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**THE INDONESIA INFRASTRUCTURE FINANCE
DEVELOPMENT TRUST FUND (IIFD-TF)**

**ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK
FINAL**

9 March 2016

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LIST OF ACRONYMS

AMDAL	Analisis Mengenai Dampak Lingkungan
ESIA	Environmental and Social Impact Assessment
ADB	Asian Development Bank
BAPPENAS	State Ministry of National Development and Planning
BETF	Bank Executed Trust Fund
BP	Bank Policy
BPN	Badan Pertanahan Nasional
BPJT	Toll Road Management Body
CA	Corporation Agreement
CAP	Corrective Action Plan
CMEA	Coordinating Ministry of Economic Affairs
CNH	Critical Natural Habitats
CSO	Civil Society Organizations
DFATD	Department of Foreign Affairs and Trade Development
DFAT	Department of Foreign Affairs and Trade
DUC	Dam Under Construction
EA	Environmental Assessment
EAAIG	East Asia and Pacific Australian Aid Infrastructure for Growth
EHS	Environment Health and Safety
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ES	Environment and Social
ESIA	Environmental Social Impact Assessment
ESMF	Environmental and Social Management Framework
FS	Feasibility Study
GCA	Government Contracting Agency
GOC	Government of Canada
GOI	Government of Indonesia
GPM	Grievance Redress Mechanism
GPs	Global Practices
IDR	Indonesian Rupiah
IIFD	Indonesian Infrastructure Finance Development
IIF	Indonesia Infrastructure Finance
IIGF	Indonesia Infrastructure Guarantee Fund
ILRC	The Indonesian Legal Resource Center
INDII	Indonesia Infrastructure Initiative
INIS	Indonesia Infrastructure Support
IP	Indigenous Peoples
IPM	Integrated Pest Management
IPP	Indigenous Peoples Plan

IPPF	Indigenous Peoples Planning Framework
ISDS	Integrated Safeguards Data Sheet
JICA	Japan International Cooperation Agency
KKPPI	Inter-Department Coordination Body
PIPIB	Moratorium Map
PPP	Public Private Partnership
PPP UNIT	Government-Private Collaborative Unit
LARAP	Land Acquisition and Resettlement Action Plan
LAT	Land Appraisal Team
LAC	Land Acquisition Committee
LPPSE	Social Research and Development Institution
MIC	Middle Income Economy
MOF	Ministry of Finance
MPA	Metropolitan Priority Area
MRT	Mass Rapid Transport
NGO	Non Governmental Organization
NOL	Non Objective Letter
OBC	Outline Business Case
OP	Operational Procedure
PCR	Physical Cultural Resources
PDF	Project Development Facility
PDO	Project Development Objectives
PERPRES	Presidential Regulation
PID	Project Information Document
PIP	Project Implementation Plan
PLN	State Electricity Company
PMP	Pest Management Plan
PPP	Public Private Partnership
QPO	Quarter Project Reports
RFP	Request for Proposal
RKL	Environment Management Plan
RPL	Environment Monitoring Plan
SIAP	Sustainable Infrastructure Assistance Program
SOE	State Own Enterprise
SOP	Standard Operating Procedures
TA	Technical Assistance
TOR	Terms of Reference
UKL-UPL	Environmental Management and Monitoring Effort
VGf	Viability Gap Funding
WB	World Bank
WBS	World Bank Safeguards

EXECUTIVE SUMMARY

The IIFD Project is designed to develop operational, ready-to-implement next-steps toward a robust infrastructure and PPP financing market in Indonesia. Among other things, the Project will clarify specific legal and regulatory provisions and corresponding operational policies and procedures; enhance inter-agency coordination and develop skills and capacity of national level agencies (MOF; KPPIP; Bappenas; Coordinating Ministry of Economic Affairs (CMEA) and Government Contracting Agencies (GCAs) vis-à-vis public sector and PPP financing of infrastructure; and help prepare a small number of well-structured PPP projects for market bidding.

The scope of IIFD support to MOF on PPP transactions is limited specifically to facilitating FS preparation for a small number of pilot transactions, including screening and preliminary assessments by the PPP Unit, as well as supporting GCAs through transaction advisory on bringing well-structured, financially, technically, environmentally and socially viable transactions to market bidding. Transaction advisory will involve funding professional financial and legal advisors on transaction structuring, as well as technical advisors to review the preliminary technical designs developed by government. The IIFD project activities will end upon issuance of the RFP. The Project aims to be catalytic and will assist GoI in developing its capacity and in mainstreaming international best practices in PPPs – including on social and environmental impact management. The project will not support the development of detailed project designs nor investments in infrastructure.

Since this IIFD project is funded by a Grant from the World Bank, its Operational Policies are applicable, as relevant, to all project activities. Thus, this ESMF provides guidance to the Ministry of Finance PPP Unit and the GCAs in applying the Government of Indonesia Law and Regulation pertaining safeguard and World Bank Safeguard Policies. Additionally the potential PPP projects considered for IIFD support will follow Perpres No 38, 2015, and as such the PPP Unit will consider up to 5 proposed eligible projects for review, in varying states or preparedness and in varying locations and situations.

This ESMF lays out the procedures, roles and responsibilities for the PPP Unit and GCAs to identify, avoid and/or mitigate the social and environmental associated with PPP development in accordance with the World Bank safeguard policies and applicable Indonesian law. The ESMF sets forth and details the procedures to be followed by the PPP Unit for screening feasibility studies proposal and decide the level of social and environmental analyses based on the likely magnitude of potential impacts (according to the World Bank safeguards categorization). Generic terms of reference are presented to assist PPP Unit and GCA to assist the preparation of Terms of Reference for social and environmental assessments under the Feasibility Studies/RFP. Final terms of reference will be reviewed and approved before tendering to ensure quality and adherence to World Bank safeguard policies and Indonesian regulations.

References to regulations, checklists, frameworks, and standard required content for reports, supporting documents, and rapid decision making tools with examples, are presented throughout the document and in the appendices.

As a guide for to promote the adoption of best practices in infrastructure development the World Bank Safeguard Policies are listed as a reference for the PPP project developer. So are a few social frameworks, that although not applicable to the Project in itself can serve as reference for GCA when considering future PPP project development after the life of this project. This aims to promote a robust environmental and social concerns mainstreaming at planning, transaction and implementation stages. This ESMF will end upon the Project issues the RFP.

This ESMF concludes with a consideration for the capacity, training and budget needs for effective implementation with the 5 PPP pilot projects. All budgets are estimates, as the costs will vary contingent on the size and scope of the proposed PPP project activity.

This ESMF has been prepared by the MOF/PPP Unit. Consultation of the TORs and Draft Report were conducted by the client on December 21, 2015 and January 21, 2016 respectively. The Draft ESMF was disclosed on the client's website on January 28, 2016.

1.0 INTRODUCTION

1.1 BACKGROUND

1. Infrastructure development through the Public Private Partnership (PPP) in Indonesia has gone through a long process and has evolved into more conducive situation in responding challenges and constrains. Since the launched of the PPP and Infrastructure Summit in 2004, and establishment of the umbrella of PPP regulation (Presidential Decree No. 67/2005), PPP program has moved towards significant efforts to contribute to the development of infrastructure in Indonesia. There are several facilities that have developed, including the establishment of the Inter-Department Coordination Body (KKPPI) in 2005 and the MOF's Risk Management Unit in 2006, establishment of the Indonesia Infrastructure Guarantee Fund (IIGF) in 2009, and the Indonesia Infrastructure Finance (IIF) facility in 2010. Those facilities are mostly target greenfield investments. To fill the gap of a non-greenfield investments, a Viability Gap Financing (VGF) was established in 2012. Recently, the government has transformed the KKPPI to be the National Committee for accelerating the Indonesia infrastructure priority projects (KPPIP) with a larger mandate for infrastructure acceleration in July 2014 including the establishment of MOF PPP Unit in January 2015.

2. The GOI realizes the importance of private participation in accelerating infrastructure development, considering the limitation of the government in funding the infrastructure needs. Based on estimation of infrastructure funding needs in 2015-2019, the government is only able to fulfill one-third of total infrastructure funding needs, which is about IDR 1,433 trillion out of IDR 4,796 trillion in total¹. The remaining two-thirds is expected to come primarily from the private sector and, to a lesser extent, SOEs. These investments from the private sectors and SOEs, which can involve international funding sources, are expected to bring along additional sets of requirements, including international best practices for environmental and social impact management, to be fulfilled by the PPP projects in Indonesia. Both the public and private parties, within the PPP scheme, will need to comply not only with the Indonesian regulations on environmental and social, but also International Guidelines/Standards.

3. The Indonesian Infrastructure Finance Development (IIFD) project supported by a grant from the World Bank is designed to support the Ministry of Finance PPP unit in developing operational, ready-to-implement next-steps toward a robust infrastructure and PPP financing market in Indonesia. The Project will clarify specific legal and regulatory provisions and corresponding operational policies and procedures; enhance inter-agency coordination and develop skills and capacity of national level agencies (MOF; KPPIP; Bappenas; Coordinating Ministry of Economic Affairs (CMEA)) and Government Contracting Agencies (GCAs) vis-à-vis public sector and PPP financing of infrastructure; and help prepare a small number of well-structured, environmentally and socially sound PPP projects for market bidding.

4. The scope of IIFD support to MOF on PPP transactions is limited specifically to facilitating FS preparation for a small number of pilot transactions, including screening and preliminary assessments by the PPP Unit, as well as supporting GCAs through transaction advisory on bringing well-structured, financially, technically, environmentally and socially viable transactions to market bidding. Transaction advisory will involve funding professional financial and legal advisors on transaction structuring, as well

¹ The Ministry of National Development Planning/National Development Planning Agency. Public Private Partnership Infrastructure Projects plan in Indonesia. 2015

as technical advisors to review the preliminary technical designs developed by GCA. The IIFD project activities will end upon issuance of the RFP.

5. This document presents the Environmental and Social Management Framework (ESMF) for the IIFD project. It is meant to provide guidance to the Public Private Partnership (PPP) Unit operations within the Ministry of Finance (MoF) and GCAs for the preparation of social and environmental studies and review of deliverables at the different project phases, i.e. Feasibility Studies and Transactions Advisory. This document also present the guideline for GCA to develop safeguard instruments moving forward during the implementation phase. Although the IIFD project will not finance implementation of those safeguard instruments.

1.2 OBJECTIVE AND RATIONALE of THE ESMF of IIFD

6. The objective of this ESMF is to ensure that all FS and transactions that receive the funding support as one of possible pilot programs, are compliant with the applicable social and environmental requirements of Indonesia law and to the World Bank Safeguards Policies. The requirement of meeting the World Bank's operational policies, including safeguards, is part of the standard conditions for financing of this international organization, of which Indonesia is a member. The documents structure and scope are presented the in the next section.

1.3 SCOPE AND METHODOLOGY

1.3.1 Scope for the ESMF

7. The ESMF is prepared to identify, avoid, reduce, and mitigate the risks of the potential social and environmental impacts on the proposed PPP projects. It provides guidance for the MoF PPP unit in: screening proposals for Feasibility Studies (providing an ineligible activities that cannot be supported either because of Indonesian Legislations or World Bank Operational Policies), guidance for the preparation of Terms of Reference for social and environmental studies under the Feasibility Studies; guidance on the inclusion of social and environmental aspects into Requests for Proposal, including the Terms of Reference of detailed social and environmental assessments to be carried out after bid awards. Flowcharts in the text describe the discrete steps for the abovementioned activities and the roles of GCAs, PPP Unit and World Bank in respectively preparing, reviewing and approving project documents.

8. The ESMF was prepared in line with the World Bank's Operational Policy (OP)/Bank Procedure (BP) 4.01 - Environmental Assessment (EA), and in accordance with Indonesian National Laws and Regulations. Any activity funded by IIFD will be implemented in reference to the principles of sustainable development, including environmental, social, cultural, and economic considerations, as already governed in prevailing laws and regulations. This ESMF adopted the Government of Indonesia's laws and regulations to the extent that they are consistent with the World Bank Safeguard Policies (OP 4.01, OP 4.04, OP 4.36, OP 4.11, OP 4.10, OP 4.12, OP 4.37, and OP 7.50). Specific provisions have been included in this ESMF to ensure the aspect of the Bank policies that are not fully covered through Indonesian laws and regulations and addressed.

9. Project area of influence: The area likely to be affected by the Project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments induced by the Project (e.g., spontaneous settlement, logging, or shifting agriculture along access roads). The area

of influence may include, for example, (a) the watershed within which the project is located; (b) any affected estuary and coastal zone; (c) off-site areas required for resettlement or compensatory tracts; (d) the airshed (e.g., where airborne pollution such as smoke or dust may enter or leave the area of influence; (e) migratory routes of humans, wildlife, or fish, particularly where they relate to public health, economic activities, or environmental conservation; and (f) areas used for livelihood activities (hunting, fishing, grazing, gathering, agriculture, etc.) or religious or ceremonial purposes of a customary nature. In addition, the project area of influence will also include linked project.²

10. The ESMF covers the following contents:

- Executive Summary;
- Introduction. This contains project background, objectives and rationale for the ESMF, and scope and methodology used to develop the ESMF;
- A description of project, anticipated type/sector of investment projects, and types or activities that will be excluded from the Project support, project coordination/implementation arrangements, annual review or reporting requirements, etc.;
- Environmental and Social Safeguard Screening: describing process to screen environmental and social impacts of the Project activities that include:
 - Ineligible activities for funding and process to screen ineligible activities;
 - Process to identify EA category of proposed activity;
 - Process to screen safeguards policies triggered; and
 - Process to identify specific-safeguards instruments to be prepared for each investment project especially pilot demonstration project as part of the FS package, timing of preparing these safeguard instruments; requirements for consultation and disclosure of these instruments, etc.;
- Environmental and social screening to develop Request for Proposal during the Transaction Phase, which include requirements to satisfy World Bank Safeguard Policies. The guideline for RFP development will include how to prepare environmental documents (AMDAL/ESIA/UKL-UPL) and social documents (LARAP, IPP, action plan from the process framework).
- A description of institutional, policies and legislative frameworks at national, local and international conventions applicable to the project. This includes World Bank Safeguard Policies and regulations applicable to the project, including the implementation problems considerations and best practice solutions.
- Sections addressing the requirements of individual safeguard policies applicable to the project. This include sections addressing requirements of:
 - Environmental Assessment (OP/BP 4.01);

² Linked activities, regardless of financing sources that are: (i) Directly and significantly related to the IIFD project; (ii) Necessary to achieve the objectives of the subproject; and (iii) Carried out, or planned to be carried out contemporaneously with the subproject.

- Natural Habitats (OP/BP 4.04);
 - Forests (OP/BP 4.36);
 - Physical Cultural Resources (OP/BP 4.11);
 - Indigenous Peoples (OP/BP 4.10);
 - Involuntary Resettlement (OP/BP 4.12);
 - Safety of Dams (OP/BP 4.37); and
 - Projects on International Waterways OP/BP 7.50.
- Guidance for incorporating environmental and social considerations into the FS study e.g. option analysis study, site selection study etc and the RFP.
 - Consultation plan and disclosure methods of the ESMF;
 - Institutional Assessment and Project Implementation Arrangements for implementing the ESMF: describe assessment of institutional capacity to manage and monitor ESMF implementation, including other agencies that have mandate for managing environmental and social concerns;
 - Capacity building and joint training program the institutions responsible for implementing the ESMF;
 - Budget for implementing the ESMF; and
 - Appendices.

1.3.2 Methodology

11. The ESMF was developed through the following steps and methodology:

- **Document review.** The following documents were reviewed during the preparation of ESMF:
 - Project Appraisal Document for a Proposed Trust Funded Grant in the Amount of US\$ 8.28 Million for the Republic of Indonesia for the Indonesia Infrastructure Finance Development (IIFD). International Bank for Reconstruction and Development. 2016;
 - Combined Project Information Documents/ Integrated Safeguards Data Sheet (PID/ISDS). Appraisal Stage. 04 November 2015;
 - World Bank Safeguard Policies and relevant Indonesian legislations;
 - PPP Unit Business Process. World Bank. December 2015; and
 - Terms of Reference. Advisory Services to help Setting up the Safeguard Framework in MOF's PPP Unit, Indonesia Infrastructure Finance Development Project, 2015.
- **Discussions to develop the draft of the ESMF.** Discussions were held between parties involved in the preparation of this ESMF. Parties involved in the discussions include:

- The World Bank Team (Infrastructure team, Environmental and Social Safeguard Specialist, Safeguard Coordinator);
 - Ministry of Finance (Office of Director of Government Support and Infrastructure Financing/PPP Unit, the Directorate General for Risk Management and Financing, Ministry of Finance); and
 - PT Hatfield Indonesia.
- **Public Consultation.** The ESMF has gone through twice public consultations. First public consultation was held in December 21, 2015 to obtain public's comments on the ESMF's TOR. Second public consultation was held in January 21, 2016 for the draft of the ESMF.

2.0 IIFD PROJECT DESCRIPTION

12. The Project is designed to develop operational, ready-to-implement next-steps toward a robust infrastructure and PPP financing market in Indonesia. Among other things, the Project will clarify specific legal and regulatory provisions and corresponding operational policies and procedures; enhance inter-agency coordination and develop skills and capacity of national level agencies (MOF; KPPIP; BAPPENAS; Coordinating Ministry of Economic Affairs (CMEA)) and Government Contracting Agencies (GCAs) vis-à-vis public sector and PPP financing of infrastructure; and help prepare a small number of well-structured PPP projects for market bidding.

13. The scope of IIFD support to MOF on PPP transactions is limited specifically to facilitating FS preparation for a small number of pilot transactions, including screening and preliminary assessments by the PPP Unit, as well as supporting GCAs through transaction advisory on bringing well-structured, financially, technically, environmentally and socially viable transactions to market bidding. Transaction advisory will involve funding professional financial and legal advisors on transaction structuring, as well as technical (including social and environmental) advisors to review the preliminary technical designs developed by government. The IIFD project activities will end upon issuance of the RFP. The Project aims to be catalytic and will assist GOI in developing its capacity and in mainstreaming international best practices in PPPs – including on social and environmental impact management. The project will not support the development of detailed project designs nor investments in infrastructure.

2.1 IIFD PROJECT COMPONENTS

14. The Project has four components, i.e.: strengthening individual agencies; legal and regulatory considerations; project selection, preparation and transaction; and inter-agency coordination.

2.1.1 Component 1: Strengthening Individual Agencies

15. Component 1 of the Project concerns establishing the PPP Unit and other key entities in the PPP framework including KPPIP as fully functional, capable of assuming the technical, coordinative and knowledge responsibilities expected. This also includes support for the GCAs to produce high quality Outline Business Case (OBC) for submission to BAPPENAS, and better selection criteria resulting in more efficient investment projects as selected by BAPPENAS. The IIFD will further help GCAs make better use of the PDF, and other PPP supporting instruments run by MOF. The Component will also contribute to better capacity in government agencies involved in the selection and prioritization of PPP projects. This Component will also support the establishment of operational and business processes (incl. SOPs) as well as support capacity building on relevant subjects, e.g. economic-financial analyses, social and environmental impact management. This will include trainings, twinning arrangement and secondments of staff across concerned agencies both in central and local level as defined in the ESMF.

2.1.2 Component 2: Legal and Regulatory Considerations

16. Component 2 will contribute to improving the legal and regulatory frameworks underpinning PPPs in Indonesia, among other things, by: (i) providing advice for revisions, amendments and/or replacement legislation (s) required to improve the regulatory environment supporting PPPs in relevant Indonesian infrastructure sectors (e.g. Presidential Regulation No. 38/2015, related to sector regulations in Public Works, Transportation, Energy); and (ii) implementing the recommendations from

the regulatory review on the broader infrastructure policy, linked to the national investment priority, focusing on access to long term finance resources from the national and international markets.

17. ESMF will provide general environmental and social safeguard guidance for infrastructure sectors, required sectoral international/national standards (e.g., environmental standards for energy sector, transportation, water supply, etc.). And also to eventual proposals for legal and regulatory changes (e.g., land acquisition law).

2.1.3 Component 3: Project Selection, Preparation and Transaction

18. Activities under this Component will be critical to the overall success of the Project as they directly support the speed, quality and efficiency of the PPP deal pipeline and flow, and build upon the intra-agency capacity building activities under Component 1. This Component captures the range of technical support needed to move a PPP project from concept stage through implementation, and will ensure a select set of promising pilot projects to use for a successful demonstration effect. The scope of IIFD support to MOF will specifically involve facilitating FS preparation for up to five pilot projects transactions, including screening and preliminary assessments by the PPP Unit, as well as working with GCAs on bringing well-structured, financially, technically, environmentally and socially viable transactions to market bidding. Transaction advisory will include funding professional financial and legal advisors on transaction structuring, as well as technical advisors to review the preliminary technical designs developed by GCAs. The IIFD project activities will end upon issuance of the RFP.

19. The ESMF will mainly support this Component 3 and will provide necessary guideline during the FS to ensure its compliance with the World Bank's Safeguards Policy related to environmental, social aspects. The ESMF will also provide recommendation and guidance on how the AMDAL/ESIA/UKL-UPL/LARAP/IPP/Action plan from the process framework will be prepared, in a way to be able to meet both Indonesian standards and the World Bank Safeguards Policy.

2.1.4 Component 4: Inter-Agency Coordination

20. This Component will support, inter alia, workshops, meetings and recurrent costs, to facilitate coordination among government stakeholders directly involved in PPP development in Indonesia. Based on the detailed review of existing inter-agency / institutional arrangements and best practice for PPPs, a key activity under this Component will be to support GOI in clarifying and strengthening the roles and responsibilities of relevant agencies working on infrastructure development, and enabling better coordination.

21. The ESMF describes the roles and responsibilities for GOI stakeholders involved in PPPs related to environmental and social requirements.

2.2 INDICATIVE SAFEGUARDS INSTRUMENTS REQUIRED BY IIFD

22. IIFD containing four components as described in Section 2.1.1 to 2.1.4 requires World Bank Safeguard Policies to be applied. Indicative safeguards instruments required is presented in Table 1 below.

Table 1 **Indicative safeguard instruments required for the IIFD project.**

IIFD Project Component	Potential Environmental and Social Implications	Indicative EA Category of possible projects	Indicative of Instruments to be Prepared Prior to Appraisal or During Implementation (as appropriate for the specific project)
Component 1: Strengthening Individual Agencies	These activities usually do not have potential adverse environmental and social implications or risks	C	None
Component 2: Legal and Regulatory Considerations	These activities usually do not have potential adverse environmental and social implications or risks	C	ESMF
Component 3: Project Selection, Preparation and Transaction	These types of activities may have significant down-stream impacts. Each of the proposed infrastructure investments must be screened (like in any Bank financed investment lending operations) for its potential social and environmental impacts to identify/define: (a) safeguards policies triggered; (b) EA category; (c) safeguards instruments to be prepared during preparation of engineering designs; and (d) consultation and disclosure requirements. ³	A or B	ESMF.
Component 4: Inter-Agency Coordination	These activities usually do not have potential adverse environmental and social implications or risks	B or C	None

2.3 INSTITUTIONAL ARRANGEMENTS OF IIFD

2.3.1 Implementing Agency

23. The Indonesia PPP unit within MOF will be the Implementing Agency for the Project. The PPP Unit is responsible for the day-to-day implementation of IIFD in a manner to achieve the IIFD PDO. The PPP Unit is also responsible for preparing all reports required by the WB for the Project. The PPP Unit will be guided by the Procurement Plan and estimated annual expenditure envelopes.

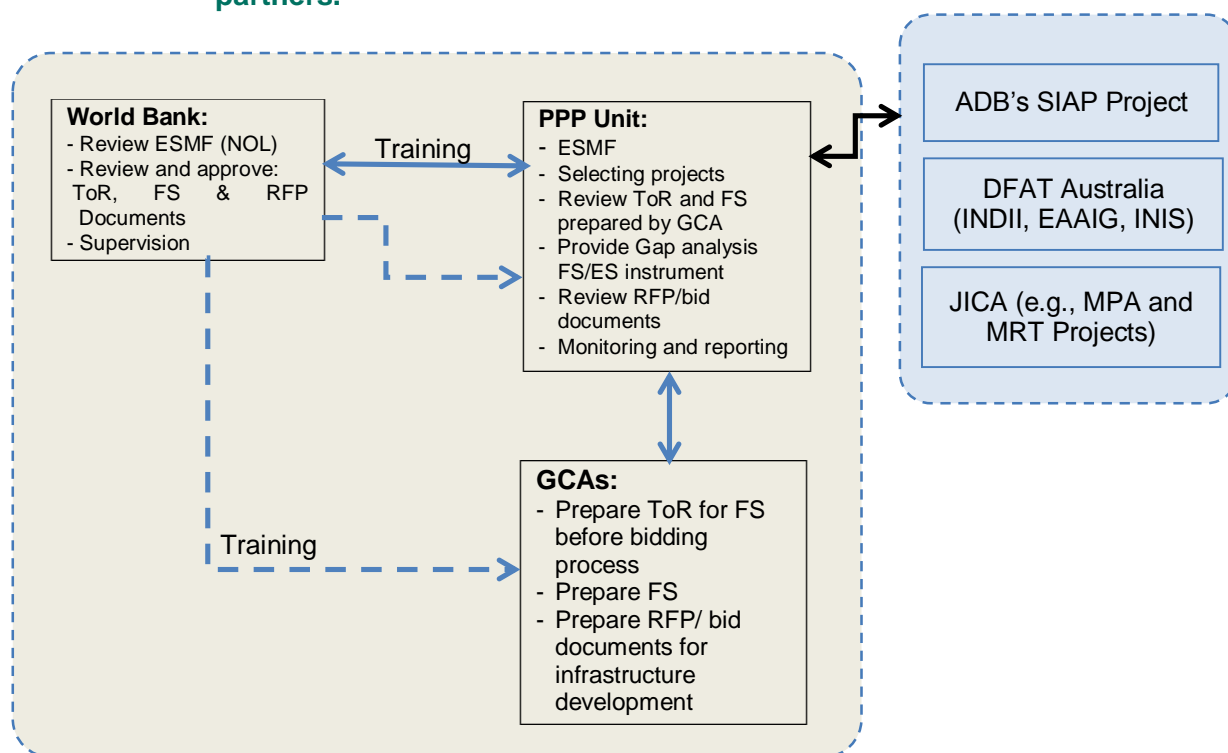
24. The WB Task Team will conduct supervision missions of the Project and the PPP Unit on a regularly scheduled basis. The PPP Unit will also submit to the WB on a regularly scheduled basis an annual work plan and budget plan describing activities throughout the year in line with the four Project Components. During the supervisions missions, the WB Task Team will approve these submitted plans and budgets. In addition, the PPP Unit will submit on a regularly scheduled basis the updated procurement plans and Quarter Project Reports (QPR) that report in a structured manner the activities

³ In the case of TA in support of *feasibility studies*, it may be premature to prepare a full suite of safeguard instruments by appraisal or even during implementation of the TA Project. Instead, it may be appropriate to ensure that TORs for the studies are agreed with PPP Unit to ensure that relevant environmental and social issues are taken into account in conducting the studies in a manner that reflects the principles of Bank safeguards covered in the ESMF.

and progress made by the PPP Unit, which the WB Task Team will review and discuss during the supervision missions.

25. PPP Unit within the MOF will coordinate with the GCAs for the pilot project TOR FS preparation for bidding, preparation of the Feasibility Study document, and preparation of bid document (RFP) for the pilot infrastructure projects. Relationship between PPP Unit, World Bank and the GCA and each role in this IIFD is described in Figure below:

Figure 1 Arrangement between relevant stakeholders within the IIFD and other partners.



26. Roles and responsibility of each institutions in implementing ESMF is explained as follows: (1) TOR for Feasibility Study (will be prepared by PPP Unit and will be approved by the Bank, during Preparation Phase); (2) Feasibility Study (will be prepared by GCA with the support from IIFD, during Preparation Phase, to be reviewed and approved by the Bank); (3) Gap analysis report for Pre-FS and FS (will be prepared by PPP Unit during Preparation Phase, to be reviewed by the Bank); (4) Gap analysis report for AMDAL/UKL-UPL/LARAP/IPP/Action plan from the process framework (will be prepared by PPP Unit during Transaction Phase, to be reviewed by the Bank); and (5) RFP for environmental documents (AMDAL/ESIA/UKL-UPL) and social documents (LARAP/IPP/Action plan from the process framework) (will be prepared by PPP Unit during the Transaction Phase, and reviewed and cleared by the Bank).

27. To further develop safeguards related knowledge and capacity among responsible parties at the PPP Unit and MOF for the Project, the World Bank will deliver a comprehensive safeguards training workshop to further build the staff's knowledge and capacity to apply and comply with WB safeguard policies, in particular preparing Term of Reference for the feasibility study itself and safeguard instruments requirements for the RFP. The PPP Unit will hire a full time Environment and Social Safeguard Specialists to ensure that the FS/RFP complies with WB safeguards policies as covered in

the ESMF. The World Bank will provide ongoing training on safeguards policies and management throughout the life of the Project to the PPP Unit.

2.3.2 Other Partners

28. Activities under the Project will coordinate with relevant and related work being undertaken by other donors, as well as that undertaken within the WB Group. Among external partners, IIFD activities will complement ADB's support to the KPPIP's secretariat operation, as well as its Sustainable Infrastructure Assistance Program (SIAP). IIFD activities will also coordinate with work undertaken by bilateral, including DFAT Australia's program (through various TFs, including the Indonesia Infrastructure Initiative (INDII), East Asia and Pacific Australian Infrastructure for Growth (EAAIG) TF, and Indonesia Infrastructure Support (INIS)) that are supporting GOI to enhance infrastructure policy, planning and investment in the ports sector (TA for preparation of Makassar Port FS for PPP), and roads (TA to DG Highway of Ministry of Public Works on Performance Based framework). The Japan International Cooperation Agency (JICA) has a master program through the Metropolitan Priority Area (MPA), which include Mass Rapid Transportation (MRT), wastewater management PPPs, and some urban transport. Currently JICA is providing support to KPPIP for its revitalization, and to the PPP Unit for developing an Annuity Payment Scheme for infrastructure projects – all of which align well with IIFD. Within the WB Group, IIFD will work coordinate across Global Practices (GPs) on their respective work in energy, maritime, tourism and national infrastructure engagement areas, as well as with IFC which is offering support to KPPIP in screening 10 airports projects as PPPs.

2.4 PROJECT PHASE, ACTIVITIES, SCREENING AND APPROVAL PROCESSES of IIFD

29. The proposed IIFD project will support the preparation of feasibility studies (FS) and requests for proposals (RFP) for potential PPP projects. The Project aims to be catalytic and will assist GOI in developing its capacity and in mainstreaming international best practices in PPPs – including on social and environmental impact management. The Project will not support the development of detailed project designs nor investments in infrastructure.

30. The PPP project phases can be divided into four phases, i.e., preparation phase, transaction phase, bid award, and construction/implementation phase. IIFD will only provide support until the development of RFP during the transaction phase.

2.4.1 Preparation Phase

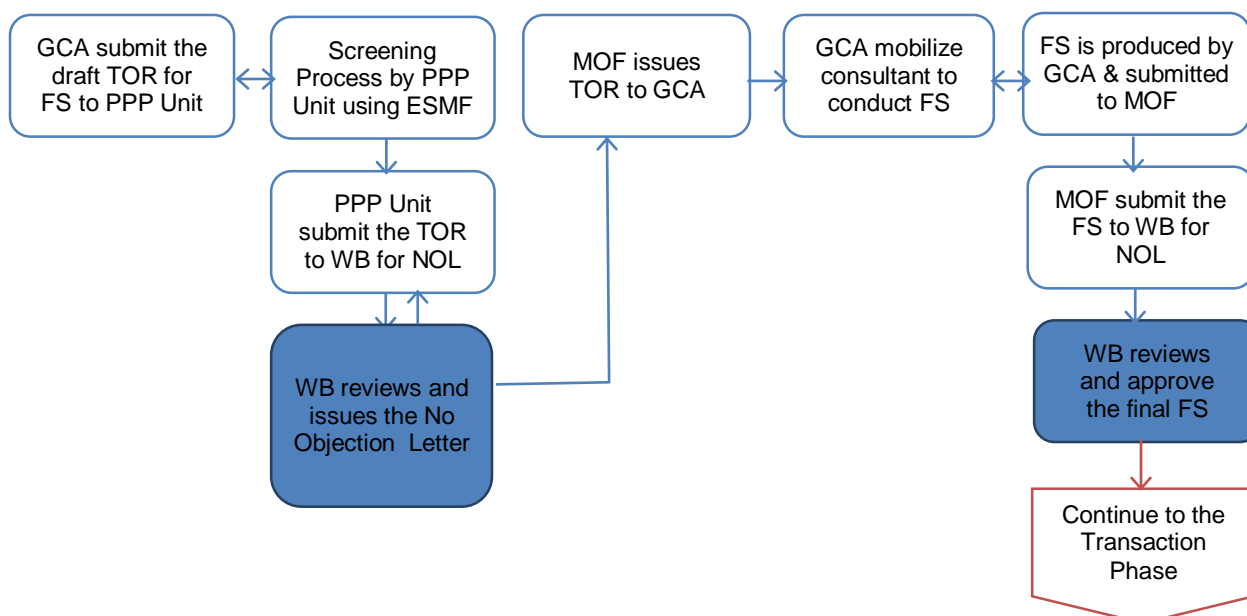
31. Preparation phase is the planning stage, where PPP Unit will select infrastructure project, conduct screening assessment, develop the TOR for Feasibility Study, support the GCA in the development of FS. ESMF will provide PPP Unit with a set of tools to conduct preliminary environmental and social screening, which consists of project eligibility assessment, project categorization, guideline to develop TOR FS including Environmental and Social aspect (refer to Appendix A2), and guideline to help GCA in preparing the FS.

32. PPP projects may be applied to PPP Unit in different condition, as follows:

- No ES data, and no compliance material developed; and
- Has completed Pre-FS/FS document and/or initial environmental and social assessment.

33. General flow for the Preparation Phase is presented in Figure 2 below:

Figure 2 Preparation Phase.



2.4.1.1 Project Selection

34. Selection of infrastructure project supported by IIFD will be based on the level of priority defined by the MOF. Project with a high level of priority will be selected and will be channeled to PPP Unit to receive IIFD support.

35. Infrastructure PPP projects that may be supported by IIFD will involve one of the following types of sectors, as specified in Presidential Decree No. 38/2015 and No. 3/2016:

- Transportation infrastructure for airport services, harbour services, and railroad facilities;
- Road infrastructure (toll roads and toll bridges);
- Irrigation infrastructure (ducts for raw water);
- Drinking water infrastructure (supply, transmission, distribution, treatment);
- Wastewater infrastructure (collection, conveyance, treatment);
- Solid waste management infrastructure (transportation and disposal facilities);
- Telecommunications and informatics infrastructures (telecommunication networks and e-government infrastructure);
- Electricity infrastructure (generation, transmission, distribution – including geothermal); and
- Oil and natural gas infrastructure (oil and natural gas transmission and distribution).

2.4.1.2 Screening/Project Categorization

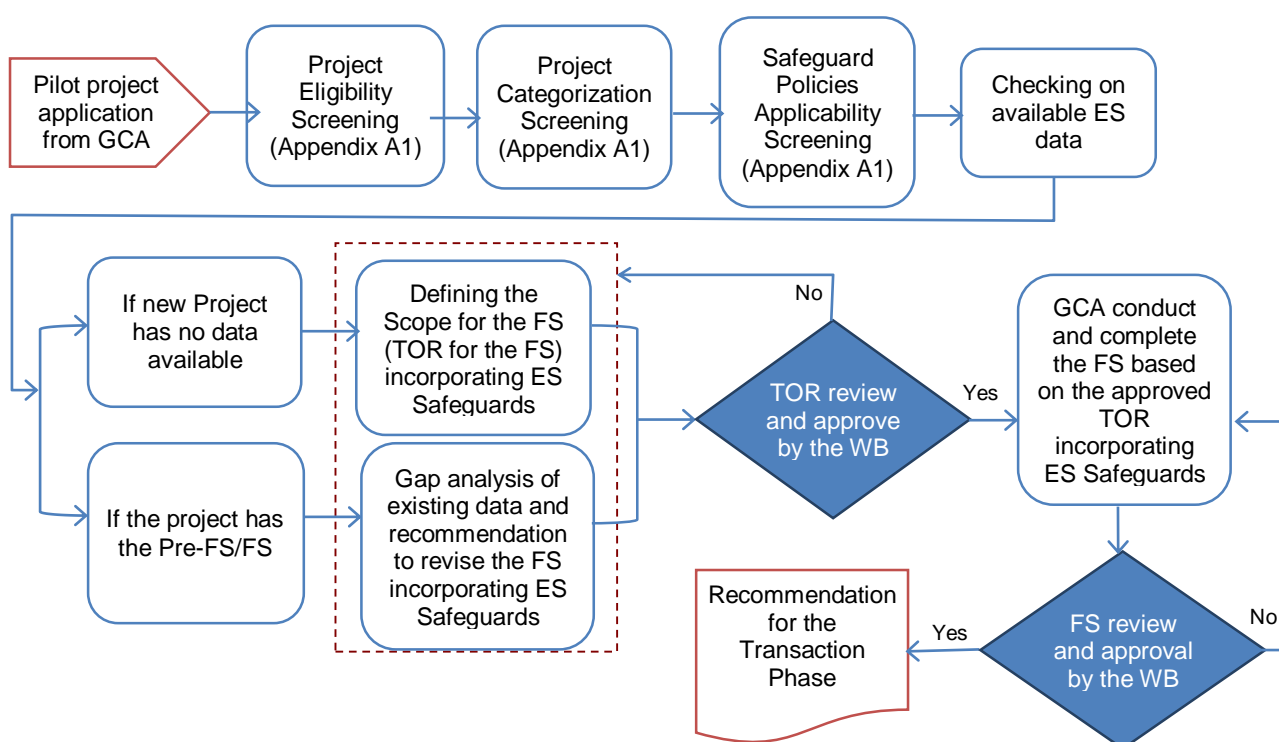
36. During the project preparation phase, the PPP Unit will receive TOR for PPP project proposals from the GCA and will screen them in accordance with the ESMF, for potential social and environmental

impacts. The Bank will review and approve the Terms of Reference and final deliverables for the Feasibility Studies to ensure that they comply with World Bank safeguard policies, objectives and requirements as covered in the ESMF.

