

DRAFT USAID Policy on Indigenous Peoples' Issues

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EXECUTIVE SUMMARY

This Policy on Indigenous Peoples' Issues positions USAID to strengthen and expand upon the decades of support the Agency has provided to indigenous peoples around the world. The Policy offers guidance for robust engagement and partnership with indigenous peoples to help USAID programs better align with indigenous peoples' own priorities, while ensuring that development activities do no harm.

The Policy was also designed to address common challenges faced by practitioners across the Agency such as how to determine if a particular group is indigenous, or how to communicate with indigenous peoples in a culturally appropriate way that enables them to contribute to the program design process or even program implementation.

The overarching goal of this Policy is to **improve the impact and sustainability of USAID programs by ensuring that USAID staff and implementing partners respect indigenous peoples' rights and engage indigenous peoples as authentic partners in development processes.** The Policy will help to ensure the sustainability of USAID's programs as described in USAID's Policy Framework which states that each country's development solutions should avoid doing harm, support local ownership, monitor and evaluate outcomes and effectiveness, and recognize that development is systemic. It also aims to increase the extent to which USAID partners with indigenous peoples to achieve common development objectives. Partnerships are a cornerstone of the Agency's support for the Journey to Self-reliance, and this Policy is an important resource in the Agency's efforts to help countries progress on that journey.

The Policy has three objectives:

- 1) Strengthen engagement with indigenous peoples to ensure USAID programs align with their development priorities and to safeguard against harm;
- 2) Increase integration of indigenous peoples' issues across all sectors and promote cross-sectoral development approaches; and
- 3) Empower indigenous peoples to exercise their rights, participate in decision-making processes that impact them, and practice self-determined development.

To assist missions in advancing these objectives, the Policy also contains five operating principles, as follows:

- *Identify indigenous peoples:* The Policy provides criteria that can be used to assist operating units in determining if a given group is indigenous.
- *Analyze indigenous peoples' issues:* The Policy provides guidance for better understanding indigenous peoples and includes references to key resources including an annotated Inclusive Development Analysis (IDA) that will help

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- practitioners articulate and develop solutions for the issues facing indigenous peoples.
- *Engage Indigenous Peoples*: The Policy strongly encourages direct engagement with indigenous peoples by USAID staff and implementing partners across the Program Cycle.
 - *Safeguard Indigenous Peoples' Rights and Well-Being*: The Policy provides guidance to ensure that Agency activities do no harm. In particular it provides recommendations regarding identification of social impacts and obtaining free, prior and informed consent (FPIC) from indigenous peoples in connection with a planned activity. However, the United States does not interpret FPIC to require actual consent in the sense of conveying an actual veto right to indigenous peoples in that context. The Policy provides links to the Agency's Social Impact Assessment Guidance and to more detailed FPIC considerations in the Indigenous Peoples Consultation Handbook.
 - *Partner with Indigenous Peoples*: The Policy emphasizes that not only are partnerships with local communities and leaders critical to assist countries on their Journey to Self-reliance, but the most effective partnerships are those in which all parties have genuine decision-making authority and the ability to influence the outcome of a project or activity. The Policy provides helpful guidelines on developing effective partnerships with indigenous peoples and taking advantage of Agency tools and methods like co-creation for activity designs.

In addition to laying out objectives and principles for the Agency's work with indigenous peoples, the Policy goes a step further to assist operating units in applying this guidance by illustrating how the principles, tools and resources discussed can be applied at each stage of the Program Cycle. This section illustrates how practitioners can strengthen their engagement or better align programming with indigenous peoples' priorities at any stage in the Cycle, even if such engagement was not considered at the CDCS level. It also illustrates how to operationalize key elements of the Policy's do no harm approach to align with work that is already being done to mitigate environmental impacts (e.g. the Agency's Environmental Impact Assessment process).

The guidance provided in this Policy aligns with appropriate international standards for development programming in situations where indigenous peoples are identified as project stakeholders. The Policy also aims to set a new global standard for genuine engagement and partnership with indigenous peoples that will not only deepen the impact and sustainability of USAID programming, but will also contribute to the progress of our partner countries on their Journey to Self-reliance.

I. INTRODUCTION

There are over 370 million indigenous persons in the world¹ who occupy approximately twenty percent of the earth's territory. Many of these people live in the countries in which USAID works and are affected by USAID's activities. For purposes of this Policy, the following criteria should be applied to determine whether a group is indigenous:

- (a) self-identification as a distinct indigenous social and cultural group, as well as recognition of this identity by others;
- (b) historical continuity with pre-colonial and/or pre-settler societies;
- (c) collective attachment to territories and surrounding natural resources;
- (d) customary social, economic, or political systems that are distinct from those of mainstream society;
- (e) distinct language or dialect;
- (f) often form non-dominant groups of society; and/or
- (g) resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

Working with indigenous peoples offers an important opportunity to advance USAID's goal to help countries become self-reliant, able to plan, finance and implement solutions to their own development challenges and in so doing, sustain inclusive prosperity, freedom, peace and resilience. Indigenous peoples are stewards of a wide range of critical ecosystems and much of the earth's biological diversity. Their livelihoods and traditional resource management strategies are recognized for being among the most sustainable. Their traditional knowledge systems can make significant contributions to their own countries, as well as to broader global health and global food security. Traditional knowledge is also valuable for finding effective strategies for responding to the challenges of global climate change, including adaptation techniques.

At the same time, indigenous peoples are among the world's most marginalized populations, and often face systematic exclusion from their nations' social, economic, and political systems. Any development effort that might affect indigenous peoples should consider and address the unique challenges and disadvantages they face, as well as the unique contributions that they can make to advancing USAID's mission. Engaging indigenous peoples as authentic partners in the development process is critical in preventing and resolving conflicts, enhancing democratic governance and human rights, reducing poverty, and sustainably managing the environment.

USAID's Policy on Indigenous Peoples' Issues will strengthen the way that USAID designs and manages programs. The Policy aims to ensure that each USAID project and activity that impacts the lives, territories, resources and/or livelihoods of indigenous

¹ This commonly cited figure can be found at <https://www.culturalsurvival.org/issues>, as well as <https://www.iwgia.org/en/indigenous-world>.

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peoples engages them directly and meaningfully in its design, implementation, and monitoring and evaluation to ensure that their communities benefit and to enable them to practice self-determined development. The USAID Policy Framework recognizes that support to local development actors as well as partnerships with local leaders who share the Agency's vision and values are important elements of helping countries to achieve self-reliance. **This Policy aims to deepen the impact and sustainability of USAID's assistance by effectively engaging indigenous peoples as key local partners, this will advance the Agency's effort to promote self-reliance in the countries where USAID works.**

This Policy offers a practical approach to align USAID programs that impact indigenous peoples with their own development priorities, interests and rights. It provides guidance to advance a country's Journey to Self-reliance by seizing opportunities for effective, tailored partnerships that empower local actors and strengthen local systems.² It further supports the Agency's broad commitments to inclusive development.³ It will guide USAID on how to deliver on the USG's specific commitments to engage indigenous peoples as partners in development, and uphold and advance their rights.⁴

This Policy has 3 objectives:

- 1) Strengthen engagement with indigenous peoples to ensure USAID programs align with their development priorities and to safeguard against harm;
- 2) Increase integration of indigenous peoples' issues across all sectors and promote cross-sectoral development approaches; and

² In addition to being emphasized in the Agency's Policy Framework, the focus on local ownership is also promoted in USAID's Local Systems Framework for Supporting Sustained Development and USAID's Program Cycle Operational Policy (ADS 201), "The sustainability and long-term success of development assistance ultimately requires local ownership...USAID should seek out and respond to the priorities and perspectives of local stakeholders...These processes should be inclusive of the poorest, most marginalized populations and...should be designed to align with the priorities of local actors."

³ As articulated in: the Gender Equality and Female Empowerment Policy; the Youth in Development Policy; the LGBT Vision for Action; the Nondiscrimination for Beneficiaries Policy; the Disability Policy, the usaid usai. These policies provide guidance for inclusive development approaches that are woven throughout this document.

⁴ Numerous other policy documents at USAID also explicitly identify indigenous peoples as stakeholders that warrant particular attention given their frequent status as a historically marginalized group. The Global Health Strategic Framework calls for "further attention to the unique health needs facing indigenous peoples," and the Education Strategy commits to "improving opportunities for historically marginalized groups including ethnic minorities, indigenous, multilingual... [and] rural" populations. The Biodiversity Policy identifies partnering "with communities and indigenous peoples" and promoting "inclusion [and] social equity" as two of the guiding principles of the policy. USAID's Water and Development Strategy and Climate Change and Development Strategy similarly state the importance of working with indigenous peoples.

