



Indigenous Peoples Plan Guidance Note

LLF ESMS Annex N

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ACRONYMS AND ABBREVIATIONS

Name	Description
E&S	Environmental and Social
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
FAO	Food and Agriculture Organization
FPIC	Free Prior and Informed Consent
GFN	Good Faith Negotiation
ICP	Informed Consultation and Participation
ILO	International Labour Organization
IP	Indigenous Peoples
IPP	Indigenous Peoples Plan
LL	Legacy Landscape
LLF	Legacy Landscapes Fund
SEP	Stakeholder Engagement Plan
ToR	Terms of References
WB ESS	World Bank Environmental and Social Standards

DOCUMENT HISTORY

Version	Revision	Prepared by	Reviewed by	Approved by	Date	Comments

1. INTRODUCTION

Indigenous People (IP) usually live apart from mainstream societies and are often disadvantaged by traditional models of development. In many instances they belong to the most economically marginalized and vulnerable groups of society. Their economic, social, and legal status frequently limits their capacity to defend their rights to, and interests in, land, territories as well as natural and cultural resources and may restrict their ability to participate in and benefit from conservation and development programs. In many cases, they do not receive equitable access to program benefits and information, or these are not devised or delivered in a form that is culturally appropriate, and they may not always be adequately consulted about the design or implementation of programs that would profoundly affect their lives or communities. In order to mitigate negative impacts of programs on indigenous groups and enable them to access respective benefits, it will be necessary in some programs to develop measures that are tailored to fit the needs of IP.

The development of an Indigenous Peoples Plan (IPP) is a measure to approach IP and guarantee for provisions that mitigate or avoid adverse impacts on indigenous groups, where possible. The IPP is a management plan that specifies responsibilities, timeframes, budgetary considerations, monitoring and evaluation arrangements, as well as engagement and mitigation strategies. Furthermore, it should aim to leverage IP conservation tools and strategies, as well as including their vision, tools, and strategies.

In the case of a legacy landscape (LL) with the presence of IP stakeholders for which the environmental and social action plan (ESAP) does not recommend an IPP, the LL management plan must specify the IP approach and specific measures to respect their rights.

It should be noted that there might be program sites with uncontacted IP that live in voluntary isolation. Any such IP decision to live in voluntary isolation must be respected by the program, hence, in such cases there should be no approach by the program taken to get in contact with respective IP communities.

Note: This document provides a guidance and templates that are aligned with the applicable standards listed in LLF ESMS manual. In all cases, the grantee and/or the party developing the plans and/or procedures must comply with the local/national requirements; then, the guidance provided in this document (including the other recommended publications) should be utilised to determine how to align the LL program with the applicable standards. If the LL program (or the grantee organisation) already have similar plans and/or templates developed and/or currently implemented, the grantee should conduct the gap analysis exercise between the existing template and/or document and this LLF guidance. The identified gaps should be closed following the rule – stricter applies.

The requirement to develop the IPP might be stated in the environmental and social action plan (ESAP) that is part of the grant agreement between the grantee and LLF. Alternatively, such requirement will be triggered by legacy landscape (LL) program activity during the lifecycle of the LL program.

