

EXECUTIVE SUMMARY

Introduction

The 73rd and 74th Amendments to the Indian Constitution brought in a Local Government system as the third tier of governance with focus on economic development and social justice. Kerala embarked on a trajectory of rapid decentralization since October 1995. The State has moved ahead on the agenda of transferring functions and responsibilities to the local governments at good pace. As the decentralization movement in Kerala enters into its second decade, the GoK is keen to move forward on the next phase of institutionalizing local self-governments. In this context, the Government of Kerala is contemplating a new intervention in the shape of the Kerala Local Government and Service Delivery Project, for which it is planning to partner with The World Bank. The project has been designed with the basic objective of strengthening local government finances and service delivery.

Overview of the Kerala Local Government and Service Delivery Project

The objective of this project is to enhance and strengthen the institutional capacities of local governments in Kerala to deliver services and undertake their basic administrative and governance functions effectively. Direct beneficiaries of the project will be the 978 GPs and 60 Municipalities in the State of Kerala. Investments made by the GPs and Municipalities will indirectly benefit the entire population (29.5 million) of the State of Kerala.

The project will have four components. A brief description of the project components is described below.

Component 1: Performance Grants. This component will phase in an annual, performance-based grant to all GPs and Municipalities in Kerala. The grant will be spent on both the creation and maintenance of capital assets used in service delivery. The overall goal is to improve GP and municipal performance in local governance and public service delivery. Allocation of this grant to the local government will be based on performance which will be determined through an Annual Performance Assessment exercise taken up under the project.

Component 2: Capacity Building. This component will provide capacity building inputs to strengthen and supplement the existing systems and human resource of municipalities and GPs to enhance their institutional performance. The focus will be in four core areas:

- a. Development and improvement of administrative systems used by LSGs;
- b. Strengthening of capacities of LSGs personnel using these systems;
- c. Mentoring directed at human resource capacity improvement and supplementation; and
- d. Strengthening of the overall institutional capacities of the key organizations responsible for delivering LSG training in Kerala.

Component 3: Enhancing State Monitoring of the Local Government System. This component will provide support to strengthen the system of performance monitoring of GPs and municipalities in Kerala. This component will comprise four sub-components:

- a. Establishment of a database of GP and municipal information.
- b. LSG Service Delivery Survey.
- c. Project Evaluations.

- d. Establishment of a Decentralization Analysis Cell (DAC).

Component 4: Project Management: This component will provide support to the Project Management Unit (PMU) within the LSGD in overall coordination, implementation, monitoring and evaluation of the project.

Need for an ESMF

The project has been classified under category B as per World Bank norms. This mandates the preparation of an Environmental and Social Management Framework (ESMF) as a necessary procedural requirement for project appraisal and adherence / compliance to the ESMF during project implementation, a vital performance criterion.

Given the inherent nature of the project goals, there are no concrete or physically well defined interventions proposed, which could be examined or assessed for likely environmental and social (E&S) impacts in order to develop an ESMF. However, many of the known functions and activities normally undertaken by the PRIs as a matter of routine can be examined.

Incidentally, the incorporation of the Part IX and IX A in the Constitution of India, made through 73rd and 74th Amendment in 1992, integrated ample provisions entrusting the Grama Panchayats and Municipalities to perform functions related to E&S management. Sustainable systems of natural resource management would require community participation in the planning and implementation of natural resource development programmes and the management of these resources. Local Governments are ideally placed to bring about this transformation in the local development paradigm. Therefore, even in this context, the ESMF will be a suitably relevant tool placed in the hands of local governments as it will empower them to manage E&S issues arising out of their own decisions and plans.

