

## **FINANCIAL INTERMEDIARY: ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM**

### **I. Background**

#### **A. About NCRPB**

1. The National Capital Region Planning Board (NCRPB), constituted in 1985 under the provisions of NCRPB Act, 1985, is a statutory body functioning under the Ministry of Urban Development, Government of India. NCRPB has a mandate to systematically develop the National Capital Region (NCR) of India. NCR is spread over an area of 33,578 square kilometers (sq. km.).<sup>1</sup> It is one of the functions of NCRPB to arrange and oversee the financing of selected development projects in NCR through Central and State Plan Funds and other sources of revenue.

2. The constituent areas of the National Capital Region are: National Capital Territory (NCT) Delhi (constitutes 4.4 percent of NCR area); Haryana Sub-region—Faridabad, Gurgaon, Rohtak, Sonapat, Rewari, Jhajjar, Mewat, and Panipat Districts of Haryana (40.0 percent of NCR area); Rajasthan Sub-region—Alwar District of Rajasthan (23.3 percent of NCR area); Uttar Pradesh (UP) Sub-region—Meerut, Ghaziabad, Gautam Buddha Nagar, Bulandshahr, and Baghpat Districts of UP (32.3 percent of NCR area). According to Census 2001, the total population of NCR is 37.1 million, with an average gross density of 1,104 persons per sq. km.

3. In addition to NCR, NCRPB, in consultation with the respective state governments also identified the following Counter Magnet Areas (CMA): (i) Gwalior (Madhya Pradesh); (ii) Patiala (Punjab); (iii) Ambala and Hissar (Haryana); (iv) Kota (Rajasthan); (v) Kanpur and Bareilly (UP); and (vi) Dehradun (Uttarakhand). These were identified considering their location, population, and potential growth for implementing development programs, in order to achieve the objectives of the regional plan.

#### **B. NCRPB Functions**

4. NCRPB Act, 1985 stipulates various functions of the Board: (i) Preparing Regional and Functional Plans; (ii) Arranging the preparation of Sub-regional and Project Plans of participating states and NCT; (iii) Coordinating enforcement and implementation of the Regional, Functional, Sub-regional, and Project Plans through participating states and NCT; (iv) Ensuring proper and systematic programming by participating states and NCT in project formulation, determination of priorities in NCR or sub-regions, and phasing of NCR development in accordance with the stages indicated in Regional Plan; and (v) Arranging and overseeing financing of selected development projects in NCR through Central and State Plan Funds and other sources of revenue.

#### **C. NCRPB Project Financing**

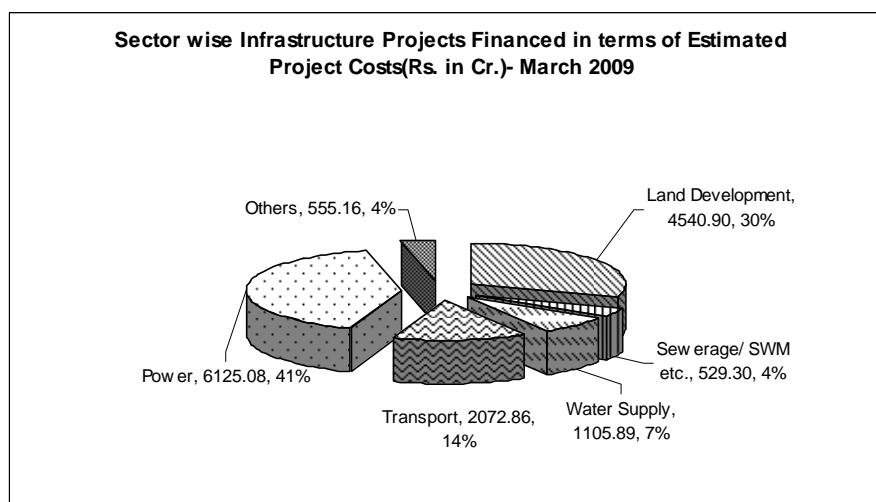
##### **1. Background**

5. As discussed in the previous section, one of the functions of NCRPB is to arrange and oversee the financing of selected development projects in the NCR through Central and State Plan Funds and other sources of revenue. For this purpose, the NCRPB Fund has been created. NCRPB can finance development projects implemented in NCR and CMAs which are

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<sup>1</sup> It lies between 27°03'-29°29' north latitude and 76°07'-78°29' east longitude.

identified by NCRPB, participating state governments and their implementing agencies including Urban Local Bodies (ULBs), Development Authorities (DAs), Housing Boards, Industrial Development Corporations, or other agencies of the state governments. NCRPB provides loan for a subproject up to 75% of estimated cost, and balance needs to be contributed by the State Government and their Implementing Agency. The following figure provides a pie-chart showing the breakdown of project types (by number or by value) to date.



6. NCRPB has been providing financial assistance to participating state governments, ULBs, and other IAs in NCR and CMAs. As of March 2009, NCRPB financed 230 infrastructure projects—111 completed and 119 ongoing, with a total cost of nearly Rs.150 billion. The total amount of loans sanctioned for these projects are around Rs60 billion, of which Rs40.5 billion has been disbursed as of March 2009.

## 2. Types of Projects

7. NCRPB is involved in financing a variety of projects. It is also a planning agency. There is a varied degree of planning involvement in projects that NCRPB finances. The following table provides a list of the types of projects that NCRPB could potentially finance.

**Table 1: Projects NCRPB Could Finance**

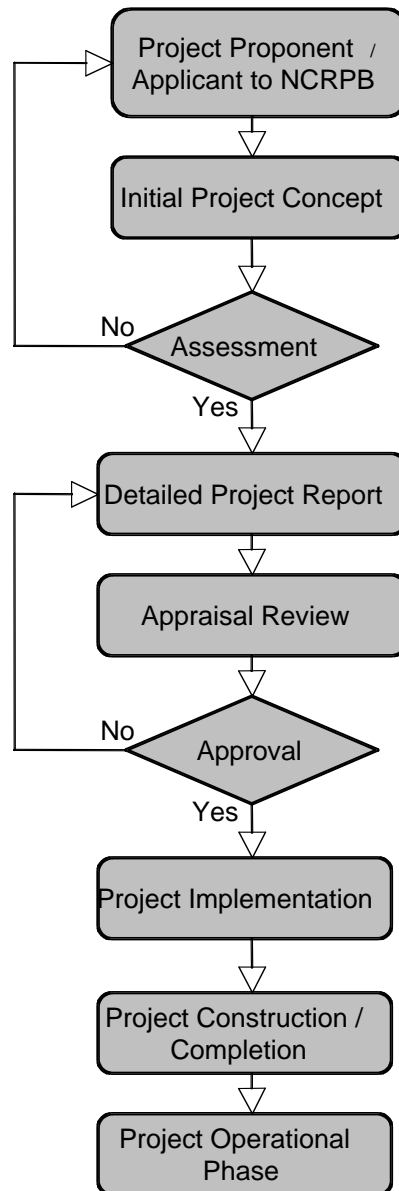
No.	Type of Projects
1	Highway
2	Power Generation
3	Transmission and Distribution
4	Regional development—Delhi-Mumbai Investment Corridor and other regional initiatives: Infrastructure ; Common Industrial Infrastructure ; and Logistics Hub
5	Water Resource/Conservation
6	Waste Water Management—Domestic
7	Waste Water Management—Industrial: Collection; Transfer; Treatment; and Disposal
8	Water Supply: Source Development; Transmission; and Distribution
9	Solid Waste Management: Collection; Transfer; Treatment; and Disposal
10	Other Municipal Services

No.	Type of Projects
11	Urban Transport: Network-Roads, Footpath, and Lighting; Signaling; Area Traffic Control; Bridges and Road over Bridges; Terminals—Truck, Bus, Multi Modal; Parking; and Specific Elements of Metro/Railways
12	Information Technology: Network-WAN and LAN; Hardware; and Application Software Design

### 3. Project Cycle

8. The flow chart below depicts the basic project cycle NCRPB follows for its loan process.

**Flow Chart: NCRPB Basic Project Cycle**



## **D. Environmental and Social Management System (ESMS)**

### **1. Existing Due-diligence Processes**

#### **a. Environment**

9. Presently, NCRPB does the environmental due-diligence as incidental to its technical due-diligence. When the project proponent/IA submits the request for the loan along with the detailed project report (DPR), NCRPB identifies a suitable agency (National Institution [NI]) for appraisal and sends the DPR to the NI for review.

10. NCRPB has entered into an agreement with these NI for undertaking appraisals on an ongoing basis. As a part of these agreements, there is a terms of reference (ToR) for the appraisal agency to follow. In this ToR, environmental due-diligence is included. However, as the appraisal agencies are given a limited budget for each project, the only verification done is to determine whether the environmental clearances, if required, are obtained. The appraisal agencies have the required technical capacity to determine whether or not projects require environmental clearances. As this is restricted to clearances, the appraisal agencies do not undertake an explicit screening or verification whether the government categorization has been correctly done. If these are obtained, the appraisal agency includes compliance to the conditions of the clearance as a loan covenant. If these are not obtained, the appraisal agency recommends to NCRPB that getting the required environmental clearances will be included as a condition for disbursement. NCRPB disburses only after verifying that these clearances are obtained. In government policy, there is no specific environmental requirement on financial institutions such as having an environmental management system or an environmental framework. Therefore, NCRPB's check of environmental clearance is done as good practice and not as a legal requirement.

11. While NCRPB has NIs to provide support in the appraisal, no such support agencies are planned for monitoring and supervision. Therefore, in the existing processes, there is no check whether the environmental clearance conditions and/or environmental good practices are followed.

12. In summary, NCRPB undertakes environmental due-diligence as a part of the appraisal process but this is limited to verifying documentary evidence of the project having obtained environmental clearance. And, during project implementation, there is no supervision to verify compliance with environmental clearance conditions or adherence to good environmental practices.

13. In comparing government and donor policy (e.g. Asian Development Bank [ADB] and World Bank), it can be seen that there is screening, categorization, environmental assessment, and environmental management plan (EMP) implementation in both policies. However, there are variations in the two policy requirements, e.g. for certain projects with minor reversible impacts, the government policy requires the completion of a questionnaire whereas donor, e.g. ADB, requires an initial environmental examination (IEE). The NCRPB's ESMS has been developed to meet both requirements. Also, implementation of government policy is not closely supervised whereas the donor policy implementation has periodic monitoring and reporting requirements. There is greater focus on implementation aspects in donor policy compared with government policy. And, in an overall sense, donor policy requires FIs to have an ESMS whereas government policy does not. Therefore, the ESMS will further structure and

systematize what NCRPB already has in place in terms of a basic system for environmental management.

#### **b. Social**

14. For social issues, detailed project reports (DPRs) submitted by project proponents/IAs provide the following details of land required for different project components: Extent required, Purpose for which land is required, Type of land, whether private or government, and Budgetary provisions made for acquisition of private land.

15. However, details on land use and profile of landowners are not furnished to ascertain if it involves involuntary displacement and/or impact to indigenous peoples (IP). Where government land is said to be available, information about whether there are any encroachments or whether it is free from encumbrance is absent.

16. The ToR to NIs for carrying out appraisal includes social safeguard requirements that need to be verified for compliance. It clearly states that the appraisal should review DPRs for their social impacts and measures for their mitigation. Further, the review has to look into the provisions for the services to the poor and the vulnerable including those requiring to be resettled. Since, information on whether the project involves involuntary resettlement (IR) or IP is absent in DPRs, the NIs neither review DPRs for social impacts nor point out this gap in their appraisal report.