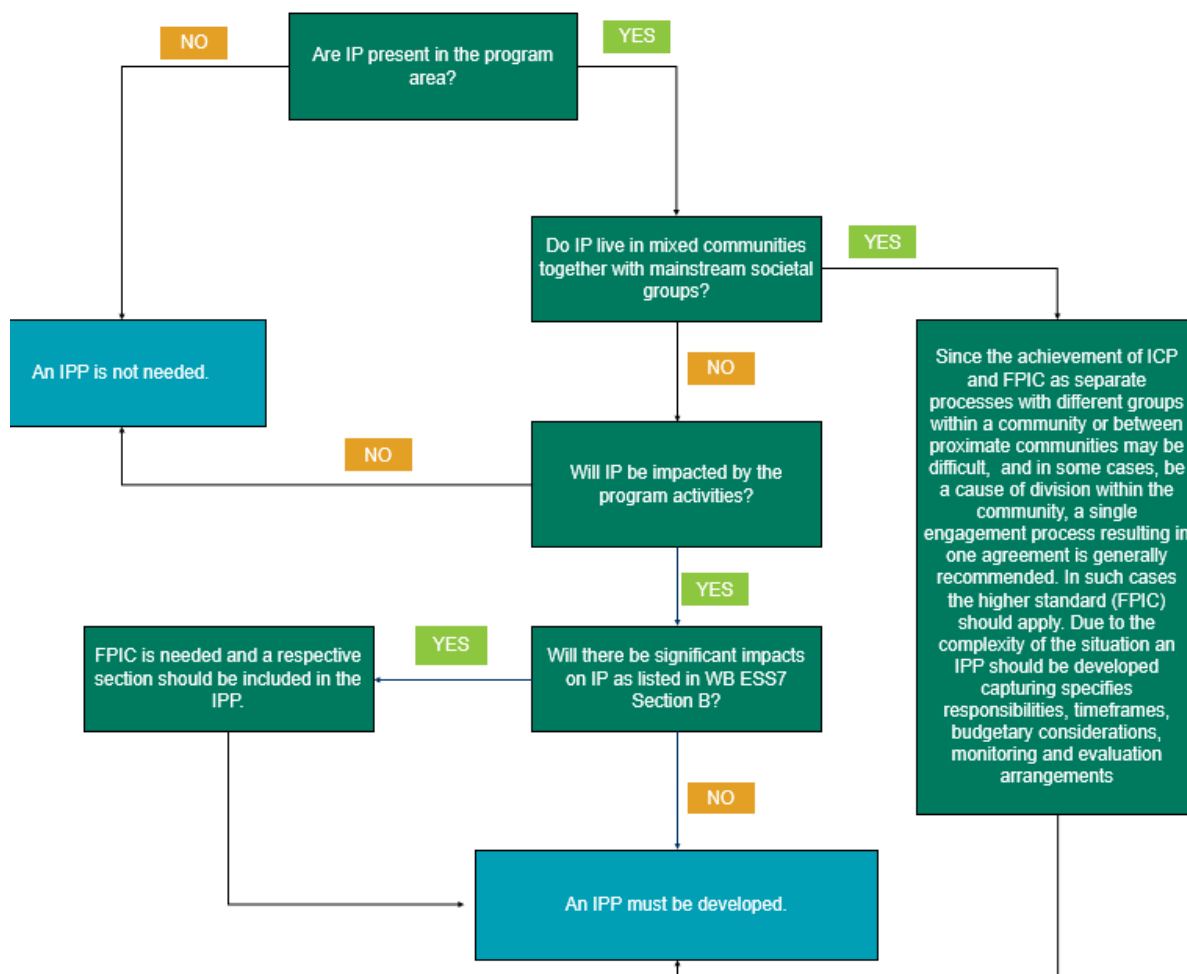


Figure 1-1 Indigenous People Plan Decision Tree

Please note, that there might be cases in which IP live in mixed communities along with other mainstream societal groups or rural communities, or other cases where such groups live in proximate, but separate communities. In those cases, a program is required to achieve both informed consultation and participation (ICP) for mainstream communities impacted by the program, and FPIC for IP impacted by the LL program activities. Since the achievement of ICP and FPIC as separate processes with different groups within a community or between proximate communities may be difficult and in some cases be a cause of division within the community, a single engagement process resulting in one agreement is generally recommended. In such cases the process and agreement should reference the higher standard (i.e., good faith negotiations (GFN) and agreement demonstrating FPIC).

1.1 Purpose

The purpose of this document is to outline the key components of an IPP, and thus, also provide guidance to the grantee on engagement strategies with indigenous groups.

1.2 Objectives

The main objective of an IPP is to ensure that the program development process fosters the full respect for the identity, dignity, human rights, economies and cultures of IP so that they can receive culturally appropriate, sustainable social and economic benefits, do not suffer adverse impacts as a result of the program; and can participate actively in the program that affects them. The IPP must

ensure that long term sustainable economic and social development for IP communities in the respective program area can be derived from the program.

It should be noted that the IPP is as much a shared document, as it is a collaborative process between the program and affected indigenous groups. This means, that culturally appropriate engagement with indigenous groups is key in developing the IPP.

The IPP does not aim to discriminate against other societal groups, that do not qualify as IP. Therefore, in cases of mixed communities or rural and traditional communities, that do not fulfill all criteria as to qualify as IP, an IPP is recommended considering all such groups residing in the LL program area. For all kinds of negotiations to be held with such mixed groups or groups within close proximity, the higher standard (e.g., FPIC) shall apply.

2. APPLICABLE STANDARDS

The full list of the applicable standards for developing the IPP is indicated in the LLF ESMS manual document. In addition, the following standards were used for the development of this guidance note and should be reflected in the IPP:

- World Bank Environmental and Social Standards (WB, 2018), in particular;
 - Guidance Note on ESS7 - Indigenous Peoples / Sub-Saharan African Historically Underserved Traditional Local Communities (WB, 2018)¹.
- UN Declaration on the Rights of Indigenous People (UNDRIP, 2007)².
- International Labor Organization (ILO), Indigenous and Tribal Peoples Convention, 1989 (No. 169)³
- Food and Agricultural Organization (FAO), Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities (FAO, 2016)⁴; and
- Relevant national legislations and/or plans.

It should be noted that any national legislation in relation to indigenous people should be applied and supplemented by relevant international legislation, while applying the more stringent provisions for the benefit of IP.

3. KEY TERMINOLOGY

Table 3-1 below elaborates on key terms used in this indigenous peoples plan guidance:

Table 3-1 Key Definitions

Term	Definition
Area of Influence	The area within which program's activities have the potential to create E&S changes, including the: <ul style="list-style-type: none"> ■ Zone of direct impact, an area, often demarcated by a LL boundary, where land access restrictions will be in place and enforced, and where program facilities may be constructed.

