

Program Safeguard Systems Assessment

August 2023

India: Swachh Bharat Mission 2.0–Comprehensive
Municipal Waste Management Program in Indian
Cities

PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

A. Program Environmental and Social Impacts and Risks

1. Swachh Bharat Mission 2.0—Comprehensive Municipal Waste Management Program in Indian Cities under the results-based lending (RBL) modality will improve sanitation infrastructure (public and/or community toilets and urinals) and solid waste management (SWM) infrastructure (material recovery facilities [MRF], transfer stations, composting plants, bio-methanation plants, refuse-derived fuel processing facilities, construction and demolition waste processing facilities, and sanitary landfills) in eight states.¹

2. **Environment impacts and risks.** The program will upgrade sanitation and municipal SWM systems, including setting up of waste transfer, processing, and disposal facilities in urban local bodies (ULBs) in eight participating states. The program has significant potential to address the environmental impacts and risks caused by unscientific SWM practices. Due diligence conducted during the program safeguard systems assessment (PSSA) in sample states of Assam and Tamil Nadu indicates that poorly designed, constructed, and/or operated SWM facilities may have impacts that include (i) land, groundwater and/or surface water pollution from contaminated surface runoff and leachate generated from SWM facilities; (ii) dust and air emissions including sulfides, odors, among others from landfills, processing plants among others, litter and aesthetic impacts; (iii) rodents, pests, vectors, bird menace, and health hazards; (iv) risk of fires; (v) occupational and community health and safety risks; and (vi) noise and vibration. Location of facilities further influences the significance of these impacts. Thus, to minimize risks and enhance benefits, the RBL program activities need to be located and designed considering the potential impacts and risks and site-specific mitigation measures. On the other hand, proposed small-scale decentralized composting and MRF, public toilets, urinals, and transfer stations (without storage) are likely to have limited impacts.² Construction impacts include dust, air emissions, noise, health and safety risks, contaminated runoff, traffic, among others. These are short-term and localized.

3. The RBL program is classified as category B for environment per Asian Development Bank (ADB) Safeguard Policy Statement (SPS), 2009. The program will exclude activities which may have significant adverse impacts that are irreversible, diverse, or unprecedented and would be classified as category A per ADB SPS or per Environment Impact Assessment (EIA) Notification of the Government of India 2006.³ Accordingly, the program will exclude (i) activities located in protected areas, like national parks, wildlife sanctuaries, eco-sensitive areas, coastal regulation zones, cultural heritage sites, flood plains, among others; (ii) processes such as waste-to-energy, incineration, pyrolysis, biomining of legacy wastes; and (iii) facilities managing industrial, hazardous or biomedical waste. The Ministry of Housing and Urban Affairs (MOHUA) will apply a safeguards screening process to exclude high risk and ineligible activities. The screening checklist is included in the supplementary document to the PSSA.⁴ MOHUA will ensure compliance with the standards set by the Government for siting, design, construction, and operation of SWM facilities. Environmental baseline features of sample RBL program sites are in

¹ Assam, Jharkhand, Bihar, Uttar Pradesh, Maharashtra, Odisha, Karnataka, and Tamil Nadu.

² Small-scale decentralized facilities of 5 tons per day are promoted by Swachh Bharat Mission (SBM) program management units (PMUs) and states such as Tamil Nadu.

³ Asian Development Bank (ADB). 2009. [Safeguard Policy Statement](#). Manila. An activity would be classified as category A if it is likely to have significant adverse environmental impacts that are irreversible, diverse, or unprecedented; ADB. 2019. [Mainstreaming the Results-Based Lending for Programs](#). Manila. Activities likely to have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people are not eligible for funding under the RBL program.

⁴ Additional Information to the Program Safeguard Systems Assessment (accessible from the list of annexes and supplementary documents of the report and recommendations of the President).

the supplementary document to the PSSA (footnote 4)

4. **Involuntary resettlement.** The program is category B for involuntary resettlement, as confirmed during due diligence as part of the PSSA (footnote 4).⁵ RBL program will exclude activities likely to entail land acquisition, physical displacement and/or permanent economic impacts to any individual, household, or community. Government lands will be used. Screening of projects for associated social safeguard risks and impacts (including those to squatters and other non-titleholders) will be conducted to ensure that exclusion criteria are met (footnote 4). Assessment of sample projects proposed and/or sanctioned under Swachh Bharat Mission-Urban (SBM 2.0) indicate that the projects do not involve land acquisition and related resettlement impacts.⁶ Limited resettlement impacts such as temporary economic impacts to rag pickers and waste collectors, impacts to informal users and/or lessees of government land as playgrounds and for cropping are anticipated during project implementation and/or civil work. The program through the ULBs will ensure that the waste collectors who are likely to face temporary economic impacts continue to have access to waste during project implementation. ULBs will develop a system to organize and engage with informal waste collectors and facilitate their participation in waste management services and operation of project facilities. Loss of access to government land used as playgrounds or any common property uses by communities or groups will be mitigated in consultation with users. Advance (60 days) notice will be given in the event any cropping is identified on government lands (proposed project sites), to avoid crop loss. Affected persons will be provided skill training and preference in project generated employment opportunities, to enhance livelihood and resilience. ULBs will prepare project specific Environment and Social Management Plan (ESMP, template included in the project implementation document [PID]), as applicable, based on the outcome of project screening and the requirement of managing specific risks assessed.

