



USAID
FROM THE AMERICAN PEOPLE

ACTION PLAN FOR EFFECTIVE IMPLEMENTATION OF RENEWABLE ENERGY PROJECTS AND ASSOCIATED SOCIAL ASPECTS (VOLUME I)

**Mexico Low Emissions Development-II Program
(MLED-II)**

CONTEXT

In Mexico and other countries in the region, the significant increase in renewable energy (RE) capacity has put pressure on local communities, largely indigenous. This has in many instances slowed down, and sometimes prevented, the development of RE projects. This was the case for some projects of the 1 GW of renewable energy awarded in the first round of the auctions in early 2016 in the Yucatan region.

In 2016 and 2017, the United States Agency for International Development (USAID)-funded Mexico Low Emissions Development-II Program (MLED-II), supported relevant energy sector entities in Mexico to address legal and governance gaps for the effective management of social issues that arise during the development, construction and operation of energy projects.

The primary tool of this support was an action plan, delivered in November 2017, which consolidated, coordinated, and prioritized recommendations of key individuals in the public, private, and civil society sectors for activities regarding social aspects. This action plan also included inputs from three meetings organized by USAID in 2016 and 2017.

The action plan was developed considering a wide range of interrelated data from preliminary studies, social impact evaluations (i.e., Evaluación de Impacto Social, or EvIS), prior consultations, social investment, and project shared benefits initiatives. The connectivity of these are critical; for example, preliminary studies provide inputs for EvIS and consultations. These, in turn, shape the project's shared benefits and social investment initiatives. Their cause-and-effect relationships helped to reinforce the need for harmonized methods and processes for the various government agencies involved.

In June 1, 2018 the entity in charge of energy policy in Mexico, SENER (Secretaría de Energía), published Administrative Provisions (Disposiciones Administrativas) for the social impact evaluation (Evaluación de Impacto Social, EvIS) of energy projects developed in Mexico.¹ The Administrative Provisions established the general procedures, methodologies and guidelines for the preparation and presentation of EvIS, and incorporated many recommendations identified in this action plan. Annex I presents a summary of the legal and technical content of the Administrative Provision.

The objectives of this action plan were to:

- 1) present observations and recommendations of stakeholders from a variety of sectors;
- 2) support the streamlining of RE projects; and
- 3) provide key points for the discussion and debate of the public policy framework analyzed by MLED-II—a framework that sought to propose specific actions to consolidate good governance and positive social outcomes. The plan also proposes the forming of technical workshops to encourage review, discussion, and agreement on recommendations that can be implemented in the short-term by stakeholders such as the federal government, states, municipalities, nongovernmental organizations (NGOs), communities, development agencies, and civil society organizations (CSOs).

¹ The Provisions concerned both electricity and oil and gas projects.

This document answers the following questions:²

- **Where are we now?** The current legal and institutional framework is analyzed in terms of its social aspects in order to identify opportunities for engagement.
- **What is needed?** During discussions, stakeholders from the public and private sectors, donor agencies, private banks, and civil society provided inputs on what is needed to address social aspects related to RE projects.
- **How are gaps going to be filled?** Through identified engagement opportunities, the action plan proposes ways to fill the gaps and shortcomings.
- **What should an integrated process look like?** The implementation of such an integrated process should ensure that the development of RE projects fully respects human rights and promotes sustainable development.

WHERE ARE WE NOW?

The assessment of the current situation includes all social aspects within the context of the existing legal framework in the electrical power sector. The Mexican institutional framework defines the following responsibilities for key institutions in the power sector:

- **SENER:** leads energy policy in Mexico;
- **SEDATU:** plans, coordinates, administers, creates, and executes public policies for territorial regulations, and provides legal certainty to agricultural areas and farming communities;
- **SEDESOL:** designs and leads social development policy, to ensure that programs and actions have a holistic and effective impact on combatting poverty, and operate within a legal framework that allows for transparency, accountability, and the evaluation of results;
- **SEGOB:** addresses the political development of the country, and contributes to managing government relations in order to foster peaceful co-existence, social peace, and the development and welfare of Mexicans, under the rule of law; and,
- **SEMARNAT:** incorporates and manages criteria to ensure protection, conservation, and beneficial utilization of natural resources; evaluates and approves environmental impact assessments submitted by project developers.

The main responsibilities for data and information gathering and dissemination are concentrated within the following institutions:

- **CDI:** National Commission for the Development of Indigenous Peoples (Comisión Nacional para el Desarrollo de los Pueblos Indígenas);³
- **CONEVAL:** National Council for the Evaluation of Social Development Policy (Consejo Nacional de Evaluación de la Política de Desarrollo Social); and,
- **INEGI:** National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía).

