NRIMP2: LARRIP FRAMEWORK

THE LAND ACQUISITION, RESETTLEMENT, REHABILITATION AND INDIGENOUS PEOPLES (LARRIP) POLICY FRAMEWORK (Chapter 3 of the SEMS Policy Framework)

1 LAND ACQUISITION, RESETTLEMENT AND REHABILITATION (LARR) POLICY

The first Land Acquisition, Resettlement and Rehabilitation (LARR) Policy was formulated in 1999 specifically for the National Road Improvement and Management Program (NRIMP) Phase 1, World Bank assisted project. Thereafter, the LARR Policy of 1999 was adopted, with some modifications in pursuance to prevailing laws and policies, by other financing institutions such as the Asian Development Bank (ADB), Japanese Bank International Cooperative (JBIC) in their projects.

A second edition of the LARR Policy was formulated in 2004 for project under the Sixth Road Project. To some extent the ADB LARR Policy was applied to JBIC funded projects.

To ensure uniformity of standards in the Resettlement Planning, a revised LARR Policy, 3rd edition, was formulated. The updated LARR policy shall provide guidance to those preparing resettlement action plans (RAPs) either foreign or locally funded projects.

This policy includes the principles and objectives of the involuntary resettlement policy, the legal framework, eligibility, compensation and entitlements, implementation procedures that ensure complaints are processed, public support and participation, and the provision of internal and external monitoring of the implementation of the RAP.

Under normal circumstances, land taking for development projects can be a difficult and tedious process. Reconstruction from natural or human-made disasters, civil strife, and conflict can be doubly challenging. Property records may have been destroyed; owners have died or have evacuated elsewhere; the court system may be non-functional or functioning below their capacity. People may have been traumatized by injury, loss of lives and property.

Permanent acquisition of private lands will be avoided as much possible, exploring all feasible alternative sites because of the heightened risk of impoverishment and weakened bargaining power of landowners. Utmost care and sensitivity will be exercised because of the trauma and loss that the owners and users may have experienced. Where permanent land acquisition is necessary, it will be minimized as much as possible to avoid physical and economic displacement. Acquisition of land used for residential purposes will be avoided if the land taking will entail physical displacement and relocation of owners and or occupants to another site. Informal users or occupants may be victims of the disaster who have relocated to the land for safety or because their own lands were devastated or rendered inhabitable.
Temporary acquisition will be minimized as much as possible in extent and duration. Temporary acquisition should avoid physical and economic displacement. Where land and immovable or fixed assets on the land will be acquired, they will be done through good faith negotiations. Expropriation will be avoided as much as possible because of the expense, time, and the state of the land owners and the additional burden it places on the government system. At all stages of the design, approval, and implementation and, relevant and accurate information will be provided in a timely manner to affected people in language understandable to them and through means or channels which are accessible and affordable.

The Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples (LARRIP) Framework is based on RA 8974, an Act to Facilitate Acquisition of the Right of Way, Site or Location for National Government Infrastructure Projects. The Infrastructure Right-of-Way (IROW) Procedural Manual was extracted from the LARRIP, which is specifically designed for projects involving involuntary resettlement. The LARRIP spells out the legal framework and donors’ policies governing instances when infrastructure projects implemented by the DPWH cause the involuntary taking of land, structures, crops, and other assets resulting in some cases in the displacement and resettlement of affected persons. The LARRIP enumerates the entitlements and benefits that Project Affected Families (PAFs) or Persons (PAPs) should rightfully receive under the law based on the Project’s adverse impacts on their assets, livelihood, and lives. It expounds on safeguards to be followed based on Philippine law when these affected persons are Indigenous Peoples, living inside and outside an officially declared ancestral domain. Finally, the LARRIP delineates the institutional framework for the implementation of the policy and provides mechanisms, both internal and external to the DPWH, for monitoring and evaluating the impact of safeguard measures, e.g. resettlement plan, indigenous peoples’ action plan. The SEMS Policy Framework and Operations Manual SEMS OM PF ANNEX 3 provides an inquiry tree to determine if a project requires the use of the Land Acquisition and Resettlement guidelines and procedures in the SEMS.

2 LEGAL FRAMEWORK

The policy framework within which the Resettlement Action Plans for Structures and Land will operate is derived from the Constitution, Republic Act 8974, Environmental and Social Safeguards of the financing institutions and other applicable laws.

Hereunder are the various provisions and prescriptions of laws, policies and guidelines related to operation and implementation of resettlement.

Basic National Policy

1. Article III, Section 9: “Private property shall not be taken for public use without just compensation”
2. RA 8974- An Act to Facilitate the Acquisition of Right-Of-Way (ROW), Site or Location for National Government Infrastructure Projects a law that was assigned and took effect in November 2000.