- 3) Empower indigenous peoples to exercise their rights, participate in decision-making processes that impact them, and practice self-determined development.

Before further detailing these objectives and their accompanying operational principles, this Policy will outline the criteria USAID will use to identify indigenous peoples, and describe the challenges and opportunities faced by indigenous peoples today. The Policy will illustrate how development practitioners can advance these objectives throughout the Program Cycle (see Section VI). Additional tools to support implementation will be referenced throughout the document and are included on the Agency's website on the Indigenous Peoples page available at www.usaid.org/indigenous.⁵

II. IDENTIFYING INDIGENOUS PEOPLES

Identification of indigenous peoples can be challenging at times. Cultures change over time and yet non-indigenous people often associate cultural hybridity in indigenous peoples with degradations in authenticity or purity (Baker et al. 2013) despite the fact that such changes were often the result of forced assimilation in many contexts (Niezen 2003). Indigenous peoples often find that they need to conform to outsiders' expectations of indigeneity to achieve recognition as indigenous, yet are critiqued when articulations or performance of identity appears theatrical or results in some communities being favored compared to other similar ones for rights claims (Ludlow et al. 2016).

Indigenous peoples are not a monolithic group, and it is critical to recognize that there are many distinct voices within each community. It is important to address this heterogeneity in USAID programming. USAID has developed an Inclusive Development Analysis (IDA)⁶ that has been annotated to help operating units to better understand indigenous peoples in particular. This annotated IDA provides a helpful resource for understanding socio-political dynamics within and among indigenous peoples' communities and organizations.

Criteria for Identification of Indigenous Peoples

USAID endeavors to align its development practices with appropriate international standards and best practices for identifying indigenous peoples. International donors, multilateral development banks, the United Nations and private corporations have collaborated for decades to develop guidelines for the identification of indigenous peoples to help ensure that their rights are adequately respected. Accordingly, USAID uses a set of criteria to identify indigenous peoples rather than a fixed definition. The below criteria were developed in consultation with indigenous peoples, the Agency

⁵ **This website is not yet fully approved or live, though it will be in time to coincide with the launch of the Policy.

⁶ We will include a link to the annotated IDA which will be available at www.usaid.gov/indigenous when the website is live (before the launch of the Policy).

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Advisor on Indigenous Peoples' Issues, and other experts on indigenous peoples' rights. The criteria are purposefully broad and inclusive to ensure that the Agency's operating units (OUs) are able to identify the particular interests or rights that may be present among indigenous stakeholders. This will help to inform the way in which OUs engage with such stakeholders across the Program Cycle and also raise awareness of potential rights that should be considered on a case-by-case basis. The criteria are also based on those set forth in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), with a limitation⁷, and the International Financial Corporation's (IFC) Performance Standard 7⁸.

Indigenous peoples are known by different names in different places. The terms "hill people," "aboriginal," "first nations," "scheduled tribes," "natives," "agro-pastoralists," and "pastoralists" are all terms used to describe indigenous peoples. To accommodate this diversity, USAID identifies indigenous peoples as distinct social and cultural groups possessing the following characteristics in varying degrees:

- (a) self-identification as a distinct indigenous social and cultural group, as well as recognition of this identity by others;
- (b) historical continuity with pre-colonial and/or pre-settler societies;
- (c) collective attachment to territories and surrounding natural resources;
- (d) customary social, economic, or political systems that are distinct from those of mainstream society;
- (e) distinct language or dialect;
- (f) often form non-dominant groups of society; and/or
- (g) resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

Not all indigenous peoples share all of these characteristics. Regional implementation guidelines will be made available to assist missions and other OUs, in making these determinations.

USAID's work with indigenous peoples must be done with sensitivity to the historical and political dynamics in a given region and country. In situations where countries do not recognize indigenous peoples or their rights, if a group meets USAID's criteria as described above, then OUs should address the objectives of the Policy and apply the best practices set forth in Sections V and VI through the management of USAID

⁷ As stated in 2010, "The United States supports the Declaration, which—while not legally binding or a statement of current international law—has both moral and political force." U.S. Announcement of Support for the United Nations Declaration on the Rights of Indigenous Peoples, reprinted in DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW 264 (Elizabeth R. Wilcox ed., 2010), available at <https://www.state.gov/documents/organization/179316.pdf>. This has been reaffirmed as recently as 2017.

⁸See the World Bank Environmental and Social Framework, Environmental and Social Standard 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, at p.

programming and resources.⁹

Understanding indigenous social, cultural, environmental and legal issues¹⁰ helps to deepen the impact and sustainability of USAID programming, ensures that activities do no harm, and mitigates against the risk of conflict that can arise from misaligned expectations or misunderstanding of donor-funded development activities. Every effort should be made to identify whether indigenous peoples are project stakeholders and to understand indigenous peoples' development priorities. A useful tool for determining who project stakeholders are is USAID's *Environmental Compliance Factsheet: Stakeholder Engagement in the Environmental and Social Impact Process*.¹¹

In order to assess the characteristics for identification outlined above and to determine the degree to which they are present, consider using USAID's annotated IDA.¹² The Analysis also provides guidance on understanding the impact of a determination that a group is or is not indigenous (including the legal and political landscape driving the determination and incentives for recognition or non-recognition).

In addition to this Policy, practitioners should review safeguards that reflect international best practices including the World Bank Environmental and Social Safeguard (ESS) 7¹³ and the IFC Performance Standard 7.¹⁴ USAID's Advisor on Indigenous Peoples Issues is also available to assist operating units in applying the above criteria.

III. INDIGENOUS PEOPLES AND DEVELOPMENT: CHALLENGES AND OPPORTUNITIES

Challenges:

Indigenous peoples have failed to benefit from development interventions in the past, in part due to historical determinants of marginalization, geographical isolation and other complex challenges. They have been subject to displacement from ancestral lands,¹⁵ repression of traditional institutions and customs, and forced cultural assimilation¹⁵ as a result of flawed development policies of many governments and donors. More broadly,

⁹ Regional implementation guidelines will be provided to assist missions and other operating units (OU), i.e. all USAID OUs, in making these determinations based on regional approaches.

¹⁰ The USAID Resident Legal Officer (RLO) should be consulted on all legal matters.

¹¹ See http://www.usaidgems.org/Documents/SocialImpacts/Stakeholder_Engagement_052016.pdf

¹² This footnote will refer readers to www.usaid.gov/indigenous to see the annotated IDA when the site is up and running.

¹³ See:

<http://documents.worldbank.org/curated/en/383011492423734099/pdf/114278-WP-REVISED-PUBLIC-Environmental-and-Social-Framework.pdf>

¹⁴ See:

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps7

¹⁵ Coates, Kenneth. 2004. *A Global History of Indigenous Peoples: Struggle and Survival*. New York: Palgrave Macmillan.

indigenous peoples have been denied recognition of legitimate tenure over their customarily held lands and natural resources all over the world (Larson et al. 2010). It is estimated that indigenous peoples possess ownership rights to only one-fifth of the areas under customary use, leaving 80% of customary lands and territories subject to insecurity and appropriation (Oxfam et al. 2016). Insecure tenure rights have contributed to high-levels of conflict between indigenous and non-indigenous people (e.g., Hussein et al. 1999, Benjaminsen and Ba 2009), including incidents of displacement, which has further contributed to impoverishment, joblessness, homelessness, food insecurity, increased morbidity, and community disarticulation (Cernea 1997).

Similarly, conservation projects have often been marred by violence towards or expulsion of indigenous peoples from their territories^{16,17} (e.g., Chatty and Colchester, 2008). Development efforts like large infrastructure and resource extraction projects continue to have devastating impacts on the lives of indigenous communities. While indigenous peoples make up just 5% of the earth's population, they accounted for 40% of environmental defenders killed in 2015 and 2016 and 25% in 2017.¹⁸ These direct threats are exacerbated by additional factors, like HIV/AIDS, urbanization and international migration, and a widening digital divide.¹⁹ It is also important to recognize the psycho-social impact of ongoing conflict and the lack of recognition for past atrocities or violence that many communities confront. Finally, indigenous peoples can also be more vulnerable than the majority population to climate threats as a result of physical geography (they may live in landscapes that are more exposed to climate hazards).

The shared “global patterns (or their historical residues) of invasion, occupation, imposed cultural change, and political marginalization” of indigenous peoples²⁰ have led to increasing recognition that indigenous peoples are among the most marginalized peoples on earth. In most countries where USAID works that have large indigenous populations, indigenous peoples lag behind the general population on a wide range of development indicators: they often suffer from higher levels of poverty, have less access to education and healthcare (even in urban areas), and have shorter lifespans.^{21,22,23} In terms of

¹⁶ Neumann, Roderick. 2002. *Imposing Wilderness: Struggles over Livelihood and Nature Preservation in Africa*. Berkeley, California: University of California Press.

