Janyuwari 16, 2018
I-Ofisi yoMcebisi oVakalisa iziKhalazo eziMalunga nokuThotyelwa kweziMiso nemiQathango (u-CAO)

UGUNYAZO LWENDLELA EKUZA KUPHANDWA NGAYO (TOR)

Uphando luka-CAO lweNdlela i-IFC eyaTyala Ngayo iMali ku-Lonmin (i-Projekthi ye-IFC #24803), Mzantsi Afrika

Isikhalazo 02

Malunga no-CAO

Umsebenzi athunywe wona u-CAO owokuba abe yindawo ezimeleyo ekufakwa kuyo izikhalazo, engenamkhethe, ethembekileyo nesebenza kakuhle khon'ukuze kuphuculwe iindlela i-IFC ne-MIGA ezisebenza ngazo ngokuphathelele kwindalo nakubahlali.

I-Ofisi yoMcebisi oVakalisa iziKhalazo eziMalunga nokuThotyelwa kweziMiso nemiQathango (u-CAO) lisebe elizimeleyo elingaphantsi kolawulo-ngqo lukaMongameli wamaShishini angaPhantsi kweBhanke yoMhlaba. U-CAO wenza ugxeko-ncomo (reviews) lwezikhalazo ezivela emiphakathini ethi ichatshazelwe ziiprojekthi zenkqubela ezenziwa kumashishini amabini eBhanki yoMhlaba abolekisa ngemali kumashishini angekho ngaphantsi koorhulumente (private sector), ekuyi-International Finance Corporation (i-IFC) kunye ne-Multilateral Investment Guarantee Agency (i-MIGA).

Ukubangaba u-CAO ufikelela kwisigqibo sokuba amaqela aphikisanayo akazimiselanga okanye akanako ukuvumelana noxa sele encediswa, isikhalazo sigqithiselwa kwisebe lika-CAO elinyanzelisa ukuthotyelwa kwezimiso nemiqathango khon'ukuze lixabise imfaneleko yokuba iinkxalabo eziphakanyiswe ngabamangali zikhokelele kuphando lokuthotyelwa kwezimiso nemiqathango yi-IFC/MIGA.

Ugqaliso lwesebe lika-CAO elixabisa ukuthotyelwa kwezimiso nemiqathango lukwi-IFC nakwi-MIGA, hayi kumxumi wabo. Oku kubhekiselwe kuwo onke amashishini e-IFC, kuquka icandelo elingundoqo (real sector), izimarike zezimali kunye neenkonzo zeengcebiso. U-CAO wenza ugxeko-ncomo malunga nendlela abe-IFC/MIGA abathe bazonelisa ngayo ukuba amashishini abo asebenza ngendlela efanelekileyo yaye afumana iingcebiso ezizizo, nokuba iziphumo zoshishino nezeengcebiso ziyahambisana kusini na nezimiso ezikwimigaqonkqubo echaphazelekayo. Kodwa ke, xa kuxatyiswa indlela iprojekthi ye-IFC/MIGA ethe yasebenzisa ngayo amanyathelo okuhlangabezana nezimiso neemfuno ezichaphazelekayo, kuvamise ukuba kufuneke ukuba u-CAO enze ugxeko-ncomo malunga nezenzo zomxumi yaye aqinisekise iziphumo ngokuba aye kuzibonela ngokwakhe.

U-CAO ubhengeza iziphumo zophando lokuthotyelwa kwezimiso nemiqathango kwingxelo yophando athi azise ngayo uMongameli neBhodi yamaShishini angaPhantsi kweBhanki yoMhlaba, abaphathi abaphezulu be-IFC/MIGA kunye nomntu wonke, ngesigqibo sakhe.

Ngeenkcukacha ezithe vetshe malunga no-CAO, nceda utyelele ku – www.cao-ombudsman.org

Imvelaphi yoTyalomali

I-Lonmin Plc ("umxumi") yinkampani yezimbiwa egqalise ngakumbi kwizimbiwa zeplatinamu. Yinkampani ebhaliswe kwi-London Stock Exchange (FTSE 100). Ngomhla we-11 Epreli, 2007, i-IFC yatyala kumxumi imali engange $50 miliyoni ekuzizabelo ezingenanzala emisiweyo (equities). Injongo yotyalomali lwezi zabelo yayikukuxhasa imisebenzi yophuhliso lwenkampani olwaluza kuthabatha iminyaka emininzi. Le misebenzi yayiquka: i) uphuhliso nolwandiso lwenkampani kunye nokufakelwa koomatshini ezimayini zomxumi eziseMzansi Afrika; kunye ii) nokuqaliswa kwenkqubo ebanzi nephangaleleyo yophuhliso lwabantu basekuhlaleni kunye nophuhliso loqoqosho endaweni imayini esebenza kuyo [Local Economic Development Program (LEDP)]. Inxalenye yotyalomali lwezabelo, i-$15 miliyoni, yabekelwa bucala khon'ukuze isetyenziselwe ukuphumeza i-LEDP. I-IFC yarhoxa kutyalomali lwezi zabelo, yagqibela ngokuzithengisa zonke izabelo zayo ngoDisemba 2015.

