



**USAID**  
FROM THE AMERICAN PEOPLE



**USAID**

# POLICY ON PROMOTING THE RIGHTS OF INDIGENOUS PEOPLES

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*On the cover: (Left) KINGDOM OF THAILAND: A USAID beneficiary learning about resilience to climate change near Chiang Rai, Thailand.  
(Top right) REPUBLIC OF COLOMBIA: Empowering women is key to promoting socio-economic inclusion of Indigenous Peoples in Colombia.  
(Bottom right) REPUBLIC OF KENYA: USAID supports women in northern Kenyan community conservancies to improve wildlife conservation, promote peaceful coexistence, and create economic opportunities.*

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# Message from the Administrator

It is a great honor and a pleasure to unveil the Policy on Promoting the Rights of Indigenous Peoples of the U.S. Agency for International Development (USAID). This begins a new era of considering and incorporating more effectively the perspectives of Indigenous Peoples in the design and implementation of our assistance.

Though innovative in its particulars, the Policy reflects our Agency's enduring commitment to supporting inclusive and sustainable development, and to advancing human dignity by protecting and empowering vulnerable populations, while safeguarding the environments in which they live.

Indigenous Peoples are among the most-marginalized populations in almost every country where they live. They are often discriminated against and systematically excluded from equal access to the rule of law and the benefits of development, and a worrisome trend has emerged in recent years of threats and violent attacks against individuals in the communities who defend their lands and cultures from competing demands on resources.

The drive that such groups nonetheless demonstrate to protect their territories, cultural heritage, and traditions in the face of persecution illustrates their unique potential as partners in the conservation and management of natural resources. Effective engagement with Indigenous Peoples not only bolsters their well-being, but also contributes to broader development outcomes by advancing democracy, supporting human rights and citizen-responsive governance, and improving prosperity on a sustainable basis. A nation's Journey to Self-Reliance can only succeed insofar as all segments of its society are equally respected and treated with dignity.

Working with Indigenous Peoples is a practical and a moral imperative in promoting peaceful, inclusive, and democratic societies in the countries in which we work. We have much to learn from them. Please read the new Policy and put it into practice in your work.



Mark A. Green  
USAID Administrator

*Opposite page: REPUBLIC OF KENYA: A Maasai woman with her dairy cows.*

# Executive Summary

This Policy on Promoting the Rights of Indigenous Peoples<sup>1</sup> (PRO-IP) positions the U.S. Agency for International Development (USAID) to strengthen and expand upon the decades of support we have committed to Indigenous Peoples around the world. The Policy offers guidance for robust engagement and partnership with Indigenous Peoples to help USAID's programs align with these communities' own priorities, while also ensuring that our staff and implementing partners safeguard against unintended adverse impact. Not all of USAID's Operating Units (OUs) will have the same level of engagement with Indigenous Peoples, but those whose projects have the potential for significant impact on Indigenous Peoples must adhere to this Policy. Operating Units that do not have extensive activities that affect Indigenous Peoples should use their best efforts to allocate time and resources effectively to include Indigenous Peoples in development processes and mitigate the risk of adverse impacts.

The Policy addresses common challenges faced by practitioners across the Agency, such as how to determine if we can consider a particular group as "Indigenous People," or how to communicate with Indigenous Peoples in a culturally appropriate way that enables them to contribute to the design and implementation of our projects and activities. This Policy applies to all activities funded and/or implemented by USAID.

The overarching goal of this Policy is to **improve the "measurable impact and sustainability of USAID's programs by ensuring that our staff and implementing partners engage Indigenous Peoples as meaningful<sup>2</sup> partners in development processes; safeguard against harm; and enhance their ability to promote their rights, determine their own priorities, and advance their self-reliance."** The Policy will help to ensure the sustainability of USAID's programs as described in the Agency's Policy Framework,<sup>3</sup> which states that each country's development solutions should mitigate potential risks, support local ownership, monitor and evaluate outcomes and effectiveness, and recognize that development is systemic. USAID will use its convening power to create space for the participation and engagement of Indigenous Peoples in development dialogues among



donors, governments, civil society, and the private sector. Partnerships are a cornerstone of the Agency's support for the Journey to Self-Reliance,<sup>4</sup> and this Policy is an important resource in our efforts to help communities progress on that journey.

## The Policy has four objectives:

1. Strengthen engagement with Indigenous Peoples to safeguard against harm and support their development priorities and self-reliance;
2. Increase the integration of Indigenous Peoples' concerns across all sectors of USAID's portfolio of investments and promote cross-sectoral development approaches;
3. Empower Indigenous Peoples and their representative organizations to advocate for, and exercise, their rights and practice self-determined development;<sup>3</sup> and
4. Foster an enabling environment for Indigenous Peoples to advocate for, and exercise, their rights.



REPUBLIC OF KENYA: Pastoralist in Isiolo County, Kenya.

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

- **Identify Indigenous Peoples:** The Policy provides criteria to assist USAID's Operating Units in determining whether to consider a given group as "Indigenous People."
- **Analyze Indigenous Peoples' Opportunities and Challenges:** The Policy provides guidance for better understanding Indigenous Peoples, and includes references to key resources that will help practitioners develop solutions for the priorities and opportunities of, and challenges that face, Indigenous Peoples.
- **Engage Indigenous Peoples:** The Policy strongly encourages engagement with Indigenous Peoples by USAID's staff and implementing partners across the Program Cycle, unless the communities themselves have decided to reject contact with the outside world.

- **Safeguard Indigenous Peoples' Rights and Well-Being:** The Policy requires USAID's Operating Units to consider the potential impact of the Agency's programming on Indigenous Peoples. It provides recommendations for conducting meaningful<sup>2</sup> consultation and obtaining free, prior, and informed consent (FPIC).
- **Establish Partnerships with Indigenous Peoples:** The Policy emphasizes not only that partnerships with local communities and leaders are critical to supporting the Journey to Self-Reliance,<sup>b</sup> but also that the most-effective partnerships are those in which all parties have genuine decision-making authority and the ability to influence development approaches and outcomes.

In addition to laying out objectives and principles for the Agency's work with Indigenous Peoples, the Policy provides practical guidance to assist USAID's Operating Units in its implementation. It illustrates how our Operating Units can apply the principles, tools, and resources discussed at each stage of the Agency's Program Cycle. It also illustrates how to implement key elements of the Policy's safeguarding approach that tracks USAID's processes to mitigate the environmental impact of our investments.

The guidance provided in this Policy aligns with appropriate international standards for development programming in country contexts where Indigenous Peoples are stakeholders. The Policy aims to set a new standard for engagement and partnership with Indigenous Peoples that will deepen the quantifiable impact and sustainability of USAID's investments.

# I. Introduction

Indigenous Peoples number over 370 million across the world,<sup>c,d</sup> who occupy approximately 20 percent of the earth's territory. Indigenous Peoples live in nearly every country in which USAID works, and our activities affect many of them. For purposes of this Policy, USAID considers Indigenous Peoples as distinct social and cultural groups that possess the characteristics described more fully in Section II below.

Working with Indigenous Peoples is an important component of USAID's goal to support human dignity and the innate desire of communities to shape their own bright future as they progress along the Journey to Self-Reliance. Indigenous Peoples are stewards of a wide range of critical ecosystems, and of much of the earth's biological diversity. Their livelihoods and traditional resource-management strategies are among the most sustainable. Their systems of traditional knowledge can make significant contributions to their own countries, as well as to broader global health, agriculture, and food security. Traditional knowledge is also valuable for finding effective strategies for responding to the challenges of global climate-adaptation.

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 their unique opportunities and contributions they can make to advancing USAID's mission and the Journey to Self-Reliance. Engaging Indigenous Peoples as partners in the development process is critical to preventing and resolving conflicts; enhancing democratic, citizen-responsive governance; promoting human rights and religious freedom; reducing poverty, and sustainably managing the environment.

USAID's PRO-IP Policy is intended to strengthen the way we design and manage the programs we fund, to benefit Indigenous Peoples more effectively. The Policy aims to ensure that each USAID project and activity that affects

the lives, territories, resources, and/or livelihoods of Indigenous Peoples engages them directly and meaningfully<sup>2</sup> in its design, implementation, monitoring, and evaluation. It is important to recognize that USAID is not making determinations with respect to Indigenous Peoples' legal, social, or cultural status.

This Policy builds on USAID's ample experience in supporting Indigenous Peoples' rights and interests, while also aligning with our current strategic approach to lift lives and build communities through helping governments, civil society, and the private sector on the Journey to Self-Reliance. As defined in the Agency's Policy Framework,<sup>a</sup> "self-reliance entails a capacity to plan, finance, and implement solutions to local development challenges, and a commitment to see these through effectively, inclusively, and with accountability." The Policy Framework<sup>a</sup> identifies capacity and commitment as emerging from the bottom up—from people and institutions within a country. This Policy aims to support the capacity of Indigenous Peoples and their organizations to determine and implement solutions to their self-defined local development challenges and opportunities and foster increased support from other actors (e.g., government, the private sector, civil society, and the wider population).

This Policy provides guidance to advance Indigenous Peoples' self-determined development by creating effective, tailored partnerships that empower local actors and strengthen local institutions.<sup>4</sup> It further supports the Agency's broad commitments to inclusive development.<sup>5</sup> It will guide USAID on how to deliver on the U.S. Government's specific commitments to engage Indigenous Peoples as partners in development, and to uphold and advance their rights.<sup>6</sup> To help safeguard Indigenous Peoples against harm, the Policy also sets forth a framework for USAID's Missions to consider potential adverse impact during the Program Cycle and ensure the appropriate and consistent engagement of Indigenous Peoples over the life of a project.

**The Policy has four objectives:**

1. Strengthen engagement with Indigenous Peoples to safeguard against harm and support their development priorities and self-reliance;
2. Increase the integration of Indigenous Peoples' concerns across all sectors of USAID's portfolio of investments and promote cross-sectoral development approaches;
3. Empower Indigenous Peoples and their representative organizations to advocate for, and exercise, their rights and practice self-determined development;<sup>3</sup> and
4. Foster an enabling environment for Indigenous Peoples to advocate for, and exercise, their rights.

Before further detailing these objectives and their accompanying operational principles, this Policy outlines the criteria USAID will use to identify Indigenous Peoples, and also describes the challenges and opportunities they face today. The Policy illustrates how USAID's staff and implementing partners can advance these objectives throughout the Program Cycle. References to additional tools to support implementation appear throughout the document and on the Agency's Indigenous Peoples' website.<sup>7</sup> The Policy also includes a Glossary of frequently used terms to help provide a common foundation for understanding key points set forth in the document.



*DEMOCRATIC REPUBLIC OF CONGO: Indigenous Peoples who are beneficiaries of the CARPE livelihoods program build constituents for the conservation of biodiversity and forests.*

## II. Identifying Indigenous Peoples

The identification of Indigenous Peoples can be challenging. Not all countries in which USAID works recognize the rights, or even the existence of, Indigenous Peoples. This Policy provides USAID's Missions with a consistent approach to identifying and working with Indigenous Peoples to improve the measurable impact and sustainability of our programs.