¹⁷ Macekura, Stephen J. 2015. *Of Limits and Growth: The Rise of Global Sustainable Development in the Twentieth Century*. New York: Cambridge University Press.

¹⁸ As documented by Global Witness in their annual reports on threats against environmental defenders available at <https://www.globalwitness.org/en/campaigns/environmental-activists/defenders-earth/>

¹⁹ Who is Getting Left Behind In The Internet Revolution?, *Science*, Sep. 9, 2016.

²⁰ Niezen, Ronald. 2003. *The Origins of Indigenism: Human Rights and the Politics of Identity*. Berkeley, California: University of California Press.

²¹ Freire, Germán, Schwartz Orellana, S., Zumaeta Aurazo, M., Costa, D., Lundvall, J., Viveros Mendoza, M., Lucchetti, L., Moreno Herrera, L., Sousa, L. 2015. *Indigenous Latin America in the Twenty-First Century: The First Decade*. Washington, D.C.: World Bank Group.

²² Anderson, I., Robson, B., Connolly, M., Al-Yaman, F., Bjertness, E., King, A., Yap, L. 2016. Indigenous and Tribal Peoples' Health (The Lancet-Lowitja Institute Global Collaboration): A Population Study. *Lancet*, 388(10040), 131-157.

²³ Hall and Patrinos 2012, at pp. 32, 51 and 59.

education, indigenous children frequently suffer from poor school performance, low literacy, and high dropout rates (Larsen 2003, Hall and Patrinos 2006, DeVoe and Darling-Churchill 2008), with indigenous women and girls lagging the farthest behind (UNESCO 2010b). Part of the reason for these poor results is that indigenous peoples generally have not participated in design of curricula or definition of standards (King and Schielmann 2004), and communities have often resisted education that does not respect their traditional knowledge, values, and livelihoods (Larsen 2003). In terms of health, the available data suggest that indigenous people almost always exhibit far worse health indicators compared with national and regional averages. For example, for indigenous populations in several countries, infant mortality rates were at least twice as high, child malnutrition rates were significantly higher, and children's life expectancy was five years lower than in benchmark populations (Anderson et al. 2016).

Opportunities:

Despite the challenges facing indigenous peoples and their cultures, indigenous peoples contribute tremendously to global development. Indigenous knowledge has propelled human progress in transformative ways, such as through the domestication of corn and potatoes (Mangelsdorf 1986, Spooner et al. 2005), and via more subtle contributions. For instance, 25% of modern medicines were derived from plants first used traditionally by indigenous peoples,²⁴ and most of the nearly 75% of prescription drugs used to fight cancer are derived from plants, many discovered through traditional medicine (Prasad and Tyagi 2015).

Indigenous communities' diverse approaches to conservation have helped maintain forest cover and habitat for biodiversity in their territories²⁵ and indigenous peoples are increasingly looked to as leaders in reducing carbon emissions and protecting ecosystem services.²⁶ Indigenous peoples are also the keepers of much of humanity's cultural and linguistic heritage; 5% of the world's population, largely indigenous, accounts for 96% of languages spoken today.²⁷ The link between indigenous languages and biodiversity is profound: identifying, naming and classifying plants and animals and their ecologies is at the foundation for scientific research and conservation. As such, indigenous traditional knowledge has been and continues to be vital to agriculture and global food security, innovations in health and medicine, environmental conservation and management, and resilient and diverse societies.

²⁴ <http://www.who.int/mediacentre/factsheets/2003/fs134/en/>

²⁵ See publications from Rights and Resources Initiative [INSERT LINK], World Resources Institute [INSERT LINK], and <https://grist.org/article/indigenous-people-can-manage-their-forests-better-than-anyone-else/>

²⁶ Ding, H, et. al. 2016. Climate Benefits, Tenure Costs: The Economic Case For Securing Indigenous Land Rights in the Amazon. Washington, D.C.: World Resources Institute. Available at: <http://www.wri.org/publication/climate-benefits-tenure-costs>

²⁷ UNESCO. 2003. "Language Vitality and Endangerment." Document submitted by Ad Hoc Expert Group on Endangered Languages to the International Expert Meeting on UNESCO Programme Safeguarding of Endangered Languages, UNESCO Paris, 10–12 March 2003.

USAID's Commitment

For USAID, inclusion of indigenous peoples will provide an opportunity to address the singular challenges of historically underserved peoples. Engaging with indigenous peoples throughout the development process will lead to deeper, more sustainable program impacts as a result of the diverse and innovative solutions these partnerships bring to bear.

IV. POLICY OBJECTIVES

The goal of the Policy is to improve the impact and sustainability of USAID programs *by ensuring that USAID staff and implementing partners respect indigenous peoples' rights and engage indigenous peoples as partners in development processes*. The Policy goal and objectives will help to ensure the sustainability of USAID's programs as described in USAID's Policy Framework which states that each country's development solutions should avoid doing harm, support local ownership, monitor and evaluate outcomes and effectiveness, modifying our programs accordingly, and recognize that development is systemic.²⁸ The Policy's three objectives are:

(1) Strengthen engagement with indigenous peoples to ensure USAID programs align with indigenous peoples' development priorities and to safeguard against harm.

Like any population, indigenous peoples have development priorities for their communities, though they often lack a mechanism to make such priorities known and taken into account by governments, companies and donors. Indigenous peoples possess a wealth of development-relevant knowledge that goes untapped by the development programs that seek to assist them. This Policy aims to strengthen USAID's approach to support the Journey to Self-reliance, which occurs at multiple levels, including the country, sub-national system, organizational and even individual level. For indigenous peoples, communities, and organizations, this entails elevating their role in determining and managing their own development. This objective aims to deepen two-way communication between development practitioners (USAID and implementing partners) and indigenous peoples through ongoing, culturally appropriate, consultations over the life of an intervention. It is critical to first listen to the voices of indigenous peoples and then to *identify shared (or diverging) development goals before USAID decides on the final goals and the most appropriate approaches to achieving them*. As described more fully in Sections V and VI below, this deepened engagement should be pursued throughout the Program Cycle.

In addition to achieving better development outcomes, this objective seeks to better safeguard against the risk of doing harm by ensuring that USAID's operating units understand and recognize indigenous peoples' rights, and that OUs have increased capacity to design programs that respect and enhance those rights. Sustained stakeholder engagement, partnerships, consultation processes and social impact assessments that

²⁸ <https://programnet.usaid.gov/module/new-usaid-policy-framework-2018>

incorporate regular consultation allow communities to play an active role in identifying and mitigating potential harm. Engagement also informs programs to ensure that rights are not adversely impacted.

(2) Increase integration of indigenous peoples' issues across all sectors and promote cross-sectoral development approaches

Indigenous peoples are often among the most impoverished and disadvantaged members of society. USAID programming should strive to close the development gap in each sector in which USAID works by ensuring that indigenous peoples' issues are integrated and addressed in all programs that may or should impact them.

In addition to integrated interventions, this Policy encourages standalone projects that use cross-sectoral approaches to address the root causes of marginalization. The intractable development challenges indigenous peoples face are the result of a confluence of factors often related to geographic isolation, linguistic barriers, discrimination or social stigmatization, limited asset accumulation, and historical and socio-economic factors. Lack of inclusion in the majority population's society can prevent countries from realizing their full potential and becoming fully self-reliant. Achieving multidimensional improvements in the welfare and well-being of indigenous peoples requires: (i) a deeper understanding of the interconnection between these drivers of marginalization and (ii) the establishment of dedicated programs that take a systems approach to analyzing and addressing them. Dedicated programs, such as USAID/Colombia's Afro-Colombian and Indigenous Program, considered multiple issues that serve as barriers to empowerment and well-being including access to economic opportunities and government services, government capacity to support indigenous communities, and awareness raising of the value of ethnic diversity. Such approaches can be informed by an Inclusive Development Analysis, which helps to identify systemic approaches that are often undetected by sector-specific analyses, leading to development solutions that transcend sectors and deepen impact.

(3) Empower indigenous peoples to exercise their rights, participate in decision-making processes that impact them, and practice self-determined development

This Policy aims to promote the empowerment of indigenous peoples and their vision of development. As highlighted throughout this document, a significant driver of marginalization and vulnerability among indigenous peoples is that they are often excluded from critical decisions that impact their rights, territories or physical well-being. These barriers to political and other forms of participation and decision-making processes may be due to a number of factors, including the political economy of such exclusion (particularly with respect to power dynamics within the government and extractives sectors), linguistic barriers, geographic isolation, culturally distinct approaches to negotiation and communication, and safety/security threats, among other things.