5. **Indigenous People.** The RBL program is assessed as category B for indigenous peoples impacts. All program states have presence of scheduled tribe population.⁷ The projects proposed and/or sanctioned under SBM 2.0 will generally have beneficial impacts on indigenous people. No project and/or activity that affects the dignity, human rights, livelihood systems, or culture of indigenous peoples, or affects the territories or natural or cultural resources that indigenous peoples own, use, occupy, or claim as ancestral domain or an asset, will be taken up under the RBL program. Screening of projects will be carried out to confirm that adverse impacts to indigenous people are avoided and identify specific actions for participation and inclusion of indigenous peoples. The state level program management unit (PMU) will support ULBs to conduct activities that are participatory and based on meaningful consultations, for effective participation of indigenous people and ensure their inclusion in program benefits, in a culturally appropriate manner.

B. Safeguard Policy Principles Triggered

⁵ As per ADB SPS 2009, a project is classified as category A if it causes physical displacement or loss of 10% or more of productive, income-generating assets to 200 or more persons. Program activities are Category B if involuntary resettlement impacts are not deemed significant.

⁶ Due diligence included visits to sample project sites (details in footnote 4) across four ULBs in Assam (Municipal Boards in North Guwahati, Rangia, Nalbari, and Guwahati Municipal Corporation) and two ULBs in Tamil Nadu (Greater Chennai Corporation and Tambaram municipal corporation). All ULBs have proposed MRFs which are likely to result in temporary economic impacts to waste collectors at existing waste disposal sites.

⁷ Scheduled tribes are notified by the President of India under Article 342 of the Constitution. The President considers (i) tribes' primitive traits, (ii) distinctive culture, (iii) shyness with the public at large, (iv) geographical isolation, and (v) social and economic backwardness, before notifying a scheduled tribe. As per census 2011, scheduled tribe population to respective state population varies in program states from 26.2% in Jharkhand to 0.6% in Uttar Pradesh.

6. The environmental, involuntary resettlement, and indigenous peoples' safeguards principles likely to be triggered due to the RBL program activities are given in Table 1. Comparison of Government of India environmental and social regulatory framework with ADB policy is in the supplementary document to the PSSA (footnote 4). The program will screen out any high-risk activity that may fall under category A for environment, involuntary resettlement, and indigenous peoples as per ADB SPS, 2009.

Table 1: Safeguard Policy Principles Triggered

Principles*	Description
Environment	
Principle 1. Project screening process	Triggered. Screening will be conducted to avoid location in environmentally sensitive areas and exclude activities which may cause significant adverse impacts (category A) per the Government of India's Environmental Impact Assessment (EIA) Notification 2006 or Asian Development Bank Safeguard Policy Statement (ADB SPS), 2009.
Principle 2. Conduct of environmental assessment	Triggered. Environmental assessment of results-based lending (RBL) activities will be conducted per the Government's EIA Notification, 2006 and environmental clearance will be obtained. Activities that may have impacts but do not require EIA per Government's Notification, will not be eligible for the RBL program. Waste processing (not disposal and/or landfill) facilities of not more than 100 tons/day capacity (requiring state pollution control board [SPCB] consent) and small-scale or low-impact activities (decentralized compost and material recovery facility of not more than 5 ton/day capacity, transfer stations, and public toilets [not requiring SPCB consent]) will be eligible under RBL without EIA but will be covered with a generic activity-specific environmental and social management plan (ESMP).
Principle 3. Examine project alternatives	Triggered. Alternatives will be examined during the project development and environmental assessment process.
Principle 4. Avoid, minimize, mitigate, and/or offset adverse impacts	Triggered. Measures to avoid, minimize, or mitigate adverse impacts will be developed through EIA process. Considering exclusions and siting criteria, it is anticipated that program activities may not cause impacts that cannot be mitigated or minimized to acceptable levels, therefore offsets are unlikely. For eligible activities without EIA, a generic activity-specific ESMP and/or SPCB consent will provide measures to avoid, minimize, or mitigate impacts.
Principle 5. Carry out meaningful consultation	Triggered. Meaningful consultations will be carried out with the affected persons and stakeholders part of EIA process per EIA Notification, 2006. Urban local bodies (ULBs) will also consult stakeholders during project preparation and implementation. Existing systems will be further strengthened by capacity building through a technical assistance.
Principle 6. Disclose a draft environmental assessment and environmental management plan (EMP)	Triggered. EIA and EMPs will be disclosed by ULBs, regulatory agencies (SPCBs and Ministry of Environment, Forest and Climate Change [MOEFCC]) per EIA Notification, 2006. ESMPs and SPCB consents will be disclosed by ULBs.
Principle 7. Implement EMP and monitor its effectiveness	Triggered. Contractors and ULBs will implement EMP, consent conditions, and ESMP and effectiveness will be monitored by ULBs (as project proponents) and submit a monitoring report to regulatory agencies. Monitoring of effectiveness will be conducted by the regulatory agencies (SPCBs and MOEFCC). The effectiveness of ESMP will be overseen by Swachh Bharat Mission (SBM) program management units (PMUs).
Principle 8. Avoidance of critical habitats	Triggered. RBL program will exclude activities located in critical habitats. SBM PMUs will adapt a screening process to exclude activities in national parks, wildlife sanctuaries, eco-sensitive zones, among others, from RBL program.
Principle 9. Apply pollution prevention and control technologies and practices	Triggered. RBL activities will apply pollution prevention and control technologies and practices per the Government's Environmental Standards, which are generally in consistent with World Bank Group's Environment, Health, and Safety guidelines.
Principle 10. Workers' health and safety	Triggered. RBL activities involve construction and operation of solid waste management infrastructure. Health and safety risks to workers are inherent to civil works and solid waste management activities. EIA and ESMP will identify the risks and provide mitigation measures. The Government's labor regulations are generally consistent with ADB policy