RA 8974 provides the different bases for land valuation for the following modes of acquisition, negotiated sale and expropriation.

The Implementing Rules and Regulations of this law state that the Implementing Agency shall negotiate with the owner for the purchase of the property by offering first the current zonal value issued by the Bureau of Internal Revenue for the area where the private property is located.

The law also states that valuation of the improvements and/or structures on the land to be acquired shall be based on the replacement cost which is defined as the amount necessary to replace the structure or improvement based on the current market prices for materials, overhead, and all other attendant costs associated with the acquisition and installation in place of the affected improvements/installation.

Methods of Negotiation. Under the law, there are different modes of acquiring title to, and ownership of, private property particularly real estate property, as well as the modes of acquiring right to use private property for another purpose. RA 8974 specifies the following methods: Donation, Quit Claim, Exchange or Barter, Negotiated Sale or Purchase, Expropriation and any other modes of acquisition authorized by law. For the full text of RA 8974 and its Implementing Rules and Regulation please refer to Appendices 1 and 2 respectively.

Zonal value as the first offer. In case the mode of acquisition is through a negotiated sale, the first offer shall be the zonal value of the particular land where the property is located, issued by the Bureau of Internal Revenue. In case the owner rejects the first offer, the Department shall renegotiate using the values recommended by the Appraisal Committee or Independent Land Appraiser as a guide for negotiation.

Standards to determine market value. Negotiated sale between DPWH and the PAF based on the following standards to determine the market value:

- The classification and use for which the property is suited;
- The development costs for improving the land;
- The value declared by the owners;
- The current selling price of similar lands in the vicinity;
- The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value for improvements thereon;
- The size, shape and location, tax declaration and zonal valuation of the land;
The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

Quit Claim. A quit claim instrument is required to be executed by owners of lands acquired under the Public Land Act because of the reservation made in the issuance of patents or titles thereto. In other words, even if the title or free patent describes the whole area as owned by the patentee or title holders, by operation of the law, a strip of twenty or sixty meters, as the case maybe, of that area described is not absolutely owned by him, because it is reserved by the government for public use. Hence, if the government should exercise its right to use the area reserved by it for public use, the owner shall be required to execute a Quit Claim over such area reserved and actually taken by the government for public use. This mode can be availed of not only in cases where the lot acquired under the Public Land Act is still covered by Free Patents but even after the issuance of Certificate of Title or Transfer Certificates of Title because of a series of transactions involving transfer of ownership from one person to another. No payment shall be made for land acquired under the quit claim mode except for damages to improvements, and, if eligible, assistance with income restoration.

In case PAPs/PAFs are qualified for compensation but with arrears on land tax. To facilitate the processing of payment on land acquired from the PAPs with tax arrears the DPWH will pay the arrears and deduct the amount to the total compensation cost.

In case the PAPs/PAFs are qualified but already dead and the heirs have not undergone extra-judicial partition, the PAPs/PAFs will be given a grace period to meet the requirement within the validity period of allotment for two (2) years. Beyond two years that the PAPs cannot comply with the requirement they have to settle the case in court.

In case of expropriation.

For Structures: In the event that the PAF rejects the compensation for structures at replacement cost offered by DPWH, the Department or the PAF may take the matter to court. When court cases are resorted to either by DPWH through expropriation or by the PAFs through legal complaints, the DPWH will deposit with the court in escrow the whole amount of the replacement cost (100%) it is offering the owner for his/her assets as compensation to allow DPWH to proceed with the works. The PAF will receive the replacement cost of the assets within one (1) month following the receipt of the decision of the court.

For Land: If the owner contests the Depart compensation for land, the PAF or the DPWH may take the matter to court.
DPWH shall immediately pay the owner: a) 100% of the value of the property based on the BIR zonal valuation, and b) the value of improvements and structures. However, if the owner rejects the full payment, the DPWH will deposit 100% of the BIR zonal value in an escrow account. The court shall determine the just compensation within sixty (60) days, taking into account the standards for the assessment of the value of the land (Sec. 5, RA 8974).