37. GCA will revise the TOR for FS after receiving comments from the PPP Unit. In the case that the PPP project submitted by the GCA already has the FS document, PPP Unit will conduct a gap analysis of the Pre-FS/FS in accordance to this ESMF. GCA will need to address comments from the PPP Unit related to the gap analysis that has been reviewed by the Bank and will resubmit to the PPP Unit.

38. The screening and approval process can be described in the flow chart below:

Figure 3 Flow chart showing the screening and approval process for ES components.



Project Eligibility Screening

39. Assessment on project eligibility will occur during the Preparation Phase. When GCA submits the project application, PPP Unit will conduct the first screening on its eligibility. The Exclusion List is presented in Appendix A1 and is used to screen project eligibility.

40. PPP Unit will review project application submitted by the GCA. A form presented in Appendix A1 will be used to assess if the proposed project is eligible to receive support from the IIFD. If the project is concluded as eligible, PPP Unit will categorize the proposed project based on general assessment of its impact to the environment.

Project Categorization Screening

41. Once the project is deemed eligible, PPP Unit continues the screening to classify the PPP project in to a relevant category and therefore determine the level of likely impacts, in accordance with

this ESMF. In the application letter, GCA will identify and provide a self-preliminary assessment of potential environmental and social issues. Further, GCA and PPP Unit determine the category to be applied for the project.

42. The World Bank system classifies projects into one of four categories, depending on the type, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts. Project categorization is outlined below:

- **Category A:** A proposed project is classified as Category A if it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. Project Category A will require a detailed EIA document;
- **Category B:** A proposed project is classified as Category B if the potential adverse environmental impacts on human populations or environmentally important areas—including wetlands, forests, grasslands, and other natural habitats – are less adverse than those of Category A projects. These impacts are site-specific; few if any of them are irreversible; and in most cases mitigation measures can be designed more readily than for Category A projects. Project Category B, will require ESIA (Environmental and Social Impact Assessment), EMP (Environmental Management Plan) and/or social assessment.
- **Category C:** A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts. Project Category C may require a simplified EMP or project's screening documentation; and
- **Category FI:** A proposed project is classified as Category FI if it involves investment of Bank funds through a financial intermediary, in sub projects that may result in adverse environmental impacts. The actual instruments required by the project will be determined by the nature scale and scope of the project.

43. PPP Unit will assess the proposed project based on the above category and will provide feedback to the GCA should there any additional information required to categorize project. In addition to the World Bank project categorization, PPP Unit will also refers to the Indonesian regulation, i.e., Regulation of the Ministry of Environment and Forestry No. 5/2012 concerning Activities Requiring Environmental Impact Assessment. A form that can be used by PPP Unit to categorize project is presented in Appendix A1. Regulation from the Government of Indonesia will define type of environmental assessment required by the project and to obtain Environmental Permit from the Government Authority. If there are discrepancies between Indonesian law and WB Policies on project category definition, the World Bank Standard will be applied.

Safeguard Policies Requirement Assessment

44. The World Bank's Safeguard Policies are a cornerstone of its support to sustainable development. The objective of these policies is to prevent and mitigate undue harm to people and their environment in the development process. These policies provide guidelines for Bank and the PPP Unit in the identification, preparation, and implementation of infrastructure projects.

45. General assessment on applicability of the World Bank Safeguard Policies is presented in table below. A form that provides more detail assessment on which Safeguard Policies will apply is presented in Appendix A1.

Table 2 Assessment on applicability of the WB Safeguard Policies.

No.	Safeguard Policies	Triggered?	Explanation (Optional)
1.	Environmental Assessment OP/BP 4.01	Yes	The Project will finance preparation of up to five feasibility studies /RFP/bidding documents for pilot demonstration projects to demonstrate effectiveness of the PPP process being established with the TA. The activities that involve preparation of Feasibility Study/RFP/bidding documents for up to five pilot demonstration projects may generate adverse environmental and social impacts downstream when these projects are implemented after the life of the TA. Therefore, the TA project triggers OP/BP 4.01 Environmental Assessment and the safeguards policies below. PPP Unit will screen each pilot project, based on the guidelines of this ESMF for environment and social impacts.
2.	Natural Habitats OP/BP 4.04	Yes	Details of the pilot demonstration projects can only be identified during project implementation. Some of pilot demonstration PPP projects may eventually affect natural habitats and. None of the pilots will take place in critical natural habitats since they are likely to be large-scale infrastructure projects with significant and irreversible impacts. FS will include provision to address the objectives of OP 4.04.
3.	Forests OP/BP 4.36	Yes	Details of pilot projects can only be identified during project implementation stage. Some of pilot projects may take place in or in close proximity to forest areas or their buffer zones since 70% of Indonesia's land area lies within the Forest Estate. No pilot will be selected that would take place within critical and/or protected forest areas. FS will include provision to address the objectives of OP 4.36
4.	Pest Management OP 4.09	No	Not applicable.
5.	Physical Cultural Resources OP/BP 4.11	Yes	Details of the pilot demonstration projects will only be determined during Project implementation. Some of pilot projects may affect physical cultural resources. The environmental screening procedures included in the project's ESMF ensure the pilot projects will not adversely affects sites having archeological, paleontological, historical, religious or unique natural values. FS will include provision for chance finds procedures and to address the objectives of OP 4.11
6.	Indigenous Peoples OP/BP 4.10	Yes	It is expected that the infrastructure pilot demonstration projects will be geographically distributed across the country. Therefore, there may Indigenous Peoples presence in the project area and the FS will include provision to address the objectives of OP 4.10.
7.	Involuntary Resettlement OP/BP 4.12	Yes	Most of the infrastructure projects to be proposed for PPP demonstration are likely to require land acquisition and/or resettlement and thus OP/BP 4.12 is triggered. FS will include provision to address the objectives of OP 4.12
8.	Safety of Dams OP/BP 4.37	Yes	The pilot projects may involve construction or rehabilitation of a dam or rely on the performance of an existing dam or dam under construction. This will only be determined during project implementation when the pilots are selected. However, the Project as a whole is setting the stage for infrastructure investments that may include the energy generation, transmission and distribution. As such, this OP is triggered, however the screening for each pilot

No.	Safeguard Policies	Triggered?	Explanation (Optional)
			project will determine whether indeed triggered of this OP. FS will include provision to address the objectives of OP 4.37
9.	Projects on International Waterways OP/BP 7.50	Yes	The pilot projects may involve construction or rehabilitation of infrastructure construction on international waterways. This will only be determined during project implementation when the pilots are selected. As such, this OP is triggered, however the screening for each pilot project will determine whether indeed triggered of this OP. FS will include provision to address the objectives of OP 7.50.
10.	Projects in Disputed Areas OP/BP 7.60	No	Not applicable.

The result of this assessment will be used to develop ToRs for FS. In addition, the ToRs will address the gaps identified in the gap analysis below.

2.4.1.3 Gap Analysis for Pre-FS/FS Against the ESMF

46. Gap analyses typically involve the following three stages: (1) defining objectives of a desired state; (2) analyzing the current state from Pre-FS/FS document; and (3) identify means for bridging the gaps between the two (the existing document against the ESMF). This gap analysis will focus on evaluating the environmental and social documents that will be prepared by PPP Unit against the ESMF. During the Preparation Phase, gap analysis will only be conducted for the Pre-FS and FS (if any) documents.

47. Gap analysis for Pre-FS and FS during Preparation Phase will look into the following components (Note: within all of these components, all World Bank Safeguard Policies that are triggered will be applied):

- **Project location map showing local and regional context.** It is important to understand where the proposed project is located and to see if there are sensitive areas around project location. Project location within the local spatial plan is also important to be assessed. If map is not available, the Pre-FS or FS should describe the spatial context of the proposed project location;
- **Availability of environmental and social baseline data.** Defining environmental and social feasibility will need adequate baseline data. Initial baseline data may come from secondary sources which is accepted during the Pre-FS or FS. Depending on the type of project and location, environmental baseline data may consists of: physical and chemical data (water quality, air quality and noise, soil quality, climate), biological data (terrestrial and aquatic flora and fauna), and socio economic data (demography, community livelihood, cultural sites);
- **Environmental and social impact and risks assessment of project towards environmental and social components.** It is important to understand the approach and methods used to define environmental and social feasibility. The project may use the simple matrix to assess project impacts and risks, or descriptive method based on the project nature and baseline condition; and
- **Recommendation for future impact assessment.** The Pre-FS or FS ideally will recommend how the future impact assessment will be conducted, considering specific issues identified

during the Pre-FS or FS. This indicates that conclusion on environmental and social feasibility is subject to further assessment in more detail.

2.4.1.4 Guidance to Prepare Terms of Reference of Feasibility Studies

Scope for the Feasibility Studies TOR

48. The scope of work for the FS TOR, apart from the technical and financial analysis of the PPP Project, should include an assessment of key ES aspects, which include the following (specific scope of works for several infrastructure sectors are provided as an Appendix A2 to this ESMF):

- Review of ES and land acquisition regulatory and permitting requirements that are applicable to the PPP Project;
- Assessment of project location and any recommendations in relation to National and/or Regional Development in the context of:
 - Alignment with the National Policy and Strategic plan as indicated by the Indicative Map for New Permit Moratorium (*Peta Indikatif Penundaan Izin Baru - PIPIB*) or Moratorium Map;
 - Alignment with the National and/or Regional Spatial Plan(s);
 - Assessment on whether the project location is located on or goes through government protected/conservation areas; and
 - Sub-projects with significant ancillary⁴ and related activities will be considered in this project.
- Initial environmental permitting plan on schedule, estimated cost and party responsible for developing the required environmental document and obtaining the environmental permit;
- Preliminary assessment and recommended mitigation measures on potential environmental and social impacts of the PPP Project based on recent and available data of the baseline conditions. The mitigation measures may include development of management plans or other studies. The preliminary assessment also includes the estimated cost(s) for the mitigation measures. The potential ES impacts may include impacts or changes to the following, as applicable:
 - Air quality and noise;
 - Water quality and quantity (surface water, groundwater and seawater);
 - Soil quality;
 - Hydrology or Oceanography;
 - Biodiversity (terrestrial and aquatic flora and fauna) and natural habitats;
 - Traffic conditions;

⁴ Ancillary facilities are facilities that are necessary to support the functioning of a subproject, regardless of financing sources.

- Occupational and Community Health and Safety;
 - Socio-economic conditions;
 - Land ownership and land use;
 - Indigenous peoples; and
 - Cultural heritage sites.
- Initial desktop study on stakeholder mapping for the PPP project to identify all stakeholders, their level of interest and authority over the project.
 - Initial desktop study on land acquisition, which include:
 - Approximately how many people using the sites require either physical and/or economic relocation?
 - Assessment of any land acquisition document or activity which may have already been executed and identification of potential risks and mitigation measures including any of the land in question subject to any disputed ownership or jurisdiction.
 - Initial desktop study to identify where vulnerable group and indigenous peoples are present in, or have collective attachment to, the project area. The study should cover:
 - Vulnerable groups typically describe economically, socially, or culturally marginalized people. Vulnerable people may be indigenous peoples, ethnic or religious minorities, women, youth, the elderly, and the handicapped. Vulnerable people may be land users without formal rights or squatters.
 - Scoping should identify any groups who might be differentially affected as a result of distinct cultural or socio-economic characteristics that make them particularly vulnerable.
 - Scoping should confirm the presence of indigenous peoples in the project area of influence and whether the World Bank safeguard policy for Indigenous People OP4.10 is triggered⁵.
 - An Indigenous Peoples Plan is normally required where indigenous peoples are found in the area of influence of a project. The World Bank, Asian Development Bank, and other project finance institutions abiding by the Equator Principles or IFC Performance Standards provide specific guidance on the identification of indigenous people and preparation of development plans.
 - Initial desktop study related to cultural property. This will include assessment on whether project will affect sites, structures, or resources having archaeological, historical, religious, spiritual or cultural value.

⁵ Guidance on management of cultural resources follows the World Bank Safeguard Policies (OP/BP 4.11 on Physical and Cultural Resources)

Guidelines to Prepare the Methodology of the Feasibility Study

49. The general approach to the methodology for the preliminary ES assessment is performing a desktop study on recent and available data that is sourced from reliable and trustworthy sources such as other scientific studies and literatures, and meetings and discussions with experts. When secondary data is not available, reasonable efforts should be made to collect primary data from the field for the assessment. The field surveys should be designed to meet the purpose of the preliminary ES assessment and do not substitute baseline surveys required for a full environmental impact assessment (i.e. AMDAL or UKL-UPL).

2.4.1.5 The Expected Content of the Feasibility of Studies

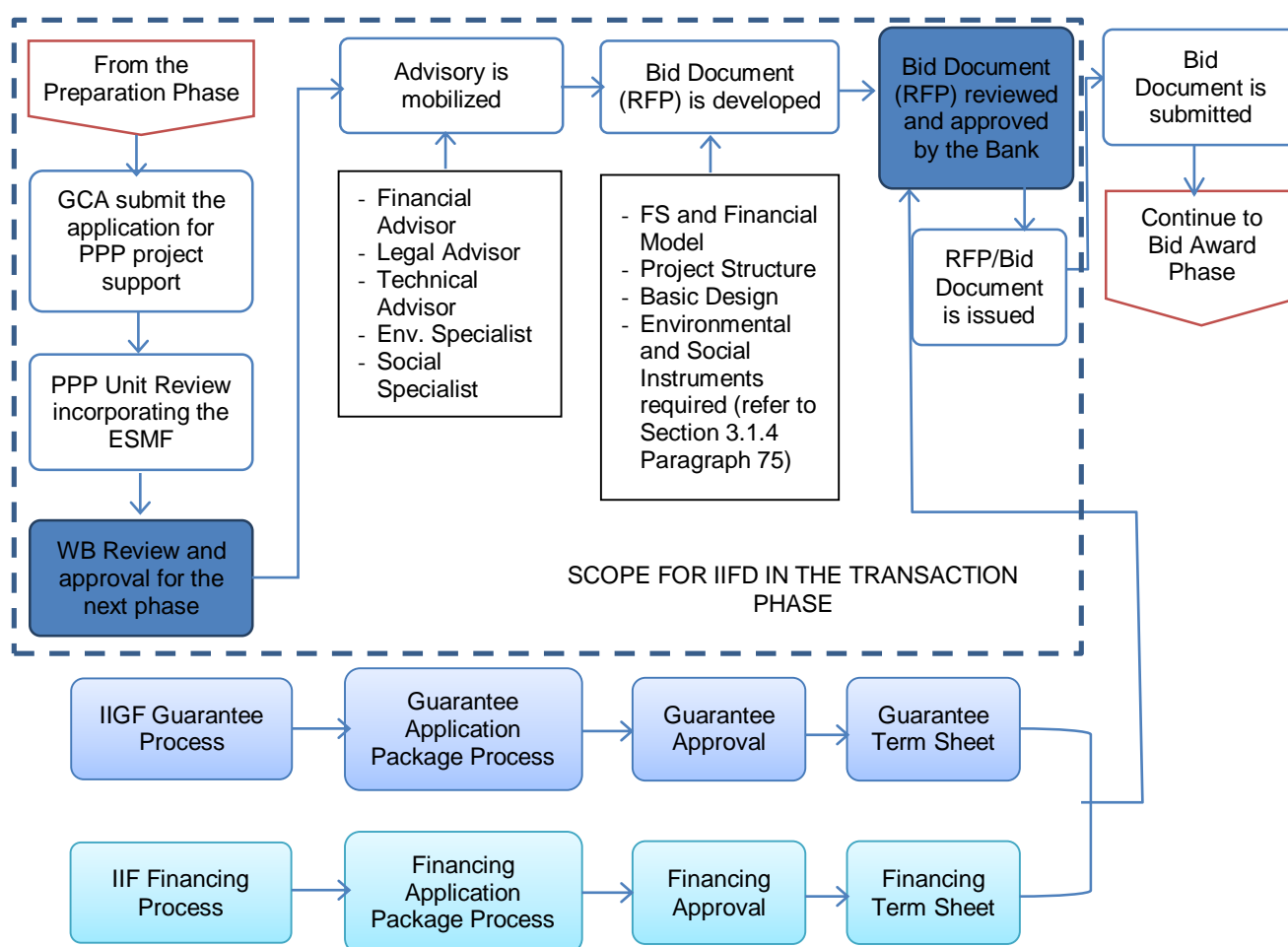
50. The expected output of the ES assessment of the PPP project is a written section of the FS report, which includes the following:

- Review of GOI legislation and WB safeguard policies applicable to the PPP Project and identification of required permits or licenses and critical issues on environment and social that will need to have special attention in the FS;
- Review of project location in context of National and Regional Spatial Plans and Protected Areas, any recommendations for obtaining land clearance;
- Environmental Permitting Plan which describes the cost, time and resources for developing the AMDAL/ESIA/UKL-UPL and obtaining the environmental permit for the PPP Project;
- ES assessment and mitigation measures which may include recommendations for additional studies, apart from the AMDAL/ESIA/UKL-UPL. Mitigation measures should include an estimation of the costs;
- Summary of stakeholder mapping including description of their level of interest and authority on the PPP Project;
- Types of property cultural resources affect from the project and how to mitigate it with consider to local wisdom and national policy.
- Assessment on land acquisition, which includes extension of the land for the proposed project, potential socio economy impact because of land acquisition, identification of land ownership and their evidence, institutional analysis related to land acquisition and resettlement process, aspiration or voice of the people when their assets affect from the project and any safeguard instrument requirements for land acquisition and resettlement including proposed action plans (LARAP) and estimated cost; and
- Assessment on the presence of indigenous peoples and potential impact (positive adverse) and estimated cost to prepare social assessment and IPP.

2.4.2 Transaction Phase

51. Following the Non Objective Letter (NOL) from the Bank on the Feasibility Study document, the GCA will submit the RFP for potential PPP project. The process is shown in Figure below.

Figure 4 Transaction Phase.



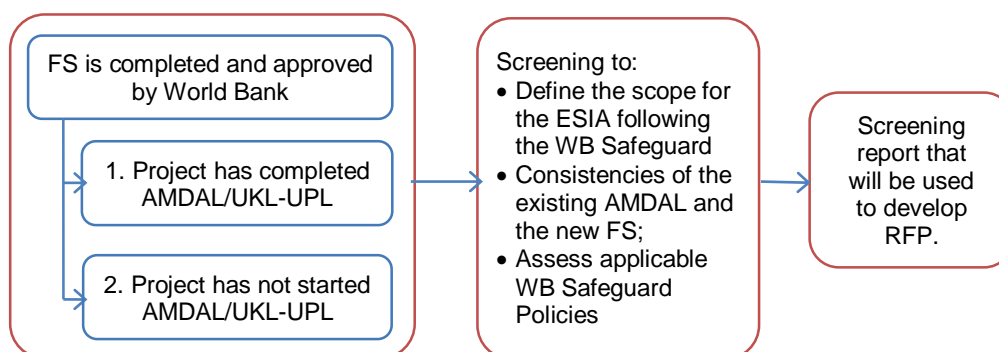
52. The Project (IIFD) aims to be catalytic and will assist PPP Unit in developing its capacity and in mainstreaming international best practices in PPPs – including on social and environmental impact management. The project will not support the development of detailed project designs nor investments in infrastructure.

53. The goal of the Transaction process is to prepare the bid document for investor to participate into the bid process. ESMF provides a guidance to ensure incorporation of environmental and social standards into the Bid Package. Environmental and social advisor within the PPP Unit will help in defining requirements to comply with the ESMF into the Bid Package.

54. The RFP for the PPP transaction will be submitted by MOF to the World Bank for review and approval before the issuance to the bidders.

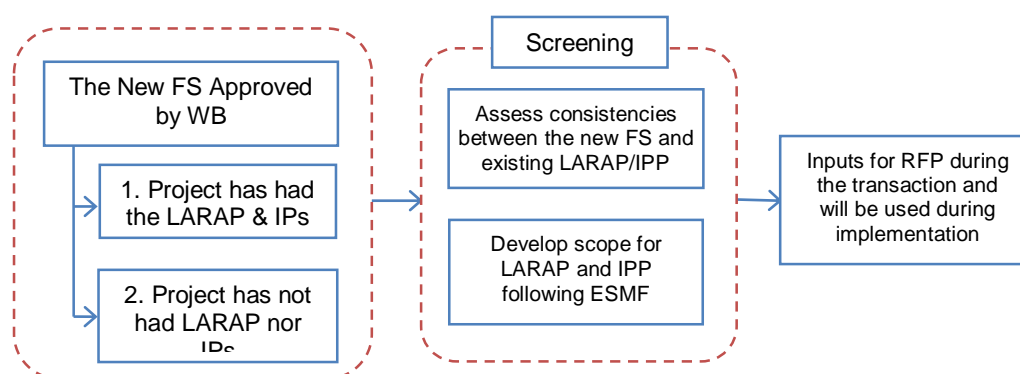
55. As can be seen in Figure 5, PPP project with the FS approved by the Bank will continue to the Transaction Phase. Information on screening results (project eligibility, project categorization) will not change in the Transaction Phase. The advisory team at the PPP Unit will conduct a screening assessment, which will focus on the scope for the new environmental documents (AMDAL/ESIA/UKL-UPL, Physical Cultural Resources Management Plan) and social documents (LARAP, IPP, action plan from the process framework), or revision of the existing environmental and social documents. Screening process is described in Figure 6.

Figure 5 Screening process for two possible types of projects to develop ToRs in the RFP.



56. Screening and approval process related to social aspect (land acquisition, indigenous people and action plan from the process framework) during transaction phase is presented in the flow chart below. This screening is conducted to assess consistencies from the new FS approved by WB (in the Preparation Phase) and the existing LARAP/IPP/action plan from the process framework (if project has had the LARAP/IPP/action plan from the process framework) and to develop scope for the LARAP, indigenous people and action plan from the process framework during the implementation phase.

Figure 6 Screening for the land acquisition, indigenous people plan and action plan from the process framework.



57. As presented in Figure 5 &6, screening process on ES in the Transaction Phase will have the following processes (the end goal during the Transaction Phase will be the RFP for the tender process):

- Project with FS approved by the Bank and has not had AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework. For this type of project, the Environmental and Social Advisor will extract information from the FS document and will define the following requirements:
 - Scope for the ESIA and AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework to be included into the RFP package.
- Project with FS approved by the Bank and has had the AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework approved by respective government authority. For this type of project, the Environmental and Social Advisor will conduct and define the following activities:
 - Conduct gap analysis for the AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework document against the ESMF;

- Develop scope for improvement of AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework document and development them following this ESMF to be included into the RFP for PPP project tender package.

2.4.2.1 AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework Gap Analysis

58. Gap analyses typically involve the following three stages: (1) defining objectives of a desired state; (2) analyzing the current state; and (3) identify means for bridging the gaps between the proposed project with this ESMF. The gap analysis should focus on evaluating the environmental and social documents that have been made available against ESMF.

59. The Environmental and Social Advisor will review available AMDAL documents (consists of TOR ANDAL, ANDAL, RKL and RPL) or UKL-UPL or LARAP/IPP/action plan from the process framework against this ESMF. Four components that need to be reviewed include:

- Overall AMDAL/UKL-UPL/LARAP/IPP/action plan from the process framework (study timeline, public consultation, consistencies, implementation);
- Baseline data (completeness of baseline data, quality of data) and additional studies, if necessary;
- Impact assessment process (scoping study, impact identification and evaluation); and
- Environmental and social/land acquisition management (action plans) and monitoring plan.

60. Based on the result of gap analysis, recommendation on improvement (AMDAL revision or Addendum of AMDAL, as needed) or revision on UKL-UPL and LARAP/IPP/action plan from the process framework will be developed by the Environmental and Social Advisor and will be part of the RFP package.

2.4.2.2 Other Environmental Studies

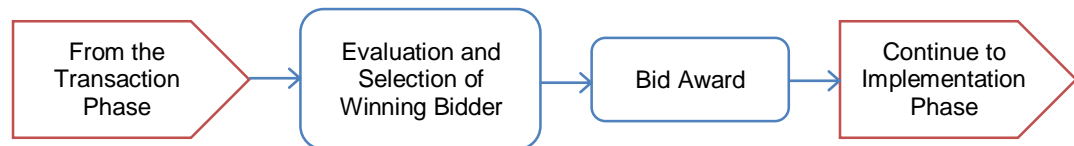
61. Other environmental studies are needed in the case that the proposed project triggered OP 4.04, OP 4.11, and OP 4.36.

- **Biodiversity Study and Sensitive Habitat Mapping.** This study will apply if the project is located in greenfield which has biodiversity richness and important habitat for flora and fauna, and habitat area that has sensitive physical and cultural resources. This study will be required to comply with OP 4.04 OP 4.11, and OP 4.36.

2.4.3 Bid Award Phase

62. IIFD will not provide support on PPP project development nor the investment. On the Bid Award phase, ESMF will provide guideline for the PPP Unit to evaluate and select the winning bidder. Evaluation of proposal submitted by bidders related to environmental and social requirement will be focused on inclusion of environmental and social assessment following the ESMF and capacity of the bidder to implement those WB Safeguard policy requirements and national regulations Simple process showing Bid Award phase is presented in Figure 7 below.

Figure 7 Bid Award Phase



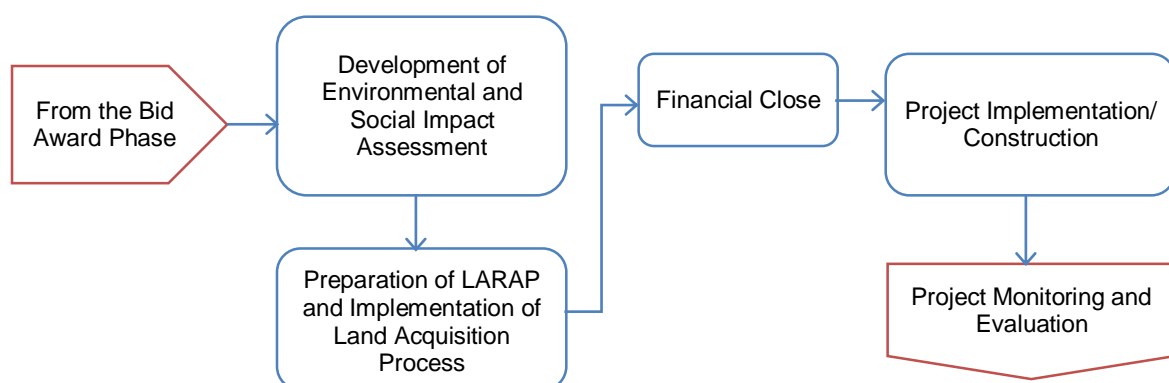
63. A quality based proposal selection is advised for the PPP Unit during evaluation to define the winning bidders. PPP Unit may develop a checklist to ensure:

- It meets the RFP requirements on the environmental and social component;
- It includes assurance to use the World Bank Safeguard Policies as the main reference for ES in addition to the Indonesian standards/regulations; and
- It shows adequate capacity of the investor to implement WB Safeguard Policies and national legislation shows experts who have the necessary certificate of competence, and shows considerable experience in using the ESMF for infrastructure projects.

2.4.4 Implementation Phase

64. IIFD will not support this Phase. Support from IIFD ends at the issuance of the RFP. Guidance on this ESMF on the Implementation Phase is meant to provide a complete understanding of project phases and how outputs from the Preparation and Transaction Phase will be able to foresee the requirement for the Implementation Phase. Similar to the Bid Award Phase, ESMF will provide guideline on how the environmental documents (AMDAL/ESIA/UKL-UPL and LARAP studies need to be implemented in accordance with the World Bank Safeguard Policies. In the Implementation Phase, the PPP Unit will have the role to supervise the project in achieving Financial Closure. The Implementation Phase is presented in Figure 8 below.

Figure 8 Construction/Implementation Phase



65. Guidance on how the environmental documents (AMDAL/ESIA/UKL-UPL) and social documents (LARAP, IPP) should be developed in accordance to this ESMF is described in Section 4.0 Environmental and Social Documents Reference. Guideline for the development of environmental documents (AMDAL/ESIA/UKL-UPL, PCR Plan) and social documents (LARAP, IPP) is presented in Appendix A4 – Appendix A11.

3.0 POLICIES AND LEGISLATIVE FRAMEWORK

3.1 THE WORLD BANK SAFEGUARD POLICIES

66. A completed list of World Bank Safeguard Policies, which become the main reference for this IIFD project, is listed in the table below:

Table 3 World Bank environmental and social safeguards and their policy objectives.

No.	OP/BP	Safeguard	Policy Objectives
1.	4.01	Environmental Assessment	Help ensure the environmental and social soundness and sustainability of investment projects. Support integration of environmental and social aspects of projects in the decision-making process.
2.	4.04	Natural Habitats	Promote environmentally sustainable development by supporting the protection, conservation, maintenance, and rehabilitation of natural habitats and their functions.
3.	4.09	Pest Management	Minimize and manage the environmental and health risks associated with pesticide use and promote and support safe, effective, and environmentally sound pest management.
4.	4.11	Physical Cultural Resources	Assist in preserving PCR and in avoiding their destruction or damage. PCR includes resources of archeological, paleontological, historical, architectural, religious (including graveyards and burial sites), aesthetic, or other cultural significance.
5.	4.12	Involuntary Resettlement	Avoid or minimize involuntary resettlement and, where this is not feasible, assist displaced persons in improving or restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project, whichever is higher.
6.	4.10	Indigenous Peoples	Design and implement projects in a way that fosters full respect for indigenous peoples' dignity, human rights, and cultural uniqueness and so that they (1) receive culturally compatible social and economic benefits, and (2) do not suffer adverse effects during the development process.
7.	4.36	Forests	Realize the potential of forests to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, and protect the vital local and global environmental services and values of forests.
8.	4.37	Safety of Dam	Ensure quality and safety in the design and construction of new dams and the rehabilitation of existing dams, and in carrying out activities that may be affected by an existing dam.
9.	7.50	Projects on International Waterways	Ensure that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity and that riparian are notified of the proposed project and its details.
10.	7.60	Projects in Disputed Areas	Ensure that other claimants to the disputed area have no objection to the project, or that the special circumstances of the case warrant the Bank's support of the project notwithstanding any objection or lack of approval by the other claimants.

67. As already described in Section 3.3, screening on the applicability of these WB Safeguard Operational Policies will be conducted as part of the screening process, for project application submitted by GCA. It is important for GCA to understand these requirements and therefore, PPP Unit needs to inform GCA on ESMF procedure. PPP Unit will review the letter of application from GCA and screen potential safeguard issues, and advise the GCA regarding the nature and content of Safeguards documents and measures to be prepared.

3.2 INDONESIAN REGULATIONS

68. Beside the WB Safeguard Policies, PPP Unit also refer to the Indonesian regulations on environmental and social, as well as on land acquisition for pilot projects. The following lists the key GOI legislations related to ES and land acquisition aspects:

Table 4 **Applicable Indonesian regulations on environmental, social and land acquisition.**

No.	Regulations	Theme and General Objective
1.	Law No. 32 Year 2009	Environmental Protection and Environmental Management. The purpose of this Law is to create an environmentally sustainable development through means of an environmental planning policy, and the rational exploitation, development, maintenance, restoration, supervision and control of the environment. Environmental protection and management shall be planned through the following phases: environmental inventorying to obtain data and information on natural resources; stipulation of eco-regions; and the formulation of environmental protection and management plans.
2.	Law No. 5 Year 1960	Agrarian Basic Principles. This Law defines the fundamental types of rights that may be held by private individuals and entity. This Law describes the role of the state with regard to its direct use of land as well as its regulation of private rights and private uses of land. This Law also states that Indonesian's agrarian law is "adat" law, or Indonesia customary law, as long as it does not conflict with national interest or other regulations set out in this Law.
3.	Law No. 2 Year 2012	Land Acquisition for the Development of Facilities for Public Use. This Law substantially accelerates the land acquisition process for development in the public interest. It sets clearer mechanism for the acquisition of civilian land to facilitate the development of new infrastructure projects.
4.	Government Regulation No. 27/2012	Environmental Permit. The Environmental Permit Regulation No. 27/2012 requires that application for environmental permit shall be accompanied by environmental assessment documents (AMDAL and UKL/UPL), business legal documents, and business profile document. Under this regulation, project owners need to apply an environmental permit to the appropriate government authority before project implementation.
5.	Government Regulation No. 82 Year 2001	Water Quality Management and Control of Water Pollution. This regulation is designed to control management of water quality and control over water pollution in an integrated manner using the ecosystem approach. The integration means the control is applied to the planning, implementation, supervision, and evaluation phase.

No.	Regulations	Theme and General Objective
6.	Government Regulation No. 41 Year 1999	Control of Air Pollution. The targets of control over air pollution are: (a) guaranteeing the safety, conservation of environmental and public services function; (b) realizing public behavior aware of the environment so as to achieve harmony, suitability and equilibrium between human and environment; (c) controlling the expectation of resources wisely; and (d) controlling sources of pollutant so that the quality of air meets the medical requirements for human and other creatures.
7.	Government Regulation No. 101 Year 2014	Hazardous Waste Management. In general, the Regulation regulates the management and disposal procedures for toxic and hazardous waste substances ("hazardous waste"), covering: (a) Method of identifying, reducing, storing, collecting, transporting, utilizing, processing, and hoarding hazardous wastes; (b) Procedures for dumping hazardous wastes into the open sea or land; and (c) Risk mitigation and emergency.
8.	Minister of the Environment Regulation No. 05 Year 2012	Types of Business and/or Activities that are Mandatory to have Environmental Impact Assessment (AMDAL). This Regulation lists activities in different sectors and specifies the limit of business scale that will trigger the activities in obtaining AMDAL (full EIA) study. Activities that are not listed in this regulation mean it will require an UKL-UPL study (small scale of EIA). This Regulation also provide a screening process to evaluate activities that are not listed/not specified in the Regulation, to decide if such activities will require AMDAL or UKL-UPL.
9.	Presidential Regulation No. 71 Year 2012 Presidential Regulation No. 40 Year 2014 Presidential Regulation No. 99 Year 2014 Presidential Regulation No. 30 Year 2015	Implementation of Land Acquisition for the Development of Facilities for Public Use. This Presidential Regulation has been changed three times, until the latest version of No. 30/2015. This new Regulation has facilitated more timely funding for land acquisition. Under the new law, private investors can provide funds at an early stage, confident that these funds will either be refunded directly or through revenue arrangements as the project proceeds. This contrasts with previous version whereby land acquisition had to wait for disbursement of the state budget, which is often limited and subject to a long budgeting cycle. In the Perpres No. 30/2015, land acquisition for land less than 5 hectares, project proponent can purchase land directly to the land owners.
10.	Law No. 41 on Forestry (plus Constitutional Court Decision No. 35/PUU-X/2012	Procedures to Settle Land Ownership Conflict in Forest Area
11.	MOHA Regulation No. 52/2014	Guidelines on the Recognition and Protection of MHA
12.	Ministerial Regulation of MOH No. P.62/2013	(adjustment of Ministerial Regulation No. P.44/2012) on the Establishment of Forest Area
13.	Regulation of the Minister of Land Agency and Spatial development No. 9/2015	Procedures to Establish the Land Communal rights on the MHA Land and Community Living in the Special Area
14.	Law No. 18/2013	Prevention and Alleviation of Deforestation (UUP3H).