¹ <http://documents1.worldbank.org/curated/en/972151530217132480/ESF-Guidance-Note-7-Indigenous-Peoples-English.pdf>

² <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples#:~:text=The%20Declaration%20addresses%20both%20individual.all%20matters%20that%20concern%20them.>

³ [C169 - Indigenous and Tribal Peoples Convention, 1989 \(No. 169\) \(ilo.org\)](http://www.ilo.org/C169-Indigenous-and-Tribal-Peoples-Convention,1989(No.169)(ilo.org))

⁴ <http://www.fao.org/3/i6190e/i6190e.pdf>

Term	Definition
	<ul style="list-style-type: none"> ■ Zone or zones of indirect impact, areas where stakeholders affected by a program’s reside, work or farm, including areas that experience economic growth, increased traffic or influx as a result of program’ activities.
Community	Usually defined as a group of individuals broader than the household, who identify themselves as a common unit due to recognized social, religious, economic, or traditional government ties, or through a shared locality
Compensation	Payment in cash or kind for an asset to be acquired or affected by a program at replacement value.
Critical Cultural Heritage	Critical cultural heritage is heritage linked to themes such as power, identity and conflict which are closely linked to the respective heritage site. Critical cultural heritage includes natural areas with cultural and/or spiritual value that is closely linked to the identity, power structures etc. of the people for whom the heritage holds value. Critical cultural heritage can be amongst other sacred groves, sacred bodies of water and waterways, sacred trees, and sacred rocks.
Customary Land and Resource Use	Customary use of land and resources refers to patterns of long-standing community land and resource use in accordance with IP customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the state.
Free Prior and Informed Consent (FPIC)	Free, prior and informed consent (FPIC) is a collective human right of Indigenous peoples ⁵ to give or withhold their consent prior to the commencement of any activity that may affect their rights, land, the commencement of any activity that may affect their rights, land, resources, territories, livelihoods, and food security. This right is exercised through representatives of their own choosing and in a manner consistent with their own customs, values, and norms. FPIC exists to promote, protect, and safeguard the full enjoyment and exercise of numerous underlying, fundamental human rights, including the rights to property, culture, and self-determination.
Grantee	A NGO(-s) and/or party that is in contractual agreement with LLF and receiving grant funds through the grant agreement.
Indigenous People (IP)	Indigenous peoples are distinct social and cultural groups that share collective ancestral ties to the lands and natural resources where they live, occupy or from which they have been displaced.
Legacy Landscape Program/Program activity	All activities ⁶ related to the legacy landscape and/or stakeholders that are planned, implemented and/or supervised by the Grantee and/or their contractor.
Legacy Landscape Staff	All staff related to the legacy landscape program and/or program activity development and implementation (e.g., grantee, contractors, park management, etc.)

⁵ [The LLF follows WB standard definition of IP \(compare also FPIC guidance note\) and requires the application of FPIC as defined per ESS 7. As best practice and also to avoid potential conflicts in communities where indigenous and non-indigenous people live in mixed settings, programs might and are encouraged to adopt FPIC to those mixed communities, as well as to other local communities and vulnerable groups affected by the program.](#)

⁶ The IPP shall cover not only LLF funded activities for the LL program, but all activities in the program specific legacy landscape and surroundings.

4. WHEN TO DEVELOP IPP?

While mitigation measures for adverse impacts on IP can generally be incorporated into the environmental and social management plan (ESMP), it is advised to develop a distinct IPP document in the following cases:

- The LL program impact on IP is substantial (i.e., requires land acquisition/changes to access to land and/or resources);
- The LL program context is characterized by complexity of social structure with IP and other communities sharing overlapping territory and evidence/risks of discrimination;
- There is a history of discrimination or conflicts with and/or between different social or ethnic groups within the LL program area as well as other historical/legacy issues that can undermine stakeholder engagement, like the lack of FPIC in past activities or forced resettlements.

Furthermore, if there should be IP living in voluntary isolation, the plan should be developed to protect the isolation of such groups and avoid any contact. This plan can be incorporated into an existing IPP.

If the LL program will affect protected areas owned or used by IP (and adverse impacts can be expected), it has to take the following steps, that might also be part of the ESAP following the ESDD study in the preparation phase:

- Identify and review all property interests and traditional resource uses prior or as part of the LL program activities;
- Assess and document the IP resource use without prejudicing any IP land claim. The assessment of land and natural resource use should be gender inclusive and specifically consider the role of women in the management and use of these resources;
- Ensure that IP are informed of their land rights under national law, including any national law recognizing customary use rights;
- Document efforts to avoid and otherwise minimize impacts on natural resources and natural areas of importance to IP and vulnerable people; and
- Offer IP and vulnerable people remedy and/or compensation (proportionate to the severity and the LL's involvement/contribution as well as leverage over the risk causing entity according to the UNGP involvement framework) as well as due process together with culturally appropriate sustainable development opportunities.

These items are included in the development and implementation of the IPP and described below.

5. DEVELOPING AN INDIGENOUS PEOPLES PLAN

The core elements of developing an IPP include the following:

- Identification of the targeted IP communities (Community mapping);
- Summarizing the program's impacts on the IP to help identify the focus of the program IP activities support;
- Defining IP development principles and program areas based upon the outcomes of the baseline and consultations;
- Proposing activities for IP based on consultation with IP and different stakeholders in the affected areas to mitigate or reduce identified environmental and social risks and ensure a sustainable economic, and social development;
- Include the identified activities/measures into relevant program action program action plan;
- Identify potential partners and delivery mechanisms for implementation of the IPP; and
- Set out monitoring schedules, milestones, and evaluation indicators.

The following sub sections provides guidance on the development of key components when developing the IPP. Nonetheless, it should be noted that the exact scope and structure of the IPP may vary based on the LL program-specific context. In some countries national legislation will require the development of a negotiated agreement between the grantee and IP (e.g., Cambodia, Thailand and Vietnam have legal provisions for public consultation; others have provisions for dedicated consultations with indigenous peoples regarding specific issues, for example the consultation requirement contained in India’s Forest Rights Act; in the Philippines, the Indigenous Peoples Rights Act provides that the Government may not issue licences or permits for the exploitation of natural resources unless a consultation process in line with the Act has taken place⁷). In such cases it is possible, to integrate such agreements into the IPP. National legal requirements take precedent over and may replace the IPP, as long as they satisfy the requirements provided in this guidance note. Figure 5-1 below presents key components that should be contained in an IPP.

