

Program Safeguard Systems Assessment

October 2014

IND: Supporting Kerala's Additional Skill Acquisition Program in Post-Basic Education

PROGRAM SAFEGUARD SYSTEMS ASSESSMENT

A. Program Environmental and Social Impacts and Risks

1. This program safeguard systems assessment (PSSA) examines the environmental and social safeguards management and compliance system of the Government of Kerala in the context of the proposed Additional Skill Acquisition Program (ASAP). It focuses on the systems and processes of the Department of Higher Education (DOHE), which is the executing agency, the ASAP secretariat, which is the implementing agency, and the Public Works Department, which supervises the civil works for all government departments. The Government of Kerala's environmental and social safeguards systems are compared with the Asian Development Bank's (ADB) Safeguard Policy Statement (SPS) (2009).

2. The impact of the proposed loan will be increased employment of Kerala's youth (aged 15–24 years). The outcome is increased employability of ASAP certificate holders. This will be achieved through the following outputs:

- (i) Output 1: Market-relevant vocational training introduced in post-basic education.
- (ii) Output 2: Access to quality vocational training enhanced.
- (iii) Output 3: Increased awareness and private sector participation facilitated.
- (iv) Output 4: Improved program management and monitoring and evaluation.

3. Output 2 will enhance access to quality vocational training by supporting construction of 35 community skills parks (CSPs) and renovating 30 skill development centers (SDCs) across Kerala. DOHE and the ASAP secretariat have assured ADB that the construction of CSPs will take place entirely within the premises of government departments. No new land will be acquired. No one will be displaced in anticipation of the proposed ADB loan.

4. Between March and September 2014, a team comprising an environment consultant, social safeguards consultant, and an architect-cum-civil engineer visited 15 potential sites identified by the ASAP secretariat for the construction of CSPs to assess their suitability and the likely social and environmental impacts. All the sites are owned by different state government departments (e.g., DOHE, Department of Industries, and Department of General Education). Based on these site visits and consultations with relevant stakeholders, the team determined that the program should be classified as category B for the environment and category C for involuntary resettlement. The program is also classified as category C for indigenous people. The proportion of indigenous people in Kerala's population is negligible (around 1%), and they will not be impacted by the proposed civil works.

5. A review of the Government of Kerala's environment and social safeguards framework, discussions with the Kerala State Pollution Control Board (KSPCB), DOHE, and the ASAP secretariat confirm that the state's systems and implementation procedures are sufficient to manage and mitigate the environmental impact of the civil works. The assessment indicates that the environmental impact of the subprojects (i.e., construction of CSPs and renovation of SDCs) will be minor, and that mitigation measures can be incorporated into the environmental management plans (EMPs). Environmentally sensitive areas will be avoided. Construction of CSPs will begin only after receiving statutory permissions and no objection certificates from the KSPCB. All potential sites for construction of CSPs will be screened using the guidelines and

checklists included in the environmental and social management framework (ESMF).¹

1. Environmental and Social Impacts and Risks

a. Environmental Impacts and Risks

6. The refurbishment of existing SDCs and the construction of new CSPs may cause the following minor environmental impacts:

- (i) **Site clearance and preparation.** No environmental risks exist regarding clearance of sites that are already in use. For sites not in use or new sites, risks include blockage of drains and waterways during site clearance. Vegetation, if not properly disposed of, could spread invasive species, thereby causing environmental degradation. Pools of stagnant water could generate health risks by giving rise to vector-borne diseases. Site clearance could also lead to soil erosion, especially during the monsoon.
- (ii) **Noise generation.** Refurbishment or construction of structures for CSPs will cause some noise, especially during demolition of old buildings and loading, unloading, and transportation of construction materials.
- (iii) **Dust generation.** Demolition of buildings at some CSP locations will generate dust. Loading, transportation, and unloading of debris and new construction material will increase dust levels, which can cause inconvenience and temporary health hazards for communities residing near the site.
- (iv) **Transport.** Transportation of building materials to and from the sites will create noise and dust. If not properly managed, it may damage other buildings and roads.
- (v) **Occupational hazards for construction workers and community.** Construction workers will be exposed to occupational hazards if proper safety procedures are not followed during construction of new CSPs and renovation of SDCs. Once the CSPs are in operation, especially those where vocational courses such as welding or use of heavy machinery are offered, additional safety measures will have to be taken to minimize the possibility of accidents.
- (vi) **Lack of drainage leading to soil erosion, sedimentation, and health hazards.** If not properly handled, gravel, sand, and soil brought into sites for construction work or resulting from demolition of existing structures might be washed off into nearby streams, low-lying areas, and backwaters. This could cause sedimentation that blocks the natural flow of water and degrades habitats.
- (vii) **Contamination of ground and surface water.** Wastewater can contaminate drinking water sources through runoff if not properly channeled into disposal pits or other suitable areas. This risk is particularly high when the wastewater comes from toilets constructed at CSP sites. Groundwater contamination could take place from wastewater generated by the construction camp sites.