No.	Regulations	Theme and General Objective
15.	Regulation of Ministry of Forestry No. P.39/Menhut-II/2013	Local Communities Empowerment Through Forest Partnership = Process Framework stipulated in OP 4.12. Empowerment is effort to enhance local communities' capability and autonomy in order to gain benefits from forest resources in an optimal and equitable way through Forest Partnership in order to increase the welfare of local communities.

69. These Indonesian regulations are important to define requirements during the Transaction Phase (preparing the RFP for bidding process) and to ensure that, besides meeting the World Bank Safeguard Policies, the project will also comply with Indonesian standards/regulations. PPP Unit needs to understand well about those regulations and whenever applicable, those will become requirements to be included into the RFP.

3.3 GAP ANALYSIS AND GAP FILLING BY ESMF

70. Considering that two main sources of regulation will be used as references related to environmental and social, a gap analysis is required to ensure that PPP Unit understands the gap and has developed mitigation plan to fill the gap. The goal is that all environmental and social documents prepared during the Preparation Phase and Transaction Phase will meet those two main sources, i.e., the World Bank Safeguard and the Indonesian regulations.

Table 5 Summary of gap analysis of the Indonesian ES regulation with the WB Safeguard Policies.

World Bank Safeguard	GAPS	ESMF Roles
OP/BP 4.01 Environmental Assessment	<ul style="list-style-type: none"> - Some components are not being assessed in a comprehensive manner under the AMDAL/UKL-UPL. These components include labor and working conditions, community health and safety, indigenous peoples and cultural heritage related to the project. - Furthermore, appropriate and documented planning and mitigation programs for each environmental and social component under review by the AMDAL is generally limited and may not sufficiently address the EA requirements. - Specifically, community grievance mechanisms and protocols are rarely addressed in the AMDAL and UKL-UPLs or within project planning and implementation. 	<ul style="list-style-type: none"> - ESMF provide guideline on how to conduct gap analysis of AMDAL and UKL-UPL against the WB Safeguard Policies - ESMF also require an EA/ESIA document to be prepared, in addition to the AMDAL, following the WB Safeguard requirement - EMSF also require gap analysis for AMDAL is conducted to see the existence of such grievance mechanism, especially related to land acquisition process
OP/BP 4.04 Natural Habitats	<ul style="list-style-type: none"> - The AMDAL and UKL-UPL documents list the flora and fauna species found at the Project area of influence, but only limited or no information on natural and/or critical habitats. 	<ul style="list-style-type: none"> - ESMF has required that OP 4.04 and OP 4.36 are used during gap analysis of AMDAL document and has specified the requirement of this OP for EA or ESIA study.
OP/BP 4.36 Forests	<ul style="list-style-type: none"> - There is clear directives from the government on protected areas location and status. Projects located in protected areas automatically require AMDAL. - There seems to be ambiguity in the national legislation in recognizing ownership of IP Forests, 	<ul style="list-style-type: none"> - ESMF has also stated that finding from the gap analysis will become an input for the

World Bank Safeguard	GAPS	ESMF Roles
	stating that Indigenous Peoples' Forests are State Forests located on Indigenous Peoples Land.	RFP preparation for the bid process.
OP/BP 4.09 Pest Management	<ul style="list-style-type: none"> - In general, the institutional capacity for supervision and enforcement of pesticide use in Indonesia is considered weak. The regulations do not specify the requirements for developing and implementing a Pest Management Plan at the project level. 	<ul style="list-style-type: none"> - This safeguard is not applicable for infrastructure project receiving IIFD support
OP/BP 4.11 Physical Cultural Resources	<ul style="list-style-type: none"> - In general, AMDAL and UKL-UPLs rarely assess impacts on physical cultural heritage and lacks the planning and program required to conserve the resources. - Projects rarely develop chance find protocols that addresses the possibility and management of finding a cultural site or object inside a project area. - Physical cultural heritage aspects of a project are rarely discussed in public consultations, no disclosure mechanism. 	<ul style="list-style-type: none"> - ESMF specifies that physical cultural resources need to be collected during ES baseline study, as part of the AMDAL/EA studies - Gap analysis on the AMDAL against the WB Safeguard Policies will be used to prepare the RFP for bid process.
OP/BP 4.10 Indigenous Peoples	<ul style="list-style-type: none"> - There is no specific Indonesian laws that regulate to indigenous peoples (IPs), but recognition of the existence of IPs vary from one sector to the other sectors as well as other forms of recognition of IPs by governments. In addition there are also international agreements that have been ratified by Indonesia, and implemented in the legislation and also discourses at national level regarding the recognition of indigenous peoples. 	<ul style="list-style-type: none"> - ESMF has included the IP desktop study in the TOR for FS - ESMF has also mentioned IP in several places, including requirement to conduct gap analysis, requirement as an additional study to be conducted as needed, and inclusion of this component into the FS document, RFP, and included into the guideline for IPPF and IPP.
OP/BP 4.12 Involuntary Resettlement	<ul style="list-style-type: none"> - Legislations on land acquisition are primarily focussed on land obtained for public developments. - Indirect impacts are not covered in the land acquisition law - Related activities are not covered - Host communities are not explicitly covered in the GOI regulation - No specific separation by vulnerability or by gender - Impact mitigation not elaborated 	<ul style="list-style-type: none"> - ESMF has included screening process for land acquisition during the Preparation phase - ESMF also includes the LARAP (refer to LARPF) as an additional study to be conducted by the winning bidder. - Gaps will be address in AMDAL/UKL-UPL and LARFP/LARAP - The LARAP required information on the vulnerable groups (women very poor, disable, etc.) - The LARPF specified that licensed appraisers compensation criteria include among others, assistance and livelihood - Requirement to prepare a LARAP when subprojects

World Bank Safeguard	GAPS	ESMF Roles
		<p>involves involuntary land acquisition and resettlement</p> <ul style="list-style-type: none"> - LARPF provides options for compensation - LARPF provides requirements for compensation options, and licensed appraisers assess physical assets, cost and loss of non- physical assets and premium - IPPF specifies that if a subprojects needs to acquire land, LARPF applies. - A process framework (similar with Forest Partnership in Indonesian Legislation) covered in the ESMF and is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areaswhen the project causes restricted area.
OP/BP 4.37 Safety of Dams	<ul style="list-style-type: none"> - The impacts to a project located downstream of a dam may not be assessed appropriately in the AMDAL and UKL-UPL documents. - Agreements in dam maintenance, emergency response and information disclosure between dam owner and the project located downstream of the dam is uncommon in Indonesia. 	<ul style="list-style-type: none"> - ESMF has mentioned dam safety as one component to be looked at during gap analysis - OP/BP 4.37 also mentioned as one of the safeguard that need to be applied whenever applicable.
OP/BP 7.50 Projects on International Waterways	<ul style="list-style-type: none"> - On the project located on International Waterways, AMDAL already address sufficiently to satisfy Indonesian regulation and the AMDAL Committee at the Central Government (Project that is located in strategic area/in border with International boundary, or across two provinces will be reviewed at the central government). Aspects included into the AMDAL study may include: port construction, existence of marine protected areas, existence of marine mammals and its migration routes, etc). 	<ul style="list-style-type: none"> - ESMF has refer to this OP 7.50 in the development of TOR FS during the Preparation Phase - ESMF also address this OP in the gap analysis and need to be included into the RFP, whenever applicable (e.g., boundary of Indonesia and Timor Leste, PNG, and Malaysia – Sabah).
OP/BP 7.60 Projects in Disputed Area	<ul style="list-style-type: none"> - AMDAL requires to confirm a clear and clean land ownership. AMDAL will not be approved is the land has ownership conflicts or the land has conflicted with the regional spatial plan. 	<ul style="list-style-type: none"> - IIFD will not support project located in dispute area. During the eligibility screening, ESMF has described that dispute area (e.g., conflict in ownership or conflict with local/regional spatial plan.

71. Based on the above gap analysis, PPP Unit needs to ensure that the FS and the recommendation for RFP will include those gap, which will be important for this Pilot Project to get the NOL from the World Bank. Information and knowledge transfer to the GCA related to these gaps is

also essential to ensure that project application submitted to PPP Unit will not have a big gap with the ESMF.

4.0 GUIDANCE FOR THE PREPARATION OF ENVIRONMENTAL AND SOCIAL SAFEGUARDS DOCUMENTS

72. This Section describes how Environmental and Social Studies/Assessment need to be conducted in accordance with the ESMF, as well as the Indonesian Standards. Based on the description in Section 2.0 related to Project Phase and Screening Process (Figure 2 and Figure 4), the following documents are required in order to obtain IIFD support:

- TOR for Feasibility Study (will be prepared by PPP Unit and will be approved by the Bank, during Preparation Phase);
- Feasibility Study (will be prepared by GCA with the support from IIFD, during Preparation Phase, to be reviewed and approved by the Bank);
- Gap analysis report for Pre-FS and FS (will be prepared by PPP Unit during Preparation Phase, to be reviewed and approved by the Bank);
- Gap analysis report for AMDAL/UKL-UPL/LARAP/IPP/Action plan from the process framework (will be prepared by PPP Unit during Transaction Phase, to be reviewed by the Bank); and
- RFP for AMDAL/UKL-UPL/LARAP/IPP/Action plan from the process framework, will be prepared by PPP Unit during the Transaction Phase, and reviewed and cleared by the Bank.

73. The above documents will be prepared under the IIFD support and will be managed by PPP Unit. PPP Unit will not support on the development of AMDAL/ESIA/UKL-UPL/LARAP/IPP/Action plan from the process framework during Implementation Phase, but this ESMF will provide guideline on how those studies will be implemented, in accordance with the ESMF. ESMF will provide guideline for:

- Development of ESIA/AMDAL/UKL-UPL/LARAP/IPP/Action plan from the process framework;
- Development of any specific ES studies based on nature of project and characteristics of project locations.

4.1 ENVIRONMENTAL AND SOCIAL SAFEGUARDS

4.1.1 Environmental and Social Safeguards Inclusion for the TOR FS

74. TOR for the FS will cover WB Safeguard policies for the project. It is understood that not all WB Safeguards are applicable for the project, and only relevant WB Safeguard will be included into the TOR. Guideline for the development of TOR FS referring to the WB Safeguard Policies is described in the table below:

Table 6 TOR for FS in accordance with ESMF.

No.	Applicable OP/BP	Guideline on the content of the TOR FS
1.	4.01 – Environmental Assessment	<ul style="list-style-type: none"> • Identification of environmental and social risks • Assessment of relevant stakeholders capacity related to ES management and monitoring • Plan and process for public consultation (as necessary based on the project scale and phase) • Description of environmental and social regulatory framework • Provision of environmental and social baseline data (from secondary sources if available or from primary sources as needed) • Recommendation on impact and risks mitigation and on future more detail impact assessment • Conclusion on project feasibility based on environmental and social components
2.	4.04 – Natural Habitat	<ul style="list-style-type: none"> • FS should have a map of project location showing land cover, forest status, moratorium map (Indicative Map for New Permit Moratorium) • Description of general condition of natural habitat (area, quality of habitat, biodiversity richness, status of the area – protected or un protected) critical natural habitat
3.	4.36 – Forest	<ul style="list-style-type: none"> • Description on forest condition and status, primary, secondary growth • General forest management activities (private or public) • Access of local community to forest resources • Existence on payment for environmental services (e.g., mini hydropower for community, ecotourism facilities, etc.)
4.	4.11 – Physical and Cultural Resources	<ul style="list-style-type: none"> • Description on existing physical and cultural resources and sites, historical that become part of community's identity • General risks assessment caused by project on those cultural sites, if any.
5.	4.12 – Involuntary Resettlement	<ul style="list-style-type: none"> • Description on potential project affected persons due to land taking or potential involuntary restriction of access to legally designated parks and protected areas that would result in adverse impacts on the livelihoods of the PAPs • Socio-economic survey for potential PAPs • Risks for any involuntary resettlement and recommendation to be further assessed into the LARAP. • Preparation of LARAP and/or action plan from the process framework
6.	4.10 – Indigenous Peoples	<ul style="list-style-type: none"> • General description of indigenous peoples (if exist) within the project area (culture, population, livelihood, distribution) • Approach for a free, prior, informed consultation for social assessment and preparation of IPP • Social assessment • Preparation of IPP • If there is potential impact for resettlement, follow LARPF

No.	Applicable OP/BP	Guideline on the content of the TOR FS
7.	4.37 – Safety of Dams	<ul style="list-style-type: none"> • Presentation of baseline data related to geological features, disaster risks, land use around dams area • Health and safety requirement for dams project
8.	7.50 – International Waterways	<ul style="list-style-type: none"> • Clear map of waterways that become border of two states (river, canal, lake) • Assessment on water utilization, community access to water, water supply

4.1.2 Environmental and Social Safeguard for the FS

75. FS document varies on its structure and content, depending on the scope, project step and nature of the proposed project. Incorporating environmental and social safeguard into FS document can also vary depending on the structure of the FS document. In general, generic FS will have the following contents:

- Introduction and background of the project, including objective of the project and objective of FS preparation. Introduction can also contain the scope of the FS, as well as regulatory framework as a reference for the FS;
- Methodology for the FS, including method for data collection, analysis, and feasibility assessment;
- General description of study area, describing accessibility, project boundary, administrative boundary, physiographic condition, landscape, and socio-economic description of the project area;
- Technical design of the project (engineering design, modeling, few FS also include alternative designs, project layout and supporting facilities);
- Project costing;
- Technical and Financial feasibility assessment; and
- Conclusion and recommendation.

76. Incorporating Environmental and Social Safeguard into the FS will be conducted through the following approaches, as presented in Table 7:

Table 7 Incorporating ES Safeguards into the FS.

No.	Relevant Section in the FS	Approach for Inclusion of ES Safeguards
1.	Introduction (Objective)	Include environment and social component as input for feasibility assessment. Although level of feasibility assessment will not yet detail, a general feasibility assessment based on environmental and social will be important safeguard that will lead to the inclusion of ES data collection and ability to conclude the general feasibility from the environmental and social aspect.
2.	Methodology	Include method for:

No.	Relevant Section in the FS	Approach for Inclusion of ES Safeguards
		<ul style="list-style-type: none"> ES data collection (type of data, coverage of data, source of data) ES risks assessment (including quantification of risks) ES feasibility assessment (criteria used to define feasibility of project from ES perspective)
3.	General description of project area	<p>It is important to describe project area using an ecosystem approach, where project area can be seen as an ecological unit area. Therefore presenting data on: biophysical component, spatial context and socio-economic components are essential. Applying ES safeguard without adequate baseline data will result in a bias assessment result.</p> <p>Presenting project area in maps will also useful to understand spatial context and to identify applicable safeguards (e.g., OP 4.04, OP 4.36, OP4.11, OP 4.10, OP4.12)</p>
4.	Basic Design	Project description (basic engineering design) is important data to assess risks and impacts. Basic design in the FS will contains quantitative data related to resources utilization, number of man power, area size, etc. The more quantitative data on the project description, the more accurate the risks and impact can be predicted.
5.	Project Costing	Generally, project cost is calculated based mainly on the technical engineering design. Inclusion of cost related to ES component will increase reliability of financial feasibility. Cost related to ES will include: cost for AMDAL and ESIA, cost for development and implementation of LARAP and IPP.
6.	Technical and Financial Feasibility Assessment	Final conclusion on project feasibility needs to include ES component. Although conclusion still be based on general assessment, but it will add more value to the FS document.
7.	Conclusion and Recommendation	On the ES component, recommendation on FS document should include future risks/impacts mitigation action and how the AMDAL/ESIA, LARAP and IPP should be designed.

4.1.3 Gap Analysis Against ESMF

77. For project that has Pre-FS/FS, and/or AMDAL/ESIA/UKL-UPL/LARAP/IPP/action plan the process framework, the PPP Unit will conduct a gap analysis against this ESMF. This section describes the guideline on how PPP Unit conduct the gap analysis

78. The general content of the Pre-FS/FS is described in Section 4.1.2. Gap analysis on Pre-FS/FS will be conducted using a checklist method, comparing each section in the document with the guideline presented in Table 7 in Section 4.1.2. For any gaps identified, recommendation / action plan will be prepared. These gaps and the recommendation will be used to develop RFP for the bid process.

79. Guideline for gap analysis on AMDAL/ESIA/UKL-UPL/LARAP/IPP/action plan from the process framework document against this ESMF is presented in Table 8, while the principle guideline is presented in Section 2.3.2.1.

Table 8 **Guideline for AMDAL/ESIAUKL-UPL,LARAP and IPP gap analysis against WB Safeguard Policies.**

No.	Applicable OP/BP	Gaps Against the Benchmark
1.	4.01 – Environmental Assessment	<ul style="list-style-type: none"> • Administrative: completeness of documents, including the copy of Environmental Permit, team qualification, AMDAL timeframe (from the KA start until issuance of the Environmental Permit) • Completeness of regulations used as references in the AMDAL/ESIA/UKL-UPL document (Section 1 in the AMDAL and UKL-UPL). Reference to the World Bank Safeguard Standard need to be included. • Completeness of ES baseline data (including seasonal data variation, methods and distribution of sampling location, qualification of laboratory - QA/QC procedure for data collection and lab analysis) • Consistencies between impact identified, method used for data collection and impact prediction, baseline data, impact evaluation, and environmental management and monitoring plan (KA Section 3 and ANDAL Section 2, 3, and 4, and RKL-RPL) • Public consultation (methods, involvement of community groups including vulnerable group, frequency of consultation, and public consultation report – Appendix of KA ANDAL) • Impact assessment (impact scoping, defining significance of impact, cumulative impact, residual impact – rarely addressed in the AMDAL study, comprehensive and holistic approach in impact evaluation) – KA Section 2, ANDAL Section 4)
2.	4.04 – Natural Habitat	<ul style="list-style-type: none"> • Completeness of baseline data and parameters analyzed in the AMDAL study (ANDAL Section 3: forest ecosystem as habitat, flora and fauna – terrestrial and aquatic, protection status of flora and fauna, forest cover, economic value of forest, conservation status, threat to forest cover and natural habitat, sensitivity of forest and natural habitat) • RKL-RPL/UKL-UPL: Biodiversity Management Plan, Forest Management Plan (or at the minimum of management and monitoring plan related to impact to the natural habitat and forest impacted areas) • Baseline data (ANDAL Section 3: Existence of cultural/historical sites within and nearby project area, coordinate of those cultural sites, description and cultural value) • RKL-RPL/UKL-UKL: Chance Find Procedure (or at the minimum management plan to identify and manage such cultural area, and monitoring plan to ensure the existence of such cultural values are preserved).
3.	4.36 – Forest	
4.	4.11 – Physical and Cultural Resources	
5.	4.12 – Involuntary Resettlement	<p>The existing LARAP document need to assess on availability of the following aspects:</p> <ul style="list-style-type: none"> • Description of project activity • Potential impacts • Objectives of the LARAP document • Census of the PAPs and inventory of affected assets • Socio economic study

No.	Applicable OP/BP	Gaps Against the Benchmark
		<ul style="list-style-type: none"> • Legal analysis • Institutional framework • Entitlement • Assets valuation and calculation of compensation on affected assets • Compensation, assistance for resettlement and support for rehabilitation • Location selection, preparation, and resettlement • Potential project affected persons due to land taking or potential involuntary restriction of access to legally designated parks and protected areas that would result in adverse impacts on the livelihoods of the PAPs • And so on refer to Appendix A3
6.	4.10 – Indigenous Peoples	<p>The existing IPP document need to assess on availability of the following aspects:</p> <ul style="list-style-type: none"> • Description of project • Summary of social assessment: summary of baseline data, summary of result of free, prior, and informed consultation with affected indigenous peoples, framework for ensuring the free, prior, informed and consultation with affected IPs • Action item • Cost estimate and financing plan • Institutional arrangement to implement • Grievance redress mechanism accessible to the affected IPs • Project monitoring, evaluation, and reporting of IPP implementation.
7.	4.37 – Safety of Dams	<ul style="list-style-type: none"> • Description of project (only applied for construction or rehabilitation of a dam or rely on the performance of an existing dam or dam under construction) – ANDAL Section 2 and Appendices for ANDAL related to HSE procedures. • Baseline data (ANDAL Section 3: data related to geological, land use, disaster risks, settlement nearby the project area) • RKL-RPL: management plan related to regular safety checking and monitoring, regular reporting
8.	7.50 – International Waterways	<ul style="list-style-type: none"> • Description of project (only applied for project located at the state borderline) – ANDAL Section 2 (spatial context of project area, water consumption, hydrology, riparian description and how local community use waterways for transportation and other uses)
9.	7.60 – Project on Dispute Areas	<ul style="list-style-type: none"> • Not applicable

4.1.4 Environmental and Social Safeguard for RFP Development

80. The RFP for an open bid process (see Figure 5) will contain all project requirements (administrative, technical, organizational capacity, timeframe, cost, etc.). It will include Environmental and Social Safeguard into the RFP to ensure that this ESMF will be implemented during the

Implementation Phase. To ensure adherence to this ESMF, the TOR for AMDAL/ESIA, LARAP, and IPP and other applicable social and environmental studies/instruments will contain the following outline:

- **Project Background:** Brief description of project, with clear project boundary, type of facilities will be constructed, project schedule and time period for each project component, area of impact, resources needed for the project, project alternatives (site, raw materials, technology, equipment), etc.
- **Administrative Scope:** Bid process may consist of two stages, screening the qualification of bidders (EOI stage) and the RFP stage for the shortlisted bidders. For one stage bidding process, a complete administration requirement will be listed (legal requirement, condition for a consortium, bidder experience and profile, management capacity, financial capacity, experience with World Bank projects, experience with similar project type and scale, company certification on AMDAL, etc. (Note: WB format for personnel CV, company experience, will be advised);
- **Technical Scope of Work for AMDAL/UKL-UPL/ESIA.** Scope for AMDAL and ESIA. It is important to emphasize reference to the ESMF, in addition to the Indonesian ES regulations. Depending on the project sector, the following technical detail can be used as initial guideline and can be broken down into more detail as needed (the complete requirement for the technical scope for AMDAL/UKL-UPL/ESIA is presented in Appendix A5 and A6):
 - ES components to be included (to ensure inclusion of all WB Safeguard Policies – as already described in several sections in this ESMF). The result of AMDAL gap analysis will also become an important input to develop the RFP;
 - Coverage of baseline data (ES parameters, frequency of sampling program, area of interest, ES guideline and reference – International ES standards and Indonesian environmental standards, methods for data collection and analysis, qualification of laboratory, etc.);
 - Additional analysis/study required as applicable (e.g., spatial modeling, air dispersion modeling, heat dispersion modeling, hydrodynamic modeling, sensitive habitat analysis, traffic modeling, GHG/emission study, biodiversity study, social and stakeholder mapping, etc.);
 - Qualification of safeguards experts (e.g., AMDAL certification, experiences in WB supported projects, knowledge background, current work load, etc.); and
 - Project schedule/target for completion (tasks distribution, activity breakdown, deliverables, etc.).
- **Technical Scope for LARAP/IPP.** Detail scope for LARAP and IPP is described in Section 4.3 and Appendix A4.
- **Financial Proposal.** A standard format for financial proposal is recommended to make proposal evaluation easier.

81. RFP document, which include the TORs for the GCA to meet the requirements of the ES instruments (AMDAL/ESIA/UKL-UPL, LARAP, and IPP) in accordance with this ESMF, will be approved

by the Bank. The GCA will proceed with the bidding process using the approved RFP. Guideline for the development of AMDAL/ESIA/UKL-UPL/LARAP/IPP/Action plan from the process framework in accordance with this ESMF is provided in the following sections.

4.1.5 Guidelines for Development of Environmental Documents

82. These guidelines are prepared for the GCA in preparing Environmental Safeguard instruments (AMDAL/UKL-UPL) beyond the transaction phase. These requirements are included in the TORs in the RFP. The following regulations set the main guidelines, criteria and requirements on how these documents will be prepared:

- Government Regulation No. 27/2012 on Environmental Permit;
- Decree of Minister of Environment No. 05/2012 on Screening Criteria (type/scale/magnitude of activities requiring AMDAL/EIA);
- Regulation of Minister of Environment, Republic of Indonesia No. 16/2012 on Guideline on Preparation of Environmental Document;
- Decree of Ministry of Environment No. 17/2012 on Community Participation and Information Disclosure in Environmental Impact Assessment;
- Regulation of Minister of Public Works, Permen PU No. 10/PRT/M/2008 on the Environmental Management Measure (UKL) and Environmental Monitoring Measure (UPL) Criteria; and
- Regulation of Ministry of Environment (Permen LH) No. 07/2010 on Competence Certification of AMDAL Preparation and Training Requirements for AMDAL Preparation.

4.1.6 Physical Cultural Resources Management Framework

83. The objective of this measure is to assist in preserving physical cultural resources and avoiding their destruction or damage. Physical Cultural Resources (PCR) includes resources of archaeological, paleontological, historical, architectural, religious (including graveyards and burial sites), aesthetic, or other cultural significance.

84. The scope of management physical cultural resources includes:

- i. Conservation: preservation, restoration, reconstruction, adaptation, maintenance, protection;
- ii. Utilization: publication/presentation, exhibition, revitalization/productive function.

85. Management program follows the conservation procedure that includes inventory, identification, and plan prior to program implementation.

- i. Inventory to include:
 - PCR profile in the form of list on various PCRs;
 - Map of PCR distribution in the appropriate scale;
- ii. Identification of cluster and trail:
 - Cluster defined based on potency strategic and utilization of the PCR. Cluster definition to consider the intensity and richness in a limited area in order to promote the heritage atmosphere. The limited area also making the management of the PCR easier.
 - Trail is the path of the PCR as internal framework of the cluster and as access to other cluster.

- iii. Program strengthening:
 - Five years program of the village should include the PCR management;
 - The first year budget can be proposed to the project, based on the cluster approach.
- iv. Design preparation:
 - Cluster and trail should be equipped with design guidelines on the development; hence the PCR will be kept in its original condition, as long as possible. The project should strengthen the heritage atmosphere not the other way around to erode the visual character of the PCR.
 - Design guidelines should define the kelurahan regulations and agreements regarding physical design development criteria and its harmony between building and the environment. These guidelines to include: the architecture, facet, height, perimeter, yards, scale, etc (that should be restored and developed according to the local condition and need).
 - The development of design guidelines should be supported by design review on the respective cluster characteristics.

The chance finds procedure is presented in Appendix A7, the PCR Management Plan will be prepared as part of the EMP of the subproject if there is find of the PCR on the subproject sites.

4.1.7 Guideline for Development of Social Documents (LARAP, IPP, Forest Partnership)

86. These guidelines are prepared for the GCA in preparing social safeguard instruments (LARAP/IPP/action plan from the process framework) beyond the transaction phase. These requirements are included in the TORs in the RFP. The following regulations set the main guidelines, criteria and requirements on how these documents will be prepared:

- Law No. 2 Year 2012 Land Acquisition for the Development of Facilities for Public Use. This Law substantially accelerates the land acquisition process for development in the public interest. It sets clearer mechanism for the acquisition of civilian land to facilitate the development of new infrastructure projects;
- Law No.41 Forestry (plus Constitutional Court Decision No. 35/PUU-X/2012);
- MOHA Regulation No. 52/2014 on the Guidelines on the Recognition and Protection of MHA;
- Ministerial Regulation of MOH No. P.62/2013 (adjustment of Ministerial Regulation No. P.44/2012) on the Establishment of Forest Area;
- Joint Regulation of MOHA, Ministry of Forest, Ministry of Public Works and Land Agency No. 79/2014 on Procedures to Settle Land Ownership Conflict in Forest Area;
- Regulation of the Minister of Land Agency and Spatial development No. 9/2015 on the Procedures to Establish the Land Communal rights on the MHA Land and Community Living in the Special Area;
- Law No. 6 / 2014 on Village;
- Law No. 18/2013 on Prevention and Alleviation of Deforestation (UUP3H);

- Presidential Regulation No. 71 Year 2012, Presidential Regulation No. 40 Year 2014 concerning revision of the regulation No. 71/2012, Presidential Regulation No. 99 Year 2014 concerning revision of the regulation No. 40, and the Presidential Regulation No. 30 Year 2015 concerning revision of regulation no. 99. Implementation of Land Acquisition for the Development of Facilities for Public Use. This Presidential Regulation has been changed three times, until the latest version of No. 30/2015. This new Regulation has facilitated more timely funding for land acquisition. Under the new law, private investors can provide funds at an early stage, confident that these funds will either be refunded directly or through revenue arrangements as the project proceeds. This contrasts with previous version whereby land acquisition had to wait for disbursement of the state budget, which is often limited and subject to a long budgeting cycle. This regulation also states that land acquisition for land less than 5 hectares, project proponent can purchase land directly to the land owner.
- Regulation of the Ministry of Environment and Forestry No. 17/2012 concerning involvement and participation of community into the Environmental Assessment process. This regulation guide the ESIA on how to involve community through the public consultation and engagement.
- Regulation of Ministry of Forestry No. P.39/Menhut-II/2013 concerning Local Communities Empowerment Through Forest Partnership. This regulation similar with Process Framework mentioned in OP 4.12. This regulation is to guide how to empower or improve local communities' capability and autonomy in order to gain benefits from forest resources in an optimal and equitable way through Forest Partnership in order to increase the welfare of local communities.

87. Development of social documents (LARAP, IPP and action plan from the process framework) will refer to the ESMF. Detail guideline for preparation of those documents are presented in Section 4.3 (Indigenous People Policy Framework), Appendix A3 (LARPF, LARAP, and Process Framework), and Appendix A4 (Content of LARAP and Abbreviated LARAP).

4.2 LAND ACQUISITION AND RESETTLEMENT POLICY FRAMEWORK

88. The project will cover up to five pilot PPP projects within the sector as mentioned in the Presidential Decree No 38/2015. Depending on the project nature, potential land acquisition will appear, and large-scale relocation will not take place.

89. The purpose of this policy framework is to provide requirement to the PPP Unit at the MOF on the principles, process, procedures, and organizational arrangements to be applied to pilot projects requiring involuntary resettlement in preparing a resettlement plan (LARAP) to be included into the TOR for FS, and RFP during Transaction Phase.

90. As practice in various World Bank supported projects in Indonesia, understanding of involuntary resettlement includes land acquisition implemented under the Indonesian laws and regulations, and resettlement (or relocation). Hence, as the common practice in other World Bank supported projects, Land Acquisition and Resettlement Action Plan (LARAP) is the term commonly used that is equivalent with the term Resettlement Plan (RP) used in World Bank OP 4.12.

91. This framework applies for the following situation:

- Impacts caused by subprojects resulting in involuntary land acquisition, relocation, loss of assets or loss of access to assets, loss of income sources or means of livelihood whether or not the PAPs must move to another location; resulting in the involuntary restriction of access to legally designated parks and protected areas that would result in adverse impacts on the livelihoods of the PAPs.
- Activities resulting in involuntary land acquisition and resettlement in linked activities, regardless of financing sources that are:
 - Directly and significantly related to the NSUP subproject;
 - Necessary to achieve the objectives of the subproject; and
 - Carried out, or planned to be carried out contemporaneously with the subproject.

92. This framework relies on the World Bank OP 4.12 on Involuntary Resettlement. Specific provisions are included in this framework to address any aspect of the OP 4.12 that are not fully addressed in the Government of Indonesia laws and regulations. GOI laws and regulations include:

- a. Law No. 2/2012 on Land Acquisition for Project Activity for Public Interest;
- b. Presidential Regulation No. 71/2012 on Land Acquisition and its amendments; and
- c. Regulation of the Head of BPN RI No. 5/2012 on Technical Guidelines on the Implementation of the Land Acquisition.
- d. Presidential Regulation No. 71/2012 on Land Acquisition (Presidential Regulation No. 40/2014) concerning land acquisition for an area less than 5 Ha can be carried out directly by the agency requiring the land based on willing-buyer-willing seller principle, exchange or other schemes agreed by the two parties.

93. The overall objectives and principles of land acquisition and resettlement in this project are to ensure that:

- a. Land acquisition and resettlement should be avoided where feasible, or minimized, exploring all viable alternative subproject designs;
- b. Where it is not feasible to avoid land acquisition and resettlement, activities of land acquisition and resettlement should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the project affected persons (PAPs) to share the subproject benefits. The PAPs should be meaningfully consulted and should have opportunities to participate in planning and implementing the land acquisition and resettlement programs.
- c. PAPs should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-land acquisition and resettlement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

94. This framework applies for the following situation:

- a. Impacts caused by subprojects resulting in involuntary land acquisition, relocation, loss of assets or loss of access to assets, loss of income sources or means of livelihood whether or not the PAPs must move to another location; resulting in the involuntary restriction of access to legally designated parks and protected areas that would result in adverse impacts on the livelihoods of the PAPs.
- b. Activities resulting in involuntary land acquisition and resettlement in linked activities, regardless of financing sources that are:

- Directly and significantly related to the pilot project; and
- Necessary to achieve the objectives of the project.

95. The process of Land Acquisition, based on the Law No 2/2012 is presented in Figure 7 (preparation stage) and Figure 8 (implementation stage).

96. **Likely category of Project Affected Persons.** Likely category of PAPs in this project would vary from one PPP project to another, within the up to five pilot projects. The project anticipates that there would be two general categories of PAPs in this project: (1) persons affected by the acquisition of privately owned land; (2) persons affected who have lived on the government (state or local government)'s land but do not own the occupied land. These occupants fall into four categories: (a) persons who own and occupy dwellings and other structure built on state or government land without any recognizable legal right or claim to the land they occupy; (b) Renters of dwellings and other structures built on state or government land without any recognizable legal right or claim to the land they occupy; (c) encroachers, i.e., persons who aggrandize or extend their personal holdings by encroaching adjacent state or government land; (d) squatter landlords, i.e. persons who derive illegal rents from structures built on state or government land, but do not occupy such structures. Identification of the PAPs will be done during the preparation of LARAP through the census survey (see Figure 7).

97. A LARAP should adopt the following measures to ensure that the PAPs are:

- a. Informed about their options and rights pertaining to resettlement;
- b. Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
- c. Provided prompt and effective compensation at full replacement costs for losses of assets attributable directly to the project.

98. If the impacts include physical relocation, a LARAP should also include measures ensuring that the PAPs are:

- a. Provided assistance (such as moving allowance) during relocation; and
- b. Provided with residential housing, or housing sites, or else, as required and agreed with the PAPs to at least equivalent the situation in the old sites.

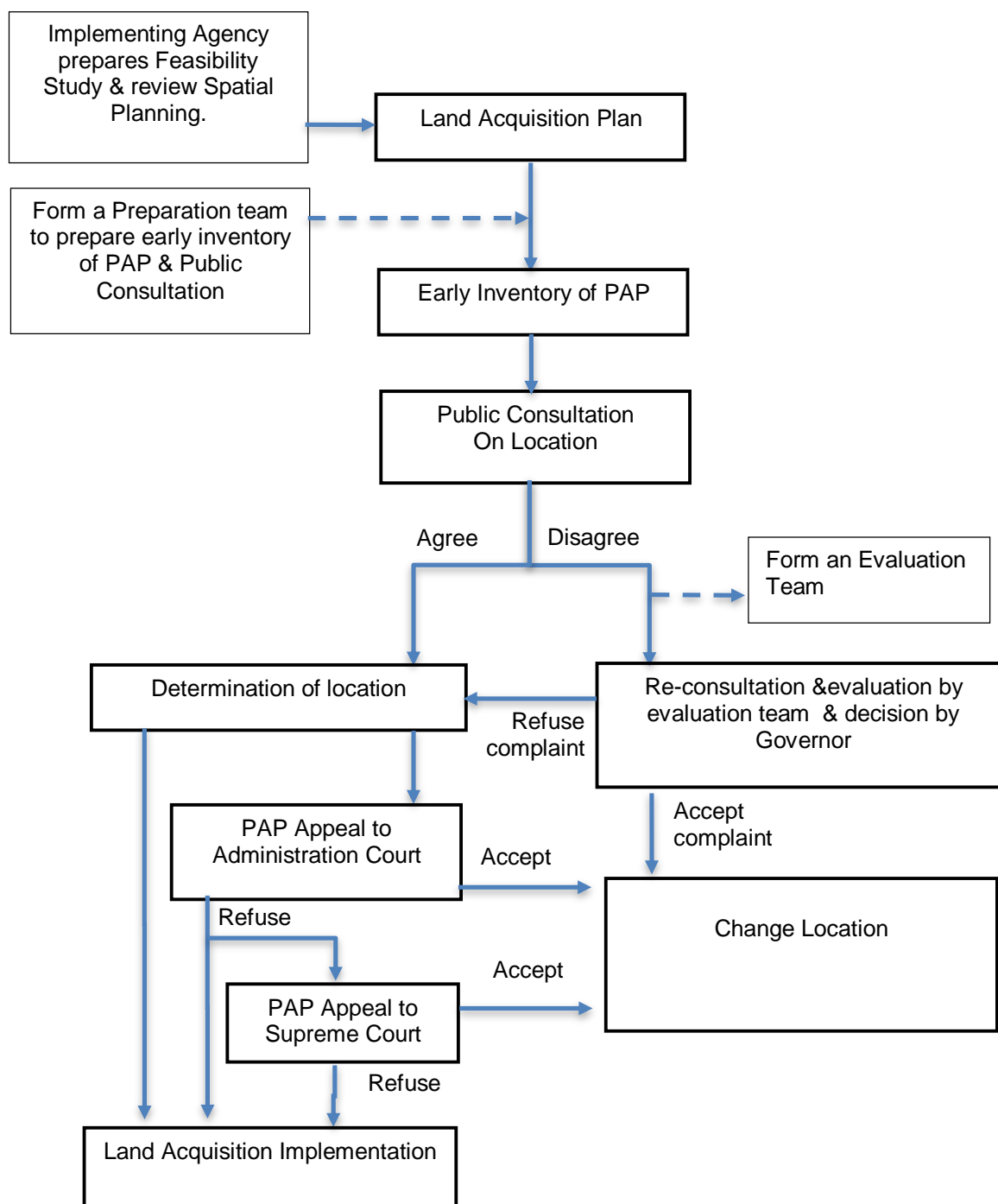
99. Where necessary to achieve the objectives of land acquisition and resettlement, a LARAP should also include measures to ensure that PAPs are:

- a. Offered support after displacement for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
- b. Provided with development assistance in addition to compensation measures.