Indigenous Peoples are not a monolithic group, and it is critical to recognize that many distinct voices exist within each community. It is important to address this heterogeneity in USAID's programming. USAID has developed an Inclusive-Development Analysis (IDA)<sup>8</sup> annotated<sup>9</sup> to help our Operating Units to identify and understand Indigenous Peoples.

This annotated IDA provides a helpful resource for understanding the socio-political dynamics within and among Indigenous Peoples' communities and organizations.

### Criteria for Identifying Indigenous Peoples

Indigenous Peoples are known by different names in different places. The terms "hill people," "aboriginal," "First Nations," "scheduled tribes," "natives," "ethnic minorities," "agro-pastoralists," and "pastoralists" all describe Indigenous Peoples. To accommodate this diversity, USAID endeavors to align our development practices with appropriate international standards and best practices for identifying Indigenous Peoples. In the absence of a single definition for "Indigenous Peoples" under international law, international donors, multilateral development banks, the United Nations (UN), and private corporations have collaborated for decades to develop guidelines for the identification of Indigenous Peoples to help ensure the adequate respect of their rights. Accordingly, USAID uses a set of criteria to identify Indigenous Peoples, rather than a fixed definition, developed in consultation with the communities themselves, the Agency's Senior Advisor for Indigenous Peoples' Issues, and other experts on Indigenous Peoples' rights. These criteria also draw from those set forth in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP),<sup>10</sup> and Performance Standard 7 of the International Financial Corporation (IFC).<sup>6</sup> These criteria are purposefully broad and inclusive to ensure the Agency's Operating Units are

able to identify the particular interests or rights of stakeholders who are Indigenous Peoples. This will help to inform the way in which USAID's Operating Units engage with Indigenous Peoples across the Program Cycle, and will also raise awareness of potential rights our programs should consider on a case-by-case basis. In reviewing the criteria below, Operating Units must remember that USAID is not making determinations with respect to Indigenous Peoples' legal, social, or cultural status. Accordingly, one should not read these criteria to infer that majority populations are not, or cannot identify as, Indigenous Peoples.

The criteria below are used by USAID to identify Indigenous Peoples:

- a. self-identification as a distinct social and cultural group;
- b. recognition of this identity by others;
- c. historical continuity with pre-colonial and/or pre-settler societies;
- d. collective attachment to territories and their natural resources;
- e. customary social, economic, or governance institutions that are distinct;
- f. distinct language or dialect; 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. USAID's programming aligns with international standards in recognizing that Indigenous Peoples and communities can be, and often are, present in locations that are not their traditional territories, because of forced resettlement and displacement and voluntary migration to urban areas. Similarly, the Agency also recognizes that Indigenous Peoples might not speak distinct or traditional languages, because governments might have outlawed them at some point, or education in a dominant or official national language might have overwhelmed them.



KINGDOM OF THAILAND: Mekong Adaptation and Resilience to Climate Change activity in Chiang Rai, Thailand.

Where any combination of several of these characteristics applies, USAID should presume the presence of Indigenous Peoples. Where information is inconsistent or uncertain, Operating Units must consult with the USAID Senior Advisor for Indigenous Peoples' Issues for guidance and a determination as to whether further evidence, examination, or analysis is required. Given the particularly challenging circumstances of urban-dwelling Indigenous Peoples, development programs can greatly deepen their programmatic outcomes by identifying and engaging with members of communities of Indigenous Peoples in cities to inform more culturally appropriate and targeted interventions.

Understanding Indigenous Peoples' priorities, opportunities, and social, cultural, environmental, and legal challenges<sup>11</sup> helps to ensure that activities safeguard against the risk of adverse impact, and mitigates against the risk of conflict that can arise from misaligned expectations or misunderstanding of donor-funded development activities. USAID's Operating Units and implementing partners should make every effort to identify whether Indigenous Peoples are stakeholders of projects, and to engage them at the earliest stages of the Program Cycle. A useful tool for identifying project stakeholders is USAID's *Environmental Compliance Factsheet: Stakeholder Engagement in the Environmental and Social Impact Process*.<sup>f</sup>

As discussed in Section IV, when Operating Units identify Indigenous Peoples as stakeholders, they must carry out an analysis to consider the potential impact that a project or activity could have on such communities.

USAID's Operating Units and implementing partners must carry out work with Indigenous Peoples with heightened sensitivity to the historical and political dynamics in a given region and country, and be especially mindful of the nature and impact of socio-economic and legal exclusion. This Policy applies in all countries and contexts, even in situations in which governments and legal systems do not recognize Indigenous Peoples or their rights on a formal basis.

To assess the characteristics outlined above and determine the degree to which they are present, USAID's Operating Units should use the Agency's annotated IDA.<sup>7</sup> The annotated IDA also provides guidance on understanding the impact of a determination that USAID considers, or does not consider, a group as an Indigenous People (including the local and national legal and political landscape that drive the determination and incentives in the partner country for recognition or non-recognition).

In addition to this Policy, practitioners should review safeguards that reflect international best practices, including the World Bank's Environmental and Social Safeguard (ESS) 7<sup>g</sup> and IFC Performance Standard 7.<sup>e</sup>

# III. Indigenous Peoples and Development: Challenges and Opportunities

## Challenges

Indigenous Peoples can suffer disproportionate harm from poorly planned development efforts, and often find themselves excluded from equal access to the benefits of even the best-executed development investments. In part, this is because of historical marginalization, geographical isolation, cultural prejudice, racism, and other complex challenges. Governments have forcibly displaced Indigenous Peoples from their ancestral lands; repressed their traditional institutions, customs, languages, and religions; and forced their cultural assimilation.<sup>h</sup> More broadly, legal systems all over the world have denied Indigenous Peoples recognition of legitimate tenure over their customarily held lands and natural resources.<sup>i</sup> Indigenous Peoples possess ownership rights to only an estimated one-fifth of the areas under customary use, which leaves 80 percent of their lands and territories subject to insecurity, invasion, and appropriation.<sup>j</sup> Insecure tenure rights have contributed to high levels of conflict between Indigenous Peoples and other communities<sup>kl</sup> including incidents of displacement, which has contributed to further impoverishment, joblessness, homelessness, hunger and food-insecurity, increased morbidity, and community disarticulation.<sup>m</sup>

Donors have exacerbated this dynamic in a number of cases. Large infrastructure, agriculture, and resource-extraction projects often have devastating impacts on the lives and lands of Indigenous Peoples. Biodiversity-conservation projects that aim to protect natural resources and advance local development sometimes inadvertently result in violence towards, or the expulsion of, Indigenous Peoples from their territories.<sup>n,op</sup> Inadequate due-diligence processes and/or regulatory frameworks for assessing legitimate land tenure can lead to the assumption that barren lands are free to be sold or licensed for development, when, in fact, they are the traditional territories of Indigenous Peoples. These conflicts are avoidable with proper planning, understanding of local history and context, and engagement with the communities.

While Indigenous Peoples make up just five percent of the earth's population, they accounted for over 40 percent of environmental defenders killed in 2015 and 2016, and 25 percent of those killed in 2017.<sup>q</sup> It is important to recognize that these killings often target Indigenous Peoples' leaders who speak out against development projects that threaten their rights and livelihoods. Less-direct harms, like disease transmission, urbanization, cross-border and internal migration, and a widening digital divide, can make the situation worse.<sup>r</sup> It is also important to recognize the psycho-social impact of ongoing conflict and the lack of redress for past atrocities or violence that many communities confront. Finally, Indigenous Peoples can also be more vulnerable than the dominant population to climactic shocks and weather-related events, because they often depend on their environment for their livelihoods and live in landscapes that are more exposed to natural disasters.

In most countries in which USAID works, Indigenous Peoples lag behind the general population on a wide range of development indicators: they often suffer from higher levels of poverty, malnutrition and infant mortality;<sup>t</sup> have less access to education and health care (even in urban areas), and have shorter lifespans.<sup>s,t,u</sup> In terms of education, Indigenous Peoples' children frequently suffer from poor performance in school, low literacy, and high dropout rates.<sup>v,w,x</sup> Part of the reason for these poor results is that governments often have not engaged Indigenous Peoples in the design of curricula or the definition of standards,<sup>y</sup> and communities have often resisted education that does not respect their traditional knowledge, values, languages, and livelihoods.<sup>y</sup> In terms of health, the available data suggest that Indigenous Peoples almost always exhibit far worse health indicators compared with national and regional averages. For example, for Indigenous Peoples in several countries, infant mortality rates are at least twice as high, the prevalence of child malnutrition is significantly higher, and children's life expectancy is five years lower than in benchmark populations.<sup>t</sup>

## Opportunities

Despite the challenges that face Indigenous Peoples and their cultures, these communities contribute tremendously to global development. The knowledge of Indigenous Peoples has propelled human progress in transformative ways, such as through the domestication of corn and potatoes,<sup>z,aa</sup> and via more subtle contributions in fostering sustainable livelihoods.<sup>12</sup> In addition, an estimated 25 percent of prescribed medicines in North America were derived from plants first used traditionally by Indigenous Peoples,<sup>ab</sup> and most of the nearly 75 percent of prescription drugs used to fight cancer are derived from plants, many discovered through traditional medicine.<sup>ac</sup>

The diverse approaches to conservation invented by Indigenous Peoples have helped maintain forest cover and habitat for biodiversity in their territories.<sup>ad,ae,af</sup> The world increasingly is recognizing Indigenous Peoples' communities as leaders in reducing carbon emissions and protecting ecosystem services.<sup>ag</sup> Indigenous Peoples are also the keepers of much of humanity's cultural and linguistic heritage; only five percent of the world's population, largely Indigenous Peoples, speak 96 percent of the world's languages.<sup>ah</sup> Traditional knowledge of Indigenous Peoples has been, and continues to be, vital to agriculture and global food security, innovations in health and medicine, the conservation and management of the environment, and the maintenance of resilient and diverse societies.



FEDERATIVE REPUBLIC OF BRAZIL: USAID's engagement with the private sector brought innovative technology to improve a sustainable fishing economy for Brazilian Indigenous Peoples.

## IV. Policy Objectives

The goal of this Policy is to **improve the measurable impact and sustainability of USAID's programs by ensuring our staff and implementing partners engage Indigenous Peoples as equal partners in development processes, safeguard against harm, enhance their ability to promote and protect their rights, and determine their own development priorities.**

The Policy will help to ensure the sustainability of our programs as described in USAID's Policy Framework,<sup>a</sup> which states that the Agency should mitigate potential risks, support local ownership, monitor and evaluate outcomes and effectiveness, modify our programs accordingly, and recognize that development is systemic.<sup>a</sup>

**The PRO-IP Policy's four objectives are the following:**

### **I. Strengthen engagement with Indigenous Peoples to safeguard against harm and support their development priorities and self-reliance**

Like any population, Indigenous Peoples have development priorities for their communities, though they often lack a mechanism to make them known and to influence governments, companies, and donors to take them into account. Indigenous Peoples possess a wealth of development-relevant knowledge that often goes untapped by the programs that seek to assist them. This Policy will strengthen USAID's support for Indigenous Peoples' Journey to Self-Reliance.<sup>b</sup> For Indigenous Peoples, communities, and organizations, this entails elevating their role in determining and managing their own future. This objective aims to deepen two-way communication between USAID (and its implementing partners) and Indigenous Peoples through ongoing, culturally appropriate consultations over the life of a project or activity. It is critical to first listen to the voices of Indigenous Peoples and then to **identify shared or diverging goals for a development activity to reach consensus on the objectives and approaches to achieving them.** As described more fully in Sections V and VI, USAID's Operating Units should pursue this deepened engagement throughout the Program Cycle.