² Other documents, not provided here, compiled detailed inputs, such as: minutes from three events with the public, private, and social sectors; a bibliographical review for Mexico; a summary of the relevant regulatory framework, and key institutions and their responsibilities; comments the Federal Commission for Regulatory Improvements (“Comisión Federal de Mejora Regulatoria”, COFEMER) compiled regarding the Administrative Provisions; and a detailed compilation of various national and international information sources, reviewed as methodological and bibliographical support to develop the action plan.

³ CDI identifies indigenous tribes based on ethno-linguistic criteria. The main characteristic to determine if someone is indigenous or not is if the person is a native speaker of a dialect and has some specific cultural features. However, some experts reject the concept. For example, there are Yucatan inhabitants with Mayan surnames who don't speak Mayan.

Institutions responsible for model contracts and mediation processes concerning land use are:

- **PA:** Agricultural Law Office (Procuraduría Agraria); and,
- **INDAABIN:** Institute of Management and Valuation of National Assets (Instituto de Administración y Avalúos de Bienes Nacionales).

Institutions responsible for power generation and interconnections permits are:

- **CRE:** Energy Regulatory Comision (Comisión Reguladora de Energia); and,
- **CENACE:** National Energy Control Center (Centro Nacional de Control de Energía, ISO).

Additionally, landowners' responsibilities include full compliance with contracts and agreements, while developers are responsible for: compliance with due process, respect for human rights, the implementation of a social management plan for EvIS, and the outcomes of agreements and contracts.

The National Supreme Court of Justice established a precedent regarding prior consultations with indigenous communities which clarifies when such consultations should be triggered. This precedent⁴, published in the Judicial Journal of the Federation on June 24, 2016, says that consultations should proceed when there is evidence that the foreseen activities may have a significant impact on the life or environment of indigenous groups. The condition of *prior* must reflect sufficient time before the beginning of implementation activities (e.g., construction). Additionally, discussions must include findings from case-specific decisions to identify holistic measures and address gaps. In this context, consensus is reached through dialogue and consistent workshops.⁵

The June 2018 Administrative Provisions mandate that:

- an EvIS must be submitted by the project promoter and reviewed and approved by SENER **before initiating project activities**; and⁶
- if SENER establishes that a **collective issue** that requires a prior consultation process for indigenous peoples and communities exists, and that there is a possibility of affecting **collective rights**, SENER will notify the promoter through a formal resolution about the need to carry out prior consultations as stated in the Hydrocarbons and Electricity Laws and corresponding regulations.⁷

The SENER resolution will define, if applicable and in accordance to the Hydrocarbons and Electricity Laws: the communities and indigenous peoples to be consulted; the possible collective rights that will be affected; the specific aspects to be addressed in prior consultations; and, the required procedures to be followed for prior consultation.

⁴Isolated Decision [Tesis Aislada] 2ª. XXVII/2016(10ª.) (Volume 3, Annex G). An Isolated Decision (Tesis Aislada) is a criterion issued by a Collegiate Court or by the Supreme Court (in plenary session or in courtrooms) that interprets a legal precept but has not become mandatory, however, it serves to guide future legal decisions. Traditionally five or more Isolated Decisions may integrate or reject a Jurisprudence which is the mandatory interpretation of the law.

⁵In the aforementioned decision, the national supreme court of justice identified "by way of illustration, and without limitation, a series of generic situations that are deemed to have a significant impact for indigenous groups, such as: 1) loss of territory and traditional lands; 2) removal from their lands; 3) potential resettlement; 4) depletion of resources necessary for physical and cultural survival; 5) destruction and pollution of the traditional environment; 6) social and community disorganization; and, 7) negative health and nutritional impacts, among others." Isolated Decision [Tesis Aislada] 2ª. XXVII/2016(10ª.) (Volume 3, Annex G) published in the Judicial Weekly of the Federation on 24 June 2016.

⁶ Article 43 of the Administrative Provisions.

⁷ Article 46 of the Administrative Provisions.

WHAT IS NEEDED?

During discussions, stakeholders from the public and private sectors, donor agencies, private banks, and civil society discussed the current institutional and legal framework for social aspects of RE projects. They also identified issues that still need to be addressed during project implementation with due consideration of relevant social aspects.⁸

Table I summarizes stakeholder feedback grouped by key factors (columns), for the various topics (rows): preliminary studies, social impact study, prior consultation, social investment and shared benefits.