**Other Applicable laws and Policies: Executive Orders, Administrative Orders, and Department Orders.**

a. Commonwealth Act 141 Section 112 or Public Land Act - prescribes a twenty (20) meter strip of land reserved by the government for public use, with damages being paid for improvements only.

b. Presidential Decree 635 amended Section 112 of CA 141 increasing the width of the reserved strip of twenty (20) meters to sixty (60) meters.

c. EO 113 (1995) and EO 621(1980)

i. National Roads shall have an ROW width of at least 20 meters in rural areas which may be reduced to 15 meters in highly urbanized areas.

ii. ROW shall be at least 60 meters in unpatented public land.

iii. ROW shall be at least 120 meters through natural forested areas of aesthetic or scientific value.

d. EO 1035

i. Financial assistance to displaced tenants, cultural minorities and settlers equivalent to the average annual gross harvest for the last 3 years and not less that PhP15, 000 per ha.

ii. Disturbance compensation to agricultural lessees equivalent to 5 times the average gross harvest during the last 5 years.

iii. Compensation for improvements on land acquired under Commonwealth Act 141.

iv. Government has the power to expropriate in case agreement is not reached.

e. MO 65, Series of 1983

i. Easement of ROW where the owner is paid the land value for the Government to use the land but the owner still retains ownership over the land.

ii. Quit claim where the Government has the right to acquire a 20 to 60 m width of the land acquired through CA 141. Only improvements will be compensated.
f. Republic Act 6389

Provides for disturbance compensation to agricultural lessees equivalent to 5 times the average gross harvest in the last 5 years.

g. Article 141, Civil Code

Real actions over immovables prescribed after thirty (30) years. The provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription (1963).

ADB/ World Bank Resettlement Policy

Basic Principles

遵守

Involuntary resettlement should be avoided where feasible.

遵守

Where population displacement is unavoidable, it should be minimized by exploring all viable project options.

遵守

People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the project.

遵守

People affected should be fully informed and consulted on resettlement and compensation options.

遵守

Involuntary resettlement should be conceived and executed as part of the project

Operational Policies

遵守

The absence of a formal legal title to land by some affected groups should not be a bar to compensation, especially if the title can be perfected; particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance provided to help them improve their status.

遵守

In case of severe impacts on agricultural land use, rehabilitation measures shall be given to PAFs that are actively cultivating affected plots, in the form of a combination of training, money to be invested to improve productivity, agricultural extension and income restoration allowances.

遵守

If possible, income restoration entitlements may also be given to informal settlers affected by non-severe loss of agricultural land, though the rehabilitation may have lesser effect than for severely affected PAFs.
Existing social and cultural institutions of re-settlers and their hosts should be supported and used to the greatest extent possible and re-settlers should be integrated economically and socially into host communities.

The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.

Some costs of resettlement may be considered for inclusion in the Bank loan financing the project. Costs that are covered include all costs associated with land improvement, construction of new housing and community infrastructure, and income generating measures. Other costs including land acquisition would need review and clearance of a special committee in the World Bank Headquarter at Washington. Thus, it must be covered by a specific proposal with all the required information.

**SCOPING OF SOCIAL ASPECTS FOR PROJECT AFFECTED PERSONS**

Review will commence with the enumeration by the proponent with assistance from DPWH or the LGU, when necessary, of the extent of land acquisition, project-affected population and loss of assets that may result from a subproject’s implementation, using a checklist. To facilitate review, implementing unit may complete the checklist. Reviewers from DPWH and DENR, as the case may be, will verify the information put in by sub-borrowers from the submitted subproject documents, and from the project site visit. See Table 1 below.
### TABLE 1. CHECKLIST OF PROJECT-AFFECTED PERSONS AND ASSETS

<table>
<thead>
<tr>
<th>Social Impact</th>
<th>Yes</th>
<th>No</th>
<th>Specify Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Land acquisition necessary</td>
<td></td>
<td></td>
<td>Size &amp; use of land</td>
</tr>
<tr>
<td>b) HHs / Persons will be displaced</td>
<td></td>
<td></td>
<td>Total no. of HHs /persons</td>
</tr>
<tr>
<td>c) Presence of informal settlers</td>
<td></td>
<td></td>
<td>Total no. of informal HHs / settlers</td>
</tr>
<tr>
<td>d) Legal structures acquired / damaged</td>
<td></td>
<td></td>
<td>No., size &amp; built of structures</td>
</tr>
<tr>
<td>e) Informal structures being removed</td>
<td></td>
<td></td>
<td>No., size &amp; built of structures</td>
</tr>
<tr>
<td>f) People losing means of livelihood</td>
<td></td>
<td></td>
<td>Total no. of HHs /persons</td>
</tr>
<tr>
<td>g) Basic services will be inaccessible</td>
<td></td>
<td></td>
<td>Type/s of basic services</td>
</tr>
<tr>
<td>h) Crops / trees being damaged / lost</td>
<td></td>
<td></td>
<td>No. &amp; type of crops / trees</td>
</tr>
<tr>
<td>i) Tenants / Lessees losing crops / trees</td>
<td></td>
<td></td>
<td>No. of tenant HHs losing how many, what type of crops / trees</td>
</tr>
<tr>
<td>j) Informal settlers losing crops / trees</td>
<td></td>
<td></td>
<td>No. of informal HHs losing how many, what type of crops / trees</td>
</tr>
<tr>
<td>k) Indigenous peoples to be displaced</td>
<td></td>
<td></td>
<td>Total no. of indigenous HHs /persons</td>
</tr>
</tbody>
</table>
Social safeguards requirements will be triggered when any one of the above social impacts is positively identified and confirmed. Based on the information derived from the checklist, the following are validated (See Table 2):