¹ Additional Information to Program Safeguard Systems Assessment (accessible from the list of linked documents in Appendix 2).

- (viii) **Waste generation.** All construction will generate debris; if not properly disposed of, debris may pollute adjoining areas, including potentially sensitive sites and residential areas. The lack of proper waste disposal could also block the natural drainage system and create breeding grounds for waterborne disease. Toxic and hazardous waste may be generated during construction due to vehicle maintenance and accidental spillage of fuel or lubricants.
- (ix) **Resource extraction.** The planned construction of new CSPs and upgrading of existing SDCs into CSPs will require material such as sand, clay for bricks, and timber. However, given the relatively small nature of the works envisaged, the resource extraction impacts are not likely to be significant.
- (x) **Damage to aesthetics of site and/or area.** The civil works could lead to adverse impacts on the aesthetics of the site and scenic view. Anticipated aesthetic impairment will be temporary and limited to the construction phase.
- (xi) **Stressed sanitary conditions.** Sanitation and drinking water facilities will be provided during construction phase to avoid unhygienic conditions. All CSPs will be provided with proper washrooms and toilets (separate for boys and girls) and associated waste disposal and sanitation facilities.

7. The short-term construction-related impacts and safeguard risks outlined above can be prevented by adopting standard operating procedures and good construction management practices. These procedures will be outlined in the terms of reference of an initial environmental examination (IEE) report. A sample EMP covering environmental impacts and corresponding mitigation measures is provided in the supplementary linked document (footnote 1).

2. Social Impacts and Risks

8. The program will bring distinct and clear benefits to communities living in the vicinity of the proposed CSP sites.

- (i) **Local development.** The program-initiated physical infrastructure will benefit local students by offering them access to quality vocational training and career counseling close to home. Students (and especially females) will not have to travel to big cities or outside Kerala to obtain vocational training. In addition, the operation of CSPs will also create income and employment opportunities for the local communities in food catering, the supply of routine necessities, and transportation. The CSPs will increase surrounding land values and could generate additional demand for accommodation (for non-local students) and other facilities such as food centers.
- (ii) **Promotion of gender equity.** By offering many vocational courses focusing on the fast-growing services sector, ASAP will open many career opportunities for women, as elaborated in the sector analysis. The establishment of 35 new CSPs across Kerala and upgrading of 30 SDCs will enhance access to quality vocational training and career counseling in relatively undeveloped, remote parts of the state, and enhance access for females.

- (iii) **Regional equity.** The program will improve access to quality training programs across all districts of Kerala.

B. Safeguard Policy Principles Triggered

1. Environmental Safeguard Policy Principles

9. The program is likely to trigger the following environmental safeguard policy principles of the SPS: (i) project screening and categorization; (ii) environmental assessment; (iii) examination of alternatives to project location, design, technology, components, and their potential environmental and social impacts, and documentation of the rationale for selecting particular sites; (iv) EMP; (v) consultation and grievance redress; (vi) disclosure of planning instruments; (vii) monitoring and reporting; (viii) pollution prevention; (ix) occupational and community health and safety; and (x) provide for the use of “chance find” procedures that include a preapproved management and conservation approach for materials that may be discovered during project implementation (footnote 1). The following principles are not triggered:

- (i) **Principle 8.** Do not implement project activities in areas of critical habitats. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (a) alternatives are not available, (b) overall benefits from the project substantially outweigh the environmental costs, and (c) any conversion or degradation is appropriately mitigated. (This principle is unlikely to be triggered as no CSP is planned to be located in an area of critical habitats.)
- (ii) **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. Provide for the use of “chance find” procedures that include a preapproved management and conservation approach for materials that may be discovered during project implementation. (This principle is unlikely to be triggered because a majority of the potential sites have already been used to build schools.)