100. At this stage, assessment of the potential PAPs that will be affected in the land acquisition and resettlement will define whether the city/regency PIU should prepare a draft full LARAP or an Abbreviated LARAP⁶. The content of a full and an abbreviated LARAPs are presented in Annex 21, respectively. The content is more or less equivalent with the combination of activities under the Land Acquisition Plan and the Inventory and Identification of Land Ownerships, Use and Utilization of Land under the Implementation of Land Acquisition Stage under the law and regulations mentioned in paragraph 34 above (and see Figure 8).

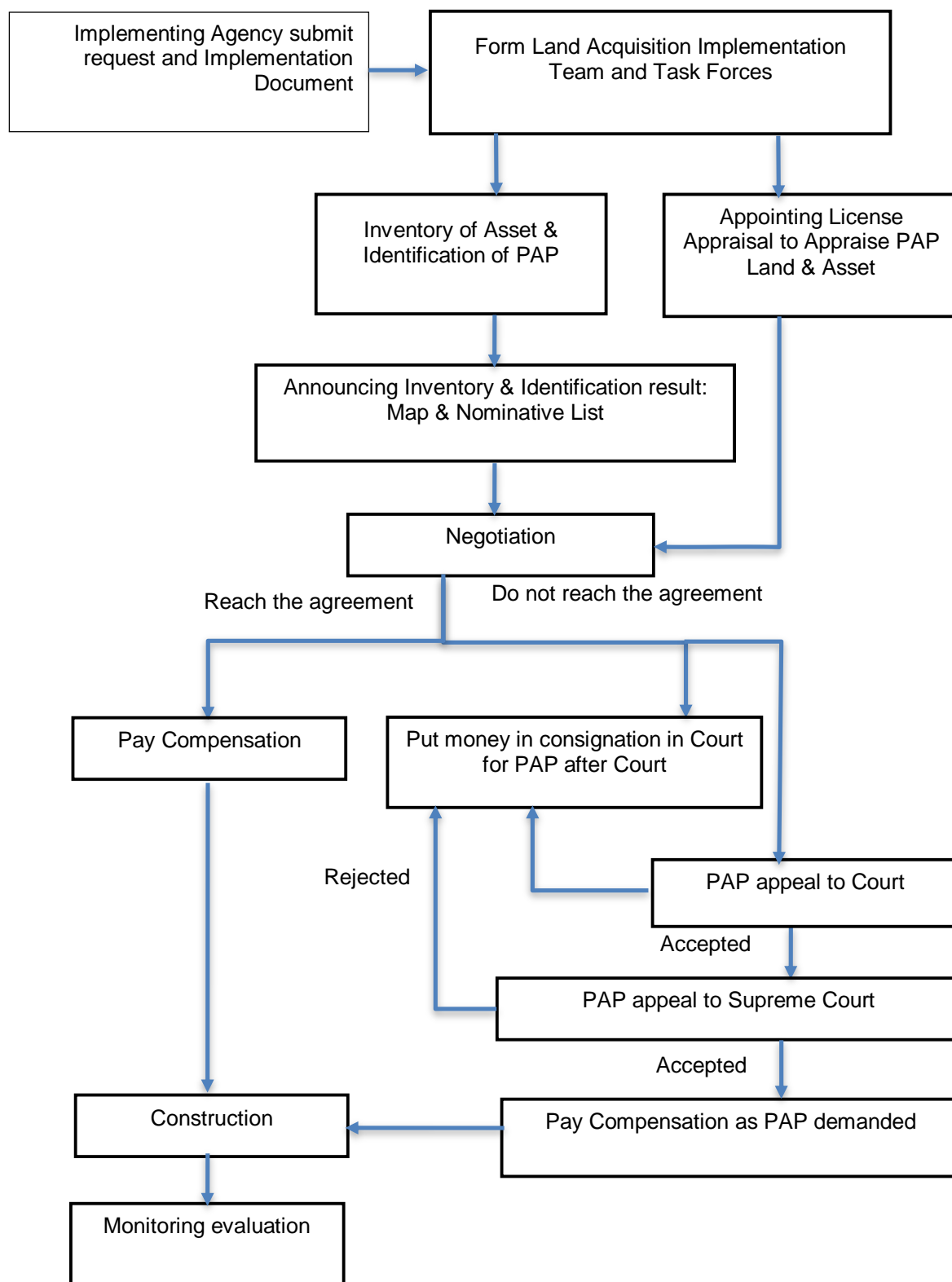
⁶ As of OP 4.12, Full LARAP and Abbreviated LARAP refer to the level of significance of impacts

Figure 7 Process of Land Acquisition in the Preparation Stage⁷



⁷ Summarized from the Law No. 2/2012

Figure 8 Process of Land Acquisition in the Implementation Stage⁸



⁸Summarized from the Law No. 2/2012

101. Once project is selected and winning bidder is identified, the winning bidder should finalize the draft full LARAP or the draft Abbreviated LARAP that has been guided into the FS and required in the RFP. Preparation of the full LARAP or Abbreviated LARAP will not part of the IIFD support and will become responsibility of the private investor.

102. **Eligibility criteria for defining various categories of PAPs.** PAPs eligible for compensation for the affected assets are identified when the subproject location is formally defined by the Governor Decree, are those (a) who have land rights ownership; (b) who have land management/use ownership; (c) who have “nadzir” for the donated land of “wakaf”; (d) land owners for land that used to be owned by *adat*; (e) “*masyarakat hukum adat*” (MHA or Adat Community); (f) those who occupy or use state land with good intention/faith; (g) those who hold basic control of land; and/or (h) those who own building/structure, plants and other things related to the land.

103. **Methods of valuing the affected assets.** As required by Law No. 2/2012 and its implementation regulations, values of affected assets will be assessed by licensed appraisers which will be assigned by the provincial BPN (National Land Agency) in accordance with the national procurement regulations. The values defined by the licensed appraisers will be used as a basis for negotiation with the PAPs. Types and compensation level will be defined based on the negotiation results between GCA (who need the land for pilot project) and the land or property owners. Value assessment will be carried out on per affected land plot basis which include land, space above and beneath land, buildings or structures, plants, things that relate to the affected land and/or other loss that can be valued (e.g. non-physical loss that can be equivalent with monetary value; loss of jobs or income earning sources, cost for moving, cost for change of profession, and value for remaining property). The remaining property that is no longer physically or economically feasible, can be also compensated if the owners prefer to do so.

104. Land valuation/appraisal by the licensed appraisers will be carried out based on the MAPPI⁹ Standards as specified in MAPPI Guidelines. Compensation is comprised of market price plus transaction costs and other costs plus premium, in more detail as follows:

- a. Real property (physical assets): land, buildings and facilities, plants, and other things related to the land acquired to restore to the owner a property of at least the same quality as that owned prior to the land acquisition;
- b. Cost and loss (non-physical losses): transaction costs, moving costs, loss of on-going business (business interruption), other losses of special nature, subjective and difficult to calculate;
- c. Premium.

105. Entitlements Matrix for the Project Affected Persons can see in Table 9 below:

Table 9 Entitlement of Project Affected Persons

Project Affected Persons	Entitlements	Expected Outcomes
Land/asset owners who lose land and/or other assets	Compensation for loss of land and other assets based on value assessment carried out by licensed appraisers	Land/asset owners will be fully compensated for the loss of land and asset

⁹ Indonesian Society of Appraisers or ISA

Project Affected Persons	Entitlements	Expected Outcomes
Land/asset owners who lose temporarily or permanently their sources of income or livelihoods	Compensation for loss of sources of income or livelihoods based on value assessment for non-physical carried out by licensed appraisers	Land acquisition/resettlement will not result in the impoverishment of the affected land/asset owners
Persons who own and occupy dwellings and other structure built on state or government land without any recognizable legal right or claim to the land they occupy	Compensation for loss of dwellings and other structure, for income sources or livelihoods and resettlement assistance, based on the assessment of the licensed appraisers	Compensation received and resettlement assistance provided will enable households to gain access to adequate housing or to a place that can be legally occupied and land acquisition will not result in the impoverishment of the affected persons.
Renters of dwellings and other structures built on state or government land without any recognizable legal right or claim to the land they occupy	The project considers to provide sufficient time (at least 2 months from the cut-off date/at the time of census survey) for the renters to find another place	Renters will find place to rent or to live in accordance to their needs
Encroachers, i.e., persons who aggrandize or extend their personal holdings by encroaching adjacent state or government land	Do not entitle for any compensation for the affected assets that encroached the state or government land	Do not have incentive to encroach state or government land in the future
Squatter landlords, i.e. persons who derive illegal rents from structures built on state or government land but do not occupy such structures.	Do not entitle for any compensation	Do not have incentive to do similar renting scheme in other areas or in the future

106. **Forms of compensation.** Compensation may take several forms: (a) cash; (b) land replacement; (c) resettlement to other site; (d) shares ownership; or (e) other forms of compensation that are agreed both by the PAPs and the agency requiring the land (in this case is GCA). Compensation may take combination of these depending on the agreements between the PAPs and the agency requiring the land.

107. **Consultations and disclosures.** Consultations and disclosures for acquiring land start from the planning, preparation, and implementation phase. In brief summary, Law No. 2/2012 and its implementing regulations¹⁰ specify that consultations should be carried out in the following activities:

- a. At planning stage: plan of the location of subproject, purpose of the development, steps and time frame for land acquisition, roles of licensed appraisers in the asset valuation, incentive or compensation that would be provided for the PAPs, eligible assets or object for compensation, and responsibility and rights of the eligible PAPs. Consultations will use public meetings, media and information in the closest villages. Consultations will adopt dialogue approach, and can take place more than one time, depending on the need and agreement reached. Agreement will be put in writing. The defined subproject location requiring land will be disclosed to public in the media, websites of the provincial and city government as well as in the website of the agency requiring the land.
- b. BPN will consult the owners of the asset during the inventory and the identification of the affected assets. Results of the inventory will be disclosed in the village/*kelurahan* and *kecamatan* (sub-district) offices for 14 days to receive complaints.

¹⁰ For details please refer to the Law and implementing regulations specified in the paragraph 34.

- c. Results of asset valuation done by the licensed appraisers will be provided to the PAPs and used as the basis for negotiations.
- d. Draft and final LARAP will be disclosed in the closest *kelurahan*/village where the subproject requiring land acquisition is located, in the websites of the local agency and/or in GCA website, and in the Project/MOF website

108. **Grievance Redress Mechanisms (GRM).** Process, procedures, requirements as well time for complaints to be solved during the land acquisition process will follow Law No. 2/2012 and its implementing regulations (including amendments). The implementing private investment will ensure that they have a good system in handling the grievance during the process of land acquisition.

109. **Organizational arrangements.** Organizational arrangements for the process of acquiring land will follow the Law No. 2/2012 and its implementing regulations (including amendments). From the Government of Indonesia, Provincial Land Agency (BPN) is the main institution in charge of the process of land acquisition. LARAP will be prepared based on the information provided by the Land Acquisition Plan and Inventory and Identification Report of the BPN. The final LARAP will be signed off by the Mayor/Bupati/GCA and the Agency requiring the land. Land acquisition process should be completed prior to the start of the construction.

110. **Financing arrangements.** Funds should cover compensation, operational and supporting costs during the planning, preparation, implementation, handover of results, administration and management, and socialization. In principle, the funding will be available from the Central Budget (APBN) and/or Local Budget (APBD) or combination of these, under the agency who needs the land. Requirement for the operational and supporting budget from APBN is regulated by the Ministry of Finance, whereas that from APBD is regulated by the Ministry of Home Affairs.

111. **Monitoring and Reporting.** Implementation of LARAP will be monitored based on indicators as specified in the approved LARAP, which includes among others: (a) consultation process; (b) eligible PAPs; (c) agreed compensation level and forms; (d) payment of compensation and delivery of assistance; (e) follow-up on the legal process of the acquired land/remaining land; (f) the effectiveness of complaint handling mechanisms; (g) number, type of complaints and follow up; (h) disclosures of the LARAP and transparency during the process of land acquisition; etc.

112. **Others.** The amendment of Presidential Regulation No. 71/2012 on Land Acquisition (Presidential Regulation No. 40/2014) allows that land acquisition for an area less than 5 Ha to be carried out directly by the agency requiring the land based on willing-buyer-willing seller principle, exchange or other schemes agreed by the two parties. In this case, the required land should be located in one area, and can be obtained in one fiscal year. The agency requiring the land may use licensed appraisers to assess the affected assets.

113. Scale of Land Acquisition and Instrument for Land Acquisition and Resettlement is presented in Table below:

Number of Project Affected People (PAP)/Land Owner	Instrument
> 200 people (or > 40 households) or eliminating >10% of their productive asset	Comprehensive LARAP
≤ 200 people (or ≤ 40 households) or eliminating ≤ 10% productive asset	Abbreviated LARAP
> 200 people (or > 40 households) or eliminating >10% of their productive asset	Comprehensive LARAP
≤ 200 people (or ≤ 40 households) or eliminating ≤ 10% productive asset	Abbreviated LARAP

4.3 INDIGENOUS PEOPLE POLICY FRAMEWORK

114. An Indigenous Peoples Plan (IPP) will be prepared during the Project implementation (after the screening, verification and confirmation stage) in the likely event that IPs will be affected by project activities. In the case that a project needs to acquire land belonged to IPs community or individual of the IPs community, the LARPF in this ESMF applies.

115. As in the case of environmental and land acquisition/resettlement impacts, potential adverse impacts and positive effects of the project on IPs, or involvement of IPs as beneficiaries will be identified once the villages are defined and subproject proposal is submitted by the community groups.

116. Law and Regulations related to IPs. This framework takes into account issues related to IPs as included in the following Law and Regulations:

- UUD 1945 (Amendment) Chapter 18, clause #2 and Chapter 281 clause # 3;
- Law No. 41 on Forestry (plus Constitutional Court Decision No. 35/PUU-X/2012, see Footnote 4);
- MOHA Regulation No. 52/2014 on the Guidelines on the Recognition and Protection of MHA;
- Ministerial Regulation of MOH No. P.62/2013 (adjustment of Ministerial Regulation No. P.44/2012) on the Establishment of Forest Area;
- Joint Regulation of MOHA, Ministry of Forest, Ministry of Public Works and Land Agency No. 79/2014 on Procedures to Settle Land Ownership Conflict in Forest Area;
- Regulation of the Minister of Land Agency and Spatial development No. 9/2015 on the Procedures to Establish the Land Communal rights on the MHA Land and Community Living in the Special Area;
- Law No. 6 / 2014 on Village; and
- Law No. 18/2013 on Prevention and Alleviation of Deforestation (UUP3H).

117. Objectives. The design of this Project is structured to ensure the participation and inclusion of various groups within communities in local level decision making over resource allocation. However, the Project recognizes that IPs form a particular group that merits a different approach and specific support. Therefore, in accordance with OP/BP 4.10, the following planning framework for addressing IPs will be adopted for the Project.

118. The objectives of this framework are to:

- a. Ensure that IPs participate in and benefit from the Project;
- b. Avoid or minimize potentially adverse effects of the Project on IPs, and if it is unavoidable, develop and implement mitigation measures based on free, prior, and informed consultation resulting in broad supports from the impacted IPs communities
- c. Maximize the potential positive effects of the Project on the IPs, based on free, prior, and informed consultations with the IPs ensuring that the design and implementation of the Project incorporate aspirations and needs of the IPs.

119. Identification. Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of “Indigenous Peoples,” this framework does not define the term. IPs in Indonesia are usually referred to as Masyarakat Adat (Customary Communities) or Masyarakat Hukum Adat (Customary Law Communities) by Law as stipulated in the Forestry Act 1999, Village Law 2014 and Ministry of Home Affairs Regulation 54/2014.

120. For purposes of this framework, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- a. A close attachment to ancestral territories and to the natural resources in these areas;
- b. Self-identification and identification by others as members of a distinct cultural group;
- c. An indigenous language, different from the common regional/national;
- d. The presence of customary social and political institutions.

121. Procedures and institutional arrangements. IPs communities are not prevalent in all the project sites—they are likely to be found in particular kota/kabupaten of particular provinces. The following steps will be taken to ensure that, where IPs communities are presence and affected by the project, it caters to their specific needs.

- a. Once the target sub-project areas are defined, GCA will screen, verify and confirm on the presence of the IPs in reference to the above characteristics. In doing so, GCA will consult experts, local universities or NGOs who have good knowledge or have worked on IPs in the area and use available references e.g. IP Study 2010 by the World Bank and other sources. Further, GCA will consult the communities concerned and neighboring communities to confirm that they are IPs.
- b. In the case that the presence of IPs is confirmed and they will be part of or affected by the project, GCA will carry out a social assessment (SA), based on free, prior and informed consultations (FPIC), with the affected IPs communities. The format and contents of the SA is provided in this ESMF. Potential adverse and positive effects of the project will be identified during the SA preparation.
- c. IPP will be prepared based on the RFP in the case that the project affects (positive and adverse) IPs. In the case that IPs constitutes the beneficiaries of the project, the design and implementation of the subproject(s) will accommodate the aspirations and needs of the IPs. In

this case, the principles of FPICs and participation will apply. The format and content of IPP is provided in this ESMF.

- d. For the areas where IPs communities are identified, GCA will organize training for relevant consultants in how to work with IPs communities in a meaningful way and in good faith to identify mechanisms for effective participation through free, prior and informed consultations, and address specific challenges in working with such groups, for example, how to deal with groups that may be in conflict with the larger community, etc.
- e. Since consultants will be hired locally to the extent possible, they are expected to be familiar with such groups. Preference will be made to recruitment of local people with skills and qualifications fit to the project.
- f. Where IPs communities are identified, efforts will be made to ensure that at least one Community Cadre is from the group and able to communicate easily with the group.
- g. Where the IPs communities speak a language different from Bahasa Indonesia, facilitation and socialization will be held in a language that these communities can easily understand. Relevant brochures and documents will be translated in the appropriate language. Provision has been made in the project budget to allow for additional translations of relevant project documents.
- h. The above aims at ensuring that IPs communities participate fully in the project with free, prior and informed consultations, are aware of their rights and responsibilities, and are able to voice their needs during the social assessment and in the formulation of IPP. The GCA will ensure that the above steps are implemented and well documented during project implementation.

122. Monitoring and Grievance Procedures. Where IPs communities are identified, the GCA will be required to report on their participation in the project.

123. The GCA will designate contact numbers for complaints via phone-calls and short text message (SMS) systems. There are designated staff members at the GCA responsible for following-up on complaints and ensuring that they are handled adequately. Where IPs communities are concerned, the GCA will ensure that grievance redress mechanisms are developed in culturally appropriate ways in close collaboration with the relevant group.

124. Disclosures. The IPP will be disclosed in respective project sites where IPs are affected, and if necessary, the document will be prepared in the language of the IPs.

125. IPPs and other relevant documents will also be disclosed in the GCA's website.

4.3.1 Screening and Assessment of Potential Impacts on IPs

126. The GCA will screen IPs presence based on the World Bank IPs Screening Study (2010). Further screening will be done based on the criteria of IPs specified in the IPPF in this ESMF, and criteria of Masyarakat Hukum Adat (MHA) summarized from the relevant Indonesia regulations and local values. The GCA should further identify the existence of IPs at the site of priority sub-projects (and its surrounding) by collecting as much information and local knowledge as possible, especially through discussions with the local community and community leaders and local experts on IPs.

127. GCA assesses whether the subproject will affect the identified IP communities. A Social Assessment needs to be prepared by the GCA to map the characteristics of IPs communities, assess

potential impacts, and aspirations and needs of the IPs communities. GCA will be responsible for preparing an IPP in case that the proposed subproject affects IPs communities. In the case that IPs communities are the sole or major beneficiaries of the proposed subproject, an IPP is not needed, instead, all aspirations and needs of the IPs communities are part of the subproject design.

4.3.2 Preparing Social Assessment and Indigenous Peoples Plan (IPP)

128. GCA will conduct a screening of the impacts (both positive and adverse) that may be caused by a subproject to determine what measures should to be taken and management instruments should be prepared. Table 10 summarizes criteria for management of social impact on IPs based on the project type. For a subproject that affect IPs (whether adversely or positively), an IPP will be prepared in compliance with the IPPF. The scope and content of the IPP will be proportional to the subprojects and their impacts. The IPP is prepared with the participation of affected communities through a social assessment and free, prior and informed consultation process, and demonstrates broad support to the sub-project and the IPP (Guidance of preparing a Social Assessment and IPP is provided in Appendix A9 and A10, respectively). If the beneficiaries of a sub-project are IPs, an IPP is not necessary. The elements of an IPP will be incorporated into the design of the subproject.

Table 10 Criteria of Activity to Determine Instruments for IPP.

IMPACT	INSTRUMENT	IMPLEMENTATION
It is potential that IPs will be affected (positively or adversely)	IPP	Based on IPP incorporate in the design of the subproject to accommodate specific needs of IPs
IPs as primary beneficiary of a subproject	Does not require IPP	Incorporate in the design of the subproject to accommodate specific needs of IPs

5.0 PUBLIC CONSULTATION AND DISCLOSURE

129. In order to identify, avoid/mitigate the aforementioned impacts an ESMF has been prepared by the client. The ESMF has been reviewed by the Bank and found to be satisfactory. Consultation of the TORs and Draft Report were conducted by the client on December 21, 2015 and January 21, 2016 respectively. The Draft ESMF was disclosed on the client's website on January 28, 2016. Documentation (minutes, list of attendance, photographs) of the public consultation is presented in Appendix A12.

130. The ESMF has been consulted twice. The first event was conducted in December 21st, 2015 with the objective to present the TOR for the ESMF development and to get inputs from relevant stakeholders. This first public consultation reached a total of 18 participants, represented different institutions including: the World Bank, the Indonesia Infrastructure Guarantee Fund, Indonesia Infrastructure Finance, Government Offices, NGOs (ILRC - The Indonesian Legal Resource Center, LPPSE – Lembaga Pengkajian dan Pengembangan Sosial/Social Research and Development

Institution, PP Muslimat NU), Embassy of Canada, BPJT (Toll Road Management Body), PLN (State Electricity Company), Ministry of Finance, and the Ministry of Public Work and Public Housing.

131. Important discussion related to the TOR of the ESMF include:

- ESMF Framework generally includes a screening process, guidelines on environmental and social assessments, guidelines on preparing action plan for mitigating impacts, the approval process for environmental and social documents, public consultation on environmental and social impacts (disclosure of information), training needs and capacity building for the institution implementing the ESMF;
- ESMF also needs to examine safety issues that may occur in using the infrastructure that has been built, for example, the number of vehicle accidents on the Cipali Toll Road;
- It is suggested that the public is given an award by the government or the project owner who have given up rights to land in support of infrastructure projects for the public;
- ESMF also includes the option of integrating infrastructure, for example, integrating provisions for high voltage transmission lines, gas pipelines, water pipelines, railroads and / or highways in the same ROW (right of way) so as to facilitate the land acquisition process. It will be best if there is one institution / government agency that can coordinate the integration of infrastructure requirement (not only synergy); and
- Suggestion to firstly assess gaps between the Presidential Decree No. 38 Year 2015 regarding KPBU (PPP) and regulations on land acquisition for public purposes against safeguards requirements in support of developing the ESMF document.

132. The second public consultation was conducted in January 21. 2016. This second workshop/public consultation was designed to receive inputs from public related to the first draft of the ESMF. The second consultation reached to 16 people represented several organization, similar to the Consultation in December. Some participants were the same person as the first consultation in December 2015.

133. Important discussion related to the draft of the ESMF were:

- The trust fund is administered by the World Bank (WB) with funds from the Government of Canada (GoC). The objective of the fund is to develop PPP (also known as *Kerjasama Pemerintah dan Badan Usaha* (KPBU), implementation Scheme, the fund itself is given to Director General of Risk Management (Direktorat General Pengelolaan Pembiayaan dan Resiko) of the MoF. This ESMF document is required due to the fund being used in financing PPP (KPBU's) project template development in many sectors. As such the WB require the ESMF documents to be implemented;
- MoF will support to complete the environmental and social assessment so as to improve the project tender documents and comply with Indonesian regulations. In relation with the World Bank, financially the World Bank funds the project; as such the assessments will meet World Bank policies;
- ESMF document should be considering spatial plan regulation, infrastructure design should not forsake cultural aspects, and also no longer using military approaches. This ESMF is still in

general term; please consider to put local community aspects related to socio-geographic, socio-culture and socio-economic; and

- Project sectors described in Presidential Decree 67/2005 have been expanded by Presidential Decree 38/2015. Sectors, which previously were not considered under PPP scheme, have been expanded to include hospitals, schools, and prisons where these types of projects generally have limitations in availability payment (i.e. no direct revenue from users). The ESMF document has covered all sectors listed in Presidential Decree 38/2015. Some local governments have proposed to get funding for PPP projects. Five projects to be declared as role model projects. An example of a pilot project targeted to receive funding support under this scheme is renewable energy projects.

134. Following the consultation and further revision on the ESMF, World Bank has disclosed the ESMF into the MOF and World Bank website (Infoshop) on January 28, 2016.

6.0 INSTITUTIONAL ASSESSMENT AND REQUIRED CAPACITY BUILDING PROGRAM

6.1 INSTITUTIONAL CAPACITY REQUIREMENT

135. Implementation of this ESMF within the PPP Unit will require human resources with adequate knowledge on the Indonesian standard and other requirements. Based on preliminary assessment to the PPP unit of the MOF and since this unit still newly established the capacity for safeguards implementation of this ESMF is still low.

136. The requirements of human resources within the PPP Unit at least but not limited to:

- **Environmental Specialist.** The specialist should be familiar with the Indonesian ES regulations, especially related to AMDAL/UKL-UPL. It will be ideal if the specialist has the AMDAL Team Leader certificate from the Ministry of Environment and Forestry and has considerable experience in conducting AMDAL for infrastructure project. The specialist should also familiar with the World Bank Safeguard Policies and have the experience in using the Safeguard in Environmental Assessment; and
- **Social Specialist.** The social specialist should be familiar with social issues in Indonesia, understanding relevant regulations related to land acquisition, social impact assessment, public participation, and indigenous people. The specialist should also familiar with the World Bank Standard and have used it in social studies in Indonesia.

6.2 CAPACITY BUILDING PROGRAM

137. As the PPP Unit is a new team within the MOF, it is important to ensure that the team has adequate capacity to support the IIFD and to implement the ESMF. Capacity development program needs to be implemented for the PPP Unit (once every 6 months), which will include at least but not limited to:

- **Understanding the ESMF.** ESMF is the main reference for PPP Unit to ensure that IIFD will be in compliance with the government regulation and World Bank Standard. Once ESMF is finalized, and PPP Unit team is established, a training on the ESMF is urgently required;

- **General Environmental and Social Awareness.** It is important to ensure the same level of understanding among members in the PPP Unit. General ES Awareness training will cover: Current environmental and social issues relevant to infrastructure development, regulation framework related to environment and social, general environmental management and monitoring plan, land acquisition issues and implementation in Indonesia.

6.3 MONITORING AND EVALUATION OF SAFEGUARDS IMPLEMENTATION

138. WB will supervise and monitor the Project (only for the Preparation and Transaction Phase) in line with its standard operating procedures for project performance monitoring and will carry out regularly scheduled internal reviews. The purpose of these internal reviews is to assess the likelihood of achieving the objectives and identify areas of improvement, and course-correct if required. Reporting on safeguards performance will be included in the Project's common reporting documents, and shall be done no less than twice a year.

139. The WB Task Team will conduct supervision missions of the Project and the PPP Unit on a regularly scheduled basis. The PPP Unit will submit to the WB on a regularly scheduled basis an annual work plan and budget plan describing activities throughout the year in line with the four Project Components. The PPP Unit will submit on a regularly scheduled basis the updated procurement plans and Quarter Project Reports (QPR) that report in a structured manner the activities and progress made by the PPP Unit, which the WB Task Team will review and discuss during the supervision missions.

7.0 BUDGET AND TIMELINE FOR ESMF IMPLEMENTATION

140. Implementation of ESMF will require several activities and program, which will include:

- **ESMF Dissemination Workshop.** Once the ESMF has been approved, promotion and dissemination activities shall be developed within the MOF to present this tool that should be fully applied once formally introduced in the PPP Unit. In addition to a number of internal workshops that will be developed, a workshop with the different Environmental Authorities is also envisaged to let them know the tool. Publication has also been considered to facilitate its use.
- **ESMF Publishing and Promotion:** The ESMF shall be published to let it known within the MOF, especially PPP Unit and across the Environmental Entities. The tool will also be posted on the WB and MOF website and intranet. The material will also be reproduced for the development of the above mentioned workshops.
- **Internal ESMF Training:** Concession projects cover several issues linked with environmental and social management that are worth disclosing within the institution so that PPP Unit staff can become aware of the subject. Issues like the environmental liabilities and involuntary resettlement as well as Indigenous Peoples must undoubtedly be especially considered in the types of projects promoted by the agency. At least two workshops/training should be conducted every year about topics that will be decided as required.

141. PPP Unit will also require supporting tools and instrument in order to well functioned to support the IIFD. These supporting tools will include:

- **Computation Equipment and Others:** PPP Unit shall purchase basic equipment to start working, such as camera, computers/laptop, printer, scanner, and others. Transportation means shall be required for the work onsite.
- **Technical Support for the Use of IT and Geographic Information System:** The purchase of software with basic information is required to conduct analysis based on secondary geo-referenced data, determine the Project Classification, and anticipate the needs of studies according to the environmental and social risks involved. The consultancy services of an expert on the subject will be required to help install the system. If no secondary digital information is available to feed the Information System, the scope of this technical assistance will be revised.

142. The estimates on the above program/activities is presented in the Table below:

Table 11 Estimated cost for the ESMF implementation (once every 6 months).

Activities	Amount (US\$)
I. Promotion and Dissemination Activities	
1. ESMF Dissemination Workshops	15,000
2. ESMF Publishing and Promotion	20,000
II. Workshops for Training on Specific Management Issues	
1. Internal Training Workshop s	20,000
III. Equipment and Workplace Requirements	
1. Computation Equipment and Others	35,000
2. Technical Support for Using the Geographic Information System	45,000
TOTAL	135,000

APPENDICES

Appendix A1
Screening Form

APPENDIX A1 SCREENING FORM

Steps for Project application screening procedures is listed below:

Name of the Project		
Project location		
Sector		
Project Condition (X)		New green field project
		New brown field project
		Project in the construction phase
		Project construction completed
Available data in the package (X)		Pre FS and/or FS document available
		AMDAL/UKL-UPL/LARAP/IPP available
		No initial data
Screening #1: Project Eligibility		
Is the project included in the Exclusion List? (Y/N)		Please check with Annex 1: Exclusion List
Note: If the answer is YES, screening is stopped and should not be continued (project application will be rejected)		
Screening #2: Project Categorization based on the Likely of Environmental and Social Impacts		
Brief Description of Project	Please provide information on the type and scale of project (project area, area of required land, approximate size of total building floor areas, etc.):	
The Natural Environment	Please describe in general the condition of project area (land cover, existence of forest/natural vegetation, adjacent to protected areas, existence of water body – rivers, lake, coastal, rural/urban, closest settlement)	
Likely Impact on Environmental and Social	Do you think the project will have major/significant impact to the environmental and social (changes on landscape, clearing of natural vegetation, major engineering work – river diversion, dam, potential environmental contamination, the use of hazardous materials, potentially will displace people, existence of indigenous peoples- KepMenLH 05/2012 Appendix 1 about screening criteria environmental and social impacts):	
Conclusion of Project Category (A/B/C/F1)		Please refer to the Annex 2: Project Categorization
Screening #3: WB Safeguard Assessment		
Based on Screening #2, do you think the project will need full ES impact assessment (Y/N)		If the answer is YES, OP/BP 4.01 Environmental Assessment is triggered
Are there any sensitive natural habitat (forest, riverine, coastal, peat land) areas or threatened species that could be adversely affected by the project? (Y/N)		If the answer is YES, OP/BP 4.04 Natural Habitat and OP/BP 4.36 Forest are triggered
Do you think that there are cultural or historical value in the project area and that the project will potentially affect its value and existence? (Y/N)		If the answer is YES, OP/BP 4.11 Physical Cultural Resources is triggered

Do you think that there is traditional community group (masyarakat adat/indigenous people) live and occupy certain territory within and around project area? (Y/N)		If the answer is YES, OP/BP 4.10 Indigenous Peoples is triggered
Does the project will potentially affect to the land and/or displace project affected people, and that involuntary resettlement will likely be occurred? (Y/N)		If the answer is YES, OP/BP 4.12 Involuntary Resettlement is triggered
Is the project located in the border of two states and that natural boundary (river, lake, shoreline) is used? (Y/N)		If the answer is YES, OP/BP 7.50 Projects on International Waterways is triggered
Does the project location clear and clean (no disputes, no outstanding/unsolved claim on the land, land has more than one owners)? (Y/N)		If the answer is YES, OP/BP 7.60 Projects in Disputed Areas is triggered
Will the project affect farmers in using pesticide? Or does the project potentially will have an impact on occurrence of agriculture pest/diseases (e.g., monoculture plant)? (Y/N)		If the answer is YES, OP/BP 4.09 Pest Management is triggered
Does the project involve small dam/large dam, dam extension construction? (Y/N)		If the answer is YES, OP/BP 4.37 Safety of Dam is triggered
Summary of Applicable WB SG (X) For completed list of WB Safeguard Policies, please see Annex 3: World Bank Safeguard Policies		OP/BP 4.01 Environmental Assessment
		OP/BP 4.04 Natural Habitat
		OP/BP 4.10 Indigenous Peoples
		OP/BP 4.11 Physical Cultural Resources
		OP/BP 4.36 Forest
		OP/BP 4.37 Safety of Dam
		OP/BP 4.12 Involuntary Resettlement
		OP/BP 7.50 Project on International Waterways

Annex 1: Exclusion List

Exclusions List
1. Any activity with the use of radioactive materials
2. Drift net fishing in the marine environment
3. Introduction of genetically engineered organisms
4. Gambling, casinos and equivalent enterprises
5. Mining or excavation of live coral
6. Commercial logging operations for use in primary tropical moist forest.
7. Production or trade in wood or other forestry products from unmanaged forests
8. Purchase of logging equipment for use in primary tropical moist forest.
9. Production of lead paints
10. Production or trade in tobacco
11. Production or trade in radioactive materials.
12. Production or trade in products containing PCBs
13. Production or trade in alcoholic beverages
14. Production or trade in weapons and munitions.

15. Production and/or use of asbestos containing products
16. Production, distribution and sale of illegal pesticides
17. Production or trade in or use of unbonded asbestos fibers
18. Production or trade in ozone depleting substances subject to international phase out
19. Production or trade in pharmaceuticals subject to international phase outs or bans.
20. Production or trade in pesticides/herbicides subject to international phase outs or bans.
21. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements
22. Production or activities involving harmful or exploitative forms of forced labour/harmful child labour
23. Production, trade, storage, or transport of significant volumes of hazardous chemicals, or commercial scale usage of hazardous chemicals
24. Production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples
25. Trade in wildlife or wildlife products

Annex 2: Project Categorization

Category A	A proposed project is classified as Category A if it is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. Project Category A will require a detailed EIA document; or AMDAL.
Category B	A proposed project is classified as Category B if the potential adverse environmental impacts on human populations or environmentally important areas—including wetlands, forests, grasslands, and other natural habitats – are less adverse than those of Category A projects. These impacts are site-specific; few if any of them are irreversible; and in most cases mitigation measures can be designed more readily than for Category A projects. Project Category B, will require Environmental Management Plan
Category C	A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts.
Category FI	A proposed project is classified as Category FI if it involves investment of Bank funds through a financial intermediary, in sub projects that may result in adverse environmental impacts. Project Category F1 will require an Environmental and Social Framework.