Principles*	Description
Principle 11. Conserve physical cultural resources	Triggered. RBL program will exclude activities in or close to monuments or places of archaeological importance i.e., world heritage sites, monuments and/or sites notified by the Government of India or respective state governments. Chance find protocols will be included in ESMPs.
Involuntary resettlement	
Principle 1. Screen the project for involuntary resettlement impacts and risks	Triggered. Screening will be undertaken to assess project risks and impacts including to vulnerable groups. Screening will help exclude any activity with significant involuntary resettlement impacts including any land acquisition, ^a physical displacement, or permanent livelihood loss. Social safeguard screening checklists have been included in this PSSA and in PID.
Principle 2. Carry out meaningful consultations and establish a grievance redressal mechanism (GRM)	Triggered. Meaningful consultations will be undertaken with affected persons and stakeholders including vulnerable groups, throughout project cycle. Existing system of public feedback and grievance redress will be used to avoid social impacts and risks.
Principle 3. Improve, or at least restore, the livelihoods of all displaced persons	Triggered. Temporary economic displacement to waste collectors due to access restriction to existing waste disposal sites, and impact to users of government land is possible. ULBs will ensure continued access to waste by waste pickers during implementation and provide skill training. ^b For any loss to government land users, ULBs will identify alternatives or mitigation measures in consultation with them. Impact avoidance and mitigation measures will be implemented through the ESMP.
Principle 4. Provide physically and economically displaced persons with needed assistance	Triggered. RBL program will exclude all projects involving land acquisition, physical displacement, or permanent economic displacement. ULBs will carry out activities and measures, as per the ESMP for sustainable and enhanced livelihoods for waste collectors. Advance (60 days) notice will be given if cropping is identified on proposed government-owned land, to avoid crop loss.
Principle 5. Improve standard of living of displaced poor, vulnerable to at least national minimum standards	Triggered. Affected persons are typically assessed to be unorganized waste collectors. The ULBs, as mentioned above, will take measures for livelihood enhancement and resilience of the affected persons. The ESMP will include these requirements.
Principle 6. Develop negotiated settlement procedures in transparent, consistent, equitable manner	Not Triggered. RBL program will exclude projects involving land acquisition (including through negotiated settlement). Compliance with this exclusion requirement will be confirmed through screening of the projects.
Principle 7. Ensure displaced persons without titles or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets	Triggered. The RBL program will not include any project that involves physical displacement or permanent economic displacement or loss of land or non-land asset to any person, household, or community, including those without titles to land or any recognizable legal rights. For waste collectors and other affected non-titleholders who may face limited impacts, the ULBs will take impact mitigation and livelihood enhancement measures as per the ESMP.
Principle 8. Prepare resettlement plans	Not Triggered. In view of limited scope of risks and impacts, the ULBs will prepare project-specific ESMP, based on project screening outcomes.
Principle 9. Disclose draft and final resettlement plans	Not Triggered. Resettlement plans will not be prepared. ESMPs and monitoring reports prepared by ULBs will be consolidated and disclosed by state PMUs, and program monitoring reports will be disclosed by National Mission Directorate (NMD).
Principle 10. Include the full costs of resettlement in project's costs and benefits	Not Triggered. Actions required as per the ESMP are typically covered under the scope of SBM and ULB roles. ^b The ESMP will be part of the civil works contract(s).
Principle 11. Pay compensation and other resettlement entitlements before physical or economic displacement	Not Triggered. Projects involving resettlement impacts requiring compensation (as per ADB SPS, 2009) will be excluded from the program. ULBs will ensure avoidance of temporary economic impacts to waste collectors, ensure enhanced livelihoods, and identify mitigation measures for any communal use of government land identified, under the project-specific ESMP.
Principle 12. Monitor resettlement plan implementation, disclose	Not Triggered. Resettlement plans will not be prepared. ESMP implementation will be monitored and reported by ULBs to respective state PMUs. Program level monitoring reports will be disclosed by the Ministry of Housing and Urban Affairs