For purposes of this Policy, empowerment and self-reliance on an individual level is achieved when indigenous men and women acquire the power to act freely, exercise their rights, and advance their own development priorities as full and equal members of

society. While empowerment often comes from within and individuals empower themselves, cultures, societies and institutions create conditions to facilitate or undermine the possibilities for empowerment. This objective both reflects and builds on decades-long support by USAID for programs that empower indigenous peoples to advocate and negotiate for their rights, most often through improved land and resource governance, conflict management and mitigation, and social inclusion programs.

Key priorities for USAID under this objective are to consolidate the lessons learned across various USAID sectors working on empowerment and rights, provide missions with tools needed to better understand the political economy of indigenous peoples' rights, and increase support to empower indigenous peoples to participate in decision-making processes. Empowerment is vital to ensuring that indigenous peoples can sustainably control their own resources and development trajectory — this is a key element of helping countries to achieve self-reliance at the most grassroots level.

V. OPERATING PRINCIPLES

In order to achieve the three objectives described above, USAID OUs should adopt the following five operating principles: **Identify, Analyze, Engage, Safeguard, and Partner**. These principles should be integrated across the Program Cycle, as will be described further in Section VI. Note that these Operating Principles are also aligned with and complement those in ADS Chapter 201: Program Cycle Operational Policy.

1) Identify Indigenous Peoples

USAID OUs should first identify whether or not any ethnic group or other marginalized population in the mission's host country would qualify as indigenous in line with the criteria established in Section II of this Policy. In addition to applying the criteria, missions or other OUs are encouraged to speak with indigenous leaders, or organizations, and diverse members of indigenous communities, as well as anthropologists or other subject matter experts to seek assistance in determining which populations in the country might be considered indigenous. Where information is inconsistent or uncertain, the USAID Advisor for Indigenous Peoples Issues can be consulted for further support.

When trying to determine who is indigenous, it is important to consider relevant project stakeholders both inside and outside the specific geographic location in which the development project or activity is implemented (the national, regional, sub-regional level). USAID considers stakeholders to consist of “those who are affected positively or negatively by a development outcome or have an interest in or can influence a development outcome” (as defined in ADS 201). USAID further suggests that an initial identification of stakeholders should encompass as broad a range of groups as possible, which can then be refined in order to identify which of these groups are indigenous through further stakeholder analysis, assessments, and consultations with indigenous

peoples.²⁹

This Policy should be applied to all countries and contexts in which indigenous peoples are identified, including in countries that do not formally recognize indigenous peoples who live within their boundaries.

2) *Analyze Indigenous Peoples' Issues*

Once indigenous peoples are identified, most likely during the development of a RDCS/CDCS, we recommend that USAID missions analyze i) how and when (during the Program Cycle) to engage with them and ii) which issues, development objectives, projects, and/or activities are most relevant for indigenous peoples. This can be done in a number of ways. One recommended, initial step is to conduct a desktop review to ensure that the OU has access to basic demographic data for indigenous peoples. This may include reviewing the country's score on the social group equality metric.³⁰ The desktop review should also include an analysis of the relevant legal framework in consultation with the RLO. OUs should consider whether other in-depth analyses are warranted, including a more robust Inclusive Development Analysis (IDA) that can be found at www.usaid.gov/indigenous.³¹ This analysis is designed to complement the mandatory gender analysis included in ADS 205. Note also that ADS 205.3.2 recommends that required gender analyses not treat women and men as monolithic categories.

An annotated version of the IDA is available at www.usaid.gov/indigenous³² and includes detailed guidance on how to apply the IDA to better analyze indigenous peoples issues. The IDA will be critical in helping to identify the root causes of marginalization, the impacts of marginalization/exclusion, potential points of entry to address root causes or promote inclusion, and appropriate opportunities for partnering with or otherwise engaging indigenous peoples in development processes. They can also help OUs to understand differences and dynamics within indigenous communities and the implications that has on customary decision-making. Such analyses can be conducted at any stage during the Program Cycle and could advance a mission's collaborating, learning and adapting (CLA) goals. The annotated IDA will also help OUs to support local government efforts to equitably distribute the benefits of development, including through the use of domestic resources. Ensuring that indigenous peoples are included will help to achieve scale by delivering development outcomes to some of the most marginalized members of society.

While helping OUs to better understand indigenous peoples' issues is a critical objective

²⁹ For more in-depth guidance, see: USAID Environmental Compliance Factsheet: Stakeholder Engagement in the Environmental and Social Impact Assessment Process, at http://www.usaidgems.org/Documents/SocialImpacts/Stakeholder_Engagement_052016.pdf

³⁰ Metrics and information about them can be found at:

<https://www.usaid.gov/selfreliance/what-self-reliance-metrics>

³¹ Website is still in development, will be approved and launched to coincide with Policy launch.

³² Website is still in development, will be approved and launched to coincide with Policy launch.

of this Policy, it is equally important to consider the ways in which engagement of indigenous peoples and development support can impact nearby non-indigenous communities. While it is important to recognize the distinct rights of indigenous peoples, OUs should be aware of the fact that support for indigenous communities can be perceived as unfair in situations where such benefits are not shared with non-indigenous communities. The annotated IDA³³ provides guidance for mapping relationships between indigenous and non-indigenous communities and can provide a framework for developing mitigation measures to address potential areas of conflict. It may be advisable to engage in some level of consultation with nearby communities as part of the IDA to identify potential points of tension or conflict to better inform USAID's approach to engagement with indigenous communities. In situations where tensions or conflicts are already known to exist, OUs are also encouraged to apply the Conflict Assessment Framework to identify drivers of conflict, inform project design and ensure that mission programming does not exacerbate existing tensions.

In accordance with Objective 1, assessments should look across sectors to assist missions and other OUs in identifying systemic, cross-sectoral approaches to addressing the complex challenges indigenous peoples face. Results should be used to inform RDCSs, CDCSs, PADs and activity designs.

3) Engage Indigenous Peoples

Where it is likely that USAID's development programming could benefit or otherwise impact indigenous peoples, in addition to considering the host government's goals and giving high priority to undertakings they have submitted,³⁵ missions and other OUs should engage directly with indigenous peoples about their own development priorities, capacities, and preferred approaches. This Operating Principle is critical for advancing Objective 2. A critical first step to establishing two-way communication may include informal conversations with indigenous peoples.

In addition to informal engagement, USAID recommends that formal consultations be carried out with indigenous peoples at various points throughout the Program Cycle. Consultations should meet certain standards for community engagement. These are laid out in USAID's Indigenous Peoples Consultation Handbook³⁶. For example, missions should engage indigenous peoples through their customary decision-making mechanisms while ensuring that potentially marginalized members of the community are included (e.g., it is important to recognize that engagement with indigenous women and indigenous men or youth and elders may require differentiated approaches). The Inclusive Development Analysis³⁷ can also be a useful tool in identifying and understanding these internal processes and cultural nuances.

³³ Found at www.usaid.org/indigenous (once website is live).

³⁴ See the Agency's Conflict Assessment Framework 2.0 at https://pdf.usaid.gov/pdf_docs/pnady739.pdf

³⁵ Section 102 of The Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151-1.

³⁶ Available at www.usaid.gov/indigenous (link will be live before the Policy is launched)

³⁷ Available at www.usaid.gov/indigenous (link will be live before the Policy is launched)

Essential Elements of a Good Consultation

- Identification of indigenous peoples in accordance with USAID's standards
- Communication with stakeholders early and often throughout the process
- Good faith consultation through representative institutions and in accordance with traditional decision-making mechanisms
- Stakeholders have a meaningful opportunity to influence the planning and development process
- Recognition that indigenous peoples are not monolithic groups, but rather, include a diversity of stakeholders. Consultations should account for this diversity.

Missions should also establish a climate of mutual trust, ensure that consultations proceed in good faith, and establish mutually agreed upon procedures or "rules of engagement." Consultation should also provide indigenous peoples a meaningful opportunity to influence program design. In cases where indigenous peoples are part of a larger group of non-indigenous project stakeholders, it is critical to determine whether the project will have a differentiated impact on indigenous stakeholders, and if such impacts are identified and they are negative, to work with them to develop effective mitigation measures. Consultations and/or an IDA are two important approaches for assessing such differentiated impacts in whether indigenous peoples are a sub-set of a larger set of stakeholders. Also note that engagement with indigenous peoples will also ensure that program design is more directly targeted to address the needs of indigenous peoples, leading to deeper, more sustained outcomes.

The aim of a consultation is to have a two-way flow of information that facilitates mutual understanding about potential programming, and, if carried out early enough, about the formulation of development objectives and activities. It also helps both USAID and potentially impacted communities to identify potential harms and consider risk mitigation approaches through a social impact assessment--an important element of strengthening Agency safeguards under Objective 2 and an issue that is described further in the *safeguard* operating principle, below.