TABLE I. CURRENT NEEDS REGARDING SOCIAL ASPECTS RELATED TO RE PROJECTS				
	Strengthening legal and political framework	Capacity development and coordination	Governance and human rights	Access to information and citizen participation
Preliminary Studies	<ul style="list-style-type: none"> Report on vulnerable persons and groups. Inform development companies of the presence of vulnerable persons and groups implementing (under the responsibility of SENER). 	<ul style="list-style-type: none"> Publish socio-economic, socio-demographic, and socio-cultural indicators, disaggregated by gender. 	<ul style="list-style-type: none"> Have an urban and territorial development plan. Study the impacts of greatest concern to the local community 	<ul style="list-style-type: none"> Generate cumulative impact reviews and studies. Create inventories of natural and cultural heritage. Establish common baseline for public information.
Social Impact Study	<ul style="list-style-type: none"> Apply the tool for Comprehensive Management of Social and Environmental Impact Studies implemented by- Foundation for Sustainable development (FDS)⁹. The EvIS must consider long-term impacts, including their associated effects. Include issues and conditions to be resolved in EvIS. Identify, characterize, and assess social impacts. 	<ul style="list-style-type: none"> Train personnel to carry out the consultation process and EvIS in indigenous languages. 	<ul style="list-style-type: none"> Comprehensively quantify socio-environmental impacts. Regular follow-up. Implementation of laws and regulations. Ensure that consultancies follow international standards and methods. 	<ul style="list-style-type: none"> Establish a baseline supported by quantitative and qualitative methodologies. Characterize the profiles of the indigenous communities and peoples. Report the types of shared social benefits proposed in EvIS.

⁸ Volume 2 of the action plan itemizes the meeting minutes.

⁹ An NGO

TABLE I. CURRENT NEEDS REGARDING SOCIAL ASPECTS RELATED TO RE PROJECTS

	Strengthening legal and political framework	Capacity development and coordination	Governance and human rights	Access to information and citizen participation
Prior Consultation	<ul style="list-style-type: none"> • Establish the General Law on Indigenous Consultation, and other guidelines. • Establish penalties for practices contrary to human rights. 	<ul style="list-style-type: none"> • Clarify institutional responsibilities. • Define the critical path for the consultation process. • Create the technical committee for consultations. • Provide training on consultations to development companies and the institutional personnel involved. 	<ul style="list-style-type: none"> • Ensure that the consultation process complies with requirements for being “previous” and inclusive. • Obtain social licensing through agreements or consent. • Plan and implement with increased participation of civil society and local governments. • Create safe and neutral spaces for consultation. • Define the degree to which the results are mandatory. • Effectively implement international treaties and agreements; the Mexican constitution; and other laws and regulations. 	<ul style="list-style-type: none"> • Socialize economic information of the projects, both for communities and for academia and civil society organizations. • Practice inclusive participation. • Implement decision-making that satisfies communities and traditions. • Communicate in a way that is broad and accessible. • Provide channels for public participation. • Identify the collective subjects of rights.

TABLE I. CURRENT NEEDS REGARDING SOCIAL ASPECTS RELATED TO RE PROJECTS

	Strengthening legal and political framework	Capacity development and coordination	Governance and human rights	Access to information and citizen participation
Social investment and shared benefits	<ul style="list-style-type: none"> • Execute development projects for the benefit of the community or affected local area. • Establish a tax-deductible percentage of income for direct benefit to the community. • Explore the creation of a basic social infrastructure fund. • Include the proposition of shared benefits as an explicit criterion in the bidding conditions. • Analyze community project models. 	<ul style="list-style-type: none"> • Design a decentralized body to manage local benefits. • Establish follow-up and monitoring systems. • Improve inter-institutional coordination. • Facilitate negotiations. • Train government officials, companies, judges, population groups, and third parties. • Use the shared benefits model to benefit people who own and hold land (FDS). 	<ul style="list-style-type: none"> • Establish state-level planning development that reflects the contributions of the projects, or the regional or state plans. • Establish penalties for unlawful conduct regarding the processes associated with shared benefits. • Raise communities' levels of social welfare using schemes that are participative and inclusive. • Obtain systems for accountability to avoid corruption. • Collect successful case studies on social investment and share benefits of Mexican companies¹⁰. • Assign shared responsibility with local communities. 	<ul style="list-style-type: none"> • Design productive projects focused on women. • Develop communications material for the communities. • Promote open dialogue processes regarding shared social benefits. • Promote exchanges of practices and lessons learned regarding shared social benefits. • Conduct studies on the needs of communities. • Include people and collective entities as partners in RE projects. • Increase availability, in indigenous communities with high potential for RE, of education programs and scholarships for training in the topic.