17. The absence of a social safeguard policy and an officer to ensure compliance, and more importantly, the lack of a need to address safeguard issues are the main reason for social issues not being addressed at NCRPB.

18. Further, as addressing IR issues is not mandatory in availing finances for projects, the project proponents/IAs are not encouraged or mandated to address IR in projects implemented with NCRPB assistance. IAs acquire land invoking the Land Acquisition Act (LA Act), 1894 and compensation for land is determined based on LA Act and applicable State policies. LA Act does not recognize non-title holders and they are not compensated for land and structure. The National Resettlement and Rehabilitation Policy (NRRP), 2007 recognizes non-title holders who are landless and below poverty-line (BPL), and provided that they had resided continuously for a period of not less than 5 years preceding the date of declaration. However, being a policy and not yet an act, it has not been adopted by the States in NCR. Donors require proper documentation of social impacts and measures to mitigate them. Further, civil works can commence only after payment of compensation and other assistance to affected people.

### **3. Need for an ESMS**

19. Assessment of the existing due-diligence processes revealed the need for a structured and systematic mechanism to integrate environmental and social safeguards in project planning, preparation, design and implementation. The purpose of the ESMS is to have such a mechanism. Through the ESMS, NCRPB's safeguard performance will be strengthened, made more effective, brought in line with international best practice and will ensure adherence to donor requirements.

#### **4. Approach Towards Developing the ESMS**

20. The approach/methodology for developing the ESMS included the following: (i) review of NCRPB documents relevant to safeguards in existing projects, (ii) collation of relevant legal requirements and other similar management systems/frameworks prepared, (iii) discussions with NCRPB and selected potential project proponents/IAs, (iv) developing and discussing a draft structure for the ESMS, (v) drafting the ESMS and (vi) discussing and deliberating on draft ESMS, and (vii) finalizing the draft ESMS in line with the comments/discussions.

#### **E. ESMS Defined**

21. This ESMS defines policies, procedures, roles and responsibilities for managing adverse environmental and social impacts/risks due to projects that are financed by NCRPB, and is necessarily a part of the overall management system. NCRPB will put in place an appropriate ESMS to be maintained as part of their overall management system to meet national laws and donor (such as ADB) requirements for financial intermediary (FI) projects. The ESMS will have the following elements: (i) environmental and social policies, (ii) screening, categorization, and review procedure, (iii) organizational structure and staffing including skills and competencies in environmental and social areas; (iv) training requirements, and (v) monitoring and reporting.

#### **F. Purpose of the ESMS**

##### **1. Environmental**

22. ESMS establishes what NCRPB will undertake in relation to addressing environmental safeguard issues vis-à-vis the projects that NCRPB supports (using Grant Fund) or provides partial/full financing (using Debt Fund). The ESMS defines safeguard issues pertaining to various project types, identifies different applicable national legal requirements relevant to these safeguard issues, outlines internal procedures to be adopted in meeting these safeguard requirements, and provides guidelines on what needs to be done by the project proponent/IA.

23. This ESMS will also serve to meet the environmental safeguard requirements of donors such as the multilateral agencies (ADB, WB, etc.) and the bilateral agencies (KfW, JBIC, etc.). Donor procedures require FIs such as NCRPB to develop and operate management systems to meet safeguard requirements. This ESMS will fulfill that requirement.

##### **2. Social**

24. ESMS ensures that all projects funded by NCRPB takes into account IR and IP issues, in a manner conforming to national legislations and policies, and social safeguard requirements of donors, as applicable.

25. ESMS defines social safeguard issues (IR and IP) for various project types, identifies different applicable national legal requirements relevant to these safeguard issues, outlines the internal procedures to be adopted in meeting safeguard requirements, and provides guidelines on what needs to be done by the project proponent/IA.

#### **G. Structure of the ESMS**

26. The ESMS comprises a main volume and an annex volume. The main volume includes separate sections that provide the following:

- (i) Background to NCRPB and ESMS (this section),
- (ii) Description of safeguard issues including applicable legal requirements,
- (iii) Environmental and social policies,
- (iv) Operational procedures that NCRPB will follow to address safeguard issues, e.g. screening and safeguards categorization, project cycle and safeguards management, training and capacity-building, annual audit and disclosure, and
- (v) Organizational arrangements to address safeguard issues.

27. The main document integrates environmental and social issues within each section and sub-section as relevant. The annex includes an environmental annex and a social annex. This provides the reference information that NCRPB will need in (i) maintaining the established ESMS within its own organization, and (ii) dealing with the project proponent/IA's queries on environmental and social safeguard issues.

## **H. Maintenance of the ESMS**

28. NCRPB has established the ESMS on April 1, 2010 and will maintain the ESMS henceforth. This ESMS will be fully integrated with the organizational management systems. The ESMS will be periodically updated particularly when existing legal requirements are modified or new legislation is introduced. The ESMS will be comprehensively reviewed and revised on a 3-yearly basis. This will be the responsibility of the Environmental and Social Management Cell (ESMC).

## **II. Safeguards**

### **A. Overview**

29. There are project-related negative impacts that have to be effectively managed during the planning, design, construction and operational phases. These impacts have the potential to cause major and minor, and reversible and irreversible societal/community damage; as well as result in project delays, incomplete implementation, partial achievement of the project development goals and, reputation risks to various stakeholders. Proper safeguards or safeguards management is therefore necessary for smooth and effective project implementation.

#### **1. Environmental Safeguards**

30. There are several project-related environmental impacts for which safeguards is essential. These impacts include direct, indirect, cumulative, and induced impacts in the project's area of influence. Each project needs to be scrutinized as to its type, location, scale, and sensitivity and the magnitude of its potential environmental impacts. Environmental impacts include those related to the natural environment (air, water, and land); human health and safety; and Tran boundary and global environmental aspects.

31. Environmental safeguards—policies and requirements—seek to avoid, minimize, or mitigate adverse environmental impacts.

## **2. Social Safeguards**

32. Project-related social impacts include IR impacts and impacts to IP. Broadly, physical displacement (relocation, loss of residential land or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources or means of livelihood) are IR impacts. Project-related IP impacts are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of IP or affects the territories or natural or cultural resources that IP own, use, occupy, or claim as an ancestral domain or asset.

33. Social safeguards—policies and requirements—seek to avoid, minimize or mitigate these adverse impacts. Related to IR, if these adverse impacts cannot be avoided, then affected people should receive assistance/compensation so that they are at least as well off as they were in the absence of the project. Related to IP, social safeguards ensure that the indigenous people participate in the design, implementation, and monitoring and evaluation of mitigation and management arrangements.

### **B. Legal Requirements**

#### **1. Environmental**

##### **a. Introduction**

34. NCRPB has no legal responsibility under any of the Indian environmental legislation—those under the framework of the Ministry of Environment and Forests (MOEF) —vis-à-vis its own functioning. But there are issues related to environmental legislation in connection with its project financing that the project proponent would need to adhere to. The legal responsibility lies with the project proponent. As a part of its overall requirements, NCRPB needs to ensure that these investment projects are in compliance with legal requirements in order to safeguard its interests. These are being done by NCRPB on its own accord. These are already included in NCRPB's existing procedures.

##### **b. Constitutional Provisions**

35. Article 48-A of the Constitution provides a directive principle, which states that the State shall endeavor to protect and improve the natural environment. Article 51-A of the Constitution declares it as a fundamental duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

##### **c. National Environment Policy, 2006**

36. India's National Environmental Policy 2006 seeks to extend the coverage, and fill in gaps building on earlier policies such as National Forest Policy 1988, National Conservation Strategy and Policy Statement on Environment and Development 1992, and Policy Statement on Abatement of Pollution 1992. The Objectives of the National Environment Policy 2006 are:

- Conservation of Critical Environmental Resources
- Intra-generational Equity: Livelihood Security for the Poor
- Inter-generational Equity
- Integration of Environmental Concerns in Economic and Social Development
- Efficiency in Environmental Resource Use



- Environmental Governance
- Enhancement of Resources for Environmental Conservation

#### **d. Laws on Environmental Assessment**

37. The Government of India's Environmental Impact Assessment (EIA) Notification of 2006 sets out the national requirement for environmental assessment in India. This states that prior Environmental Clearance (EC) is required for specified activities/projects, and this must be obtained before any construction work or land preparation (except land acquisition) may commence.

#### **e. Other Relevant Environmental Legislations**

38. The following are the Acts, Rules, Policies, and Regulations currently in force in India that deal with environmental issues that are applicable to infrastructure development projects:

- Water (Prevention and Control of Pollution) Act, 1974, amended 1988, and Rules
- Water (Prevention and Control of Pollution) Cess (Amendment) Act, 2003 and Rules
- Air (Prevention and Control of Pollution) Act 1981, amended 1987, and Rules
- Environment (Protection) Act, 1986, amended in 1991 and the following Rules/Notification
- Environment (Protection) Rules, 1986
- Environmental Standards of Central Pollution Control Board (CPCB)
- Environment (Siting for Industrial Projects) Rules, 1999
- Environmental Audit Notification, 1992
- Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989, amended 2000
- Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organisms and Genetically Engineered Organism or Cell Rules, 1989
- Municipal Solid Wastes (Management and Handling) Rules, 2000
- Hazardous Wastes (Management and Handling) Rules, 1989, amended 2003
- Bio-Medical Waste (Management and Handling) Rules, 1998, amended in 2003
- Noise Pollution (Regulation and Control) Rules, 2000, amended in 2002
- Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996
- Batteries (Management and Handling) Rules, 2001
- Notification on Eco-sensitive Zones: Sultanpur National Park Eco-sensitive Zone and Aravalli Range Notification, 1992
- Public Liability Insurance Act, 1991
- Wild Life (Protection) Amendment Act, 2002
- Wildlife (Protection) Act, 1972, amended 1993 and Rules
- Forest Act, 1927
- Forest (Conservation) Act, 1980, amended 1988 and the following Rules / Guidelines
- Forest (Conservation) Rules, 1981 amended 1992 and 2003
- Guidelines for Diversion of Forest Lands for Non-Forest Purpose
- Ancient Monuments and Archaeological Sites and Remains Act 1958 and Rules

39. The implementation of environmental legislation in India is a state-subject and hence implementation practices vary from state to state. Therefore, it is important for NCRPB to monitor the approach adopted towards implementing legislation in each state NCRPB has funded or will be funding projects.

## **2. Social**

### **a. Introduction**

40. NCRPB has no legal responsibility under any Indian legislation relevant to social safeguards: National Rehabilitation and Resettlement Policy (NRRP), Land Acquisition Act 1984 and Forest Rights Act 2006. The Ministry of Rural Development, respective State Governments, and Ministry of Tribal Affairs are implementing these respectively. But there are issues related to social legislation in connection with project financing. As a part of its overall requirements, NCRPB needs to ensure that these investment projects are in compliance with legal requirements.

### **b. National Rehabilitation and Resettlement Policy (NRRP)**

41. NRRP came into existence in 2007 (and the National Rehabilitation and Resettlement Bill, 2007, has been tabled in Indian parliament but has not yet been adopted. It is subject to committee approval and is expected to be tabled in the forthcoming Parliament Session). NRRP provides broad guidelines and executive instructions, and will be applicable to all projects. The provisions of the NRRP provide for basic minimum requirements, and all projects leading to involuntary displacement of people must address rehabilitation and resettlement issues comprehensively.