4) Safeguard Indigenous Peoples' Rights and Well-being

As described under Objective 2 and the *engage* operational principle above, as well as USAID's Indigenous Peoples Consultation Handbook, sustained stakeholder engagement and consultation helps both USAID and indigenous communities identify potential impacts of a proposed project or activity. This is crucial to formulating ways in which to safeguard against potential harms. Doing so involves the following steps :

³⁸ Global and regional programs should coordinate with bilateral missions to ensure that local communities are appropriately engaged in the design and implementation of programs. Engagement should start at the design stage, ideally as part of the mission concurrence process (see ADS 201.3.3.6).

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- Step 1: When indigenous peoples are identified as stakeholders to a USAID project or activity³⁹, OUs should produce a written assessment of potential impacts that such project or activity may have on indigenous stakeholders. This written assessment should be carried out at the earliest stages of the project or activity design process (when location and likely stakeholders of a project or activity are known). OUs may use a variety of approaches to assess potential impacts including consultations with indigenous peoples, conducting a Social Impact Assessment, or including questions on potential impacts on indigenous peoples in an Initial Environmental Examination⁴⁰. This assessment should be undertaken in close coordination with indigenous stakeholders themselves.
- Step 2: If potential adverse impacts are identified, OUs should work with indigenous peoples to develop measures to minimize or mitigate impacts that are identified, document impact mitigation measures in the SIA or other project/activity documents, and monitor those potential impacts over the life of the project.
- Step 3: If there are risks of adverse impacts on the rights, livelihoods, culture, lands and territories, natural resources, or sacred sites, or of relocation, OUs should seek the free, prior and informed consent (FPIC) from indigenous communities for project or activity implementation (including mitigation measures) in accordance with international standards.

International standards or best practices generally state that consultations should provide a meaningful opportunity for indigenous peoples to agree or disagree with a proposed project, while also having a meaningful opportunity to influence the planning and/or design of the activity. This is often referred to as “free prior and informed consent” (or FPIC) -- the idea that before an action can be taken that would positively or negatively impact a person or community, the person or community must give approval for the activity to be undertaken (“consent”). However, the United States does not interpret FPIC to require actual consent in the sense of conveying an actual veto right to indigenous peoples over the program, project, or activity.

Since the limited consent would be meaningless if the person or group were not given full information about the proposed activity and its potential impacts (“informed”) before the activity is initiated (“prior”). It is also critical that there not be any pressure or coercion to agree to the activity (“free”). While obtaining FPIC from indigenous peoples is generally considered to be the obligation of national governments, among donors, this is a best practice. Development organizations generally recognize its importance for engaging with indigenous peoples where significant impacts are likely to occur as a result of a development activity (e.g. resettlement).

³⁹For Agency guidance on determining who is a project stakeholder, please see, [“http://www.usaidgems.org/Documents/SocialImpacts/Stakeholder_Engagement_052016.pdf”](http://www.usaidgems.org/Documents/SocialImpacts/Stakeholder_Engagement_052016.pdf)

⁴⁰ For Agency guidance on conducting an Initial Environmental Examination, please see, [“http://www.usaidgems.org/Assistant/EDTIEEHome.htm#process”](http://www.usaidgems.org/Assistant/EDTIEEHome.htm#process)

As is detailed in USAID's Indigenous Peoples Consultation Handbook, if an OU decides to undertake an FPIC process, it should be obtained in line with agreed-upon decision-making processes and institutions - through recognized leaders and customary decision-making mechanisms, while also ensuring that potentially marginalized members of the community are included. Consent should be clear and documented by the mission. Consent could take different forms, including written or oral (e.g., could be constituted by an affirmative vote in a communal assembly, in the latter instance); if there is reason to believe the presence of others might affect certain subgroups' ability to express their preferences, measures (such as anonymous ballots) should be implemented where possible.

Note that new risks of adverse impacts may arise at any time during the life of a program. Therefore missions and implementing partners should continue to monitor new and existing activities to assess such risks (as described in the guidance for Social Impact Assessment). If new risks arise that could affect the rights or livelihoods of indigenous communities, communities should again be provided an opportunity to modify or refuse continuation of the program.

What is a Social Impact Assessment (SIA)?

Social impacts are changes from the baseline condition, as a result of a USAID action, to individuals and communities in the way they live, work, play, relate to one another, organize, and manage as members of their society. Those changes may be in people's way of life, their culture, community, political systems, environment, health and wellbeing, their personal and property rights and their fears and aspirations. A SIA should be carried out with indigenous peoples who are project stakeholders to identify potential impacts of USAID programs (both positive and negative), establish a baseline for the social elements that may be impacted and, when impacts may be adverse, to collaboratively define mitigation measures for such impacts (in much the same way that USAID does for environmental impacts). Over the life of a project the SIA provides a framework for engaging with indigenous stakeholders and monitoring potential impacts over time.

Development activities that impact indigenous peoples can suffer from both unexpected and avoidable setbacks. For example, a community may have had a negative experience with an implementing partner, a private sector partner may be seen as threatening to a community, or a group may be facing competing claims to land which makes identifying the right stakeholders for engagement difficult. Due diligence should be carried out to identify potential risks relating to land possession or title, implementing partners, private sector partners/affiliates. Due diligence can be conducted as part of the consultations or social impact assessment described in Section VI below. Information gathered through any due diligence exercise should be used by the mission and implementing partner to weigh risks of adverse impacts and reputational risk to USAID.

USAID programs aim to deliver assistance through a "do no harm" approach, meaning that they aim to mitigate against any potential adverse impact of the assistance they

provide. When indigenous peoples are stakeholders of a USAID intervention, such harms may include exacerbating conflict, inter-communal tensions caused by perceived inequitable distribution of assistance, or creating/stoking tensions between indigenous communities and the government, whose views must also be considered, or private sector (e.g. relating to natural resource extraction). Such potential harms should be considered across the range of analyses that USAID undertakes including an IDA, SIA and Conflict Assessment Framework. Such assessments should be used to engage directly with indigenous peoples to identify drivers as well as potential mitigation measures.

5) Partner with Indigenous Peoples

USAID's Policy Framework emphasizes the fundamental importance of partnership in achieving self-reliance. Effective partnerships are an important part of advancing self-reliance and are often necessary to support sustained improvement in development results. A successful partnership will ensure that USAID coordinates with project counterparts as equals and grounds all interactions in mutual respect, common vision, shared contribution, and joint accountability in achieving shared goals.⁴¹ Working with indigenous leaders and local indigenous communities is a critical element of achieving this vision. This Policy marks a new era for partnerships with indigenous peoples, as it aligns with the Agency's shift to increase collaboration and diversity of its partnerships through reforms that will make it easier to do so, including increased utilization of co-creation for program design.

Indigenous peoples are often the best source of expertise in identifying effective development approaches to address the challenges they and broader society face. Missions and other OUs are strongly encouraged to promote local ownership by inviting indigenous peoples to be partners in the development process. One clear example has been leveraging indigenous peoples' knowledge to better identify, address and adaptively manage climate risks. Doing so not only provides a good opportunity for partnering, it results in better risk mitigation (further reinforcing Principle IV).

Partnerships could include partnering and co-creating with indigenous peoples in all stages of the project design process including the development of methodology for an Inclusive Development Analysis, the design of consultation processes, the drafting of the program descriptions and scopes of work and the design of any communications that target indigenous audiences. While some of these activities could be procurement sensitive, OUs are encouraged to work with the RLO and the Office of Acquisition and Assistance to determine the appropriate level of engagement (as further discussed in Section VI below). This would also include making indigenous peoples key partners in the monitoring and evaluation process. Note that there are indigenous development professionals, and OUs should consider bringing such experts into the development process.

As a precursor to partnering (and in order to facilitate partnering), USAID should also

⁴¹ <https://programnet.usaid.gov/module/new-usaid-policy-framework-2018>

consider providing support or capacity building for indigenous peoples' organizations by including this focus as a component of a broader activity. This support should be designed to address priorities identified by indigenous peoples' organizations themselves, though this is not meant to exclude the input of the host government as required under the Foreign Assistance Act. Missions and other OUs should also make every effort to provide direct grants or sub-awards to indigenous peoples' organizations to carry-out activities in their territories and/or activities from which they will benefit. Where operating units engage in activities that build the capacity of indigenous peoples' organizations through a sub-award mechanism, they should aim to transition such organizations to direct recipients of USAID funding in the future.⁴² Language to that effect should be included in implementing partner's sub-awards to increase the number of indigenous peoples' organizations that are eligible to receive direct awards from USAID.

In contexts where indigenous peoples' organizations are absent, partnering with indigenous peoples may be facilitated by working with ally organizations that have helped to pursue the communities' interests. Such organizations should have a strong track record of working with indigenous communities in the region, and they should be trusted and approved of by the indigenous communities with whom USAID seeks to partner.