Annex 3: World Bank Safeguard Policies

No.	OP/BP	Safeguard	Policy Objectives
1.	4.01	Environmental Assessment	Help ensure the environmental and social soundness and sustainability of investment projects. Support integration of environmental and social aspects of projects in the decision-making process.
2.	4.04	Natural Habitats	Promote environmentally sustainable development by supporting the protection, conservation, maintenance, and rehabilitation of natural habitats and their functions.
3.	4.09	Pest Management	Minimize and manage the environmental and health risks associated with pesticide use and promote and support safe, effective, and environmentally sound pest management.
4.	4.11	Physical Cultural Resources	Assist in preserving PCR and in avoiding their destruction or damage. PCR includes resources of archeological, paleontological, historical, architectural, religious (including graveyards and burial sites), aesthetic, or other cultural significance.
5.	4.12	Involuntary Resettlement	Avoid or minimize involuntary resettlement and, where this is not feasible, assist displaced persons in improving or restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project, whichever is higher.
6.	4.20	Indigenous People	Design and implement projects in a way that fosters full respect for indigenous peoples' dignity, human rights, and cultural uniqueness and so that they (1) receive culturally compatible social and economic benefits, and (2) do not suffer adverse effects during the development process.
7.	4.36	Forests	Realize the potential of forests to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, and protect the vital local and global environmental services and values of forests.
8.	4.37	Safety of Dam	Ensure quality and safety in the design and construction of new dams and the rehabilitation of existing dams, and in carrying out activities that may be affected by an existing dam.
9.	7.50	Projects on International Waterways	Ensure that the international aspects of a project on an international waterway are dealt with at the earliest possible opportunity and that riparian are notified of the proposed project and its details.
10.	7.60	Projects in Disputed Areas	Ensure that other claimants to the disputed area have no objection to the project, or that the special circumstances of the case warrant the Bank's support of the project notwithstanding any objection or lack of approval by the other claimants.

Appendix A2
Feasibility Study TOR

1. Background

Under the Ministry of Finance (MoF), The PPP Unit makes available the IIFDTF funding support for 5 proposed PPP projects as pilots to support the development of the project Feasibility Study (FS) and enable the project to be brought to market for financing. As such, this Terms of Reference (TOR) is prepared for integrating the preliminary Environmental and Social (ES) assessment of the project into the FS. The TOR FS is sector specific and provides guidance on the ES aspects that needs to be considered to assure ES needs are understood and defined at the FS development stage.

2. Objective

Apart from the design, technical, economic and financial analysis, and as part of the overall objective of an FS, the FS TOR should include a preliminary assessment on the project's potential ES and land acquisition impacts, recommendations and estimated costs for possible mitigation measures.

3. Applicable Government Legislations and World Bank Safeguards

The ES preliminary assessment should include a review or screening of the requirements and application of relevant ES Government of Indonesia (GoI) legislations and World Bank Safeguards (WBS) that are applicable to the PPP Project. The following lists the key GoI legislations and WBS related to ES aspects for the transportation sector:

Regulations on Public-Private Partnership (PPP or KPBU – *Kerjasama Pemerintah dan Badan Usaha*):

- President Regulation No. 38 Year 2015 regarding Government Cooperation With Private Sector for the Provision of Infrastructure; and
- Ministry of National Development Planning/Head of Bappenas Regulation No.4Year2015on Procedures for the Implementation of Public Private Partnership for the Provision of Infrastructure.

Environmental and Social Legislations related to the Power Sector:

- Law No. 32 Year 2009 regarding Environmental Protection and Environmental Management;
- Government Regulation No. 27 Year 2012 regarding Environmental Permit;
- Government Regulation No. 41 Year 1999 regarding Control of Air Pollution;
- Government Regulation No. 82 Year 2001 regarding Management of Water Quality and Water Pollution Control;
- Government Regulation No. 101 Year 2014 regarding Management of Hazardous Waste;
- Ministry of the Environment Regulation No. 05 Year 2012 regarding Types of Business and/or Activities that are Mandatory to have Environmental Impact Assessment (AMDAL);
- Ministry of the Environment Regulation No. 12 Year 2010 regarding Implementation of Air Pollution Control at District Level;
- Ministry of Environment Regulation No. 5 Year 2014 regarding Wastewater Quality Standard;

- Ministry of Environment Decree No. 13 Year 1995 regarding Emission Quality Standards for Stationary Sources; and
- Ministry of Environment Decree No. KEP-48/MENLH/11/1996 regarding Noise Level Standards.

Key Legislations on Land Acquisition:

- Law No. 5 Year 1960 regarding the Agrarian Basic Principles;
- Law No. 2 Year 2012 regarding Land Acquisition for the Development of Facilities for Public Use
- President Regulation No. 36 Year 2005 regarding Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 65 Year 2006 regarding Change to President Regulation No. 36 Tahun 2005 regarding Land Acquisition for the Development of Facilities ;
- President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 40 Year 2014 regarding Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No 99 Year 2014 regarding Second Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 30 Tahun 2015 regarding Third Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- Head of National Land Agency (BPN) Regulation No. 3 Year 2007 regarding Implementation of the provisions of Presidential RegulationNo.36 of 2005as amended by Presidential RegulationNo.65 of 2006.
- Regulation of Ministry of Forest No. P.39/Menhut-II/2013 regarding Local communities empowerment through

World Bank Safeguards (WBS):

- OP/BP 4.01 - Environmental Assessment;
- OP/BP 4.04 - Natural Habitats;
- OP/BP 4.10 - Indigenous Peoples
- OP/BP 4.11 - Physical Cultural Resources;
- OP/BP 4.12 - Involuntary Resettlement;
- OP 4.37 - Safety of Dams;
- IFC General Environmental Health and Safety (EHS) Guidelines;
- IFC EHS Guidelines for Wind Energy;
- IFC EHS Guidelines for Geothermal Power Generation;
- IFC EHS Guidelines for Electric Power Transmission and Distribution;
- IFC EHS Guidelines for Thermal Power;

4. Scope of Work

The minimum scope of work for the preliminary assessment of key ES aspects includes the following:

- Review of ES and land acquisition regulatory and permitting requirements that are applicable to the PPP Project;
- Overlaying maps for assessing the project location and putting forward recommendations in relation to National and/or Regional Development, in the context of:
 - Alignment with the National Policy and Strategic plan as indicated by the Map on Deferment of New Project Licenses (*Peta Indikatif Penundaan Izin Baru* - PIPIB) or Moratorium Map;
 - Alignment with the National and/or Regional Spatial Plan(s) specifying protected areas and land designated for other use (*Area Penggunaan Lain* – APL); and
 - Assessment on whether the project is located on or goes through government protected areas.

Note: Updated map for PIPIB can be sourced at

<http://appgis.dephut.go.id/appgis/petamoratorium.html> while map on spatial plans can be sourced from the Ministry of Public Works website, <http://sigperda.penataanruang.net/> or <http://rtrwn.penataanruang.net/Atribut.aspx>;

- Based on the Ministry of Environment Regulation No. 05/2012, screening of PPP Project to determine the type of environmental document that is required (AMDAL or UKL-UPL) as prerequisite for obtaining the environmental permit or license for the project. Project screening refers to Appendix 1 of the regulation. For the power sector, AMDAL is mandatory for the developments of high voltage overhead transmission lines and underwater high voltage transmission lines with a capacity of 150 kV; Diesel, Gas and Steam turbine generators with a capacity of ≥ 100 MW (in one location); Geothermal turbine generators with a capacity of ≥ 55 MW; Hydropower plants with a dam height of ≥ 15 m or area of water reservoir of ≥ 200 Ha or production capacity (direct flow) of ≥ 50 MW; Power plants using waste as fuel (Methane Harvesting) with a capacity of ≥ 30 MW; and other power plants such as solar power, wind power, biomass/peat fuel driven, tidal power with a capacity of ≥ 10 MW (in one location). Power projects having a scale smaller than the mentioned, will need to develop a UKL-UPL study;
- Initial environmental permitting plan on schedule, estimated cost and party responsible for developing the required environmental document and obtaining the environmental permit;
- Preliminary assessment and recommended mitigation measures on potential environmental and social impacts of the PPP Project based on recent and available data of the baseline conditions. The mitigation measures may include development of specific management plans or other studies. The preliminary assessment also includes the estimated cost(s) for the mitigation measures. The potential ES impacts may include impacts or changes to the following:
 - Air quality;
 - Water quality;
 - Soil quality;
 - Noise levels;
 - Hydrology or Oceanography;
 - Biodiversity (flora and fauna) and natural habitats;
 - Occupational and Community Health and Safety;
 - Socio-economic conditions;

- Land ownership and land use;
- Indigenous peoples; and
- Cultural heritage sites.
- Specific **initial studies** for power projects include, but not limited to the following:
 - Assessment on the impact of noise from the power plant to adjacent settlements and possible mitigation efforts such as selection of technology, installation of barriers or plants to reduce noise.
 - Assessment on the impact to air pollution caused by stack and fugitive emissions from the power plant during the construction and operation phases, as well as possible mitigation efforts, which may include selection of the best technology for reducing stack emissions and management of material stockpiles to reduce fugitive dust.
 - Initial calculation on Green House Gas Emissions (GHG) and programs for reducing emissions. The calculation of GHG emissions can refer to the <http://apki.net/wp-content/uploads/2013/05/Draft-Petunjuk-Teknis-Penghitungan-Emisi-GRK-di-Sektor-industri.pdf>.
 - Assessment on the impact of cooling water discharge to the receiving water bodies during power plant operations, as well as possible mitigation efforts such as selection of best technology for reducing water pollution.
 - Assessment on the impact of large volumes of raw water withdrawal for the once-through cooling system, particularly the impact on the continual supply of water for ecological functions and use of water by adjacent community, as well as possible mitigation efforts such as technology selection for the cooling process system.
 - When the project involves dredging for the construction of ports (seabed or river dredging), assessment on the impact of dredging to water bodies and the possible mitigation efforts.
 - When the project involves restricting natural flow or construction of dams, assessment on the impacts of the dam on the river flow and the ecological functions of the river and potential conflict over water use with the community.
 - When applicable, assessment on the impact of fly ash and bottom ash storage and handling on soil and groundwater, as well as possible mitigation measures for the management of hazardous wastes.
 - Assessment on potential earthquake hazards in the project location. Review of project location based on Map of Indonesian Earthquake Zones, <http://puskim.pu.go.id/peta-zonasi-gempa/> and determine the risk of damages caused by earthquake on the power plant; and/or
 - Assessment on the impact caused by high voltage power transmission lines and possible mitigation efforts in terms of technology selection.

- Initial desktop study on stakeholder mapping for the PPP project to identify all stakeholders, their level of interest and authority over the project;
- Initial desktop study on land acquisition, which include:
 - Estimated land area required for the PPP Project based on design data;
 - Initial identification of land ownership and identification of any potential risks related to the land acquisition process. Land ownership include: land under the management of the Minister of Environment and Forestry, land used for religious purposes (*Tanah Wakaf*), land owned by village authority (*tanah carik atau desa*) or other government owned land such as land used for public school and/or public facilities, and land under traditional rights or land owned by indigenous peoples or land that has cultural values;
 - Initial identification for any potential voluntary or involuntary relocation of houses or settlements and/or squatters, and development of resettlement action plan that includes mitigation measures;
 - Assessment of any land acquisition document or activity which may have already been executed and identification of potential risks and mitigation measures;
 - Determine party responsible for executing the land acquisition and/or resettlement activities; and
 - Estimated costs and timeline for developing the land acquisition document as required by regulations and executing the land acquisition activities that may include resettlement.

5. General Methodology

The general approach to the methodology for the preliminary ES assessment for the FS is performing a desktop study based on recent and available data that is sourced from reliable and trustworthy sources such as other scientific studies and literatures, and meetings and discussions with experts. When secondary data is not available, reasonable efforts should be made to collect primary data from the field for the assessment. The field surveys should be designed to meet the purpose of the preliminary ES assessment and do not substitute baseline surveys required for a full environmental impact assessment (i.e. AMDAL or UKL-UPL).

6. Expected Outputs

The expected output of the preliminary ES assessment of the PPP project is a written section of the FS report, which includes the following:

- Review of Gol legislations and WBS applicable to the PPP Project and identification of required permits or licenses and valued environmental components that are relevant;
- Review of project location in context of National and Regional Spatial Plans and Protected Areas, and include any recommendations for obtaining land clearance;
- Environmental Permitting Plan which describes the cost for developing the AMDAL or UKL-UPL and obtaining the environmental permit for the PPP Project.
- Preliminary ES assessment and mitigation measures which may include recommendations for additional studies. Mitigation measures should include an estimation of the costs. The preliminary ES assessment does not substitute an AMDAL or UKL-UPL for the project.
- Summary of stakeholder mapping including description of their level of interest and authority on the PPP Project; and
- Preliminary assessment on land acquisition, which includes identification of land ownership, land acquisition process and documents, and any requirements for resettlement including proposed action plans and estimated costs.

7. Experts

The main experts, which will be required for performing the preliminary ES assessment for the FS, include the following:

- Environmental experts which include air quality, water quality, biodiversity (flora and fauna) experts;
- Health and safety expert;
- Socio-economic expert;
- Socio-cultural expert; and
- Land acquisition expert.

8. Timeline

The timeline for performing the preliminary ES assessment depends on the nature and scale of the PPP Project. It is estimated that the development of the preliminary ES assessment for the FS is completed within 3 (three) to 6 (six) months.

1. Background

Under the Ministry of Finance (MoF), The PPP Unit makes available the IIFDTF funding support for 5 proposed PPP projects as pilots to support the development of the project Feasibility Study (FS) and enable the project to be brought to market for financing. As such, this Terms of Reference (TOR) is prepared for integrating the preliminary Environmental and Social (ES) assessment of the project into the FS. The TOR FS is sector specific and provides guidance on the ES aspects that needs to be considered to assure ES needs are understood and defined at the FS development stage.

2. Objective

Apart from the design, technical, economic and financial analysis, and as part of the overall objective of an FS, the FS TOR should include a preliminary assessment on the project's potential ES and land acquisition impacts, recommendations and estimated costs for possible mitigation measures.

3. Applicable Government Legislations and World Bank Safeguards

The ES preliminary assessment should include a review or screening of the requirements and application of relevant ES Government of Indonesia (GoI) legislations and World Bank Safeguards (WBS) that are applicable to the PPP Project. The following lists the key GoI legislations and WBS related to ES aspects for the transportation sector:

Regulations on Public-Private Partnership (PPP or KPBU – *Kerjasama Pemerintah dan Badan Usaha*):

- President Regulation No. 38 Year 2015 regarding Government Cooperation With Private Sector for the Provision of Infrastructure; and
- Ministry of National Development Planning/Head of Bappenas Regulation No.4Year2015on Procedures for the Implementation of Public Private Partnership for the Provision of Infrastructure.

Environmental and Social Legislations related to the Transportation Sector:

- Law No. 32 Year 2009 regarding Environmental Protection and Environmental Management;
- Government Regulation No. 27 Year 2012 regarding Environmental Permit;
- Government Regulation No. 41 Year 1999 regarding Control of Air Pollution;
- Ministry of the Environment Regulation No. 05 Year 2012 regarding Types of Business and/or Activities that are Mandatory to have Environmental Impact Assessment (AMDAL);
- Ministry of the Environment Regulation No. 12 Year 2010 regarding Implementation of Air Pollution Control at District Level; and
- Ministry of Environment Decree No. KEP-48/MENLH/11/1996 regarding Noise Level Standards.

Key Legislations on Land Acquisition:

- Law No. 5 Year 1960 regarding the Agrarian Basic Principles;
- Law No. 2 Year 2012 regarding Land Acquisition for the Development of Facilities for Public Use

- President Regulation No. 36 Year 2005 regarding Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 65 Year 2006 regarding Change to President Regulation No. 36 Tahun 2005 regarding Land Acquisition for the Development of Facilities ;
- President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 40 Year 2014 regarding Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No 99 Year 2014 regarding Second Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 30 Tahun 2015 regarding Third Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- Head of National Land Agency (BPN) Regulation No. 3 Year 2007 regarding Implementation of the provisions of Presidential RegulationNo.36 of 2005as amended by Presidential RegulationNo.65 of 2006.
- Regulation of Ministry of Forestry No. P.39/Menhut-II/2013 regarding local communities empowerment through forest partnership.

World Bank Safeguards (WBS):

- OP/BP 4.01 - Environmental Assessment;
- OP/BP 4.04 - Natural Habitats;
- OP/BP 4.10 - Indigenous Peoples
- OP/BP 4.11 - Physical Cultural Resources;
- OP/BP 4.12 - Involuntary Resettlement;
- IFC General Environmental Health and Safety (EHS) Guidelines;
- IFC EHS Guidelines for Railways;
- IFC EHS Guidelines for Ports, Harbors, and Terminals;
- IFC EHS Guidelines for Airports; and
- IFC EHS Guidelines for Toll Roads;

4. Scope of Work

The minimum scope of work for the preliminary assessment of key ES aspects includes the following:

- Review of ES and land acquisition regulatory and permitting requirements that are applicable to the PPP Project;
- Overlaying maps for assessing the project location and putting forward recommendations in relation to National and/or Regional Development, in the context of:
 - Alignment with the National Policy and Strategic plan as indicated by the Map on Deferment of New Project Licenses (*Peta Indikatif Penundaan Izin Baru* - PIPIB) or Moratorium Map;

- Alignment with the National and/or Regional Spatial Plan(s) specifying protected areas and land designated for other use (*Area Penggunaan Lain* – APL); and
- Assessment on whether the project is located on or goes through government protected areas.

Note: Updated map for PIPB can be sourced at

<http://appgis.dephut.go.id/appgis/petamoratorium.html> while map on spatial plans can be sourced from the Ministry of Public Works website, <http://sigperda.penataanruang.net/> or <http://rtrwn.penataanruang.net/Atribut.aspx>;

- Based on the Ministry of Environment Regulation No. 05/2012, screening of PPP Project to determine the type of environmental document that is required (AMDAL or UKL-UPL) as prerequisite for obtaining the environmental permit or license for the project. Project screening refers to Appendix 1 of the regulation. For the transportation sector, AMDAL is mandatory for the developments of above ground railways with a length of ≥ 25 km; underground railways for all lengths; elevated railways with a length of ≥ 5 km; construction of passenger terminals with an area of ≥ 5 Ha; dredging of water bodies with a dredged volume ≥ 500.000 m³; dredging of water bodies that include cutting of rock boulder (non coral) with a volume ≥ 250.000 m³ or any scale if using explosives; dumping of dredged material at sea with a volume of ≥ 500.000 m³ or size of dumping area of ≥ 5 Ha; ports involving construction of piles with a length of ≥ 200 m or area of ≥ 6.000 m²; massive port construction for all scales; construction of breakwaters with a length of ≥ 200 m; construction of floating facility ≥ 10.000 DWT; construction of airports for fixed wing aircrafts with a runway length of > 1.200 m or construction of passenger terminals or cargo terminals with an area of > 10.000 m². Transportation projects having a scale smaller than the mentioned, will need to develop a UKL-UPL study;
- Initial environmental permitting plan on schedule, estimated cost and party responsible for developing the required environmental document and obtaining the environmental permit;
- Preliminary assessment and recommended mitigation measures on potential environmental and social impacts of the PPP Project based on recent and available data of the baseline conditions. The mitigation measures may include development of specific management plans or other studies. The preliminary assessment also includes the estimated cost(s) for the mitigation measures. The potential ES impacts may include impacts or changes to the following:
 - Air quality;
 - Water quality;
 - Noise levels;
 - Hydrogeology;
 - Biodiversity (flora and fauna) and natural habitats;
 - Traffic conditions;
 - Occupational and Community Health and Safety;
 - Socio-economic conditions;
 - Land ownership and land use;
 - Indigenous peoples; and
 - Cultural heritage sites.
- Specific **initial studies** for transportation projects include, but not limited to the following:
 - Assessing noise levels along the transportation corridor (road or railway) and assessing potential impacts on nearby settlements based on ambient noise level standards and put forward possible mitigation measures such as technology selection, procurement of buildings or plants to reduce noise;

- Potential impacts arising from air pollution caused by the project activities during the construction and operation phases, as well as mitigation efforts that can be done. Parameters for air pollution include Total Suspended Particles, SO_x, NO_x, CO, HC;
 - Social impacts arising from reduced access or mobility due to transportation corridor (affected persons and/or fauna can not cross the road or railway) and possible mitigation efforts;
 - Socio-economic impacts arising from the influx or increase of incoming and outgoing people to and from the project site, as well as possible mitigation efforts;
 - Potential impacts to hydrological systems and local irrigation and drainage systems, which may cause water inundations restriction of water flows, as well as possible mitigation efforts;
 - Potential impacts arising from large topographic profile changes such as tunneling, which may affect the local catchment area or hydrological system, and the possible mitigation efforts; and/or
 - Potential dredging impacts arising from construction of ports and possible mitigation measures.
- Initial desktop study on stakeholder mapping for the PPP project to identify all stakeholders, their level of interest and authority over the project;
 - Initial desktop study on land acquisition, which include:
 - Estimated land area required for the PPP Project based on design data;
 - Initial identification of land ownership and identification of any potential risks related to the land acquisition process. Land ownership include: land under the management of the Minister of Environment and Forestry, land used for religious purposes (*Tanah Wakaf*), land owned by village authority (*tanah carik atau desa*) or other government owned land such as land used for public school and/or public facilities, and land under traditional rights or land owned by indigenous peoples or land that has cultural values;
 - Initial identification for any potential voluntary or involuntary relocation of houses or settlements and/or squatters, and development of resettlement action plan that includes mitigation measures;
 - Assessment of any land acquisition document or activity which may have already been executed and identification of potential risks and mitigation measures;
 - Determine party responsible for executing the land acquisition and/or resettlement activities; and
 - Estimated costs and timeline for developing the land acquisition document as required by regulations and executing the land acquisition activities that may include resettlement.

5. General Methodology

The general approach to the methodology for the preliminary ES assessment for the FS is performing a desktop study based on recent and available data that is sourced from reliable and trustworthy sources such as other scientific studies and literatures, and meetings and discussions with experts. When secondary data is not available, reasonable efforts should be made to collect primary data from the field for the assessment. The field surveys should be designed to meet the purpose of the preliminary ES assessment and do not substitute baseline surveys required for a full environmental impact assessment (i.e. AMDAL or UKL-UPL).

6. Expected Outputs

The expected output of the preliminary ES assessment of the PPP project is a written section of the FS report, which includes the following:

- Review of GoI legislations and WBS applicable to the PPP Project and identification of required permits or licenses and valued environmental components that are relevant;
- Review of project location in context of National and Regional Spatial Plans and Protected Areas, and include any recommendations for obtaining land clearance;
- Environmental Permitting Plan which describes the cost for developing the AMDAL or UKL-UPL and obtaining the environmental permit for the PPP Project.
- Preliminary ES assessment and mitigation measures which may include recommendations for additional studies. Mitigation measures should include an estimation of the costs. The preliminary ES assessment does not substitute an AMDAL or UKL-UPL for the project.
- Summary of stakeholder mapping including description of their level of interest and authority on the PPP Project; and
- Preliminary assessment on land acquisition, which includes identification of land ownership, land acquisition process and documents, and any requirements for resettlement including proposed action plans and estimated costs.

7. Experts

The main experts, which will be required for performing the preliminary ES assessment for the FS, include the following:

- Environmental experts which include air quality, water quality, biodiversity (flora and fauna) experts;
- Health and safety expert;
- Socio-economic expert;
- Socio-cultural expert; and
- Land acquisition expert.

8. Timeline

The timeline for performing the preliminary ES assessment depends on the nature and scale of the PPP Project. It is estimated that the development of the preliminary ES assessment for the FS is completed within 3 (three) to 6 (six) months.

1. Background

Under the Ministry of Finance (MoF), The PPP Unit makes available the IIFDTF funding support for 5 proposed PPP projects as pilots to support the development of the project Feasibility Study (FS) and enable the project to be brought to market for financing. As such, this Terms of Reference (TOR) is prepared for integrating the preliminary Environmental and Social (ES) assessment of the project into the FS. The TOR FS is sector specific and provides guidance on the ES aspects that needs to be considered to assure ES needs are understood and defined at the FS development stage.

2. Objective

Apart from the design, technical, economic and financial analysis, and as part of the overall objective of an FS, the FS TOR should include a preliminary assessment on the project's potential ES and land acquisition impacts, recommendations and estimated costs for possible mitigation measures.

3. Applicable Government Legislations and World Bank Safeguards

The ES preliminary assessment should include a review or screening of the requirements and application of relevant ES Government of Indonesia (GoI) legislations and World Bank Safeguards (WBS) that are applicable to the PPP Project. The following lists the key GoI legislations and WBS related to ES aspects for the transportation sector:

Regulations on Public-Private Partnership (PPP or KPBU – *Kerjasama Pemerintah dan Badan Usaha*):

- President Regulation No. 38 Year 2015 regarding Government Cooperation With Private Sector for the Provision of Infrastructure; and
- Ministry of National Development Planning/Head of Bappenas Regulation No.4Year2015on Procedures for the Implementation of Public Private Partnership for the Provision of Infrastructure.

Environmental and Social Legislations related to the Waste Sector:

- Law No. 32 Year 2009 regarding Environmental Protection and Environmental Management;
- Government Regulation No. 27 Year 2012 regarding Environmental Permit;
- Government Regulation No. 81 Year 2012 regarding Management of Household Waste and Other Similar Wastes;
- Government Regulation No. 82 Year 2001 regarding Management of Water Quality and Water Pollution Control;
- Government Regulation No. 41 Year 1999 regarding Control of Air Pollution;
- Government Regulation No. 101 Year 2014 regarding Management of Hazardous Waste;
- Ministry of the Environment Regulation No. 05 Year 2012 regarding Types of Business and/or Activities that are Mandatory to have Environmental Impact Assessment (AMDAL);
- Ministry of Environment Regulation No. 5 Year 2014 regarding Wastewater Quality Standard;

- Ministry of the Environment Regulation No. 12 Year 2010 regarding Implementation of Air Pollution Control at District Level;
- Ministry of Public Works Regulation No. 21/PRT/M/2006 regarding Policy and National Strategy on Development of Waste Management System;
- Ministry of Environment Decree No. 50 Year 1996 regarding Odor Level Standards;
- Ministry of Environment Decree No. 13 Year 1995 regarding Emission Quality Standards for Stationary Sources; and
- Ministry of Environment Decree No. KEP-48/MENLH/11/1996 regarding Noise Level Standards.

Key Legislations on Land Acquisition:

- Law No. 5 Year 1960 regarding the Agrarian Basic Principles;
- Law No. 2 Year 2012 regarding Land Acquisition for the Development of Facilities for Public Use
- President Regulation No. 36 Year 2005 regarding Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 65 Year 2006 regarding Change to President Regulation No. 36 Tahun 2005 regarding Land Acquisition for the Development of Facilities ;
- President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 40 Year 2014 regarding Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No 99 Year 2014 regarding Second Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 30 Tahun 2015 regarding Third Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- Head of National Land Agency (BPN) Regulation No. 3 Year 2007 regarding Implementation of the provisions of Presidential RegulationNo.36 of 2005as amended by Presidential RegulationNo.65 of 2006.

World Bank Safeguards (WBS):

- OP/BP 4.01 - Environmental Assessment;
- OP/BP 4.04 - Natural Habitats;
- OP/BP 4.36 - Forests;
- OP/BP 4.09 - Pest Management;
- OP/BP 4.10 - Indigenous Peoples
- OP/BP 4.11 - Physical Cultural Resources;
- OP/BP 4.12 - Involuntary Resettlement;
- OP 4.37 - Safety of Dams;
- IFC General Environmental Health and Safety (EHS) Guidelines;

- IFC EHS Guidelines for Waste Management Facilities;

4. Scope of Work

The minimum scope of work for the preliminary assessment of key ES aspects includes the following:

- Review of ES and land acquisition regulatory and permitting requirements that are applicable to the PPP Project;
- Overlaying maps for assessing the project location and putting forward recommendations in relation to National and/or Regional Development, in the context of:
 - Alignment with the National Policy and Strategic plan as indicated by the Map on Deferment of New Project Licenses (*Peta Indikatif Penundaan Izin Baru* - PIPIB) or Moratorium Map;
 - Alignment with the National and/or Regional Spatial Plan(s) specifying protected areas and land designated for other use (*Area Penggunaan Lain* – APL); and
 - Assessment on whether the project is located on or goes through government protected areas.

Note: Updated map for PIPIB can be sourced at

<http://appgis.dephut.go.id/appgis/petamoratorium.html> while map on spatial plans can be sourced from the Ministry of Public Works website, <http://sigperda.penataanruang.net/> or <http://rtrwn.penataanruang.net/Atribut.aspx>;

- Based on the Ministry of Environment Regulation No. 05/2012, screening of PPP Project to determine the type of environmental document that is required (AMDAL or UKL-UPL) as prerequisite for obtaining the environmental permit or license for the project. Project screening refers to Appendix 1 of the regulation. For the waste sector, AMDAL is mandatory for the developments of landfill or sanitary landfill facility with an area of ≥ 10 Ha or total capacity of $\geq 100,000$ tons; landfills at tidal areas for all sizes; waste transfer station with a capacity of ≥ 500 tons/day; Integrated Waste Management System with a capacity of ≥ 500 tons/day; waste treatment using incinerator for all sizes; and composting plant with a capacity of ≥ 500 tons/day. Waste projects having a scale smaller than the mentioned, will need to develop a UKL-UPL study;
- Initial environmental permitting plan on schedule, estimated cost and party responsible for developing the required environmental document and obtaining the environmental permit;
- Preliminary assessment and recommended mitigation measures on potential environmental and social impacts of the PPP Project based on recent and available data of the baseline conditions. The mitigation measures may include development of specific management plans or other studies. The preliminary assessment also includes the estimated cost(s) for the mitigation measures. The potential ES impacts may include impacts or changes to the following:
 - Air quality and noise;
 - Soil and Water quality;
 - Hydrology;
 - Biodiversity (flora and fauna) and natural habitats;
 - Occupational and Community Health and Safety;
 - Socio-economic conditions (including cultural heritage);
 - Land ownership and land use; and

- Indigenous peoples.
- Specific **initial studies** for waste projects include, but not limited to the following:
 - Assessment on the impact of noise from landfill operation and waste to energy activities to adjacent settlements and possible mitigation efforts such as selection of technology, installation of barriers or plants to reduce noise levels.
 - Assessment on the impact of smell/odour caused by the project on nearby settlements around the project location, potential conflicts as well as possible mitigation efforts.
 - When applicable, assessment on the impact to air quality caused by emissions from any waste to energy activities, such as incineration (burning) processes utilizing waste as fuel to create steam that powers turbines to generate power.
 - Assessment on the impact of road traffic in relation to the activities of transporting, handling and collecting waste, as well as possible mitigation efforts.
 - Assessment on the impact on the collection of hazardous and toxic waste (B3) on soil and water resources at the project location, as well as possible mitigation efforts.
 - Assessment on the impact of leachate generated by the landfill on soil and groundwater and/or other water sources nearby the project location.
 - When applicable, assessment on the potential impact on watershed or catchment areas and/or when the project is located in flood-prone areas, as well as possible mitigation efforts such as installation of leachate treatment facility.
- Initial desktop study on stakeholder mapping for the PPP project to identify all stakeholders, their level of interest and authority over the project;
- Initial desktop study on land acquisition, which include:
 - Estimated land area required for the PPP Project based on design data;
 - Initial identification of land ownership and identification of any potential risks related to the land acquisition process. Land ownership include: land under the management of the Minister of Environment and Forestry, land used for religious purposes (*Tanah Wakaf*), land owned by village authority (*tanah carik atau desa*) or other government owned land such as land used for public school and/or public facilities, and land under traditional rights or land owned by indigenous peoples or land that has cultural values;
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 - Assessment of any land acquisition document or activity which may have already been executed and identification of potential risks and mitigation measures;
 - Determine party responsible for executing the land acquisition and/or resettlement activities; and
 - Estimated costs and timeline for developing the land acquisition document as required by regulations and executing the land acquisition activities that may include resettlement.

5. General Methodology

The general approach to the methodology for the preliminary ES assessment for the FS is performing a desktop study based on recent and available data that is sourced from reliable and trustworthy sources such as other scientific studies and literatures, and meetings and discussions with experts. When secondary data is not available, reasonable efforts should be made to collect primary data from the field for the assessment. The field surveys should be designed to meet the purpose of the preliminary ES assessment and do not substitute baseline surveys required for a full environmental impact assessment (i.e. AMDAL or UKL-UPL).

6. Expected Outputs

The expected output of the preliminary ES assessment of the PPP project is a written section of the FS report, which includes the following:

- Review of Gol legislations and WBS applicable to the PPP Project and identification of required permits or licenses and valued environmental components that are relevant;
- Review of project location in context of National and Regional Spatial Plans and Protected Areas, and include any recommendations for obtaining land clearance;
- Environmental Permitting Plan which describes the cost for developing the AMDAL or UKL-UPL and obtaining the environmental permit for the PPP Project.
- Preliminary ES assessment and mitigation measures which may include recommendations for additional studies. Mitigation measures should include an estimation of the costs. The preliminary ES assessment does not substitute an AMDAL or UKL-UPL for the project.
- Summary of stakeholder mapping including description of their level of interest and authority on the PPP Project; and
- Preliminary assessment on land acquisition, which includes identification of land ownership, land acquisition process and documents, and any requirements for resettlement including proposed action plans and estimated costs.

7. Experts

The main experts, which will be required for performing the preliminary ES assessment for the FS, include the following:

- Environmental experts which include air quality, water quality, biodiversity (flora and fauna) experts;
- Health and safety expert;
- Socio-economic expert;
- Socio-cultural expert; and
- Land acquisition expert.

8. Timeline

The timeline for performing the preliminary ES assessment depends on the nature and scale of the PPP Project. It is estimated that the development of the preliminary ES assessment for the FS is completed within 3 (three) to 6 (six) months.

1. Background

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2. Objective

Apart from the design, technical, economic and financial analysis, and as part of the overall objective of an FS, the FS TOR should include a preliminary assessment on the project's potential ES and land acquisition impacts, recommendations and estimated costs for possible mitigation measures.

3. Applicable Government Legislations and World Bank Safeguards

The ES preliminary assessment should include a review or screening of the requirements and application of relevant ES Government of Indonesia (GoI) legislations and World Bank Safeguards (WBS) that are applicable to the PPP Project. The following lists the key GoI legislations and WBS related to ES aspects for the transportation sector:

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- President Regulation No. 38 Year 2015 regarding Government Cooperation With Private Sector for the Provision of Infrastructure; and
- Ministry of National Development Planning/Head of Bappenas Regulation No.4Year2015on Procedures forth Implementation of Public Private Partnership for the Provision of Infrastructure.

Environmental and Social Legislations related to the Water Sector:

- Law No. 32 Year 2009 regarding Environmental Protection and Environmental Management;
- Law No. 11 Year 1974 regarding Irrigation;
- Government Regulation No. 27 Year 2012 regarding Environmental Permit;
- Government Regulation No. 16 Year 2005 regarding Development of Drinking Water Supply System;
- Government Regulation No. 82 Year 2001 regarding Management of Water Quality and Water Pollution Control;
- Ministry of the Environment Regulation No. 05 Year 2012 regarding Types of Business and/or Activities that are Mandatory to have Environmental Impact Assessment (AMDAL); and
- Ministry of Environment Regulation No. 5 Year 2014 regarding Wastewater Quality Standard.

Key Legislations on Land Acquisition:

- Law No. 5 Year 1960 regarding the Agrarian Basic Principles;
- Law No. 2 Year 2012 regarding Land Acquisition for the Development of Facilities for Public Use
- President Regulation No. 36 Year 2005 regarding Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 65 Year 2006 regarding Change to President Regulation No. 36 Tahun 2005 regarding Land Acquisition for the Development of Facilities ;
- President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 40 Year 2014 regarding Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No 99 Year 2014 regarding Second Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- President Regulation No. 30 Tahun 2015 regarding Third Change to President Regulation No. 71 Year 2012 regarding Implementation of Land Acquisition for the Development of Facilities for Public Use;
- Head of National Land Agency (BPN) Regulation No. 3 Year 2007 regarding Implementation of the provisions of Presidential RegulationNo.36 of 2005as amended by Presidential RegulationNo.65 of 2006.