### **c. Land Acquisition (LA) Act 1894**

42. The LA Act generally governs land acquisition and compensation. The Act describes the process to be adopted in notifying land required for a public purpose or for a company. It also includes the procedure for enquiry, hearing of objections and fixing of compensation. The Act prescribes a two-year time limit from the date of declaration within which the process has to be completed. The LA Act has been reviewed and amendments have been proposed to align its provisions to the goals and objectives of the NRRP.

### **d. Other Relevant Social Legislations**

43. The following are the other relevant social legislations:

- Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), 1989
- Provisions of the Panchayat (Extension to Scheduled Areas) Act (PESA), 1996
- The Constitution (Eighty-Ninth Amendment) Act, 2003
- The Schedule Tribe and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

## **3. Donor Requirements**

44. Donors—multilateral/bilateral funding agencies such as ADB, WB, KfW, JBIC, etc. — have safeguard policies that pose requirements on their borrowers. The objectives of these safeguard policies are to:

- Avoid adverse impacts of projects on the environment and affected people, where possible;
- Minimize, mitigate, and/or compensate for adverse project impacts on the environment and affected people when avoidance is not possible; and
- Help borrowers/clients to strengthen their safeguard systems and develop the capacity to manage environmental and social risks.

45. For FI projects supported by donors, there are special requirements from a safeguard perspective as these agencies do not have direct oversight of or strong leverage in relation to projects that the FI lends. Therefore, the donors review the FI's business processes and their capacity for environmental and social safeguards management. All FIs are expected to ensure that their investments are in compliance with applicable national laws and regulations and will apply a prohibited investment activities list (e.g. donor's prohibited list) to projects financed. Where the FI's investments have minimal or no adverse environmental or social risks, the FI project will be treated as no negative impact project and need not apply any other specific requirements. All other FIs will be required to have in place or establish appropriate ESMS commensurate with the nature and risks of the FI's likely future portfolio to be maintained as a part of the FI's overall management system.

#### a. Environmental Safeguards

46. Environmental safeguard policies are generally understood to be operational policies that seek to avoid, minimize, or mitigate adverse environmental impacts. These policies require that impacts are identified and assessed early in the project cycle, and plans to avoid, minimize, mitigate, or compensate for the potential adverse impacts are developed and implemented throughout the project cycle.

47. Donors tend to use a classification system to reflect the significance of a project's potential environmental impacts. Each project is scrutinized as to its type, location, scale, and sensitivity and the magnitude of its potential environmental impacts. Projects are assigned to one of the following four categories:

Category	Description
<b>A</b>	A proposed project is classified as category A if it is likely to have significant adverse environmental impacts that are irreversible, diverse, or unprecedented. These impacts may affect an area larger than the sites or facilities subject to physical works. An environmental impact assessment is required.
<b>B</b>	A proposed project is classified as category B if its potential adverse environmental impacts 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. An initial environmental examination is required.
<b>C</b>	A proposed project is classified as category C if it is likely to have minimal or no adverse environmental impacts. No environmental assessment is required although environmental implications need to be reviewed.
<b>FI</b>	A proposed project is classified as category FI if it involves investment of ADB funds to or through a FI.

Source: ADB, Safeguard Policy Statement, June 2009.

48. The specific requirements for environmental safeguards are captured under the elements given in the table below. The objectives of these specific requirements are to ensure environmental soundness and sustainability of projects, and to support the integration of

environmental considerations into the project decision-making process. These include both process requirements as well as subject-specific requirements. The applicability of these subject-specific requirements are established to the process requirement, i.e. the environmental assessment and compliance.

**Table 2: Environmental Safeguard Requirements**

No.	Requirements
1	Environmental Assessment
2	Environmental Planning and Management
3	Information Disclosure
4	Consultation and Participation
5	Grievance Redress Mechanism
6	Monitoring and Reporting
7	Unanticipated Environmental Impacts
8	Biodiversity Conservation and Sustainable Natural Resource Management (a) Modified Habitats, (b) Natural Habitats, (c) Critical Habitats, (d) Legally Protected Areas, (e) Invasive Alien Species, and (f) Management and Use of Renewable Natural Resources
9	Pollution Prevention and Abatement (a) Pollution Prevention, Resource Conservation and Energy Efficiency, (b) Wastes, (c) Hazardous Materials, (d) Pesticide Use and Management, and (e) Greenhouse Gas Emissions
10.	Health and Safety: (a) Occupational Health and Safety, and (b) Community Health and Safety
11.	Physical Cultural Resources

Source: ADB Safeguard Policy Statement, June 2009. These are consistent with other donors such as the World Bank and KfW.

49. Comparison between GOI and donor safeguard policies: Most of the GOI and donor requirements pertaining to environmental safeguard policies are similar. The only difference between the Government and the donor policies is in relation to the requirements of Category B. As per the Government policy, there are certain limited environmental impact (Category B type) projects that require no limited EIA or only the submission of a questionnaire. The Government policy does not always require a separate EIA for these types of projects, whereas the donor policies require a limited environmental assessment/Initial Environmental Examination (IEE).

#### **b. Social Safeguards**

50. Social safeguard policies are generally understood to be operational policies that seek to avoid, minimize, or mitigate adverse IR and/or impacts to IP. These policies require that impacts are identified and assessed early in the project cycle, and plans to avoid, minimize, mitigate, or compensate for the potential adverse impacts are developed and implemented throughout the project cycle.

51. Donors use a classification system to reflect the significance of a project's potential social impacts. Each project is scrutinized as to its type, location, scale, sensitivity, and the magnitude of its potential social impacts. Projects are assigned to one of the following four categories based on IR and IP:

**Table 3: Social Safeguards Categorization**

Category <sup>2</sup>	Description – IR	Description – IP
<b>A</b>	A proposed project is classified as category A if 200 or more people will experience major impacts, which are defined as (i) being physically displaced from housing or (ii) losing 10% or more of their productive assets (income generating).	Projects are expected to have significant impacts on indigenous peoples. Significant impacts are those that directly or indirectly affects the dignity, human rights, livelihood systems, or culture of indigenous peoples or affects the territories or natural or cultural resources that Indigenous peoples own, use, occupy or claim as their ancestral domain.
<b>B</b>	A proposed project is classified as category B if there are potential adverse major (as defined earlier) impacts that less than 200 people will experience or there are any minor impacts.	Projects where the indigenous peoples are the sole or the overwhelming majority of project beneficiaries, and when only positive impacts are identified.
<b>C</b>	A proposed project is classified as category C if it is likely to have no impacts whatsoever.	No impacts on indigenous peoples are envisaged.
<b>FI</b>	A proposed project is classified as category FI if it involves the investment of ADB funds to, or through, a financial intermediary	A proposed project is classified as category FI if it involves the investment of ADB funds to, or through, a financial intermediary

52. The specific requirements of social safeguard and its elements are given in the following tables. These are requirements of donors and include both process requirements as well as subject-specific requirements. The applicability of these subject-specific requirements is established to the process requirement, i.e. the social assessment and compliance.

**Table 4: Social Safeguard Requirements – IR<sup>1</sup>**

No	Requirements
1	Social Impact Assessment
2	Resettlement Planning
3	Information Disclosure
4	Consultation and Participation
5	Grievance Redress Mechanism
6	Monitoring and Reporting
7	Unanticipated Involuntary Resettlement Impacts
8	Special Considerations for Indigenous People

**Table 5: Social Safeguard Requirements - IP<sup>1</sup>**

No	Requirements
1	Consultation and Participation
2	Social Impact Assessment
3	Indigenous Peoples Planning
4	Information Disclosure
5	Grievance Redress Mechanism

<sup>2</sup> In conformity with ADB's Safeguard Policy Statement, 2009

No	Requirements
6	Monitoring and Reporting
7	Address Unanticipated Impacts on Indigenous Peoples
8	Ancestral Domains and Lands and Related Natural Resources <ul style="list-style-type: none"> <li>a. Protection of customary rights of the indigenous peoples</li> <li>b. Protection to ancestral domains</li> <li>c. Protection of cultural and spiritual values attributed to ancestral lands and resources</li> <li>d. Protection of natural resources management practices</li> <li>e. Rehabilitation of livelihood systems</li> </ul>
9	Consent of Affected Indigenous Peoples Communities
10	Receive Equitable Share in Commercial Development of Cultural Resources
11	Receive Equitable Share in Commercial Development of Natural Resources

53. Comparisons between Government and Donor safeguard policy: The following table compares the key social safeguard requirements between government policy and donor policy/procedures.

54. Projects funded by NCRPB are in compliance with National and State Laws governing land acquisition and compensation for land and property. However, National Laws are at variance with donor safeguard requirements. To ensure projects that NCRPB funds are consistent with National Laws and donor safeguard requirements, NCRPB has prepared this ESMS. The key areas where National Laws are at variance with donor safeguard requirements is presented in the following table along with how NCRPB bridges the gap through its ESMS.

**Table 6: Fundamental Distinction between National/State Laws and Donor Safeguard Requirement**

S.No	National / State Laws	Donor Safeguard Requirement	NCRPBs ESMS that bridges the Gap	Remarks
1	Compensation for land as per LA Act (based on guideline value/past sale statistics)	Compensation for land at replacement value <sup>3</sup>	Compensation for land as per LA Act.	Compensation is determined based on past sale statistics ( circle rates / guideline value). However, if ESMC finds the compensation so determined is lower than the replacement value of the land, the project proponent / IA will provide the difference as assistance.
2	Structure compensated with depreciation	Structure to be compensated at replacement cost without depreciation	Structure will be compensated at replacement cost without depreciation	-
3	Non-title holders are not eligible for compensation for loss of assets	Non-title holders are entitled for compensation for loss of assets (not for land)	Non-title holders provided compensation for loss of assets (not for land)	NRRP recognizes non-titleholders who are landless and BPL, if they reside continuous for a period of not less than 5 years preceding the date of declaration

<sup>3</sup> Replacement value/cost is the amount required for an affected person to replace the lost land/asset through purchase in the open market.

S.No	National / State Laws	Donor Safeguard Requirement	NCRPBs ESMS that bridges the Gap	Remarks
4	No assistance for livelihood loss	Livelihood assistance for loss of livelihood (land / commercial)	Livelihood assistance provided for loss of livelihood (land / commercial)	In Haryana, loss of livelihood for landowners is provided as an annuity (Rs.15,000 per acre per annum for 33 years with Rs.500 increment every year)  NRRP provides for rehabilitation grant, subsistence allowance and assistance for loss of income from small trader
5	No assistance for vulnerable	Additional assistance for vulnerable	Additional assistance for vulnerable	Vulnerable persons such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family (NRRP 2007)  NRRP provides for pension for life to vulnerable
6	No special provision for IP	Positive and/or negative impact will require an IPP	IPP will be prepared if the project involves impact to IP	NRRP requires a Tribal Development Plan, if the project involves involuntary displacement of 200 or more tribal families.
7	No specific provision for Land Acquisition through Negotiation	Acquisition of land and other assets through Negotiated settlement does not attract Safeguard Requirements on Involuntary Resettlement	IAs are encouraged to acquire land and other assets through Negotiated settlement – Safeguard Requirements on Involuntary Resettlement does not apply to Negotiated Land Acquisition	UIT- Alwar and SADA-Gwalior have specific provisions for Negotiated Land Acquisition

### C. Regional Plan

55. All project-financing activities have to be compatible with the Regional Plan. NCRPB has been ensuring this compatibility and will continue to do so. Both directly and indirectly, this Plan includes and reflects environmental and social concerns. Through ensuring compatibility with the Plan, NCRPB will also be including safeguards in the planning, design, implementation, and

operation and maintenance of projects that it finances. For instance, the Regional Plan includes a separate chapter on environmental issues. In this chapter, there is a commitment that all NCRPB must comply with the national, regional and local environmental laws. Through implementing this commitment, NCRPB is ensuring environmental and social safeguards.