Overview of the Environment and Social Assessment Study

The environmental assessment study for the KLSGP has the following components:

- An in-depth understanding of the functioning of the local government including functions, authority, roles and responsibilities at various levels.
- A detailed study and analysis of the existing State and Central legislation pertaining to activities and functions assigned to local governments;
- An ESMF that identifies / recognizes possible E&S impacts of typical local government functions or interventions, recognizes the likely impacts and enables the users to take decisions that appropriately mitigate the same.
- An Institutional Plan that specifies roles and responsibilities various players along the LSG hierarchy have to perform / bear with respect to grant of E&S approval to any proposed LSG activity.
- A Capacity Building Plan that strives to build the capacity of different stakeholders to mainstream E&S compliance in their day-to-day functioning.
- An appropriate monitoring mechanism to track the implementation of the EMF.

Review of enactments, rules and regulations on environment

Prevailing and applicable laws and regulations, which are relevant in context of LSGs, have been compiled and reviewed. These are as follows:

Policy, Legislation and Regulation- Government of India

1. Policies

- National Forest Policy 1988
- National Water Policy 2002
- National Health Policy 2002
- National Agricultural Policy 2003
- National Urban Transport Policy 2006
- National Environmental Policy 2006
- National Urban Housing and Habitat Policy 2007
- National Urban Sanitation Policy, 2008

2. Acts and Regulations

- Water (Prevention and Control of Pollution) Act 1974
- Water (Prevention and Control of Pollution) Cess Act, 1977
- Forest (Conservation) Act 1980
- Air (Prevention and Control of Pollution) Act, 1981
- Environment Protection Act 1986
- Coastal Regulation Zone Notification 1991
- Environmental Impact Assessment Notification 1994
- Bio-Medical Wastes (Management and Handling) Rules, 1998
- Plastics Manufacture, Sale and Usage Rules, 1999
- Municipal Solid Waste (Management and Handling) Rules, 2000
- The Noise Pollution (Regulation and Control) Rules, 2000
- The Biological Diversity Act, 2002
- National Rural Employment Guarantee Act, 2005

3. Programmes

- Drinking Water Supply Programmes
- Total Sanitation Campaign
- Watershed Development Programme
- Joint Forest Management Programme
- Poverty Alleviation Programmes
- Housing Programmes
- Jawaharlal Nehru National Urban Renewal Mission
- Urban Infrastructure Development Scheme for Small and Medium Towns
- Integrated Low Cost Sanitation Programme

Policy, Legislation and Regulation: Government of Kerala

1. Policies

- Draft Environmental Policy, 2007
- Kerala State Water Policy 2007
- Kerala Biotechnology Policy
- The Kerala Urban Policy
- The Kerala Energy Policy
- Draft Kerala Fisheries Policy

- The Kerala Industrial and Commercial Policy 2007
- 6. The Kerala Housing and Habitat Policy 2007

2. Acts and Regulations

- Kerala Panchayati Raj Act 1994
- Kerala Municipalities Act 1994
- Kerala Panchayat Raj (Issue of License to Dangerous & Offensive Trades & Factories) Rules, 1996
- The Kerala Municipality Building Rules, 1999
- The Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001
- The Kerala Groundwater (Control & Regulation) Act 2002
- Kerala Irrigation & Water Conservation Act 2003
- The Kerala Bio-diversity Rules, 2008
- The Kerala Conservation of Paddy Land and Wetland Act, 2008
- Draft Public Health Act for Kerala 2009
- Circulars to and by the LSG Department

3. Programmes

- Food Security Mission
- Malinya Mukta Kerala Action Plan
- Animal Husbandry
- Plantation Development
- Housing Schemes
- Wetland Eco-restoration Programmes
- Rural Water Supply Schemes
- Social Forestry Programmes
- State Poverty Eradication Mission
- Watershed Development Programmes
- Fisheries Development Programme

Summary of the review

The review of the existing acts, rules, guidelines, notifications and circulars indicates that lot of powers and functions are vested with the Local Self Governments for the protection and conservation of the environment. Apart from these, there are many other E&S regulations and statutes, which indirectly requiring the Local Self Government to act upon by circulars and notices. It can be seen that The Kerala Panchayat Raj Act 1994 and the Kerala Municipalities Act 1994 gives ample power to the Local Self Governments in the matter of environmental protection.