¹⁰ For example: The two largest mining companies in Mexico (Grupo Peñoles and Grupo Mexico) voluntarily adopted principles of corporate responsibility and are engaged in community support programs.

In Mexico, despite the existence of a well-defined institutional framework, the current legislative situation presents challenges for the implementation of RE projects. Specifically, there have been shortcomings in governance that result in a failure to define and implement regulations, as well as the key shortcomings set forth in Table 2, below.

TABLE 2. KEY SHORTCOMINGS OF THE LEGAL FRAMEWORK	
Issue	Legal Gap
<ul style="list-style-type: none"> • Preliminary studies 	There is a lack of comprehensive and monitored information about vulnerable groups.
<ul style="list-style-type: none"> • Social impact evaluation • Prior consultation 	Although the administrative provisions were published on June 1, 2018, and the social impact evaluation methodologies and formats were included, the regulations and methodologies on prior consultations in indigenous and non-indigenous communities still need to be created and published.
<ul style="list-style-type: none"> • Shared benefits and social investment 	Schemes or mechanisms for social investment and shared benefits need to be developed.

HOW ARE THE GAPS GOING TO BE FILLED?

Key stakeholder recommendations (see Table 1) were analyzed based on a bibliographic review of the Mexican case, a review of international experiences, and specific interviews. In order to respond to identified gaps and challenges, this action plan lays out the below actions for future discussion. Though each can be considered feasible and viable contributions towards the goal of implementing RE projects while respecting human rights, they first warrant further dialogue and scrutiny with a focus on building consensus before the measures are to be adopted.

Cross-cutting Actions

- **SEGOB and SEDATU: Define and improve the energy governance system.** Define the role of the Mexican state as the leader of social and economic development practices at the local and national level. Additionally, as it relates to the energy sector: facilitate conflict resolution; ensure that adopted decisions are consistent and provide legal certainty; develop mechanisms, standards, and methodologies for public, private, and citizen authorities; and, establish binding responsibilities that will facilitate the integration of the needs and interests of individuals and groups at all levels.
- **CDI: Improve the quality of the information provided to the impacted communities.** Information should be provided that covers the basic details of RE projects, including potential benefits, and impact, while considering socio-economic development, geographic, and demographic criteria. This information should be accessible and transparent to the communities. CDI is the institution responsible for this action, supported by SENER, SEDESOL, SEDATU, local authorities, international organizations, NGOs, and others.

Preliminary Studies Actions

- **SENER: Define comprehensive and monitored sources of information to be included in the National Atlas of Clean Energy Zones (AZEL).** Establish guidelines for

the types of georeferenced information that will be provided to development companies and local authorities. This information should consider the demographic, economic and cultural situations of the vulnerable populations, and should be disaggregated by gender and zones, with more stringent requirements for project construction approval. The information should also take into account the process for standardizing information, and for facilitating the Social National Council for the Evaluation of Social Development Policy's (CONEVAL) review and monitoring of AZEL data quality.

- **SENER: Include and publish comprehensive socio-economic indicators, disaggregated by gender, in areas with a high potential for RE.** These indicators will allow development companies and local authorities in the potentially affected zones to be aware of the population's condition and the needs and opportunities for sustainable economic growth. The indicators will also provide relevant information for the organization of prior consultations. INEGI, SEDESOL and CONEVAL will support SENER, respectively, providing statistical information about social development programs and the evaluation of related policies.

EvIS Actions

- **CENACE and CRE: Define the EvIS and SEMARNAT's Environmental Assessment (Manifestación de Impacto Ambiental, MIA) resolutions as requirements in the auctions process.** EvIS completion may be considered as part of the criteria for energy project tenders, and if the project developer has made progress with EvIS and MIA, these milestones might lead to lower costs in the performance guarantees required for the project.
- **SENER: Develop methodology to review EvIS.** Based on the issued Administrative Provision of EvIS, SENER will develop a methodology to facilitate a review, which may include socio-economic indicators on health, education, housing, or others. SENER will ensure that decisions related to EvIS include the conditions necessary for implementation of the social management plan, and strict compliance in cases where there are high levels of social conflict. (The Administrative Provision is a regulation. In this case, it indicates how to develop and present an EvIS. But there is still no methodology on how SENER should evaluate the presented EvIS. In other words, SENER assesses the EvIS based on the representatives' review.