### **III. NCRPB's Environmental and Social Policies**

#### **A. Environmental Policy**

56. NCRPB will continually strive to ensure and enhance effective environmental management practices in all its operations (screening, assessment, appraisal and monitoring)

- Minimizing negative environmental (including health and safety) impacts in its operations and risks to the environment (particularly ecosensitive areas and culturally important areas) and people who may be affected through formulating and implementing commensurate plans.
- Ensuring that environmental safeguards—defined as requirements of applicable Indian environmental legislation and donors—are being adequately integrated by the project proponent/IA in the planning, design, construction prior to its financing and in its implementation during the operational phase.
- Ensuring that compliance to all applicable national and local environmental legislation.
- Encouraging that public and stakeholder consultation be carried out by the project proponent/IA and disclosing the required information in all stages of the project cycle.
- Integrating environmental risk into its overall internal risk management analysis.
- Including environmental management considerations in all aspects of operations and interactions with the project proponent/IAs in all stages of the project cycle.

This policy statement emphasizes NCRPB's sensitivity, concern and commitment to environmental safeguards.

#### **B. Social Policy**

57. NCRPB will continually strive to ensure that social safeguards are adhered. NCRPB will work towards:

- Avoiding or minimizing involuntary resettlement and impacts to indigenous peoples by exploring project and design alternatives.
- In cases, where IR and impacts on IP are unavoidable, enhancing or, at least, restoring the livelihoods of all affected persons in real terms relative to pre-project levels.
- Improving the standard of living of the displaced poor and other vulnerable groups.
- Addressing through special efforts to reduce negative impacts on indigenous people; measures to ensure they receive culturally appropriate social and economic benefits, and also to ensure transparent mechanisms including consultations and active participation in projects that affect them.
- Ensuring that affected persons benefit from the projects funded to the extent possible and they are consulted on the project at different stages of the project from its planning to implementation.



- Integrating the RP and IPP with the overall preparation and implementation of the project and payment of compensation and other assistance before award of civil works.

This policy statement emphasizes NCRPB's sensitivity, concern and commitment to social safeguards.

58. Both these policies commit that NCRPB will strive to ensure that the projects that it supports meets the Government policies as well as the donor policies.

#### IV. Operational Procedures

##### A. Screening and Categorization

59. This defines the procedure for NCRPB to classify projects into different categories based on their environmental and social issues.

##### 1. Environmental

60. As a part of the initial project stage, the project proponent/IA has to provide basic environmental information by completing a checklist. The important information from the checklist will be two-fold: (i) whether the project will have significant impacts, limited impacts, or no impacts; and (ii) whether the project is in an ecosensitive area or not. In addition, the project-specific environmental checklists will also be completed.

61. Based on the information furnished in this checklist, NCRPB will classify the project into environmental categories—E1, E2 and E3—using the following table.

**Table 7: Environmental Categorization**

Environmental Scenario	NCRPB's Categorization	Ministry of Environment and Forest's Categorization	ADB Categorization
Significant impacts or in ecosensitive area	E1	A	A
Limited impacts	E2	B1 or B2 or No Category	B
No impacts	E3	No Category	C

62. The definition of the different scenarios is as follows:

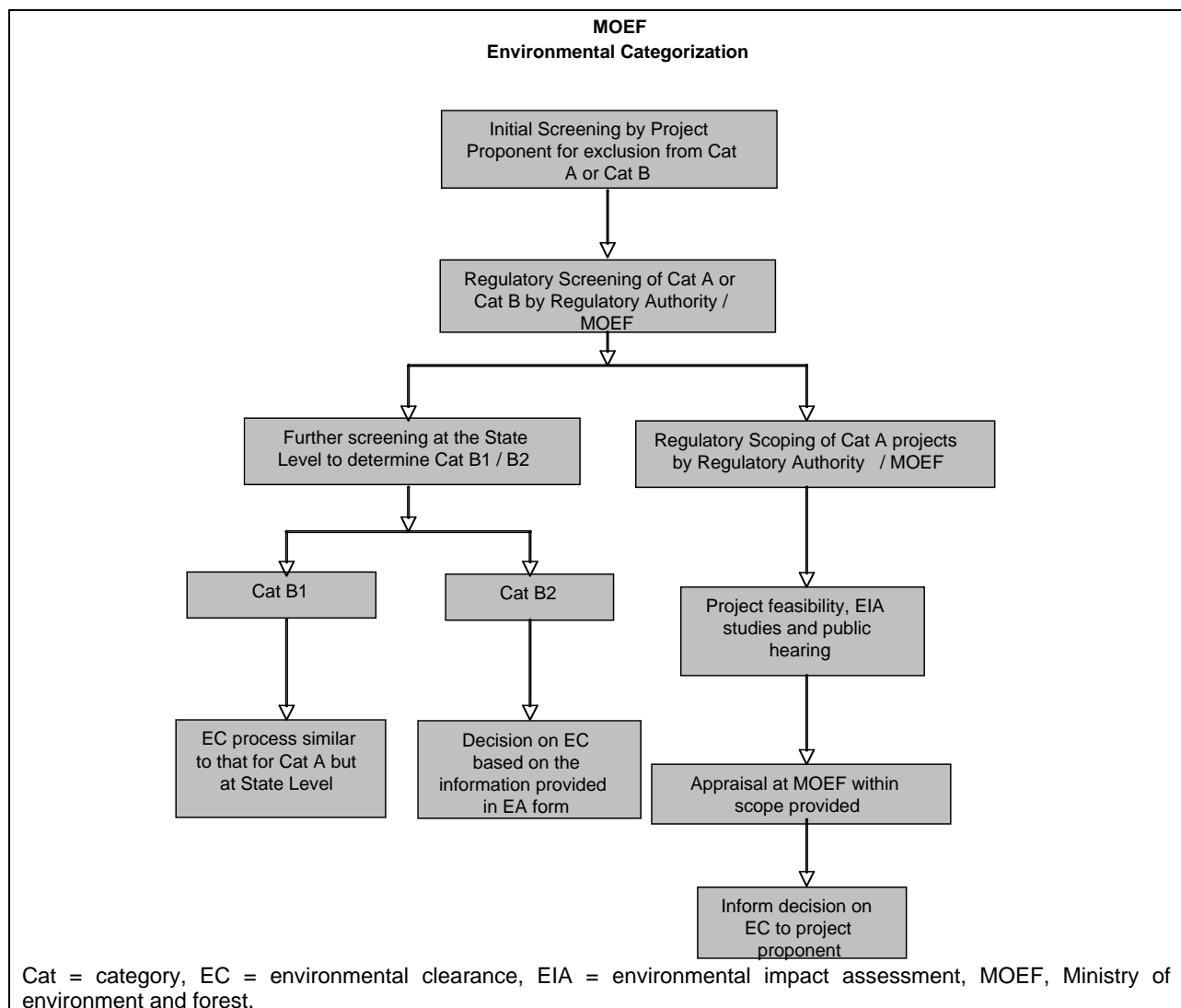
- Significant impacts or in ecosensitive areas: If the project has significant adverse environmental impacts that are irreversible, diverse, or unprecedented, then it is regarded to be significant. These impacts may affect an area larger than the sites or facilities subject to physical works. In addition, all projects located in ecosensitive areas will be considered significant. In the NCR Regional Plan, ecosensitive areas include reserved/protected forests, forests other than reserved and protected forests, monuments (National, State, Local), heritage/cultural sites, scenic areas, national parks, sanctuaries, areas with endangered species—flora and fauna, biosphere reserves, wetlands,

resorts/areas of tourist interest, water bodies, springs/water recharge areas, and other environmental resource areas. Examples of ecosensitive areas in NCR are the Sariska National Park and the Aravalli Range.

- Limited environmental impacts: If the project has impacts that are site-specific, few if any of them are irreversible, and in most cases mitigation measures can be designed.
- No environmental impacts: If the project is likely to have minimal or no adverse environmental impacts, then it is regarded to have this environmental scenario.

63. The Table also provides the likely MOEF categorization of the project as well as the ADB categorization. For MOEF, a project is classified as either A, B1, or B2. This classification factors project type, size and sensitivity of location. For E2 projects, NCRPB will determine the MOEF category using the EIA Notification 2006.

64. Once the MOEF category is determined, NCRPB will have to ensure that the project proponent/IA follows their MOEF process and requirements as described in the following flow chart.



65. For MOEF, projects under category A and B1 require an Environmental Impact Assessment (EIA) and are processed for Environmental Clearance at MoEF and State level respectively. Category B2 does not require EIA but needs information to be submitted in a prescribed format to the State Department of Environment for review. For MOEF, projects under category B1 may be re-categorized as A if General Conditions (GCs) that consider site sensitivity are violated. The equivalence between the EIA requirements of NCRPB and MOEF is included in the following table.

**Table 8: Categorization and Requirements**

NCRPB's Categorization	MoEFs Categorization	NCRPB's EIA Requirements	MOEF's EIA Requirements
E1	A	Full EIA	Full EIA (MOEF Level)
E2	B1	Limited EIA / IEE	Limited EIA (State Level)
	B2	Limited EIA / IEE	Detailed Questionnaire (State Level)
	No Category	Limited EIA / IEE	No EIA required
E3	No Category	No EIA required	No EIA required

66. From the above Table, it is clear that there is considerable equivalence between the EIA requirements based on NCRPB and MOEF categorizations. The differences are that NCRPB requires a limited EIA/IEE for E2 projects, whereas MOEF requires either (i) similar information be submitted in the form of a detailed questionnaire for seeking the EC from the state-level clearing body for a B2 MOEF category or (ii) no EIA if this does not fall as a B2 MOEF category.

67. Once the NCRPB's Environmental Categorization is done, the appropriate EIA requirement will be specified to the project proponent/IA. In addition, NCRPB will also advise the project proponent/IA of the MOEF categorization and what needs to be done by the project proponent/IA.

## 2. Social

68. As a part of the initial project stage, the project proponent/IA has to provide basic information by completing an IR and IP checklist. On social safeguards, the following three-level categorization will be followed. This is based on the donor requirements.

**Table 9: Social Categorization**

IR & IP Scenario	NCRPB's Categorization	NRRP's Categorization	Donor <sup>a</sup> Categorization
Significant impacts	S1	≥400 APs in plain areas ≥200 APs in tribal / hilly areas	A
	S1	>200 & <400 APs in Plain areas >100 & <200 APs in tribal / hilly areas	A
Limited impacts	S2	≤200 APs in Plain areas ≤100 APs in tribal / hilly areas	B
No impacts	S3	No impacts	C

<sup>a</sup> ADB. 2009. *Safeguards Policy Statement*. Manila.

