The submitter should develop and adopt adequate internal controls, ethics and compliance programs and measures for preventing and detecting foreign bribery.
 - Do the internal controls and compliance programs reference the OECD's Good Practice Guidance on Internal Controls, Ethics, and Compliance, included as Annex II to the 2009 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions, which highlights good practices for ensuring the effectiveness of internal controls?
 - Do internal controls include a system of financial and accounting procedures designed to ensure the maintenance of fair and accurate books, records and accounts?
 - Does the submitter monitor individual circumstances and bribery risks and re-assess as necessary to ensure that the enterprise's internal controls, ethics and compliance program or measures are adapted and continue to be effective, and to mitigate risk of becoming complicit in any form of corruption?
4. *Enhance Transparency of Activities to Fight Against Corruption.* The submitter should foster openness and dialogue with the public so as to promote awareness of and co-operation with the fight against corruption.
 - Does the submitter make public its commitments against corruption?
 - Does the submitter publicly disclose its management systems and internal controls, ethics and compliance programs, and other measures?
5. *Employee Awareness & Compliance.* The submitter should promote employee awareness of and compliance with its policies, internal controls, and ethics and compliance programs against corruption.
 - Does the submitter have training programs for anti-corruption procedures?
 - Does the submitter have internal disciplinary procedures for violations of the anti-corruption policies and procedures?

³ The Guidance in this Annex is drawn primarily from the OECD Guidelines Ch. VII. Combating Bribery, Bribe Solicitation and Extortion and the OECD's Good Practice Guidance on Internal Controls, Ethics, and Compliance.

6. *Properly Documented Due Diligence Pertaining to Hiring, and Appropriate and Regular Oversight of Agents.* The submitter should ensure that remuneration of agents is appropriate and for legitimate services only.
 - Does the submitter maintain and disclose to competent authorities a list of agents engaged in connection with transactions with public bodies and State-owned enterprises?

Annex C -- Stakeholder Engagement⁴

1. *Stakeholder Identification.* How does the submitter identify those stakeholders who are or may be directly or indirectly affected by the planned business activity?
2. *Engagement Planning.* The submitter should develop and implement an engagement plan, scaled to the project risks and impacts and development stage, and tailored to the characteristics and interests of the affected communities.
 - Does the plan (i) identify and prioritize key stakeholder groups, (ii) provide a strategy and timetable for sharing information and consulting with each of the group, (iii) describe resources and responsibilities for implementing stakeholder engagement activities, and (iv) describe how stakeholder engagement activities will be incorporated into the submitter's management systems?
 - Does the submitter articulate specific, differentiated measures to allow for effective participation of those identified as disadvantaged or vulnerable?
 - Where the process depends on community representatives, does the submitter make efforts to verify that such persons do in fact represent the community's views and can be relied upon to faithfully communicate the results of consultations?
3. *Information Disclosure.* The submitter should disclose relevant project information to help affected communities and other stakeholders understand the risks, impacts, and opportunities of the project. Disclosure should begin as early as possible.
 - Does the submitter provide affected communities with access to relevant information on the following?
 - Purpose, nature, and scale of the project;
 - Duration of proposed project and activities
 - Any risks to and potential impacts on communities;
 - Relevant mitigation measures;
 - Envisioned stakeholder engagement process;
 - Grievance mechanisms;
 - Partners, suppliers, contractors, and sub-contractors
 - Is disclosure made in formats that are easily accessible to and understood by affected communities?
4. *Stakeholder Consultation.* A process of consultation should be undertaken that provides affected communities with opportunities to express their views on the risks, impacts and mitigation measures associated with the project and allows for the submitter to consider and respond.
 - Does the submitter provide relevant, transparent, objective, meaningful and easily accessible information *prior* to consulting with stakeholders?
 - Does consultation begin early in the process of identifying environmental, social, and human rights risks and impacts?
 - Does consultation continue on an ongoing basis?

⁴ The Guidance in this Annex is drawn primarily from the EITI Rules, the IFC Performance Standards and relevant Guidance Notes, and the IFC Good Practice Handbook for Companies Doing Business in Emerging Markets.