Prior Consultation Actions

- **SENER and CDI: Establish and differentiate the regulations for prior consultations through the Administrative Provisions of EvIS.** Although the Administrative Provisions have been published, and include some recommendations presented in this action plan, they do not include the methodological approach for prior consultations. Such an approach should be consistent with the Federal Laws. The Isolated Decision [Tesis Aislada] of the National Supreme Court of justice lays out conditions that would lead to a consultation and specifies how the consultation should be conducted.
- **SENER: Strengthen federal and state capacity with specialized personnel and budget resources.** This is intended to ensure the consultation properly complies with the requirement that it is preceding or "previous" to the project. Funding for strengthening the institutional capacities of SENER, SEDATU, the Agricultural Law Office, and the National Commission for the Development of Indigenous Peoples could come from a portion of the fees collected from the sale of the auction tender documents. Additionally, as a result of this capacity

building SENER will have the ability to hold consultations with populations in areas of influence to the project.

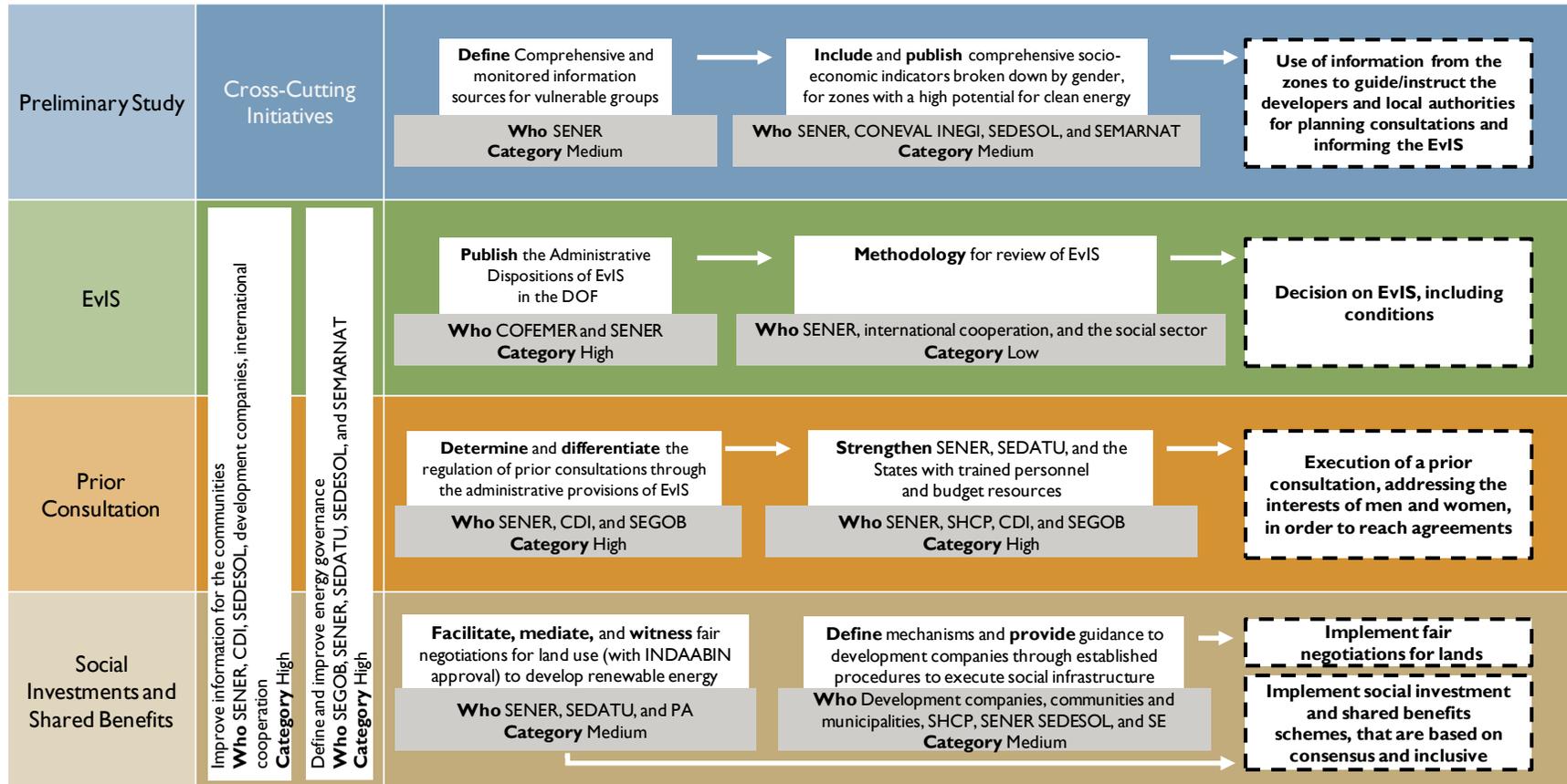
Social Investment and Shared Benefits Actions

