



Australian Government

Department of Foreign Affairs and Trade

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# Displacement and Resettlement of People in Development Activities

July 2015

**THE POLICY**

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*This policy, 'Displacement and resettlement of people in development activities', was revised in April 2015 and replaces an earlier policy revision issued in May 2014.*

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# The Policy

## Purpose

- 1 This policy provides DFAT's approach to mitigating possible negative impacts of displacement and resettlement on people adversely affected by aid program activities. The policy is supported by operational procedures and technical guidelines to provide instruction to DFAT program officers on how to manage displacement and resettlement in aid activities.
- 2 This policy sets out mandatory requirements for addressing displacement and resettlement that partner governments must meet in planning and implementing all DFAT's aid program activities. Where DFAT directly supports development activities that may displace people, it is responsible for ensuring that recipient government agencies are aware of, agree to, and fully implement the requirements of this policy. DFAT exercises its role primarily through support for effective assessment and planning in the preparatory stages of the aid activity, and through its own field-based review of progress and evaluation of outcomes in the implementation stage.
- 3 This policy does not create any legally binding obligations, expectations or promises. Responsibility for managing displacement and resettlement rests with the government of the country where the project is undertaken and not with the Australian Government. DFAT reserves the right to conduct and adopt practices that it determines are most appropriate to the relevant circumstances.
- 4 Where DFAT co-finances development activities in collaboration with the Asian Development Bank, International Finance Corporation, World Bank or others as appropriate, DFAT will accept their established resettlement policies as a basis for planning and implementation. In all such cases, DFAT monitors the implementation process to ensure that all required actions have been fully implemented.

## Introduction

- 5 The Australian Government's aid program aims to promote prosperity, reduce poverty and enhance stability within the region and is designed to achieve positive outcomes. However, development activities that may promote economic growth or otherwise advance the public interest may adversely affect people through loss of land or residences, or through disruption to livelihoods.
- 6 These impacts, referred to as physical or economic displacement, vary in their extent and severity, depending upon the nature and location of the development activity that causes them. Where impacts are minor or temporary, affected people may need little assistance in adapting to changes. Where lives are severely disrupted through physical relocation or loss of livelihoods, however, more assistance will be necessary to assist in resettlement. While this policy applies regardless of the scale or scope of displacement, its prescribed actions are intended to be proportional to the extent and severity of displacement.

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- 7 Where people are severely affected by physical or economic displacement, long-term hardship and impoverishment may result unless specific measures are taken. The poor, and other vulnerable groups, are particularly at risk in activities involving displacement, as they may be less able to rebuild their lives after resettlement than those who are better off, those who are better able to exercise their rights, or those who have better social support. The vulnerability of people affected by a development activity is assessed on a case-by-case basis, but by way of indication, vulnerable groups may include:
  - a. the poor;
  - b. female or child-headed households;
  - c. women, children and the elderly;
  - d. people with disability;
  - e. minority ethnic, religious and linguistic groups;
  - f. indigenous peoples;
  - g. people dependent upon the land of others for livelihood or residence; and
  - h. those without recognised claims under national or customary land laws.
- 8 Careful attention to resettlement is needed throughout the aid management process to help affected people, especially these vulnerable groups, to improve or at least restore their livelihoods, and in the case of vulnerable people improve their living standards, after displacement. In areas characterised by significant gender discrimination or inequities, special planning measures may be necessary to ensure that gender-specific impacts on livelihoods and living standards are identified, and that all affected people, regardless of gender, have access to appropriate means of resettlement assistance. Similarly, people living with disabilities may require special planning measures to ensure their needs are identified and addressed in the resettlement process.
- 9 This policy articulates the outcomes DFAT seeks to achieve for people displaced by DFAT's aid program activities in cooperation with partner governments, multilateral development banks and other development partners. It outlines DFAT's objectives for the resettlement process and the approaches taken to meet them. Details of how DFAT manages the resettlement process to deliver the required outcomes are found in the policy's supporting documents:
  - a. the operational procedures that outline DFAT's roles and responsibilities in monitoring partner government performance and promoting satisfactory outcomes for displaced people (an indicative operational procedures flowchart is provided in Appendix 1); and
  - b. the technical guidelines that share good practice and clarify the intention of the policy.