69. The basis of NCRPB's social categorization is described in the following table.

Category	Description – IR	Description – IP
<b>S1</b>	A proposed project is classified as category A if 200 or more people will experience major impacts, which are defined as (i) being physically displaced from housing or (ii) losing 10% or more of their productive assets (income generating).	Projects are expected to have significant impacts on indigenous peoples. Significant impacts are those that directly or indirectly affect the dignity, human rights, livelihood systems, or culture of indigenous peoples or affects the territories or natural or cultural resources that Indigenous peoples own, use, occupy or claim as their ancestral domain.
<b>S2</b>	A proposed project is classified as category B if there are potential adverse major (as defined earlier) impacts that less than 200 people will experience or there are any minor impacts.	Projects where the indigenous peoples are the sole or the overwhelming majority of project beneficiaries, and when only positive impacts are identified.
<b>S3</b>	A proposed project is classified as category C if it is likely to have no impacts whatsoever.	No impacts on indigenous peoples are envisaged.

70. For the different categories, the NCRPB's requirement of documents are included in the following table:

**Table 10: Categorization and Requirements**

NCRPB's Categorization	NCRPB's IR Requirements	NCRPB's IP Requirements
S1	RP	IPP
S2	SRP	Summary note on IP in project document
S3	No RP or SRP required	No IPP or summary note required

71. The comparison of the requirements of NCRPB and the GOI under the NRRP 2007 are included in the following table.

**Table 11: Comparison of Categorization and Requirements**

NCRPB's Categorization	NRRP's Categorization	NCRPB's Requirements		NRRP's Requirements	
		IR	IP	IR	IP
S1	≥400 APs in plain areas ≥200 APs in tribal / hilly areas	RP	IPP	Resettlement and rehabilitation plan (RRP)	Tribal development plan (TDP)
S1	>200 & <400 APs in plain areas >100 & <200 APs in tribal / hilly areas	RP	IPP	Adequate arrangements	Adequate arrangements
S2	≤200 APs in plain areas ≤100 APs in	SRP	Summary Note on IP in project	Adequate arrangements	Adequate arrangements

NCRPB's Categorization	NRRP's Categorization	NCRPB's Requirements		NRRP's Requirements	
		IR	IP	IR	IP
	tribal / hilly areas		document		
S3	None	No RP or SRP required	No IPP or Summary Note required	None	None

72. From all the above, it is clear that there is full equivalence between the requirements based on NCRPB and donors. In terms of the GOI requirements, i.e. NRRP 2007, projects where 400 or more people are affected in plain areas and 200 or more people are affected in tribal or hilly areas, it is mandatory to do a social impact assessment and prepare a rehabilitation and resettlement scheme/plan (RRP). In addition, there is a need to appoint an administrator and commissioner (not below the rank of District Collector) for rehabilitation and resettlement. For projects where the affected persons less than 400 in plain areas & 200 in tribal or hilly areas, the concerned State Government/agency should appoint an administrator and make adequate arrangements for the rehabilitation and resettlement of affected families. If the project involves involuntary displacement of 200 or more tribal families, NRRP requires a Tribal Development Plan.

#### **B. Safeguards Guidance-Sharing with Project Proponent/IA**

73. This procedure is to share guidance information to the project proponent/IA on safeguard requirements.

74. When the project proponent/IA approaches NCRPB with the Initial Project Concept, NCRPB will determine the NCRPB environmental and social category based on the Screening and Categorization Procedure.

75. Based on categorization, NCRPB will advise on what the project proponent/IA needs to do to meet its safeguard requirements.

76. For Category E1 and S1 projects, NCRPB will advise the project proponent/IA that the donor will be involved in the appraisal process from the very early stages and this is the equivalent of a Category A project based on donor categorization. As part of its due-diligence, donor will (i) review the environmental and social information collected by the financial intermediary, (ii) determine any additional information needed, (iii) assist with determining appropriate mitigation measures, and (iv) specify conditions under which the projects may proceed. For such projects, the donor will clear the EIA, RP, and/or IPP, if applicable, before project approval, and the project team ensures that the following documents are made publicly available: (i) the draft EIA report at least 120 days before the approval of the project, and (ii) the draft RP and draft IPP before the approval of the project.

77. For Category E2 and S2 projects, NCRPB will follow the ESMS procedures only after obtaining the donor's concurrence that NCRPB has build sufficient in-house capacity to manage the appraisal/due-diligence process. Until that stage, NCRPB will involve the donor in the various stage of the appraisal/due-diligence process.

78. On environmental aspects, NCRPB will share the relevant Annexes with the project proponent/IA based on the project type and indicate that the requirements are more or less in line with what the project proponent/IA will have to do to meet the MOEF requirements.

79. On social aspects, NCRPB will share the social safeguards framework with the project proponent/IA. Project proponents/IAs will be required to follow the following procedure while availing assistance from NCRPB:

- Screen project proposals for IR and IP impacts and submit Involuntary Resettlement Screening Checklist and Indigenous Peoples Screening Checklist;
- Prepare Resettlement Plan (RP) commensurate with the significance of involuntary resettlement impacts and submit the same as part of the Detailed Project Report (DPR);
- Prepare Indigenous Peoples Plan (IPP) commensurate with the significance of potential impact on indigenous peoples and submission of the same as part of the DPR;
- Submit updated RP and/or IPP on completion of detailed design or in case of changes in project design;
- Implement RP and/or IPP and submit monthly progress reports to ESMC of NCRPB;
- Monitor RP and/or IPP periodically and submit the reports to ESMC. For S-1 projects, monitoring and evaluation will be undertaken through external experts; and
- Loan closure shall be linked to satisfactory completion of activities undertaken for RP and/or IPP.

80. The ESMS will be uploaded on the NCRPB website. Print copies will be made available upon request.

81. For projects involving facilities and/or business activities that already exist or are under construction, NCRPB will advise the project proponent/IA that they will undertake a safeguards compliance audit, including an on-site assessment, to identify past or present concerns related to safeguard impacts.

82. Wherever NCRPB is supporting the project preparation such as the preparation of a detailed project report, NCRPB will also ensure that financial assistance through its grant fund is also provided for safeguards assessment, either detailed or limited as the case may be.

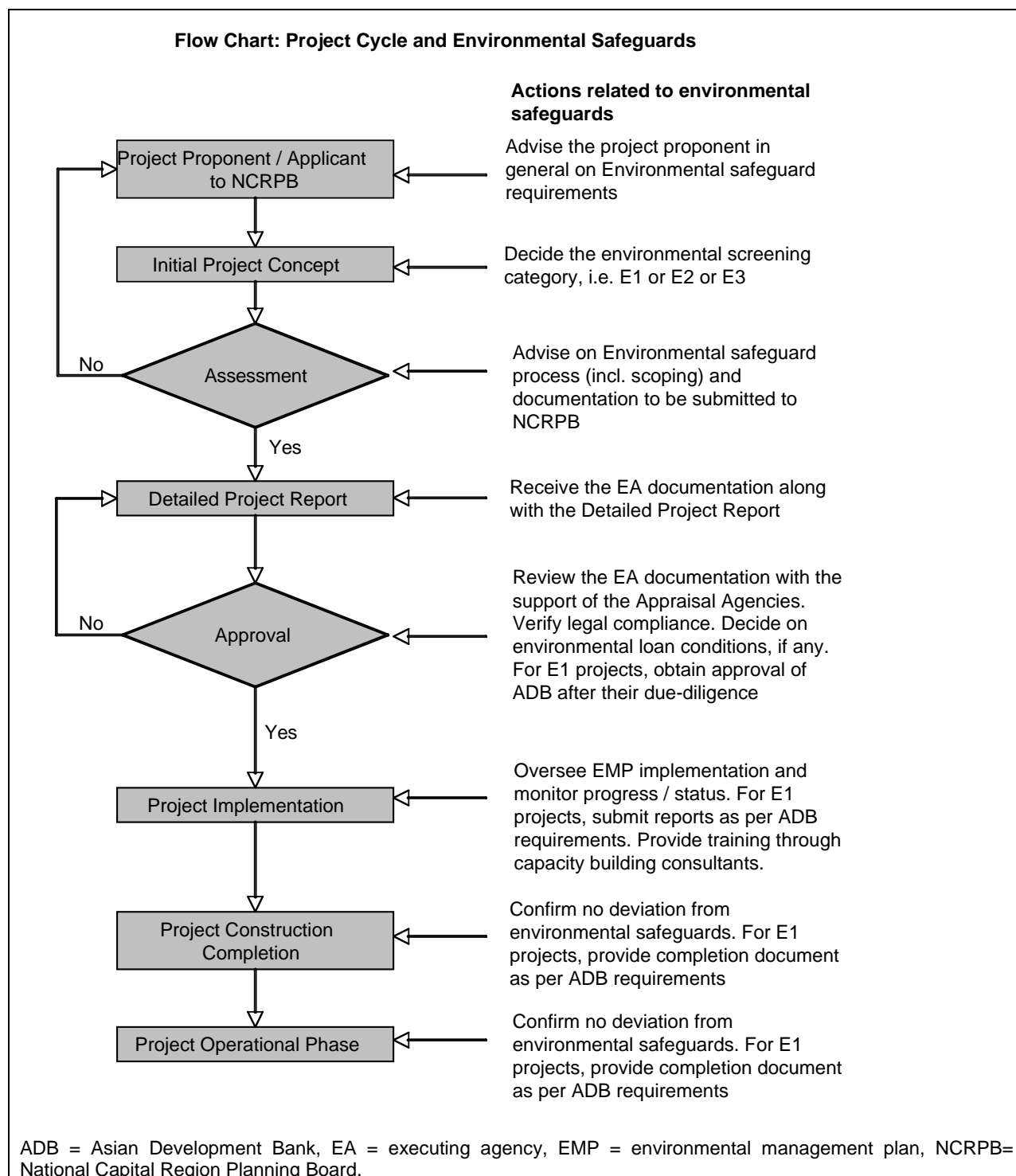
83. Once the project is approved and implementation begins, NCRPB will provide training, implementation support and guidance on safeguards through its management capacity-building consultants.

### **C. Project Cycle and Safeguards Interventions / Verification**

84. This procedure is to verify adherence to safeguard requirements during the project cycle.

#### **1. Environmental**

85. The project cycle of the NCRPB with the environmental safeguard requirements as an overlay are depicted in the flow chart below.



86. The above flow chart indicates that the donor will undertake its due diligence for E1 projects as these will be treated as Category A projects as per donor categorization. As part of its due-diligence, donor will (i) review the environmental information collected by the financial intermediary, (ii) determine any additional information needed, (iii) assist with determining appropriate mitigation measures, and (iv) specify conditions under which the projects may proceed. For these projects, the donor will clear the EIA before project approval, and

NCRPB/donor will ensure that the draft EIA report is made available at least 120 days before the approval of the project.

87. NCRPB will support the conduct of the environmental assessment and the preparation of the EIA/ IEE and EMP reports under the Grant Fund that is available through the ADB line of credit.

