



**COMMENTS ON *ENVIRONMENTAL AND SOCIAL FRAMEWORK DRAFT GUIDANCE NOTES FOR BORROWERS* – INTERNATIONAL GOVERNMENT AFFAIRS COMMITTEE,  
SOCIETY FOR AMERICAN ARCHAEOLOGY**

DECEMBER 13, 2017

The Society for American Archaeology (SAA) greatly appreciates this opportunity to provide the following comments on the World Bank’s Draft Guidance Notes for Borrowers. SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With more than 7,500 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

***Concerning ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities:***

GN6.1. ESS7 recognizes that different terms, including those listed in paragraph 6, can be used to refer to a group identified in accordance with the criteria set out in paragraph 8 and 9 of this Standard. The term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” (IP/SSAHUTLC) is understood to apply to groups or communities, rather than individuals.

**Comment 1. The extension of this ESS to populations in areas of the world where the term ‘indigenous peoples’ is not normally used is recognised by the Society for American Archaeology as a significant advance in World Bank engagements with marginalized communities. SAA strongly supports this recognition of the diversity of indigenous communities globally.**

GN8.2 (Footnote 6). ...“Collective attachment” signifies that the groups generally consider their lands and resources to be collective assets, and that they see their culture and identity as a function of the group rather than as individuals.”

**Comment 2. The concept of ‘collective attachment’ privileges physical occupation and economic exploitation; it does not take account of the myriad other ways in which indigenous communities may form attachment to their territories.**

**Comment 3. The degree to which communities consider lands and resources as collective assets will vary considerably, based upon preexisting cultural structures and interactions with dominant societies. It may under such circumstances be difficult to locate groups or individuals to act as representatives for communities, or there may be disputes among different groups within communities. (This is also indirectly recognised in GN 8.3.) Project managers must carefully avoid any policies which might, deliberately or inadvertently, tend to disrupt intra-community structures or exacerbate intra-community tensions in their efforts to evaluate collective structures and find negotiating partners.**

GN9.1. The phrase “during the lifetime of members of the community or group” introduces a temporal limitation on claims to collective attachment. This means that claims regarding loss of collective attachment that exceed that temporal limitation, which are often complex and can be traced back many years before the lifetime of the members of the community, fall outside the scope of Paragraph 9.

**Comment 4. This phrase indicates that community rights must involve physical presence and economic ties within the lifetime of community members. It does not take any account of the fact that indigenous communities may have maintained vital religious or ceremonial ties to land that they no longer physically occupy or economically exploit.**

GN12.1. In certain circumstances, project benefits, such as enhancing access to roads, healthcare, and education, can have unintended adverse impacts on IP/SSAHUTLC due to their particular circumstances or vulnerabilities. These impacts may include loss of language and cultural norms, undermining of traditional governance structures, creation of internal conflict, increased pressures and encroachment on lands, and pressures on or contamination of natural resources. The assessment identifies the potential for, and scale of, such adverse impacts.

**Comment 5. In fact, Paragraph 12 of ESS 7 appears to be a (presumably inadvertent) copy of Paragraph 11. It is thus not possible for commenters to evaluate the processes identified in GN12.**

GN17.1. In some projects, affected groups of IP/SSAHUTLC may exist in the same area as other affected communities or they may be integrated within a larger affected population. In such cases, a stand-alone IP/SSAHUTLC Plan can be prepared, or all elements of this plan can be included as part of a broader integrated community development plan. Issues related to IP/SSAHUTLC are addressed in project design to provide equitable access to project benefits in a culturally appropriate manner.

**Comment 6. This will be a very common situation. The presence of other affected communities cannot be used as a reason to avoid project obligations to Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.**

GN23.3. There may be divergent views and opinions within IP/SSAHUTLC. A meaningful consultation takes into account these different viewpoints and opinions while respecting traditional cultural approaches to consultations and decision-making.

**Comment 7. As noted in Comment 2, the World Bank and project managers must carefully avoid any policies which might tend to disrupt intra-community structures or exacerbate intra-community tensions in their efforts to consult with these communities.**

GN25.6. FPIC may be achieved even when individuals or groups within or among IP/SSAHUTLC explicitly disagree. Such disagreement does not constitute a veto.

**Comment 8. This guideline does not take into account the diversity of structures and processes that different Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities may use in decision-making. Project managers must be sensitive to the status of individuals and groups within these communities, and the varying roles they may have in decision-making. There may be circumstances in which even a majority opinion would not necessarily be seen as legitimate within such communities.**

GN32.2. The targeted social assessment determines whether there are any potential significant impacts on the cultural heritage of IP/SSAHUTLC, and whether the cultural heritage is material to the identity and/or cultural, ceremonial, or spiritual aspects of their lives.