In addition to achieving better measurable development outcomes, this objective seeks to safeguard against the risk of doing harm by ensuring that USAID's Operating Units understand and recognize Indigenous Peoples' rights, and that our staff have an increased capacity to design programs that enhance respect and recognition for these rights. When Indigenous Peoples are stakeholders in a given activity, USAID's Operating Units must carry out an analysis that considers the potential impact of proposed development activities and that involves direct engagement with affected Indigenous Peoples. Partnerships, consultation processes, and participatory social impact assessments (SIAs)<sup>13</sup> that incorporate regular consultation allow communities to play an active role in identifying and mitigating potential adverse impact.

Nevertheless, we must recognize that some communities of Indigenous Peoples want to be left alone. USAID must understand and support the decision of some Indigenous Peoples to remain uncontacted by the outside world. In such cases, USAID's Operating Units should support the governmental institutions that have the responsibility of protecting Indigenous Peoples from external threats and interference.

### **2. Increase the integration of Indigenous Peoples' concerns across all sectors of USAID's portfolio of investments and promote cross-sectoral development approaches**

Indigenous Peoples are often among the most impoverished and disadvantaged members of society. USAID's programming should strive to address this challenge in each sector in which we work by ensuring the integration of the opportunities and challenges of Indigenous Peoples in all programs that could or should affect them. While stand-alone programs to address the concerns of Indigenous Peoples are critical, the Agency can broaden our inclusion of Indigenous Peoples by considering them in the design process for **all** programs. Such comprehensive integration in economic growth, food security, infrastructure, health, education, engagement with the private sector, and other types of programming can increase the amount of overall assistance from which Indigenous Peoples could benefit.



REPUBLIC OF COLOMBIA: Initiatives in La Guajira, Colombia, to preserve the cultural heritage of Wayúu palabrer<sup>os</sup>.

In addition to integrated interventions, this Policy encourages stand-alone projects that use cross-sectoral approaches to address the opportunities and problems of Indigenous Peoples, including the root causes of marginalization. The development challenges Indigenous Peoples face are the result of a confluence of factors often related to geographic isolation, linguistic barriers, structural and other forms of discrimination or social stigmatization, and the historical and ongoing imposition of large-scale development projects that infringe on their rights and undermine their livelihoods. 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 systematic approach to analyzing and addressing them. Dedicated activities, such as USAID/ Colombia's Afro-Colombian and Indigenous Program, consider multiple barriers to empowerment and well-being, including access to economic opportunities and government services, government capacity to support Indigenous Peoples' communities, and awareness-raising of the value of ethnic diversity. An IDA can inform such approaches by helping to identify challenges often undetected by sector-specific analyses, and can lead to development solutions that transcend sectors and deepen impact.

### **3. Empower Indigenous Peoples and their representative organizations to advocate for, and exercise, their rights and practice self-determined development**

This Policy aims to empower Indigenous Peoples to fulfill their own aspirations. As highlighted throughout this document, a significant driver of marginalization and vulnerability among Indigenous Peoples is their exclusion from critical decisions that affect their rights, territories, or physical well-being. These barriers to political and other forms of participation and decision-making processes can stem from a number of factors, including power dynamics within the government and private sector, linguistic barriers, geographic isolation, racism, culturally distinct approaches to negotiation and communication, and safety/security threats, among other things.

For purposes of this Policy, USAID's programs advance the self-reliance of Indigenous Peoples when they help them acquire the power to act freely; advocate for, and exercise, their rights; and promote their own development priorities as full and equal members of society. USAID must recognize Indigenous Peoples as distinct groups with their own institutions and mechanisms for collective decision-making.



INDEPENDENT STATE OF PAPUA NEW GUINEA: Workers at a mangrove nursery explain their operation to visitors.

Indeed, as described in USAID's Policy Framework,<sup>a</sup> one of the primary ways the Agency supports democracy, prosperity, human dignity, and human and institutional capacity is to invest in inclusive development, social cohesion, equality, and empowerment. This includes encouraging inclusive processes and widespread access to opportunity. **USAID strives to support the capacity of Indigenous Peoples, their representatives, and allied organizations, to plan, finance, and implement solutions to their own local development challenges.** This objective both reflects, and builds on, decades-long funding from USAID for programs that empower Indigenous Peoples. Such efforts provided capacity-building and other support for Indigenous Peoples to advocate and negotiate for their rights, often through improved, community-based governance of land and resources; managing and mitigating conflicts; and promoting social inclusion.

Key priorities for USAID under this objective are to consolidate lessons-learned across various Operating Units that are working on empowerment and rights; to provide our field Missions with the tools needed to understand Indigenous Peoples' rights; and to increase support to empower Indigenous Peoples to participate in decision-making processes and develop, implement, monitor, and evaluate the development programs we and other donors fund. Empowerment is vital to ensuring that Indigenous Peoples can control their own resources and development trajectory sustainably—this is a key element of helping communities to achieve self-reliance at the most grassroots level. To realize this objective, it is critical that USAID's Operating Units increase their direct funding to local Indigenous Peoples' organizations, as more fully described in Section V below.

#### **4. Foster an enabling environment for Indigenous Peoples to advocate for, and exercise, their rights:**

Indigenous Peoples' communities often face cultural, legal, social, and institutional barriers to the realization of their rights. This objective aims to ensure that the political, economic, and social institutions and systems that shape Indigenous Peoples' development journeys are more equitable, inclusive, and accessible.

One of the key principles that underpins USAID's approach to fostering self-reliance is to enhance the sustainability of our programmatic results, in part by understanding the context in which our programs operate, and the constellation of actors and interactions that can lead to meaningful<sup>2</sup> and lasting change.<sup>4</sup> A complex network of actors and organizations, from governments to the private sector, civil society, and the population writ large, all interact and engage in shaping both development challenges and solutions. To produce positive, measurable development outcomes, USAID should promote cohesive, inclusive institutions, whether in intercultural education; health

care; democracy, rights, and governance; food security; or other sectors. USAID should use our convening power to bring together Indigenous Peoples' communities, host-country governments, the private sector, and civil society to remove barriers to the realization of Indigenous Peoples' rights, promote adherence to international standards of human rights, and improve the capacity of host-country governments to engage Indigenous Peoples as partners in the Journey to Self-Reliance.<sup>5</sup> For example, USAID's Missions could support the drafting of local and national legislation and regulations to assist governments in complying with their obligations under international and/or domestic law to recognize the rights of Indigenous Peoples, including their customary or traditional land-tenure systems. Such assistance could also support the strengthening of regulatory frameworks for environmental and social impact assessments that include the participation of Indigenous Peoples through consultations and FPIC. USAID-funded programs should also focus on the capacity of government agencies that are responsible for engaging with, and providing services to, Indigenous Peoples, and respect the decision of those who live in voluntary isolation.



UNITED REPUBLIC OF TANZANIA: Teresia Oloitai sells corn at the Maasai market in Tanzania.

## V. Operating Principles

To achieve the four objectives described above, USAID's Operating Units should adopt the following five operating principles: **Identify, Analyze, Engage, Safeguard, and Establish Partnerships.** USAID's Bureaus and Missions should integrate these principles across the Program Cycle, as described further in Section VI. Note that these operating principles also align with, and complement, those in Chapter 201 of USAID's Automated Directives System (ADS): Program Cycle Operational Policy. The operating principles below do not necessarily occur in sequential order, and USAID's Operating Units should apply them across the Program Cycle at every opportunity.

### I. Identify Indigenous Peoples

USAID's Operating Units should first identify whether any ethnic group or other marginalized population in a country would qualify as Indigenous Peoples in line with the criteria in Section II of this Policy. In addition to applying the criteria, Missions or other Operating Units should speak with Indigenous Peoples' leaders, organizations, and diverse members of Indigenous Peoples' communities, as well as with anthropologists or other subject-matter experts, to seek assistance in determining which populations in a country might be Indigenous Peoples. Where information

is inconsistent or uncertain, Operating Units must consult with the USAID Senior Advisor for Indigenous Peoples' Issues for further support.

When trying to determine who qualifies as Indigenous Peoples, USAID's Operating Units must consider relevant stakeholders both inside and outside the specific geographic location in which our partners propose to implement a development project or activity, with consideration given to potential short- and long-term impact (at the national, regional, and sub-regional levels). 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 Chapter 201). USAID further suggests that an initial identification of stakeholders should encompass as broad a range of groups as possible, which an Operating Unit can then refine to identify which of these groups are Indigenous Peoples through further analysis, assessments, and consultations with stakeholders and Indigenous Peoples' communities themselves.<sup>f</sup>

This Policy applies to all countries and contexts, including those whose governments and legal systems do not recognize formally Indigenous Peoples who live within their boundaries.

### ANALYSIS OF THE RELEVANT LEGAL FRAMEWORKS ON THE RIGHTS OF INDIGENOUS PEOPLES

The rights of Indigenous Peoples are articulated in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and are reinforced by international conventions, such as the Indigenous and Tribal Peoples Convention (International Labor Organization Convention 169) and the International Convention on the Elimination of All Forms of Racial Discrimination. At the regional level, the rights of Indigenous Peoples can be articulated in instruments such as the American Declaration on the Rights of Indigenous Peoples.

In countries that have ratified conventions or treaties relating to Indigenous Peoples' rights, the domestic legal framework should be analyzed to determine the mechanisms for the exercise and enforcement of such rights. The rights of Indigenous Peoples may be enshrined in the constitutions, laws and regulations, or specific policies or processes. Examples of Indigenous Peoples' rights include: laws that require consultation or free, prior, and informed consent; laws that establish a ministry or office for Indigenous Peoples' affairs; laws that govern the Indigenous Peoples' land and resource rights (found in land use policies or regulations), and/or forestry regulations governing Indigenous Peoples' relationship with forested areas. Such laws may also exist in countries that have not ratified the relevant treaties.



REPUBLIC OF PARAGUAY: Zunilda Arce and women from the Ita Guasu community participate in the creation of their community-development plan.

## 2. Analyze Indigenous Peoples' Opportunities and Challenges

When USAID's Missions or other Operating Units identify Indigenous Peoples as stakeholders, they should analyze the following: (i) how and when during the Program Cycle to engage them; and (ii) which issues, development objectives, projects, and/or activities are most relevant for them. One recommended initial step is to conduct a desktop review to ensure the Operating Unit has access to basic demographic data for Indigenous Peoples. This should include reviewing the country's Self-Reliance Roadmap, including its score on the metric of Social Group Equality<sup>b</sup> and relevant secondary metrics, and undertaking an analysis of the relevant legal frameworks in consultation with the Office of the General Counsel (GC) or Resident Legal Officer (RLO). USAID's Operating Units should consider whether other in-depth analyses are warranted, including a more-robust IDA. This analysis should complement the mandatory gender analysis described in ADS Chapter 205.

