

Program Safeguard Systems Assessment

October 2016

Nepal: Supporting School Sector Development Plan

PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

A. Introduction

1. This document summarizes the findings of the program safeguard systems assessment (PSSA) for the proposed Supporting School Sector Development Plan, a results-based lending program that will support the School Sector Development Plan (SSDP) of the Government of Nepal. Building on the achievements and implementation of the School Sector Reform Plan (SSRP), FY2010–FY2016, the program supports the SSDP in four key outputs: (i) access to basic and secondary schools improved; (ii) quality of school education improved; (iii) model school program piloted; and (iv) school system governance and management improved.

2. The PSSA (i) examined the safeguard systems of the Government of Nepal and its implementation practices and capacity, and (ii) suggests safeguard actions where gaps and weaknesses were found. The Asian Development Bank (ADB) undertook the PSSA in partnership with the Ministry of Education (MOE), building on ADB's knowledge, SSRP implementation, and practices of the government agencies concerned. The PSSA is based on a desk review, field visits to sample schools, consultation with stakeholders, lessons from the implementation of the SSRP with regard to environmental and social safeguards, and discussions with MOE.¹ The PSSA ascertained whether the government's safeguard system and regulatory frameworks are congruent with the principles of ADB's Safeguard Policy Statement (2009). The PSSA also analyzed strengths and gaps in the institutional mechanisms of the executing and implementing agencies, and the technical capacity for managing safeguard compliance.²

3. The findings of the assessment indicate that the program may trigger environmental and indigenous peoples safeguard requirements but not involuntary resettlement according to the Safeguard Policy Statement. The program is likely to have limited social and environmental impacts and risks because civil works will be limited and within existing school premises. The program outputs are expected to lead to positive impacts on indigenous peoples.

B. Program Environmental and Social Impacts and Risks

4. **Environment.** The program envisages retrofitting and rehabilitation of schools, and construction of new classrooms in existing schools, in all the ecological regions of the country. Since construction-related activities will be confined mostly to existing school premises, adverse environmental impacts are expected to be minimal and of minor significance. Hence, the program is classified as environment category B. The main environmental issues under the SSDP relate to impacts from construction, provision of safe drinking water, sanitation, waste management, and possible location of the school or its facilities in flood-prone, landslide areas and earthquake risk zones. Since the school and laboratory buildings are in the category of small and medium construction, with small and localized environmental effects, the Government of Nepal does not require specific environmental assessments. However, to manage and

¹ The SSDP will also be implemented under a sector-wide approach, jointly by the government and nine development partners including ADB. The Joint Financing Arrangement (JFA) will be used to govern the coordination of development partners' contributions, consultations, and program monitoring process, in collaboration with the government. Commonly agreed safeguard documents in line with safeguard policies of the development partners, including ADB and the World Bank, and the requirements of the Government of Nepal that were in place in the SSRP, will be refined and included in the JFA for the SSDP.

² MOE, Department of Education (DOE), and district education offices (DEOs).

monitor potential small-scale environmental impacts, an environmental management framework (EMF) will be used for the SSDP. The government and the development partners had used a robust EMF for the SSRP, the predecessor of the SSDP, which was prepared in 2009 and updated in February 2015.³ It is anticipated that this EMF will be further refined and updated as necessary, in consultation with other development partners, particularly the World Bank.⁴ The EMF procedures to be updated for the SSDP will be mutually agreed by all development partners supporting the SSDP.

5. The program will fully abide by the existing building codes and standards of the Government of Nepal, and the National Environmental Guidelines for School Improvement and Facility Management (2004) of MOE, to ensure environmentally sound program implementation with minimized risks. The program is also expected to comply with the principles of the Safeguard Policy Statement and ADB's Results-Based Lending Guidelines,⁵ while meeting the environmental requirements of the government and other joint financing partners under the sector-wide approach.

