

Program Safeguard Systems Assessment (Draft)

August 2016

NEP: Supporting School Sector Development Plan

PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

A. Introduction

1. This document summarizes the findings of the program safeguard system assessment (PSSA) undertaken for the proposed Supporting School Sector Development Plan, which 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), FY2009–2016, 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 aims to (i) examine the safeguard systems of the Government of Nepal and its implementation practices and capacity, and (ii) suggest safeguard actions where gaps and weaknesses are found. The Asian Development Bank (ADB) undertook the PSSA in partnership with the Ministry of Education (MOE), which builds on existing knowledge of ADB, SSRP implementation, and practices of concerned government agencies. The PSSA is based on a desk review, field visits to sample schools, consultation with stakeholders, drawing lessons from the implementation of SSRP with regard to environment and social safeguards and discussions with the MOE.¹ The PSSA examined government's safeguards system and regulatory frameworks to ascertain congruence with the principles of ADB's Safeguard Policy Statement (SPS) (2009). The PSSA also analyzed strengths and gaps in the institutional mechanisms of the executing and implementing agencies and technical capacity for managing safeguard compliance.²

3. The findings of the assessment indicate that the program may trigger environmental and indigenous peoples (IPs) safeguard requirements but not the involuntary resettlement according to ADB's SPS (2009). The program is likely to have limited social and environmental impacts and risks by virtue of the limited civil works within existing school premises. The program outputs are expected to lead to positive impacts on the IP.

B. Program Environmental and Social Impacts and Risks

4. **Environment.** The program envisages retrofitting and rehabilitation, and new construction of classrooms in existing schools in all the ecological regions of the country. Since construction related activities will be confined mostly within 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 in SSDP relate to impact from building 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 to be undertaken. However, in

¹ The SSDP will continue to be implemented under the 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 confirming to 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 SSDP.

² MOE, Department of Education (DOE), and District Education Office (DEO).

order to manage and monitor potential small scale environmental impacts, an Environmental Management Framework (EMF) will be used for SSDP. The government and the development partners have used a robust EMF for the SSRP, a predecessor to the SSDP, 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 procedures within the EMF being updated for SSDP will be mutually agreed by all development partners supporting 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 the MOE to ensure an environmentally sound program implementation with minimized risks. The program is also expected to comply with the principles of ADB's Safeguards Policy and Results-Based Lending Guidelines⁵, while meeting the requirements of the Government of Nepal's environment regulations and other joint financing partners under the sector-wide approach.

6. **Involuntary resettlement.** There will be no involuntary resettlement under the program since infrastructure construction (civil works) will be of small-scale and within school premises in most cases. In a few exceptional cases, additional land may be required to extend school facilities beyond existing premises. In such cases, first priority will be given to use available government land, and in case of unavailability of government land, a negotiated settlement (voluntary donation of land or willing seller and willing buyer approach) will be adopted to manage the required land. The 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, SPS (2009) requirement 2 will not trigger. The Ministry of Education and the development partners have used an agreed Land Acquisition Framework for the SSRP, a predecessor to SSDP, prepared in 2009 and updated in 2011 and 2015⁶ for land acquisition through voluntary donations and willing buyer and seller approach. This document may be updated as required to further strengthen provisions for implementation in SSDP in consultation with other development partners, in particular the World Bank.

