

Simplified Approval Process

Annex 9a: Legal due diligence



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9.A Legal Due Diligence

The legal due diligence ensures that the project complies with all relevant laws and regulations, secures necessary permits and licenses, addresses tax implications, manages foreign exchange and currency conversion, and obtains adequate insurance coverage. These measures will facilitate the smooth implementation and operation of the project, contributing to its overall success. The detailed funding proposal and annexed documents provide further specifics on the legal, regulatory, and operational frameworks that will guide the project. Any additional reports on legal due diligence, if prepared, will be attached to this narrative for comprehensive reference. The following table summarizes the applicable rules, regulations and permits for the project activities including the entity which is responsible for ensuring due diligence. The narrative underneath the table provides further description of the applicable laws and regulations.

Existing rules, regulations, permits	Activity	Responsible Agency	Remark (Status of permits)
Construction Permit	Activity 1.1 Activity 1.2	Regional Bureau of Water and Energy and Regional Bureau of Irrigation and Lowlands	The procurement process should ensure that bidders possess legal and up to date construction permits
Operational Permit	Activity 1.3	Bureau of Water and Energy	The permit shall be granted by the Bureau upon request
Ground Water Use Permit	Activity 1.1	Regional Bureau of Water and Energy	It will be enacted as soon as the project starts to operate
Import License for Solar Equipment	Activity 2.2	Ministry of Finance	There is an existing law that allows duty free import of solar technologies. The permit shall be issued up on request by the service providers
Establishment of Public Water Collection Points	Activity 1.2	Woreda Office of Water and Energy	Shall be issued up on request after the project starts operation
Setting Up and Collecting Water Use Fees	Activity 1.2	Woreda Office of Water and Energy	Shall be granted up on request after the project starts operation

1. Overview of Main Laws and Regulations

The project "Climate-resilient community access to safe water powered by renewable energy in drought-vulnerable regions of Ethiopia" requires adherence to a wide array of laws and regulations to ensure successful implementation. Central to this is the Environmental Policy of Ethiopia, which emphasizes the sustainable use of natural resources and mandates environmental impact assessments (EIA) for significant projects. This policy is reinforced by Proclamation No. 299/2002, which requires EIAs for projects that could substantially affect the

environment. Additionally, the Water Resources Management Proclamation No. 197/2000 governs the allocation, use, and management of water resources, stressing the importance of sustainable water use.

The project must also comply with Proclamation No. 456/2005, which governs rural land administration and use. This law is critical for securing land rights for the project sites and addressing land-related disputes. The Proclamation on Expropriation of Landholdings for Public Purposes and Payment of Compensation No. 455/2005 is also relevant, as it governs the expropriation of land for public use and the compensation procedures for affected landholders.

Energy-related regulations are also pertinent, notably the Energy Proclamation No. 810/2013, which regulates energy generation, distribution, and utilization, including renewable energy sources such as solar power. Additionally, the Electricity Operations Proclamation No. 86/1997 governs the generation, transmission, distribution, and sale of electricity, ensuring that all energy-related activities comply with national standards and regulations.

Labor laws, particularly the Labor Proclamation No. 1156/2019, ensure fair labor practices and safety standards applicable to both the construction and operational phases of the project. This is complemented by the Occupational Safety and Health Directive No. 1/2008, which mandates safety measures for workers, particularly relevant during construction and installation activities.

Public health regulations, such as the Public Health Proclamation No. 200/2000, are crucial for ensuring that the project does not negatively impact the health of the local population. Additionally, the Solid Waste Management Proclamation No. 513/2007 mandates proper disposal and management of waste generated during the project.

The Ethiopian Water Resources Management Policy emphasizes integrated water resources management to ensure equitable and sustainable water use, which is critical for the project's success. Additionally, the National Policy on Disaster Risk Management outlines the strategies for managing disaster risks, which is pertinent given the project's focus on climate resilience.

2. Compliance with Laws and Regulations

To ensure compliance with these laws, the Executing Entities, and other third party contractors involved will conduct comprehensive environmental impact assessments and obtain the necessary environmental clearances from the relevant public entity at the local level. They will secure permits for construction of pipelines, water points and installation of Solar PVs and

address any disputes through the relevant legal frameworks, including consultations with local communities and stakeholders. Adherence to energy regulations will be ensured for the installation and operation of solar water pumping systems, with necessary permits from the local Energy Authority in the project target woredas. Additionally, labor and safety standards will be implemented to protect workers during all phases of the project, overseen by the institutions responsible for Labor and Social Affairs.

2.1 Government, Regulatory, and Corporate Approvals

There are also permits and licenses, which are required for the project. A construction permit is essential for all construction activities and must be obtained from the Regional Bureau of Water and Energy and the Bureau of Irrigation and Lowlands. An operational permit, necessary for the project's operational activities, will be granted by the Bureau of Water and Energy. A groundwater use permit, crucial for the extraction of groundwater, will be issued by the Bureau of Water and Energy.

Import licenses for solar equipment will be facilitated by the Ministry of Finance, leveraging existing laws that allow duty-free import of solar technologies. Permits for establishing public water collection points will be issued by the Woreda Office of Water and Energy, and permissions for setting up and collecting water use fees will be granted by the same office once the project is initiated.

2.2 Tax Implications

The project will be subject to several tax implications. The standard Value Added Tax (VAT) rate of 15% will apply to goods and services. Customs duties will be exempted for solar technologies as per existing laws, thereby reducing the overall tax burden. Standard income tax rates will apply to all income generated through the project. MOF will ensure compliance with all tax regulations by engaging other relevant authorities to secure necessary exemptions and fulfill tax obligations.

2.3 Foreign Exchange Regulations and Currency Conversion

The project must comply with the foreign exchange regulations overseen by the National Bank of Ethiopia (NBE). All foreign exchange transactions and the conversion of foreign currency into Ethiopian Birr will follow the official exchange rates set by the NBE. MOF will establish appropriate currency conversion arrangements to manage funds efficiently. Additionally, the Foreign Exchange Control Proclamation No. 590/2008 mandates that all foreign exchange

transactions be conducted through authorized dealers, and the MOF will ensure compliance with this requirement.

2.4 Insurance Requirements

To mitigate potential risks throughout the project lifecycle, contractors will be obliged to secure comprehensive insurance coverage. Construction insurance will cover all risks associated with construction activities, including accidents and damages. Workers' compensation insurance will provide coverage for any injuries or accidents faced by workers during the project. Suppliers of solar SWPs, Solar PVs and other equipment are required to secure insurance as per the procurement regulation of the country. Additionally, environmental liability insurance will cover any potential environmental damages resulting from the project activities. The AE and EEs will ensure insurance coverage by contractors from reputable providers to ensure adequate coverage and compliance with national insurance regulations.