

Indigenous Peoples Planning Framework

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IND: Jammu and Kashmir Urban Sector
Development Project

Prepared by Economic Reconstruction Agency for the Asian Development Bank (ADB).

CURRENCY EQUIVALENTS

(as of 12 April 2012)

Currency unit	–	rupee (INR)
INR1.00	=	\$0.01942
\$1.00	=	INR 51.495

WEIGHTS AND MEASURES

cm	–	centimeter
dbA	–	decibels
dia.	–	diameter
ha	–	Hectare
kg	–	kilogram
km	–	kilometer
l	–	liter
m	–	Meter
m ²	–	square meter
m ³	–	cubic meter
mg/l	–	Milligrams per liter
ml	–	milliliter
MLD	–	million liters per day
mm	–	millimeter
sq. km.	–	square kilometers
sq. m.	–	square meters
µg/m ³	–	micrograms per cubic meter

NOTE

In this report, "\$" refers to US dollars.

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I. PROJECT INTRODUCTION

1. Jammu and Kashmir Urban Development Sector Project (JKUDSP) is under preparation for sector loan funding from the Asian Development Bank for improving infrastructure and municipal services in two municipal corporations and selected tourist centres within Jammu and Kashmir State. The two cities are Jammu and Srinagar. The tourist centres and other important towns initially selected for consideration are Patnitop (Jammu region), Gulmarg, Pahalgam and Sonmarg (Kashmir region). The project will include investment in physical infrastructure plus proposals for capacity building and institutional strengthening of city and state authorities.

2. In accordance with ADB's procedure for sector lending, a set of four sample subprojects have been selected in the two Project cities of Srinagar & Jammu for project preparation and processing in each of the four major urban sub-sectors namely – Water Supply, Sewerage, Solid Waste Management, and Urban Transport. Out of these four sample subprojects, two sample subprojects have been selected in Jammu city and two sample subprojects in Srinagar City.

3. Since the Project is mainly concentrated in the cities of Jammu and Srinagar, a very limited presence of IP households was noted in the socio-economic survey (SES) undertaken during the course of initial poverty and social analysis. No adverse impacts of the subprojects have been identified on the IP households in any of the sample subprojects. It would also be worthwhile to note that the IP households were positive about the subproject and did not feel that they will encounter any adverse socio-cultural or economic impacts as a result of the Project. The key benefits envisaged out of the Project mainly comprise of a sustained improvements in basic service provision within the cities of Jammu and Srinagar and other important towns. Indirect benefits will be available in the form of improved living conditions, a healthier living environment and the prospect of improved health status of the population plus an improved economic climate with employment opportunities.

4. Nonetheless, this Indigenous Peoples Planning Framework (IPPF) is intended to guide selection and preparation of additional subprojects under the Project where impacts on tribal people are identified to ensure better distribution of the Project benefits and promote development of the indigenous peoples in the Project areas. The Tranche 1 framework is prepared in accordance with ADB's procedures for sector loans as presented in ADB's *Policy on Indigenous Peoples* (1998). This revised framework is based on ADB's Safeguards Policy Statement (SPS, 2009).¹

II. INDIGENOUS/TRIBAL GROUPS

5. The terms 'indigenous peoples', 'indigenous ethnic minorities', 'tribal groups,' and 'scheduled tribes' describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process. By definition, IP refers to peoples living in an area within a nation-state, prior to the formation of a nation-state, but who do not identify with the dominant nation. This group has

¹ The SPS, 2009 will apply to PFR 2 and subsequent PFRs. PFR 1 will continue to be implemented under the old ADB policies. If there are discrepancies between this revised IPPF and SPS 2009, the SPS 2009 will prevail.

social, cultural, economic, and political traditions and institutions distinct from the mainstream or dominant society and culture.

6. ADB uses the following characteristics to define indigenous people: ADB's Indigenous Policy uses the following characteristics to define indigenous people (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.

7. Essentially, indigenous people have a social and cultural identity distinct from the mainstream society that makes them vulnerable to being overlooked in development processes.

III. INDIGENOUS PEOPLES PLANNING FRAMEWORK OBJECTIVES

8. The Indigenous Peoples Planning Framework seeks to ensure that indigenous people and tribal communities are informed, consulted and mobilized to participate in the subproject preparation. The Framework is intended to guide selection and preparation of additional subprojects under the Project where impacts on tribal people are identified to ensure better distribution of the Project benefits and promote development of the indigenous peoples in the Project areas. The framework is prepared in accordance with ADB's procedures for sector loans as presented in ADB's *Safeguards Policy Statement* (2009).