An annotated version of the IDA is available at USAID's Indigenous Peoples' website<sup>7</sup> and includes detailed guidance on how to apply the IDA to better analyze Indigenous Peoples' opportunities and challenges. 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 working with or otherwise engaging Indigenous Peoples to promote their self-reliance. The annotated IDA will assist USAID's Operating Units in mapping the distinct economic, legal, and social status of Indigenous Peoples, as well as their institutions, customs, culture, religion, and language. The analysis also guides Operating Units in understanding each group's prior experience with development activities and actors, as well as their relationship to governmental authorities and the mainstream economy. This information is critical for engaging with Indigenous Peoples in a culturally appropriate manner, and for pursuing participatory approaches to designing projects and activities that take the political economy of a given group and location into account.

USAID's Operating Units can conduct such analyses at any stage during the Program Cycle, and they should advance a Mission's goals for collaboration, learning, and adapting (CLA). By providing a framework for understanding domestic laws, land-tenure structures, and natural-resource rights and ownership, the annotated IDA will also help Operating Units to support the efforts of national and local governments to distribute the benefits of development equitably, including through the mobilization of domestic resources. Ensuring the inclusion of Indigenous Peoples will help to achieve scale by delivering measurable development outcomes to some of the most-marginalized members of society.

In line with the focus of the USAID Policy Framework,<sup>a</sup> USAID's Operating Units also must consider the ways in which engagement with, and support for, Indigenous Peoples can affect nearby communities. USAID's Operating Units should direct resources to address the opportunities of, and challenges that face, Indigenous Peoples, but, at the same time, should pay attention to how nearby groups could perceive such support. The annotated IDA<sup>7</sup> provides guidance for mapping relationships between Indigenous Peoples and nearby communities, and can provide a framework for developing mitigation measures and engaging in consultations to address potential points of tension and areas of conflict. In situations in which tensions or conflicts are already known to exist, USAID's Operating Units should apply the Conflict-Assessment Framework to identify the drivers of conflict, inform the design of projects and activities, and ensure that our programming does not exacerbate existing tensions.<sup>ah</sup>

In accordance with Objective 2 above, assessments should look across sectors to assist USAID's Operating Units in identifying systemic, cross-sectoral approaches to addressing the complex opportunities and challenges that Indigenous Peoples face. The results of these assessments should inform Regional or Country Development Cooperation Strategies (RDCS/CDCS) and the design of projects and activities. Operating Units should consult with experts from Indigenous Peoples' communities as often as possible.

### 3. Engage Indigenous Peoples

Where it is likely that USAID's development programming could benefit or otherwise affect Indigenous Peoples, our Operating Units should engage with Indigenous Peoples to understand their aspirations, priorities, capacities, and preferred approaches. This Operating Principle is critical for advancing objective engagement with Indigenous Peoples, not only to enable us to identify potential risks, but also to ensure that our design of projects and activities more directly targets their needs.

A critical first step to engaging with Indigenous Peoples should include informal conversations with them. This will help USAID's Operating Units to gather important background information, and a deeper level of engagement will help to achieve more-technical goals. USAID recommends that our Operating Units carry out formal engagement, such as structured consultations, at various points throughout the Program Cycle. The aim of a consultation is to generate 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. Consultations should meet the standards for community engagement laid out in USAID's Consultation Handbook.<sup>7</sup> For example, USAID's Operating Units should engage Indigenous Peoples through their own decision-making mechanisms while ensuring the inclusion of potentially marginalized members of the community. Engagement with women and men (or with youth and elders) in the communities could require differentiated approaches. For instance, the decision-making rights of women could be especially tenuous because of a number of factors, including cultural norms that privilege men's decision-making, or that do not take into account a woman's work load, or her access to education. The IDA<sup>7</sup> can also be a useful tool in identifying and understanding these internal processes and cultural nuances, while helping USAID's Operating Units address these disparities in a way that does not undermine traditional authority structures in the design or implementation of projects and activities.

USAID's staff and implementing partners must work with representatives of Indigenous Peoples to understand cultural differences, such as different ways of conceiving of timelines, spaces, communication, etc. Establishing mutually agreed-upon procedures or "rules of engagement" will provide a framework for conversation and interaction that is culturally appropriate for both sides. USAID's Operating Units should also establish a climate of mutual trust, ensure consultations



REPUBLIC OF PERÚ: Cacataibo community members harvest shiringa to create vegetable leather for wallets and purses.

## ESSENTIAL ELEMENTS OF MEANINGFUL<sup>2</sup> CONSULTATION WITH INDIGENOUS PEOPLES

- Communication with stakeholders early and often throughout the Program Cycle
- Clear communication in language that is easy for all parties to understand, with translation into local language
- Good-faith consultation through representative institutions and in accordance with the communities' own decision-making mechanisms
- Two-way flow of information that facilitates mutual understanding of future or current programming and leads to informed feedback from stakeholders regarding potential impacts
- Opportunities for stakeholders to influence the planning and development process
- Recognition that Indigenous Peoples are not monolithic groups, but rather, include a diversity of stakeholders, including women, youth, persons with disabilities, etc. Consultations should account for this diversity
- Recognition that consultations undertaken in restrictive environments can endanger participants, and application of appropriate safeguards<sup>14</sup>

are transparent, and proceed in good faith. In cases in which Indigenous Peoples have developed their own protocols and policies in relation to consultation and FPIC, these should form the basis for engagement with them. To help information flow both ways, USAID's staff and implementing partners should share outcomes back to the stakeholders, including the results of any analyses or decision-making processes that such engagement helped to influence.

### 4. Safeguard Indigenous Peoples' Rights and Well-Being

As described under Objective 1 and Operational Principle 3 above, sustained engagement and consultation with stakeholders helps both USAID and Indigenous Peoples' communities identify the potential impact 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:<sup>15</sup>

- Step 1: When USAID identifies Indigenous Peoples as stakeholders of a project or activity funded by the Agency,<sup>f</sup> the relevant Operating Unit(s) must produce a written analysis of the potential impact the investment could have on Indigenous Peoples. The Operating Unit must carry out this written analysis at the earliest stages of the design process (when the location and likely stakeholders of a project or activity are known) through engagement with affected Indigenous Peoples. USAID's Operating Units may use a variety of approaches to engage with the affected communities, including consultations with Indigenous Peoples, conducting a SIA, or including questions on potential impact on Indigenous Peoples in an Initial Environmental Examination.<sup>ai</sup>

## 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. An SIA assesses the changes to that baseline condition.<sup>aj</sup> Those changes may be different for each social group in the community (such as women and girls, men and boys, and others) and may involve the people's way of life, their culture, community, political systems, environment, health and well-being, personal and property rights, fears, and aspirations. When an SIA is conducted, it should be carried out in collaboration 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).

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 activities to assess such risks (as described in the guidance for SIA) on an ongoing basis. Indigenous Peoples are in the best position to identify potential impacts and mitigation measures, and therefore must be engaged in the SIA process throughout the Program Cycle.

- Step 2: If an Operating Unit identifies potential adverse impacts under Step 1, USAID then must consult with Indigenous Peoples to develop measures to understand these possible impacts, and to develop mitigation measures. The SIA and other project/activity documents should document these mitigation measures, and the Operating Unit should monitor them over the life of the project.
- Step 3: When Indigenous Peoples are present in or have a collective attachment to the project area **and** there are either: (i) risks of possible adverse impacts on their human rights, livelihoods, and/or culture; (ii) the potential for adverse impacts on their lands and territories, natural resources, or sacred sites (whether the land is under traditional ownership title or based on customary use and occupation); or (iii) threats that might result in physical relocation from those lands, **then** Operating Units must seek the free, prior, and informed consent (as described below) of the Indigenous Peoples' communities themselves for the implementation of the project or activity (including mitigation measures), in accordance with international standards.



REPUBLIC OF INDONESIA: A Papuan woman and her child in front of a public-sector clinic in one of the remotest areas in Papua Province.

## WHAT IS FREE, PRIOR, AND INFORMED CONSENT (FPIC)?

International standards state that consultations should provide a meaningful<sup>2</sup> 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” (FPIC)—the idea that before an action can occur that would affect a person or community positively or negatively, the person or community must give approval for the activity to move forward (“consent”).

Consent would be meaningless if the person or group did not receive full information about the proposed activity and its potential impacts (“informed”) before the activity begins (“prior”). It is also critical that the Indigenous Peoples’ community or communities involved not face any pressure or coercion to agree to the activity (“free”). While obtaining FPIC from Indigenous Peoples is generally the obligation of national governments, among donors, this is a best practice. Development organizations recognize the importance of engaging with Indigenous Peoples where significant impacts are likely to occur as a result of a development activity—including on Indigenous Peoples’ territory or natural resources, or where physical resettlement might take place.

As is detailed in USAID’s *Consultation Handbook*, if an Operating Unit decides to undertake an FPIC process, it should do so in line with agreed-upon decision-making processes and institutions—through recognized leaders and the community’s own decision-making mechanisms. The Operating Unit should make every effort to ensure the inclusion of potentially marginalized members of the community, especially women, youth, and persons with disabilities. The annotated IDA is a useful tool for helping to identify legal frameworks, institutions, mechanisms, traditional leaders, marginalized groups, etc. After an Operating Unit conducts an IDA, additional engagement is necessary to achieve agreed-upon “rules of engagement” for the FPIC process, including a clear understanding of its outcomes.

The United States, in its Announcement of Support for the UNDRIP, states that, “the Declaration’s provisions on free, prior, and informed consent are understood to call for a process of meaningful<sup>2</sup> consultation with [traditional] leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken.”<sup>16</sup> As identified in USAID’s Policy Framework,<sup>a</sup> the Agency must minimize the risk that our program inadvertently cause harm, including, where relevant, by “seeking free, prior, and informed consent from affected Indigenous Peoples for activities with potential adverse impacts.” In such circumstances, Operating Units should not proceed with an activity when significant negative impacts are likely and consent from the community is not forthcoming.

If a consultation or an FPIC process must take place in a restrictive environment, a USAID Operating Unit should consider whether there are any risks to the safety of the participants and take appropriate measures to safeguard against harm.<sup>17</sup> Consent can take different forms, including written or oral (e.g., an affirmative decision made in a communal assembly). It is also possible that the presence of other actors (e.g., the government or the private sector) could affect the ability of participants to engage freely in discussions. USAID’s Operating Units should design measures to mitigate this influence in collaboration with Indigenous Peoples themselves.