7. **Indigenous peoples.** The program is category B for IP as positive impacts are expected on the IPs (Adivasi/Janajatis) due to affirmative actions of the program, which will increase participation and enhance learning of the IP communities. Negative impacts on IPs 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 IP communities and other disadvantaged communities. A comprehensive equity strategy has been developed for 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. Such new interventions based on the equity index will also benefit IPs. The program

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 currently in the process of preparing their support to SSDP, using the Program for Results modality; they will use ADB assessments as a starting point and intend to also have a category B for environment. ADB and World Bank have agreed that the EMF used for SSRP will be reviewed for any improvements in the coming months, updated and disclosed in 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>

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

8. It is anticipated that IPs will benefit from the program through improved access to higher quality and culturally appropriate education. The program will ensure culturally-sensitive and relevant academic curriculum and pedagogy which will be developed in a culturally appropriate way. The IP communities' participation will be ensured during annual plan preparation processes as well as in other consultations during implementation. Separate IP plan is not prepared as the program is embedded with measures to ensure IP participation through bottom up planning. However, an IP framework has been prepared and will be agreed with the government and joint financing partners to ensure that there is no adverse impact of the program activities at school level for IPs during implementation.⁷

C. Safeguard Policy Principles Triggered

9. Upon review of relevant Government of Nepal policies and ADB's SPS (2009), and in light of activities and potential impacts that may be associated with proposed support to SSDP, the PSSA finds the following safeguards principles to be triggered.

Table 1: Safeguard Policy Principles Triggered

Principles ⁸	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 has been agreed for the school sector (February 2015) includes procedures, guidelines and standards related to screening of school physical infrastructure and preparation of 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, designing and construction of buildings. The requirement for environmental screening and addressing guidelines for schools are incorporated into contract documents for construction. The monitoring of compliance will be undertaken by overseers from the DEO.
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 EMP and monitor its effectiveness.	SSDP will include capacity building at the district level, including for engineers for overseeing construction activities.
Principle 6. Disclose of Draft Environmental Assessment (including EMP) in a timely manner before project appraisal in, and 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	Annual compliance review reports will be prepared on a sample basis and presented to the joint review missions with development partners. The updated EMF will be disclosed in the MOE and ADB websites.
	The EMF has detailed guidelines for good environment

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 IPs was developed and used for SSRP and updated in 2015. The World Bank is currently reviewing the need to update the VCDF for SSDP. ADB and WB have agreed that a common approach will be finalized for possible updating of the VCDF that incorporates an IP framework.

⁸ ADB. 2009. *Safeguard Policy Statement*. Manila.

Principles⁸	Description
any, to affected people and other stakeholders.	management practices and environment friendly materials.
Principle 9. Apply pollution prevention and control technologies and practice consistent with international good practices as reflected in internationally recognized standards such as World Bank Group's Environmental, Health and Safety Guideline. Avoid use of hazardous materials subject to internationally banned or phased out.	The key issue is one of timely local support to adhering to the guidelines and monitoring and supervision. This will be strengthened in SSDP through compliance review and reporting on an annual basis.
Principle 10. Provide workers with 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 for each school.	Construction work may generate solid waste, dust, noise and waste water which should be reduced and disposed 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 at 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 critical habitat will be excluded, and no damage to physical and cultural resources will be allowed.
Principle 8. Do not implement project 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 IR impact is envisaged from program activities as the construction of civil works will be limited within the existing premises of school building. 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 IR, 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 for construction of school building and associated facilities. SMC has 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	There will be no IR impact.
Principle 4. Provide physically and economically displaced persons with needed assistance.	There will be no relocation.
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 IR 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 frame work. This will be monitored in SSDP through compliance review and reporting on an annual

Principles ⁸	Description
	basis.
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.	There will be no IR. 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.	There will be no IR 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 IR 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 IR envisaged. In case of willing-seller willing-buyer 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 IR envisaged.
Indigenous Peoples	
Principle 1. Screen early on to determine: (i) whether IPs are present in, or have collective attachment to, the project area; and, (ii) whether project impacts on IPs are likely.	The SMC and DEO screen presence of IPs and propose appropriate actions and appropriate assistance to encourage them for school enrollment and participation. A draft IPF has been prepared to guide the screening and planning process. The IPF will be further discussed for any improvements in consultation with other development partners, particularly the WB.
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 IPs. Give full consideration to options the affected IPs prefer in relation to the provision of project benefits and the design of mitigation measures.	The program envisages affirmative action for IPs. DEOs and SMCs will include measures and activities for social inclusion such as scholarship program targeting to IPs communities. In addition, reservations in staff and teacher appointment are in practice.
Principle 3. Undertake meaningful consultations with affected IPs communities and concerned Indigenous Peoples organizations to solicit their participation.	The social inclusion policies of the Government of Nepal incorporate consultation with IP community. The consultations are carried out in the language appropriate to IP communities using social mobilizers or resource persons. Consultations have been carried out through NGOs and IPs organizations while designing the program and the consultative process will continue during implementation of SSDP to ensure that SSDP benefits are accessible to IP communities in a culturally appropriate manner.