6. **Involuntary resettlement.** The program is category C for involuntary resettlement. No involuntary resettlement will take place under the program since infrastructure construction (civil works) will be of a small scale and mostly within school premises. In a few exceptional cases, additional land may be required to extend school facilities beyond existing premises. In such cases, priority will be given to the use of available government land and, if not available, a negotiated settlement (voluntary donation of land or a willing seller, willing buyer approach) will be adopted to manage the required land. MOE has confirmed that any school requiring involuntary land acquisition will be excluded from the program scope. As land management is confined to negotiated settlement, Safeguard Policy Statement requirement 2 will not be triggered. MOE and the development partners had used an agreed land acquisition framework for the SSRP, prepared in 2009 and updated in 2011 and 2015 for land acquisition through voluntary donations and willing seller, willing buyer approach.⁶ This document may be updated as required to further strengthen provisions for implementation in the SSDP in consultation with other development partners, in particular the World Bank.

7. **Indigenous peoples.** The program is category B for indigenous peoples because positive impacts are expected for them (Adivasi and Janajatis) thanks to affirmative actions of the program, which will increase participation and learning of indigenous communities. Negative impacts are not expected. The program includes incentive schemes such as scholarships, free textbooks, and residential facilities in remote locations to increase the participation of students from indigenous and other disadvantaged communities. A comprehensive equity strategy was developed for the SSDP that will guide the allocation of resources based on the equity in education index, with the objective of reducing disparities in access and participation, and learning outcomes. These new interventions based on the equity index will also benefit

³ Government of Nepal, Department of Education. 2015. *Environmental Management Framework for School Sector Reform Program (SSRP)*. Bhaktapur. <http://www.doe.gov.np/allcontent/Detail/280>

⁴ The World Bank is preparing its support for the SSDP, using the Program for Results modality; it will use ADB assessments as a starting point and intends to also have a category B for environment. ADB and the World Bank have agreed that the EMF used for the SSRP will be reviewed for possible improvements, updated, and disclosed on the DOE site.

⁵ ADB. 2013. *Piloting Results-Based Lending for Programs*. Manila.

⁶ Government of Nepal, Department of Education. 2015. *Land Acquisition Framework – Revised*. Bhaktapur. <http://www.doe.gov.np/allcontent/Detail/279>

indigenous peoples. The program will exclude activities that adversely affect the dignity, human rights, livelihood systems, or culture of indigenous peoples, or affect the territories or natural or cultural resources they own, use, occupy, or claim as ancestral domain or an asset.

8. It is anticipated that indigenous people will benefit from the program through better access to higher-quality and culturally appropriate education. The program will ensure that culturally sensitive and relevant academic curricula and pedagogy are developed. The participation of indigenous communities will be ensured during annual plan preparation as well as in other consultations during implementation. A separate indigenous peoples plan is not being prepared because the program contains measures to ensure indigenous peoples' participation through bottom-up planning. However, an indigenous peoples framework was prepared and agreed with the government and joint financing partners to avoid any adverse impact of school-specific program activities on indigenous peoples during implementation.⁷

C. Safeguard Policy Principles Triggered

9. Upon review of relevant Government of Nepal policies and the Safeguard Policy Statement, and in light of activities and potential impacts that may be associated with the proposed support to the SSDP, the PSSA finds some safeguard principles triggered (Table 1).

Table 1: Safeguard Policy Principles Triggered

Principles ^a	Description
Environment	
Principle 1. Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that adequate studies are undertaken commensurate with the significance of potential impacts and risks.	The EMF that was agreed for the school sector (February 2015) includes procedures, guidelines, and standards related to screening of school physical infrastructure and preparation of a simple environmental management and mitigation plan. The EMF seeks to ensure environmentally friendly design and construction of school facilities and other educational infrastructure within the regulations of the Government of Nepal. The program will strengthen the effective use of agreed policies and standards such as the NEGFSIFMN in Nepal. At the school level, the EMF is considered in preparing the School Improvement Plan to include environmental and social issues in the planning, design, and construction of buildings. The requirement for environmental screening and guidelines for schools are incorporated into contract documents for construction. The monitoring of compliance will be undertaken by overseers from the respective DEOs.
Principle 2. Conduct an environmental assessment for each proposed project.	
Principle 4. Prepare an EMP that includes the mitigation measures, environmental monitoring, capacity development, and reporting requirements.	
Principle 5. Carry out meaningful consultation with stakeholders and facilitate their informed participation.	
Principle 7. Implement the EMP and monitor its effectiveness.	
Principle 6. Disclose the draft environmental assessment (including the EMP) in a timely manner before project appraisal on an appropriate public website and in a form and language understandable to affected people and other stakeholders. Disclose the final environmental assessment and its updates, if	
	The SSDP will include capacity building at the district level, including for engineers for overseeing construction activities. Annual compliance review reports will be prepared on a sample basis and presented to the joint review missions of development partners. The updated EMF will be disclosed on the MOE and ADB websites.
	The EMF has detailed guidelines for good environmental management practices and environment-friendly materials.