World Bank Safeguards (WBS):

- OP/BP 4.01 - Environmental Assessment;
- OP/BP 4.04 - Natural Habitats;
- OP/BP 4.10 - Indigenous Peoples
- OP/BP 4.11 - Physical Cultural Resources;
- OP/BP 4.12 - Involuntary Resettlement;
- OP 4.37 - Safety of Dams;
- IFC General Environmental Health and Safety (EHS) Guidelines; and
- IFC EHS Guidelines for Water and Sanitation;

4. Scope of Work

The minimum scope of work for the preliminary assessment of key ES aspects includes the following:

- Review of ES and land acquisition regulatory and permitting requirements that are applicable to the PPP Project;
- Overlaying maps for assessing the project location and putting forward recommendations in relation to National and/or Regional Development, in the context of:
 - Alignment with the National Policy and Strategic plan as indicated by the Map on Deferment of New Project Licenses (*Peta Indikatif Penundaan Izin Baru* - PIPIB) or Moratorium Map;
 - Alignment with the National and/or Regional Spatial Plan(s) specifying protected areas and land designated for other use (*Area Penggunaan Lain* – APL); and

- Assessment on whether the project is located on or goes through government protected areas.

Note: Updated map for PIPB can be sourced at

<http://appgis.dephut.go.id/appgis/petamoratorium.html> while map on spatial plans can be sourced from the Ministry of Public Works website, <http://sigperda.penataanruang.net/> or <http://rtrwn.penataanruang.net/Atribut.aspx>;

- Based on the Ministry of Environment Regulation No. 05/2012, screening of PPP Project to determine the type of environmental document that is required (AMDAL or UKL-UPL) as prerequisite for obtaining the environmental permit or license for the project. Project screening refers to Appendix 1 of the regulation. For the transportation sector, AMDAL is mandatory for the developments of raw water withdrawal from water bodies (river, lake, dam, spring) with a flow rate of ≥ 250 liters/second and water withdrawal from groundwater resources with a flow rate of ≥ 50 liters/second from 1 or several deep wells inside an area of < 10 Ha. Water projects having a scale smaller than the mentioned, will need to develop an UKL-UPL study.
- Initial environmental permitting plan on schedule, estimated cost and party responsible for developing the required environmental document and obtaining the environmental permit;
- Preliminary assessment and recommended mitigation measures on potential environmental and social impacts of the PPP Project based on recent and available data of the baseline conditions. The mitigation measures may include development of specific management plans or other studies. The preliminary assessment also includes the estimated cost(s) for the mitigation measures. The potential ES impacts may include impacts or changes to the following:
 - Water quality;
 - Hydrogeology;
 - Biodiversity (flora and fauna) and natural habitats;
 - Occupational and Community Health and Safety;
 - Socio-economic conditions;
 - Land ownership and land use;
 - Indigenous peoples; and
 - Cultural heritage sites.
- Specific **initial studies** for water projects include, but not limited to the following:
 - Assessment on water balance and continuity of water supply, which analyze water withdrawal, rates by the project versus other water usage, such as for basic ecological function, irrigation, fish farming, bathing and washing by the local community.
 - Assessment on the potential social conflicts arising as result of competition over use of water, as well as possible mitigation efforts.
 - Assessment on the management and protection of water catchment/water shed areas to ensure the continuity of water for the project.
 - Assessment on the potential contamination of raw water, which may be caused by other activities around the project site, such as factories, wastewater facilities discharging wastewater to the water body.
 - Assessment on the risks of damage to the water reservoir used as source of raw water for the project. Damage to the reservoir may cause impacts to the safety of the community (flooding), as well as possible mitigation efforts.
 - Assessment on the quality of raw water and the selection of technology for the preliminary design of raw water treatment facilities.
 - Assessment on the treatment of sludge as by product of the water treatment facility.

- Initial desktop study on stakeholder mapping for the PPP project to identify all stakeholders, their level of interest and authority over the project;
- Initial desktop study on land acquisition, which include:
 - Estimated land area required for the PPP Project based on design data;
 - Initial identification of land ownership and identification of any potential risks related to the land acquisition process. Land ownership include: land under the management of the Minister of Environment and Forestry, land used for religious purposes (*Tanah Wakaf*), land owned by village authority (*tanah carik atau desa*) or other government owned land such as land used for public school and/or public facilities, and land under traditional rights or land owned by indigenous peoples or land that has cultural values;
 - Initial identification for any potential voluntary or involuntary relocation of houses or settlements and/or squatters, and development of resettlement action plan that includes mitigation measures;
 - Assessment of any land acquisition document or activity which may have already been executed and identification of potential risks and mitigation measures;
 - Determine party responsible for executing the land acquisition and/or resettlement activities; and
 - Estimated costs and timeline for developing the land acquisition document as required by regulations and executing the land acquisition activities that may include resettlement.

5. General Methodology

The general approach to the methodology for the preliminary ES assessment for the FS is performing a desktop study based on recent and available data that is sourced from reliable and trustworthy sources such as other scientific studies and literatures, and meetings and discussions with experts. When secondary data is not available, reasonable efforts should be made to collect primary data from the field for the assessment. The field surveys should be designed to meet the purpose of the preliminary ES assessment and do not substitute baseline surveys required for a full environmental impact assessment (i.e. AMDAL or UKL-UPL).

6. Expected Outputs

The expected output of the preliminary ES assessment of the PPP project is a written section of the FS report, which includes the following:

- Review of Gol legislations and WBS applicable to the PPP Project and identification of required permits or licenses and valued environmental components that are relevant;
- Review of project location in context of National and Regional Spatial Plans and Protected Areas, and include any recommendations for obtaining land clearance;
- Environmental Permitting Plan which describes the cost for developing the AMDAL or UKL-UPL and obtaining the environmental permit for the PPP Project.
- Preliminary ES assessment and mitigation measures which may include recommendations for additional studies. Mitigation measures should include an estimation of the costs. The preliminary ES assessment does not substitute an AMDAL or UKL-UPL for the project.
- Summary of stakeholder mapping including description of their level of interest and authority on the PPP Project; and
- Preliminary assessment on land acquisition, which includes identification of land ownership, land acquisition process and documents, and any requirements for resettlement including proposed action plans and estimated costs.

7. Experts

The main experts, which will be required for performing the preliminary ES assessment for the FS, include the following:

- Environmental experts which include air quality, water quality, biodiversity (flora and fauna) experts;
- Health and safety expert;
- Socio-economic expert;
- Socio-cultural expert; and
- Land acquisition expert.

8. Timeline

The timeline for performing the preliminary ES assessment depends on the nature and scale of the PPP Project. It is estimated that the development of the preliminary ES assessment for the FS is completed within 3 (three) to 6 (six) months.

Appendix A3

Land Acquisition and Resettlement Policy Framework

APPENDIX A3.1

PROCEDURES AND CONSIDERATIONS FOR LAND ACQUISITION

The following procedure is recommended to be used by all GCA in implementation of the Land Acquisition Law.

1. The GCA that requires land for a proposed PPP project submits the project proposal to the District Heads/Mayors of the districts/cities where the proposed PPP project is located or to the Governor of Jakarta (GoJ) in cases of project within the Special Capital Region of Jakarta. If the District Head/Mayor (or GoJ) considers that the project is appropriate, they issue a “determination of location”, defining the project area.
2. The District Heads/Mayors (or the GoJ) establish a Land Acquisition Committee (LAC) or *Panitia Pengadaan Tanah* (P2T) to facilitate land acquisition. The LAC is chaired by the District Head other regional head and includes members from relevant government agencies (e.g., Land Agency, Technical Agency requiring the land, Administrative Agency, sub-district head, and chief of village.
3. After the project area has been defined, the LAC explains the proposed PPP project to the affected communities and/or holders of land rights by way of public consultation, face-to-face consultations, and dissemination of information through the media.
4. Consultation meetings are organized with all categories of PAPs (not just land owners). PAPs are provided with information on the potential impacts of the proposed PPP project and their rights and obligations under the LARPF.
5. The concerns expressed by the PAPs during the consultation meetings and the actions proposed to address such concerns are recorded in the LARAP.
6. The LAC carries out an inventory of affected land and other assets. The inventory of affected land and other assets is carried out after the project designs are available.
7. The LAC carries out the inventory of affected land and other assets with the assistance of a project consultant, if such assistance is requested by LAC.
8. The inventory of affected land and other assets includes affected business/economy activity the following information for each household that loses land or their assets/income: (i) total size of the plot affected, area to be taken for the proposed PPP project, and area of the residual land; (ii) structures affected, indicating the percentage of the structure to be affected by the proposed PPP project; the legal status of land to be taken; (iii) description of land use in the lot affected – residential, commercial, agricultural, and (iv) description of loss income.
9. The inventory distinguishes between total and partial land takings. In cases of partial land takings, the inventory will indicate if the residual land is economically viable. In cases of dwellings and business structures, the inventory will indicate if the residual land/building is sufficient for shelter or work place.
10. The LAC produces a list with the names of the landowners or holders of land rights affected by the Project.

11. The LAC carries out a census of all the occupants of the affected area, including renters and occupants without rights to the land affected. The date of announcement of the census is the cut-off date to determine the persons in the proposed PPP project area who are entitled to compensation, rehabilitation assistance and rehabilitation support. Subsequent inflows of people are excluded from these benefits.

The census of project-affected persons/households is carried out with the assistance of a proposed PPP project consultant, if such assistance is requested by the LAC. The census identifies the affected persons/households/assets and to define:

- PAPs whose assets and/or business is affected so they i) must move permanently including their business, ii) must move temporarily;
- PAPs who partially affected on their assets and business

The census also identifies affected persons or households that lose more than 10% of their productive assets.

A socio-economic study covers all PAPs/PAHs that lose more than 10% of their productive assets and/or are forced to move to another location. In such cases, displacement can affect the income-earning opportunities and livelihoods of displaced persons, which makes it necessary to collect basic socio-economic data on them, including data on income, sources of livelihood and living conditions, as appropriate. The survey will constitute the “baseline” of the social and economic conditions before the implementation of the proposed PPP project. Progress in the implementation of income or livelihood restoration measures will be monitored against the baseline information generated by the survey.

The list of affected assets and of the owners of the assets is announced in the village offices, municipal/district offices and in websites for 7 days and/or in two publications in order to enable the parties affected to raise their objections.

The results of the inventory of affected persons and assets are displayed for 30 days in the village office in order to enable affected persons to submit their objections. If affected persons raise objections within this period, the grievance procedure is activated.

The value of affected land is determined by an Independent Land Appraiser who is appointed by the Head of Land Acquisition of the District or Provincial Government. The Independent Land Appraiser appraises the land based on the Selling Value of Taxable Objects (SVTO) or by observing the SVTO of the current year, and can consider other factors affecting land price, such as location.

“Land Price Appraisers” are defined in Article 1, Number 11 of the Presidential Regulation No. 30 of 2015 as “independent and professional experts that possess license to practice from the Ministry of Finance and licensed by the National Land Agency”.

The valuation of assets on land (including buildings, trees and crops) shall refer to the specific district or provincial regulation on price standards of assets on land (Peraturan Bupati or Peraturan Gubernur) where the affected land is located. In cases when this regulation is not available, the valuation of assets on land is conducted by the Independent Land Appraiser. Assets on land will be valued at their “replacement cost” or cost of assets at the market.

The results of the appraisal are submitted to the LAC and are used as the basis for the “deliberation” on the “form and/or the amount of compensation” between government institutions requiring the land

and the owners affected. Affected owners include those people affected by the project regardless of land ownership status. The deliberation is conducted “directly and collectively” between the government institutions and the owners. If the number of owners makes direct deliberations impossible, the deliberations can be conducted in stages. The deliberation can last up to 120 calendar days.

Before beginning the deliberations on the form and/or the amount of compensation, the LAC will share the results of the appraisal carried out by the Land Appraising Institution or the licensed land appraiser with the affected landowners.

In cases where a project displaces persons whose livelihoods are land-based, such persons will be offered replacement land whenever possible.

After the end of the deliberation period, the government institution requiring the land presents a compensation payment or makes a compensation offer, all of which is included in official reports. If the compensation is in the form of money, the LAC orders the institution requiring the land to pay the compensation 60 days at most since the date of the decree of the Land Provision Committee stipulating the form and/or amount of compensation. The invitation to receive compensation must be received by the landowners at least 3 days prior to the date of payment. If the compensation is in a form other than money, the owners and the government institutions requiring the land agree the timing of the compensation. Persons who lose land or other assets should be compensated before their land and/or other assets are taken for the proposed PPP project.

If replacement land is offered, such land will be of equal or higher value, considering factors such as size, location, productive potential, etc.

In cases where a proposed PPP project displaces persons whose livelihoods are land-based, such persons will be offered replacement land whenever possible. The provision of cash compensation to this type of displaced person is not appropriate, except in cases where the land taken for the project constitutes a small fraction (less than 10%) of the affected asset and the residual land is economically viable or active markets for land exist near the Project area and there is sufficient supply of land.

In the case of wakaf properties (properties donated for religious or charitable purposes and that are put in a trust) compensation will be in the form of land and/or buildings and/or other facilities of at least the same value as that of the revoked wakaf properties. In cases where ulayat land (land over which a community has customary land rights) is affected by a Project, the compensation will be in the form of public facilities or other facilities that contribute to the welfare of the affected communities.

Communities affected by the loss of land over which they have customary rights (ulayat land) will be offered compensation based on consultations with them, and could consist of public facilities, replacement land or cash, depending on their preferences.

The owners that object the LAC’s decision on the form and/or amount of compensation can raise their objections to the District Heads/Mayors or the Governor or the Minister of Home Affairs accordance to their authority during a period of 14 days, following the LAC’s decision. These authorities must make a decision on the objections within 30 days and confirm or modify the form and/or amount of compensation.

Before deciding on the form and compensation level, the District Head/Mayor or Governor or Minister of Home Affairs according to their authority can request advice, opinion, or expectation from (i) PAPs

or their representatives who filed complaints; (ii) LAC, and/or (iii) local government/government entity, who later will inform the CA and/or PI who need the land for a project.

Decision made by the Head of District/Mayor or Governor or Minister of Home Affairs on the form and/or compensation level will be conveyed to the PAPs who filed complaints, and local government/government entity, who later will inform the CA and/or PI who need the land, and to the LAC. This decision will be used as a basis for compensation payment.

If the land owners do not agree to relinquish their rights and the proposed PPP project location cannot be changed, the LAC proposes to the District Heads/Mayors or to the Governor or Minister of Home Affairs to apply Law No. 20 of 1961 (Revocation of Rights to Lands and Objects upon them). If these authorities or the Minister of Home Affairs decide to resolve the disagreement by revoking land rights on the basis of Law No. 20 of 1961, the LAC issues a decision on the form and/or amount of compensation and orders the government institutions requiring the land to consign the compensation to the District Court whose legal territory covers the location of the land for public interests. Proposed PPP Projects can begin after the compensation has been consigned in the District Court and the District Head/Mayor or Governor (in the case of DKI Jakarta) has issued a decree for the implementation of the physical development.

The procedures described above do not apply to proposed PPP projects requiring one hectare or less. In such cases, land should be acquired directly from the owner through a purchase, trade, or other method agreed by the government institution requiring the land and the owner and without the help of the LAC.

Compensation for losses related to land acquisition for a Project can be provided in the form resettlement or relocation.

If a project forces people to move to another location, the LARAP will include a relocation plan.

Affected persons may be offered serviced relocation sites, low cost housing, housing provided through a Bank Tabungan Negara (BTN) or other banks (state-owned or private) credit facility, or other schemes organized by the appropriate level of government. Displaced persons can also form cooperative housing groups to construct housing, with the support of the local government or the government institution sponsoring the project in the public interest that caused the displacement.

Relocation sites should be chosen through consultations with displaced people and host communities, where applicable. Displaced persons should be:

- Provided with complete information on the resettlement sites selected, including services and infrastructure, and the results of consultations carried out with host communities, if any;
- Informed of the completion of the resettlement site at least one month before displacement, and they should be invited to survey the new site; and
- The characteristics and location of residential housing or housing sites should be at least equivalent to those of the old site.

Resettlement sites should have basic infrastructure, such as an access road (or footpath as appropriate), electricity, drainage system and water supply. If a piped water distribution network is not available, there should be wells that comply with health standards. They should also permit displaced persons to have adequate access to public transportation, health and educational services, jobs,

employment opportunities, religious services, and sport facilities, according to the size of the new community.

The LARAP includes information on the timing of the move, logistics of transportation of people and belongings, and arrangements for temporary shelters and services, if necessary.

Displaced persons receive title (or land certificate) to their new sites and they do not bear the cost of such title. The title/certificate offers an equal or higher level of tenure security (whenever possible) than the title/certificate at the previous location. Land titles or certificates will be issued within 6 months from the date of displacement.

Physically displaced persons will receive an appropriate relocation allowance, so they can cover the costs of moving to the new site. The payment of relocation allowances will be documented in the LARAP and should consider displaced livelihood as well.

Indonesian regulations do not address the economic impacts of displacement, i.e., the loss of income sources or livelihoods. However, PPP projects will apply the procedures as described below:

- A socioeconomic survey will be conducted if some of the displaced persons or households lose more than 10% of their productive assets or are forced to move to a different location. All affected persons/households should be identified through a census; but the socioeconomic survey should target the persons/households who lose more than 10% of their productive assets or who must move to another location. In such cases, displacement can affect the income-earning opportunities and livelihoods of displaced persons, which makes it necessary to collect basic socio-economic data on them. The survey will constitute the “baseline” of the social and economic conditions before the Project is implemented. Progress in the implementation of income or livelihood restoration measures will be monitored against the baseline information generated by the survey.
- Displaced persons whose livelihood is land-based are entitled to rehabilitation support if the following conditions are present: (1) cash compensation for land is not appropriate; (2) it is not possible to offer replacement land; and (3) 10% or more of the productive assets of the displaced persons are affected.
- Affected persons whose livelihood is not land based, but who lose their jobs or means of livelihood as a result of displacement, are entitled to rehabilitation support so they can find alternative employment or other means of livelihood.
- Rehabilitation support should enable displaced persons to improve or at least restore their income levels and/or livelihoods. Rehabilitation assistance is provided in parallel with Project construction and implementation and can consist of job offers, skill and vocational training, transitional allowances, assistance to start a business, credit, etc., in addition to cash compensation for land and other assets lost.
- The duration of the rehabilitation program should be specified in the LARAP.
- The survey should permit the assessment of the impact of land acquisition and/or relocation on the PAP's patterns of economic and social activity, including impacts on social networks and social support systems. The survey should produce all the information that is necessary to monitor the progress towards the full rehabilitation of displaced households.

Land Acquisition GCA and Private Institutions

GCA and/or PI are required to prepare a LARAP when planning to acquire land through direct negotiations between themselves and landowners. Similar to land acquisition that is acquired through local governments or other government entities, the CA and/or PI have to provide compensation for land and assets attached to the acquired land, assist the PAPs in relocation, and/or restore the income levels and/or livelihoods of the PAPs. In the case that there is a host community in the relocation site, the CA and/or PI have to include them in the LARAP in the case that the relocation of the PAPs affects their social, cultural and economic living.

The compensation level should be decided based on consultations that involve informed and fair negotiation between land owners and the CA and/or PI during which values of land and other assets attached to the acquired land are defined by the certified appraisal professionals/team. The certified appraiser professional is under the “Masyarakat Asosiasi Penilai Indonesia” or the Indonesian Association of Appraisers Community” or “MAPI”.

Resettlement assistance and income restoration programs and duration for their implementation will have to be developed and agreed by the PAPs through consultations. Socialization, consultations, negotiations and agreements will have to be well documented and included in the LARAP implementation progress report. This documentation should clearly demonstrate that the PAPs could say “no” to the sale and were under no pressure of expropriation if they decided not to sell.

The GCA and/or PI will establish a Grievance Redress Mechanisms (GRM) for complaints related to the project. The CA and/or PI have to assign a staff to be responsible in managing the GRM system. The system will receive, and properly follow up complaints from the public and PAPs in a timely manner, as well as records complaints and their follow-ups.

Details on the procedures, requirements, documentation, and reporting formats of the GRM at the Project level shall be included as part of the overall procedures for the GCA prior to submission to the PPP Unit.

In the case that the GCA prepares the LARAP, the PPP Unit will ensure that the GCA prepares the LARAP in a manner consistent with the ESMF. Similarly, the GCA and/or PI are responsible for ensuring that the local government or government entity prepares and implements the LARAP, with the assistance of project consultants if necessary. The GCA and/or PI are required to work with the respective unit(s) in the local government (e.g. the LAC, the local planning agency) that have the following responsibilities: coordinate all aspects of the LARAP, including consultation activities, acquisition of land and other assets, relocation assistance and rehabilitation support; facilitate communications with project stakeholders; organize meetings to coordinate activities related to the LARAP and evaluate its implementation; and provide regular progress reports to the GCAs on the implementation of the LARAP. The GCA will report on the status and progress of the implementation of the LARAP to the private sector investor (as relevant).

An independent consultant team may be hired by the PPP Unit to carry out periodic monitoring and evaluation of the implementation of the LARAP or TS prepared by the local government and the GCA and/or PI.

The PPP Unit may carry out an inspection of the site or location of candidate projects with prior notification, although the inspection can be conducted independently. The PPP Unit will discuss the

results of the inspection with the relevant local government agency, the GCA and/or the PI of that particular project.

The cost of land acquisition will be borne by the GCA and/or PI regardless of whether land acquisition is carried out by the local government or government entity or the CA and/or PI through direct negotiations with land owners. Costs of land acquisition includes at least, but not limited to: cost of survey, measurement and mapping the land; cost for consultations and negotiations; payment of compensation to the owners, resettlement assistance, relocation costs, rehabilitation costs to restore income and livelihoods; fee for the LAC (in the case land is acquired through local government or government entity); land acquisition team (in case land is acquired through direct negotiation between the land owners and the CA and/or PI), fee for the LAI or LAT costs for land splitting; costs for consignment of the compensation (if this is the case); certificate fee; and, coordination and monitoring costs.

Monitoring reports are required to be generated on a quarterly basis and made available on request to the PPP Unit. Baseline information on affected assets and persons included in the LARAP and TS will be used to assess progress in the implementation of the LARAP and corrective actions in the TS and to evaluate the effectiveness of the compensation, assistance and support offered to affected persons.

It is likely that international investors supporting a PPP project will want to evaluate the project on a timely basis. This evaluation may include among others: (i) assessment on the adequacy of the compensation provided and to determine whether the measures implemented as part of the LARAP have enabled the PAPs to at least restore their standards of living and livelihoods, or whether they still face problems that merit further assistance; (ii) assessment on how well the GRM has been working including an examination of documentation on how quickly complaints are answered/followed up and the number of closed and open complaints.

As required, the GCA and the proposed PPP project should make information on the LARAP, and its progress in implementation available for review by interested stakeholders. Primarily this will be international investors, and their stakeholder groups. Reports on grievances from PAP's and the level and types of response should be made available to the investors as and when requested.

It is recommended that on a periodic basis the GCA and the proposed PPP project engage independent social consultants to review the implementation of the LARAP, as appropriate, and where necessary share the results with interested stakeholders.

In the case that a project affects more than 40 land owners (or more than 200 persons) the project will have to prepare a full LARAP. A full LARAP would have the following outline:

1. *Description of the project.* General description of the project and identification of the project area.
2. *Potential impacts.* Identification of (a) the project component or activities that will require land acquisition or give rise to resettlement; (b) the zone of impact of such component or activities; (c) the alternatives considered to avoid or minimize resettlement; and (d) the mechanisms established to minimize resettlement, to the extent possible.
3. *Objectives.* The main objectives of the LARAP.
4. *Census of Project Affected Persons (PAPs) and inventory of affected assets.* The results of the census and the inventory of assets, including the following information:

- List of PAPs, distinguishing between PAPs with land rights and occupants without such rights who are nonetheless entitled to compensation and assistance as set out in the LARPF;
- Inventory of affected assets.
- Total number of PAPs and PAH; and
- Number of PAHs who will lose more than 10% of their productive assets.

Project Affected Households

Socioeconomic study. The findings of socioeconomic study to be conducted through a census in the early stages of project preparation and with the involvement of potentially PAPs, including:

The results of a census survey covering:

- Current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
- Standard characteristics of PAHs, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;
- The magnitude of the expected loss –total or partial- of assets, and the extent of displacement, physical or economic;
- Information of vulnerable groups or persons (especially those below the property line, the landless, the elderly, women and children, indigenous peoples) for whom special provisions may have to be made;
- Provisions to update information on the PAPs' livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

Other studies describing the following:

- Land tenure and transfer system, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanism, and any issues raised by different tenure systems in the project area;
- The pattern of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project;
- Public infrastructure and social services that will be affected; and
- Social and cultural characteristics of affected communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal analysis. The results of an investigation of any legal steps necessary to ensure the effective implementation of land acquisition and resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage.

Institutional Framework. The findings of an analysis of the institutional framework covering:

- The identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- An assessment of the institutional capacity of such agencies and NGOs; and
- Any step that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

Eligibility. Identification of the PAPs who will be eligible for compensation, resettlement assistance and rehabilitation support and explanation of the criteria used to determine eligibility, including relevant cut-off dates.

Methods of valuing the affected assets. As required by Law No. 2/2012 and its implementation regulations, values of affected assets will be assessed by licensed appraisers which will be assigned by the provincial BPN in accordance with the national procurement regulations. The values defined by the licensed appraisers will be used as a basis for negotiation with the PAPs. Types and compensation level will be defined based on the negotiation results between the city/regency and the land or property owners. Value assessment will be carried out on per affected land plot basis which include land, space above and beneath land, buildings or structures, plants, things that relate to the affected land and/or other loss that can be valued (e.g. non-physical loss that can be equivalent with monetary value; loss of jobs or income earning sources, cost for moving, cost for change of profession, and value for remaining property). The remaining property that is no longer physically or economically feasible, can be also compensated if the owners prefer to do so.

Land valuation/appraisal by the licensed appraisers will be carried out based on the MAPPI11 Standards as specified in MAPPI Guidelines. Compensation is comprised of market price plus transaction costs and other costs plus premium, in more detail as follows:

- Real property (physical assets): land, buildings and facilities, plants, and other things related to the land acquired to restore to the owner a property of at least the same quality as that owned prior to the land acquisition;
- Cost and loss (non-physical losses): transaction costs, moving costs, loss of on-going business (business interruption), other losses of special nature, subjective and difficult to calculate;
- Premium.

Alternative relocation sites considered and explanation of those selected, covering:

- Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other

¹¹ Indonesian Society of Appraisers or ISA

factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;

- Any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;
- Procedures for physical relocation under the project, including timetables for site preparation and transfer; and
- Legal arrangements for regularizing tenure and transferring titles to re-settlers.

Plans to provide (or to finance re-settlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); 2 plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

Involvement of re-settlers and host communities:

- A description of the strategy for consultation with and participation of re-settlers and hosts in the design and implementation of resettlement activities;
- A summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
- A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage Units, cemeteries);
- Institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups are adequately represented; and
- Measures to mitigate the impact of resettlement on any host communities, including consultations with host communities and local governments, arrangements for prompt tendering of any payment due the hosts for land or other assets provided to re-settlers, arrangements for addressing any conflict that may arise between re-settlers and host communities; and any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to re-settlers.

Affordable and accessible grievance procedures for third-party settlement of disputes arising from activities included in the LARAP; such grievance procedures should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

The organizational framework for land acquisition and resettlement, including identification of agencies responsible for the implementation of the LARAP, the delivery of resettlement measures and provision

of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or re-settlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

An implementation schedule covering all resettlement activities, from preparation through implementation, including target dates for the achievement of expected benefits to re-settlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

Arrangements for monitoring of land acquisition and resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; submission of monitoring reports to the Bank; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

In the case that less than 40 households or 200 persons are affected by a project, an abbreviated LARAP will have to be prepared with the following outline:

- Description of the project. General description of the project and identification of the project area.
- Potential impacts. Identification of (i) the project component or activities that will require land acquisition; and (ii) the zone of impact of such component or activities.
- Census of Project Affected Persons (PAPs) and inventory of affected assets. The results of the census and the inventory of assets, including (i) a list of PAPs, distinguishing between PAPs with land rights and land users without such rights who are nonetheless entitled to compensation and assistance as set out in the LARPF; and (ii) an inventory of plots and structures affected. The information generated by the census should be summarized in a table.
- Legal analysis. Descriptions of legal steps to ensure the effective implementation of land acquisition under the project, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage.
- Eligibility. Identification of the PAPs who will be eligible for compensation and explanation of the criteria used to determine eligibility.
- Valuation of assets and calculation of compensation for losses. A description of the procedures that will be followed to determine the form and amount of compensation to be offered to PAPs.

- Consultations with persons who lose land and other assets. A description of the activities carried out to (1) inform PAPs about the impacts of the project and the compensation procedures and options and (2) give the PAPs opportunities to express their concerns.
- Organizational responsibilities. A brief description of the organizational framework for implementing land acquisition.
- Implementation schedule. An implementation schedule covering land acquisition, including target dates for the delivery of compensation. The schedule should indicate how the land acquisition activities are linked to the implementation of the overall project.
- Costs and budget. Cost estimates for land acquisition for the project.
- Grievance procedures. Affordable and accessible procedures for third-party settlement of disputes arising from land acquisition; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.
- Monitoring. Arrangements for monitoring land acquisition activities and the delivery of compensation to PAPs.

The following is the suggested outline for a LARAP in the case that land is acquired through negotiations between the CA and/or PI and landowners:

- Project description;
- Project impact area;
- Project affected persons;
- Land requirements and characteristics of impacts (permanent or temporary impacts, land and other assets attached to the acquired land, the need for relocation, and affected income sources and livelihood, social and cultural impacts, etc.);
- Eligibility and entitlements;
- Land and assets valuation by the certified appraisal professionals/team;
- Land acquisition and compensation processes with timeline;
- Public consultation, negotiation;
- Dispute resolution;
- Disclosures;
- Payment mechanisms;
- Legal documents for the land and assets;
- Institutional arrangements and financing;
- Monitoring and implementation reporting; and
- Annexes of supporting documentation.

Principles the approach to land acquisition is about mitigating risk to the proposed PPP project through applying regulation, due process and screening in a manner that mitigates the future challenges associated with delays in negotiations and in potential ownership conflicts. As in Section 4, a screening must be conducted to identify whether or not the impacted communities or locations involve aspects of the WBS's. It is the responsibility of the PPP project proponent to screen actions against the WBS needs and demonstrate this to the PPP Unit.

Summary of key considerations is presented below:

Public Purpose Legislation (UU 2/2012 and its implementation guidelines

- The Legislation does not require the land acquisition to be carried out as a development program. Compensation is provided for land acquisition.
- Public consultation must be conducted with project affected persons with the aim of achieving agreement regarding acquisition of the proposed location for the project. The Legislation provides an opportunity for a project-affected person to file their complaints related to the issuing of location determination by governor.
- The overall social assessment should be covered in the feasibility study, explored options to minimized adverse impact is not necessarily covered.
- This provides for options of compensation to be provided in the form of cash, substitute land, resettlement, shareholding and other forms of compensation agreed by parties¹². But final compensation is result of negotiation between the Land Acquisition Team (LAT) and the entitled parties.
- Mainly cash compensation but final compensation is result of negotiation between the Land Acquisition Team (LAT) and the entitled parties.
- Fair & reasonable as a basis for appraisal based on MAPPI standard.
 1. Real Property (Physical Assets)
 - Land.
 - Buildings & Facilities.
 - Plants.
 - Other things related to the land required to restore to the owner a property of at least the same quality as that owned prior to the land acquisition.
 2. Cost & Loss (Non-Physical Losses)

WBS OP 4.12

- Resettlement activities should be conceived and executed as sustainable development programs, providing sufficient resources to enable the persons displaced by the project to share in project benefits.
- Alternative project designed should be considered, to avoid or minimize involuntary resettlement.
- Use acceptable planning and action plan (resettlement instruments) to ensure the interest of affected persons is protected.
- Social assessment should cover overall social cost, including PAP cost and explored options to minimized adverse impact.
- Detailed provisions on compensation, including compensation at full replacement cost for loss of assets attributable to the project; assistance during relocation, and residential housing, or housing sites, or agricultural sites of equivalent productive potential, as required; transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; cash compensation for land when the impact of land acquisition on livelihoods is minor; and provision of civic infrastructure and community services.
- Preference given for land-based resettlement strategies for persons whose livelihoods are land based.
- Non-land options may be provided if land is not the preferred option of the displaced people, provision of land would affect sustainability of park or protected areas or sufficient land is not available (this must be proved and documented).
- Livelihood has to be restored by cash, resettlement, rehabilitation assistance and or development assistance.

¹²Article 36 of the Law.

- Transaction costs.
- Moving costs.
- Loss of on-going business (business interruption).
- Other losses of special nature, subjective and difficult to calculate.
- Cash compensation must be sufficient to replace lost land and other assets at full replacement cost in local markets (no depreciation, covering transaction costs).

3. Premium

- Once fair compensation given further consideration and impact mitigation are not elaborated. There is no specific requirement in the Legislation on how to implement resettlement and livelihood restoration.
- Indigenous people (IP) are the legitimate owner of communal customary land.
- The legitimate owner or IP will determined by local government, in accordance with procedures set out in BPN Regulation No. 5/1999.
- See [OP 4.12, para 9]
- OP4.10 - Any project affect to IP needs engagement in a process of free, prior and informed consultation includes measures to (a) avoid potentially adverse effects on IP communities; or (b) when avoidance in not feasible, minimize, mitigate, or compensate for such effects. IP also should receive social economic benefits that are culturally appropriate and gender and intergenerationally inclusive.

APPENDIX A3.2 PROCESS FRAMEWORK

OP 4.12 Annex A, para 26. A process framework is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areas. The purpose of the process framework is to establish a process by which members of potentially affected communities participate in design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities (see OP 4.12, paras. 7 and 31). Indonesian regulation also release a Regulation of Ministry of Forestry No. T.39/Menhut-II/2013 concerning Local Community Empowerment through Forest Partnership.

Specifically, the process framework describes participatory processes by which the following activities will be accomplished:

- (a) Project components will be prepared and implemented. The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. It should also describe the process by which potentially displaced persons participate in project design.
- (b) Criteria for eligibility of affected persons will be determined. The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.
- (c) Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified. The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.
- (d) Potential conflicts or grievances within or between affected communities will be resolved. The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.

Additionally, the process framework should describe arrangements relating to the following.

- (e) Administrative and legal procedures. The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).
- (f) Monitoring arrangements. The document should review arrangements for participatory monitoring of project activities as they relate to (beneficial and adverse) impacts on persons within the project impact area, and for monitoring the effectiveness of measures taken to improve (or at minimum restore) incomes and living standards.

Appendix A4

Contents of a Land Acquisition and Resettlement Action Plan (LARAP)

APPENDIX A4

CONTENTS OF A LAND ACQUISITION AND RESETTLEMENT ACTION PLAN (LARAP)

The LARAP covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the LARAP.

1. *Description of the subproject.* General description of the project and identification of the project area.
2. *Potential impacts.* Identification of (a) the subproject component or activities that will require land acquisition or give rise to resettlement; (b) the zone of impact of such component or activities; (c) the alternatives considered to avoid or minimize resettlement; and (d) the mechanisms established to minimize resettlement, to the extent possible.
3. *Objectives.* The main objectives of the LARAP.
4. *Census of Project Affected Persons (PAPs) and inventory of affected assets.* The results of the census and the inventory of assets, including the following information:
 - list of PAPs, distinguishing between PAPs with land rights and occupants without such rights;
 - inventory of plots and structures affected and including the following information:
 - α. Total size of the plot affected, size of the area to be taken for the subproject, and size of the residual land;
 - β. Status ownership of affected land/building and evidence of ownership;
 - χ. Function of affected land/building;
 - δ. Building condition (permanent, semi permanent, temporary, etc.)
 - ε. Other assets affected (trees, crops, wells, fences, etc.)
 - total number of PAPs and Project Affected Households (PAHs)
 - number of PAHs who must relocate, distinguishing between (1) those who will be able to rebuild their homes within the residual land of lots affected by the subproject and (2) those who will be forced to move to another location; and
 - number of PAHs who will lose more than 20% of their productive assets.

The information above should be summarized in a table (see suggested format in Annexes C1 and C2).