**Comment 9. This Guidance Note requires explicit criteria for defining significance, and for evaluating the degree to which cultural heritage is material to the identity and other aspects of these communities. It should be**

**emphasized that such criteria for significance may be very different both between Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities and members of national communities, and between separate Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities affected by a single project.**

*Concerning ESS 8: Cultural Heritage:*

GN5.1. Besides the more obvious excavations, demolition, or other physical changes that may affect cultural heritage sites and structures, an irrigation project that results in a rise and fall of the water table in an area may damage the foundations of ancient buildings or artifacts, or an energy project to construct transmission lines may disfigure historic or natural landscapes.

**Comment 1. This and other Guidance Notes illustrate the necessity for all projects to be assessed for cultural heritage by professionals trained in cultural heritage management. Such professionals may or may not be employees of the World Bank, although it would be ideal to have at least some cultural heritage specialists employed by the World Bank for oversight purposes.**

GN6.1. Cultural heritage may have different values for different individuals or groups, regardless of whether it has been legally protected or previously identified or disturbed....

**Comment 2. This is entirely correct. However, evaluation of cultural heritage and its significance needs to be undertaken by trained professionals in cultural heritage management, not by project managers who may have no background in such evaluations.**

GN6.2. While some cultural heritage in a country may have already been identified, and in some cases legally protected, many areas may not have been subject to cultural heritage surveys, and therefore documentation regarding possible cultural heritage may be relatively limited. Consequently, the preparation and implementation of projects can result in the discovery of previously unknown tangible and intangible cultural heritage.

**Comment 3. This illustrates the absolute necessity for careful cultural heritage surveys on all World Bank-associated projects. Absence of evidence is not evidence of absence, but in the past, assumptions that cultural heritage resources were not present in areas impacted by World Bank-associated projects were made on the basis of a lack of previous surveys. This has in the**

**past resulted in the loss of cultural heritage resources. It needs to be noted that such negative results are most likely in countries and regions with relatively little cultural heritage infrastructure, making such losses disproportionately damaging.**

GN6.3. Impacts on cultural heritage that is recognized by local communities as important need to be considered even if the cultural heritage is not legally recognized or protected...

**Comment 4. As noted in Comment 1, this underlines the necessity for all projects to be assessed for cultural heritage by professionals trained in cultural heritage management.**

GN7.1. The environmental and social assessment takes into consideration the significance of intangible cultural heritage likely to be affected and whether and how the project may materially impact this heritage; if impacts are identified, measures and actions to mitigate them are put into place. For example, project activities may require cutting of trees that are used for cultural or religious practices and are considered to be sacred.

**Comment 5. SAA strongly supports the inclusion of intangible cultural heritage in ESS 8. However, we need to recognize that there may be severe challenges in demarcating the project areas within which effects upon intangible cultural heritage will be felt. It will also in many cases be difficult to measure the ‘material impact’ of project activities upon intangible cultural resources. For example, we might think of project effects upon language proficiency, which may be one of the most important elements of cultural heritage for Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities.**

GN8.1 Direct impacts, such as those caused by construction activities, are often the most readily apparent. They generally result from excavation, dredging, flooding or the vibration caused by heavy machinery. The environmental and social assessment also considers the indirect and cumulative impacts that may occur during implementation or after completion of a project, for example, from changing conditions in a watershed area, or from increased traffic and construction along a new or improved road.

**Comment 6. Presumably this guidance note applies to intangible cultural resources, as well as to tangible cultural resources.**

GN10.1. Methods for documenting and protecting cultural heritage typically include field surveys to identify cultural heritage likely to be impacted by the project...

**Comment 7. At some point, resources for this process should identify documents that outline best practices for these methods. Consultation with the International Scientific Committee on Archaeological Heritage Management (ICAHM) might be appropriate in these circumstances.**

GN11.3. A chance finds procedure covers the identification, notification, documentation, and management of chance finds in accordance with national laws and, where applicable, internationally accepted practice. Components of a chance finds procedure may include...

**Comment 8. Chance find protocols also should outline the penalties for not following the procedures (which might include dismissal, financial penalties and so on).**

GN12.1. Different kinds of cultural heritage have their respective areas of relevant expertise. It is important that experts engaged have the appropriate experience and expertise to address the cultural heritage identified in the project.

**Comment 9. SAA agrees with this statement. However, it is written in conjunction with the initial statement in Paragraph 12 that “Where necessary due to the potential risks and impacts of a project, the environmental and social assessment will involve the participation of cultural heritage experts....” SAA strongly disagrees with the discretionary nature of this statement: the project proponent should always hire a cultural heritage expert, and that expert should also meet professional and/or national standards (if the latter are developed).**

GN13.2. Relevant stakeholders are identified and consulted early in project preparation, as this can help to identify cultural heritage, document its presence and significance, assess potential project impacts, and determine appropriate mitigation measures in a timely manner. The variety in types of cultural heritage may call for consultation with different stakeholders, who may have different interests in or attach different significance to the cultural heritage.