- **SENER, SEDATU, PA and INDAABIN: Facilitate, mediate, and witness fair negotiations for land use.**¹¹ These actions also include EvIS since they are informed by measures prior to implementation activities and include the social management plan that will describe specific measures to address social impact. In this context, it is proposed that this mandate be extended to monitoring compliance with contract terms and the agreements associated with other benefits (such as infrastructure, cash, participation through shares, etc.) Implementation will improve the process for negotiation and enforcement of the contracts for land and will underscore the importance of inter-institutional coordination among the different units, bodies, and institutions that are organized by sector for each entity.
- **SENER: Define mechanisms and provide guidelines for development companies, under the procedures currently established to execute social infrastructure projects.** Based on best international and national practices, the following mechanisms may be considered: i.) Include criteria on social aspects in the conditions for the Auctions; ii.) Establish a tax-deductible percentage of income from RE projects that can be applied toward the development of social infrastructure projects; iii.) Use the basic infrastructure funds of the federal budget; and, iv.) Offer shareholdings in the project to the community. Having a social investment mechanism that is agreed upon by all actors will help to obtain implementable solutions with mutual benefits; greater transparency in the process; and, proper and effective allocation of associated costs. The responsible institution is SENER, in coordination with SEDESOL, the local authorities, and communities.

Figure I below describes actions that must be considered and agreed upon in order to fill the gaps, as well as the expected results. The figure shows the four key action plan topics, and includes single-issue and cross-cutting actions. Additionally, each action below includes the responsible implementing institution and supporting activities—all according to an agreed classification between the main stakeholders decided on at the workshop: low, medium, or high (“low” means activities will take place in more than one year, “medium” within six months to one year; and “high” over the next six months). Lastly, the gray boxes with dotted outlines show the expected results from implementing the action plan on each key topic.

¹¹ These agencies must be included in the negotiations: SENER as the promoter of the project. SEDATU has attributions on agricultural and territorial development. PA is the Agricultural Attorney, and INDAABIN advises on the market prices of the land.

FIGURE 1. ACTION PLAN FOR FILLING GAPS AND EXPECTED RESULTS



Note:

- For each action, agreement must be reached through technical workshops before proposing to establish any measures.
- The gray boxes with dotted borders show the expected results corresponding to the action plan.
- Improving energy governance and information are cross-cutting actions that are relevant to all the key topics.

WHAT SHOULD THE INTEGRATED PROCESS LOOK LIKE?

To integrate energy projects compliant with the current regulatory framework, it is necessary to develop a process that addresses human rights and sustainable development commitments through a legal system that has been harmonized with preliminary studies, EvIS, prior consultations, shared benefits, and social investment initiatives.

Figure 2 shows the indicative process that a developer should follow to implement RE projects. The following color code system has been used: preliminary studies (green); EvIS (blue), prior consultation (yellow), informative session (turquoise) and social investment and distribution of benefits (purple).

The proposed flows assume that existing regulations will be effectively implemented, addressing the gaps that were identified through the recommendations under review and the decisions set forth in the Isolated Decision (Tesis Aislada).¹²

Under these assumptions and before starting the project, the developer will have the studies developed by SENER, SEDESOL, INEGI and the state governments (highlighted in green) in the form of: i) socio-economic indicators for vulnerable persons or groups with geographic references to AZEL, and ii) the strategic environmental impact assessments conducted by SEMARNAT.

Following preliminary assessments and upon identifying a viable site, the developer begins two parallel processes, one involving Private Law (dotted box) and one involving Public Law:

- A development company will acquire land from people who own or hold land following Private Law, which applies to the legal relationships between the owners and the tenants. In most of the cases these “private persons” (including companies, people and communities) are on equal conditions and willing to sign contracts that do not require the intervention of any state authority.
- Outside of this dotted box, the process follows Public Law with legal processes, such as permits and regulations, with the intervention of authorities from the State, and in most of the cases, with mandatory participation of federal, state and local authorities.
- The differentiation between private and public “interest” is key because public prior consultation is triggered only in the realm of public law.
- Specific to Mexico is that land can be public, private, communal or an “ejido”. An ejido is a state-owned land, assigned to local communities and by law, entitled to use the local resources. However, under the current legislation it can be privatized and sold as any private property.