88. The main documents required as a part of the environmental appraisal process are as follows:

E1 projects:

- (i) Completed Environmental Information Screening Format: This is a 1-page request for information that needs to be submitted at the early stages of the NCRPB appraisal process. This requires first-level information required to classify the project based on NCRPB categorization that would help to identify the appraisal process and documents that the project proponent/IA would need to be submitted.
- (ii) Detailed Environmental Impact Assessment (EIA) report: EIA is an important tool for incorporating environmental concerns at the project level. EIA will be carried out as early as the project planning stage as part of feasibility thus it can assure that the project will be environmentally feasible. EIA requires an in-depth analysis because of the potential significance of environmental impacts from the project. EIAs demand: (a) screening and scoping of possible key environmental issues, (b) agreeing with the MOEF/State Environmental Impact Assessment Authority (SEIAA) and/or NCRPB/ADB on the Terms of Reference for the EIA, (c) comprehensive analysis of the potential impacts; (d) works to be carried out to formulate practical mitigation measures; (e) in-depth economic valuation of impact to screen and evaluate the best alternative; and (f) in-depth analysis to prepare an adequate environmental management plan. The following are the important activities in undertaking the EIA study: (a) describing the environmental condition of the project area, (b) assessing potential impact, (c) formulating mitigation measures, and (d) preparing the Environmental Management Plan. The EIA report will include its contents in the following structure: (a) Introduction, (b) Description of the Project, (c) Description of the Environment, (d) Alternatives, (e) Anticipated Environmental Impacts and Mitigation Measures, (f) Economic Assessment, (g) Environmental Management Plan, (h) Public Involvement and Disclosure and (i) Conclusions.
- (iii) Executive Summary EIA report: An executive summary EIA report also has to be submitted. This report will be presented clearly and concisely which can be a stand-alone document for submission to the donor and disclosure to the public.
- (iv) Environmental Management Plan (EMP): Environmental management involves the implementation of environmental protection and mitigation measures and monitoring of significant environmental impacts. Environmental protection measures are taken to (a) mitigate environmental impacts, (b) provide in-kind compensation for lost environmental resources, or (c) enhance environmental resources. These measures are usually set out in an EMP, which covers all phases of the project from pre-construction through decommissioning, and outlines mitigation and other measures that will be undertaken to ensure compliance with environmental regulations and reduce or eliminate adverse impacts (see the following table). The EMP will also cover a proposal for recommending the proposed project to use goods and products that are



proposed for environmental loan covenants. The typical contents of the EMP will include (a) Summary of Potential Impacts, (b) Description of Planned Mitigation Measures, (c) Description of Planned Environmental Monitoring, (d) Description of Planned Public Consultation Process, (e) Description of the Responsibilities and Authorities for Implementation of Mitigation Measures and Monitoring Requirements, (f) Description of Responsibilities for Reporting and Review, (g) Work Plan including staffing chart, proposed schedules of participation by various members of the project team, and activities and inputs of various government agencies, (h) Environmental Responsible Procurement Plan, and (i) Detailed Cost Estimates

- (v) MOEF's environmental clearance along with conditions, if any: For E1 projects (which are A as per MOEF), the MOEF will review the project and provide a scope—Terms of Reference—for the detailed EIA required for submission. The MOEF's Terms of Reference will be integrated with that of the EIA outlined above and a single detailed EIA document will be prepared. Once the detailed EIA is ready and submitted, the MOEF will review and provide its environmental clearance. Once obtained, the project proponent / IA needs to submit the copy of the clearance letter along with conditions, if any.

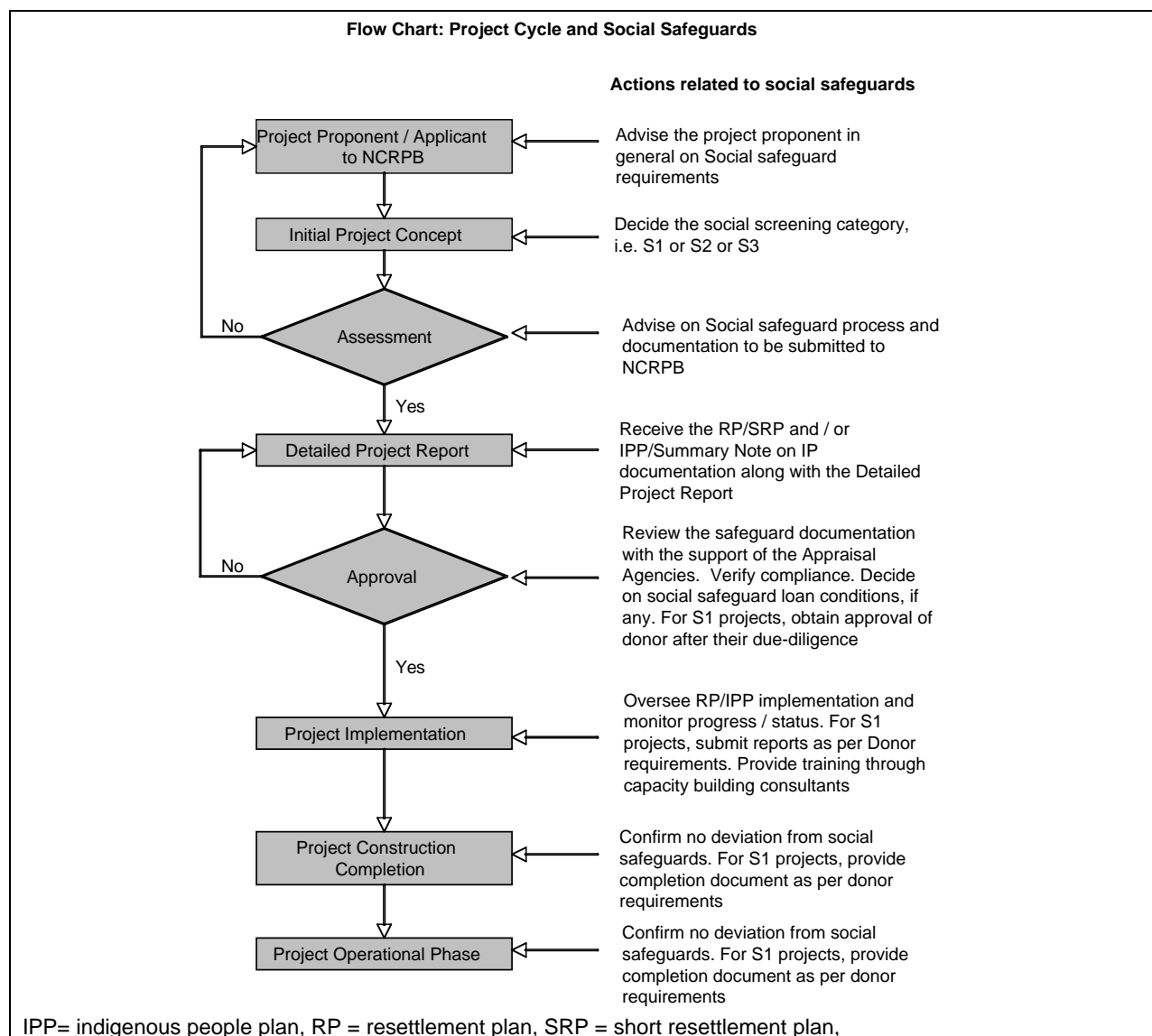
#### E2 projects

- (i) Completed Environmental Information Screening Format: This is a 1-page request for information that needs to be submitted at the early stages of the NCRPB appraisal process. This requires first-level information required to classify the project as per NCRPB category that would help to identify the appraisal process and documents that the project proponent/IA would need to be submitted.
- (ii) Initial Environmental Examination (IEE): IEE is an important tool for incorporating environmental concerns at the project level. IEE will be carried out as early as the project planning stage as part of feasibility thus it can assure that the project will be environmentally feasible. The following are the important activities in undertaking the IEE study: (a) Describing the environmental condition of the project area, (b) Assessing potential impacts, (c) Formulating mitigation measures and (d) preparing the institutional requirements and environmental management plan. The IEE report will have the following structure: (a) Introduction, (b) Description of the Project, (c) Description of the Environment, (d) Screening of Potential Environmental Impacts and Mitigation Measures, (e) Institutional Requirements and Environmental Management Plan, (f) Public Consultation and Information Disclosure, (g) Findings and Recommendation and (h) Conclusions. IEE concludes that the project will not have any significant adverse environmental impacts, then the environmental assessment is deemed complete.
- (iii) State-level environmental clearance along with conditions, if any: For E2 projects (which are B1 or B2 as per MOEF), the respective SEIAA and its expert/technical appraisal committee will review the project and provide a scope—Terms of Reference—for the limited EIA or provide the questionnaire required for submission. If a limited EIA is required, the SEIAA's Terms of Reference will be integrated with that of the IEE and a single IEE/Limited EIA document will be prepared. Once the limited EIA or the completed questionnaire is ready and submitted, the SEIAA will review and provide its environmental clearance. Once obtained, the project proponent/IA needs to submit the copy of the clearance

letter along with conditions. For certain E2 projects, no clearances are required either at the MOEF level or at the SEIAA level.

## 2. Social

89. The project cycle of the NCRPB with the social safeguard requirements as an overlay are depicted in the flow chart below.



90. The above flow chart indicates that the donor will undertake due diligence for S1 projects as they are Category A projects based on the donor's categorization. As part of its due-diligence, the donor will (i) review the social information collected by the financial intermediary, (ii) determine any additional information needed, (iii) assist with determining appropriate mitigation measures, and (iv) specify conditions under which the projects may proceed. For such projects, the donor will clear the RP and/or IPP, if applicable, before project approval. NCRPB/donor will ensure that the draft RP and/or IPP is made available before the approval of the project.

91. NCRPB will support the conduct of the social assessment/studies and the preparation of the RP and IPP reports under the Grant Fund that is available.

92. The main documents required as a part of the social appraisal process while submitting projects to NCRPB and during implementation are as follows:

#### S1 projects

- Completed Social Information Screening Formats: This is a 1-page request for information that needs to be submitted at the early stages of the NCRPB appraisal process. This requires first-level information required to classify the project as per NCRPB category that would help to identify the appraisal process and documents that the project proponent/IA would need to submit.
- Resettlement Plan and/or Indigenous People Plan: A resettlement plan and an indigenous people plan needs to be submitted to NCRPB along with the DPR. NCRPB upon approving the RP and/or IPP will send the same to the donor for review and once donor approval is received, advise project proponent/IA to implement these.
- Monitoring Reports: The project proponent / IA will provide monthly progress reports in the formats given to NCRPB. For S-1 projects the monitoring will be carried out by external experts who would submit monthly progress reports and an annual/end monitoring and evaluation report and the same will be sent to the donor.

#### S2 projects

- Completed Social Information Screening Format: This is a 1-page request for information that needs to be submitted at the early stages of the NCRPB appraisal process. This requires first-level information to classify the project as per NCRPB category that would help to identify the appraisal process and documents that the project proponent/IA would need to submit.
- Short Resettlement Plan and/or Short IPP: A short RP and/or IPP needs to be submitted to NCRPB along with the DPR. Short plans will cover all issues listed in the outline for preparing full plans, but in less detail.
- Monitoring Reports: The IA will provide monthly progress reports to NCRPB.

#### S3 projects

- Completed Social Information Screening Formats: This is a 1-page request for information that needs to be submitted at the early stages of the NCRPB appraisal process. This requires first-level information required to classify the project as per NCRPB category that would help to identify the appraisal process and documents that the project proponent/IA would need to submit.

To streamline the internal procedures in the project cycle, NCRPB will use standard forms/formats/proformas.

### **D. Training and Capacity Building**

93. This is the procedure to train and build capacity of the project proponents/IAs, their consultants, and contractors on safeguard requirements. It is well-recognized that their safeguard management capacity has to be strengthened. To address this capacity constraint, NCRPB will take the leadership role in building this capacity with its project proponents/IAs.