Principles*	Description
monitoring reports	(MOHUA) on its website.
Indigenous Peoples	
Principle 1. Conduct project screening for Indigenous Peoples impacts	Triggered. All components or activities will be screened to determine whether any Indigenous Peoples and/or scheduled tribe communities are present and affected by the RBL program.
Principle 2. Undertake a culturally appropriate and gender-sensitive social impact assessment	Triggered. The RBL program envisages beneficial impact for Indigenous Peoples and/or scheduled tribes in urban settlements through improved waste management services leading to improved public health outcomes. Project screening will help identify indigenous people communities and facilitate their inclusion in accessing project benefits.
Principle 3. Undertake meaningful consultations with affected Indigenous Peoples and establish a culturally appropriate and gender-inclusive GRM	Triggered. Consultations will be carried out to ensure effective participation in planning and implementation process and also enable indigenous people communities' inclusion and access to RBL program benefits. The program will seek to use existing grievance mechanisms and consultation and disclosure processes required by law such as with <i>Gram Sabhas</i> (village-level electorate) in scheduled areas, to ensure cultural appropriateness.
Principle 4. Ascertain whether broad community support is required for project	Not Triggered. The RBL program will exclude any project and/or activity that involves commercial development of cultural resources or knowledge or natural resources within customary land used by indigenous people, or physical displacement from customary or traditional land.
Principle 5. Avoid any restricted access to and physical displacement from protected areas and natural resources	Not Triggered. All such project activities will be excluded by the RBL program.
Principle 6. Prepare Indigenous Peoples Plan (IPP)	Not Triggered. The Program will exclude projects that involve negative and adverse impacts. Program design includes only such activities that are envisaged to have positive impacts to indigenous peoples. In case of projects with assessed beneficial impacts, project-specific ESMP that includes specific actions for participation and inclusion of indigenous people will be prepared and implemented by the ULBs.
Principle 7. Disclose draft and final IPP in form understandable to affected Indigenous Peoples	Not Triggered. RBL program will not require preparation of IPP. ESMPs with specific actions for participation and inclusion of indigenous peoples and monitoring reports prepared by ULBs, will be consolidated and disclosed by state PMUs. Similar program level monitoring reports will be disclosed by NMD.
Principle 8. Prepare action plan for legal recognition of customary rights to lands, among others	Not Triggered. The customary rights to lands and territories or ancestral domains will not be impacted under the program.
Principle 9. Monitor IPP implementation and disclose monitoring reports	Not Triggered. Specific actions for indigenous peoples' participation included in the ESMPs will be monitored and reported by ULBs to the state PMU. The program level monitoring reports will be disclosed by MOHUA on its website.

^a As per ADB SPS 2009, a project is classified as category A if it causes physical displacement or loss of 10% or more of productive, income-generating assets to 200 or more persons. Program activities are Category B if involuntary resettlement impacts are not deemed significant. The screening checklist is in the Additional Information to the PSSA (footnote 4).

^b: Government of India, Ministry of Environment, Forest and Climate Change. 2016. [Solid Waste Management Rules, 2016](#). Delhi. These are recognized as duties and responsibilities of local authorities (footnote 9). Footnotes 11 and 12 on strategies for convergence of SBM 2.0 with other livelihood programs.

Source: Asian Development Bank. 2009. [Safeguard Policy Statement](#). Manila

C. Diagnostic Assessment

1. Assessment Methodology and Resources

7. The PSSA assesses the RBL program's social and environmental management mechanism for consistency with the safeguards policy principles (environment, involuntary

resettlement, and Indigenous Peoples) of ADB and the Government of India with an aim to minimize program risks and promote sustainable development. The PSSA is prepared to adhere to ADB SPS, 2009. The assessment is prepared following ADB's Policy Paper on Mainstreaming the Results-Based Lending for Programs (2019) and based on (i) review of existing national safeguards related legal provisions and regulatory frameworks, comparison with ADB SPS safeguard principles (related to environment, resettlement plan and indigenous peoples) and identifying gaps; (ii) consultation with MOHUA officials (at national SBM PMU), state SBM PMU officials (including Director of Municipal Administration), consultants (at national SBM PMU and state SBM PMUs), State Environment Impact Assessment Authority officials, Member Secretaries of State Pollution Control Boards, officials (including Commissioners) and elected representatives (including Chairpersons) of ULBs, potentially affected persons including waste collectors, and local communities near waste disposal sites; (iii) review of detailed project reports including safeguards documents prepared by ULBs with support of SBM state PMUs and consultants; and (iv) assessment of the existing grievance redress system and institutional arrangement and capacity of SBM PMUs and ULBs to implement the RBL program. Details of consultations conducted during PSSA are in the supplementary document to the PSSA (footnote 4).