Isikhalazo

NgoJuni ka-2015, uCAO wamkela isikhalazo esivela kubahlali nakumbutho wasekuhlaleni, iSikhala Sonke ("abamangali"). Isebe lezokuSetyenziswa kweziFundo zoMthetho (Centre for Applied Legal Studies) lancedisa abamangali ukuzisa isikhalazo sabo ku-CAO. Uninzi lwababamangali ngoomama abahlala eNkanini, okuyindawo ekufuphi nemayini yaseMarikana, ngaphantsi kweBhunga lesiThili laseBojanala, kwiPhondo loMntla Ntshona, eMzantsi Afrika.

Ngokuphathelele kolu tyalomali, isikhalazo sivakalisa iinkxalabo malunga i) nokungabikho kwenkxaso ephangaleleyo yabahlali kule projekthi; ii) ukungalandeli komxumi uyilo lwakhe olumalunga nabahlali nabasebenzi; kunye iii) nempembelelo engentle kwezendalo nakwezempilo ebangelwa ngumoya/uthuthu namanzi angaphantsi komhlaba, okungcolileyo. Ngomhla we-10 Julayi, 2015 umxumi wanikeza impendulo kwisimangalo.

U-CAO wagqiba ekubeni isikhalazo sasi ngesivakalayo wabe sele enza ixabiso laso, nalapho abamangali nomxumi bavakalisa khona umnqweno wabo wokuba bangenele inkqubo yolamlo bencediswa ngu-CAO ukuzama ukusombulula ukungavisisani kwabo. Ngoko-ke, isikhalazo sagqithiselwa kwisebe lika-CAO elilamla amaqela aphikisanayo. NgoDisemba 2016 abamangali bagqiba ekubeni barhoxe kule nkqubo bekhala ngokungabikho kwenkqubela-phambili. Esi sigqibo saqinisekiswa ngoMatshi 2017. Ngo Meyi 2017, isikhalazo sagqithiselwa kwisebe lika-CAO elixabisa izimangalo.

NgoDisemba 2017, u-CAO wabhengeza ixabiso lakhe lokuthotyelwa kwezimiso nemiqathango ngokuphathelele kwisikhalazo, waze wathabatha isigqibo sokuba enze uphando lokuthotyelwa kwezimiso nemiqathango ngendlela i-IFC eyayenza ngayo i-E&S ngokuphathelele kwiprojekthi.

Umda woPhando lokuThotyelwa kweziMiso nemiQathango

Ugqaliso lolu phando lokuthotyelwa kwezimiso nemiqathango lukwi-IFC, nakwindlela i-IFC eyazonelisa ngayo ukuba utyalomali lwayo lwaluza kuzichaphazela njani ezendalo nezabahlali ngexesha lovavanyo nangexesha lokongamela.

Indlela olujongwa ngayo uphando lokuthotyelwa kwezimiso nemiqathango icaciswe kwiziKhokelo zokuSebenza kwe-Ofisi ka-CAO (Matshi 2013), apho kuxelwa khona ukuba inkcazelo eqhelekileyo yophando lokuthotyelwa kwezimiso nemiqathango oluthi lwenziwe ngu-CAO imi ngolu hlobo: "Uphando yinkqubo eyenziwa ngendlela emisiweyo, ebhalwe phantsi yokuqinisekisa ukufunyanwa nokuxatyiswa kobungqina ngendlela engenamkhethe khon'ukuze kuthatyathwe isigqibo sokuba izinto ezenziwa kwindalo nakubahlali, iimeko, iindlela zolawulo, okanye iinkcukacha eziphatheleleyo kuyahambisana kusini na neenqobo zokulinganisa (criteria) zophando lokuthotyelwa kwezimiso nemiqathango."

Njengoko kucaciswe kwingxelo yokuxabisa ka-CAO, u-CAO uza kwenza uphando lokuthotyelwa kwezimiso nemiqathango ngelixa i-IFC ityala imali kumxumi, ngokuphathelele kwimiba ephakanyiswe kwisikhalazo.