- Are communities engaged in the following?
 - Identifying potential impacts and risks;
 - Assessing the consequences of those impacts and risks for their lives;
 - Providing input into the proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues;
 - Consulting on new impacts and risks that come to light during the planning and assessment process
 - How does the submitter ensure that consultation is free of external manipulation, interference, coercion or intimidation?
 - How does the submitter document consultation procedures?
5. *Informed Consultation and Participation.* For projects with a high potential for adverse impacts on affected communities, the submitter should conduct a more in-depth process of consultation, providing for informed consultation and informed participation.
- How are communities' views incorporated into decision-making in cases with potentially adverse impacts?
 - What measures are taken to ensure men and women's views and concerns are equally taken into account?
6. *Free, Prior and Informed Consent (FPIC) from Indigenous Peoples.* See Annex D for additional requirements when projects may impact indigenous peoples.
7. *Grievance Management.* The submitter should have an appropriate grievance mechanism, by which people affected by the submitter's operations can raise concerns with the submitter for consideration and redress.
- Describe who receives grievances, how such grievances are resolved, and how the response will be communicated back to the complainants.
 - How are stakeholders made aware of such mechanisms?⁵
8. *Ongoing Reporting to Stakeholders.* Periodic reports should be provided to the affected communities describing progress on issues that involve ongoing risks or impacts to affected communities, or that the consultation process or grievance mechanism have identified as a concern to those communities.
9. *Monitoring & Management Functions.* The submitter should involve stakeholders directly in monitoring the project's impacts, mitigation, and benefits.
- Does the submitter have protocols on when to engage external monitors, for example, where outside monitoring would build credibility and legitimacy with communities by providing an objective and independent source of information?

⁵ For more detailed standards on grievance mechanisms, please see Annex E.

Annex D -- Indigenous Peoples & Free, Prior, and Informed Consent (FPIC)

When projects have the potential to adversely impact communities of indigenous peoples, the requirements for engagement are heightened: submitters must obtain the free, prior, informed consent (FPIC) of the affected communities on at least some issues. The latest update to the IFC Performance Standard 7 reflects the evolution of FPIC from a voluntary process to a mandatory prerequisite for a project.

1. *Assessing the Potential for Adverse Impacts.* The submitter should identify through a risks and impacts assessment process: (i) all communities of indigenous peoples within the project area of influence who might be affected by the project; and (ii) the nature and degree of the expected direct and indirect economic, social, cultural and environmental impacts on them.
 - Does the analysis include consideration of indigenous peoples' (i) economic, social and legal status, (ii) institutions, customs, culture, and/or language, (iii) dependence on natural resources; and (iv) past and ongoing relationship to dominant groups and the mainstream economy?
 - Does the submitter conduct a vulnerability analysis conducted by a competent expert that involves the participation of affected peoples?
2. *Circumstances Requiring FPIC.* Does the submitter recognize the requirement of FPIC in the circumstances prescribed by IFC Performance Standard 7? Specifically, does the submitter practice FPIC in the following circumstances?
 - Potentially adverse impacts on lands and natural resources subject to traditional ownership or under customary use;⁶
 - Relocation of indigenous peoples from lands and natural resources subject to traditional ownership or under customary use;
 - Where a project may significantly impact on critical cultural heritage that is essential to the identity and or cultural, ceremonial or spiritual aspects of indigenous peoples lives;
 - Where the submitter proposes to use an indigenous group's cultural heritage – including knowledge, innovations and or traditional practices – for commercial purposes, does the submitter inform the group of its intentions, the group's rights under domestic and international law, and the potential consequences of the intended use? Does it fairly and equitably share with the group the benefits of such commercialization?
3. *Avoiding Adverse Impacts.* Adverse impacts on affected communities of indigenous peoples should be avoided were possible.
 - Where it is determined that adverse impacts are unavoidable, after the exploration of alternatives, does the submitter minimize, restore, and/or compensate for these impacts in a culturally appropriate manner commensurate with the nature and scale of such impacts and the vulnerability of the affected communities of indigenous peoples?

⁶ A special case in which FPIC is commonly required is when hazardous substances will be placed or stored on indigenous peoples' territory.

4. *Agreement on the FPIC Process.* The submitter should consult with the affected communities of indigenous peoples to determine the best engagement and negotiation process.
- Does the submitter conduct informed consultation characterized by participation and good faith negotiation in developing a negotiation process?
 - Does the submitter document the mutually accepted engagement and negotiation process between the submitter and the affected communities of indigenous peoples?
 - Do the agreements reached pursuant to FPIC specifically identify and document the following commitments and differentiated roles and responsibilities?
 - The agreed engagement and consultation process;
 - Environmental, social and cultural impact management (including land and resource management);
 - Agreed mitigation and compensation measures for adverse project impacts
 - Compensation and disbursement framework or arrangements;
 - Employment and contracting opportunities;
 - Governance arrangements;
 - Other commitments such as those pertaining to continued access to lands, contribution to development, etc.;
 - Agreed implementation/delivery mechanisms to meet each party's commitments
 - Any agreements as to the provision of broader development opportunities for indigenous communities;
 - Does the submitter confirm that the agreement is supported by the constituencies identified through the risks and impacts assessment process and with whom the process of engagement and good faith negotiation has occurred?
5. *Documentation of the Outcome.* The FPIC process and the outcome should be well documented and publicly available.
6. *Additional Measures to ensure meaningful engagement.* Does the submitter take targeted steps to address the following issues that may particularly affect indigenous communities' ability to participate in consultation processes?
- Controls to ensure free and voluntary participation, without manipulation, interference, coercion or intimidation;
 - Evaluation of the capacity of communities to engage in a process of informed consultation;
 - Accommodations to ensure sufficient time is provided for decision-making;
 - Guarantees to ensure that vulnerable groups, particularly women, are included