2. Environment

8. **Policy and legal frameworks.** The Government's environmental regulatory framework is principally defined by the Environmental Protection Act (EPA) 1986, and notifications, standards, among others, issued under the EPA. Besides, there are other legislations that deal with pollution control, forests, environmentally sensitive areas, wildlife, physical cultural resources, labor welfare, and occupational health and safety, among others. Salient features of these regulations are presented in the supplementary document to the PSSA (footnote 4). The EIA Notification, 2006 issued under the EPA defines the environmental assessment process in India. It mandates prior environmental clearance for projects and/or activities scheduled to the Notification under categories A and B1 and B2. Category A and B1 projects require an EIA study whereas Category B2 projects do not require an EIA study to obtain environmental clearance. EIA of Category A projects are appraised by Ministry of Environment, Forest, and Climate Change (MOEFCC) at central level for issue of environmental clearance, Category B project EIA's are dealt at concerned state-level EIA authority. Category B projects will be upgraded to category A if they are located in environmentally sensitive areas.⁸ Authorization and consent to establish and operate for activities with pollution potential from state pollution control boards (SPCBs) are other instruments through which environmental regulations and standards are enforced. Siting, design, construction, operation, and monitoring of SWM facilities are governed by the rules, guidelines, and standards established by the Government such as Municipal solid waste management (MSWM) Rules, 2016, Construction and Demolition Waste Management Rules, 2016, Central Pollution Control Board Guidelines on MSWM, Central Public Health and Environmental Engineering Organization Manual 2016 on MSWM. With these, the Government's environmental regulatory framework, including screening, scoping, assessment process, appraisal, public consultation, among others, are aligned with ADB SPS principles in general. The MSWM sector related rules, standards, and guidelines are aligned with international good practices like World Bank Group's Environment Health and Safety Guidelines for waste management facilities in general.

9. Yet, PSSA identified some gaps between ADB SPS, 2009 and the Government's

⁸ Any project or activity specified in category B will be appraised at the Central level as located in whole or in part within 5 kilometers from the boundary of (i) protected areas notified under the Wildlife (Protection) Act, 1972 (53 of 1972); (ii) critically polluted areas as identified by the Central Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from time to time; (iii) eco-sensitive areas as notified under subsection (2) of section 3 of the Environment (Protection) Act, 1986 and (iv) inter-State and international boundaries.

regulatory framework. While EIA requirement per the Government is determined by fixed project category and scale, ADB SPS's requirement is triggered by potential impacts. The EIA Notification lists "common solid waste management facilities" under category B1 requiring EIA, public hearing, and environmental clearance. But the application is limited to 'common' facilities. Although interpretation of "common" does not appear uniform across the states, it can be interpreted from consultations that EIA Notification may apply only to (i) sanitary landfill facilities, and (ii) waste processing and/or treatment facilities combined with sanitary landfills.⁹ Besides the environmental clearance requirement, SWM activities require authorization and/or consent of respective SPCBs. Consent requirements are applied to activities notified by SPCBs. Except sanitary landfills, most of the RBL activities do not require consent as these are not notified by SPCBs for the consent requirement, although this is not uniform across the states. During PSSA, the practice of issuing combined authorization to a ULB for all waste processing facilities noted, which appear to reduce SPCB's scrutiny at individual facility level. While the overall program safeguards systems are aligned with ADB SPS policy principles, the coverage is not universal, and all risks may not be addressed. Therefore, to mitigate the risks, RBL activities that are not covered by environmental clearance process will be excluded from the program, except (i) waste processing and/or treatment facilities of not exceeding 100 tons per day implemented with SPCB consent, and (ii) small-scale activities of decentralized composting and MRF of capacity not exceeding 5 tons per day, public toilets, urinals, and transfer stations (without storage).¹⁰ Risk of these activities can be addressed by SPCB's consent and/or generic activity-specific EMPs.

10. Institutional capacity and implementation practices. ULBs as project proponents are responsible for compliance with environmental regulations. There is a potential for ULBs to improve current SWM practices by ensuring compliance with the Government's environmental requirements. The role of MOHUA in SBM is mainly at policy and program level monitoring and funds disbursement. Technical scrutiny of SBM projects proposals and/or detailed project reports (DPRs) submitted by ULBs is conducted by the Central Public Health and Environmental Engineering Organization, technical wing of MOHUA. This does not entail review of environmental due diligence studies. SBM PMUs at state level requests for information on whether ULB complied with regulations as simple yes/no check as part of project funding application. PMUs at central and state level are supported by a team of consultants. There are no safeguard positions in the PMUs or in the consultants' teams. State PMU consultants support the ULBs in preparing city solid waste and city sanitation action plans for accessing SBM 2.0 funds, and support in preparing DPRs through consultants. The DPRs usually do not include environmental assessment. Separate EIA studies are however carried out for projects that require environmental clearance or to meet external funding agencies safeguards policies.

11. ULBs shall comply with regulations, including conduct of EIA studies, obtain environmental clearance from state level EIA authority and MOEFCC, and consents from SPCBs. SPCBs enforces regulations and monitor compliance of activities with pollution potential under their jurisdiction. MOEFCC through its regional offices and SPCBs monitors compliance per environmental clearance conditions. Project proponents and/or ULBs are required to submit half-yearly compliance reports. These reports are disclosed to the public on websites. SPCBs enforce MSWM Rules and pollution control measures through issuance of authorization for setting up waste processing, treatment, or disposal facilities and consent to establish (CTE) and consent to

⁹ Per letter of MOEFCC to Ministry of Urban Development dated 03 July 2017, except landfills, none of the activities (including composting, refuse-derived fuel (RDF)-making, among others) if implemented stand alone, require environmental clearance. Further, it states that composting, RDF-making, and waste-to-energy up to 15 megawatt at existing landfill sites do not require environmental clearance.