⁷ Government of Nepal, Department of Education. *Vulnerable Community Development Framework (VCDF)*. Bhaktapur. <http://www.doe.gov.np/allcontent/Detail/281>. A VCDF that includes a section on indigenous peoples was developed and used for the SSRP and updated in 2015. The World Bank is reviewing the need to update the VCDF for the SSDP. ADB and the World Bank have agreed on a common approach to the possible updating of the VCDF, which would incorporate the indigenous peoples framework.

Principles^a	Description
any, to affected people and other stakeholders.	The key issue is one of timely local support for adhering to the guidelines, and monitoring and supervision. This will be strengthened in the SSDP through compliance review and reporting on an annual basis.
Principle 9. Apply pollution prevention and control technologies and practices consistent with international good practices, as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guideline. Avoid use of hazardous materials that are internationally banned or phased out.	
Principle 10. Provide workers with a safe and healthy working environment to prevent accidents, injuries, and disease. Establish preventive, emergency preparedness, and response measures to avoid (and where avoidance is not possible, to minimize) adverse impacts and risks to health and safety in each school.	Construction work may generate solid waste, dust, noise, and wastewater, which should be reduced and disposed of appropriately. It may also result in injuries to workers, students, and teachers. Contractors will be required to strictly observe construction health and safety requirements to ensure safety on the site.
Principle 3. Examine project alternative design, technology, and components and their potential and social impacts.	Most of the anticipated construction will be in existing school premises and/or public land. The Building Code and NEGFSIFMN will provide guidance on site selection and construction activities. Any activity in a critical habitat will be excluded, and no damage to physical and cultural resources will be allowed.
Principle 8. Do not implement projects in critical habitats.	
Principle 11. Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment.	
Involuntary Resettlement	
Principle 1. Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	No involuntary resettlement impact is envisaged from program activities, since the construction of civil works will be limited to the existing school premises. The criteria to approve funding for school construction include the confirmation that land within school premises is sufficient or land availability by negotiated settlement is possible. In case of involuntary resettlement, the construction of civil works will not be approved. The framework will be updated to incorporate guidelines and agreement forms.
Principle 2. Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations.	SMCs, in coordination with DEOs, carry out meaningful consultations with stakeholders on construction of school buildings and associated facilities. SMCs have representation of parents of school children and beneficiaries of program activities.
Principle 3. Improve, or at least restore, the livelihoods of all displaced persons with needed assistance.	No involuntary resettlement impact will occur.
Principle 4. Provide physically and economically displaced persons with needed assistance.	No relocation will take place.
Principle 5. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	No involuntary resettlement impact.
Principle 6. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement, to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.	The impact of program activities is not likely to affect the income and livelihood status of the people entering into negotiated settlement. Guidelines for negotiated settlement will be prepared to ensure a fair and transparent process and incorporated in the updated framework. This will be monitored in SSDP through annual compliance reviews and reporting.

Principles^a	Description
Principle 7. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.	No involuntary resettlement. The negotiated settlement process, if at all used, includes the fair provision of compensation for land and non-land assets.
Principle 8. Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	No involuntary resettlement will occur and thus no resettlement plan is required.
Principle 9. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders	
Principle 10. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits	No involuntary resettlement envisaged.
Principle 11. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	No involuntary resettlement envisaged. In case of willing seller, willing buyer approaches, an agreed amount will be paid prior to ownership transfer to the school.
Principle 12. Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring.	No involuntary resettlement envisaged.
Indigenous Peoples	
Principle 1. Screen early on to determine (i) whether indigenous peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on them are likely.	The SMCs and DEOs screen the presence of indigenous peoples and propose adequate action and assistance to encourage their school enrollment and participation. A draft IPF was prepared to guide the screening and planning process. The IPF will be further reviewed for any improvements in consultation with other development partners, particularly the World Bank.
Principle 2. Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on indigenous peoples. Give full consideration to options they prefer in relation to the provision of project benefits and the design of mitigation measures.	The program envisages affirmative action for indigenous peoples. DEOs and SMCs will include measures and activities for social inclusion, such as a scholarship program targeting indigenous communities. In addition, reservations in staff and teacher appointment are in practice.
Principle 3. Undertake meaningful consultations with affected indigenous communities and indigenous peoples' organizations to solicit their participation.	The social inclusion policies of the Government of Nepal incorporate consultation with indigenous peoples. These are carried out in the language appropriate to the indigenous communities using social mobilizers or resource persons. Consultations were carried out through NGOs and indigenous peoples' organizations while designing the program, and the consultative process will continue during implementation to ensure that SSDP benefits are accessible to indigenous communities in a culturally appropriate manner.