Annex E -- Grievance Mechanisms⁷

The UN Guiding Principles identify the following “effectiveness criteria” for operation-level grievance mechanisms. Such mechanisms should be:

1. *Legitimate*. How does the mechanism enable trust from the stakeholder groups by whom they are to be used, and what accountability mechanism exists for the fair conduct of grievance processes?
2. *Accessible*. Is the mechanism known to all stakeholder groups for whose use it is provided, and is adequate assistance provided for those who may face particular barriers to access?
3. *Predictable*. Are there clear and known procedures with an indicative timeframe for each stage, clarity on the types of processes and outcomes available, and a means of monitoring implementation?
4. *Equitable*. Do aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in the process on fair, informed, and respectful terms?
5. *Transparent*. Are parties to a particular grievance informed about its progress and provided sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake?
6. *Rights-compatible*. How does the submitter ensure that outcomes and remedies accord with internationally recognized human rights?
7. *A source of continuous learning*. Does the submitter draw on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms?
8. *Based on engagement and dialogue*. Does the submitter consult stakeholder groups on the design and performance of the mechanism, and focus on dialogue as the means to address and resolve grievances?

⁷ The Guidance in this Annex is drawn from Principle 31 of the UN Guiding Principles on Business and Human Rights.

Annex F -- Arrangements with Security Service Providers

The following checklist of best practices and standards should be consulted when a submitter interacts with security service providers; its contents derive primarily from the Voluntary Principles on Security and Human Rights.

1. *Risk Assessment.* The submitter should engage in effective, accurate assessment of risks in its operating environment. Do risk assessments include consideration of the following factors?
 - *Identification of Security Risks* – potential security risks resulting from economic, civil or social factors should be adequately considered, and measures should be taken to minimize such risk and assess whether the submitter’s activities may heighten risk.
 - *Potential for Violence* – civil society, home and host government representatives, and other sources should be consulted to identify risks of violence.
 - *Human Rights Records* – the record of the public security forces and local and national law enforcement, the existence of paramilitary groups, and the reputation of private security providers should all be examined and taken into account.
 - *Rule of Law* – prosecuting authority and judiciary’s capacity to hold accountable those responsible for human rights abuses should be considered.
 - *Conflict Analysis* – the submitter should identify the root causes and nature of local conflicts and consider the potential for future conflicts in the region.
 - *Equipment Transfers* – when providing equipment to public or private security, the submitter should consider the risks associated, any relevant export licensing requirements, and the feasibility of measures to mitigate foreseeable negative consequences, including adequate controls to prevent misappropriation or diversion of equipment, which may lead to human rights abuses. Any past incidents should be considered as well.

2. *Interactions Between Company and Public Security.* The submitter should have policies and procedures in place for ensuring actions taken by public security providers are consistent with the protection and promotion of human rights.
 - *Security Arrangements.* Does the submitter undertake the following in its dealings with public security providers?
 - Regular consultation with host governments and local communities about the impact of their security arrangements with public security providers on human rights in relevant communities;
 - Regular communication with local police and other state security services operating in the project area;
 - Regular communication of their policies on ethical conduct and human rights to public security providers and insistence that security be conducted consistent with those policies by personnel with adequate and effective training;
 - Encouragement to host governments to make security arrangements transparent and accessible to the public

- *Deployment & Conduct*
 - How does the submitter ensure that the type and number of public security forces deployed is competent, appropriate and proportional to the threat facing personnel and facilities?
 - If providing equipment to security providers, what measures are taken to comply with applicable law and to prevent any potential negative consequences, including human rights abuses?
 - Does the submitter use its influence to promote the following principles with public security: (1) individuals credibly implicated in human right abuses should not provide security services for the submitter; (2) force should be used only when strictly necessary and to an extent proportional to the threat, and (3) the rights of individuals should not be violated while exercising the right to exercise freedom of association and peaceful assembly, the right to engage in collective bargaining, or other related rights of employees as recognized by the UDHR, the ILO Declaration on Fundamental Principles and Rights at Work, ILO Convention 87 as signed and ratified by Myanmar, and domestic legal protections?
 - When physical force is used against employees, local community members, or others in any way connected to the investment, are such incidents reported to the appropriate authorities and to the submitter, and is medical aid provided to injured persons, including alleged offenders?