VI. INDIGENOUS PEOPLES AND THE PROGRAM CYCLE

USAID missions and operating units are strongly encouraged to work and partner with indigenous peoples through all stages of the development process. This section provides a road map for integrating the five Operating Principles at each stage in the Program Cycle to advance this Policy's Objectives. Not all missions or OUs will have the same level of engagement with indigenous peoples. Missions that have the potential for their projects to have significant impacts on indigenous peoples are strongly advised to adhere to this Policy. Missions that do not have extensive activities that impact indigenous peoples across all portfolios should use their best efforts to effectively allocate mission time and resources to include indigenous peoples in development processes and mitigate the risk of adverse impacts.

A Note on Financial Resources

This Policy does not mandate a minimum percentage of any activity or project that must be dedicated to analysis of or engagement with indigenous peoples. However, OUs are strongly encouraged to dedicate a certain amount of financial resources to be used for consultations, Inclusive Development Analysis and Social Impact Assessment(s) at the CDCS, PAD and/or Activity level. If it is determined that indigenous peoples are likely to be impacted by an activity or program, OUs are encouraged to require that implementing partners set aside financial resources to engage with indigenous peoples and monitor social impacts over the life

⁴² See ADS 303.3.6.5(b)(3) for guidance on how to include transition award language in project documentation.

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of the activity. The Independent Government Cost Estimates should include funds for indigenous peoples as warranted and based on the findings of any analyses.

This Policy emphasizes the importance of engagement and partnerships with indigenous peoples throughout the Program Cycle. The tools and approaches detailed in this Policy can be applied at any point in the Program Cycle--whether or not indigenous peoples' considerations were contemplated by the mission in the RDCS or CDCS phase as long as indigenous peoples are stakeholders of a USAID project. The table below provides a helpful overview of the types of engagement and communication approaches that missions and other OUs should employ. The remainder of this section illustrates appropriate times in the Program Cycle when they may be applied.

Approaches and Tools for Communication and Engagement

Engagement	Definition	Objectives
Informal Conversations	An exchange of information between USAID and indigenous peoples/project stakeholders that may enable USAID to learn about the interests/priorities of the group, but does not yet include any concrete details about USAID's proposed activity or program.	Necessary for initial contact with indigenous peoples who are project stakeholders. While this may provide USAID with relevant project information, it is not usually the time when stakeholders are informed about the project, and therefore not adequate consultation. Program Cycle Phases: Over the life of the project, but largely before the CDCS or PAD phase .
Inclusive Development Analysis (IDA)	Inclusive Development Analysis is an analytic tool that helps to map the context in which marginalized people exist by: 1) identifying, understanding, and explaining gaps that exist between persons of marginalized groups and the general population and to consider differential impacts of policies and programs; 2) identifying structural barriers and processes that exclude certain people from participating fully in society and development programs; 3) examining differences in access to assets, resources, opportunities, and services; and 4) leading to specific recommendations on how to include marginalized groups in development programs and designing these programs to	The annotated Inclusive Development Analysis ⁴³ was developed to assist OUs in using the IDA to analyze indigenous peoples issues. It can help OUs to identify the drivers of marginalization among indigenous peoples and to help missions develop effective interventions to address those drivers. More specifically, the IDA can help to map the relationship between indigenous peoples and the majority population, as well as the degree to which they are excluded from political processes, service delivery, or other decision-making processes (e.g. <i>vis a vis</i> the private sector). It can help OUs to map the legal landscape for indigenous peoples and examine the criteria for identification of indigenous peoples, while also understanding the legal and political impact of such determinations. It can also help to identify the key development priorities of indigenous peoples, and to understand the most critical issues that they face such as insecure collective land title, encroachment on territory, or impacts of climate change. This analysis can combine desktop research and data analysis with engagements such as informant interviews, focus group discussions, conversations and consultations. Formal consultations may feed this IDA, and may also be informed by the IDA (as consultations take place over the life of the project). Program Cycle Phases: The IDA should be conducted at the CDCS or PAD level, and should be updated at the activity design

⁴³ The annotated IDA provides guidance for OUs to apply the IDA in a way that helps missions to better analyze the issues that most commonly arise when working with indigenous communities. The annotated IDA is available at www.usaid.gov/indigenous (the website is not yet live but it will be by the time the Policy is launched)

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	reduce deprivations and to empower marginalized groups.	and implementation levels, particularly once geographic location for project and specific indigenous peoples stakeholders are identified.
Formal Consultations	Consultations are a two-way flow of information whereby USAID shares details of an activity with indigenous peoples/stakeholders, and those stakeholders freely provide informed feedback on those activities before they are implemented. In some countries, governments have a duty to consult indigenous peoples before an activity can be implemented that impacts on their rights or interests.	<p>Consultations provide stakeholders with a venue to discuss a project with USAID and/or implementing partners in a way that enables them to develop contextualized responses relating to such project. This is a rights-based discussion involving a two-way flow of information that enables USAID to understand stakeholder development priorities, determine if proposed interventions align with them and if stakeholders support such intervention. It also helps to identify opportunities for incorporating indigenous knowledge into program design and to identify potential partnership approaches. Consultations should be maintained over the life of the project and/or activity. Consultations are an invaluable approach to monitoring, evaluating and learning over the life of a project/activity, as it enable program managers to gather feedback and make adjustments to programming on a regular basis.</p> <p>Program Cycle Phases: Can be conducted as part of the inclusive development analysis, the social impact assessment or a stand-alone process. Should ideally be carried out across the entire Program Cycle.</p>
Free Prior and Informed Consent (FPIC)	The principle of free prior and informed consent (or FPIC) refers to the idea that before an action can be taken that would positively or negatively impact a person or community, the person or community must give approval for the activity to be undertaken (“consent”). However, the consent would be meaningless if the person or group were not given full information about the proposed activity and its potential impacts (“informed”) before the activity is initiated (“prior”). It is also critical that there not be any pressure or coercion to agree to the activity (“free”).	<p>FPIC is a heightened standard for consultation with indigenous stakeholders, wherein indigenous peoples must provide free, prior and informed consent before any development activities could be undertaken. While FPIC is not required, it is an important means of ensuring that USAID programs do no harm--particularly in cases where USAID activities are likely to have significant impacts on indigenous peoples, their territories, their resources, etc. However, the U.S. does not interpret FPIC to require actual consent in the sense of creating a veto right for indigenous peoples.</p> <p>Program Cycle Phases: This should take place as soon as a project location has been determined and specific potential impacts on indigenous peoples’ territories, rights, or resources have been identified (e.g. through an SIA). Operating Units should review the Consultation Handbook for guidance.</p>
Social Impact Assessment (SIA)	Social Impact Assessment includes the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes ⁴⁴ invoked by those interventions.	<p>This is intended to identify potential impacts (positive or negative) on indigenous peoples that could result from a proposed development activity. Consultations with indigenous peoples should be conducted in order to inform the impact assessment and to identify potential risk mitigation measures--particularly those based on indigenous knowledge. SIA does provide a helpful structure for conducting regular consultations over the life of the project/activity to continually monitor/assess risk. This could be combined with more general consultation objectives.</p> <p>Program Cycle Phases: SIA can be conducted at the same time as the Initial Environmental Examination during the PAD or</p>

⁴⁴ <http://www.iaia.org/wiki-details.php?ID=23>

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		activity phase. It should be regularly updated over the Program Cycle through regular consultations.
Co-Creation	Co-creation is a design approach that brings people together to collectively produce a mutually valued outcome, using a participatory process that assumes some degree of shared power and decision-making. It is a time-limited process that focuses on generating a specific outcome. Co-creation is a technique that can be used at various points throughout the Program Cycle. ⁴⁵	Co-creation is a step beyond consultation, in which indigenous peoples serve as co-equals in the design process with USAID and are afforded genuine decision-making authority during the process. Program Cycle Phases: Missions are encouraged to work with their OAA offices and the Agency's Development Innovation Lab to undertake a co-creation process that complies with procurement regulations.
Partnering	In a true partnership with USAID, indigenous peoples serve as co-equals in the design of an activity, and/or the implementation and the monitoring and evaluation process. In a meaningful partnership, indigenous peoples are afforded genuine decision-making authority.	Partnering provides a high level of ongoing engagement. USAID may partner with indigenous peoples to engage in program design, or as implementing partner of the activity (the RLO and OAA should be consulted regularly if a partnering approach is adopted, as the Agency does not have formal guidance on partnering). The key feature of a partnership is shared decision-making authority. Program Cycle Phases: If an operating unit determines that partnering is appropriate for a given intervention, it should be explored prior to the launch of the project/activity design, to ensure ownership and buy-in of all partners from the earliest stages of decision-making. Partnering continues through the conclusion of the intervention.