Principles ^a	Description
Principle 4. Ascertain the consent of affected indigenous communities to the following project activities: (i) commercial development of their cultural resources and knowledge; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community.	This principle is not applicable to the program.
Principle 5. Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected indigenous communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources, and that their benefits are equitably shared.	The program will exclude any such activity.
Principle 6. Prepare an IPP that is based on the social impact assessment with the assistance of qualified and experienced experts, and which draws on indigenous knowledge and participation by the affected indigenous communities.	No negative impact on indigenous communities is expected. The program will lead to positive impacts on indigenous peoples by ensuring that the benefits are equitably shared with them. A separate IPP is not needed because actions for indigenous communities are already integrated into the program. Instead, an IPF was prepared to act as a guide.
Principle 7. Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner.	The IPF will be discussed with the government and the joint financing partners and will be disclosed on the DOE/MOE websites.
Principle 8. Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that indigenous peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.	This principle is not applicable to the program
Principle 9. Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever feasible; and assess whether the IPP's objective and desired outcome have been achieved.	No separate IPP exists. However, the program will include reporting on the benefits accrued to vulnerable and disadvantaged communities, including indigenous peoples. Progress will be reviewed in the joint review missions by development partners and the Government of Nepal.

ADB = Asian Development Bank, DEO = District Education Office, DOE = Department of Education, EMF = environmental management framework, EMP = environmental management plan, IPF = indigenous peoples framework, IPP = indigenous peoples plan, MOE = Ministry of Education, NEGFSIFMN = National Environmental Guidelines for School Improvement and Facility Management, NGO = nongovernment organization, SMC = school management committee, SSDP = School Sector Development Plan.

^a ADB. 2009. *Safeguard Policy Statement*. Manila.

Source: Asian Development Bank.

D. Diagnostic Assessment

1. Assessment Methodology and Resources

10. The PSSA examined the program's social and environmental management mechanism for consistency with the safeguard policy principles (environment, involuntary resettlement, and indigenous peoples) of ADB and the Government of Nepal, with an aim to minimize program

risks and promote sustainable development. The PSSA was prepared following ADB's staff guidance for piloting results-based lending for programs⁸ and is based on findings from: (i) review of national safeguard-related legal provisions and regulatory frameworks of the Government of Nepal; (ii) consultations with central, district, and local (school) stakeholders, including school management committees (SMCs), teachers, principals, and parents; (iii) consultation with safeguards specialists of ADB, the World Bank, and Japan International Cooperation Agency; (iv) the fact-finding mission for the program; (v) discussion with safeguard focal persons assigned by MOE; and (vi) lessons learned and gaps identified during the implementation of safeguards under the SSRP.

2. Environment

11. **Policy and legal frameworks.** The environmental safeguard in infrastructure development is governed by the national environment policy, Environment Protection Act, and related regulation. The National Building Code and the National Environmental Guidelines for School Improvement and Facility Management guide the integration of the environment in school infrastructure development. The government's legal provisions are deemed sufficient for environmental assessment; however, their implementation and monitoring is weak because an adequate institutional mechanism is lacking, as are resources and capacity. It is proposed to overcome these deficiencies through a safeguard desk to be established by loan effectiveness, and with annual sample-based compliance review reporting.