 - *Consultation & Advice.* The submitter should regularly meet with and consult public and private security, other companies in the industry, partners, suppliers, contractors, sub-contractors, host and home governments, and civil society to discuss security, human rights and related issues.
 - What measures does the submitter take to promote observance of applicable international law enforcement principles, particularly those reflected in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms?
 - Does the submitter support efforts by governments, civil society and multilateral institutions to provide human rights training and education for public security and efforts to strengthen state institutions to ensure accountability and respect for human rights?

 - *Monitoring & Responses to Alleged Human Rights Abuses.* The submitter should record and report any credible allegation of human rights abuses by public security in its areas of operation to the appropriate host government authority.
 - Does the submitter actively monitor the status of investigations and press for their proper resolution?
 - Does the submitter monitor the use of equipment provided by the submitter and investigate properly situations in which such equipment is used inappropriately?
3. *Interaction Between Companies and Private Security.* The submitter should have policies and procedures in place for ensuring that actions taken by public security providers are consistent with the protection and promotion of human rights.

- *Conduct & Deployment.* Private security should observe the policies of the submitter regarding ethical conduct and human rights; the law and professional standards of the country in which they operate; emerging best practices developed by industry, civil society, and governments; and international humanitarian law. How does the submitter should ensure that private security complies with the following expectations?
 - The security provider acts lawfully and consistently with applicable international guidelines regarding local use of force, including the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials, and other emerging best practices developed by companies, civil society and governments;
 - The security provider maintains high levels of technical and professional proficiency;
 - The security provider uses force only when strictly necessary and to an extent proportional to the threat and investigates and reports any incidents of use of force to the submitter, refers the matter to local authorities, and/or takes disciplinary action where appropriate;
 - The security provider has policies regarding the appropriate conduct and local use of force, e.g. rules of engagement. Does the submitter monitor the conduct of security forces or engage independent third parties to conduct monitoring? Does this monitoring encompass detailed investigations into allegations of abusive or unlawful acts, the availability of disciplinary measures sufficient to deter and prevent, and procedures for reporting allegations to relevant local law enforcement authorities when appropriate?
 - The security provider undertakes only preventive and defensive activities and does not engage in activities exclusively the responsibility of state, military or law enforcement authorities.

- *Responses to Human Rights Abuses.* The submitter should ensure that all allegations of human rights abuses by private security are recorded and all credible allegations properly investigated.
 - Does the company actively monitor the status of investigations that have been forwarded to law enforcement authorities and press for their proper resolution?
 - Does the company have mechanisms to ensure that private security providers are disciplined for improper use of force or other human rights abuses?

- *Employment Policies.* The submitter should ensure that private security does not employ individuals credibly implicated in human rights abuses to provide security services and
 - Does the submitter review the background of private security providers, particularly with regard to the use of excessive force?

- *Consultation & Monitoring.* The submitter should consult and monitor private security providers to ensure that they fulfill all the above obligations in providing security.

- Which stakeholders does the submitter consult with (e.g., civil society, home country officials, host country officials, and other companies) regarding experiences with private security?
- *Contractual Provisions.* The submitter should include the principles outlined above as contractual provisions in agreements with private security providers. In particular:
 - Do contracts require investigation of unlawful or abusive behavior and appropriate disciplinary action?
 - Do contracts permit termination of the relationship by the submitter where there is credible evidence of unlawful or abusive behavior by private security personnel?