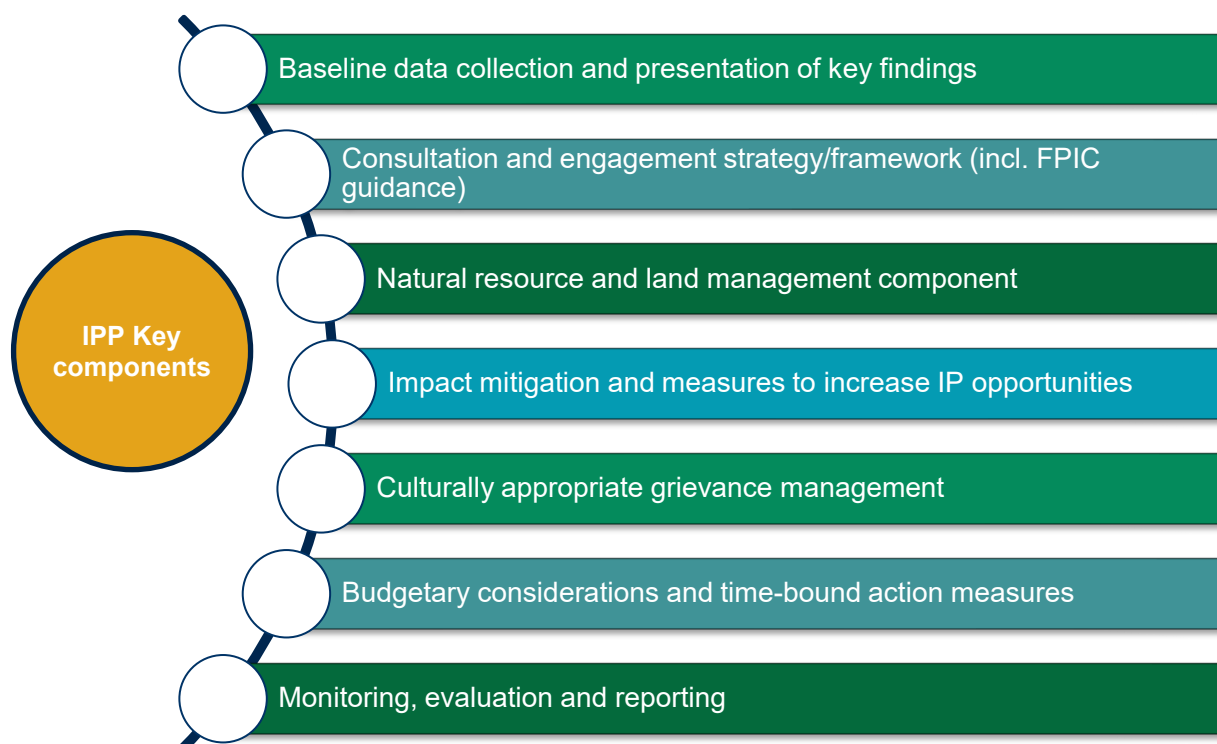


Figure 5-1 Key IPP Components

It should be noted that in addition to the key components presented above, it is possible that the IPP can entail further sections, e.g., on cultural heritage management if the baseline data collection indicated any cultural heritage that is relevant to the identified IP groups and that will be affected by the program. Furthermore, if available, any results from consultations should be included in the IPP in a separate section. Any negative impacts should be avoided, minimized and mitigated (in respective order). For IP groups that live in voluntary isolation contact should be avoided. Measures to increase opportunities for IP can include amongst others economic opportunities, increased decision-making power, and educational opportunities etc. depending on the program context, available resources, and IP input.

⁷ The Rights of indigenous peoples in Asia, ILO, 2017. Available at: https://www.ilo.org/gender/Informationresources/Publications/WCMS_545487/lang--en/index.htm

5.1 Identification of Target Indigenous People in Program Area of Influence

For the purpose of this document IP refer to a distinct social and cultural group possessing the following characteristics in varying degrees⁸:

- Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- Collective attachment to geographically distinct habitats, ancestral territories or areas of seasonal use or occupation, as well as to the natural resources in this area;
- Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

It should also be noted that for the purpose of this document IP could be:

- IP community/communities;
- Mix community of IP and non-IP;
- IP community living in isolation.

Identification of IP is usually done during the programs' environmental and social due diligence process (ESDD), environmental and social impact assessment (ESIA), or any other similar study. Once the respective entity establishes presence of IP in the LL program area of influence, a social expert should be involved, in order to conduct a proper IP screening and analysis. In this process, relevant groups will be assessed based on the abovementioned characteristics. If all characteristics are applicable to the group, it can be classified as indigenous according to the applicable standards and further steps can be introduced to find appropriate measures to engage with the indigenous groups and account for them in relevant LL project planning and procedures.

According to the applicable standards (e.g., UN), indigenous peoples should be identified rather than defined. This is based on the fundamental criterion of self-identification as emphasized in a number of human rights documents.