The review of implementation status of Central Statutes indicates that the awareness of LSGs on the various provisions of the statutes is meagre. Therefore, there is an urgent need for a broad based campaign among the public and intensive Information, Education and Communication (IEC) campaign among the officials and other functionaries of LSGs to bring in more clarity for utilizing the provisions of various regulations on E&S protection. It has been found that the technical expertise and staff available with LSGs as well as the infrastructure facilities for monitoring are inadequate to handle local E&S issues and enforcement provisions in the E&S statutes effectively. There is a need to strengthen the infrastructure and man power of the LSGs to enhance their capabilities for enforcement and tackling local E&S issues, requirements of natural resource management, environmental management including sanitation, environmental monitoring etc.

The World Bank's environmental and social safeguard policies

The World Bank's environmental and social safeguard policies are a cornerstone of its support to sustainable poverty reduction. The objective of these policies is to prevent and mitigate undue harm to people and their environment in the development process. The World Bank safeguard policies and their applicability to the project are as follows:

Safeguard Policies Triggered	Yes	No
Environmental Assessment (OP/BP 4.01)	X	
Natural Habitats (OP/BP 4.04)	X	
Forests (OP/BP 4.36)	X	
Pest Management (OP 4.09)		X
Physical Cultural Resources (OP/BP 4.11)	X	
Indigenous Peoples (OP/BP 4.10)	X	
Involuntary Resettlement (OP/BP 4.12)		X
Safety of Dams (OP/BP 4.37)		X
Projects on International Waterways (OP/BP 7.50)		X
Projects in Disputed Areas (OP/BP 7.60)		X

Review of functions of LSGIs and their environmental implications

The three tier local self government institutions have mandatory functions, general functions and sectoral functions to be performed. The sectoral functions include agriculture, fisheries, animal husbandry, dairy development, minor irrigation, social forestry, small industries, housing, waters supply, electricity and energy, education, public works, public health and sanitation, social welfare, poverty alleviation, SC /ST development, sports and cultural affairs, PDS, natural calamities relief, and cooperation. Some of these functions include interventions on ecosystem resources, and hence have environmental implications. There are many functions which have beneficial impacts if appropriate protocols are observed. In addition, major development initiatives under the state development plan will also have implications at local level. Though some of the major and medium projects are brought under the purview of environmental assessment and correction mechanisms, many of the small scale interventions can cause adverse impacts which are not subjected to any check measures, as such.

E&S Analysis of Development interventions

In order to understand the functions, responsibilities and sectoral programmes that can cause adverse E&S consequences, an impact analysis is carried out using an activity-impact matrix. The analysis is carried out for mandatory, general and sector wise responsibilities of the three tier Panchayats and Nagarpalika and interventions by development departments under state and central schemes. This has enabled the delineation of impact causing functions and activities and enabled their grading into high, medium and low impact. Appropriate mitigation measures for the impacting functions and activities are also incorporated in the matrix.

In order to understand the development paradigm and environmental concerns of local bodies at various levels, structured focus groups discussions were organized in one Zillah Panchayat, three Block Panchayats, four Gram Panchayats and three Municipalities. The discussions helped to identify the gaps in the existing systems, processes and tools adopted for development planning, capacity and capability for tackling development issues, in general, and environmental management, in particular.

The Environmental and Social Management Framework

It is proposed that an Environment and Social Management Framework (ESMF) to be applied to sub-project activities to be taken up by Local Self Government Institutions (LSGIs) making use of the

untied 'Performance Grants' provided to them under Component 1 of the project. The main purpose of the ESMF is to ensure compliance of sub-projects with triggered safeguards policies as well as applicable laws or regulations pertaining to Environmental and Social (E&S) aspects.

The ESMF comprises the following:

- a) A detailed strategy and procedures for Environmental and Social (E&S) screening of sub-project proposals to identify the likely E&S impacts, if any and determination of counter measures to mitigate the same.
- b) Roles, responsibilities and hierarchical line of authority of officials / functionaries involved at various levels of the LSG institutional set-up vis-à-vis various stages of E&S approval process
- c) A capacity building plan for suitability developing capacities and capabilities in all players involved in E&S approval process
- d) A monitoring mechanism that generates reliable information on effectiveness and quality of ESMF implementation thereby enabling the management to undertake corrective measures if and whenever necessary.