Principles⁸	Description
Principle 4. Ascertain the consent of affected IPs communities to the following project activities: (i) commercial development of the cultural resources and knowledge of IPs; (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 IPs communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and 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 that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities.	No negative impact on IP communities is expected. . The program will lead to positive impact on IP through appropriate actions to ensure the benefits are equitably shared by IP communities. A separate IPP is not needed as actions for IP communities are already integrated into the program scope. Instead an IP framework has been 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 jointly discussed with the government and the joint financing partners and will be disclosed in the DOE/MOE website
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 IPs 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.	There is no separate IP Plan. However, the program will include reporting on the benefits accrued to vulnerable and disadvantaged communities, including IP. Progress in IP activities 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, IR = involuntary resettlement, MOE = Ministry of Education, NEGFSIFMN = National Environmental Guidelines for School Improvement and Facility Management, NGO = nongovernment organization, SMC = School Management Committee, SMC = School Management Committee, SSDP = School Sector Development Plan.

Source: Asian Development Bank

D. Diagnostic Assessment

1. Assessment Methodology and Resources

10. The PSSA examines the program's social and environmental management mechanism for consistency with the safeguards policy principles (environment, involuntary resettlement and IPs) of ADB and the Government of Nepal with an aim to minimize program risks and promote sustainable development. The PSSA is prepared following ADB's staff guidance for piloting

results-based lending program⁹ and based on findings of: (i) review of existing national safeguards related legal provisions and regulatory frameworks of the Government of Nepal ; (ii) consultations with central, district and local (school) level stakeholders (including School Management Committee (SMC), teachers, principals, parents and relevant field level stakeholders); (iii) consultation with safeguards specialists of the ADB, World Bank and Japan International Cooperation Agency; (iv) the fact-finding mission of the program; (v) discussion with safeguards focal persons assigned by MOE; and, (vi) lessons learned and gaps identified from the implementation of safeguards in the SSRP.

2. Environment

11. **Policy and Legal Frameworks.** Environmental safeguard in infrastructure development is governed by national environment policy, environment protection act and regulation of the government. The National Building Code and the National Environmental Guidelines for School Improvement and Facility Management guide the integration of environment in school infrastructure development. The government's legal provisions are deemed sufficient for environmental assessment; however their implementation and monitoring is weak due to lack of an adequate institutional mechanism, sufficiency of resources, and lack of capacity. It is proposed to address these deficiencies through a safeguard desk to be established by loan effectiveness and for compliance review reporting to be undertaken on a sample basis annually.

12. **Current practices, gaps identified and mitigation measures.** The EMF prepared for SSRP in 2009 and updated in 2015, provides detailed guidance for integrating environmental and social safeguards during implementation of school rehabilitation and reconstruction works. This is likely to be largely sufficient for implementation of SSDP as well. However, the EMF will be updated and revised as required for SSDP in consultation with the government and other development partners, particularly the World Bank, and disclosed in the MOE website by mid-2017. While the EMF was a robust policy document with detailed provisions and guidance for implementation, there was inadequate monitoring of the use of guidelines at the district and school levels during SSRP. Lack of qualified personnel at national and districts levels to undertake periodic reviews was a constraint. Despite necessary instruments available for environmental safeguard assurance, the institutional mechanism for implementation and monitoring was weak. In SSDP, the agreed implementation arrangements include provision of personnel for management and technical support, including safeguards (prior results disbursement-linked indicator includes implementation arrangements being put in place by loan effectiveness). A safeguards compliance report, based on sample reviews will be provided annually to the joint review missions by development partners. Technical assistance by development partners is likely to include support to strengthening 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 Project (2015). They specify procedures to be followed for land acquisition and compensation. The legal instruments empower the Government of Nepal to acquire any land, on the 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 for land