NCRPB fully recognizes the effectiveness of its ESMS implementation is dependent on the project proponent/IA's safeguards performance.

94. NCRPB will engage external capacity-building consultants to provide training on a regular basis to the project proponents/IAs, consultants, and contractors. These short trainings—about one-day—will necessarily cover the following:

- Environmental and social (land acquisition, IR, and IP) issues confronting the project.
- Legal requirements that need to be complied, e.g. environmental clearance conditions and adherence to NRRP's entitlements.
- NCRPB's ESMS and its role in capacity-building.
- Environmental and social assessments such as EIA, IEE, and SIA.
- Management measures as stipulated in the respective EMPs and social safeguard plans (RP and IPP).
- Feasible environmental and social good practices for effective implementation.

95. The safeguards capacity-building consultants will also conduct general training for the decision-makers and senior officials of the NCRPB on the need for integrating safeguards issues with its financing decisions and loan disbursement procedure.

## **E. Monitoring and Reporting**

96. This procedure is to monitor implementation compliance to safeguard requirements of projects financed by NCRPB.

97. As a part of its internal review meetings, NCRPB checks that the ESMS is being followed internally in the interactions with potential project proponents/IAs, project appraisal procedure, monitoring of the progress reports and site verifications whenever these are undertaken.

98. NCRPB will monitor all projects that it finances to ensure conformity to safeguard requirements during construction, operation and maintenance. Project proponents/IAs submit periodic progress reports to NCRPB for review. NCRPB will visit to project sites as and when necessary. Based on verification of progress reports, field visits and compliance to loan disbursement conditions (including compliance to legal requirements), subsequent disbursements will be made.

99. On a periodic basis, NCRPB will compile a consolidated progress report of all projects financed. As a part of this consolidated report, the key/critical environmental and social issues relevant to implementation will be identified and action being taken/to be taken will be clearly identified. NCRPB will inform the respective project proponents/IAs on the required follow-up action on the basis of the issues identified in the monitoring reports.

100. Specific to social safeguards, it is the task of the safeguards officer to monitor and evaluate compliance with the agreed upon conditionality regarding social safeguards at different stages of project implementation. This can be carried out directly or with the help of hired monitoring and evaluation agencies. The following will be steps to ensure effective monitoring:

- Project proponents/IAs send quarterly reports regarding the implementation of social safeguards to NCRPB. The safeguards officer evaluates such reports based on the milestones agreed upon in the loan contract/agreement.

- Safeguards officer will carry out field visits to ensure the veracity of quarterly reports, as required.
- If there is laxity in implementation, the safeguards officer will coordinate with the financing decisions of the NCRPB to hold disbursements until compliance.
- If there is consistent default in this regard on the part of the project proponent/IA, even after repeated and documented warnings, the financing authorities of NCRPB may be advised to stop any further disbursements and proceed towards canceling the loan.
- There must be an end-of-the-project evaluation to see the final outcome of the implementation. The lessons from this evaluation must be shared with the project proponent/IA and used for improving the safeguards practice of NCRPB.

101. For E1 and S1 projects, the monitoring and evaluation will be done by qualified and experienced external experts. Their semi-annual progress reports will be submitted to the donor and NCRPB as a part of their compliance requirements.

102. NCRPB will support the periodic monitoring and supervision of the donor for E1 and S1 projects.

103. NCRPB will prepare and submit periodic reports at least annually on the implementation status of the ESMS. If the reports or donor's review concludes that the ESMS is not functioning, NCRPB will prepare a corrective action plan, agree with the donor and will implement the plan.

#### **F. ESMS Audit Procedure**

104. There will be an independent evaluation of the environmental and social safeguards practices of the NCRPB and the projects funded by it. Towards this end, an annual independent auditing of the environmental and social safeguards practices of the NCRPB is included.

105. This ESMS audit will also:

- Assess the client's ability to manage and address all relevant social and environmental risks and impacts of its business and operations, in particular, the issues identified in donor's safeguard requirements;
- Assess the client's compliance record with applicable laws and regulations of the jurisdictions in which the project operates that pertain to environmental and social matters, including those laws implementing host country obligations under international law; and
- Identify the NCRPB and its project proponent's main stakeholder groups and current stakeholder engagement activities.

106. This ESMS audit will cover both the ESMS under implementation by NCRPB and selected projects for their implementation compliance to safeguard requirements.

107. NCRPB will undertake one ESMS audit every year.

108. External and independent resource persons will be identified as ESMS auditors and will undertake this audit. The ESMS auditors will have the experience to do both management systems audits as well as audits of investment projects. Resource persons either as individuals or agencies certified as auditors by reputed accreditation bodies will be employed. NCRPB will

ensure that the audit team has a good mix of both auditing and subject knowledge/experience on both environment and social safeguards.

109. The internal staff/division handling safeguards issue should not have any role in the hiring of the independent auditor. NCRPB's Board of Directors will directly hire. The independent auditor will also report (submitting the report of the audit) directly to the Board of Directors. It will be mandatory that the internal staff/division furnish required information on their activities to the auditor. The auditor's fee can be fixed on the basis of the extent of environmental and social safeguards issues (number of projects, etc.) handled by the NCRPB in the given year.

110. All the projects that are categorized to have high impacts, i.e. E1 and S1, will be covered in these audits as long as disbursements have been made in the current or the previous year.

111. For the remaining projects, approximately 25% of other projects will be selected, it will include donor-funded projects, and will necessarily include at least one project from different project types.

112. NCRPB and the respective project proponents/IAs will provide proper support and co-operation to the ESMS auditors.

113. ESMS auditors will submit an audit report for NCRPB's and project proponent/IA's follow-up. NCRPB will agree on the follow-up action for each of the audit findings and agree on a timeframe to implement the follow-up actions.

114. ESMS auditors will carry out a desk review to confirm that the follow-up actions have been done. The annual audit will be deemed as closed only after this confirmation is obtained.

## **G. Information Disclosure and Grievance Redressal Procedure**

115. NCRPB will disclose all environmental and social information on its website. This will include the ESMS and all the environmental and social assessment documents and plans, and monitoring/progress reports of projects that it funds. In line with donor's Public Communications Policy, NCRPB will ensure that relevant information about environmental and social safeguard issues is made available in a timely manner, in an accessible place, and in a form and language(s) understandable to affected people and to other stakeholders, including the general public, so they can provide meaningful inputs into project design and implementation. For Category E1/S1 projects, donor's particular information disclosure requirements has to be additionally met. Draft EIA reports will be submitted to the donor at least 120 days before project approval; and RP and IPP before project approval.

116. NCRPB will also make it a condition for each of the project proponents/IAs to disclose their environmental and social assessments and plans on their website. In addition, the project proponent/IA will make it available on request.

117. In case of any stakeholder grievances or queries or request for more information, as a matter of procedure, NCRPB will request the project proponents/IAs to respond within 15 days of receipt. NCRPB will do the same if the query pertains to its ESMS activities/operations/functioning. At the project level, grievance redressal will be in accordance with the EIA/IEE/RP/IPP.

## **V. Organizational Arrangements**

### **A. Roles of Different Organizations**

#### **1. NCRPB**

118. NCRPB will provide guidance to the implementing agencies about the environmental and social safeguard requirements prior to and during NCRPB appraisal. Once the project is submitted, NCRPB will appraise the projects approached for funding. This will involve the appraisal pertaining to environmental and social safeguards, and this will be a part of the overall appraisal that will comprise technical, financial, economic aspects as well. It is on the basis of this appraisal that NCRPB sanctions the loan.

#### **2. Appraisal Agencies**

119. Appraisal Agencies (termed as “National Institutions”) will be identified to carry out detailed appraisal of DPRs with respect to technical feasibility, cost reasonability, financial viability and good engineering design, status of mandatory clearances, etc., and submit project appraisal report to NCRPB for its review. Appraisal Agencies will also look into the environmental and social aspects of the project, depending on the requirement, to check whether it complies with the NCRPB’s ESMS. NCRPB will ensure that the Appraisal Agencies have necessary expertise in dealing with environmental and social issues. The Appraisal Agencies will include organizations such as:

- Water and Power Consultancy Services (WAPCOS): Power, Water Supply, Sewerage, Drainage, Solid Waste Management
- Engineers India Limited (EIL): Power, Water Supply, Sewerage, Drainage, Solid Waste Management, Land Development, Industrial Town, Landscaping, IT Park, Transport, Informal Sector
- National Environmental Engineering Research Institute (NEERI): Water Supply, Sewerage, Drainage, Solid Waste Management
- National Building Construction Corporation (NBCC): Land Development, Social Infrastructure, IT Parks, Informal Sector
- Building Material and Technology Promotion Council (BMTPC): Land Development, Social Infrastructure
- HSCC (India) Ltd.: Land Development, Social Infrastructure
- Central Road Research Institute (CRRI): Transport

#### **3. Project Proponents/Implementing Agencies (IAs)**

120. Project proponent/IA, who approach NCRPB for funding, may be any agency of the participating State Governments in the NCR including line departments, Urban Local Bodies, Development Authorities, Housing Boards, and Industrial Development Corporations etc. Project proponent/IA formulates the project and approaches for funding of NCRPB for implementation. It is the responsibility of project proponents/IAs to prepare necessary project documentation (Detailed Project Reports). Project proponents/IAs normally appoint Consultants prepare DPRs. Similarly, it will be the responsibility of project proponent/IA to prepare necessary documents and comply with the provisions of NCRPB’s environmental and social safeguard requirements.

#### **4. Design Consultants**

121. Due to lack of in-house capacity, project proponents/IAs normally appoint consultants to assist in preparing Detailed Project Reports. Some organizations, especially State Line Departments like Public Health Engineering Department (PHED), also undertake these works in-house without or limited assistance of consultants. The Design Consultants will also assist the project proponent/IA in preparing safeguard documents as required, and will also assist in obtaining the necessary clearances/approvals. These Design Consultants will be informed of NCRPB's safeguard requirements—described in this ESMS—so that they can take the necessary action during the design phase.

#### **4. Construction Contractors**

122. Project proponents/IAs appoint Construction Contractors to build the infrastructure elements. The construction contractors will have environmental and social safeguard requirements that they need to adhere as a part of their contract. For instance, the EMP will form a part of the contract documents and the contractors will have to ensure that the EMP requirements are adhered.

#### **5. Project Management or Supervision Consultants (PMCs or SCs)**

123. Respective jurisdictional engineers of project proponents/IAs supervise construction work on-site. These engineers will be informed about the environmental and social safeguard requirements so that they can ensure that the construction contractors adhere to the same. Wherever project management consultants are employed to support the IAs in supervision, concerned officers of the project management consultants will be informed about the environmental and social safeguard requirements.

#### **6. Operation and Maintenance (O&M) Agencies**

124. Normally, IAs carry out the operation and maintenance of infrastructure through its own staff or contractual staff. These staff will be informed about the environmental and social safeguard requirements, if any, in the operational phase, and the respective project proponent/IA will be responsible to ensure that these requirements are met.

### **B. Organizational Structure**

125. NCRPB will have an Environmental and Social Management Cell (ESMC) to deal with environmental and social safeguard issues. The ESMC will be housed inside the appraisal function of NCRPB and will have two distinct sub-functions, i.e. managing environmental safeguards and social safeguards.