If the process of identifying groups for the purposes of applying standards on indigenous peoples may create a serious risk of exacerbating ethnic tension or civil strife, or where the identification of culturally distinct groups is inconsistent with national constitution provisions, an alternative approach may be pursued. It is also noted that some countries do not recognize indigenous peoples, and as such, alternative nomenclature aligned with the principles of WB ESS7 may be used.

Part of the identification of IP is mapping them e.g., by providing an overview including numbers of affected households, name of villages, and type of impact. Furthermore, the dimension of vulnerable affected households should be included in the mapping process.

5.2 Baseline Information and Presentation of Key Findings

An ESIA or equivalent studies will collect relevant baseline information that provide a clear profile of the affected communities, their circumstances and livelihoods, the natural resources they use and depend on etc.

⁸ Please note that the term "Varying degrees" reflects the fact that some characteristics may be less evident for some groups or communities through integration into the broader society or economy, sometimes as a result of government policy. Moreover, given the varying contexts and characteristics of IP today, a group may possess defining characteristics and thereby be covered by the policy in one region, but may be more fully integrated and lack the defining characteristics in another region of the same country, or in a neighbouring country. The collective attachment of groups to their traditional territories, for example, may have been forcibly severed due to government resettlement programs. Some groups may no longer speak their own language, or it may be spoken by only a few or even none. The role of traditional institutions may also be eroding or have been replaced by official administrative structures. These factors alone do not disqualify groups from being covered under ESS7 but are assessed in the final determination made by LLF.

Relevant information that should be collected, if possible, should include at a minimum the following:

- The basic census, socio-economic data and inventory of affected assets of IP;
- Ownership of residential, economic and productive assets;
- Annual income from primary and secondary employment opportunities (if applicable);
- Information on land territories that the affected IP group owns/has traditionally owned, or customary used or occupied;
- Economic information of community (e.g., brief information on economic and natural resources, production and livelihood systems, tenure systems, resources they depend on etc.);
- Social and cultural information of community (e.g., description of kinship, value system, types of social organizations of formal and informal groups, places of cultural and cosmological importance). Other assessments (such as food security assessments, access to social security programs) should also be considered.

Existing studies and data can be used to complement the data collection. Any existing studies or data have to be verified with the respective IP group in a participatory discussion.

As a next step, the IPP should summarize key findings of the social baseline data. This includes an analysis of impacts, risks and opportunities and recommended possible measures to mitigate adverse impacts, enhance positive impacts, conserve and manage the affected groups' natural resource base on a sustainable basis, and achieve sustainable community development.

5.3 Consultation and Engagement Strategy

Before any engagement is conducted with IP, there should be a clearly defined consultation and engagement strategy developed in alignment with the principles of free prior and informed consent (FPIC) that is tailored to fit the needs of indigenous groups and guarantees engagement in a culturally appropriate manner. For further guidance on FPIC, refer to LLF ESMS documents, [Annex O – FPIC Protocol](#).

Figure 5-2 below presents key principles for the engagement with indigenous communities.



Figure 5-2 Key Principles for Engagement with IP

The key principles presented above are elaborated on in the below points:

- **Meaningful engagement:** Should take place through informed consultation and participation (ICP);
- **Good faith negotiations:** Meaning to deal honestly and fairly with one another so that each party develops trust and willingness to cooperate;
- **Gender and age sensitivity:** gender and age considerations will be respected throughout the LL program lifecycle, e.g., through tailored engagement methods;
- **Early engagement:** commencing engagement as early as possible;
- **Involvement of experts:** Responsible staff involved in the engagement has an expertise in indigenous groups/cultural heritage;
- **Cultural appropriateness:** Should be granted throughout the LL program lifecycle, including use of existing community procedures, local languages, etc.;
- **Inclusivity:** Ensuring minority groups not fully represented in general engagements will be identified, and special measures made to understand how the LL program may impact them, and how they can be fully involved in project processes.

5.3.1 When to Engage

Affected IP should have access to relevant LL program information prior to any decision making that will affect them, including information on potential adverse environmental and social impacts affecting them at each stage of program implementation (i.e., design, construction, operation and decommissioning). To achieve this objective, consultations should take place prior to and during program planning. The LL programs should adopt communication and participation approaches that build upon existing customary institutions and decision-making processes utilized by IP, provided they have the capacity and are equipped to deal with relevant issues. Furthermore, LLF encourages the grantee to include IP representatives in management boards (or any other decision-making bodies). The rights of indigenous peoples to participate in decision-making and to be consulted on matters that may affect them are the cornerstones of Convention No. 169⁹.

When a group does not want to be contacted, the program needs to make sure that this wish is granted and ensure the seclusion and exclusion of the group from activities.

The meaningful consultation processes with and within affected IP communities will frequently span an extended period of time and should continue throughout the LL program lifecycle. Providing adequate information to the members of the IP community about program's potential adverse impacts and proposed minimization and compensation measures may involve an iterative process combining various segments of the community. Therefore, the consultation process should start as early as possible in the risks and impacts assessment process. Furthermore, the communities should have sufficient time for consensus building and developing responses to the LL program issues that impact upon their lives and livelihoods; and the grantee should allocate sufficient time to fully consider and address IP concerns and suggestions about the LL program.

This process would be anticipated to continue beyond LL program planning, ensuring that consent for the LL program is maintained during, and after implementation. For further guidance on the engagement planning, refer to the LLF ESMS documents, **Annex P – Stakeholder Engagement Plan Outline**.