¹⁰ 5 tons per day threshold is fixed based on SWM Rules, 2016, which mandates obtaining authorization of SPCBs for SWM facilities with capacity exceeding 5 tons per day.

operate under the Water Act, 1974 and Air Act, 1981. CTE is issued based on review of project proposal, site suitability, pollution control measures, among others. Consent to operate is issued prior to start of operation upon compliance with CTE conditions, specifies the conditions to be complied with pertaining to emissions, effluents, and solid waste, which are based on Central Pollution Control Board standards. The consent is renewed annually or as specified by SPCB, after ensuring compliance. The system is robust and there is scope for improvement in environment management via more effective implementation, enforcement, and monitoring.

12. **Gaps identified.** Though the Government's environmental regulatory framework is broadly aligned with ADB SPS principles, non-applicability of environmental clearance requirement to some RBL activities with impacts leaves a gap in addressing all risks and impacts. Activities whose risks cannot be addressed need to be excluded from RBL program. Based on the potential risk, the waste processing and/or treatment facilities of not exceeding 100 tons per day capacity and requiring SPCB consent and small-scale decentralized composting and MRF (not exceeding 5 tons per day), public toilets, urinals, and transfer stations (without storage) can be included in RBL program through activity-specific ESMP to mitigate risks. Generic ESMPs needs to be developed, adapted, and implemented for each facility. Capacity of ULBs and SBM PMUs in safeguards implementation and monitoring is limited and can be addressed by institutionalizing safeguards processes with necessary checks. There is a need to build ULBs' capacity to implement safeguards, and PMUs' capacity in monitoring and reporting.

3. Involuntary Resettlement

13. **Policy and legal frameworks.** The RBL program will be guided by relevant national and state laws including Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and ADB SPS principles for involuntary resettlement and indigenous people. There are other government programs aimed at livelihood resilience and improved living standards of urban poor, including Deen Dayal Antyodaya Yojana- National Urban Livelihoods Mission (DAY-NULM), that recognize the critical role that informal sector and marginalized communities play in waste management services. There is need for implementation of the RBL program in convergence with the government's social protection programs,¹¹ with SBM 2.0 mission strategies,¹² and provisions of the SWM Rules, 2016. These programs and policies constitute the legal framework applicable to the RBL.

14. **Land acquisition.** Sample project sites under SBM 2.0 visited during due diligence confirmed that the sites were government-owned.¹³ Project screening process will ensure exclusion of projects involving land acquisition (including through negotiated settlement). Impacts related to land acquisition are therefore not anticipated under the RBL.

15. **Involuntary resettlement safeguard requirements.** Field visits to sample project sites in Assam and Tamil Nadu suggest potential temporary economic impacts to waste pickers.¹⁴ Proposed projects such as construction of MRF will potentially result in temporary livelihood disruption for waste pickers working at existing waste disposal sites. ULBs will ensure that

¹¹ Government of India, Ministry of Housing and Urban Affairs. 2018. [Empowering Marginalized Groups – Convergence Between SBM and DAY-NULM](#). Delhi.

¹² Government of India, Ministry of Housing and Urban Affairs. 2017. [Guidelines for Swachh Bharat Mission – Urban](#). Delhi.

¹³ SBM 2.0 projects (covered under RBL program) include Windrow, MRF, RDF, bio-methanation plant, compost pits, and sanitary landfills.

¹⁴ Field visits covered project sites at Rangia and Nalbari Municipal Boards in North Guwahati, and Guwahati Municipal Corporation in Assam, and Greater Chennai Corporation and Tambaram Municipal Corporation in Tamil Nadu.

affected waste pickers have continued access to waste during project implementation to avoid such impacts. ULBs will also take measures as required by SWM rules, 2016 and DAY-NULM convergence guidelines, to develop a system to enumerate and engage with informal waste collectors and facilitate their participation in waste management activities including operation of project facilities and provide sustainable livelihoods.¹⁵ The affected waste collectors will be provided skill training and project-generated jobs. Any communities or groups using proposed government sites as playgrounds or other purposes will be consulted and alternatives and mitigation measures will be identified in consultation with them. Advance (60 days) notice will be given in the event any cropping is identified on government lands (proposed project sites), to avoid crop loss. All such measures and actions will be included in and implemented through project-specific ESMPs. An ESMP template providing an overview of project risks and guiding principles and measures to manage such risks is included in the PID. Generic ESMPs prepared for anticipated risks relevant to RBL projects by ADB technical assistance consultants will be adapted by ULBs to a project's context, based on safeguards screening. Measures to avoid and minimize involuntary resettlement impacts will be adopted for the program as per the exclusion criteria and measures identified in this PSSA, in line with ADB SPS and government policy.

16. Program will ensure effective public consultations, assessed during the due diligence to be inadequate, during project planning and implementation processes generally adopted by ULBs. In several locations visited during due diligence, local community was not aware of the decision on project siting, project details, and benefits. Site selection for some of the proposed projects (sites for MRF in Guwahati, Nalbari in Assam, and composting facilities in Tambaram, Tamil Nadu) did not involve consultations with local community, leading to dissent.