Development activities that affect Indigenous Peoples can suffer from both unexpected and avoidable setbacks. For example, a community might have had a negative experience with an implementing partner, might perceive a private-sector partner as threatening, or might face competing claims to land that make identifying the right stakeholders for engagement difficult. In addition to watching out for potential social and environmental harms, USAID's Operating Units should carry out due diligence to identify potential risks related to the possession or title of land, implementing partners, and private-sector partners/affiliates. Such due diligence can be part of consultations or an SIA, as described in Section VI below. The Operating Unit and implementing partner(s) should use any information gathered through any due-diligence exercise to weigh the risks of the potential adverse impacts and the reputational risk to USAID and the U.S. Government.

USAID-funded programs should monitor and mitigate against any potential adverse impact of the assistance they provide. When Indigenous Peoples are stakeholders of a USAID intervention, such harms can include exacerbating conflict, disrupting livelihoods, damaging community lands and resources, raising inter-communal tensions caused by a perceived inequitable distribution of assistance, or creating/stoking tensions between Indigenous Peoples and the national or local government or the private sector (e.g., related to the extraction of natural resources). USAID's Operating Units should consider such potential harms across the range of analyses the Agency undertakes, including written analyses of potential impacts, IDAs, SIAs, and Conflict-Assessment Frameworks. Operating Units should use such assessments to engage directly with Indigenous Peoples to identify drivers of potential conflict as well as potential mitigation measures.

## **5. Establish Partnerships with Indigenous Peoples**

USAID's Policy Framework<sup>3</sup> emphasizes the fundamental importance of partnership in achieving and sustaining measurable development results and self-reliance. The Policy Framework<sup>3</sup> directs the Agency to diversify our partners and partnership models, and identifies, in particular, the importance of partnerships with community groups and local civil-society organizations, given their legitimacy

### **RESPECTING INDIGENOUS PEOPLES IN VOLUNTARY ISOLATION**

Indigenous Peoples who are living in voluntary isolation and the initial stages of contact are in a unique situation of vulnerability. Undesired contact can lead to conflict, and usually results in significant adverse impacts on their lives, cultures and livelihoods. Because many of these communities have not developed immunity to diseases common among the general population, this contact also poses significant health risks. In host countries where Indigenous Peoples in voluntary isolation and in the initial stages of contact live, USAID should support efforts to recognize, respect, and protect their lands and territories, health, and cultures. The Agency should not fund or support projects that could lead to undesired contact or that could potentially have negative impacts on the lands and resources of Indigenous Peoples.

among local populations, their deeper understandings of local needs, and their role as linchpins of accountability and inclusion.<sup>a</sup> Working with Indigenous Peoples' leaders and local communities is a critical element of achieving this vision. This Policy marks a new era for USAID's partnerships with Indigenous Peoples, as it aligns with the Agency's shift to increase collaboration and the diversity of our partnerships through reforms, including the greater use of co-creation for designing projects and activities.

Indigenous Peoples are often the best source of expertise in identifying effective development approaches to address the challenges they and broader society face. USAID's Operating Units must invite Indigenous Peoples to be partners in the development process and ensure to engage diverse segments of their communities, such as women and youth. One clear example has been leveraging Indigenous Peoples' knowledge to identify, address, and manage adaptively climate risks. Doing so not only provides a good opportunity for partnering, but also results in better risk-mitigation (which further reinforces Operating Principle 4).

Partnerships can include engagement and co-creation with Indigenous Peoples in all stages of the process to design projects and activities, including the development of methodology for an IDA; the design of consultation processes, the drafting of solicitations, program descriptions, and Scopes of Work; the review of proposals or Concept Notes (with appropriate safeguards against conflict of interest); and the design of any communications that target Indigenous Peoples themselves. While some of these activities could be procurement-sensitive, USAID's Operating Units should work with the cognizant RLO and the Office of Acquisition and Assistance (OAA) within the Bureau for Management to determine the appropriate level of engagement (as further discussed in Section VI below). This also should include making Indigenous Peoples key partners in the process for monitoring and evaluating programs. At every opportunity, Operating Units should consider bringing development professionals into the design, review, assessment, and evaluation processes.

To facilitate partnering and localize their portfolios, USAID's Operating Units should also provide funding or in-kind capacity-building for Indigenous Peoples' organizations. This support should address priorities identified by the

organizations themselves, though should not exclude the input of the host government, as required under the Foreign Assistance Act, as amended. As a matter of priority, Operating Units should provide direct grants or sub-awards to Indigenous Peoples' organizations to carry out activities in their territories and/or 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 assist such organizations to become direct recipients of USAID funding as soon as possible, including by using Transition Awards and Grants under Contract.<sup>18</sup> Language on such transitions should be part of implementing partners' awards and sub-awards that touch on Indigenous Peoples' communities, 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, USAID's Operating Units should work with allied organizations that have helped to pursue the communities' interests. Such organizations should have a strong track record of working with Indigenous Peoples in the country or region in question, and the communities with which USAID seeks to work should trust and approve them.



*KINGDOM OF THAILAND: Villagers who live near Chiang Rai, Thailand, learn about climate-adaptation.*

## VI. Indigenous Peoples in USAID's Program Cycle

USAID's Operating Units must work 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 Operating Units will have the same level of engagement with Indigenous Peoples, but those whose projects have the potential for significant impact on Indigenous Peoples must adhere to this Policy. Operating Units that do not have extensive activities that affect Indigenous Peoples should use their best efforts to allocate time and resources effectively to include Indigenous Peoples in development processes and mitigate the risk of adverse impacts.

This Policy emphasizes the importance of dialogue, engagement, and partnerships with Indigenous Peoples throughout USAID's Program Cycle. The tools and approaches detailed in this Policy apply at any point in the Program Cycle—whether or not an Operating Unit considered Indigenous Peoples in a Regional Development Cooperation Strategy (RDCCS) or Country Development Cooperation Strategy (CDCCS), as long as Indigenous Peoples are stakeholders of a USAID-funded project. The table below provides a helpful overview of the types of engagement, safeguards, and communication approaches that Operating Units should employ. The remainder of this section illustrates appropriate times in the Program Cycle when Operating Units may apply them. Note that all Operating Units must adhere to all requirements in USAID's ADS, such as ADS Chapter 205, for all approaches.

### 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 financial resources to be used for consultations, IDA, and SIAs at the CDCCS, Project, and/or Activity level. OUs should bear in mind that Indigenous Peoples are often located far from national and regional capitals and should budget both time and financial resources accordingly. As discussed above, obtaining FPIC is a best practice where significant impacts on Indigenous Peoples are possible. Additional resources should be budgeted as early in the Program Cycle as possible to ensure a high-quality, credible process.

OUs are also encouraged to have implementing partners set aside financial resources to engage with Indigenous Peoples and monitor social impacts over the life of the activity. The Independent Government Cost Estimates should include funds for engagement with Indigenous Peoples as warranted and based on the findings of any analyses.

**Table I: Approaches and Tools for Communication and Engagement**

Engagement	Definition	Objectives
Informal Conversations	An informal conversation is an exchange of information between USAID and Indigenous Peoples as 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.	<p>Informal conversations are necessary for initial contact with Indigenous Peoples who are stakeholders. While this process could provide USAID with relevant information to begin to design a project, it is not usually the time when stakeholders learn about the details of it, and therefore is not adequate consultation.</p> <p><b>Phases of the Program Cycle:</b> Informal consultations should take place before the Country Development Cooperation Strategy (CDCS) and the design of a project or activity.</p>
Inclusive Development Analysis (IDA)	An IDA 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 in marginalized groups and the general population, and to consider the differential impact 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) creating specific recommendations on how to include marginalized groups in development programs and designing these programs to reduce deprivations and empower marginalized groups.	<p>The annotated IDA assists USAID's Operating Units in using the IDA to analyze Indigenous Peoples' challenges and opportunities. It can help Operating Units to identify the drivers of marginalization among Indigenous Peoples and also develop effective interventions to address them and promote self-reliance. More specifically, the IDA can help to map the relationship between Indigenous Peoples and the dominant population, as well as the degree to which political processes, the delivery of basic social services, or other decision-making processes (for example, <i>vis a vis</i> the private sector) exclude Indigenous Peoples' communities. It can help Operating Units to examine the criteria for identifying Indigenous Peoples, map their legal landscape, and understand 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 they face, such as insecure collective land title, encroachment on territory, or climatic shocks and natural disasters. This analysis can combine desktop research and the examination of data with in-person engagements, such as informant interviews, focus-group discussions, conversations, and consultations. Formal consultations can feed into the IDA, and the IDA also can inform them (as consultations should take place over the life of a project or activity).</p> <p><b>Phases of the Program Cycle:</b> Operating Units should undertake an IDA at the CDCS or project-design stage, and should update it during the design and implementation of activities, particularly after identifying the geographic location for a project and the specific stakeholders who are Indigenous Peoples.</p>

Engagement	Definition	Objectives
Formal Consultations	Formal consultations are a two-way flow of information whereby USAID shares details of an activity with Indigenous Peoples/ stakeholders, and these stakeholders provide informed feedback freely on the activity before implementation. Consultations are also important mechanisms for identifying potential positive or negative impacts and developing mitigation measures. (See Section V above for the essential elements of meaningful <sup>2</sup> consultation.)	<p>Formal 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. They are two-way discussions that facilitate the sharing of information that enables USAID to understand stakeholders' development priorities, determine if proposed interventions align with them, and whether the stakeholders support such interventions. They also help to identify opportunities for incorporating Indigenous Peoples' knowledge into the design of projects and activities, and to identify potential partnership approaches. USAID's Operating Units should maintain formal consultations over the life of a project or activity. Consultations are an invaluable approach to monitoring, evaluating, and learning over the life of a project or activity, as they enable program managers to gather feedback and make adjustments to the Agency's investments on a regular basis.</p> <p><b>Phases of the Program Cycle:</b> Formal consultations are an important tool for informing a written analysis of the potential impact of a project or activity. USAID's Operating Units can conduct them as part of an IDA or a social impact assessment (SIA), or as a stand-alone process, ideally across the entire Program Cycle.</p>
Free, Prior, and Informed Consent (FPIC)	The principle of FPIC refers to the idea that before an action can take place that would affect Indigenous Peoples positively or negatively, the person or community must give approval for the activity to move forward ("consent"). However, the person or community must have full information regarding the activity; otherwise, the consent would be meaningless, as it would not be based on adequate information about the proposed activity and its potential impact ("informed"). The community must provide the consent before the activity begins ("prior"). It is also critical that the community not feel any pressure or coercion to agree to the activity ("free").	<p>FPIC is a standard for consultation with Indigenous Peoples for their provision of free, prior, and informed consent before development activities take place. While FPIC is not obligatory, the process of seeking FPIC is an important means of ensuring that USAID's programs safeguard against the risk of adverse impacts—particularly in cases in which USAID-funded activities are likely to have significant impacts on Indigenous Peoples and their territories, resources, and/or livelihoods.</p> <p><b>Phases of the Program Cycle:</b> Obtaining FPIC should take place as soon as a USAID Operating Unit has proposed a project or activity's location and identified specific potential impacts on Indigenous Peoples' territories, rights, or resources (e.g. through an IDA or a participatory SIA). Operating Units should review the USAID <i>Consultation Handbook</i> for guidance.</p>