With this information, a developer would express its interest in writing to SENER, the local authorities, and individuals who own the land, to use, affect, or potentially, acquire the land. Subsequently, SENER would inform the company of the presence of vulnerable persons or groups, and coordinate with the federal, state, and municipal government for national development planning to include territorial

¹² An Isolated Decision is a criterion issued by a Collegiate Court or by the Supreme Court (in plenary session or in courtrooms) that interprets a legal precept but has not become mandatory, however, it does serve to guide the criteria of the administrators of justice. Several Isolated Decisions may integrate or reject a Jurisprudence which is the mandatory interpretation of the law.

regulation programs, territorial environmental regulations, and municipal and state regulations. New special economic zones should be considered.¹³ While SENER is engaged in this process, the developer may secure the lands of interest for studies and measurements. It should be noted that negotiations for lands do not affect the rights of indigenous persons to consultations that are free, previous, informed, and in good faith. The developer may then execute the financial requirements that do not necessitate an administrative procedure.¹⁴

SENER will then determine whether an indigenous community exists. If one does, and if there is evidence that the expected procedure might have a significant impact on living conditions or the environment, SENER will organize the prior consultation. If an indigenous community does not exist (or after a positive consultation), the developer may move forward, being mindful to respect human rights, considering the United Nations' Guiding Principles for Business and Human Rights.¹⁵ Given that these principles reflect a multinational framework and must be adapted to the national context in order to ensure their positive contribution to the nation, they are highlighted in a dotted box (Figure 1) and with a different color to underscore their legal differentiation.

The process moves forward when the land use contract or agreement and the EvIS is agreed upon during the consultation in which case EvIS informs the approval of the environmental impact statement (Manifestación de Impacto Ambiental, MIA).

It is recommended that the MIA be carried out before the EvIS, since the environmental impacts usually condition social impacts in rural contexts with social-environmental systems that are interlinked with cultural features. Nevertheless, the order in which the MIA-EvIS are carried out will depend on site-specific and project-specific criteria. Figure 2 represents this with a circle (bottom right) that implies both incoming processes (private and public) must be completed for the project to move forward.

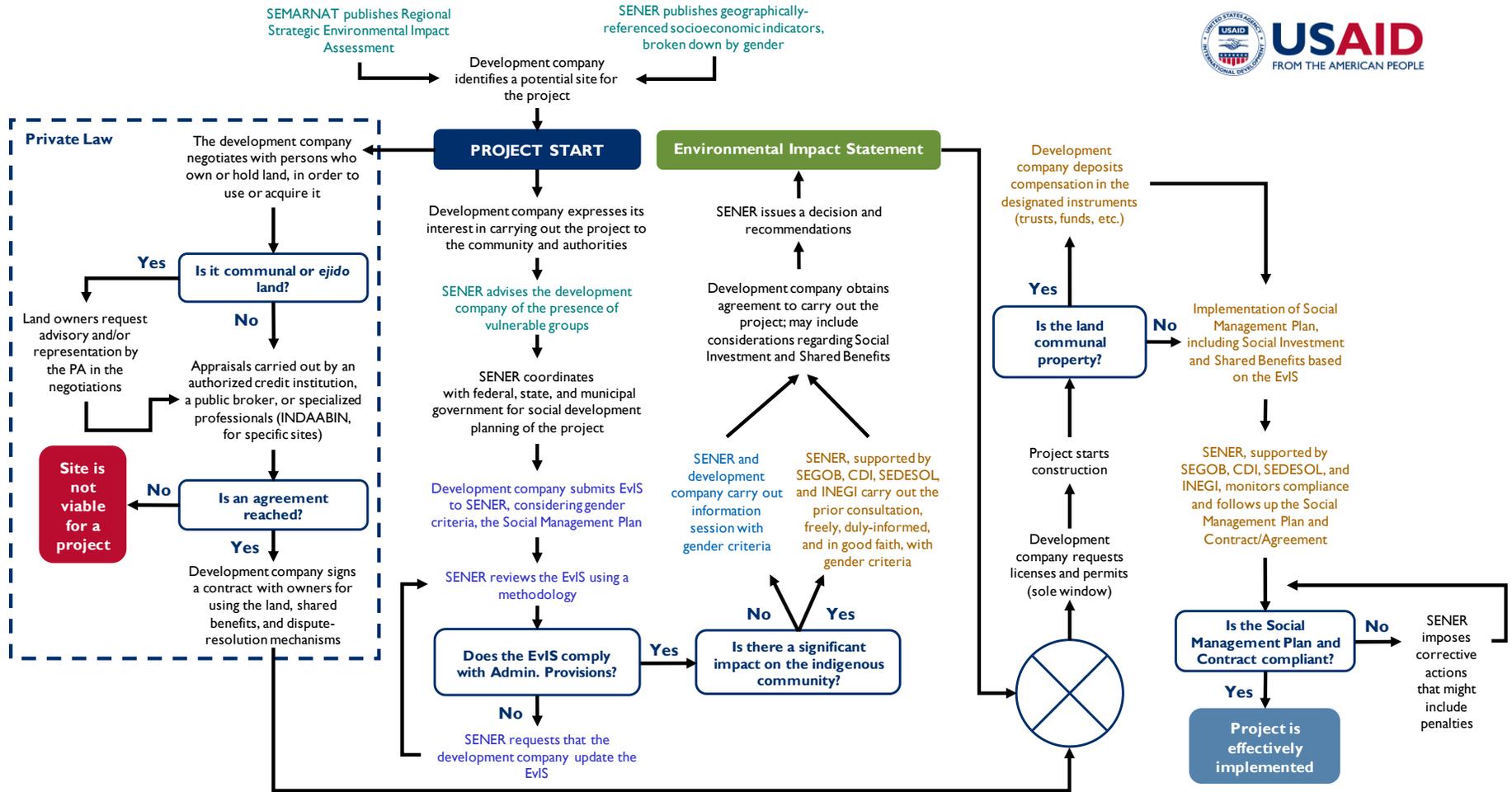
Once the assessments have been carried out, the process moves forward to applying for, and obtaining the permits for generation and interconnectivity to launch the construction of accesses and facilities, and to implement the social management plan, shared benefits, and social investment. In light of the harmonization process and the auction process, the conditions set forth for energy project tenders should take into consideration whether the promoter has made progress with EvIS and MIA; this can help obtain a lower cost for the required project guarantees.