12. **Current practices, gaps, and mitigation measures.** The EMF prepared for the SSRP (para. 4) provides detailed guidance on integrating environmental and social safeguards during implementation of school rehabilitation and reconstruction works. This is likely to be largely sufficient for the SSDP as well. However, the EMF will be updated and revised in consultation with the government and other development partners, particularly the World Bank, and disclosed on the MOE website by mid-2017. While the EMF was a robust policy document with detailed provisions and guidance for implementation, monitoring of the use of the guidelines by districts and schools during the SSRP was inadequate. Lack of qualified national and district personnel to undertake periodic reviews was a constraint. While necessary instruments for environmental safeguard assurance are available, the institutional mechanism for implementing and monitoring them was weak. Under the SSDP, the agreed implementation arrangements include provision of personnel for management and technical support, including safeguards (the prior-result disbursement-linked indicator includes implementation arrangements to be in place by loan effectiveness). A safeguard compliance report, based on sample reviews, will be provided annually to the joint review missions of the development partners. Technical assistance by development partners is likely to include support to bolster safeguard compliance.

3. Involuntary Resettlement

13. **Policy and legal frameworks.** The key legal instruments currently enforced in Nepal are the Land Acquisition Act (1977) and Land Acquisition, Resettlement and Rehabilitation Policy for Infrastructure Development Projects (2015). They specify procedures to be followed for land acquisition and compensation. The legal instruments empower the Government of Nepal to acquire any land, against payment of compensation, for public purposes or for the operation of any development project initiated by government institutions. They also include a provision for acquisition of land through negotiations. Clause 27 of the act includes provisions

⁸ ADB. 2013. *Staff Guidance for Piloting Results-Based Lending for Programs*. Manila.

for land acquisition through negotiation with the plot owners, where the process of land acquisition is not required. The policy enables voluntary donations, direct negotiation, land development programs, and use of eminent domain. In general, most construction of school buildings and associated facilities is expected to take place within school premises. And if land is required, it will be through voluntary land donations by the communities. In exceptional cases, a willing seller, willing buyer approach may apply as provided in the Land Administration Act and Land Revenue Act. The program will not entail any involuntary land acquisition through eminent domain.

14. **Current practices, gaps, and mitigating measures.** In Nepal, landowners and government institutions share a long tradition of land donations for public welfare purposes, including schools. Voluntary donation of land usually involves the contribution by individuals of land for a project that has community benefits. The schools are established by the community and apply for government support to operate. In general, donation process and agreement are documented to prove that donation was free of coercion and does not lead to impoverishment of the donor. The framework for land acquisition incorporating voluntary donation and willing seller, willing buyer processes was used for the SSRP. SMCs are responsible for managing the land required for construction and expansion of the school facilities. MOE has used a similar approach to managing land. In a few cases schools have bought land using the willing seller, willing buyer approach. Involuntary acquisition of land does not occur. The SMCs carry out consultations from the planning stage of school construction, allowing the beneficiaries and potentially affected persons to be fully involved in the decision making for the site selection of the school. The affected persons are fully knowledgeable about the school establishment and expansion process, and its implications and consequences, and freely agree to participate as the case may be.

15. No practices for expropriation of land for school purposes based on eminent domain are known. Most land needed is being managed through voluntary donation or the willing seller, willing buyer approach, and does not trigger involuntary resettlement safeguard requirements. Negotiated settlements are handled by the SMCs. However, sometimes information on what constitutes an “adequate” or “fair” price of land may not be provided to the affected persons during negotiations, although the rates are negotiated based on local market rates, which are well known to all stakeholders. More systematic documentation and adherence to the legal basis for voluntary land donations is needed to avoid later disputes and potential impoverishment. SMCs need to ensure that voluntary donations do not lower the living standards of affected persons. While legal provisions are fair and just, some gaps exist in the public engagement process, disclosure of information, documentation, and reporting. The program will facilitate more systematic documentation and reporting of cases of voluntary donations and willing seller, willing buyer agreements, if any, through the updated framework. This will be monitored annually through sample-based safeguard compliance reviews.

4. Indigenous Peoples

16. **Policy and legal frameworks.** Nepal does not have a stand-alone safeguard policy on indigenous peoples. Provisions for promoting their cultural practices, tradition, and knowledge are included in various legal, plan, and program documents. The Constitution of Nepal 2072 (2015) commits the government to the protection and development of vulnerable communities. Article 42 on Right to Social Justice guarantees the rights of indigenous peoples to take part in the structures of the state on the basis of the principle of “proportional inclusion”. According to Article 51 (j) (Policies of State), the state has a compulsory obligation to pursue a policy of uplifting the economically and socially backward indigenous peoples for a certain period of time.