⁹ Indigenous and Tribal Peoples Convention, ILO, 1989 (No.169) Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C169,/Document

5.3.2 Addressing Divergent Views among IP Communities

The LL programs should consider that IP communities are not necessarily homogeneous and there can be divergent views and opinions within them. Experience demonstrates that the views of the traditional elders or leaders may differ from those who have received formal education; the views of the elderly may differ from those of the youth; and the views of men may differ from women. Nonetheless in many cases, community elders or leaders, who are not necessarily the elected officials of these communities, play a key role.

IP may comprise multiple groups and different social units (e.g., individuals, clans, tribes, etc.) within these groups. The LL program may impact upon the social units in different ways. For example, land take may affect all members' access to and use of land and resources while specifically impacting the land claims of only one clan, as well as any current use of the resources. The social assessment should form the basis of identifying affected groups and understanding the nature of specific impacts, so that diverse views, opinions, and impacts can be addressed accordingly.

5.3.3 Gender and Age Considerations

The LL program impacts can disproportionately affect women, as in some cases, their unique role in a family/household means they may have more difficulties coping with the familial disruption that the LL programs can cause than do their male counterparts. This is particularly the case if program-related engagement efforts do not effectively enable women's meaningful and sustained participation throughout the program lifecycle and/or inclusion in compensatory processes. Therefore, it is critical to mainstream gender considerations into all components of LL program planning, including engagement processes.

According to the WB, 'gender mainstreaming' is *"the process of assessing the implications for women and men of any planned action, including legislation, policies, or programs, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally, and inequality is not perpetuated."*

This guidance is sensitive to these issues, and thus seeks to involve gender considerations substantively and equitably into the IPP, so that the unique needs and perspective of women are equitably represented in the planning process and final mitigation measures.

Initial actions in this regard can include, but are not limited to:

- Ensuring that household and community meetings are conducted at times and in locations that are convenient for women to attend;
- Paying explicit attention to the unique constraints that female-headed households may face in participating in consultations, and accommodating these women accordingly;
- Holding women-only focus groups and meetings, if and where appropriate, to encourage free speech and open representation of women's concerns and expectations; and
- Providing anonymous / confidential / one-on-one consultation mechanisms and / or mechanisms for written submission of comments for women who do not feel comfortable voicing their opinions publicly (i.e., in front of husbands or other relatives, or at community meetings).

By facilitating the equal and open participation of women in the IPP development and implementation process, the LL program can ensure that women are able to fully access LL program benefits.

The same strategy can be applied to different age structures. In many cultures, young people are reluctant to raise their voice and express opinions in the presence of elderly (especially when having diverging opinions). Therefore, the IPP should also include age considerations and include actions that enable young stakeholders to express their opinion. However, any such actions/processes should

be coordinated with a local expert in order to not undermine traditional decision-making procedures and structures.

5.3.4 Meaningful Consultation and Participation

According to WB ESS7 the engagement process with IP should be based on meaningful consultation. Other relevant Applicable Standards refer to Informed Consultation and Participation (ICP). Both processes are very similar in their nature and are based on consultation that occurs freely and voluntarily, without any external manipulation, interference or coercion, and without intimidation. The process should encourage the involvement of IP traditional local communities' representative bodies and organizations (e.g., councils of elders or village councils etc.) and allow for their effective participation in the design of the LL program activities or mitigation measures that could potentially affect their community either positively or negatively. The engagement process should aim to ensure that the entire IP community is aware of and understands the risks and impacts associated with program development. Therefore, the LL program information should be made available in an understandable format, using indigenous languages where appropriate. Furthermore, means of communications should be used, that are most commonly used among the IP community. If feasible, indigenous teachers should be involved in the development and writing of information materials.

5.3.5 Free Prior and Informed Consent

FPIC is not necessarily triggered by every LL program involving IP, but rather in unique circumstances. It will be triggered when the program will:

- Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- Cause relocation of IP from land and natural resources subject to traditional ownership or under customary use or occupation; or
- Have significant impacts on IP cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IP lives.

If the key findings suggest that the LL program will create a situation triggering FPIC, the process needs to be initiated as soon as possible. While Figure 5-3 below outlines the major steps in the FPIC process, please refer to the LLF ESMS documents, [Annex O – FPIC Protocol](#) for further guidance on the FPIC process. It should also be noted that some programs working with indigenous and local communities may choose to adopt FPIC as best practice, also in circumstances that do not necessarily trigger FPIC (e.g., for local communities where indigenous and non-indigenous people live in mixed settings, or generally with local communities and vulnerable groups affected by the program).



Figure 5-3 FPIC Process

5.4 Result of Consultations

The IPP should describe the process of information disclosure, consultation and informed participation and where relevant the FPIC process including documented agreements, between the grantee and affected IP communities. Documentation should describe how issues raised during consultations have been addressed and how ongoing consultations with, and participation by IP are planned during the LL program implementation and operation stage.

For successful outcomes to be achieved for the mutual benefit of all parties, it is important that the parties have a shared view of the process for achieving meaningful/informed consultation and participation (and FPIC if applicable). The agreed consultation process and its outcomes should be documented at all stages. Where appropriate, it should be defined what would constitute consent from relevant IP groups. The LL program support from affected groups should be documented accordingly.