2. Involuntary Resettlement Safeguards Policy Principles

10. The only involuntary resettlement safeguard policy principle triggered is subproject screening at an early stage to identify past, present, and future involuntary resettlement impact and risks.

3. Indigenous Peoples’ Safeguards Policy Principles

11. No SPS policy principle stated in the indigenous peoples’ safeguards will be triggered because no project-related structure is planned in areas where indigenous people live. The safeguards gap analysis for SPS principles related to social issues is available in a supplementary document (footnote 1).

C. Diagnostic Assessment

1. Assessment Methodology and Resources

12. **Document review.** All relevant policies, laws, and regulations pertaining to environment and social safeguards were reviewed for this PSSA by the environmental specialist and social safeguards consultants fielded by ADB. These include the Environmental (Protection) Act, 1986; Environmental Impact Assessment Notification, 2006; National Rehabilitation and Resettlement Policy, 2007; Right to Fair Compensation in Land Acquisition, Rehabilitation and Resettlement Act, 2013; Forest (Conservation) Act, 1980; and Coastal Regulation Zone Notification, 2011. Discussions were held with state government departments involved in environmental clearances. To understand the focus and goals of ASAP, documents such as the Kerala State Skill Development Preliminary Report, 2012 and ASAP for Kerala, 2012 were reviewed.

13. **Consultations.** Consultations on safeguard issues were held with the ASAP secretariat during the field missions held on March–September 2014. A detailed overview of ADB’s social safeguard policies, as outlined in the SPS (2009), was provided to DOHE and the ASAP secretariat. The consultations stressed importance of safeguards compliance to the executing and implementing agencies. Kerala has received ADB assistance for two previous projects, involving some of the current counterparts; the executing and implementing agencies are generally familiar with ADB safeguard policies,² and have assured ADB that safeguard issues will be closely followed while CSP sites are shortlisted. All sites will be within the existing premises of state government departments, with no land acquisition; will be free of encumbrances; and not in environmentally sensitive locations.

14. During consultations with other stakeholders such as KSPCB, it was agreed that septic tanks will be installed to handle wastewater generated by the CSPs. The KSPCB advised that solid waste collection and disposal from CSPs should be addressed through installation of a biogas plant or by integrating with the solid waste management system of the city or town. Other issues that may be considered, while designing the CSPs, are better ventilation in classrooms and segregation of solid waste. Consultations were held with the principals of the educational institutes where CSPs will be constructed and with communities close to government premises where CSPs are being proposed. The stakeholders are aware of the temporary disturbances and health risks, but fully support the initiative, which will eventually improve the career prospects of local youth and create business opportunities for local people.

15. **Field visits.** As noted above, the team of consultants visited 15 potential CSP sites shortlisted by the ASAP secretariat. The field visits assessed the suitability of the sites for development of CSPs. Some sites were not suitable for CSP construction, but appeared to have been selected by ASAP in accordance with ADB’s environmental and social safeguard guidelines. The site visits helped the ADB consultant team establish parameters for selection of more suitable CSP sites by ASAP.

16. **Program safeguard systems assessment.** In India, the policy and regulatory framework applicable to safeguards has two components: (i) environmental protection laws and procedures and (ii) land acquisition law and resettlement and rehabilitation policies and guidelines. These two components interact and share several safeguard principles found in international safeguards compliance best practices. The Land Acquisition Act, 2013 embodies principles of best international practices pertaining to compensation and other benefits for project-affected families. Other acts that incorporate significant elements of international best

² Kerala has implemented six World Bank projects. Government of Kerala staff, especially from the Public Works Department and the Pollution Control Boards, are fully aware of the safeguard requirements of external development partners.

practices are the (i) Environmental Impact Assessment Notification, 2006; (ii) Forest (Conservation) Act, 1980; (iii) Air (Prevention and Control of Pollution) Act, 1981; (iv) Water (Prevention and Control of Pollution) Act, 1974; (v) Coastal Regulation Zone Notification, 2011; (vi) Noise Pollution (Regulation and Control) Act, 1990; (vii) Ancient Monuments and Archaeological Sites and Remains Act, 1958; and (viii) Notification for Use of Fly Ash, 2003 for building and construction projects.