Engagement	Definition	Objectives
Social Impact Assessment (SIA)	An SIA includes the processes of analyzing, monitoring, and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects, and activities) and any social change processes invoked by these interventions. <sup>aj</sup>	<p>An SIA can help identify potential impacts (positive or negative) on Indigenous Peoples that could result from a proposed development activity. USAID's Operating Units should conduct consultations with Indigenous Peoples to inform the SIA, and to identify potential risk-mitigation measures—particularly those based on Indigenous Peoples' knowledge. An SIA provides a helpful structure for conducting regular consultations over the life of a project/activity to monitor/assess risk continually.</p> <p><b>Phases of the Program Cycle:</b> Operating Units can conduct an SIA at the same time as the Initial Environmental Examination during the design of a project or activity. An SIA is a critical tool for preparing a written analysis of potential impact, and Operating Units should update it regularly over the Program Cycle through regular consultations.</p>
Co-Creation	Co-creation is an approach to designing projects and activities that brings people together collectively to produce a mutually-valued outcome, by 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 usable at various points throughout USAID's Program Cycle. <sup>ak</sup>	<p>Co-creation is a step beyond consultation. Indigenous Peoples serve as equals in the design process with USAID and have genuine decision-making authority during the process.</p> <p><b>Phases of the Program Cycle:</b> Missions should work with the Office of Acquisition and Assistance (OAA) in the Bureau for Management (M), the Agency's Development Innovation Lab (which will become the Bureau for Development, Democracy, and Innovation in Fiscal Year 2020), and the relevant Regional Bureau to undertake a co-creation process that complies with procurement regulations.</p>
Partnership	In a true partnership with USAID, Indigenous Peoples serve as equals in the design of a project or activity, and/or its implementation, monitoring, and evaluation. In a partnership, Indigenous Peoples have genuine decision-making authority.	<p>A partnership provides a high level of ongoing engagement, and may involve the negotiation and signing of a formal Memorandum of Understanding. USAID may work with Indigenous Peoples to engage in the design of a project or activity, or as the implementing partner of the activity. (An Operating Unit should consult with the cognizant Regional Legal Officer and M/OAA regularly if adopting a partnership approach, as the Agency does not have formal guidance on partnerships.)</p> <p><b>Phases of the Program Cycle:</b> If an Operating Unit determines that a partnership is appropriate for a given intervention, it should explore such an arrangement prior to the launch of the design of a project/activity, to ensure buy-in from all partners from the earliest stages of decision-making. Partnership continues through the conclusion of an intervention (which could extend beyond the end of USAID's funding).</p>

## Regional or Country Development Cooperation Strategies

At the very initial stages of the development of a RDSCS/ CDCS, a Mission should identify whether or not there are populations in the host country or region that could qualify as Indigenous Peoples based on the criteria in this Policy. Once a Mission has identified the area of implementation of the RDSCS/CDCS, it should conduct an IDA, with a specific focus on Indigenous Peoples. The IDA should take sex, age, and other demographic characteristics into account, and should include: a mapping of legal frameworks relevant to Indigenous Peoples; a desktop review of existing data/information; and formative qualitative and quantitative data on Indigenous Peoples' leaders, organizations, aspirations, challenges, and opportunities. The Mission could conduct the IDA at a broad level for the RDSCS/CDCS, and for specific sectors at the project level. Formal and informal consultations are important components of an IDA, in addition to other interviews and conversations.

At the RDSCS/CDCS level, USAID's Operating Units should make a determination as to whether or not to target Indigenous Peoples for cross-sectoral development programming or whether other programs contemplated in the RDSCS or CDCS could affect Indigenous Peoples' communities.

At the RDSCS/CDCS level (and over the life of the Program Cycle), Operating Units should take into account the power dynamics influenced by Indigenous Peoples' identity and other characteristics, such as sex, age, marital status, disability, gender identity or expression, ethnic/religious affiliation, caste, and race. Both an IDA and an SIA (when designing a project or activity) will be critical in identifying the positive or negative power dynamics that USAID-funded interventions should address to deepen and sustain measurable impact.

## Project Design

If Indigenous Peoples are likely to be stakeholders in a program or activity covered by the Project Appraisal Documents (PAD)<sup>19</sup> of a USAID Operating Unit, it is critical that the Project Design Plan (PDP) (as described in Section 201.3.3.8 of ADS Chapter 201) anticipate robust consultations to engage with Indigenous Peoples. The PDP provides an important opportunity to embed these analytical and engagement considerations into the Agency's Program Cycle, as it "defines the preliminary purpose of

## A NOTE ON INDIGENOUS PEOPLES' 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 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 OUs identify languages for communicating with Indigenous Peoples who are stakeholders for any USAID activity. OUs can then establish rosters with interpreters for each language who can be contracted for ad hoc assignments or 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 dominant language into English. Such investments are worth the effort and expense where communication with key stakeholders would not otherwise be possible. OUs may also want to accommodate the special needs of Indigenous Peoples, including hearing impairment and other disabilities.

It is important to consider the fact that Indigenous Peoples' languages represent a way of seeing and interpreting the world; thus, translation can be difficult. Many development concepts do not have corresponding words in some languages and vice versa. It is important to strive to capture these differences in understanding the world, because misunderstandings can arise during consultations.

the proposed project and outlines the analytic and other steps necessary to complete the design."<sup>20</sup> Missions should consider including in the PDP additional IDAs by sector, an SIA, formal and informal consultations (related to the IDA and/or the SIA or as a separate undertaking), and proposed co-design or co-creation (or partnership more generally) with Indigenous Peoples. The PDP should aim



UNITED REPUBLIC OF TANZANIA: Milka leads a discussion about gender norms during a club meeting at Mang'ola Secondary School, home to the Hadzabe people in Karatu, Tanzania.

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 in their project-design processes (such as health and agriculture), and plan for joint studies if possible.

If the specific area of implementation (region or subregion) is known at the project design stage, and if Indigenous Peoples are stakeholders in a USAID-funded project or activity,<sup>l</sup> Operating Units must produce a written analysis of the potential impact that such project or activity could have on stakeholders who are Indigenous Peoples. Such an analysis must draw upon direct engagement with Indigenous Peoples, carried out at the earliest stages of the project-design process (if the location and likely stakeholders of the project are known). Operating Units may use a variety of approaches to assess potential impact, including holding formal and informal consultations with Indigenous Peoples, conducting an SIA, or including relevant questions on potential impacts on Indigenous Peoples in an Initial Environmental Examination. Operating Units should undertake this analysis in close coordination with Indigenous Peoples themselves. If the Operating Unit does not know the specific area of implementation at the project-design stage, it should carry out the written analysis when designing specific activities.

In instances in which a project or activity's potential impact relates to the governance or ownership of land, or in circumstances in which the resettlement of Indigenous Peoples could take place, USAID's Operating Units must review the Agency's Operational Guidelines for Responsible Land-Based Investment<sup>al</sup> and Guidelines on Compulsory Displacement and Resettlement.<sup>am</sup> When planning projects and activities that could affect Indigenous Peoples, Operating Units must identify potential risks related to legitimate tenure rights, as well as prior development projects that might have had an adverse impact on the environment or communities that could color local and national perceptions of the proposed intervention. Further recommendations about due diligence appear below.

If an Operating Unit is aware of conflict that involves Indigenous Peoples in the target region for a project, it should conduct a conflict-assessment<sup>ah</sup> to provide a comprehensive analysis of the drivers and mitigating factors for the conflict. This information complements other analyses and can inform the design of a project by identifying ways to minimize the potential negative effects of conflict on the communities and contribute to local capacities to keep the peace.

## Activity Design

When Indigenous Peoples are stakeholders in a USAID-funded activity, Operating Units must engage them, address their challenges and opportunities as far as possible, and make them partners in promoting their self-reliance. Operating Units should pay particular attention to opportunities for integrating Indigenous Peoples' views, challenges, and opportunities across sectors, by developing cross-cutting approaches and supporting activities that empower them. If an Operating Unit has not completed the written analysis of potential impact by the project-design phase, it should do so during the design of the subsidiary activities. In addition, if the Operating Unit has not yet conducted consultations, an SIA, or an IDA (either in connection with the written analysis or to guide the design of an activity), it should conduct them during the activity-design phase.

Program Offices should include engagement and/or consultation with Indigenous Peoples as a required step on the pre-obligation checklist or procurement activity sheet for Missions and Bureaus, and in Missions' Inclusive Development Mission Orders and PDPs.

The consultation process is a means to inform Indigenous Peoples' communities of planned activities, and to obtain



FEDERATIVE REPUBLIC OF BRAZIL: Forest-harvesting demonstration by a Yawanawá leader to highlight the contributions of forest-dwelling communities in Brazil.

their feedback and input on their design. In accordance with best practices, USAID's Operating Units should use consultations at this stage to determine if a community is interested in and/or able to work with USAID more fully in the design, co-design, and/or implementation of a project's activities. If so, Operating Units should work with Indigenous Peoples' communities to build a plan for that engagement. Where Indigenous Peoples or communities have existing protocols and visions for such engagement, Operating Units should defer to such materials as a point of departure for future discussions.

If an Operating Unit identifies potential adverse impacts on the rights, livelihoods, culture, lands and territories, natural resources, or sacred sites of Indigenous Peoples, or if relocation is likely, they should seek FPIC from the communities before the implementation of a project or activity begins (including on mitigation measures), in accordance with international standards (and as described under the section on implementation below). This is a higher standard than a consultation with Indigenous Peoples, and additional guidance appears in Operating Principle IV above, as well as USAID's *Consultation Handbook*.<sup>7</sup>

## Solicitations

A key means to strengthening USAID's programming for Indigenous Peoples is to include specific components, expected results, and/or illustrative interventions related to Indigenous Peoples and their welfare in solicitations. If an SIA identifies risks to Indigenous Peoples during the design of a project and/or activity, the solicitation should reflect those risks and request that proposals or Concept Notes include a plan for developing mitigation measures in consultation with Indigenous Peoples themselves (if the Operating Unit has not already done so). When establishing requirements for potential procurements, USAID's Operating Units should request a copy of the applicant's Indigenous Peoples Policy or Inclusive-Development Policy/approach in the solicitation document or co-creation process. Operating Units could also consider including the following elements in the possible evaluation criteria: the effective integration of Indigenous Peoples and their challenges and opportunities throughout the application; clearly defined approaches for consultation throughout the USAID Program Cycle; clear understanding of risks to Indigenous Peoples and example mitigation measures; plans for working with Indigenous Peoples in

design, decision-making, and implementation; the transition of the management of activities and funding to local Indigenous Peoples' organizations over the life of the award; and demonstrated capacity (either directly or through other organizations) to build and maintain such partnerships, etc.

In every region and country in which USAID works, Indigenous Peoples' organizations would prefer to implement directly programs that affect them or their territories, as opposed to serving as a sub-grantee to an international partner. It is critical that USAID's Operating Units provide direct funding to Indigenous Peoples' organizations. This is a key step in ensuring that Indigenous Peoples' communities and organizations can pursue their own development priorities and make progress on their Journeys to Self-Reliance. Operating Units can, and should, make available appropriate capacity-building assistance to Indigenous Peoples' organizations to help them compete for, and manage, direct funding from USAID.