126. In the ESMC, there will be one full-time separate staff, a safeguards officer, who will be looking after the day-to-day activities related to the safeguard requirements. He/she will be responsible for both environmental and social safeguard functions.

127. This safeguards officer will work closely with the project proponents/IAs who will be responsible for the day-to-day implementation aspects and associated safeguard compliance. The safeguards officer will monitor the portfolio of projects financed by NCRPB on safeguards and work with the project proponents/IAs in ensuring safeguard compliance. The safeguards officer will engage an ESMS auditor on an annual basis and also involve the services of a



Monitoring & Evaluation Experts for E-1 & S-1 projects. The safeguards officer will also arrange to conduct training and capacity-building initiatives to build awareness, knowledge and skills of project proponents/IAs and agencies associated with them. To conduct these activities, the safeguards officer will engage external environmental and social consultants on a need-basis. Based on specific project needs, the project proponents/IAs will hire their own safeguards staff and consultants to supervise and manage safeguard aspects during the design, implementation and operational phases of the project. Typically, during project preparation, the project proponents/IAs hire environmental consultants to conduct the EIA & social studies, to prepare an EMP & RP to assist in obtaining the environmental clearances from the MoEF / SEIAA. During implementation, the project proponents / IAs assign the environmental and social responsibilities to their engineers, who would be point persons to deal with the project management consultant's environmental engineer, the contractor's environmental engineers and the NGO responsible for the RP implementation.

128. The safeguards officer will typically have the following educational qualifications and working experience: Masters degree in Planning or Environmental Sciences/Engineering/Technology/Social Sciences or Management with at least 10 years experience in design, review, and appraisal of safeguard compliance as a part of donor-funded projects. Existing NCRPB staff can also be considered for this position. They will be given adequate training on the national legal requirements as well as the donor requirements.

129. Given the range of safeguard issues that may confront the various projects, the safeguards officer would source expertise from outside/external consultants on a case-to-case basis in line with the specific needs/requirements of the particular project.

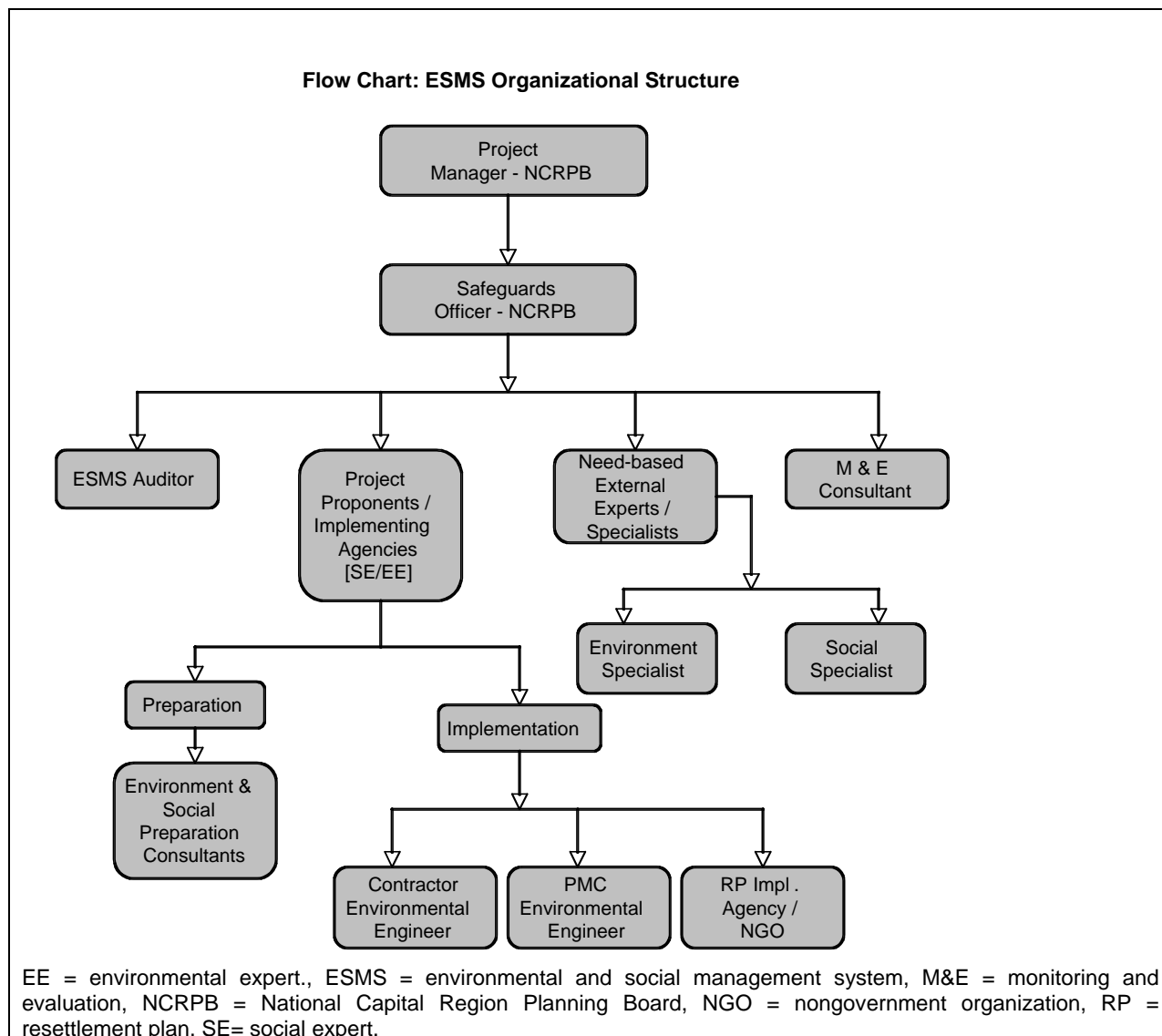
## **1. Environmental**

130. NCRPB will deal with environmental safeguards through the following activities: implementing the operational procedures of this ESMS, verifying that legal requirements in terms of obtaining the various permissions/clearances vis-à-vis the projects financed, advising on conditions that will be included as a part of the loan covenants, overseeing the implementation of environmental management measures (such as the EMP), and undertaking periodic monitoring and reporting.

## **2. Social**

131. NCRPB will deal with issues of land acquisition, IR, and IP issues with regard to projects through the activities of the ESMC. These include implementing the operational procedures of this ESMS, advising on conditions that will be included as a part of the loan covenants, confirming that the land acquisition and plans such as the RP and the IPP are completed prior to the commencement of civil works, and undertaking periodic monitoring and reporting.

132. The organizational arrangements are shown in the Chart below.



## C. Roles, Responsibility, and Authority

### 1. Environmental Safeguards Function

133. The role is to implement the policies and operational procedures of this ESMS, to respond to environmental safeguard issues of the various projects that are financed by NCRPB and also be proactive in identifying likely safeguard issues that could be relevant in the context of its portfolio of projects.

134. The following are the responsibilities relevant to the environmental safeguards staff:

- Maintain and keep up-to-date the environmental aspects of the ESMS— environmental policies and procedures (screening, categorization, environmental appraisal and others) —on a day-to-day basis.
- Monitor the portfolio of projects financed by NCRPB on environmental safeguards, prepare status reports on a periodic basis both in the construction

and operational phases, and work with the IAs in ensuring that environmental safeguard compliance.

- Engage in training and capacity-building initiatives to build awareness, knowledge and skills of IAs and agencies associated with them.
- Provide the required information to the donor agencies based on their requirements.
- Provide support and co-operation to the external ESMS auditors for the conduct of the annual audit.
- Use the project-level experiences and advise on the integration of environmental considerations in the planning process of NCRPB. This is to done through determining the current state of the environment and how the project level achievements of environmental goals - through periodic monitoring—have led to improved environmental outcomes.

135. The following are the authorities given to those responsible for the environmental safeguards staff:

- Request relevant information from within NCRPB to assist in the ESMS implementation on a day-to-day-basis.
- Ask data and documentation from the IAs regarding environmental safeguard compliance, e.g. monitoring reports to demonstrate compliance to legal requirements or EMP.
- Inform to NCRPB Appraisal and/or Monitoring teams on non-compliance, if any, to any legal requirements of any of the projects financed or the risk related to environmental safeguards compliance to which NCRPB is exposed.
- Advise the NCRPB Appraisal team to defer financing decision on a project due to non-compliance with environmental safeguards issues.
- Advise the NCRPB Appraisal team to delay the disbursement of an installment to project proponent/IA due to non-compliance with environmental safeguards issues.

## **2. Social Safeguards Function**

136. The role of the safeguards officer will be to help NCRPB translate its social safeguards policy into action.

137. The following are the responsibilities of the safeguards officer:

- Review whether the project proponent/IA has taken efforts to avoid or minimize IR and impacts to IP during the pre-planning stage.
- Screen of project proposals to verify whether the safeguard documents—commensurate to the significance of the impacts—have been prepared and submitted along with the loan application.
- Ensure that the project proponent/IA fulfils the required planning process for addressing social safeguards issue, including the planning for IR and IP, consultations and disclosures, the implementation of RP and IPP, and redressal of grievance.
- Ensure that disbursement decision of the NCRPB takes into account the successful completion of the RP and IPP implementation.
- Set loan conditionality to include social safeguards covenant.
- Carry out periodic review of the progress on RP and IPP implementation and ensure that the progress reports are submitted in a timely manner.

- Provide the required information to the donors based on their requirements.
- Provide support and co-operation on social safeguards to the external ESMS auditors for the conduct of the annual audit.

138. The following is the authority given to the social safeguards staff:

- Call for more information from the project proponent/IA regarding social safeguards issues.
- Advise to NCRPB to ask the project proponent/IA to rework the social safeguards section of loan application documents submitted by the project proponent/IA, e.g. DPR.
- Advise NCRPB to defer financing decision on a project due to non-compliance with social safeguards issues.
- Advise NCRPB to delay the disbursement of an installment to project proponent/IA due to non-compliance with social safeguards issues.

#### D. Budgetary Resources

139. As a part of the annual budgeting process, NCRPB will ensure that sufficient funds/finances are made available for the effective conduct of the activities of the ESMS and in managing environmental and social safeguards vis-à-vis its various projects.

140. The following table provides an annual indicative budget:

**Table 12: Indicative Budget**

No.	Description	Basis	Amounts (Rs. Million)	Source of Funds
1.	Safeguards Officer – Salary	1 person, Rs. 40,000 per month	0.48	NCRPB
2.	External Safeguard Consultants to advise ESMC [Part of PMC]	2 consultants for 4 man months per year, Rs. 250,000 per month (US \$ 5,000 per month at Rs. 47 per US\$)	2.00	Implementation support
3.	Due Diligence / Appraisal visits	2 visits per month, Rs. 5,000 per visit	0.12	Implementation support
4.	Training & Capacity-building of IAs	Lumpsum amount of Rs. 200,000 per year	0.20	Implementation support
5.	Implementation / Monitoring visits	2 visits per month, Rs. 5,000 per visit	0.12	Implementation support
6.	External Monitoring & Evaluation of E1 and S1 projects	1 project per year, Lumpsum amount of Rs. 500,000 per project	0.50	Implementation support
7.	External ESMS audits	1 audit per year, Lumpsum amount of Rs. 1,000,000	1.00	Implementation support
<b>Total:</b>			<b>4.30</b>	