2. Environment

a. Laws and Regulations

17. The Government of India has enacted the (i) Environment (Protection) Act, 1980 and many associated rules and notifications and (ii) Environmental Impact Assessment (EIA) Notification, 2006, which specifies requirements for (a) environmental assessment of various projects and (b) prior environmental clearance. The proposed civil works fall under the building construction project category (8b) of the EIA notification schedule. However, prior clearance is not required because the CSPs are expected to enclose an area of not greater than 2,000 square meters (m²), far below the 20,000 m² threshold above which a full EIA is automatically required. Other regulations (in addition to those in para. 17) relevant to the civil works are the (i) Municipal Solid Waste (Management and Handling) Rules, 2000 and (ii) Hazardous Waste (Management and Handling) Rules, 1989 (amended). The policies, laws, and regulations governing environmental protection provide a satisfactory framework to ensure the program complies with environmental safeguards. All the relevant acts and rules are applicable to all states and union territories, including Kerala State. In summary, the ASAP framework is robust and equivalent to ADB's SPS (2009).

b. Enforcement, Review, and Grievance Redress

18. The environmental clearance for projects is governed by the EIA Notification, 2006 from the national Ministry of Environment and Forests (MOEF), which divides projects requiring prior environmental clearance into two categories (A and B). Category A projects require clearance from MOEF while category B projects require environmental clearance from state-level EIA authorities, which have been established in each state's Department of Environment. Regional MOEF offices oversee environmental clearance issues during project operations. The regional MOEF office in South India is in Bengaluru, Karnataka.

19. Enforcement of environmental laws and regulations pertaining to air pollution, water pollution, solid waste, and hazardous and biomedical waste management is governed by the State Pollution Control Board, which must give consent to establish an industry. The consent to operate specifies the conditions to be complied with pertaining to emissions, effluents, and solid waste. The consent must be renewed annually. The standards for discharge and other regulations to be followed are established by the Central Pollution Control Board.

20. Complaints related to adverse environmental impacts are received at the industry or project office. Complaints can also be registered with MOEF, State Pollution Control Board, or the Central Pollution Control Board. Received complaints are referred to regional offices, and thereafter to the project authorities, which review the complaint and submit a reply to the complainant either (i) explaining how the problem has been resolved or (ii) by indicating the difficulties involved in addressing the problem and therefore seeking a time extension. The aggrieved party may also submit a complaint to the courts. Complaints normally relate to excessive pollution, damages to surroundings, and degradation of the environment. For this

project, complaints from the public are not anticipated, as CSPs are planned inside school campuses or vacant government lots. The civil works will be on a relatively small scale. No hazardous chemicals or material will be used or discharged during construction. All the required mitigation and protective measures will be included in the EMP. A grievance redress mechanism (GRM) is part of any project supported by development partners such as ADB. It is a bottom-up, multi-tiered structure that begins at the division level and includes the district and national level. The local environmental regulatory framework does not provide for an institutionalized GRM, although government departments have developed their own web sites for complaint submission. The program ESMF (footnote 1) will seek to establish a GRM for program activities at the district and state levels; and outline procedures for the establishment, functions, powers, membership, and budget (if any) of the GRM. The environmental policies, acts, and regulations comprise a national framework for environmental protection and sustainable development. They provide sufficient and comprehensive legal mechanisms to manage and mitigate identified potential safeguard risks associated with the program and comply with ADB's SPS policy principles.

c. Main Gaps Identified Between National Regulatory Framework and the ADB Safeguard Policy Statement (2009)

21. An analysis has been carried out to identify gaps between the national regulatory framework and ADB's environmental safeguards:

- (i) The proposed civil works do not serve as a trigger under the EIA Notification, 2006 because the individual building areas are below than the 20,000 m² threshold, whereas ADB's SPS requires an IEE for such subprojects.
- (ii) Since an EIA is not required under the EIA Notification, 2006, a public hearing is not needed for project implementation. However, since the civil works under the proposed loan has been categorized as Category B, there is a need to prepare an IEE and undertake stakeholder consultation as required.
- (iii) There is no disclosure mechanism for EIA project documents that do not trigger provisions of the EIA Notification, 2006 while the ADB SPS requires disclosure of safeguard documents via the Borrower's and ADB's websites.
- (iv) The EMP is normally not included in a contract in accordance with national and local regulations but the ADB SPS requires an EMP, as part of the contract, and strict monitoring of mitigation measures during the project.