Consultation with Indigenous Peoples during the design of a Scope of Work or a Program Description generally **does not** violate Federal procurement regulations, unless an Indigenous Peoples' organization involved intends to be a potential offeror. Engaging in an informed conversation with potential stakeholders to ensure the design of a project or activity that reflects their priorities, interests, aspirations, and concerns is clearly distinguished from sharing a Scope of Work or Program Description with potential offerors or bidders in a way that would confer an unfair advantage. USAID's Operating Units should always consult with the cognizant RLO or GC and M/OAA to ensure these lines are clear.

In certain situations, such as in Latin America, a significant number of Indigenous Peoples' organizations could be interested in responding to a USAID solicitation directly or as a partner with a primary applicant or offeror. In this situation, Operating Units should consider issuing a "Request for Information" (RFI) to disseminate a description of a project or activity before issuing an official solicitation to give all stakeholders an equal opportunity to review and comment on the design. Operating Units should work with the RLO or GC and M/OAA to ensure compliance with the ADS and Federal regulations. An ideal RFI process would include a Mission-led conference to provide stakeholders a chance to voice their concerns and engage in dialogue regarding the proposed activities, ideally outside of the capital city and in appropriate languages to increase accessibility.

USAID's Operating Units also should carry out due diligence to identify potential risks related to public and non-profit implementing partners, private-sector firms, or other USAID affiliates (including sub-grantees and sub-contractors). Whether the partner or affiliate is a government entity, a civil-society organization, or from the private sector, Operating Units should consider, in consultation with the RLO or GC, whether or not such entity has a conflict of interest that could adversely affect Indigenous Peoples in a legally impermissible way. Operating Units could gather this information during an IDA, an SIA, or formal and informal consultations, but additional, targeted research could be necessary.

## Implementation

USAID should encourage implementing partners to submit a plan for working with, and transferring funding and managerial responsibility to, Indigenous Peoples' organizations over the life of a 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 Peoples as stakeholders in defining the work plan, how they will continue to conduct consultations with them, 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's Operating Units about concerns regarding the implementation of the project or activity. This plan should also establish the partner's approach to engagement, including how it will identify Indigenous Peoples' decision-making processes, and leadership structures to establish a strong foundation for meaningful<sup>2</sup> partnership.

If applicable, project documents should also include a clear reference to risks identified in an IDA and/or SIA and the mitigation measures necessary to mitigate them. Operating Units should develop mitigation approaches through a co-design process with implementing partners and Indigenous Peoples, and lean heavily on what communities are already doing and what they know would work. To facilitate better implementation and adaptive management, Operating Units should establish mechanisms for receiving consistent and direct feedback from Indigenous Peoples affected by USAID's programming.

If an Operating Unit identifies potential adverse impacts on the rights, livelihoods, culture, lands and territories, natural resources, or sacred sites of Indigenous Peoples, or if relocation is likely, it should seek FPIC from the communities themselves. Operating Units should begin the FPIC process as soon as they know the specific risks, stakeholders, and location for implementation. If an Operating Unit, in consultation with the RLO or GC, determines that FPIC is necessary, it must include this requirement and appropriate funding for this process in the award. The cognizant USAID Agreement Officer's Representative or Contract Officer's Representative should closely monitor the FPIC process and enforce the use of USAID's *Consultation Handbook* at a minimum. If a project or activity does not obtain FPIC, the Operating Unit should revisit the mitigation measures proposed with the potentially affected communities to see if adjusting such measures would lead to the community's granting consent. Ultimately, if the Operating Unit does not obtain FPIC, the Operating Unit must identify a new site for the proposed project or activity. If the Operating Unit cannot find an appropriate alternative site, they must revise the scope of the project or activity, which could involve terminating the award and/or reprogramming the funding.

### **Monitoring, Evaluation, and Learning**

Formal and informal 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, it 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, needs, challenges, aspirations, and opportunities. SIA consultations could also provide important information for evaluating an activity's performance.

USAID's Operating Units should involve the relevant Indigenous Peoples' communities in identifying the drivers of political, social, cultural, and economic marginalization, helping to design programs, and defining success. In particular, Operating Units should include Indigenous

Peoples in identifying appropriate, measurable outcomes for projects and activities, as well as indicators for measuring progress towards them. The consultation process could provide an excellent opportunity for using participatory approaches to defining results.

### **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 OUs that have regionally or centrally managed mechanisms. Such OUs 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 stakeholders—particularly where such stakeholders are Indigenous Peoples. 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 stakeholders and their feedback is gathered and incorporated into the design as appropriate. Where an RFI process is not possible, OUs with regionally or centrally managed mechanisms can request that implementing Missions undertake engagement with Indigenous stakeholders after that Mission has been awarded regionally or centrally managed funds. All OUs should ensure that requests for proposal or applications require a clear plan and budget (including travel budgets) for engagement with Indigenous Peoples from the prospective contractors or grantees. This will enable implementing partners to 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.

Operating Units should gather disaggregated data (including by Indigenous Peoples' identities) during all monitoring and evaluation to enable our staff and implementing partners to form a more comprehensive understanding of the gaps in socioeconomic and wellness indicators between Indigenous Peoples and other populations. Such indicators can serve as metrics for a particular program, or as context indicators to assist Operating Units to understand changes in context over the life of a USAID-funded intervention. As with all data collection, safety considerations are critical: Operating Units should pay special attention to assessing whether it is safe to obtain and record certain information about Indigenous Peoples.<sup>21</sup>

USAID Operating Units should work with implementing partners to engage Indigenous Peoples as active participants in the process of performing monitoring and evaluation. This could require providing financial and technical support for developing such capacity among interested Indigenous Peoples, which should be part of the budgets of projects and activities.

Operating Units that manage projects or activities that have Indigenous Peoples as stakeholders should establish a mechanism for receiving consistent and direct feedback from them, as well as from partners and governmental units affected by USAID-funded programming. Such a mechanism should establish a direct link between USAID and the communities, and should be accessible to all members of a community, not only chosen representatives. Feedback mechanisms can help strengthen the impact and outcomes of USAID-financed projects and activities, and are an effective tool for the early identification, assessment, and resolution of complaints. Operating Units should inform USAID's Senior Advisor on Indigenous Peoples' Issues of situations that require remedial measures prior to implementing such actions. The Senior Advisor will work with the leadership of the relevant Operating Unit(s) to monitor progress. Operating Units should document carefully any disagreement that arises during the implementation of a project or activity that affects Indigenous Peoples, as well as the progress made to resolve problems through negotiation and further engagement with stakeholders.



REPUBLIC OF INDONESIA: The Asmat of Papua, famous for their elaborate wood carvings, rely on the trees around them for their livelihoods.



UNITED REPUBLIC OF TANZANIA: Community members from the Hadzabe tribe in Mang'ola, Tanzania, meet to discuss different parenting techniques to ensure they are supporting their children's education.

## VII. Conclusion

This Policy marks a new era for USAID's efforts to work directly with Indigenous Peoples. Partnership is a cornerstone of the Agency's support for the Journey to Self-Reliance.<sup>6</sup> The Policy and related guidance documents provide a frame for engaging with Indigenous Peoples to ensure USAID's programming aligns to the greatest extent possible with Indigenous Peoples' own priorities and aspirations, which should result in greater self-reliance through deeper and more-sustained outcomes. Tools for engagement, including the USAID *Consultation Handbook*, an annotated IDA, and Guidance for SIAs, will assist Operating Units in ensuring that the Agency's activities safeguard against harm, while building partnerships with Indigenous Peoples' leaders and communities that provide them with meaningful<sup>2</sup> decision-making authority, help to unlock traditional development knowledge, result in more-inclusive development, and promote self-reliance.

This Policy will be an important resource to advance the Agency's efforts to support governments, civil society, and the private sector on their Journey to Self-Reliance<sup>6</sup> and fulfill our mission "to promote and demonstrate democratic values abroad, and advance a free, peaceful,

and prosperous world."<sup>a, an</sup> 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.<sup>3</sup> USAID's work on Indigenous Peoples' opportunities and challenges has shown that they are critical partners in improving health, food security, and education indicators, addressing persistent conflicts (particularly those related to natural resources), conserving biodiversity, boosting agricultural output (particularly through their use of traditional knowledge related to crops, livestock, and fisheries), and promoting traditional approaches to building resilience to shocks.

To ensure USAID's Operating Units have the technical capacity to carry out the approaches to engagement, partnership, and safeguarding detailed in this Policy, the Agency will make available both regional and sector-specific implementation guidelines on our Indigenous Peoples' website.<sup>7</sup> Regional and Mission-based trainings will continue to be available, as well as on-the-ground technical assistance by USAID's Senior Advisor on Indigenous Peoples' Issues.

# List of Acronyms

<b>ADS</b>	Automated Directives System
<b>CDCS</b>	Country Development Cooperation Strategy
<b>CLA</b>	Collaborating, Learning, and Adapting
<b>FPIC</b>	Free, Prior, and Informed Consent
<b>IDA</b>	Inclusive Development Analysis
<b>IFC</b>	International Finance Corporation
<b>M/OAA</b>	Office of Acquisitions and Assistance in the Bureau for Management
<b>OU</b>	Operating Unit
<b>PAD</b>	Project Appraisal Document
<b>PC</b>	Program Cycle
<b>PDP</b>	Project Design Plan
<b>RFI</b>	Request for Information
<b>RLO</b>	Resident Legal Officer
<b>RDCS</b>	Regional Development Cooperation Strategy
<b>SIA</b>	Social Impact Assessment
<b>UNDRIP</b>	United Nations Declaration on the Rights of Indigenous Peoples

# Glossary

**Automated Directives System:** Contains the organization and functions of the U.S. Agency for International Development (USAID), along with the policies and procedures that guide the Agency's programs and operations.

**Co-Creation and Co-Design:** An approach to designing projects and activities that brings people together collectively to produce a mutually-valued outcome, by 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 usable at various points throughout USAID's Program Cycle.

**Collaborating, Learning, and Adapting:** A set of processes and activities that help ensure USAID-funded programming is coordinated, grounded in evidence, and adjusted as necessary to remain effective throughout implementation.

**Country (or Regional) Development Cooperation Strategy:** Typically a five-year strategy that defines a USAID Mission's chosen approach in a country (or region), articulates the country or region's self-reliance trajectory, and details expected results. The C(R)DCS provides a roadmap for how USAID will design and implement projects and activities, and is available publicly, including to the host-country government(s).

**Cross-Sectoral:** The creation and promotion of methodologies, assessments, and research that consider all of the underlying drivers of development issues, rather than looking only at the challenges faced in a single sub-sector. This broader perspective can unlock solutions to intractable development problems that constrain results in any sector.

**Due Diligence:** The necessary assessment of the past performance, reputation, and future plans of a prospective partner, private-sector entity, or other organization, with regard to various business practices and principles to evaluate the risks and benefits of working together. This assessment of a prospective partner would normally involve, at a minimum, examining its social, environmental, and financial track records, as well as assessing additionality from USAID's proposed involvement.