⁹ ADB. 2013. *Staff Guidance for Piloting Results-Based Lending for Programs*. Manila.

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 program, and use of eminent domain. In general, most of the school building and associated facilities construction 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, there may be a willing seller and willing buyer approach as provided in the Land Administration Act and Land Revenue Act. There will be no involuntary land acquisition for the program through eminent domain.

14. **Current practices, gaps identified and mitigating measures.** In Nepal, land owners, and government institutions have a long tradition to donate land for public welfare 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 the school. In general, the donations process and agreement are being documented to ensure 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 and buyer process has been used in the SSRP. SMCs are responsible to manage the land required for construction and expansion of the school facilities. The MOE has used a similar approach to manage land. In a few cases schools have bought land using willing seller and willing buyer approach. Involuntary acquisition of land is not used. The SMCs carry out consultations from the planning stage of school construction, allowing the beneficiaries and potential 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. There are no practices for expropriation of land for school purposes based on eminent domain. Mostly lands if needed are being managed either by voluntary donation and willing-seller and buyer approach and thus do not trigger involuntary resettlement safeguards requirements. Negotiated settlements (voluntary donation and negotiated settlement to buy land) are handled by the SMCs. However, sometimes, the information of “adequate” and “fair” price of land may not be provided to the affected persons during the negotiation, although the rates are negotiated based on local market rates, which are well known to all stakeholders. There needs to be more systematic documentation and ensuring the legal basis for voluntary land donations to avoid disputes subsequently and to eliminate potential impoverishment due to donation. SMCs need to ensure that voluntary donations do not adversely affect the living standards of affected persons. While legal provisions are fair and just, there are lacunae in the public engagement process, disclosure of information, documentation, and reporting. The program will facilitate a 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 through safeguard compliance review reports on a sample basis annually.

4. Indigenous Peoples

16. **Policy and Legal Frameworks.** Nepal does not have a stand-alone safeguard policy on IPs. Provisions for promoting of IPs’ 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 IPs 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 IP, 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 IPs and involving them in program cycle to ensure their meaningful participation.

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

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

19. **Institutional arrangements.** The MOE and the Department of Education (DOE) are the central level government institutions responsible for planning, implementing and monitoring all program interventions under the SSRP. The MOE is chiefly responsible for making higher level policy decisions, with the DOE as an implementing agency. It is proposed to establish a safeguard desk in the Department of education for SSDP. The desk will take up monitoring and reporting progress on program interventions for environmental and social safeguards, including on the participation of on IPs and vulnerable groups. The key limitations to address overall social safeguard issues are: (i) limited resources (technical and finance), and (ii) lack of experts to address social safeguard issues. Currently, MOE has assigned the Gender and Social Inclusion section as focal unit responsible to look after IPs issues. By loan effectiveness, dedicated personnel will be deployed for program management and technical support, including safeguards monitoring. Technical assistance by development partners will also contribute to strengthening safeguard compliance review and reporting. Annual reports on safeguards compliance review 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 a Grievance Redress Committee (GRC) at SMC and district level. The SMC level GRC comprises five members including the head teacher, parents, community and vulnerable group representatives. The District Education Committee (DEC) works as the district level GRC. The key functions of the GRCs are to: (i) record the complaints; (ii) settle the grievances in a consultative fashion; (iii) report to the aggrieved parties about the decision/solution; and, (vi) forward the unresolved cases to higher authorities. If resolution attempts at the SMC level fail, the SMC will refer the complaints to the District Education Office (DEO) along with the minutes of hearings. There is a provision of central level GRC at the MOE and DOE level. However, the public grievance redress system has not been fully functional due to lack of awareness and capacity. The program envisages the strengthening of the grievance redress mechanism with capacity building at the SMC level and stronger supervision by DEO.