¹³ Special economic zones are defined by ministry of economy as: a geographic area of the national territory, defined as units or sectors, subject to the special schedule provided in this law, in which activities may be carried out that include, by way of illustration and without restriction, manufacturing, agricultural industry, processing, manufacturing, and storage of raw materials and inputs; technological and scientific research and development; the provision of support services to such activities, such as logistical, financial, information, professional, technical and other services deemed necessary in accordance with this regulation, and the introduction of goods for those purposes.

¹⁴ Financial requirements that are of a private nature and don't require administrative procedures include pre-feasibility and feasibility studies. They do not necessarily necessitate action, expectations, or impacts on communities.

¹⁵ <https://www.unglobalcompact.org/library/2>

FIGURE 2. DIAGRAM OF THE INTEGRATED PROCESS WITH AN ACTION PLAN FOR A DEVELOPER



Note: this flow chart is applicable to projects that do not require a specific location, such as wind and solar projects. For projects with specific locations, such as geothermal and hydroelectric projects, refer to Art.71 LIE and the FIRST resolution of CRE resolution no. A/039/2016, published on November 8, 2016 in the Daily Official Gazette (DOF).

ANNEX I SUMMARY OF THE ADMINISTRATIVE PROVISIONS ON THE EVIS FOR ENERGY PROJECTS

Published in the Official Gazette of the Federation (DOF) on June 1, 2018, the Administrative Provisions on EvIS establish the general procedures for:

- A. The preparation and presentation of the EvIS
- B. The methodologies for:
 - the definition of the area of influence
 - the identification, characterization, prediction and assessment of the social impacts of Energy Sector Projects
 - the identification and characterization of communities and peoples
 - when the use of other methodologies accepted nationally or internationally is permitted.
- C. The procedure to be followed by SENER for the issuance of the corresponding resolution. Among others, it mandates that only the Ministry of Energy through the General Directorate of Social Impact and Surface Occupation can issue the corresponding resolution.

In terms of technical content, the Administrative Provisions:

- Provide different formats for the elaboration of EvIS, criteria such as size, location and type of projects.
- Define the cases in which the presentation of EvIS is not required (exceptions).
- Establish the guidelines for the incorporation of Social Management Plans.
- Promote the incorporation of the Gender Perspective in both the Social Impact Assessments and Social Management Plans.
- Include the option for the developers to hire a third party for the development of the EvIS.
- Mandate the preparation and presentation of a public version of the information contained in the EvIS, through an electronic platform.
- Include the option for SENER to request the technical opinion of agencies, entities and experts for the elaboration of the Resolution.