**Comment 10. This will require consistent criteria and procedures for identifying relevant stakeholders, both in project planning and throughout the delivery of the project.**

GN14.2. In case of disagreement about the significance of the cultural heritage affected by the project or the approach to its management, it may be helpful to engage third-party experts.

**Comment 11. It is hard to envisage such circumstances of disagreement in which it would not be helpful – indeed, essential – to engage such third-party experts. This also raises the question of who will have responsibility for identifying and engaging such third-party experts.**

GN18.2. In some places, burial grounds or cemeteries may not be recognized as cultural heritage. For example, they may be recent or of an indeterminate age, not considered of historical or archaeological value, or unrelated to the current local population. In these circumstances, consultations with the project-affected parties and other stakeholders to determine appropriate mitigation measures in accordance with ESS1.

**Comment 12. The Guidance Notes need more explicit recognition of the importance and challenges of dealing with human remains and mortuary items. For example, while it is true that burial grounds/cemeteries may not be recognized as cultural heritage by particular groups, they may simultaneously be so recognized by other interested parties (including trained heritage managers). It is equally true that they may be recognized as culturally important even when other archaeological traces from the same ancient communities are not recognized as cultural heritage. In addition, human remains and mortuary items may require special treatment in the light of national or community norms, whether or not there are cultural relations with modern populations.**

GN20.1. All archaeological evidence should be documented in accordance with national law and GIIP. Where excavation is carried out, this should be conducted by cultural heritage experts, in accordance with national law and GIIP, with the results provided to the appropriate cultural heritage authorities.

**Comment 13. Furthermore, all such cultural heritage experts should also meet standards set, maintained and enforced by professional associations such as, for example, the Register of Professional Archaeologists or the Chartered Institute for Archaeologists.**

**Comment 14. GN20.1 is written in conjunction with Paragraph 19, which states that “Where there is evidence or high probability of past human activity in the area of the project, the Borrower will conduct desk-based research and field surveys to document, map and investigate archaeological remains.” This statement is internally inconsistent with GN6.2. As noted in Comment 3, assumptions that cultural heritage resources were not present in areas impacted by World Bank-associated projects have in the past been made on the basis of a lack of previous surveys. This has led to damage to**

**cultural heritage resources in past World Bank-associated projects, and penalizes areas (such as much of sub-Saharan Africa) where less fieldwork has been undertaken. Careful initial cultural heritage surveys need to be undertaken on all World Bank-associated projects.**

**Comment 15. GN20.1 is written in conjunction with Paragraph 19, which states that “The Borrower will determine, in consultation with cultural heritage experts, whether archaeological material discovered during the project life-cycle requires: (a) documentation only; (b) excavation and documentation: or (c) conservation in place; and will manage the archaeological material accordingly.” This statement establishes that the proponent of the project need only consult with cultural heritage experts. This raises the question of the status of these cultural heritage experts, and whether they are being employed by the borrower as well. It would be better practice to include an independent oversight process that does not involve the proponent.**

GN28.1. Institutions or individuals responsible for the care of movable cultural heritage should be informed about project activities and the anticipated schedule for such activities, so that they can coordinate with the project as needed. ... In certain cases, mitigation measures may include relocating movable cultural objects to museums or other places for safekeeping, in particular during the construction phase of the project when such objects are likely to be most vulnerable.

**Comment 16. It should be anticipated that projects will more often than not involve the recovery of large amounts of movable cultural heritage material, particularly from archaeological sites. For that reason, mitigation plans should in all cases involve a curation component, both long- and short-term to safeguard this material both during the lifetime of the project and following its conclusion, including specific provisions for communication with relevant institutions and authorities and explicit plans for protection of movable cultural heritage items. Such curation plans should also include all records (physical and digital) of the recovery of cultural materials.**

**Comment 17. World Bank-associated projects have the potential to contribute significantly to the cultural heritage of host countries. In many parts of the world, such projects may even prove to be central to an understanding of heritage. Accordingly, such projects should make provision for dissemination of information of the results of cultural heritage management initiatives, ideally in both popular and professional venues. As**

**noted in Comment 16, this should include plans for the curation of all records (physical and digital) of the recovery of cultural materials.**

Again, we appreciate the chance to provide SAA's input on these important issues. We hope that the World Bank will consider SAA to be a useful resource when dealing with cultural resource issues. Please let us know how we might be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Chandler". The signature is written in a cursive style with a large, looped 'S' at the beginning.

Susan M. Chandler, RPA  
President