3. Involuntary Resettlement

a. Policies, Laws, and Regulations

22. India's main policies and regulations pertaining to involuntary resettlement include the National Rehabilitation and Resettlement Policy, 2007 and the Right to Fair Compensation in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. These policies and acts embody several internationally accepted principles, including those enunciated in the SPS (2009) (e.g., payment of market value for property acquired and the entitlement of non-titled land users to compensation and resettlement assistance). These acts and polices include a detailed consultation framework and GRM. The current land regulatory framework is largely (80%–90%)

congruent and equivalent with the involuntary resettlement best practices reflected in the SPS. The proposed civil works will not require rehabilitation and involuntary resettlement because only unencumbered sites within state government department premises will be considered for CSP locations. Consequently, issues pertaining to income improvement of poor and vulnerable affected persons, monitoring and assessment of resettlement outcomes and their impacts, and disclosure of resettlement planning documents are not relevant.

b. Enforcement, Review, and Grievance Redress

23. Land acquisition, compensation, and relocation issues are not anticipated during CSP development. The GRM will review complaints regarding inconveniences caused or disturbances experienced by the public during CSP construction and operation. A separate grievance mechanism will be developed by the ASAP secretariat prior to the start of construction activities to address CSP student and/or faculty grievances. All complaints will be recorded through a register maintained at each CSP location and at the ASAP secretariat; complaints will also be accepted through the ASAP website or via email. Project-level mechanisms will be put in place to address complaints and complainants will also have access to the courts to seek redress.

c. Responsibility for Safeguard Compliance of the Program

24. DOHE and the ASAP secretariat will manage the ASAP centers, including addressing safeguard compliance. To ensure effective and timely adherence with environmental and social safeguards during ASAP planning and implementation, a separate safeguards unit will be established under the ASAP secretariat. ADB consultants will provide training on safeguard aspects to ASAP secretariat officers with regard to safeguards application and compliance.

d. Main Gaps Identified Between the National Regulatory Framework and the ADB Safeguard Policy Statement (2009)

25. A gap analysis has identified no major gaps between the national regulatory framework pertaining to social safeguards and ADB's SPS (2009).

D. Safeguard Program Actions

26. The PSSA shows that there are robust environment and social safeguard acts, rules, and notifications frameworks in India, at both the national and state levels (including in Kerala), which are aligned with international best practice. During the diagnostic assessment, the project team observed some gaps between the national regulatory framework and ADB's SPS (2009). The ESMF (footnote 1) fills these gaps. A safeguards officer will be recruited within the ASAP secretariat who will (i) track all potential environmental and social issues that emerge during implementation of ASAP, especially with respect to the CSPs; (ii) screen potential CSP sites for environmental and social impacts; (iii) monitor the work of the contractors and ensure that the CSPs are operated in an environmentally and socially responsible manner; (iv) be responsible for quality, implementation, and monitoring of safeguards plans; and (v) undertake periodic consultations with communities adjoining the CSPs. Planning of remedies and mitigation measures for environmental and social impacts can be done in consultation with the communities, which would enhance their ownership of any mitigation measures. Establishment of the GRM will be helpful in this regard. Complaint proceedings and the outcome of inquiries will be recorded and shared with aggrieved parties.

Environmental and Social Management Framework

Main Gaps	Action to be Taken
The proposed civil works will not attract provisions of EIA Notification, 2006 because individual building areas are less than 20,000 m ² , whereas the ADB SPS requests an IEE for subprojects.	Prepare the framework to incorporate SPS principles and require IEEs for the proposed activities.
Public hearing for subprojects not required.	Conduct public hearings for RBL activities.
The final EIA report for category B projects is normally not disclosed.	Disclose IEEs to the public through the website of the implementing agency.
EMPs are seldom part of the contract documents in the building permit process and implementation of the EMP and monitoring are not ensured.	Include EMP requirement in the contract to ensure implementation of an EMP.

ADB = Asian Development Bank, EIA = environmental impact assessment, EMP = environmental management plan, IEE = initial environmental examination, m² = square meter, SPS = Safeguard Policy Statement, RBL = results-based lending.

Source: Asian Development Bank.

27. Knowledge sharing and training programs will be the key means to increase awareness of safeguards among stakeholders and CSP administrators and faculty. Handbooks, manuals, checklists, and safeguard plans and templates will be prepared in Malayali and English; and distributed at the CSP construction sites and at each of the district or town-level ASAP centers. The training manuals and handouts will be updated periodically by including safeguards planning and compliance experiences.