4. Indigenous Peoples

17. **Policy and legal frameworks.** The Constitution of India has specific provisions to protect and safeguard the interests of indigenous peoples' communities. Tribes or tribal communities are recognized by the government of India and deemed to be scheduled tribes under Article 342 of the constitution. The Government has recognized and seeks to protect the rights of scheduled tribes, through various laws and policies including (i) The National Commission for Scheduled Tribes; (ii) The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules; (iii) The Panchayats (Extension to Scheduled Areas) Act, 1996; (iv) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; and (v) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which has special provisions for displaced scheduled tribes. Details of constitutional provisions for scheduled tribes and government of India laws are in the supplementary document to the PSSA (footnote 4). The states have additional legal safeguards to protect the scheduled tribes on regulation of ownership and transfer of land and properties, and social protection measures. Provisions of the Constitution of India, the national and state policy framework for scheduled tribes discussed above, are aligned with ADB's indigenous people's safeguards. ADB SPS requires an action plan to be prepared for legal recognition of customary rights to lands and territories or ancestral domains of indigenous peoples, which is not a requirement as per law in most states. Such impacts are not assessed under the RBL program. All participating states have tribal population which will face beneficial impacts. ULBs will take specific actions identified in the ESMP to ensure effective participation of indigenous peoples in

¹⁵ Government of India, Ministry of Environment, Forest, and Climate Change. 2016. [Solid Waste Management Rules, 2016](#). Delhi. SWM Rules, 2016 require the states to recognize the roles of informal waste collectors. The Rules #11 and #15 of Gazette notification on SWM Rules 2016 define ULBs' duties to promote and establish a system for integration of informal waste collectors, facilitate formation of self-help groups of workers and provide training. Footnote 10 weblink provides MOHUA's guidelines for convergence of DAY-NULM, SBM urban, and other programs.

project planning and implementation and deliver culturally appropriate benefits to them.

5. Consultation and Participation

18. Due diligence during the PSSA suggests that consultations with communities during project planning and site selection, disclosure of project details and associated risks is generally inadequate, except for projects that require environmental clearance where a public hearing is conducted. Further, project plans are prepared by consultants who are managed by state level PMU (observed to be the practice in both Assam and Tamil Nadu); and information sharing and consultative planning with ULBs and communities is limited. Implementation of RBL program will ensure that consultation and participation of the general public including potential beneficiaries, elected representatives, affected communities and indigenous peoples (if applicable) is undertaken during project planning and implementation. Such consultative approach will also be followed with respect to use or diversion of government land or other resources that are in use as recreation spaces, playgrounds, and venues for public events. State PMUs will conduct trainings for capacity building of ULBs and monitor compliance.

6. Grievance Redress Mechanism

19. Due diligence findings suggest that citizens generally access concerned ULB office and register grievances in person with ULB staff or elected representatives. The district collectors hold regular meetings with line departments which include review of grievances registered and resolution status. Most states also provide options for grievance registration through website, social media platforms, or dedicated toll-free numbers. All ULBs do not have structured GRM with provision for grievance escalation, grievance tracking, documentation, and record keeping on grievance registration, progress, and closure status. An online grievance redress system is operational in SPCBs to receive and redress complaints related to environmental pollution received from any individuals, organizations, or nongovernment organizations. Tracking of complaints is possible online with a complaint registration number. The National Green Tribunal was established vide the National Green Tribunal Act 2010 for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and related matters. Specific to SBM 2.0, a web-based portal and a mobile application (*Swachhata* App) is operational for citizen feedback and complaint management. The App enables citizens to have their grievances registered and addressed by the concerned ULB. A citizen can click a picture of the problem area and have the complaint delegated to the associated municipal engineer by the nodal office of the ULB. The concerned engineer addresses the issue and updates the status. The RBL program will use the existing grievance redress mechanisms for program grievance management. ULBs will ensure that grievance redress systems are functional throughout the project cycle. The safeguard focal person at ULB level will be responsible for regular follow up on grievances, until resolved. The state PMUs will provide monitoring oversight on effective GRM functioning in ULBs.

20. The affected person is free to access the country's legal system at any time and at any stage. The affected person also can use the ADB Accountability Mechanism for projects funded by the RBL through directly contacting (in writing) the Complaint Receiving Officer at ADB headquarters or the ADB India National Resident Mission.

D. Assessment of Other Risks

21. The RBL Program was also assessed against institutional, contextual, and programmatic

risks likely to occur during program delivery.

22. **Institutional risks.** SBM 2.0 has a four-tier management structure (footnote 14). The arrangement at the National level comprises the National Advisory and Review Committee and National Mission Directorate which is supported by a dedicated PMU and/or Technical Support Unit. Similarly, the state level structure includes a State High Powered Committee, State Level Technical Committee, and a State Mission Directorate, supported by a dedicated PMU. Each district has a District-level Committee while ULBs are responsible for implementation of mission components. Review during due diligence reveals that there are no safeguards positions at National, state or ULB level for SBM project implementation. Assessment, planning, and management of safeguards risks is generally managed through external agencies or experts, as required. ULBs rely on state offices for project planning and play a limited role in the review of planning documents, owing to lack of capacity.