9. A project's Indigenous Peoples category is determined by the category of its most sensitive component in terms of impacts on Indigenous Peoples. The significance of impacts of an ADB supported project on Indigenous Peoples is determined by assessing (i) the magnitude of impact in terms of (a) customary rights of use and access to land and natural resources; (b) socioeconomic status; (c) cultural and communal integrity; (d) health, education, livelihood, and social security status; and (e) the recognition of indigenous knowledge; and (ii) the level of vulnerability of the affected Indigenous Peoples community. The level of detail and comprehensiveness of the IPP are commensurate with the significance of potential impacts on Indigenous Peoples.

IV. IPP POLICY FRAMEWORK

10. ADB's Policy on Indigenous People (IPs) aims to protect ethnic minorities from the adverse impact of development, and to ensure that ethnic minorities benefit from development projects and programs. The need for a full IPP will depend on the nature and magnitude of the Project impacts and sensitivity of IP issues. The need for the IPP will be established on the basis of the following criteria set out in ADB's Policy on IP, to determine if project impacts are 'significant':

- (i) adverse impacts on customary rights of use and access to land & natural resources;
- (ii) negative impacts on socio-economic status and cultural identity;
- (iii) impacts on health, education, livelihood and social security status; and
- (iv) any other impacts that may alter or undermine indigenous knowledge and customary institutions.

11. The IPP will ensure that project affected IPs are, as well off with the project as without it after the implementation of the plan. This plan will also aim to identify measures towards satisfying the needs and developmental aspirations of IPs.

12. If, the impacts on IP's are insignificant and due to resettlement related activities then specific actions in favour of the indigenous people will need to be integrated in the Resettlement Plan for the subprojects or a community / tribal development plan. This would ensure appropriate mitigations and benefits for the indigenous people.

13. Based on both India's legal, constitutional and developmental strategies and ADB's policy on indigenous people, the objectives of an IPP will be as follows:

- (i) Ensure that tribal/ST people affected by any subproject will benefit from the subproject;
- (ii) Ensure tribal inclusion in the entire process of planning, implementation and monitoring of the subproject;
- (iii) Ensure that the benefits of the subprojects are available to STs/SCs more than or at least at par with other affected groups; this may require giving preference to tribal people as vulnerable groups over others on certain benefits under the subprojects; and
- (iv) Provide a base for the tribal groups in the area to receive adequate development focus and attention.

V. PROCEDURE FOR PREPARING AN IPP

14. Based on the screening, a field-based social impact assessment (SIA) will be conducted either as part of the feasibility study or as a stand-alone activity. The SIA will, in a gender-sensitive manner, in consultation with Indigenous Peoples communities, identify the project-affected Indigenous Peoples and the potential impacts of the proposed project on them. The SIA will provide a baseline socioeconomic profile of the indigenous groups in the project area and project impact zone; assess their access to and opportunities to avail themselves of basic social and economic services; assess the short- and long-term, direct and indirect, and positive and negative impacts of the project on each group's social, cultural, and economic status; assess and validate which indigenous groups will trigger the Indigenous Peoples policy principles; and assess the subsequent approaches and resource requirements for addressing the various concerns and issues of projects that affect them. The level of detail and comprehensiveness of the SIA will be proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on Indigenous Peoples, whether positive or negative. In order to prepare an IPP the following steps will be undertaken:

- (i) Based on the social assessment, establish baseline data on the tribal people (subsistence, employment, community networks) affected by the project (use the criteria in the section above to determine project impacts);
- (ii) Review policy guidelines both at national and state level regarding STs;
- (iii) If the impacts are considered significant as defined above, prepare an IPP based on ADB's *Policy on Indigenous People*;
- (iv) Submit IPP to ADB for review and approval.

15. As enumerated above, the main features of the IPP will thus comprise of a preliminary

screening process, followed by a social impact assessment to determine the degree and nature of impact of each subproject, and an action plan will be developed if warranted. Each of these steps have been further elucidated in the sections below:

A Screening

16. A project's Indigenous Peoples category is determined by the category of its most sensitive component in terms of impacts on Indigenous Peoples (ADB OM Section F1/OP, March 2010; Para 11). The significance of impacts of an ADB supported project on Indigenous Peoples is determined by assessing (i) the magnitude of impact in terms of (a) customary rights of use and access to land and natural resources; (b) socioeconomic status; (c) cultural and communal integrity; (d) health, education, livelihood, and social security status; and (e) the recognition of indigenous knowledge; and (ii) the level of vulnerability of the affected Indigenous Peoples community. The level of detail and comprehensiveness of the IPP are commensurate with the significance of potential impacts on Indigenous Peoples. The Project Management Unit (PMU) and Design & Supervision Consultants (DSC) responsible for subproject preparation and implementation will visit all tribal settlements near the subproject areas or in likelihood of being affected and influenced by the subproject components. Public meetings will be arranged in selected tribal communities by the PMU and DSC to provide them information about the subproject and take their views on the subproject.