5.5 Avoidance, Minimization and Mitigation of Adverse Impacts

The IPP should clearly state measures agreed to in the process of information disclosure, consultation, and informed participation to avoid, minimize and mitigate potential adverse impacts on IP, including appropriate timeframes for the implementation of such measures. This information will be important for the development of a final IPP implementation schedule (see section 5.10).

Also measures agreed that will lead to the enhancement of positive LL program impacts can briefly be described in this section. For all measures it should be clearly stated who will implement them, when, where and how. According to WB ESS mitigation hierarchy, wherever feasible, avoidance or preventative measures are preferred over mitigation or compensation measures.

5.5.1 Involving Indigenous People in the Process

In order to create appropriate mitigation mechanisms, the grantee will involve affected IP communities in the process of addressing LL program-induced adverse impacts. In certain circumstances the delivery of agreed mitigation and compensation may benefit from development of the human resource capacity of the affected communities of IP so as to ensure the protection, sustainable management, and continued delivery of these benefits.

5.5.2 Providing Security of Land Tenure

When mitigation involves the provision of replacement land and/or resources, legally valid and secure forms of land tenure should be provided. Allocation of land titles may occur on an individual or a collective basis based on results of the social assessment; the laws, institutions and customs of the IP. In some cases, it may be possible that the grantee cooperates with respective national governmental authorities to facilitate the legal recognition of lands claimed or used by IP in connection with land titling programs of the government. The grantee can base this work on the customary land tenure information gathered during the assessment process and help the affected communities or members of the affected communities to pursue land titles, if the IP so request and participate in such programs.

5.5.3 Documentation of Results

Agreed mitigation and compensation mechanisms (and associated development interventions) should be documented through the IPP. In cases where IP live alongside mainstream communities, a community development plan documenting measures affecting both communities, should be developed.

5.6 Community-Based Natural Resource Management Component

IP are oftentimes more likely to be dependent on natural resources for their livelihood generation and survival than mainstream community groups. Such livelihood activities may include grazing, hunting, gathering, or artisanal fishing. Where applicable, the IPP should contain a chapter focusing on the

means to ensure continuation of livelihood activities key to the survival of these communities and their traditional and cultural practices. This should be done by incorporating IP vision, land management tools and strategies. Therefore, this chapter should describe:

- What natural resources are essential for the IP group;
- What is the use of the respective resource (e.g., nutrition, energy generation, cultural practices etc.);
- Where the resources are located;
- How indigenous people manage the resource; and
- How they are/will be conserved, managed and utilized on a sustainable basis given program impacts.

Any issues related to land use and tenure should be assessed carefully with active participation of affected IP groups and be documented at all stages. The assessment should describe in particular the following aspects:

- Traditional land and resource tenure system (both individual and collective) within the LL program Aol;
- Customary use of land and resources, including cultural, ceremonial or spiritual use;
- Any ad hoc, seasonal or cyclical use of land and natural resources (for example, for hunting, fishing, grazing, or extraction of forest and woodland products);
- Any potential adverse impacts on such use.

5.6.1 Customary Land Use

Customary use of land and resources refers to patterns of long-standing community land and resource use in accordance with IP customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the state.

IP claims to land and resources not legally owned under national law should also be documented as part of the assessment process. The grantee should ensure that lack of documentation of land claims, or absence of land claims should not prejudice existing or future legal proceedings of IP to establish legal land ownership.

5.6.2 Cultural, Ceremonial, and Spiritual Land Use

The IPP should consider that cultural, ceremonial, and spiritual uses of land are an integral part of IP relationships to their lands and resources, and embedded within their unique knowledge and belief systems, and key to their cultural integrity. Respective uses of land may be intermittent, may take place in areas distant from settlements, and may not be site-specific. Any potential adverse impacts on such use must be documented and addressed accordingly. Any information from the grantee's assessment that identifies the existence of critical habitats and critical cultural resources consistent with the applicable standards will be relevant in the analysis and should be taken into account.

In addition, it should be considered to embed a cultural heritage management plan to the IPP, when critical cultural heritage is identified and affected by LL program and/or program activities (for further information on cultural heritage see section 5.7).

5.6.3 Assessment of Impacts on Natural Resources

Adverse impacts on critical natural features or resources should be assessed carefully, preferably by a trained cultural heritage or IP expert with the overall objective to avoid adverse impacts on these lands and resources, and IP usage of them. Where avoidance is not feasible, mitigation, and/or compensation measures should be developed to ensure the availability of, and access to, the land

and natural resources necessary for the livelihoods and cultural survival of the IP, in accordance with WB ESS mitigation hierarchy. In-kind compensation is preferred over cash payments, provided that suitable replacement land is available. Whether the program should proceed with activities that may result in adverse impacts on these lands should be subject to securing FPIC of affected groups.

For further guidance on managing community-based natural resource components, please refer to the LLF ESMS documents, [Annex M – Community Engagement and Planning Framework for Voluntary Access Restrictions](#) and [Annex L – Process Framework Involuntary Access and Use Restriction](#).

5.7 Cultural Heritage Component

Many cultural and natural heritage sites are home to IP whose land use, knowledge and cultural and spiritual values and practices are related to the cultural heritage. Therefore, the grantee should take all necessary and feasible measures to avoid impacts on cultural heritage, especially critical cultural heritage, that includes natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees and forests, and sacred rocks¹⁰. WB ESS recognize that cultural heritage can be:

- Tangible, including movable and immovable objects, sites, structures, natural features, landscapes etc.
- Intangible, including practices, expressions, knowledge, skills, etc.