23. In view of the assessed institutional gaps with implication on safeguards compliance, ULBs and state level PMUs will be central to managing safeguards risks, including project screening and planning, regulatory compliance, implementation and monitoring of ESMP, effective public consultations, functioning of GRM. Capacities of ULBs and state level PMUs in these roles are assessed to be major gap areas. These will be addressed through proposed institutional arrangements and capacity building inputs and monitoring support. It includes appointment of 2 safeguards consultants at the national level with key responsibilities related to capacity building inputs and monitoring oversight to state level PMUs and ULBs on safeguards compliance and program level reporting to ADB. Capacity building activities will be initiated from the early stages of the program cycle. All program states will appoint and ULBs will assign/appoint focal safeguards persons who will be responsible for project risk screening, and preparation, implementation, and monitoring of project ESMPs. Roles and responsibilities related to the proposed institutional arrangement are elaborated in the PID.

24. **Contextual risks.** Due diligence in the sample states suggest that these will be built on government owned lands and have none or limited involuntary resettlement impacts, and beneficial impacts to indigenous peoples. Site visits to sample project sites confirm that mostly proposed sites avoid significant adverse environment and social impacts. Site selection is often determined by the availability of government land, and environmental implications are sometimes not fully considered. Locations of program interventions in environmentally sensitive areas (national parks and wildlife sanctuaries notified under the wildlife protection act, eco sensitive zones and areas, notified wetlands or wetlands of significant value, critical habitats, notified eco sensitive areas, flood plains, coastal regulation zones, core zone, or buffer zone of world heritage sites, protected monuments) shall be excluded from the program. Acquisition of private land and assets resulting in significant resettlement impacts, and lands or assets with potential legacy land acquisition issues, will be excluded. The screening process will assess risks and impacts, if any, to informal settlers, users or any other non-titleholders that may be present on government land. The program will not support activities with significant adverse environmental and/or social impacts and those not meeting the exclusion criteria (footnote 4) and those that may expose ADB and government to reputational risks.

25. **Programmatic risks.** The proposed RBL modality is new to MOHUA, the national and state level PMUs and participating ULBs. Key risks are lack of capacity to screen and assess safeguards risks and impacts, and integrate safeguards concerns, regulatory compliance, impact avoidance and mitigation measures in implementation and monitoring. Conducting necessary social and environmental assessment studies and obtaining environmental clearance and/or SPCB's consent in a timely manner is critical. These will be addressed through training and

capacity building inputs of state PMU safeguards focal persons and ULBs. Central and state PMU safeguards focal persons will provide monitoring oversight and conduct periodic monitoring visits. Training will be provided to ULBs during RBL implementation to encourage safeguards mainstreaming in day-to-day operations, public consultation and GRM. Program activities are unlikely to have interactions with other planned activities (construction of facilities with other ADB and multilateral agencies' funds) that may trigger adverse impacts.

E. Safeguard Program Actions

26. The following program actions are suggested to mitigate identified risks and strengthen the capacity of relevant stakeholders related to implementation of the RBL program:¹⁶

Table 2: Safeguard Program Action Plan

Actions	Responsible Agency	Time Frame
4.1. Establish and operationalize a system for environmental and social safeguards screening, implementation, monitoring and reporting.	National Mission Directorate (NMD, supported by ADB technical assistance [TA] consultants)	From Quarter (Q)4 2023 to 2026
4.2 Prepare generic environmental and social management plans (ESMPs) for program activities, by type. ^a	MOHUA (supported by ADB TA consultants)	Q4 2023
4.3 Assign safeguards focal person at Swachh Bharat Mission program management unit (PMU) at central level and urban local bodies (ULBs); and appoint safeguards specialists at state PMUs.	MOHUA State-level PMUs ULBs	Q4 2023
4.4 Appoint 1 environment and 1 social safeguards consultant at central PMU.	MOHUA	From Q4 2023 to 2026
4.5 Undertake following actions for safeguards compliance: (i) Screen and exclude ineligible activities. (ii) Follow applicable guidelines/rules/standards in project design, construction and operation, to ensure regulatory compliance. (iii) Conduct environmental impact assessment (EIA) studies, obtain environmental and other clearances and SPCB consent; include social impact considerations in and mitigation measures in environmental management plan. (iv) Provide skill training to affected persons, involve informal waste pickers in waste management services, identify mitigation measures in consultation with communities. (v) Conduct activities for effective participation and inclusion of indigenous people (if any). (vi) Finalize project-specific ESMP. (vii) Include ESMP in bid and contracts and implement the ESMP. (viii) Conduct meaningful consultations, disclose project information, SPCB consent order, and ESMPs. (ix) Submit quarterly safeguards compliance and monitoring reports to state PMU.	ULBs to implement; state-level PMUs to monitor	From Q4 2023
4.6 Provide training and capacity building of ULBs in MSWM related rules, guidelines, standards, among others, established by the Government of India.	NMD, MOHUA (with consultant support)	Q4 2023 to 2026
4.7. Submit and disclose semi-annual environmental and social safeguards monitoring reports: (i) state PMUs to central PMU, and (ii) NMD to ADB.	State PMUs and Central PMU	Q4 2023 to project completion

Sources: Asian Development Bank and Ministry of Housing and Urban Affairs.

¹⁶ The institutional measures and project specific ESMP will be established and/or prepared in advance of planning for and implementing civil works. ESMPs and monitoring reports prepared by ULBs, will be consolidated and disclosed by state PMUs. Program level monitoring reports will be disclosed by NMD.