17. During this visit, the social specialist of the DSC and PMU will undertake a screening of the tribal communities with the help of the community leaders and local authorities. The screening will cover the following aspects:²

- (i) Name(s) of tribal community group(s) in the area;
- (ii) Total number of tribal community groups in the area;
- (iii) Percentage of tribal community population to that of total area/locality population;
- (iv) Number and percentage of tribal community households along the zone of influence of the proposed subproject.

18. If the results of the screening bring forth the presence of tribal community households in the zone of influence of the proposed subproject, a social impact assessment will be planned for those areas.

B Social Impact Assessment

19. The DSC and PMU will undertake a social impact assessment (SIA). The SIA will gather relevant information on demographic data; social, cultural and economic situation; and social, cultural and economic impacts – positive and negative on the tribal communities in the subproject area.

20. Information will be gathered from separate group meetings within the tribal

² As per the ADB's OM Section F1/OP March 2010, (Para 10), screening process categorizes projects by the significance of their impacts on IPs. It is recommended that for (i) Category 'A' projects: A proposed project is classified as category A if it is likely to have significant impacts on Indigenous Peoples. An Indigenous Peoples plan (IPP), including assessment of social impacts, is required. (ii) Category 'B' Projects: A proposed project is classified as category B if it is likely to have limited impacts on Indigenous Peoples. An IPP, including assessment of social impacts, is required.; and (iii) Category 'C' Projects: A proposed project is classified as category C if it is not expected to have impacts on Indigenous Peoples. No further action is required.

community, including tribal leaders; group of tribal men and women, especially those who live in the zone of influence of the proposed subproject under the Project. Discussions will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The PMU and the DSC will be responsible for analyzing the SIA and based on it developing an action plan with the tribal community leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse threatening the cultural practices and their source of livelihood, the PMU and DSC will consider other design options to minimize such adverse impacts and will prepare an Indigenous Peoples Plan(IPP).

C. Indigenous People Development Plan

21. IPP will consist of a number of activities and will include mitigation measures of potentially negative impacts by means of modification of subproject design and development assistance. Where there is land acquisition in tribal communities, the Project will ensure that their rights will not be violated and that they will be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation will be in keeping with Entitlement Matrix as provided in the Resettlement Framework of the Project. The IPP will include:

- (i) Baseline data;
- (ii) Land tenure information;
- (iii) Local participation;
- (iv) Technical identification of development or mitigation activities;
- (v) Institutional arrangement;
- (vi) Implementation schedule;
- (vii) Monitoring and evaluation; and
- (viii) Cost estimate and financing plan.

22. The PMU will submit the IPP through the Chief Executive Officer (CEO) to ADB for review and approval prior to the selection of specific subprojects. The IPP policy and measures must comply with ADB's *Policy on Indigenous Peoples*.

VI. CONSULTATION & DISCLOSURE

23. Meaningful consultations would be help with all IP's including women throughout the project cycle to seek their informed participation at all stages. Consequently all relevant information relevant to the project would be disseminated among them through regular information disclosure workshops, pamphlets in local language etc. The tribal groups/IP will be consulted during the preparation of the IPP. They will be informed of the mitigation measures proposed and their views will be taken into account in finalizing the plan. The Plan will be translated into the tribal language and made available to the affected people before implementation. The disclosure will be in a manner accessible to APs where there are differing levels of literacy skills.

24. The tribal institutions and organizations in the affected area will also be involved in implementing the IPP and in resolving any disputes that may arise.

VII. INSTITUTIONAL FRAMEWORK AND BUDGET

25. ERA will be the Executing Agency (EA) for the Project which will have two Project Management Units (PMU) headed by a Regional Director each in the city of Jammu &

Srinagar, reporting to the CEO. The PMU will have the primary responsibility for the preparation of the IPP supported by DSC. The responsibility of financing, implementation and monitoring of the IPP will rest with the EA. A local NGO/institution with the relevant experience will be hired to assist the PMUs in planning and implementing the IPP. The independent agency/institution (that may include established and registered NGO(s)) will be fully oriented on ADB's *Policy on Indigenous People*.

VIII. MONITORING AND EVALUATION

26. The PMU will set up an internal monitoring system comprising Social Development & Resettlement Specialist, independent agency/institution (that may include established and registered NGO(s)), tribal people/IP and their institutions to monitor the plan implementation. Monitoring indicators will be established. In addition, an external independent monitoring agency will be engaged by the EA with ADB concurrence to undertake independent external monitoring of the Plan. Reporting / monitoring formats will be prepared for both internal and external monitoring.

27. Any IPPs prepared under this Project will be endorsed by the EA before sending to ADB for final approval.