Both types of cultural heritage need to be protected by the LL program impacts. It is recommended to develop the cultural heritage management plan that can be a stand-alone document, or a section incorporated in the IPP, depending on the scope of the cultural heritage affected.

5.8 Measures to Increase Opportunities for IP

As previously discussed in this guidance, IP often belong to the most marginalized groups of society that often face difficulties to benefit from development of the LL programs. Therefore, the IPP should clearly describe measures that the LL program will take to enable IP groups to fully profit from program benefits and take advantage of opportunities the LL program is offering. All opportunities and benefits provided for by the LL program should be culturally appropriate.

Considering the above, the grantee should initiate and/or support unique opportunities for the development of IP communities¹¹. The nature and scale of appropriate development opportunities will vary depending on the LL program scale, country-context, project background etc. It is important to identify, plan and implement development opportunities for IP in close consultation with affected groups and build on their input and opinion throughout the development process of such measures.

Please Note: While addressing program-induced adverse impacts is required by WB ESS, providing broader development and conservation opportunities is not, but is considered good practice where opportunities exist.

Measures to support IP can include, but are not limited to:

- Measures addressing the gender and intergenerational issues that exist among many IP, including the special needs of indigenous women, youth, and children;
- Preparation of participatory profiles of IP to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;
- Measures strengthening the capacity of IP communities and organizations to prepare, implement, monitor, and evaluate development programs and interact with mainstream economy;

¹⁰ See IFC Guidance Note 7, Paragraph 16

¹¹ Apart from the IPP such unique opportunities should also be incorporated in the respective LL management plan.

- Measures to protect indigenous knowledge, including by strengthening intellectual property rights;
- Facilitation of partnerships among the government, IP organizations, and the private sector to promote IP development programs; and
- Support of existing programs, tailored to deliver development benefits to IP, such as bilingual educational programs, maternal, and child health and nutrition programs, employment generation activities, and arrangements for micro-credit schemes.

Eligibility for compensation may either be individual or collectively-based or be a combination of both. For example, with regard to land and natural resources, eligible Indigenous Peoples may include community members with hereditary rights of resource ownership and management, members with use rights, and members currently utilizing the resource. Determination of eligibility and the appropriate structure and mechanisms for the delivery and management of compensation should take account of the results of the social assessment; the laws, institutions, and customs of the affected communities of indigenous peoples; the direct and induced changes which the program will bring upon the affected communities of IP including changing relations with mainstream society; and international good practice

5.9 Grievance Management.

The IPP should also include a section describing the grievance management of the LL program with a special focus on how the grievances of IP are handled.

It is possible for the LL programs affecting IP to utilize the existing program-level grievance mechanisms and if necessary, adjust existing processes to make them more suitable to IP. This can be done through adding a layer of communication tailored to the needs of IP, replacing written with verbal procedures, considering possible illiteracy rates among IP groups or incorporating already existing community dispute resolution procedures or customary dispute settlement mechanisms into the mediation stage of the grievance mechanism. The grantee should document all meetings with IP, including grievances that may be brought; grievances should be recorded as part of the grievance mechanism. If a new grievance mechanism for IP is created by the grantee, it has to comply with all requirements set out in the applicable standards and provisions set out in the LLE ESMS documents, **Annex Q – Program-level Grievance and Feedback Mechanism**. The design of a new grievance mechanism intended inclusively for IP should be done in close cooperation with relevant IP groups and experts. Lastly, the grievance mechanism should be culturally appropriate and should not interfere with any existing processes or institutions within IP community designed for settling disputes among them.

5.10 Implementation Schedule and Budget

After having analyzed all potential impacts and mitigation and/or compensation measures for IP groups, the IPP should provide for an adequate summary of execution costs, budget and responsibility of financing, timing of expenditures, and organizational responsibilities for managing and administer program funds and expenses. Furthermore, this chapter should include an implementation schedule.

5.11 Monitoring, Evaluation and Reporting

Finally, a chapter should be dedicated to describe monitoring, evaluation and reporting mechanisms that the IPP will stipulate in order to track effectiveness of measures and adapt these, if necessary. A detailed overview on roles and responsibilities, frequencies, feedback and corrective action processes should be described in this section. Monitoring and evaluation mechanisms should include arrangements for ongoing information disclosure, and continued engagement and consultation with affected groups.

6. RESOURCES

The following resources can be useful to obtain further information on the IPP:

- Guidance Note on Performance Standard 7: Indigenous Peoples (IFC, 2012)¹²;
- Equator Principles Guidance Note: Evaluating Projects with Affected Indigenous Peoples (EP, 2020)¹³;
- IUCN Standard on Indigenous Peoples (IUCN, 2016)¹⁴;
- Indigenous Peoples and Conservation: WWF Statement of Principles (WWF, 2008)¹⁵.

¹² https://www.ifc.org/wps/wcm/connect/9baef8f6-9bd9-4d95-a595-7373059081d4/GN7_English_2012.pdf?MOD=AJPERES&CVID=mRQk089

¹³ https://equator-principles.com/app/uploads/Affected_Indigenous_People_Sep2020.pdf

¹⁴ <https://www.iucn.org/sites/default/files/2022-05/iucn-esms-standard-on-indigenous-people.pdf>

¹⁵ https://awsassets.panda.org/downloads/183113_wwf_policyrpt_en_f.pdf