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## Scope

- 10 This policy applies to all DFAT-administered aid program activities implemented by:
- a. the Australian Government and public sector agencies;
  - b. partner governments;
  - c. multilateral organisations, multilateral development banks and bilateral donor partners; and
  - d. private sector and civil society organisations, including:
    - i. contractors and subcontractors of DFAT's aid program;
    - ii. non-government and civil society organisations; and
    - iii. other private sector partnerships including public-private partnerships.
- 11 This policy applies to physical and economic displacement resulting from the following actions:
- a. the acquisition by a partner government of land rights or land use rights, through expropriation in accordance with the legal system of that country or other compulsory means;
  - b. a partner government taking possession for development purposes of public land occupied or used by others (this provision applies where such occupation or use existed prior to an eligibility date established for project purposes - no assistance is required for those entering the project area or initiating property improvements after this date);
  - c. management and conservation plans or design measures that restrict access to land or other natural resources; or
  - d. a partner government legally designating a park or protected area that leads to involuntary restrictions on access to land or natural resources.
- 12 This policy applies to the following types of affected people:
- a. those who have lost land, fixed assets, or access to land or other resources as a result of the development activity and have formal legal rights to the land, fixed assets or resource;
  - b. those who have lost land, fixed assets, or access to land or other resources as a result of the development activity, and have no formal legal rights, but who have claims that are recognised or are recognisable under national laws;
  - c. those who have lost the land they occupied, or access to fixed assets or resources on it, as a result of the development activity and do not have formal legal rights or recognised or recognisable claims to the land; these include informal settlers and encroachers on public land; and

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- d. those lacking permits for affected structures or licenses for affected shops or enterprises.
- 13 This policy applies to DFAT-supported aid activities that result in the physical or economic displacement of people. This includes technical assistance supporting the design of development activities that will require land acquisition or restrictions on access to land or other natural resources.
  - 14 This policy does not apply to resettlement resulting from documented voluntary land transactions and where such a transaction affects only those with legal rights.
  - 15 This policy applies to development-induced displacement and resettlement only. It does not apply in cases where DFAT provides resettlement assistance for other reasons, such as supporting refugee resettlement or in the wake of natural disasters.

## Definitions

- 16 A number of terms used throughout this policy are specific to the field of displacement and resettlement and have been defined below to provide clarity as to their use in this policy.
- 17 *Displacement* refers to both physical and economic impacts occurring as a result of development-induced land acquisition or restrictions on access to land or other natural resources that is imposed by a partner government on individuals, families or communities. *Physical displacement* occurs as a result of partial or complete loss of residential land, shelter, or other structures. *Economic displacement* occurs as a result of partial or complete loss of land, fixed assets, or access to assets, leading to loss of wealth, income sources or other means of livelihood. Land acquisition, or restrictions on access to land or other natural resources, may be either temporary or permanent.
- 18 *Voluntary* land transactions, such as changes in land use or ownership, or access to resources that are not imposed (such as market-based transactions or voluntary donations) are not considered displacement. Voluntary transactions are based on informed consent; the land owners or users involved are aware of the relevant implications and likely consequences of the proposed aid activity and have the power to choose whether to participate on a voluntary basis. Voluntary market-based transactions are limited to where the seller is not obliged to sell. Where land is donated, this policy requires adequate documentation, including confirmation by disinterested third parties, demonstrating that such arrangements are, in fact, based on informed consent. Where customary communal land is provided voluntarily, the informed consent of a clear majority of the community is also documented.
- 19 Displacement that requires physical relocation may affect a *host population* – those in areas receiving displaced people – as well as those who must relocate. Displacement may also affect those remaining in the area from which others are relocated – the *source population* – if they lose access to markets, services, or facilities as a result of the project.

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- 20 *Livelihood* is defined as the full range of means that individuals, families, and communities utilise to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, trade, and bartering.
- 21 *Living standards* encompass other aspects of material and social comfort as measured by the goods, services, and public or community facilities available to an individual or group.
- 22 *Development-induced displacement* refers to displacement resulting from development projects, programs, or other planned activities that require, or will require, land acquisition or restrictions on access to land or other natural resources. Infrastructure projects (such as construction of dams, irrigation projects, roads or highways, or urban facilities) commonly require use of land resulting in displacement. But displacement also may occur in other projects or programs (for example, resource extraction, health, education, or conservation programs) that require land or restrictions on access to land or other natural resources.
- 23 *Resettlement* is a process of planning and implementing activities that mitigate the harmful effects of displacement. The government receiving development assistance from the Australian Government bears responsibility for planning and implementing resettlement activities. *Resettlement activities* can include payment of compensation at replacement cost, transitional assistance in relocation, measures to improve or restore living standards, and measures providing opportunities for those economically displaced to improve or restore their livelihoods.

## Policy objectives

- 24 The primary objectives of this policy are:
- a. to avoid and otherwise minimise physical and economic displacement by considering all feasible alternative activities or design options;
  - b. to reach agreement with partner governments that compulsory acquisition of land or other fixed assets will comply with national law and international practice regarding due process, including provision of sufficient advance notice, opportunity to lodge grievances and appeals, and avoidance of forced eviction;
  - c. to avoid forced eviction, which is the removal against the will of people from their homes and/or land without provision of all established legal and other protections, including full application of this policy's provisions;
  - d. to provide displaced people and businesses with sufficient opportunities to improve, or at least restore, their incomes or livelihoods to pre-project levels;
  - e. to provide adequate opportunities for physically displaced people who are poor, marginalised or otherwise vulnerable to hardship, to improve their living standards. This may include providing opportunities to obtain housing in accordance with local codes and standards, access to services and facilities, and security of tenure; and

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- f. where resettlement sites are to be prepared, measures should be taken to ensure essential services and infrastructure are provided for relocation of households in a timely manner.