Regional or Country Development and Cooperation Strategy (RDCCS/CDCCS)

At the very initial stages of the development of a RDCCS/CDCCS, a mission should identify whether or not there are populations in the host country or region that should be considered indigenous based on the criteria in this Policy. Once the mission has identified the area of implementation of the RDCCS/CDCCS, OUs are encouraged to conduct an **Inclusive Development Analysis (IDA)**, with a specific focus on indigenous peoples. The IDA should take gender, age and other demographic characteristics into account, and should include a legal framework mapping, a desktop review of existing data/information, and formative qualitative and quantitative data on indigenous peoples' leaders, organizations or issues. The IDA could be conducted at a broad level for the mission at the RDCCS/CDCCS level, and could be undertaken for specific sectors at the PAD level. Consultations are an important mechanism through which the IDA can be conducted, in addition to other inter-personal interviews and conversations.

A Note on Indigenous Languages

Language can often create barriers to robust engagement with indigenous peoples. In some cases, there are a large number of local languages and dialects spoken and costs or logistics

⁴⁵ See USAID's Co-Creation Additional Help:
<https://www.usaid.gov/sites/default/files/documents/1868/Co-Creation-Discussion-Note-Final-External-May-31-2017.pdf>

for interpretation can be daunting. In other instances, the cost-benefit of hiring an interpreter for a short meeting may not add up. It is highly recommended that operating units identify languages for communicating with indigenous peoples who are project stakeholders for any USAID activity. Operating units can establish rosters with interpreters for each language who can be contracted for *ad hoc* assignments or who might be contracted for longer, predetermined engagements. Note that such interpreters will not always be available for English translation and it may be necessary to rely on a second translation from a country's majority language into English. Such investments are worth the effort and expense where communication with key project stakeholders would not otherwise be possible. Missions may also want to accommodate the special needs of indigenous people, including hearing impairment and other disabilities..

It is important to consider the fact that indigenous languages represent a way of seeing and interpreting the world, thus translation often becomes difficult and at times impossible. Many Western concepts do not have corresponding words in some indigenous languages and vice versa. It is important to strive to capture these differences in understanding the world since misunderstandings can arise during consultations.

At the RDCS/CDCS level, operating units should make a determination as to whether or not indigenous peoples could be targeted for cross-sectoral development programming or could otherwise be impacted by other programs contemplated in the strategy.

At the RDCS/CDCS level (and over the life of the Program Cycle), missions should take into account the power dynamics that are determined by indigenous identity and other characteristics such as sex, age, marital status, disability, gender identity or expression, ethnic/religious affiliation, caste, race, and other characteristics. Both IDA and SIA (at the PAD or Activity Design level) will be critical in identifying positive or negative power dynamics that should be addressed through USAID interventions, which provide opportunities to deepen and sustain project impacts.

Project Appraisal Documents (PAD)

If indigenous peoples are likely to be stakeholders to a program or activity covered by the PAD of an operating unit, it is critical that the **Project Design Plan** (PDP, as described in ADS 201 Section 201.3.3.8) include robust consultations to engage with indigenous stakeholders. The PDP provides an important opportunity to embed these analytical and engagement considerations into the Program Cycle, as it “defines the preliminary purpose of the proposed project and a roadmap of the analytic, and other, steps necessary to complete the PAD.”⁴⁶ Missions should consider including the following studies:

⁴⁶ Also note the Stakeholder Engagement Plans are included in the Program Cycle under **ADS 201.3.3.12 : Plan for Engaging Local Actors**: This section outlines a strategy for ensuring inclusive, meaningful, and consistent engagement with key local actors throughout the project design and/or implementation process for purposes of promoting sustainability through local ownership. Local actors include organizations or individuals and entities in the local system—such as the partner country government, civil society, the private sector, and others—who jointly produce outcomes that affect achievement of the Project Purpose. Building sustainability and local ownership into the subsequent project design and implementation should

additional IDAs by sector, **Social Impact Assessment (SIA)**, consultations (related to the IDA and the SIA or as a separate undertaking), and proposed co-design or co-creation (or partnering more generally) with indigenous peoples. The PDP should aim to incorporate multiple engagements described in the table of Approaches and Tools for Communication and Engagement above. It should also identify other offices within the mission that will need to address indigenous peoples' issues in their project design processes, and consider whether any joint studies can be undertaken.

If the specific area of implementation (region or subregion) is known at the Project Design stage, and if indigenous peoples are identified as stakeholders to a USAID project or activity⁴⁷, OUs should produce a written assessment of potential impacts that such project or activity may have on indigenous stakeholders. This written assessment should be carried out at the earliest stages of the PAD design process (if location and likely stakeholders of the project are known). OUs may use a variety of approaches to assess potential impacts including consultations with indigenous peoples, conducting a Social Impact Assessment, or including relevant questions on potential impacts on indigenous peoples in an Initial Environmental Examination. This assessment should be undertaken in close coordination with indigenous stakeholders themselves. If the specific area of implementation is not yet known at the PAD stage, the written assessment should be carried out at the activity design phase.

In instances where project impacts relate to land governance or where the resettlement of indigenous peoples may be an issue, OUs are encouraged to review the USAID Operational Guidelines for Responsible Land-Based Investment⁴⁸ and the USAID Guidelines on Compulsory Displacement and Resettlement⁴⁹.

If an OU is aware of conflict involving indigenous peoples in the project target region, it may be helpful for the OU to conduct a **Conflict Assessment Framework** that would be able to provide a comprehensive analysis of drivers and mitigating factors for conflict. This information could be used to complement other analyses and inform the project design by minimizing potential negative effects of conflict on indigenous communities and ideally contribute to local capacities for peace.

If the specific area of implementation (region or subregion) is known at the Project Design stage, it is also highly recommended that the mission identify potential risks relating to legitimate tenure rights, as well as prior development projects that may have had adverse impacts on the environment or communities that may impact perceptions of

be based on an understanding of these actors, their interrelationships, and the incentives that guide them. Use of sector or stakeholder mapping, Requests for Information (RFIs), conferences, surveys, social media, etc. may be helpful to ensure that this engagement process captures the full range of actors important to project outcomes.

⁴⁷For guidance on determining who is a project stakeholder, please see, “___”

⁴⁸ https://www.land-links.org/wp-content/uploads/2016/09/USAID_Operational_Guidelines_updated-1.pdf

⁴⁹ https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Guidelines_CDR.pdf

⁵⁰ See https://pdf.usaid.gov/pdf_docs/pnady739.pdf

the proposed intervention. Further recommendations about due diligence are provided in the following two sections.

Activity Design

When indigenous peoples are identified as project stakeholders USAID OUs are strongly encouraged to design activities that engage indigenous peoples, address challenges facing their communities (to the extent that such challenges are within the Agency's locus of control), and make them partners in the development process. Particular attention should be paid to opportunities for integrating indigenous peoples' issues across sectors, developing cross-sectoral approaches to addressing indigenous peoples' issues, and supporting activities that empower them. If the written assessment of potential impacts was not completed at the PAD phase, it should be conducted during Activity Design. In addition, if the OU has not yet conducted consultations, an SIA or an IDA (either in connection with the written assessment or to guide Activity Design), it is critical that the mission conduct them during the activity design phase.

A mission's Program Office may also wish to include engagement or consultation as a required step on the mission's pre-obligation checklist or procurement activity sheet. Such steps could also be detailed in a mission's Inclusive Development Mission Order, if one exists, or in the Project Design Plan described above.

The consultation process is intended as a means to inform communities of planned activities and to obtain their feedback and input for the design. In accordance with best practices, USAID should use consultations at this stage to determine if a community is interested in and/or able to more fully partner with USAID in the design, co-design and/or implementation of the project's activities. If so, USAID should work with the community to build a plan for that engagement.

If an OU identifies potential adverse impacts on the rights, livelihoods, culture, lands and territories, natural resources, or sacred sites, or if relocation is likely, OUs should seek the free, prior and informed consent (FPIC) from indigenous communities for project or activity implementation (including mitigation measures) in accordance with international standards. This is a higher standard than a consultation with indigenous peoples, and additional guidance can be found in Operating Principle IV above, as well as the Consultation Handbook. Again, however, FPIC does not create a veto right over the project or activity implementation.

Solicitation

A key means to strengthening USAID programming in relation to indigenous peoples is to include specific components, expected results, and/or illustrative interventions related to indigenous peoples and their welfare in solicitations. If risks to indigenous peoples were identified by an SIA during project (PAD) and/or activity design, the solicitation should reflect those risks and request that the proposal include a plan for developing

⁵¹ Available at www.usaid.gov/indigenous (when website is live).