These constitutional, legal, and policy provisions are supplemented with the provisions under the United Nations Declaration on the Rights of Indigenous Peoples (2007) and International Labor Organization Convention (169) (1989) in 2007, of which Nepal is a signatory. They emphasize consultation with indigenous peoples and their involvement in program cycles to ensure their meaningful participation.

17. **Current practices, gaps, and mitigation measures.** Indigenous peoples constitute 35.81% of the total population of Nepal. Their presence can be found in most of the program areas. The government is implementing several programs to promote equal participation of indigenous peoples in the education process. It has adopted the policy of supporting mother-tongue-based multilingual education up to grade 3 with provision of bilingual support and development of teaching and learning materials in mother tongues, which are likely to be of benefit to children from indigenous communities. The program also includes a special package of scholarships to such children, development of a curriculum on indigenous languages, multilingual education system, reservation quota for teachers from indigenous communities in the areas where indigenous people are in majority, and special classes for elderly indigenous people to promote indigenous knowledge, skills, and culture.

18. The efforts and practices of government to promote and preserve indigenous culture, knowledge, and practices are being implemented with the notion of inclusion and equality. The programs are being designed and implemented based on assessments that aim to reduce disparities within society. Program implementation is not expected to have any adverse impact on indigenous culture and knowledge. The indigenous peoples framework (IPF) will be updated for the SSDP in consultation with other development partners. It will guide the screening, planning, implementation, and monitoring process incorporating the interests of indigenous peoples. The IPF consists of guidelines and procedures to ensure that the program in no way adversely affects the interests of indigenous peoples. It includes provisions to ensure that indigenous people receive culturally appropriate education benefits, do not suffer from adverse impacts as a result of the program (such as threat to their habitat), and can participate actively in programs and benefit from them. Currently, the environmental management and information system does not provide disaggregated data on indigenous peoples. Efforts will be made to collect and report on the participation and progress of students from indigenous communities in the program. The program includes a number of affirmative actions that provide enabling environments to ensure participation of children of indigenous parents in program activities, and efforts will be made to track and report on them.

19. **Institutional arrangements.** MOE and the Department of Education (DOE) are the central government institutions that were responsible for planning, implementing, and monitoring all program interventions under the SSRP. MOE is chiefly responsible for making higher-level policy decisions, with DOE as an implementing agency. It is proposed to establish a safeguard desk in DOE for the SSDP. The desk will monitor and report on the progress of program interventions and their compliance with environmental and social safeguards, including participation of indigenous and other vulnerable groups. The key problems in overall social safeguard compliance are limited resources (technical and financial) and lack of experts to manage social safeguard issues. Currently, MOE has assigned its gender and social inclusion section as focal unit responsible to look after indigenous peoples issues. By loan effectiveness, dedicated personnel will be deployed for program management and technical support, including safeguard monitoring. Technical assistance by development partners will also help strengthen safeguard compliance review and reporting. Annual safeguard compliance reviews and reports will be shared with the joint review missions.

5. Grievance Redress Mechanism

20. The Good Governance Act (clause 31) describes the grievance management processes to address grievances relating to quality and effectiveness of the work carried out by the government. The SSRP provisioned grievance redress committees (GRCs) in SMCs and districts. An SMC GRC comprises five members (head teacher, parents, and community and vulnerable group representatives). The district education committees act as the district GRCs. The key functions of the GRCs are to (i) record complaints, (ii) settle the grievances in a consultative fashion, (iii) report to the aggrieved parties about the decision or solution, and (vi) refer unresolved cases to higher authorities. If resolution attempts by an SMC GRC fail, the SMC will refer the complaints to the District Education Office (DEO) along with the minutes of hearings. Provisions exist for a central GRC in MOE and DOE. However, the public grievance redress system has not been fully functional because of a lack of awareness and capacity. The program aims to strengthen the grievance redress mechanism with capacity building for the SMC GRCs and stronger supervision by DEOs.