5. *Socioeconomic study.* Findings of a socioeconomic study covering PAHs that lose more than 20% of their productive assets and/or are forced to move to another location. The socioeconomic study should include the following elements:
 - A description of production systems, labor, and household organization;
 - The patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the subproject;
 - Information on vulnerable groups or persons as provided for in [OP 4.12, para. 8](#), for whom special provisions may have to be made;

- Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems;
 - Public infrastructure and social services that will be affected;
 - Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities;
 - Baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population; and
 - Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
6. *Legal analysis.* The results of an investigation of any legal steps necessary to ensure the effective implementation of land acquisition and resettlement activities under the subproject, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage.
7. *Institutional Framework.* The findings of an analysis of the institutional framework covering:
- The identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
 - An assessment of the institutional capacity of such agencies and NGOs; and
 - Any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.
8. *Eligibility.* Identification of the PAPs who will be eligible for compensation, resettlement assistance and rehabilitation support and explanation of the criteria used to determine eligibility, including relevant cut-off dates.
9. *Valuation of assets and calculation of compensation for losses.* A description of the procedures that will be followed to determine the form and amount of compensation to be offered to PAPs.
10. *Compensation, resettlement assistance and rehabilitation support.* A description of (1) the compensation packages to be offered to PAPs who lose land and/or other assets, (2) resettlement assistance to be offered to physically displaced persons, and (3) rehabilitation support to persons who lose income sources or livelihoods as a result of land acquisition for the subproject. The compensation packages, combined with other assistance and support offered to each category of PAPs should be sufficient to achieve the objectives of World Bank Operational Policy 4.12 on Involuntary Resettlement (see [OP 4.12, para. 6](#)). The relocation options and other assistance offered to the PAPs should be prepared in consultation with them and should be technically and economically feasible, as well as compatible with the cultural preferences of the PAPs.
11. *Site selection, site preparation, and relocation.* Alternative relocation sites considered and explanation of those selected, covering
- institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;
 - any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;

- procedures for physical relocation under the subproject, including timetables for site preparation and transfer; and
 - legal arrangements for regularizing tenure and transferring titles to resettlers.
12. *Housing, infrastructure, and social services.* Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.
13. *Environmental protection and management.* A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).
14. *Community participation.* Involvement of resettlers and host communities:
- A description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of resettlement activities;
 - A summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
 - A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. Places of worship, pilgrimage centers, cemeteries);
 - Institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups are adequately represented; and
 - Measures to mitigate the impact of resettlement on any host communities, including consultations with host communities and local governments, arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers, arrangements for addressing any conflict that may arise between resettlers and host communities; and any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.
15. *Grievance procedures.* Affordable and accessible procedures for third-party settlement of disputes arising from activities included in the LARAP; such grievance procedures should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.
16. *Organizational responsibilities.* The organizational framework for land acquisition and resettlement, including identification of agencies responsible for the implementation of the LARAP, the delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.
17. *Implementation schedule.* An implementation schedule covering all resettlement activities, from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

18. *Costs and budget.* Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.
19. *Monitoring and evaluation.* Arrangements for monitoring of land acquisition and resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; submission of monitoring reports to the Bank; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Note: The information on the schedule of the implementation of the LARAP and the sources of funding may be summarized in a table.

Contents of an Abbreviated RAP

An Abbreviated RP should be prepared for subprojects that affects less than 200 families or in cases where the impacts on the entire displaced population are minor. Impacts are considered minor if the affected people are not physically displaced and less than 20% of their productive assets are lost. An Abbreviated RP covers the following minimum elements:

1. *Description of the project.* General description of the project and identification of the project area.
2. *Potential impacts.* Identification of (i) the subproject component or activities that will require land acquisition; and (ii) the zone of impact of such component or activities.
3. *Census of Project Affected Persons (PAPs) and inventory of affected assets.* The results of the census and the inventory of assets, including (i) a list of PAPs, distinguishing between PAPs with land rights and land users without such rights; and (ii) an inventory of plots and structures affected. The information generated by the census should be summarized in a table (see suggested format in Annexes C1 and C2).
4. *Legal analysis.* Descriptions of legal steps to ensure the effective implementation of land acquisition under the subproject, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage.
5. *Eligibility.* Identification of the PAPs who will be eligible for compensation and explanation of the criteria used to determine eligibility.
6. *Valuation of assets and calculation of compensation for losses.* A description of the procedures that will be followed to determine the form and amount of compensation to be offered to PAPs.
7. *Consultations with persons who lose land and other assets.* A description of the activities carried out to (1) inform PAPs about the impacts of the project and the compensation procedures and options and (2) give the PAPs opportunities to express their concerns.
8. *Organizational responsibilities.* A brief description of the organizational framework for implementing land acquisition.
9. *Implementation schedule.* An implementation schedule covering land acquisition, including target dates for the delivery of compensation. The schedule should indicate how the land acquisition activities are linked to the implementation of the overall project.
10. *Costs and budget.* Cost estimates for land acquisition for the subproject.
11. *Grievance procedures.* Affordable and accessible procedures for third-party settlement of disputes arising from land acquisition; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.
12. *Monitoring.* Arrangements for monitoring land acquisition activities and the delivery of compensation to PAPs.

Note: the information on the schedule of the implementation of the RP and the sources of funding may be summarized in a table (see suggested format below).

Implementation Schedule and Funding Sources

Activity	Responsible institution	Deadline	Cost (Rp)	Source of Funding
1. Consultation with the people in project area on the project and its potential impacts				
2. Identification of affected people and assets				
3. Deliberation on form and amount of compensation				
4. Payment of compensation				
5. Monitoring and evaluation				

Appendix A5

Outline for UKL/UPL and AMDAL

APPENDIX A5

OUTLINE FOR UKL/UPL AND AMDAL STUDIES

A. UKL - UPL

Table of Contents for UKL/UPL ENVIRONMENTAL MANAGEMENT AND MONITORING PLAN (UKL/UPL) (Based on Permen LH No. 13 Tahun 2010)

The UKL-UPL at least shall contain the following:

TABLE OF CONTENTS

LIST OF TABLES (at least 3 as shown): Table 1: Environmental Impacts; Table 2: Environmental Mitigation Plan; Table 3: Environmental Monitoring Plan.

LIST OF FIGURES (at least 3 as shown): Figure 1: Map of study location in context of surrounding area; Figure 2: Map of Environmental Impacts; Figure 3: Land to be acquired

LIST OF APPENDICES (at least 3): Appendix 1: Map of environmental condition; Appendix 2: Design drawings; Appendix 3: Photos of study area and site.

AGREEMENT APPROVAL LETTER FROM BLH/BLHD

I. THE PROPONENT

1. Name of company
2. Name of proponent
3. Address of proponent

II. PLAN OF ACTIVITY

1. Name of activity
2. Location of activity
3. The scale of activity
4. Size of activity plan component

III. ENVIRONMENTAL IMPACTS IDENTIFIED

Explain briefly and clearly regarding:

1. Activities which will become the source of impacts to the environment;
2. Type of environmental impacts which will occur;
3. Units to describe the scale of impacts; and
4. Other issues to explain the environmental impacts which will occur.
5. Summary of impacts in the form of the following table:

SOURCE OF IMPACT	TYPE OF IMPACT	SCALE OF IMPACT	REMARKS
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(Write down the activity which will cause impact to the environment)	(Write down the impacts that are likely to occur)	(Write down the units which can describe the scale of impacts)	(Write down other information to explain the environmental impacts which will occur)
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IV. ENVIRONMENTAL MANAGEMENT AND MONITORING PROGRAM

V. SIGNATURE

APPENDICES

B. AMDAL

Table of contents for ANDAL framework, ANDAL, RKL-RPL and Executive Summary refers to Permen LH No. 08 year 2006 as mentioned below:

Table of Contents for AMDAL Environmental Impact Assessment (Based on Permen LH No. 08 Tahun 2006)

KA- ANDAL Document:

- Guidelines for KA-ANDAL Preparation refers to Annex 1 Permen LH No. 08 year 2006

ANDAL Document:

- Guidelines for ANDAL Preparation refers to Annex 2 Permen LH No. 08 year 2006

RKL Document:

- Guidelines for RKL Preparation refers to Annex 3 Permen LH No. 08 year 2006

RPL Document:

- Guidelines for RPL Preparation refers to Annex 4 Permen LH No. 08 year 2006

Executive Summary Document:

- Guidelines for Executive Summary Preparation refers to Annex 5 Permen LH No. 08 year 2006

Appendix A6

EIA and EMP Requirements

APPENDIX A6

EIA AND EMP REQUIREMENTS

Generic Requirements for category A classified project.

The EA report should include the following items (not necessarily in the order shown):

1. Executive summary. Concisely discusses significant findings and recommended actions.
2. Policy, legal, and administrative framework. Discusses the policy, legal, and administrative framework within which the EA is carried out. Explains the environmental requirements of any co-financiers. Identifies relevant international environmental agreements to which the country is a party.
3. Project description. Concisely describes the proposed project and its geographic, ecological, social, and temporal context, including any offsite investments that may be required (e.g., dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities). Indicates the need for any resettlement plan or indigenous peoples development plan (see also subparagraph (h)(v) below). Normally includes a map showing the project site and the project's area of influence.
4. Baseline data. Assesses the dimensions of the study area and describes relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences. Also takes into account current and proposed development activities within the project area but not directly connected to the project. Data should be relevant to decisions about project location, design, operation, or mitigation measures. The section indicates the accuracy, reliability, and sources of the data.
5. Environmental impacts. Predicts and assesses the project's likely positive and negative impacts, in quantitative terms to the extent possible. Identifies mitigation measures and any residual negative impacts that cannot be mitigated. Explores opportunities for environmental enhancement. Identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions, and specifies topics that do not require further attention.
6. Analysis of alternatives. Systematically compares feasible alternatives to the proposed project site, technology, design, and operation--including the "without project" situation--in terms of their potential environmental impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training, and monitoring requirements. For each of the alternatives, quantifies the environmental impacts to the extent possible, and attaches economic values where feasible. States the basis for selecting the particular project design proposed and justifies recommended emission levels and approaches to pollution prevention and abatement.
7. Environmental management plan (EMP). Covers mitigation measures, monitoring, and institutional strengthening; see outline in OP 4.01, Annex C.
8. Appendixes
9. List of EA report preparers--individuals and organizations.

10. References--written materials both published and unpublished, used in study preparation.
11. Record of interagency and consultation meetings, including consultations for obtaining the informed views of the affected people and local nongovernmental organizations (NGOs). The record specifies any means other than consultations (e.g., surveys) that were used to obtain the views of affected groups and local NGOs.
12. Tables presenting the relevant data referred to or summarized in the main text.
13. List of associated reports (e.g., resettlement plan or indigenous peoples development plan).

Generic Requirements for an Environmental Management Plan Category B project

- Summary of impacts;
- Description of mitigation measures;
- Description of monitoring program;
- Institutional arrangements, including training;
- Implementation schedule and reporting procedures; and
- Cost estimates and sources of funds

Suggested Matric Format for Information Presentation:

	Project Activity	Potential Environmental Impacts	Potential Social Impacts	Proposed Mitigation Measures(s)	Institutional Responsibilities (incl. Enforcement and coordination)	Cost Estimates
Pre-Construction Phase	1) 2) 3) ...					
Construction Phase	1) 2) 3) ...					
Operation and Maintenance Phase	1) 2) 3) ...					

Example of Monitoring Frame Work for Environmental Monitoring Plan:

Proposed Mitigation Measure	Parameters to be Monitored	Location	Measurements (incl. Methods & equipment)	Frequency of Measurement	Responsibilities (incl. review and reporting)	Cost (equipment & individuals)
Pre-Construction Phase						
Construction Phase						
Operation and Maintenance Phase						
Total Cost for all Phases						

Appendix A7

Chance Finds Procedure (PCR Plan)

APPENDIX A7

CHANCE FINDS PROCEDURE (PCR PLAN)

1. **Definition.** A chance find is archaeological, historical, cultural, and remain material encountered unexpectedly during project construction or operation. A chance find procedure is a project-specific procedure which will be followed if previously unknown cultural heritage is encountered during project activities. Such procedure generally includes a requirement to notify relevant authorities of found objects or sites by cultural heritage experts; to fence off the area of finds or sites to avoid further disturbance; to conduct an assessment of found objects or sites by cultural heritage experts; to identify and implement actions consistent with the requirements of the World Bank and Indonesian law; and to train project personnel and project workers on chance find procedures.

2. **Objectives.**

- a. To protect physical cultural resources from the adverse impacts of project activities and support its preservation.
- b. To promote the equitable sharing of benefits from the use of PCR.

3. **Procedure.** If the proposed activity discovers archeological sites, historical sites, remains and objects, including graveyards and/or individual graves during excavation or construction, shall:

- a. Halt the construction activities in the area of the chance find;
- b. Delineate and fence the discovered site or area;
- c. Secure the site to prevent any damage or loss of removable objects. In cases of removable antiquities or sensitive remains, a night guard shall be arranged until the responsible local authorities or the District/Provincial Department of Culture, or the local Institute of Archaeology if available to take over;
- d. Forbid any take of the objects by the workers or other parties;
- e. Notify all subproject personnel of the finding and take the preliminary precaution of protection;
- f. Record the chance find objects and the preliminary actions;
- g. Notify the responsible local authorities and the relevant Institute of Archeology immediately (within 24 hours or less);
- h. Responsible local authorities would be in charge of protecting and preserving the site before deciding on subsequent appropriate procedures. This would require a preliminary evaluation of the findings to be performed by the local Institute of Archaeology. The significance and importance of the findings should be assessed according to the various criteria relevant to cultural heritage; those include the aesthetic, historic, scientific or research, social and economic values;
- i. Decisions on how to handle the finding shall be taken by the responsible authorities. This could include changes in the subproject layout (such as when finding an irremovable remain of cultural or archeological importance) conservation, preservation, restoration and salvage;
- j. Implementation for the authority decision concerning the management of the finding shall be communicated in writing by relevant local authorities;

- k. The mitigation measures could include the change of proposed project design/layout, protection, conservation, restoration, and/or preservation of the sites and/or objects;
- l. Construction work at the site could resume only after permission is given from the responsible local authorities concerning safeguard of the heritage; and
- m. The subproject proponent responsible to cooperate with the relevant local authorities to monitor all construction activities and ensure that the adequate preservation actions already taken and hence the heritage sites protected.

Appendix A8

Matrix of Consideration for Environmental and Social Impact

APPENDIX A8

MATRIX OF CONSIDERATION FOR ENVIRONMENTAL AND SOCIAL IMPACT

Metro Railways	<p>Construction phase</p> <ul style="list-style-type: none"> ○ Cutting of trees; ○ Storage and disposal of construction debris and spoil; ○ Runoff from excavated material or stored construction material to neighboring water bodies; ○ Fugitive emissions from construction material transportation; ○ Use of diesel generator sets and storage of diesel; ○ Use of heavy plant and machinery like cranes; ○ Landfilling and reclamation in coastal areas for train maintenance depots, casting yards; ○ Traffic diversion and congestion during construction increasing air pollutant emissions; ○ Mechanical piling and rafting noise; ○ Use of impact and pneumatic machinery noise and occupational safety; ○ Dewatering of excavated areas; ○ Batching plant – air emissions; and ○ Labour Camp – sanitation, waste disposal. <p>Operation Phase</p> <ul style="list-style-type: none"> ○ Generation of Solid Waste; ○ Illumination at stations and along the line causing public intrusion; ○ Traffic congestion near stations – air quality, noise; ○ Washing of rakes-generation of effluents; ○ Chemical storage (transformer/ diesel/ mobile oil, grease, turpentine etc); ○ Generation of hazardous waste (waste oil); ○ Visual impacts – overhead rail; and ○ Use of overhead equipment for electrification – safety.
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Bus Rapid Transit System Projects	<p>Construction Phase</p> <ul style="list-style-type: none"> ○ Felling of trees within Right of Way (ROW) ○ Traffic congestion due to road constriction / diversions ○ Exhaust from construction machinery, equipment including generators, earth moving equipment and transport vehicles ○ Disposal of excavation spoil material and transportation of materials ○ Labour camps demand for fuel wood, solid waste management, sanitation ○ Construction activities like i) site clearance, ii) excavation, iii) foundation preparation, iv) material movement on site, haul roads ○ Fugitive dust emissions from construction camps, stockpile areas, storage of materials ○ Demand of water for construction activities and labour camps ○ Construction activities and honking by vehicles in a traffic congestion especially in and around demarcated silent zones ○ Air pollution, increase in noise levels and obstruction to access of some areas ○ Use of diesel powered construction equipment ○ Reduction in ROW during construction ○ Disposal of spoil material ○ Traffic congestion, diesel powered equipment, material transportation ○ Runoff from construction activities, dumping of debris and excavation spoil <p>Operation:</p> <ul style="list-style-type: none"> ○ Location of bus stops ○ Design and configuration of buses ○ Traffic congestions due to reduced roadway capacity by operation of Transit (BRT)
Ports and Harbors	<p>Construction:</p> <ul style="list-style-type: none"> ○ Biodiversity impacts; Biodiversity construction and dredging, considering shoreline and aquatic vegetation, fisheries, coastal habitats, ○ Dredging, construction, spoil, waste heavy metal contaminations, ○ Impacts from sedimentation plumes on local marine habitats ○ Dredged materials management; ○ Air Emissions; ○ General Waste ○ Waste Water; ○ Solid Waste Management; ○ Hazardous Materials Management; and ○ Noise. <p>Operations</p> <ul style="list-style-type: none"> ○ Waste management; ○ Air emissions from boilers, engines and machines. ○ VOCs from fuel storage bunkers, and handling of dry bulk cargo sources of combustion; ○ Dust; ○ Separation of combustible materials; ○ Spillages and emissions to water and air; ○ Waste water effluents and sewage,

	<ul style="list-style-type: none"> ○ Ship waste management for port wastes and for ship wastes; ○ Hazardous materials and Oil management, ○ Noise from cargo handling and ships, light pollution; ○ Ballast cleaning pollution and introduction of invasive species. <p>Occupational:</p> <ul style="list-style-type: none"> ○ Physical Hazards; ○ Chemical Hazards; ○ Confined species; ○ Exposure to inorganic dust; and ○ Exposure to noise.
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Road infrastructure (toll roads and toll bridges):

Toll Roads	<p>Construction:</p> <ul style="list-style-type: none"> ○ Felling of trees within Right of Way (ROW). ○ Traffic congestion due to road constriction / diversions; ○ Exhaust from construction machinery, equipment including generators, earth moving equipment and transport vehicles; ○ Disposal of excavation spoil material and transportation of materials; ○ Labour camps demand for fuel wood, solid waste management, sanitation; ○ Construction activities like i) site clearance, ii) excavation, iii) foundation preparation, iv) material movement on site, haul roads; ○ Fugitive dust emissions from construction camps, stockpile areas, storage of materials; ○ Demand of water for construction activities and labour camps; ○ Construction activities and honking by vehicles in a traffic congestion especially in and around demarcated silent zones; ○ Air pollution, increase in noise levels and obstruction to access of some areas; ○ Use of diesel powered construction equipment; ○ Reduction in ROW during construction; ○ Disposal of spoil material; ○ Traffic congestion, diesel powered equipment, material Transportation; ○ Extraction of soil from borrow pits Extraction of rocks and sand from river beds; ○ Runoff from construction activities, dumping of debris and excavation spoil; ○ Chance find of artifacts with archaeological or historical value. <p>Operations Phase</p> <ul style="list-style-type: none"> ○ Increase in impermeable surface area thus increasing the rate of surface water runoff; ○ Solid waste/residues generated during construction and maintenance of roads; ○ Air emissions due to dust during construction and exhaust from vehicles ○ Wastewater discharges from maintenance facilities; ○ Traffic noise that is generated by vehicle engines, emission of exhaust, aerodynamic sources, and tire / pavement interaction; ○ Physical, chemical and biological hazards related to occupational health and safety;
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	<ul style="list-style-type: none"> ○ Light illumination.
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Irrigation infrastructure (ducts for raw water).

Water Supply	<p>Water Treatment</p> <ul style="list-style-type: none"> ○ Solid waste residuals; ○ Wastewater; ○ Storage of hazardous chemicals; ○ Air emissions from water treatment operations. <p>Water Distribution</p> <ul style="list-style-type: none"> ○ Water system leaks ○ Water pipe flushing.
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Wastewater infrastructure (collection, conveyance, treatment):

Sewerage	<p>Domestic Wastewater Discharges</p> <ul style="list-style-type: none"> ○ Spills and leakages of untreated wastes; and ○ Disease risks from uncontrolled spillages or leaks. <p>Industrial Wastewater Discharges</p> <ul style="list-style-type: none"> ○ Leaks and spillages. <p>Wastewater and Sludge Treatment and Discharge</p> <ul style="list-style-type: none"> ○ Quantity of Liquid effluents; ○ Solid effluents; ○ Hazardous Air emissions ; ○ Hazardous chemicals,; and ○ Accidents and injuries, chemical exposure, hazardous atmosphere.
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Solid waste management infrastructure (transportation and disposal facilities):

Waste Management	<p>Municipal Solid Waste</p> <ul style="list-style-type: none"> ○ Air emissions from MSW collection and transport like dust and bio-aerosols, odors, and vehicle emissions; ○ Leachate from waste piles caused by exposure to precipitation and from residual liquids in the waste itself containing organic matter, nutrients, metals, salts, pathogens, and hazardous chemicals; ○ Litter during waste receipt, unloading, processing, and storage; ○ Noise and vibration by truck traffic; loading equipment (e.g., cranes, wheeled loaders), stationary compactors, balers, grinders, and other treatment and conveyance systems; ○ Air emissions from incineration; ○ Landfill leachate collection and disposal; and
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	<ul style="list-style-type: none"> ○ Landfill Gas Emissions and Methane Capture and Management. <p>Industrial Hazardous Waste</p> <ul style="list-style-type: none"> ○ Spills and releases during waste transport; ○ Air emissions such as releases of particulate matter and VOCs from storage vessels and waste processing equipment; ○ Generation of wash water and runoff from waste management areas; ○ Air emissions associated with storage and transfer operations; ○ Wastewater from biological and chemical processes like runoff and leachate; ○ Solid waste residuals from biological and chemical treatments; ○ Incinerator bottom ash; and ○ Migration of hazardous constituents in land filled industrial hazardous wastes as leachate or in the gas phase.
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Telecommunications and informatics infrastructures (telecommunication networks and e-government infrastructure).

Telecommunications	<p>Construction:</p> <ul style="list-style-type: none"> ○ Site clearance for based towers and supporting infrastructure; ○ Access road construction and habitat fragmentation; ○ Waste and emissions generated during construction including air emissions, dust and aquatic sedimentation; ○ Aquatic impacts from cable laying including sea grass habitats and coral reefs; ○ Impacts on marine species from disturbance and noise during cable laying; ○ Habitat alteration/loss; ○ Hazardous materials and waste, such as fuels and other VoCs used in construction process. <p>Operations:</p> <ul style="list-style-type: none"> ○ Electric or magnetic fields, ○ Emissions to air, water and noise emissions; ○ Hazardous materials includes in the VOCs and the use of fuels. ○ Batteries in back up power for towers and risks from chemical leaks. <p>Occupational Health:</p> <ul style="list-style-type: none"> ○ Electrical Safety; ○ Electromagnetic fields; ○ Optical fiber optic safety; ○ Elevated overhead work; ○ Fall protection; ○ Confined spaces, motor safety.
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Electricity infrastructure (generation, transmission, distribution – including geothermal):

<p>Wind Power</p>	<p>Terrestrial Construction:</p> <ul style="list-style-type: none"> ○ Site prep, access; ○ Excavation and blasting; ○ Filling transport of supplies; ○ Infrastructure; ○ Overhead conductors; ○ Decommissioning (including removal and rehabilitation of construction equipment's and sites). <p>Offshore Construction:</p> <ul style="list-style-type: none"> ○ Noise and Vibration; ○ Sedimentation and plumes; ○ Sea mammal migrations; and ○ Sand banks and erosion. <p>Operational possible impacts:</p> <ul style="list-style-type: none"> ○ Noise; ○ Biodiversity (bats and birds) strikes; ○ Visual impacts (flicker); ○ Landscape and visual impacts; ○ Access roads and habitat fragmentation (including bridges and jetties); ○ Vibration to sea life; ○ Sea bird strikes; ○ Navigation risks; <p>Occupational Health and Safety:</p> <ul style="list-style-type: none"> ○ Working at heights; ○ Confined spaces; ○ Working with rotating machinery; and ○ Falling objects. <p>Community Health and Safety:</p> <ul style="list-style-type: none"> ○ Aviation (lighting, think about insects birds and bats), ○ Marine safety and navigation, ○ Electromagnetic interference and radiation; and, ○ Abnormal loads and transportation.
<p>Geothermal Power</p>	<p>Construction:</p> <ul style="list-style-type: none"> ○ Site preparation and land clearance; ○ Emissions from construction vehicles; ○ Dust and Erosion; ○ Habitat loss; ○ Access road construction and Habitat fragmentation; ○ Transmission line construction and habitat fragmentation; ○ Construction of labour camps, waste management and decommissioning. <p>Operations:</p> <ul style="list-style-type: none"> ○ Water consumption, and impacts on aquifers; ○ Mineral substrate and heavy metal contaminates; ○ Solid contaminants (Sulfur); ○ Hydrogen sulfide emissions;

	<ul style="list-style-type: none"> ○ Water and Thermal discharge and contamination risks; and, coolant contamination; and ○ Ambient water temperature discharge. <p>Occupational Health;</p> <ul style="list-style-type: none"> ○ Heat Noise; ○ Confined spaces; ○ Electrical hazards; ○ Fire and explosion; ○ Chemical hazards; ○ Gases; ○ Community (water, traffic emissions); and emissions guidelines.
Thermal Power	<p>Construction:</p> <ul style="list-style-type: none"> ○ Site preparation and land clearance; ○ Emissions from construction vehicles; ○ Dust and Erosion; ○ Habitat loss; ○ Access road construction and Habitat fragmentation; ○ Transmission line construction and habitat fragmentation; ○ Construction of labour camps, waste management and decommissioning. <p>Operations</p> <ul style="list-style-type: none"> ○ NOx and SOx; ○ Heavy Metals and GHG's; ○ Particulate matter through filters and electro static precipitators; ○ Particulates in transfer and storage; ○ Thermal discharge; ○ Water consumption for cooling; ○ Waste dry and liquid, heavy metal concentrations (fossil fuel based); ○ Storage and transport of fuels; ○ Noise; <p>Occupational Health;</p> <ul style="list-style-type: none"> ○ Heat Noise; ○ Confined spaces; ○ Electrical hazards; ○ Fire and explosion; ○ Chemical hazards; ○ Community (water, traffic emissions); and ○ Emissions guidelines.
Transmission Lines	<p>Construction:</p> <ul style="list-style-type: none"> ○ Waste generation; ○ Soil Erosion; ○ Fugitive dust and other emissions, such as construction vehicles; ○ Noise pollution ○ Hazardous materials such as oil spills.; ○ Habitat alteration (terrestrial as well as aquatic); ○ Electric magnetic fields, and Hazardous Materials; ○ Right of way construction causing habitat fragmentation, and loss of wildlife habitats; ○ Introduction of non native invasive species;

	<ul style="list-style-type: none"> ○ Visual and noise disturbance by maintaining equipment's in that locality. ○ Presence of workers, i.e. camps and associated waste, maintenance and decommissioning; ○ Impacts of construction of bridges, and roads for access on aquatic habitats (both in construction and maintenance phases).; and ○ Impacts from laying ocean cables on sea grasses, localized plumes and impacts on coral areas. <p>Operational issues:</p> <ul style="list-style-type: none"> ○ Maintenance of rights of way vegetation controls in the form of land clearance. ○ Overhead risks to bird and bat; ○ Hazardous materials Sulfur Hexafluoride (SF6); ○ Fuels for construction vehicles; and ○ PCBs' handling and disposal for retrofitting old transmission lines. <p>Occupational Health Considerations:</p> <ul style="list-style-type: none"> ○ Live Power; ○ Working at Height; ○ Electric magnetic fields; and ○ Chemical exposure. <p>Community Health:</p> <ul style="list-style-type: none"> ○ Electrocutation; ○ Electromagnetic interference; ○ Visuals, noise and ozone; and ○ Aircraft navigation.
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Appendix A9

Note on Free, Prior and Informed Consultations

APPENDIX A9

NOTE ON FREE, PRIOR AND INFORMED CONSULTATIONS

1. Indigenous Peoples or *Masyarakat Hukum Adat* (Customary Law Communities) may be vulnerable to the loss of, alienation/resettlement from or exploitation to natural and cultural resources. IPs communities are often among the poorest of the poor in the community and closely tied to their settlements, lands and related natural resources upon which the sustenance of their livelihoods depends. Frequently, these lands and settlements are traditionally owned or under customary use and often not legally recognized by national laws. In recognition of this vulnerability, interventions introduced through this project with the objectives to improve land administration and address informal settlements may potentially alienate and/or displace IPs if the mechanisms for Free, Prior and Informed Consultations (FPICs) to obtain broad support are not built into project design and implementation.

2. **Objective.** The extent, frequency and degree of engagement required by the consultation process should commensurate with the identified project risks and adverse impacts and with the concerns raised by affected IPs. FPICs are built on mutually accepted process between affected communities and project actors. FPICs serve at least two purposes:

- a. Provide a platform to undertake a process of consultations in good faith and in a manner that provides affected IPs with opportunities to express their concerns and views on the sharing of development benefits, risks, impacts, and mitigation measures and explore ways to leverage culturally and socially acceptable benefits.
- b. Provide a two-way mechanism for GCA to engage with IPs and their organizations, including Adat councils, community groups to consider and respond to the views and concerns expressed by affected IPs prior to project execution.

3. **Procedures.** FPICs should be orientated towards obtaining broad community support and by which, broad community support consists of a collection of expressions by affected community members and/or their recognized representatives in support of the proposed project/sub-project activities. Although FPICs do not necessarily require unanimity and in some instances, decisions may be achieved even individuals or groups within the community disagree, FPICs lay out organized and iterative processes through which decisions and measures adopted by the project incorporate the views of the affected IPs on matters that affect them directly.

4. The Community Participation Framework needs to be built on gender-sensitive and inter-generationally inclusive approaches. Effective FPICs are built upon two-way processes that should:

- a. Involve members of affected communities and their recognized representative bodies and organizations in good faith.
- b. Capture the views and concerns of men, women and vulnerable community segments including the elderly, youth, displaced persons, children, people with special needs, etc. about impacts, mitigation mechanisms, and benefits where appropriate. If

necessary separate forums or engagements need to be conducted based on their preferences.

- c. Begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise.
- d. Be based on the prior disclosure and dissemination/socialization of relevant, transparent, objective, meaningful, and easily accessible information which is in a culturally appropriate language(s) and format and is understandable to affected IPs. In designing consultation methods and use of media, a special attention needs to be paid to include the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits.
- e. Focus on inclusive engagement on those directly affected than those not directly affected;
- f. Ensure that the consultation processes are free of external manipulation, interference, coercion and/or intimidation. The ways the consultations are designed should create enabling environments for meaningful participation, where applicable. In addition to the language(s) and media used, the timing, venues, participation composition need to be carefully thought through to ensure everyone could express their views without repercussions.
- g. Be documented.

5. In deciding whether to proceed with the project, the GCA with inputs from consultants and experts ascertains on the basis of social assessment and FPICs whether affected IPs provide their broad support to the project. Where there is such a support, GCA should prepare:

- a. Documented evidence of FPICs as well as measures taken to avoid and minimize risks to and adverse impacts of the affected IPs. This includes list of participants, meeting minutes and other documentation (e.g. photos, video, etc.);
- b. Additional measures, including project design modification, alternative locations, and where applicable compensations to address adverse effects on affected IPs and to provide them with culturally and socially appropriate benefits;
- c. Action plan and recommendations for FPICs during project implementation, monitoring, and evaluation, and
- d. Any formal agreements reached with affected IPs and/or their representative organizations.

6. The World Bank will review the process and the outcome of the consultation carried out by GCA to satisfy itself that the affected IPs have provided their broad support to the project. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.

7. **Requirements.** To ensure that FPICs can be ascertained, the following requirements are needed to determine whether:

- a. The level of engagement in a way that enables informed participation of affected IPs is acceptable;
- b. The level of support and dissent among affected IPs for the project is taken into account into decision making and development of mitigation measures.

Consideration	Requirements
Project's strategy and principles on engagement	<ul style="list-style-type: none"> - Community Participation Framework to mainstream FPIC; - Project Operational Manuals on FPICs; - Budget and personnel provisions; - Consultation schedules and other supporting documentation.
Stakeholder identification and analysis	<ul style="list-style-type: none"> - Stakeholder analysis as part of the Social Assessment;
Community Engagement	<ul style="list-style-type: none"> - Consultation plan, public consultation and disclosure plan, and stakeholder engagement plan; - Schedule and record of community engagement including discussions and consultations with community members and their representatives.
Information disclosure	<ul style="list-style-type: none"> - Disclosure plan, including schedules - Materials prepared for disclosure and consultations; - Record/minutes of discussions/consultations with community members and their representatives
Free, Prior, and Informed Consultations	<ul style="list-style-type: none"> - Record/minutes of discussions/consultations with community members and their representatives; - Documentation of measures taken to avoid/minimize risks to and adverse impacts on affected IPs based on community feedback; - Draft of Action Plan;
Consultations with vulnerable groups	<ul style="list-style-type: none"> - Engagement and public consultation plan - Record/minutes of discussions/consultations with members and representatives of vulnerable groups - Documentation of measures taken to avoid/minimize risks to and adverse impacts on vulnerable groups based on community feedback - Draft of Action Plan
Grievance redress mechanism	<ul style="list-style-type: none"> - Organizational structure and responsibilities and procedures to manage grievances; - Record of grievances received, including expressions of support or dissent; - Record/minutes of discussions with community members or representatives with regards to grievance redress.
Feedback to affected IPs (to demonstrate that concerns and recommendations have been accommodated in the project and rationale why recommendations have not been accommodated)	<ul style="list-style-type: none"> - Documentation of risk mitigation measures - Record/minutes of discussions with community members and their representatives; - On-going reporting on implementation of Action plan; - Revisions in project/sub-project activities and Action Plan; - Surveys/interview records of affected IPs.
Formal expressions of support or dissent	<ul style="list-style-type: none"> - Record/minutes of meetings/public consultations with community members and their representatives; - Formal letters/written petitions of support/objection submitted by the community and/or their representatives;
Informal expressions of support or objection	<ul style="list-style-type: none"> - Photographs, media reports, personal letters or third party accounts (NGOs, CBOs, etc.)
Evidence of good faith consultations	<ul style="list-style-type: none"> - Face-to-face interviews with community members/representatives in the consultations; - Agreements reached with affected IPs (e.g. MoU, Letters of Intent, Joint Statements, etc.) - Action plan, e.g. benefit sharing, development plan, etc.

Appendix A10

**Format of
Indigenous Peoples Plan (IPP)**

APPENDIX A10

FORMAT OF INDIGENOUS PEOPLES PLAN (IPP)

The following template presents the outline of an IPP. The template can be further developed based on field conditions and as per characteristics of the Project Activity.

Title of Chapter/Sub-Chapter	Content/Remarks
1. DESCRIPTION OF THE PROJECT	
	Summary Description of Project Activity (concerning area boundary, location, type of occupation, area size, area of influence, etc.)
2. SUMMARY OF SOCIAL ASSESMENT	
2.1. Baseline Data on IPs	<ul style="list-style-type: none"> Baseline information on the demographic, social, cultural, and political characteristic of the IPs community, the land and territories traditionally owned or customarily used or occupied and the natural resources that they depend Identification of key project stakeholders and elaboration of culturally appropriate process for consulting with the IPs at each stage of project cycle
2.2. Summary of results of the free, prior, and informed consultations with the affected Indigenous Peoples' communities that was carried out during Project Activity's preparation and led to broad community support for the Project Activity	<ul style="list-style-type: none"> Identification of potential adverse and positive effects of Project Activity of the affected IPs within the Project Activity's area of influence Development of measures necessary to avoid adverse effects or identification of measures to minimize, mitigate, or compensate for such effects and ensure that IPs receive culturally appropriate benefits from the Project Activity Mechanism to prepare and implement the public consultation with the Indigenous People (consultation concerning the draft Project Activity plan, etc. as relevant), to include: determination of location and schedule of consultation, information dissemination /invitation, etc. Public consultation process Result/resolution and mutual agreement obtained during consultation meeting. Number and representative of organization/institution presented by participants in the said consultation meeting.
2.3. A framework for ensuring the free, prior, and informed consultations with the affected IPs communities during project implementation	
3. ACTION PLAN (INPUTS FROM THE RESULTS OF THE SOCIAL ASSESSMENT)	
3.1. Activities for IPs to receive social and economic benefits	
3.2. Activities to avoid, minimize, mitigate, or compensate for adverse effects	
3.3. Measures to Enhance the Capacity of the Project Management	
3.4. Consultation with the affected IPs on the Draft IPP	
4. COST ESTIMATE AND FINANCING PLAN	In form of table containing information about: type of activity, party in charge, timeline/milestones, cost, funding source, and remarks.
5. INSTITUTIONAL ARRANGEMENT TO IMPLEMENT IPP	<ul style="list-style-type: none"> Agencies responsible for managing the implementation of the Indigenous Peoples Plan Agencies responsible for reporting and monitoring on the implementation of the Indigenous Peoples Plan Arrangements for monitoring of the implementation of the Indigenous Peoples Plan by the affected IPs
6. GRIEVANCE REDRESS MECHANISM ACCESSIBLE TO THE AFFECTED IPs	<ul style="list-style-type: none"> Mechanism for managing grievances as suggested by the results of the Social Assessment results
7. PROJECT MONITORING, EVALUATION, AND REPORTING OF IPP IMPLEMENTATION	Includes arrangement for free, prior, and informed consultation with the affected IPs <ul style="list-style-type: none"> Explaining the Work Plan for monitoring implementation of IPs and Reporting Mechanism.