Annex G -- Property and Land Acquisition⁸

1. *General Policy & Practice Considerations.*
 - Is it the submitter's policy to avoid, and where avoidance is not possible, minimize displacement by exploring alternative project designs?
 - How does the submitter seek to avoid causing or contributing to forced eviction?
 - How does the submitter anticipate, avoid, and where avoidance is not possible, minimize adverse social and economic impacts from property/land acquisition or land use? What procedures are in place to provide compensation for loss of assets at replacement cost, and ensure that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected?
 - What practices has the submitter adopted to respect existing social and cultural institutions of displaced persons and host communities?
2. *Project Design.* The submitter should consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits.
 - How does the submitter pay particular attention to impacts on the poor and vulnerable?
3. *Community Engagement.* The submitter should engage with affected communities – including host communities – throughout all phases of the project.
 - Do the submitter's procedures on engagement with affected communities comply with the international standards? (See Annex C)
 - Does engagement related to resettlement and livelihood restoration present options and alternatives to affected persons, where applicable?
 - Does the submitter continue to disclose relevant information and ensure the participation of affected communities and persons during the planning, implementation, monitoring, and evaluation of processes intended to compensate, restore livelihoods, and resettle displaced persons?
 - When activities may result in the displacement of indigenous peoples, does the submitter comply with FPIC standards? (See Annex D).
4. *Grievance Mechanism.* Does the submitter's grievance mechanism address displacement issues effectively? (See effectiveness criteria in Annex E).
 - Does the submitter receive and address specific concerns about compensation and relocation raised by displaced persons or members of host communities in a timely and appropriate fashion?
5. *Compensation.* When displacement cannot be avoided, the submitter should offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods.
 - Are compensation standards transparent and applied consistently to all communities and persons affected by the displacement?

⁸ The Guidance in this Annex is drawn from IFC Performance Standard 5 and Guidance Note 5.

- Where livelihoods of displaced persons are land-based, or where land is collectively owned, does the submitter offer the displaced land-based compensation?
- Does the submitter provide opportunities to displaced communities and persons to derive appropriate development benefits from the project?
- Does the submitter wait to take possession of acquired land and related assets until after compensation has been made available?
- Does the submitter (or another relevant stakeholder) provide relocation assistance?

6. *Physical Displacement & Resettlement Planning.* If physical displacement will result, the submitter should conduct resettlement planning that will include, among other things, compensation at full replacement cost for land and other assets lost.

- Do resettlement plans aim to (i) mitigate the negative impacts of displacement; (ii) identify development opportunities; (iii) develop a budget and schedule for resettlement; and (iv) establish the entitlements of all categories of affected persons (including host communities)?
- Where its activities may result in physical displacement, does the submitter carry out a census to collect appropriate socioeconomic baseline data?
- How do resettlement plans aim to accomplish the following?
 - Identify all people to be displaced;
 - Demonstrate that displacement is unavoidable;
 - Describe efforts to minimize resettlement;
 - Describe the regulatory framework;
 - Describe the process of informed consultation and participation with affected people regarding acceptable resettlement alternatives, and the level of their participation in the decision-making process;
 - Describe the entitlements for all categories of displaced people and assess risks to vulnerable groups;
 - Enumerate the rates of compensation for lost assets, describe how they were derived, and demonstrate that they are adequate;
 - Provide details on replacement housing;
 - Outline plans for livelihood restoration;
 - Describe relocation assistance to be provided;
 - Outline institutional responsibilities for the implementation of resettlement plans and procedures for grievance and redress;
 - Provide details of the arrangements for monitoring and evaluation and the involvement of affected communities in this phase;
 - Provide a timetable and budget for the implementation of the plan
- Does the submitter document all transactions to acquire land rights and all compensation measures and relocation activities?

7. *Economic Displacement & Livelihood Restoration Planning.* In cases where projects involve economic displacement only, the submitter should develop a plan to compensate affected persons and/or communities and offer other assistance.

- How does the plan identify the entitlements of affected persons and/or communities and ensure that these are provided in a manner that is consistent, transparent and equitable?

- Does the submitter compensate economically displaced persons who face loss of assets or access to assets at full replacement cost?
 - For economically displaced persons whose livelihoods or income levels are adversely affected, does the submitter provide opportunities to improve, or at least restore their means of income-earning capacity, production levels, and standards of living?
8. *Procedures to Monitor & Evaluate Implementation.* The submitter should have in place, and carry out, procedures to monitor and evaluate the implementation of its resettlement plans and other plans related to displacement.
- Are affected persons consulted during the monitoring process?
 - Are resettlement and restorations plans evaluated to assess whether their provisions have been met? If so, does this review include the following features?
 - Review of the totality of mitigation measures implemented by the submitter;
 - Comparison of outcomes against agreed to objectives;
 - Conclusions as to whether the monitoring process can end;
 - External completion audit of the resettlement plans
9. *Indigenous Peoples.* The submitter should make every effort to explore feasible alternative project designs to avoid any physical relocation of indigenous peoples from their communally held lands or customary lands under use.
- Does the submitter consider all feasible alternatives to relocation and secured the FPIC of the affected communities of indigenous peoples prior to resettling them?