6. Consultation and Disclosures

21. Disclosure of information and public consultations is required for all government organizations under the Right to Information Act 2064 (2007) and is being practiced variably. The critical program and implementation documents—e.g., PSSA, EMF, framework for land acquisition through voluntary donation and willing seller, willing buyer approach, IPF, and monitoring reports—are disclosed on the MOE and DOE websites. The program and implementation documents will be disclosed in a timely manner and also at decentralized levels in a form and language(s) understandable to indigenous peoples and other stakeholders at district and school levels.

E. Safeguard Program Actions

22. While the safeguard assessment deems the risks to be moderate, there is scope for strengthening compliance, reporting, and capacity development. To that end, 10 program actions are proposed to rectify identified gaps and weaknesses (Table 2). The Government of Nepal and MOE have agreed to implement these actions. Safeguard compliance will be tracked jointly with other development partners in annual joint review missions.

Table 2: Safeguard Program Actions

Gap	Proposed Action	Indicator/Targets	Responsibility	Timeframe
Environment				
Environmental assessment and monitoring procedure needs improving	Review EMF of the SSRP and make necessary changes in the EMF to integrate environmental screening, assessment, consultations, IEE, EMP, environment monitoring, compliance with building codes, and GRM while improving the schools' facilities.	Disclosure of approved EMF on DOE website. Timely submission of annual environmental compliance monitoring report.	DOE	March 2017. From November 2017, progress reporting during annual review missions
Involuntary Resettlement and Indigenous Peoples				
Lack of clarity among implementing agency staff on application of criteria, rules, procedures, and exclusions	Refine framework for land acquisitions of the SSRP and integrate guidelines for screening, assessment, record keeping, consultations, and disclosure. Approval of the IPF.	Revised land acquisition framework circulated to DEOs and SMCs, and disclosed on DOE website. Approved IPF disclosed on DOE website and disseminated to DEOs and SMCs. Annual progress report includes progress and status of safeguard implementation.	DOE	March 2017. From November 2017, progress reporting during annual review missions
Environmental and Social Safeguards				
Inadequate institutional arrangements and undefined role for environmental and social safeguards	Designate Planning and Monitoring Division for environmental and social safeguard monitoring as per SSDP implementation arrangement, and assign social and environmental safeguard officer at DOE and social and environmental safeguard focal person at DEOs.	Social and environmental safeguard person designated in DOE and DEOs with specific terms of reference.	DOE and DEOs	Before effectiveness of the program
Inadequate information dissemination and disclosure	Upload safeguard-related activities on ADB, DOE, and DEO websites. Translate relevant documents related to updated EMF, IPF, and voluntary donation of land and negotiated settlement into Nepali and other local languages	Records on website. Protocol for public disclosure and consultations is developed and put into effect.	DOE and DEOs	Continuous during implementation
Inadequate capacity for and knowledge of good practice	Conduct orientation and capacity building measures for relevant	The safeguard capacity building training sessions are included in	ADB, development partners, and DOE for	Annually

Gap	Proposed Action	Indicator/Targets	Responsibility	Timeframe
procedures on environmental and social safeguards, and land administration	officials at DOE, DEOs, and schools regarding EMF, indigenous peoples, and involuntary settlement requirements.	the capacity building component of the SSDP. Adequate budget allocated for capacity building activities. Orientation and capacity building conducted and training reports submitted.	social safeguard units. Social safeguard units for DEOs and schools.	
Weak documentation and reporting on environmental and social safeguard system	Annual joint missions will review progress in safeguard implementation	Aide-mémoire records progress on safeguard implementation	Development partners and MOE	November of each year
Implementing agencies pay less attention to concerns relating to environmental and social safeguards.	Establish and operationalize GRCs at DOE, DEOs, and SMCs to handle safeguard-related concerns and issues	Functional GRM at all levels and fewer issues and grievances registered	DOE, DEOs, SMCs	GRC established by effectiveness of the program

ADB = Asian Development Bank, DEO = District Education Office, DOE = Department of Education, EMF = environmental management framework, EMP = environmental management plan, GRC = grievance redress committee, GRM = grievance redress mechanism, IEE = initial environmental examination, IPF = indigenous peoples framework, MOE = Ministry of Education, SMC = school management committee, SSDP = School Sector Development Plan, SSRP = School Sector Reform Program.

Source: Asian Development Bank.