**Empower and Empowerment:** When Indigenous Peoples acquire the power to act freely, exercise their rights, and advance their own development priorities and aspirations as full and equal members of society. While empowerment often comes from within and individuals empower themselves, cultures, societies, and institutions can create conditions to facilitate or undermine the possibilities for empowerment.

**Enabling Environment:** The legal, regulatory, and social context in which Indigenous Peoples and their organizations operate. In a positive enabling environment, conditions favor the ability of Indigenous Peoples to practice self-determined development, freely advocate for and/or exercise their rights, and promote their self-reliance.

**Engagement:** Reaching out to relevant stakeholders through different means of communication that range from informal conversations to a deeper level of meaningful<sup>2</sup> consultation.

**Environmental-Impact Assessment:** A requirement of all USAID-funded activities, satisfied through an Initial Environmental Examination, an Environmental Assessment, or a Request for a Categorical Exclusion, all in accordance with Title 22 of the Code of Federal Regulations, Part 216, commonly known as 22 CFR 216.

**Formal Consultation or Engagement:** Consultations that are a two-way flow of information during which USAID shares details of an activity with Indigenous Peoples, and those stakeholders freely provide informed feedback on those activities before implementation. Under international standards, governments have a duty to consult Indigenous Peoples before implementing an activity that affects their rights or interests.

**Free, Prior, and Informed Consent (FPIC):** The idea that before an action can take place that would impact Indigenous Peoples positively or negatively, the community must give approval for the activity to move forward ("consent"). However, the consent would be meaningless if the person or group did not have full information about the proposed activity and its potential impacts ("informed") before the activity begins ("prior"). The community must not feel any pressure or coercion to agree to the activity ("free").

**Implementing Partner:** A government, non-governmental, or private-sector entity or agency that supplements the work of USAID by helping to carry out institutional arrangements in line with USAID's goals and objectives. Most of USAID's implementing partners are recipients of funding from the Agency.

**Inclusive Development Analysis:** An analytic tool that helps to map the context in which marginalized people exist. Improved understanding of this context helps USAID to design programs that are more sustainable and address the needs of marginalized people better.

**Inclusive Development Mission Order:** A document that provides guidance and defines roles and responsibilities of the management, technical teams, and implementing partners of a USAID Mission regarding inclusive development in strategic planning and the design, implementation, monitoring, and evaluation of projects and activities funded by the Agency.

**Indigenous Peoples:** Communities that meet some or all of the criteria in Section II of this Policy.

**Informal Engagement:** An exchange of information between USAID and Indigenous Peoples/project stakeholders that could enable the Agency to learn about the interests, priorities, challenges, and opportunities of the group, but does not yet include any concrete details about USAID's proposed activity or program.

**Initial Environmental Examination:** The first review of the reasonably foreseeable effects of a proposed action on the environment. Its function is to provide a brief statement of the factual basis for a Threshold Decision as to whether an activity will require an Environmental Assessment or an Environmental-Impact Statement.

**Meaningful:** Having the ability to affect the outcome of the issue, process, design, or any other question that is under discussion.

**Operating Unit:** The organizational unit within the U.S. Government responsible for implementing a foreign-assistance program for one or more elements of the Foreign Assistance Framework. For USAID, it includes field Missions, regional entities and Bureaus and offices at USAID in Washington that expend Program funds to achieve U.S. foreign-assistance objectives.

**Partnership:** An arrangement under which 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.

**Project Appraisal Document (PAD):** The PAD documents the complete project design and serves as the reference document for Project Authorization and subsequent implementation. The PAD should: define the development problem to be addressed by the project; provide a description of the technical approach to be followed during implementation; define the expected results at the input, output, purpose, and goal level (as presented in the final logical framework); present the financial plan and detailed budget; present an overall project implementation and procurement plan; and present the monitoring and evaluation plan.

**Request for Information:** A process through which USAID disseminates the description of a project or activity publicly, before issuing an official solicitation, to give all stakeholders an equal opportunity to review and comment on the design.

**Self-Reliance:**<sup>b</sup> The ability of a country, including the government, civil society, and the private sector, to plan, finance, and implement solutions to solve its own development challenges.

**Stakeholders:** Those affected positively or negatively by, or who have an interest in, or can influence, a development outcome.

**Sustainability or Sustainable Development:** Continued economic and social progress that no longer relies on continued external financial support.

# Endnotes

<sup>1</sup> This Policy will use “Indigenous Peoples” (capitalized) as a proper noun to represent communities that meet some or all of the criteria in Section II.

<sup>2</sup> For purposes of this Policy, “meaningful” is defined as having the ability to affect the outcome of the issue, process, design, or any other question that is under discussion. It is critical to engage with Indigenous Peoples to achieve a mutual understanding of “meaningful consultation” prior to the commencement of such conversations, as every group will have its own distinct traditional laws or customs that define the nature and measures for success of a meaningful consultation.

<sup>3</sup> As used in this Policy, “self-determined development” means the ability of Indigenous Peoples to determine their own development priorities and promote their own self-reliance.

<sup>4</sup> In addition to an emphasis of the Agency’s Policy Framework, local ownership is also part of USAID’s Local Systems Framework for Supporting Sustained Development and USAID’s Program Cycle Operational Policy—ADS Chapter 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.”

<sup>5</sup> USAID articulates our commitment to non-discrimination and inclusive development in our Gender Equality and Female Empowerment Policy; Youth in Development Policy; Disability Policy; Lesbian, Gay, Bisexual, and Transgender Vision for Action; “Principles” of ADS Chapter 200 and Mandatory Reference ADS 200mab, “Promoting Non-Discrimination and Inclusive Development in USAID-Funded Programs”; ADS Chapter 303maa, “Standard Provisions for U.S. Non-Governmental Organizations”; ADS Chapter 303mab, “Standard Provisions for Non-U.S. Non-Governmental Organizations”; ADS Chapter 303mat, “Standard Provisions for Fixed-Amount Awards to Non-Governmental Organizations”; and the USAID Acquisition Regulation, Section 752.7038 of Title 48 of the Code of Federal Regulations.

<sup>6</sup> Numerous other policy documents at USAID also explicitly identify Indigenous Peoples as stakeholders who warrant particular attention, given their frequent status as a historically marginalized group:

- USAID’s Strategy on Democracy, Human Rights and Governance “elevates the human rights [of Indigenous Peoples] as a key USAID development objective”;

- The U.S. Government Strategy on International Basic Education states “The U.S. Government will work with local actors to ... Design quality education programs that are inclusive and culturally sensitive, promote the reduction of discrimination and inequality, and are accessible in local languages, particularly for indigenous communities and ethnic minorities”;
- USAID’s Biodiversity Policy identifies working “with communities and indigenous peoples” and promoting “inclusion [and] social equity” as two of its guiding principles;
- The U.S. Government Global Food Security Strategy states, “Sustainable ecosystems, and natural resources management that contributes to them, particularly benefit the most vulnerable populations, including indigenous communities, who often lack a voice in decision-making and have fewer resources to cope with environmental degradation”; and
- The U.S. Government’s Strategy for Advancing Protection and Care for Children in Adversity identifies that children in Indigenous Peoples’ communities face increased risk for violence and exploitation.

<sup>7</sup> USAID’s policy and toolkits on Indigenous Peoples are available at <https://www.usaid.gov/indigenous-peoples>.

<sup>8</sup> The Agency has developed a comprehensive guide to inclusive development called “Suggested Approaches for Integrating Inclusive Development Across the Program Cycle and Mission Operations (ADS 201 Additional Help)” that includes an Inclusive-Development Analysis (IDA). The Agency has annotated the IDA to assist USAID’s Operating Units in identifying Indigenous Peoples more precisely and understanding the legal landscape, socio-economic context, and geography in which they exist, as well as the challenges, opportunities, and potential conflicts they face. The annotated IDA is available at USAID’s Indigenous Peoples’ website.

<sup>9</sup> The annotated IDA provides guidance for USAID’s Operating Units to apply the IDA in a way that helps them to analyze with more precision the issues that most commonly arise when working with Indigenous Peoples’ communities. The annotated IDA is available at USAID’s Indigenous Peoples’ website.

<sup>10</sup> 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>. The U.S. Government has reaffirmed this position as recently as 2017 in the “Explanation of Position by the United

States of America” at the 36th Session of Policy on the Human Rights Council in Geneva, available at <https://geneva.usmission.gov/2017/09/29/u-s-explanation-of-position-on-indigenous-peoples-hrc36-resolution-l-27/> (accessed Feb 26, 2020).

<sup>11</sup> USAID’s Operating Units should consult with the cognizant Resident Legal Officer and/or the Office of the General Counsel on all legal matters.

<sup>12</sup> Only Indigenous Peoples can determine if and how they will share their own intellectual property; therefore, USAID’s Operating Units must engage in meaningful consultation to understand the extent to which USAID’s programs can incorporate such property.

<sup>13</sup> Discussed more fully in Section V.

<sup>14</sup> The Agency’s “Suggested Approaches for Integrating Inclusive Development” includes “Procedures to Protect Beneficiaries in Restrictive Environments” at p. 15, available at [https://usaidlearninglab.org/sites/default/files/resource/files/additional\\_help\\_for\\_ads\\_201\\_inclusive\\_development\\_180726\\_final\\_r.pdf](https://usaidlearninglab.org/sites/default/files/resource/files/additional_help_for_ads_201_inclusive_development_180726_final_r.pdf) (accessed Feb 26, 2020).

<sup>15</sup> USAID’s global and regional programs should coordinate with the Agency’s bilateral Missions to ensure the appropriate engagement of local communities in the design and implementation of USAID-funded programs. Engagement should start at the design stage, ideally as part of the Mission concurrence process. (See ADS Chapter 201.3.3.6.)

<sup>16</sup> Announcement of Support for the United Nations Declaration of the Rights of Indigenous Peoples available at: <https://2009-2017.state.gov/s/srgia/154553.htm> (accessed Feb 26, 2020).

<sup>17</sup> See endnote 13.

<sup>18</sup> See ADS 303.3.6.5(b)(3) for guidance on how to include transition award language in project documentation.

<sup>19</sup> The Bureau for Policy, Planning, and Learning is undertaking a streamlining process for the PAD in Fiscal Year 2020 to reduce the burden on Operating Units and align with Agency efforts to program adaptively.

<sup>20</sup> Note that 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,<sup>2</sup> and consistent engagement with key local actors throughout the project and activity 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 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.

<sup>21</sup> See the Agency’s “Suggested Approaches for Integrating Inclusive Development,” which includes “Procedures to Protect Beneficiaries in Restrictive Environments” at p. 15, available at [https://usaidlearninglab.org/sites/default/files/resource/files/additional\\_help\\_for\\_ads\\_201\\_inclusive\\_development\\_180726\\_final\\_r.pdf](https://usaidlearninglab.org/sites/default/files/resource/files/additional_help_for_ads_201_inclusive_development_180726_final_r.pdf) (accessed Feb 26, 2020).

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