## Environmental and social assessment

- 25 DFAT will use environmental and social assessments to identify the potential environmental and social risks and impacts of the aid activities that it supports. As with all aspects of the resettlement process, the level of effort used in the assessment process should be proportional to the potential risks and impacts of proposed resettlement activities.
- 26 Effective assessment is the key to effectively managing resettlement risks and underpins effective mitigation planning. Environmental and social impact assessments will be consistent with the following principles:
  - a. assessments consider all project-related activities that may cause physical or economic displacement, including those already undertaken in support of an activity;
  - b. assessments involve active measures (usually a field-based census) to identify all potentially affected people and the range and scale of displacement impacts affecting them;
  - c. assessments identify sources of livelihood that may be disrupted for project-affected people;
  - d. assessments identify displacement-related impacts on women and children and, as necessary, conduct gender analysis and address gender access and equity; and
  - e. assessment processes include participation of those directly affected, through public consultation and disclosure of project plans, in order to take into account the views and concerns of stakeholders.
- 27 Projects implemented by the Asian Development Bank, International Finance Corporation or World Bank will use their respective environmental and social assessment process, in conjunction with national requirements. The environmental and social assessment processes of other implementation partners may be used or adapted, once they have been reviewed and determined by DFAT to be broadly consistent in their objectives, principles, and scope with DFAT's relevant policies.
- 28 Displacement and resettlement of people should be seen as one element in a broader context of social risks and impacts normally covered in an environmental and social assessment process. Additional social impacts that may be assessed also include:
  - a. broader economic and social impacts relating to the involuntary taking of land or restrictions on access to natural resources;

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- b. threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence (including from human trafficking, sexual exploitation and risks to children);
- c. changes to the livelihoods of project-affected people caused by changes in the utility of their land and natural resources due to the project, including the impact on land values and food and water security;
- d. risk of land or natural resource related conflicts arising from the project;
- e. risk of social and family fragmentation;
- f. any prejudice or discrimination toward individuals or groups that restricts their access to development resources and project benefits, particularly in the case of disadvantaged or vulnerable groups;
- g. impacts on the health, safety and well-being of workers and project-affected communities; and
- h. direct and indirect risks to cultural heritage.

## Resettlement planning

- 29 Where assessments reveal that projects and activities may result in physical or economic displacement, resettlement plans are required. Resettlement planning is intended to ensure that the impacts of displacement are identified and mitigated; that opportunities to improve, or at least restore, livelihoods are created to address economic displacement; and that measures are in place for improving living standards for the poor or other groups vulnerable to hardship. Resettlement planning also ensures that the costs of the resettlement process, including monitoring, are identified and considered in project preparation. Effective resettlement planning can reduce the costs associated with delays in land acquisition, and may increase project benefits by improving or restoring the economic productivity of those displaced.
- 30 Effective planning, including opportunities for participation of affected communities, is essential to achieving positive outcomes and should be well resourced, with adequate time allocated. Development of resettlement plans is covered in greater detail in the operational procedures supporting this policy. Broadly, resettlement planning in aid program activities will be consistent with the following key principles:
- a. resettlement plans are based on robust, field-based social assessment, comprised of identification of affected people, including vulnerable people, and assessment of the scale and scope of potential impacts, including sources of vulnerability;
  - b. resettlement plans provide detailed information on displacement and resettlement issues and a plan for their management, including specifying the rights and entitlements of project-affected people and a timeline for implementation;