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 including PSSA, EMF, framework for land acquisition through voluntary donation and willing seller and buyer, IP framework and monitoring reports are disclosed in MOE and DOE websites. The documents will be disclosed in a timely manner, in an accessible place and in a form and language(s) understandable to the IPs and other stakeholders.

E. Safeguard Program Actions

22. While the safeguard assessment puts the risks to be moderate, there is scope for strengthening compliance, reporting and capacity development. To that end, 10 program actions are proposed to address 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 joint review missions annually.

Table 2: Safeguards Program Actions

Gap	Proposed Action	Indicator/Targets	Responsibility	Timeframe
Environment				
Improve environmental assessment and monitoring procedure	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 in DOE websites Timely submission of annual environmental compliance monitoring report.	DOE	March 2017 and progress reporting during Review Missions from November 2017 onwards
Involuntary Resettlement and Indigenous People				
Lack of clarity among implementing agency staff on application of criteria, rules, procedures and exclusions	Refine framework of the land acquisition of the SSRP and integrate guidelines for screening, assessment, record keeping, consultations and disclosure. Approval of the IPF	Revised Land acquisition framework circulated to DEO and SMC, and disclosed in DOE websites Approved IPF disclosed in DOE website and disseminated to DEO and SMC by DOE. Annual progress report includes progress and status of safeguard implementation	DOE	March 2017 and progress reporting during Review Missions from November 2017 onwards
Common for Environment and Social Safeguard				
Inadequate institutional arrangements and undefined role for environment and social safeguards	Designate Planning and Monitoring Division for environment and social safeguard monitoring as per SSDP implementation arrangement and assign social and environment safeguard officer at DOE and social and environment safeguards focal person at DEO.	Social and environment safeguard person designated in DOE and DEO with specific terms of reference.	DOE and DEO	Before effectiveness of the program
Inadequate information dissemination and disclosure	Upload safeguards related activities in ADB, DOE and DEO websites. Translate relevant documents related of updated EMF, IPF and voluntary donation of land and negotiated settlement into Nepali and other local languages	Records in web site. Protocol for public disclosure and consultations is developed and put into effect.	DOE and DEO	Continuous during implementation
Inadequate capacity and knowledge on good practices	Conduct orientation and capacity building measures for relevant	The safeguard capacity building trainings are included in capacity	ADB, development partners and DOE for	Annual basis

Gap	Proposed Action	Indicator/Targets	Responsibility	Timeframe
procedures on environment and social safeguards, and land administration	officials at DOE, DEO and school level regarding EMF, IP and IR requirements.	building component of SSDP. Adequate budget allocated for capacity building activities. Orientation and capacity building conducted and training reports submitted.	social safeguard unit. Social safeguard unit for DEO and school level.	
Weak documentation and reporting on environment and social safeguards system	Annual joint missions will review progress on safeguards implementation	Aide Memoire records progress on safeguards implementation.	Development partners and MOE	November of each year.
Less attention on environment and social safeguards related concern by implementing agencies	Establish and operationalize GRC at DOE, DEO and SMC to address safeguard related concerns and issues	Functional GRM at all level and less number of issues and grievances registered.	DOE, DEO, School management committee	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, IP = indigenous people, IR = involuntary resettlement, MOE = Ministry of Education, PSSA = program safeguard system assessment, SMC = School Management Committee, SSDP = School Sector Development Plan, SSRP = School Sector Reform Program.

Source: Asian Development Bank