E&S screening will enable identification adverse environmental and social impacts, if any, of all sub-projects proposed to be financed from Bank funds. The screening will also indicate whether the identified impacts are or low intensity or medium intensity. This exercise will be undertaken as part of the Detailed Project Report (DPR) preparation activity by the working groups of the LSGs with technical assistance from the LSG Engineers. Block Engineers, proposed to be deputed to the project will provide facilitation and hand holding support wherever required. If potentially adverse E&S impacts are identified, the ESMF has provision to build in suitable mitigation measures to offset the identified adverse impacts. The outcome of E&S screening of any proposed sub-project could be as follows:

- a) Denial of E&S approval to the proposed sub-project if it happens to figure in the regulatory list containing that are not permitted to be taken up by local regulations or Bank policies.
- b) Grant of E&S approval to low impact activities subject to incorporation of appropriate mitigation measures suggested in the Environmental and Social Guidelines provided in the ESMF in the sub-project proposal.
- c) Grant of E&S approval to medium impact activities subject to conduction of a Limited Environmental and Social Assessment (LESA), by an expert and incorporation of mitigation measures suggested therein.

Further important salient features of the ESMF are as follows:

- Technical sanction will be provided by the Technical Advisory Group (TAG) and final approval will be granted by the District Planning Committee (DPC).
- Correct implementation of the works and compliance to suggested mitigation measures is ensured by the Project Implementation Officer under the overall supervision of the LSG Committee. Full and accurate compliance to mitigation measures will be an important requirement for release of final installment of payment to the works contractor.

- Appropriate forms / tools and Environmental and Social Guidelines (E&SGs) are provided for use of functionaries involved in screening and grant of Environmental Approval. The forms will streamline the application E&S Approval process and also enable maintenance of documentary records of the same. The E&S guidelines list various LSG projects stating the potential impact, required mitigation measures, and the possible government schemes for convergence. In case of activities referred for LESA, a dedicated form has been provided for recoding and documenting its findings and recommendations.
- The annual performance assessments, which have been mooted to determine the eligibility of LSGs for award of untied performance grants will include 'Performance with respect to ESMF implementation' as an important component.
- Monitoring of environmental and social performance will be undertaken through two Technical and Service Delivery evaluations conducted by an independent specialized agency. The first evaluation will be undertaken along with the mid-term review of the project and the second, along with the final project evaluation. The evaluations will be conducted on a selected sample of LSGs and will focus on effectiveness of ESMF implementation, effectiveness of compliance to mitigation measures and extent of avoided harm to E&S aspects.
- The Capacity Building Plan details out the kind of trainings to be imparted to various functionaries and officials to enable smooth implementation of the ESMF. The trainings will be conducted by KILA under Component 2 of the project.
- A Social Development Framework relating to land acquisition has been developed. A Vulnerable Groups Development Framework has also been similarly developed. The ESMF includes clear guidelines to be followed in case of land acquisition.
- An indicative budget has been provided that gives allocations for successful implementation of the ESMF.
- Before project appraisal, the ESA report has been disclosed in public two consultation workshops organized by the GoK on 18th and 19th June 2009 in Thiruvananthapuram and Kozhikode and in a disclosure workshop organized on 11 November 2010 which was attended by the Secretary, LSGD in addition to several other attendees from various Government Departments. The report has also been disclosed on the websites of the Department of Local Self Government of the Government of Kerala and the Bank infoshop. An Executive Summary of the report will also be translated into the native language and disseminated in all the district libraries prior to project effectiveness.
- The ESMF will apply to the works / activities taken up under the Block Grant component of the project. However in the future, the Local Self Government Department of the Government of Kerala could consider the option to apply it to all activities taken up by the LSG institutions irrespective of the source of funds.