Uphando lokuthotyelwa kwezimiso nemiqathango luza kujonga ukuba ingaba utyalomali lwe-IFC kumxumi lwaxatyiswa kusini na, lwalwakhiwe kakuhle (structured) kusini na, nokuba lwalonganyelwe kakuhle kusini na, ngokulandela imigaqonkqubo, iinkqubo kunye nemigangatho ephatheleleyo ye-IFC.

Xa kujongwa imiba ephakanyiswe ngabamangali, uphando luza kugqalisa ngakumbi ekubeni lwalwanele kusini na :

- ugxeko-ncomo lwe-IFC: a) lonxibelelwano lwenkampani nabantu abachaphazelekayo, b) lokubanako kwenkampani ukuzalisekisa i-SLP, kunye c) nelokuxabisa kwenkampani iimpembelelo nokujonga kwayo amanyathelo okudambisa; kunye
- nokonganyelwa kwezenzo zomxumi ngokuphathelele kwi-E&S, kude kube ithatha isiqgibo sokurhoxa kutyalomali, njengoko kuphathelele kuzo ezi nkxalabo.

Apho kuphathelela khona, u-CAO uza kujonga imeko kunye neembangela ezisiseko zokungathotyelwa kwezimiso nemiqathango ezinokuthi zifunyanwe. Njengoko i-IFC yayirhoxisa imali yayo kumxumi ngo-2015, uphando luza kugxila ngakumbi kwizifundo ezithe zafundwa nezinokuthi zisetyenziswe ngomso.

Inkqubo yoPhando lokuThotyelwa kweziMiso nemiQathango kunye nesiCwangciso-maxesha sokuTshayelela

U-CAO ujonge ukuba uyilo lweNgxelo yoPhando lokuthotyelwa kwezimiso nemiqathango lube sele lulungile ingekagqithi inyanga kaJulayi 2018.

Uyilo lwengxelo yophando luza kunikezwa abalawuli abaphezulu be-IFC nakuwo onke amasebe e-IFC achaphazelekayo khon'ukuze benze ugxeko-ncomo lokunyaniseka kwayo banikeze nangezimvo zabo. Izimvo ze-IFC kufanele ziziswe ku-CAO zibhalwe phantsi zingekagqithi iintsuku zempangelo (working days) ezingama-20 emva kokufunyanwa kwengxelo yi-IFC.

Akuba ezifumene izimvo ze-IFC malunga noyilo lothethathethwano, u-CAO uza kugqibezela ingxelo. Ingxelo yokugqibela iza kuthiwa thaca kubalawuli abaphezulu be-IFC ukuze beze nempendulo ngokusesikweni. Isaziso siza kubhengezwa kwi-website ka-CAO. I-IFC

ineentsuku zempangelo ezingama-20 ukuza nempendulo ebhalwe phantsi ku-CAO. U-CAO uza kugqithisela iNgxelo yoPhando kunye nempendulo ye-IFC kuMongameli wamaShishini angaPhantsi kweBhanki yoMhlaba. UMongameli akanalo ilungelo lokuguqula iinkcukacha eziqulethwe kwiNgxelo yoPhando lokuthotyelwa kwezimiso nemiqathango, kodwa angalithabatha ithuba lokuxoxisana no-CAO ngeziphumo zophando.

Akuba onelisekile yimpendulo yabalawuli abaphezulu be-IFC, uMongameli uza kuvakalisa ukuba uyayamkela ingxelo yophando kunye nempendulo. Kulilungelo loMongameli ukuba ayamkele okanye angayamkeli ingxelo. Emva kokwamkelwa kwengxelo, u-CAO uza kubhengeza ingxelo yophando nempendulo ye-IFC kwiBhodi. U-CAO uza kwazisa abantu abachaphazelekayo ngokuba abhengeze amaxwebhu ku-website ka-CAO, aphinde abelane ngamaxwebhu nabamangali.

Iingcaphephe ezivela ngaphandle

Njengento aqhele ukuyenza, u-CAO uza kuqesha iingcaphephe ezivela ngaphandle ukuba zibambisane naye kulo msebenzi. Xa kujongwa umda wolu phando lokuthotyelwa kwezimiso nemiqathango, u-CAO ukubona kufanelekile ukuba aqeshe ingcaphephe enamava ekuxatyisweni nasekulawulweni kweempembelelo kwi-E&S zemisebenzi emikhulu yezimayini.