Title of Chapter/Sub-Chapter	Content/Remarks
	<ul style="list-style-type: none"> • Monitoring on progress implementation of IPP • Monitoring on process implementation of IPP • Reporting on implementation of (report to whom, which format to use, and deadline for submission of the report).
ATTACHMENT	
	<p>Attach original or copy of documents as relevant to IPP, for example:</p> <ul style="list-style-type: none"> • Information about the Project Activity (Map) • Table containing Baseline Data of IPs • Minutes of Dissemination and Consultation Meetings • Minutes of Agreement on Compensation Plan (if any) based on the consultations • Other relevant documentation

Appendix A11
Social Assessments

APPENDIX A11

SOCIAL ASSESSMENTS

1. **Objectives.** The purpose of Social Assessment (SA) is to evaluate the subproject's potential positive and adverse effects on the Indigenous Peoples in the case that Indigenous Peoples are present in, or have collective attachment to the project area (based on the screening in accordance with the four criteria as specified in the World Bank OP 4.10 and criteria on *Masyarakat Hukum Adat* and/or local values), and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the SA are proportional to the nature and scale of the proposed subproject's potential effects on the Indigenous Peoples, whether such effects are positive or adverse. In carrying out an SA, the city government will have to be assisted by a consultant team or individuals who are social scientist whose qualifications, experience, and terms of reference are acceptable to the GCA. Experts from local universities or local NGOs who have worked and have experienced in working with the IPs are encouraged to assist the city government.
2. **Outline of the SA.** The SA will at least cover the following:
 - a. Description of Subproject Activity
 - b. Information about the Subproject Activity's site and condition of the cultural community
 - c. Social Economic Characteristics of the affected Indigenous Peoples' community
 - i. General Characteristics of IPs
 - ii. Specific characteristics of IPs
 - Cultural Social Institutions
 - Economic Condition and Source of livelihood for villagers
 - Cultural practices
 - Etc.
 - iii. Stakeholders assessments
 - d. Consultation process during the Social Assessment reflecting a free, prior and informed consultation that leads to broad support from the affected IPs community on the proposed Subproject Activity.
 - e. Findings and potential Subproject Activity's impacts (positive and adverse).
 - i. Any potential negative (*give examples*)
 - Economic domination by outsiders
 - Transfer of *ulayat* rights
 - ...
 - ii. Proposed Mitigation (*give example*)
 - Mitigation related to domination by outsiders
 - ...
 - iii. Potential positive impacts and efforts to maximize these impacts
 - f. Proposed Action Plans in form of a table containing (to be included in the Draft IPP):
 - i. Plan to maximize the positive impacts

- ii. Negative issues as findings from the study which needs mitigation
- iii. The mitigation program
- iv. Subproject Activities within the mitigation framework
- v. Location where the impact and mitigation is going to be done
- vi. Consultation framework for preparing and implementing IPP
- vii. Institution in charge for preparing and implementing IPP
- viii. Schedule for implementation
- ix. Budget
- x. Source of budget
- xi. Remarks (other matters needs to be put in the report)

Appendix A12

Documentation from Public Consultation of Draft ESMF (Dec. 21 2015, and Jan 21, 2016)



**KEMENTERIAN KEUANGAN REPUBLIK INDONESIA
DIREKTORAT JENDERAL PENGELOLAAN PEMBIAYAAN DAN RISIKO
DIREKTORAT PENGELOLAAN DUKUNGAN PEMERINTAH DAN
PEMBIAYAAN INFRASTRUKTUR**

Gedung Frans Seda Lantai 1 Jalan Dr. Wahidin Raya Raya No. 1, Sawah Besar, Jakarta Pusat, Jakarta 10710
Telepon +62 21 3505052 (ext. 2215) Faksimili : +62 21 3447386 Laman: <http://www.djppr.kemenkeu.go.id/>

Nomor : UND- 169 /PR.6/2015
Sifat : Sangat Segera
Lampiran : 1 (satu) berkas
Hal : Undangan Konsultasi Publik

16 Desember 2015

Yth. (Daftar terlampir)

Sehubungan dengan rencana penyusunan Kerangka Kerja Pengelolaan Lingkungan Hidup dan Sosial (*Environmental and Social Management Framework – ESMF*) untuk Kemitraan Pemerintah Swasta (*Public Private Partnership – PPP*) dalam lingkungan Kementerian Keuangan Republik Indonesia, perlu dilaksanakan konsultasi publik atas rencana tersebut kepada para *stakeholder*.

Konsultasi publik ini dirancang sebagai proses partisipatif untuk mengidentifikasi potensi penerapan kerangka kerja *Safeguard for Environmental and Social (E&S)* sesuai standar *World Bank (WB)* dan kesenjangan yang terjadi sebagai akibat dari penerapan *E&S Safeguards* serta mengembangkan perencanaan kebijakan, prosedur dan sumber daya manusia yang diperlukan untuk mengatasi kesenjangan tersebut. Kerangka Kerja ini dirancang untuk dapat menerapkan *Safeguards* secara efektif pada seluruh proyek PPP dimasa yang akan datang.

Sehubungan dengan hal tersebut diatas, kami mengundang perwakilan dari instansi terkait untuk berpartisipasi dalam kegiatan "Konsultasi Publik Pembahasan *Terms of Reference (TOR)* Pengembangan ESMF" yang akan diselenggarakan pada:

Hari/Tanggal : Senin, 21 Desember 2015
Waktu : 09.00 – 13.00 WIB
Tempat : Ruang Rapat Lobby, Gedung Frans Seda Lantai 1
Jalan Dr. Wahidin Raya Nomor 1, Jakarta Pusat
Agenda : Terlampir

Mengingat pentingnya acara tersebut, kami mengharapkan kehadirannya tepat waktu. Pendaftaran dan konfirmasi kehadiran dapat disampaikan langsung kepada: Sdri. Rima Mayasari alamat email: rima@hatfieldgroup.com atau Fax: 0251-8340414 paling lambat pada Hari Jumat, tanggal 18 Desember 2015 pukul 17.00.

Demikian undangan ini disampaikan, atas perhatian dan kehadirannya diucapkan terima kasih.

Direktur
u.b.

Kasubdit Persetujuan Dukungan Pemerintah

Sri Bagus Guritno
NIP 19670415 199203 1 001

Tembusan:
Direktur Pengelolaan Dukungan Pemerintah dan Pembiayaan Infrastruktur

1. Indonesian Legal Resource Center
2. Aliansi Petani Indonesia
3. Aliansi Masyarakat Sipil untuk Demokrasi
4. Dana Mitra Lingkungan
5. Destructive Fishing Watch Indonesia
6. Himpunan Kerukunan Tani Indonesia
7. Himpunan Masyarakat untuk Kemanusiaan dan Keadilan
8. Hivos Regional Office Southeast Asia
9. Indecon
10. Indonesia Center for Sustainable Development
11. Indonesian Center for Environmental Law
12. Indonesian Institute for Democracy Education
13. Institute for Essential Service Reform
14. Jaringan Advokasi Tambang
15. Koalisi Rakyat untuk Hak Atas Air
16. Koalisi Rakyat Untuk Keadilan Perikanan
17. Konsorsium Nasional untuk Pelestarian Hutan dan Alam Indonesia
18. Lembaga Penelitian dan Pembangunan Sosial
19. Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi Sosial
20. Lembaga Pengkajian Pengembangan Sosial dan Ekonomi
21. Lembaga Studi Ilmu-Ilmu Kemasyarakatan
22. Muslimat Nahdatul Ulama
23. Oxfam GB - Indonesia Country Office
24. Pelangi Indonesia
25. Pengembangan Aktivitas Kemitraan Terpadu
26. Perhimpunan Pembela Publik Indonesia
27. Plan Indonesia
28. Rapid Agrarian Conflict Appraisal Institute
29. Satudunia
30. Sekretariat Kerjasama Pelestarian Hutan Indonesia
31. Serikat Nelayan Indonesia
32. Solidaritas Perempuan
33. The Asia Foundation
34. Urban and Regional Development Institute
35. Wahana Lingkungan Hidup Indonesia
36. World Wide Fund For Nature
37. Yayasan Bina Usaha Lingkungan
38. Yayasan Field Indonesia
39. Yayasan Institut Indonesia untuk Ekonomi Energi
40. Yayasan Keanekaragaman Hayati Indonesia
41. Yayasan Lembaga Konsumen Indonesia
42. Heritage Foundation
43. The Ecological Justice
44. Cappa
45. TUK Indonesia
46. Biotani Bahari Indonesia
47. Ulu Foundation
48. Yayasan Mitra Usaha
49. Yayasan Pengembangan Ketrampilan dan Mutu Kehidupan Nusantara
50. Yayasan Pusaka

51. Yayasan Sahabat Aqua
52. Yayasan Terumbu Karang Indonesia
53. PT. PLN (Persero)
54. PT. PELINDO (Persero)
55. PT. KAI (Persero)
56. PT. Penjaminan Infrastruktur Indonesia (Persero)
57. PT. Sarana Multi Infrastruktur (Persero)
58. Badan Pengatur Sistem Penyediaan Air Minum
59. PT. Angkasa Pura I (Persero)
60. PT. Angkasa Pura II (Persero)
61. Perum Jasa Tirta I
62. Perum Jasa Tirta II
63. Badan Pengatur Jalan Tol
64. Akademisi
65. Kementerian Perhubungan
66. Kementerian ESDM
67. Kementerian Pekerjaan Umum dan Perumahan Rakyat
68. Kementerian Lingkungan Hidup
69. Kementerian Sosial
70. Kementerian Tenaga Kerja dan Transmigrasi
71. Badan Pertanahan Nasional

Lampiran
Und No: 169 / PR.6 / 2015
Tanggal 16 Desember 2015

AGENDA

Konsultasi Publik Pembahasan *Terms of Reference (TOR)* Pengembangan ESMF

21 Desember 2015

Waktu	Agenda	Pengisi Acara	Keterangan
08.30 -- 09.00	Registrasi		
09.00 -- 09.15	Pengenalan IIF-TD	Kementerian Keuangan	MC
09.15 -- 09.30	Pembukaan	Kementerian Keuangan	MC
09.30 -- 09.45	Paparan Pengantar Konsultasi Publik	PT Hatfield Indonesia	Moderator/Lead Fasilitator dari PT Hatfield Indonesia
09.45 -- 10.00	Diskusi dan tanya jawab	Moderator	
10.00 -- 10.10	Pembagian Kelompok	Panitia	Membagi kelompok dan membagikan kuesioner untuk dibahas dalam tiga kelompok: 1. Aspek Sosial ekonomi dan (Free Prior and Informed Consent) FPIC 2. Aspek Lingkungan dalam standard World Bank 3. Pengadaan lahan dan relokasi non-sukarela (LARAP)
10.10 - 11.10	Diskusi kelompok	Fasilitator kelompok	Fasilitator dari PT Hatfield Indonesia
11.10 -- 11.50	Presentasi Pleno	Lead Fasilitator	Presentasi dari setiap kelompok (tiga presentasi)
11.50 -- 12.00	Penutupan	Kementerian Keuangan	Penyampaian rencana tindak lanjut
12.00 -- 13.00	Makan Siang		

Lingkup Konsultasi Publik

Penyusunan *Terms of Reference* Pembuatan Kerangka Pengelolaan Lingkungan dan Sosial (*Environmental and Social Management Framework/ESMF*)

Latar Belakang

Bank Dunia (World Bank) telah membentuk *Indonesia Infrastructure Finance Development* (IIFD) sebuah multi-donor *Trust Fund* yang didanai oleh Departemen Luar Negeri Pemerintah Kanada, di bagian Perdagangan dan Pembangunan (*Department for Foreign Affairs, Trade and Development*, DFATD) sebesar US\$ 15 juta, yang akan dilaksanakan selama 2016-2020. IIFD-TF bertujuan untuk mengatasi kemacetan pembiayaan infrastruktur di Indonesia, dan melakukan konsultasi mengenai kebijakan dan transaksi kepada Pemerintah Indonesia pada penyaluran keuangan swasta ke infrastruktur.

Tujuan Pembangunan Proyek dari induk IIFD Trust Fund adalah: “untuk membantu Indonesia dalam mengatasi kesenjangan infrastruktur publik yang besar dengan mendukung aliran modal swasta dalam pembangunan infrastruktur dan meningkatkan kerangka kelembagaan, hukum dan peraturan untuk meningkatkan kemampuan modal swasta dan lembaga-lembaga publik untuk bekerja sama untuk pembangunan infrastruktur.”

Dalam rangka memenuhi Kebijakan Perlindungan Bank Dunia, Pemerintah Indonesia perlu mempersiapkan Kerangka Pengelolaan Lingkungan dan Sosial (*Environmental and Social Management Framework/ESMF*) untuk membuat standar pengelolaan dan pengurangan setiap potensi dampak lingkungan dan sosial dari proyek-proyek penerima dana dari IIFD TF.

Proses pembuatan Kerangka Pengelolaan Lingkungan dan Sosial dilakukan secara bertahap meliputi pembuatan kerangka acuan atau ToR, penyusunan draf Kerangka Pengelolaan Lingkungan dan Sosial, dan finalisasi dari draf tersebut. Sebagai dokumen publik, seluruh proses penyusunan Kerangka Pengelolaan Lingkungan dan Sosial tersebut harus transparan, akuntabel, dan partisipatif, dengan melibatkan seluruh pemangku kepentingan yang terkait dengan proyek-proyek infrastruktur di Indonesia, seperti dunia usaha, lembaga swadaya masyarakat, pemerintah, akademisi dan lain-lain.

Pada saat ini, tahapan yang dilalui adalah penyusunan kerangka acuan (ToR) untuk membuat draf Kerangka Pengelolaan Lingkungan dan Sosial. Karena itu, dibutuhkan masukan dari para pemangku kepentingan dalam penyusunan ToR ini.

Tujuan Konsultasi

Tujuan utama dari konsultasi ini adalah menetapkan prosedur dan metode yang jelas untuk perencanaan, kajian, persetujuan dalam aspek lingkungan dan sosial untuk investasi proyek ke depan.

Peserta Konsultasi

Untuk menggalang proses yang konstruktif secara partisipatif, peserta konsultasi akan terdiri dari pihak-pihak yang relevan dengan penerapan kebijakan infrastruktur publik. Peserta konsultasi ini akan terdiri dari perwakilan pemerintahan, terutama kementerian keuangan selaku bagian dari penyelenggaraan *trust fund*; swasta dan lembaga swadaya masyarakat.

Narasumber dan Fasilitator

Proses konsultasi publik ini akan menghadirkan narasumber dari Bank Dunia/IIF-TD yang akan menjelaskan sejarah dan konsep pembentukan IIF-TD di Indonesia. Proses ini akan dipandu oleh empat orang fasilitator dari PT Hatfield Indonesia yang akan membantu peserta dalam menjalankan diskusi kelompoknya masing-masing.

Mekanisme Diskusi

Diskusi dalam proses konsultasi publik ini diawali dengan pengenalan tentang kebijakan Bank Dunia dan juga sejarah terbentuknya IIF-TD di Indonesia. Informasi selanjutnya disampaikan oleh konsultan dari PT Hatfield Indonesia yang akan memberikan latar belakang dan tujuan proses konsultasi publik serta menyampaikan tujuan yang diharapkan dari proses ini. Proses diskusi kelompok terfokus (FGD) akan dilakukan untuk menggalang aspirasi dari setiap peserta untuk dijadikan masukan dalam menyusun kerangka acuan kerja. Tiga kelompok akan dibentuk untuk membahas aspek sosial ekonomi, lingkungan dan pengadaan lahan berdasarkan panduan pertanyaan yang disusun oleh panitia. Proses FGD akan dipandu oleh fasilitator dari PT Hatfield Indonesia. Hasil diskusi kelompok akan disampaikan dalam sesi pleno di akhir kegiatan diskusi.

Keluaran

Keluaran yang diharapkan dalam kegiatan ini terdiri dari:

1. Identifikasi potensi penerapan standard Bank Dunia dalam aspek social dan lingkungan di kalangan industry infrastruktur kemitraan dengan pemerintah;
2. Identifikasi kesenjangan aspek lingkungan dan sosial yang ada dan yang mungkin muncul jika membandingkan peraturan perundangan yang berlaku dengan standar Bank Dunia, serta mempertimbangkan mekanisme pembiayaan dan penjaminan yang telah diterapkan oleh institusi lain seperti SMI (Sarana Multi Infrastruktur), IIF (*Indonesia Infrastructure Finance*) dan IIGF (*Indonesia Infrastructure Guarantee Fund*);
3. Identifikasi kebutuhan untuk mengatasi kesenjangan aspek lingkungan dan sosial yang telah diidentifikasi pada poin 2; dan
4. Identifikasi peran dan fungsi Bank Dunia dan/atau IIF-TD dalam mengatasi kesenjangan.



Notulensi Konsultasi Publik Terms of Reference (TOR)
Penyusunan Environmental and Social Management
Framework (ESMF) / *Minutes of Public Consultation for
TOR ESMF*

Tanggal/Date: 21 Desember 2015 / December 21, 2015
Waktu/Time: 09.00 - 13.00
Lokasi/Location: Ruang Rapat Lobby, Gedung Frans Seda Lt. 1, Jl. Dr. Wahidin Raya
No. 1 Jakarta
Peserta/Attendees: Seperti terlampir / *As attached*

1. Opening remarks by Head of Sub-Directorate of Government Support.
2. Address by Director of Government Support and Infrastructure Financing:
 - The Government supports the preparation of the Environmental and Social Management Framework as required by the World Bank in relation to infrastructure development;
 - Expect that all relevant parties can work together so that the availability of funds through the Indonesian Infrastructure Development Facility (IIFD) can be utilized in line with the 2016 budget plan;
 - Government vision and mission incorporated in *Nawa Cita* can be accomplished through the development of infrastructure in Indonesia;
3. Presentation of schematic overview on the Public Private Partnership (PPP or KPBU) and related regulations by Head of Sub-Directorate of Government Support;
4. Explanation by representatives of the World Bank regarding grant of approximately 19 million USD (from the Government of Canada) for infrastructure projects in Indonesia. The main scope of the project is as follows:
 - Strengthening institutions;
 - Review of the regulatory framework so as to accelerate the provision of infrastructure in Indonesia;

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- World Bank will assist the preparation of projects and transactions that require a policy framework for environmental and social management; and
 - Implement capacity building so that institutions can improve collaboration and working together in the development of infrastructure.
5. Brief presentation on the preparation of TOR IIFD ESMF by PT Hatfield Indonesia;
6. Discussions and questions:
- ESMF Framework (including aspect on indigenous peoples) is quite new for the Ministry of Finance, as such require help from PT Hatfield Indonesia to fulfill the conditions required by the World Bank to accelerate the process of receiving the grant/Trust Fund;
 - ESMF Framework generally includes a screening process, guidelines on environmental and social assessments, guidelines on preparing action plan for mitigating impacts, the approval process for environmental and social documents, public consultation on environmental and social impacts (disclosure of information), training needs and capacity building for the institution implementing the ESMF;
 - According to IIF experience, a lot of challenges in implementing environmental and social safeguards for projects in Indonesia where the stakeholders and lenders do not understand about safeguards. One key impact is land acquisition which needs to meet government regulation, but also address gaps to meet the safeguards, such as developing livelihood restoration plan etc. The project owner considers that the livelihood restoration plan is cost but actually this is part of risk management;
 - The World Bank request PT Hatfield Indonesia review the institutional capacity, especially for KPBU scheme or PPP (Public and Private Partnerships) in the aspect of safeguards. Especially on permitting, such as permits for land leasing from the Department of Forestry;
 - The finance ministry will act as facilitator for obtaining support from the government and is not the project owner of KPBU / PPP projects. The project owner has an obligation to meet the safeguard requirements to obtain financial assistance from IIFD;
 - According to IIF experience, it will be easier to get commitment from project owners to implement safeguards in IIF's capacity as a lender. However, if in the capacity as financial advisor it will be difficult to request the project owner (PJPK) for implementing the required safeguards;
 - The institution/authority that is assigned for reviewing and monitoring the gaps and oversee the implementation of the ESMF/safeguards must be specified in the ESMF document;
 - The grant from the Government of Canada through the Trust Fund Mechanism and the World Bank can be regarded as financing from the Government of Indonesia. This fund can be used to establish a good mechanism for funding PPP projects by aligning the gaps between the government regulation and ESMF. The gaps can be used as input to improve the regulatory framework;

- Main players in the infrastructure development are: the Ministry of Finance as facilitator, PJPK or Government Contracting Agency (GCA) as the project owner and developers or investors;
- BPJT as PJPK feel reluctant to apply the ESMF as it is already a challenge to meet the requirements of the regulatory framework. As such, the ESMF can be counterproductive and slows down the process of infrastructure development in Indonesia. ESMF can be regarded as a burden, especially in the process of land acquisition. PJPK or project owner especially local government authorities have limited understanding on the ESMF. There are also gaps in terms of project completion targets which do not take into account the time required for preparing a good FS and social and environmental assessment. As such, usually there is no tender process but direct appointment of contractors/consultants to achieve the project completion target;
- ESMF also needs to examine safety issues that may occur in using the infrastructure that has been built, for example, the number of vehicle accidents on the Cipali Toll Road;
- It is suggested that the public is given an award by the government or the project owner who have given up rights to land in support of infrastructure projects for the public;
- The study of government regulations is also done to other relevant regulations beyond environmental and social regulations;
- ESMF also includes the option of integrating infrastructure, for example, integrating provisions for high voltage transmission lines, gas pipelines, water pipelines, railroads and / or highways in the same ROW (right of way) so as to facilitate the land acquisition process. It will be best if there is one institution / government agency that can coordinate the integration of infrastructure requirement (not only synergy);
- Development of specialized units in PJPK to provide funding if land acquisition is not yet budgeted by the government so that the land acquisition process can be started earlier in the project;
- PJPK proposed conducting "Land Banking" in anticipation of infrastructure projects in the future;
- In particular for the Mine Mouth Power Plant Project Sumsel 9 and 10, suggest to assess gaps in the design phase of the tendering process which may only refer to the Gol regulations but in fact may require other technology to reduce emissions from the power plant; and
- Suggestion to firstly assess gaps between the Presidential Decree No. 38 Year 2015 regarding KPBU (PPP) and regulations on land acquisition for public purposes against safeguards requirements in support of developing the ESMF document.

ublic consultation close out remarks by Head of Sub-Directorate of Government Support.

Daftar Hadir

KONSULTASI PUBLIK

Rencana Penyusunan Term of Reference (TOR) Pengembangan Environmental and Social Management Framework (ESMF)

Jakarta, 21 Desember 2015

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Pembahasan Kerangka Acuan / TOR

Persiapan Kerangka Kerja Pengelolaan Lingkungan dan Sosial (*Environmental and Social Management Framework – ESMF*)

PT Hatfield Indonesia

21 Desember 2015

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Tujuan Konsultasi


- Mengembangkan ESMF guna mengurangi, mitigasi dan mengelola risiko dan potensi dampak, serta pengelolaan *World Bank Safeguards*
- Lingkup:
 - Penetapan prosedur dan metodologi
 - Tinjauan risiko sosial dan reputasi perubahan UU Pembebasan Lahan
 - Peran dan tanggungjawab, proses dan prosedur lembaga-lembaga terkait
 - Penentuan pelatihan dan peningkatan kapasitas lembaga
 - Penetapan anggaran biaya

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Slide 2

Lingkup Pekerjaan (#1)




- ESMF disiapkan atas dasar Kebijakan Operasional (OP) dan Prosedur (BP) – *safeguard* milik Bank Dunia, Peraturan Perundangan dan Pedoman Lingkungan, Kesehatan dan Keselamatan Bank Dunia.
- Pedoman ESMF, melakukan penyaringan untuk:
 - identifikasi *safeguard* yang dipicu
 - kategori kajian lingkungan yang diperlukan
 - instrumen *safeguard* yang diperlukan
 - konsultasi dan penyampaian informasi

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3 Slide 3

Lingkup Pekerjaan (#2)



- Deskripsi rinci proyek, komponen dan pelaksanaan. Identifikasi, penyiapan, persetujuan dan pelaksanaan proyek percontohan
- Penjabaran kelembagaan dan kerangka peraturan:
 - Kelembagaan Nasional dan Peraturan Perundangan terkait aspek lingkungan dan sosial, dan peraturan
 - Cakupan masyarakat adat
 - Perjanjian internasional
 - WB Safeguards: Kajian Lingkungan (OP/BP 4.01), Habitat Alami (OP/BP 4.04), Kehutanan (OP/BP 4.36), Pengelolaan Hama (OP 4.09), Kebudayaan Fisik (OP/BP 4.11), Masyarakat Adat (OP/BP 4.10), Pemukiman kembali (OP/BP 4.12), Keselamatan Bendungan (OP/BP 4.27), Pedoman K3 Bank Dunia

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4 Slide 4

Lingkup Pekerjaan (#3)

- Tinjauan terhadap peraturan pengadaan tanah
- Kebutuhan kelembagaan untuk ESMF
- Rekomendasi menyertakan studi lingkungan dan sosial di dalam studi kelayakan termasuk biaya yang diperlukan
- Program pelatihan, peningkatan kapasitas kelembagaan yang bertanggung jawab atas ESMF
- Anggaran melaksanakan dan memantau ESMF
- Penyiapan Rancangan Kerja Masyarakat Adat (IPPF) dan (Kerangka Kerja Pemukiman Kembali (RPF)
- Rencana Kerja Konsultasi dan Penyampaian Informasi

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Slide 5

Kerangka / Daftar Isi ESMF #1

- Ringkasan Eksekutif
- Pengantar
- Deskripsi Proyek
- Proses penyaringan *safeguard* lingkungan dan sosial
- Kerangka kerja kelembagaan, kebijakan, peraturan perundangan nasional dan perjanjian internasional
- Penjelasan persyaratan untuk tiap *safeguard*
- Rekomendasi menyertakan pertimbangan lingkungan dan sosial ke dalam studi kelayakan proyek dan tinjauan peraturan pengadaan tanah

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Slide 6

Kerangka / Daftar Isi ESMF #2

- Rencana konsultasi dan sosialisasi/penyampaian informasi
- Kajian kelembagaan dan pengaturan pelaksanaan proyek untuk implementasi ESMF
- Program pelatihan dan peningkatan kapasitas bagi lembaga yang bertanggungjawab terhadap ESMF
- Anggaran pelaksanaan ESMF
- Lampiran IPPF, RPF, catatan konsultasi ESMF, dan kebutuhan teknis lainnya

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Slide 7

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Slide 8

DOCUMENTATIONS







**KEMENTERIAN KEUANGAN REPUBLIK INDONESIA
DIREKTORAT JENDERAL PENGELOLAAN PEMBIAYAAN DAN RISIKO
DIREKTORAT PENGELOLAAN DUKUNGAN PEMERINTAH DAN
PEMBIAYAAN INFRASTRUKTUR**

Gedung Frans Seda Lantai 1 Jalan Dr. Wahidin Raya Raya No. 1, Sawah Besar, Jakarta Pusat, Jakarta 10710
Telepon +62 21 3505052 (ext. 2215) Faksimili : +62 21 3447386 Laman: <http://www.djppr.kemenkeu.go.id/>

Nomor : UND- [0]/PR.6/2016
Lampiran : 1 (satu) halaman
Hal : *Public Consultation*

15 Januari 2016

Yth. (Daftar terlampir)

Sehubungan dengan rencana penyusunan Kerangka Kerja Pengelolaan Lingkungan Hidup dan Sosial (*Environmental and Social Management Framework - ESMF*) untuk Kemitraan Pemerintah Swasta (*Public Private Partnership - P3*), atau dikenal dengan KPBU dalam lingkungan Kementerian Keuangan Republik Indonesia, perlu dilaksanakan konsultasi publik atas rencana tersebut kepada para *stakeholder*.

Konsultasi publik ini dirancang sebagai proses partisipatif untuk mengidentifikasi potensi penerapan *Safeguard for Environmental and Social (E&S)* sesuai standar World Bank (WB) dan kesenjangan yang terjadi sebagai akibat dari penerapan *E&S Safeguards* serta mengembangkan perencanaan kebijakan, prosedur dan sumber daya manusia yang diperlukan untuk mengatasi kesenjangan tersebut. ESMF ini dirancang untuk dapat menerapkan *Safeguards* secara efektif pada seluruh proyek KPBU dimasa yang akan datang.

Menindaklanjuti Konsultasi Publik Pembahasan *Term of Reference (TOR)* Pengembangan ESMF yang telah diselenggarakan sebelumnya pada bulan Desember 2015 dan draft pertama ESMF telah disirkulasikan guna mendapatkan masukan dari pihak-pihak yang berkepentingan.

Sehubungan dengan hal tersebut diatas, kami mengundang perwakilan dari instansi terkait untuk berpartisipasi pada kegiatan "**Konsultasi Publik Pembahasan Pengembangan ESMF**" yang akan diselenggarakan pada:

Hari/Tanggal : Kamis, 21 Januari 2016
Waktu : 09.00 – 13.00 WIB
Tempat : Ruang Rapat Teknologi, Gedung Frans Seda Lantai 3
Jalan Dr. Wahidin Raya Nomor 1, Jakarta Pusat
Agenda : Terlampir

Tujuan dari konsultasi publik lanjutan ini adalah untuk mendapatkan masukan terhadap draft ESMF, serta membantu finalisasi draft tersebut.

Mengingat pentingnya acara tersebut, kami mengharapkan kehadirannya tepat waktu. Pendaftaran dan konfirmasi kehadiran dapat disampaikan langsung kepada: Sdri. Rima Mayasari alamat email: rima@hatfieldgroup.com atau Fax: 0251-8340414 paling lambat pada tanggal 19 Januari 2016 pukul 17.00.

Demikian undangan ini disampaikan, atas perhatian dan kehadirannya diucapkan terima kasih.

Direktur,



Freddy R. Saragih
NIP. 19590523 198510 1001

Daftar Undangan

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20. Zenzi Suhadi
21. Dwi Susanto, IIGF
22. Fitria Leli, PLN
23. Andrianto, PLN
24. Pinky CH, IIF
25. R. Budi W, IIF
26. Uli PJ, ILRC
27. Siswanto, LPPSE
28. Jeffry Ong, Embassy of Canada
29. Dwi SC, PT KAI
30. Yayi R, IIF
31. Novianus, IIF
32. Bambang YD, BPJT
33. Rahmat Mulyono, Dit. PDPPI-DJPPR
34. Laila Hanim, PP Muslimat NU
35. Nasrullah, PP Muslimat NU



Notulensi Konsultasi Publik Pengembangan Environmental and Social Management Framework (ESMF) / *Minutes of Public Consultation for ESMF*

Tanggal/Date: 21 Januari 2016 / January 21st, 2016

Waktu/Time: 09.00 - 13.00

Lokasi/Location: Ruang Rapat Teknologi, Gedung Frans Seda Lt. 3, Jl. Dr. Wahidin Raya No. 1 Jakarta Pusat

Peserta/Attendees: Seperti terlampir / As attached

1. Opening remarks from Head of Sub-Directorate of Government Support - Sri Bagus Guritno (MoF)

- This 2nd public consultation, continuing last month session which discussed the TOR. In today's discussion will be focus on the draft.
- The trust fund is manage by World Bank (WB) from the Government of Canada. The objective of the fund is to develop KPBU implementation Scheme, the fund itself is give to Direktorat General Pengelolaan Pembiayaan dan Resiko. ESMF document needed due to the fund will be use to financing KPBU's project template development in various sectors, and WB required the ESMF documents to be implemented.
- The principles of ESMF development are; ESMF is a tool to prepare potential KPBU projects, guidelines to improve pre-assessment study quality proposed by PJKP, supporting tools to prepare risk mitigation related to environmental and social risk, ESMF have to support the successful implementation of KPBU projects to get financial support and operate as planned. ESMF refers to Indonesian regulation and made to help the PJKP.
- The document are planned to be finalized at January 26th, 2016.

2. ESMF Draft Document Presentation from PT Hatfield Indonesia.

3. Discussion:

Questions

- **Arkilaus Baho (Yayasan Pusaka)** - When and where the projects stated in category A, B and C will be execute, in order to make us easier to overview the social aspect? How the

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option A, B and C able to encounter social aspect, due to ESMF document must be able to assess the community social aspect?

- **Pinky (IIF)** – Who is going to be the target of training and capability building? Who is going to be conduct monitoring function, to make sure social environmental safeguard area well implemented?
- **Rini Risyani (PGE)** - Do a project without environmental document could apply for the financial support?
- **Fitria Lely (PLN)** – Related to renewable energy, please explain about the support from MoF? Could a power plant development support by MoF using this scheme?
- **Novianus (IIF)** - How is the commitment of PJPK to monitoring the construction process that conducts by Private Sector Company? And how about allocated budget for monitoring?
- **Rini Risyani (PGE)** – To propose a support, is that has to be State Owned Enterprises or it could be done by subsidiaries?
- **Adhi Rachmat Hariyadi (PTHL)** – MoF to explain the perception difference regarding Feasibility Study?

Answer/Response:

- **PT Hatfield Indonesia** - Details of A, B and C category will explain by MOF. Regulation study, relevan Indonesia regulation (land acquisition and indigenous forests) will be add into to document. Stakeholder as the target of capacity building will be determined. Corrective Action Plan will be added to the document. ESMF document is developed in a simple manner in order to accommodate various type of projects. In the phase of Feasibility Study aspects related to education and sustainability will be covered, and also will be presented in EIA documents. Some of the relevant Indonesian regulation will be adopted and also International practices, measurable methodology will be add to handle social aspects.
- **Sri Bagus Guritno (MoF)** - Sectors in Presidential Decree 67 have been extended through Presidential Decree 38, sectors which are previously did not allow for cooperation support is accommodated. e.g hospitals, schools, prisons. Document ESMF will cover all sectors listed in Presidential Decree 38. Some local governments have proposed to get funding from PPP support. 5 projects to be declare as role model projects. The term of Availability Payment will be implemented.
- **Dina Irvina (MoF)** – KPBU scheme is already introduced since 2005 but it is still struggling in local and center government level. MoF has an interest to make PPP's support projects to be the role model of infrastructure projects services in Indonesia. ESMF is not a requirement for a "go or no go" of a project, but as tools of risk mitigation. And also to ensure projects don't have environmental and social issue in the future.

- **Sri Bagus Guritno (MoF)** – Regarding power plant, the existing power plant is cannot supported by MoF.
- **Adhi Rachmat Hariyadi (PTHL)** – Training need assessment will be conducted in order to map training and capability building beneficiaries.
- **Dina Irvina (MoF)** – PJKP has to prepare their owned OBC (or could be help by technical assistance). MoF support is in the phase of OBC to FBC, the assessment is to determine whether project financing will be use trust fund or APBN.
- **Sri Bagus Guritno (MoF)** - To answer the participant question regarding legitimate institution or company to propose the financial scheme, is that only state owned enterprises or could be their subsidiaries. MoF explained that Institution or company must be assigned as PJKP by technical minister to be legitimate to propose PPP financing scheme for their project. e.g PLN assigned as PJKP with *UU Kelistrikan*.
- **Dina Irvina and Sri Bagus Guritno (MoF)** – PJKP must prepare environmental and social study before propose a support, pre-study at the minimum requirement. MoF will help to improve environmental study in order to prepare better tender documents. MoF has a project guideline and suggested that ESMF must comply with Indonesian regulation. "WB-centris document" is kind of difficult to be penetrate to PJKP, meanwhile WB standards is relatively the same with Indonesian regulation. Gap that may occurred between those two documents will be explain in additional documents.







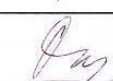


Statements:

- **Arkilaus Baho (Yayasan Pusaka)** - ESMF document should be considering spatial plan regulation, infrastructure design should not forsake cultural aspects, and also no longer using military approaches. This ESMF is still in general term, please consider to put local community aspects related to socio-geographic, socio-culture and socio-economic.
- **Sri Bagus Guritno (MoF)** – PLN could propose renewable energy project to get support from MoF.
- **Fitria Lely (PLN)** - In Appendix A10, related to thermal power, Indonesian regulation must be use as a parameter.
- **Sulistiowati (WB)** - Monitoring is divided into these two components :
 - (1) Compliance - to meets the requirements
 - (2) Fundamentals - related policies and sustainability of a project.

Related to these, capacity building should be conducted to meet requirements or related policies.

- **Sulistiowati (WB)** – Would like to confirmed that trust fund is not only for feasibility studies but also for to help develop another studies which aim to make sure projects are run well. This has to be stated clearly in the ESMF document.
 - **Dina Irvina and Sri Bagus Guritno (MoF)** – Trust fund will funding 5 projects from early preparation to project end phase. To help project preparation into the project is ready for tender process, so the trust fund is not only for feasibility study but also for another document aimed to make the project run well.
 - **Siswanto (LPPSE)** – Strategic projects especially long term should be well socialized to the impacted community.
4. Public consultation close-out remarks from Head of Sub-Directorate of Government Support.

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