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mitigation measures in consultation with indigenous peoples (if the OU has not already done so). When establishing requirements for potential procurements, OUs should request a copy of the applicant's indigenous peoples policy or inclusive development policy/approach in the solicitation document. OUs could also consider including the following elements in the possible evaluation criteria: the effective integration of indigenous peoples and their issues throughout application, clearly defined approaches for consultation throughout the Program Cycle, clear understanding of risks to indigenous peoples and appropriate mitigation measures, plans for partnering with indigenous peoples in project work planning, decision-making and implementation, demonstrated capacity (either directly or through other organizations) to build and maintain such partnership, etc.

It is important to remember that consultation with indigenous peoples during the design of a scope of work or a program description generally *does not* violate procurement regulations (unless an indigenous organization intends to be a potential offeror). Engaging in an informed conversation with potential stakeholders to ensure that the program, project, or activity design reflects their priorities, interests and concerns is clearly distinguished from sharing a scope of work or program description with potential offerors or bidders and conferring an unfair advantage. OUs should always consult with their RLO and Office of Acquisitions and Assistance (OAA) to ensure that these lines are clear.⁵²

In certain situations such as in Latin America, there will be significant indigenous peoples' organizations which may be interested in responding to a USAID solicitation directly or as a partner with a primary applicant or offeror. In this situation, OUs should consider issuing a "Request for Information" (RFI) whereby a program, project, or activity description is publicly disseminated before the official solicitation is issued in order to give all stakeholders an equal opportunity to review and comment on the design. Again, it will be important to work with the RLO and mission OAA to ensure compliance with the ADS. An ideal RFI process would include a mission-led conference that provides stakeholders a chance to voice their concerns and engage in dialogue regarding the proposed activities. Such conferences could be hosted at the sub-national level and in appropriate indigenous languages to increase accessibility.

Due diligence should also be carried out to identify potential risks related to implementing partners, private sector partners, or other USAID affiliates (including sub-grantees). Whether the partner or affiliate is a government entity, a civil society organization, or from the private sector, it is important to consider, in consultation with the RLO, whether or not such entity has a conflict of interest that could adversely impact indigenous peoples in a legally impermissible way. It may be possible to gather this information during the IDA, SIA or consultations, but additional, targeted research may be necessary.

⁵² This guidance was provided by the DRG/OAA backstop in Washington. We will request supporting ADS reference to ensure compliance.

Implementation

If applicable, USAID should encourage implementing partners to submit a plan for partnering with indigenous peoples over the life of the program, project, or activity as part of the work plan and as a more detailed annex. This plan should include a description of how the implementing partner will engage indigenous stakeholders in defining the work plan, how they will continue to conduct consultations with indigenous stakeholders, and how they will include indigenous peoples in conducting monitoring and evaluation. Specifically the plan should include a mechanism by which partners and communities can provide feedback or alert USAID missions about concerns regarding activity implementation. This plan should also establish the partner's approach to engagement, how they will identify indigenous decision-making processes, and leadership structures to establish a strong foundation for meaningful partnership.

If applicable, project documents should also include a clear reference to risks identified in the SIA and the mitigation measures necessary to mitigate the risks. Mitigation approaches should be developed through a co-design process with implementing partners and indigenous peoples, leaning heavily on what communities are already doing and what they know would work.

If the SIA and consultations identify a likelihood of adverse impacts to indigenous communities, a free, prior and informed consent (FPIC) process should be implemented as soon as the specific location for implementation, specific risks and specific stakeholders are known. Sometimes this will be after the project has been awarded. If the mission, in consultation with the RLO, determines that FPIC is likely to be needed, it is important to include this requirement and appropriate funding for this process in the award. The USAID AOR/COR should closely monitor the process and encourage the use of USAID's Indigenous Peoples Consultation Handbook at a minimum. If a project or activity does not obtain FPIC, the implementing partner should revisit the mitigation measures proposed with the potentially impacted communities to see if adjusting such measure would lead to the community's consent. Ultimately, if FPIC is not obtained, the implementing partner is expected to identify a new site for the proposed project or activity. If there is no appropriate alternative site, USAID and the implementing partner should revise the scope of the project or activity if USAID believes this is the best decision under all applicable development assistance criteria.

Engagement Challenges for Regionally and Centrally Managed Mechanisms

Robust engagement with indigenous peoples during the project and activity design process can be daunting for USAID operating units that have regionally or centrally managed mechanisms. Such operating units are encouraged to build additional time into the procurement timeline to allow for travel to the regions where such activities will take place in order to consult with project stakeholders--particularly where such stakeholders are indigenous peoples. This may mean extending the timeline by one or two months to allow for travel time and consultation. If such robust engagement is not possible (or in addition to such

engagement), project managers should strongly consider an RFI process, through which a project description or scope of work is shared with potential project stakeholders and their feedback is gathered and incorporated into the design as appropriate. In addition, these operating units should ensure that the request for proposal or application require a clear plan and budget (including travel budgets) for engagement with indigenous peoples from the prospective contractors or grantees. This will help to ensure that implementing partners engage directly with indigenous peoples across the region or worldwide. If engagement is built in from the start, implementing partners will be better able to collaborate with indigenous peoples on activity design and work plans.

Monitoring, Evaluation and Learning

Consultations provide a critical opportunity for monitoring the impact of an activity over time, and gathering feedback to adjust or modify programming in a responsive way. Because a proper SIA includes a plan for conducting consultations over the life of an activity, this is a good framework for conducting monitoring and learning. This is particularly important to verify whether the intervention as carried out is consistent with indigenous peoples development priorities and needs. SIA consultations may also provide important information for evaluating activity performance.

The relevant indigenous communities should be involved in identifying drivers of political, social and economic marginalization, helping design programs, and defining success. In particular, missions should include indigenous peoples in identifying appropriate project outcomes, as well as indicators for measuring progress towards such objectives. The consultation process could provide a great opportunity for using participatory approaches to defining activity results.

OUs are strongly encouraged to gather disaggregated data (disaggregated by indigenous identity) during all monitoring and evaluation to enable officers to form a more comprehensive understanding of the gap in socioeconomic and wellness indicators between indigenous peoples and other populations. Such indicators may serve as metrics for a particular program, or as context indicators to assist OUs in understanding changes in context over the life of a USAID intervention. As with all data collection, it is critical to take safety considerations into account. Special attention should be paid to assessing whether it is safe to obtain and record certain information about indigenous peoples. It is also important that implementing partners engage indigenous peoples as active participants in the monitoring and evaluation process. This may require providing support for developing such capacity among interested indigenous peoples.

It is further recommended that missions and OUs that manage regional or global activities establish a mechanism for receiving consistent and direct feedback from indigenous peoples, partners, and governmental units that are impacted by USAID programming. Such a mechanism should establish a direct link between USAID and the indigenous community, and should be accessible to all members of the community, not only chosen representatives.

VII. CONCLUSION

This Policy marks a new era for USAID's efforts to partner with indigenous peoples. Partnerships will be a cornerstone of the Agency's support for the Journey to Self-reliance. The Policy and related guidance documents provide a frame for engaging with indigenous peoples to ensure that USAID's programming aligns to the greatest extent possible with indigenous peoples' own development priorities, resulting in greater self-reliance through deeper and more sustained outcomes. Tools for engagement, including a Consultation Handbook, an annotated Inclusive Development Assessment and Social Impact Assessment Guidance will assist OUs in ensuring that Agency activities do no harm, while building partnerships with indigenous leaders and communities that provide them with meaningful decision-making authority, help to unlock traditional development knowledge and result in more inclusive development.

This Policy will be an important resource to advance the Agency's Policy Framework which aims to end the need for foreign assistance by supporting countries to become self-reliant; that is, to attain and sustain prosperity, freedom, peace, and resilience inclusively, using their own resources.⁵³ The Agency recognizes that countries that achieve long-term, stable growth are those that develop inclusively by expanding equitable access to economic resources and opportunities.⁵⁴ USAID's work on indigenous peoples' issues has shown that they are critical partners in reducing gaps in health and education indicators, addressing persistent conflicts (particularly those relating to natural resources), preserving biodiversity, and promoting traditional approaches to building resilience to shocks.

To ensure that OUs have the technical capacity to carry out the approaches to engagement, partnership and do no harm that are detailed in this Policy, both regional and sector-specific implementation guidelines will be made available at www.usaid.gov/indigenous. Regional and mission-based trainings will continue to be available, as well as on-the-ground technical assistance by USAID's Advisor on Indigenous Peoples Issues.

⁵³ <https://programnet.usaid.gov/module/new-usaid-policy-framework-2018>

⁵⁴ <https://programnet.usaid.gov/module/new-usaid-policy-framework-2018>

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