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- c. as warranted, resettlement plans include measures to provide opportunities for displaced people to adapt to changed living circumstances;
  - d. resettlement plans establish feasible implementation arrangements, including any capacity-building measures necessary to address performance gaps, and a budget that clearly delineates financial responsibilities among donors and partner governments;
  - e. project-affected people are informed and consulted on matters pertaining to them during resettlement planning and the implementation of resettlement activities;
  - f. resettlement plans provide for appropriate monitoring of the resettlement process, and the outcomes for affected people are evaluated to determine whether policy objectives have been achieved;
  - g. resettlement plans provide for accessible, culturally appropriate, and responsive measures by which affected people can pursue grievances against partner government implementing agencies or contractors;
  - h. resettlement plans establish that lands and other fixed assets taken or destroyed for project purposes are directly replaced, or compensation is paid to those affected at replacement cost prior to actual displacement. Where national law prohibits payment of compensation to affected people lacking legal title, alternative and equivalent means of resettlement assistance are provided;
  - i. resettlement plans establish the measures by which incomes will be improved or at least restored for those significantly affected by economic displacement;
  - j. resettlement plans provide for restoration or replacement of affected public and community infrastructure and services in areas of impact and areas for planned relocation; and
  - k. as warranted, resettlement plans provide means of assistance to those most vulnerable to displacement-related hardship.
- 31 DFAT normally requires that a resettlement plan be prepared in advance of implementation for every project causing physical or economic displacement, or both. The form, scope and content of a resettlement plan may vary, commensurate with the scale and scope of displacement caused by the project.
- 32 Where the preparation of a full resettlement plan is not possible because project sites have not been determined or because the scale and scope of displacement cannot be fully identified prior to project approval, a resettlement framework, identifying likely resettlement measures and specifying organisational arrangements for their provision, should be prepared. A full resettlement plan will subsequently be prepared in accordance with the framework when all necessary information is available but before initiation of works causing displacement. The adoption of this approach will be reflected in the relevant project documents and agreements.

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- 33 This policy mandates the disclosure by the partner government or private sector developer of assessments or plans developed to address displacement and resettlement in a manner and location accessible to potentially affected people.

## Working with partners

- 34 In all aid activities that may involve displacement, responsibility for managing displacement and resettlement rests with the government of the country where the project is undertaken. This remains the case whether Australia provides aid directly to a partner government, through a co-financing arrangement with a multilateral development bank, or through delegating responsibility for an investment to other development partners.
- 35 When providing aid directly to a partner government, DFAT may choose to use partner government systems for the management of displacement and resettlement where they are consistent with the objectives and principles of this policy and implementation arrangements are found to be acceptable. DFAT's role is to support and advise partner governments, and to ensure that resettlement implementation is monitored and resettlement outcomes are evaluated. In some cases, DFAT may conduct its own field-based review to assess whether the resettlement plan has been fully and effectively implemented and whether satisfactory outcomes have been achieved. Where partner government agencies fail to undertake measures agreed in the resettlement plan, DFAT may withdraw from providing further support. Where implementation fails to achieve a satisfactory outcome, DFAT may opt to base decisions regarding provision of future support on agreement with the partner government to undertake appropriate remedial measures.
- 36 DFAT promotes harmonisation of policies among donor agencies to reduce the burden of multiple donor requirements on partner governments. Where DFAT co-finances a development activity designed and led by another donor agency, the policy requirements of DFAT and the other donor agency apply. Where such requirements differ, typically the most stringent requirement will be applied.
- 37 DFAT's policy is based on the objectives and principles advanced in the resettlement policies of the Asian Development Bank, International Finance Corporation and World Bank. Accordingly, plans and activities meeting their policy objectives will satisfy DFAT's requirements and do not require the parallel application of DFAT's policies. Under these conditions, when DFAT co-finances activities implemented by these development partners, it typically delegates primary responsibility for application of displacement and resettlement policy requirements to the partner institution involved. DFAT retains a role in monitoring the displacement and resettlement activities of the project to determine whether all required actions have been fully implemented, and in evaluating implementation effectiveness in achieving appropriate outcomes.

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## Resettlement and indigenous peoples

- 38 Especially in rural areas, displacement may affect culturally distinct indigenous peoples. The cultures of indigenous peoples may be inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose indigenous peoples to different types of risks and impacts from development projects; including loss of identity, culture, and customary livelihoods, as well as exposure to disease.
- 39 Australia understands the importance of engaging in good faith consultations with indigenous peoples on decisions that affect them, and recognises that the rights of indigenous peoples to their ancestral lands must be carefully balanced against national development requirements.
- 40 When development activities would result in physical or economic displacement of indigenous peoples, DFAT requires that resettlement plans provide clear and explicit arrangements for meaningful and culturally appropriate consultation with indigenous peoples communities; culturally appropriate and land-based resettlement strategies for livelihood improvement or restoration; opportunities for affected indigenous peoples communities to benefit from the project affecting them; and consideration of measures to strengthen indigenous peoples communities' claim to, and control of, customary land and resources.

## Implementation

- 41 DFAT's operational procedures and guidelines support this policy by equipping DFAT program managers with the tools required to identify:
  - a. activities that may involve the physical or economic displacement of people; and
  - b. actions that need to be taken throughout the life of the program to ensure the quality and sustainability of DFAT's development activities and to avoid or minimise the impact of displacement and resettlement on people and communities.

## Effective date and transitional period

- 42 This policy will come into effect after approval by the Secretary.
- 43 Projects that have already received funding approval at the time of the effective date will not be subject to this policy.
- 44 This policy will be reviewed every five (5) years.

# Appendix 1: Indicative Operational Procedures Flowchart