- Appropriateness of the prepared/submitted social safeguard document for the social category of the subproject; and
- Conformity of the prepared social safeguard documents to the provisions of the SEMS Policy Framework.

Table 2. Required Social Safeguards Documents

<table>
<thead>
<tr>
<th>No. of Displaced Persons</th>
<th>Required Document/s</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 200 persons displaced and/or requiring shifting of dwelling structures</td>
<td>Full Resettlement Plan (Attachment RCF-3)</td>
</tr>
<tr>
<td>Presence of IP communities or ancestral domain</td>
<td>Indigenous People Plan (Attachment IPF-1)</td>
</tr>
<tr>
<td>1-200 persons or “minor impacts” i.e., no shifting of dwelling structures</td>
<td>Abbreviated Resettlement Plan (Attachment RCF-4)</td>
</tr>
</tbody>
</table>

The presence of IPs within the project’s area of influence as residents or as food gatherers and/or places considered sacred makes a subproject socially critical (Refer to Table 3).

Table 3. Criteria for Review of Social Aspect

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Means of Verification</th>
</tr>
</thead>
</table>
| 1 Consultation and participation of adversely affected persons or, in the case of IPs, if they are present in the subproject area | - Minutes of Public Consultations  
- Expression of Support of stakeholders, particularly those adversely affected  
- Survey Report on Acceptability / Willingness  
- Free & Prior Informed Consultation, for DPs that are IPs |
|   | Compensation & assistance to be provided according to the provisions in PHRED Resettlement Policy Framework | - Compensation Table  
- Rehabilitation Program/s  
- Resettlement Implementation Schedule, in relation to overall Subproject Implementation |
|---|--------------------------------------------------|--------------------------------------------------|
| 3 | Resettlement site of adversely affected persons (if any) with conditions equal to, or better than, those in existing sites | - Resettlement Site Development Plan & Vicinity Map  
- Description of available / accessible basic infrastructure and services in resettlement sites  
- Visit to resettlement site/s |
| 4 | Implementation of RAP in relation to overall Subproject Implementation Schedule | - Comprehensive Resettlement Implementation Schedule within the overall Subproject implementation schedule |
| 5 | If applicable, due diligence on donations of affected lands for subproject implementation | - Documentation of meetings held regarding land donation/s – need to assess agreement to donate, i.e., was there informed consent and power of choice? Also, need to ensure that there is a legal transfer of the asset (signing, registration, taxes/fees paid, etc). Or, if land already donated, documentation of donation/s (note the total land area from which portion needed by subproject is taken) and assess whether donation is legally valid (e.g. identify right being transferred, no lien on asset, occupants in affected portion, wife consent to transfer, agreement to transfer, legal transfer of title and registration, costs of transfer).  
- Assessment report on the donor’s economic viability and economic sustainability of transferred asset (resources to maintain and support asset) |
|   | Management of cultural properties within, or in close proximity to, the subproject area | - Report on presence/absence of a cultural property  
- Brief reconnaissance report by competent authority to determine what is known of the cultural property aspects of the subproject site. |
|---|---|---|
| 7 | Provision for M&E | - Resettlement Action Plan  
- Resettlement Plan Cost Estimates |

3 SOcioeconomic Baseline Information

3.1 Objectives

1. To gain an understanding of the perceptions of the people regarding the project and identify options on resettlement
2. To determine the impact of losses
3. To develop alternatives measures to replace lost income
4. To identify problems and issues and mitigating measures to address them

3.2 Procedures for Determining Baseline Survey and Extent of Losses

1. Conduct of Baseline Socioeconomic Survey

A socioeconomic survey will be carried out along with the Inventory of Losses (IOL) to identify the magnitude of resettlement impacts. Details on the IOL obtained information on names of PAPs and all assets that are within the scope and the right of way (ROW) which include productive and residential land, housing structures, business establishments, other miscellaneous items (fence, and wells).

Several methods will be used to obtain the socioeconomic data and inventory of land (IOL). The SES will utilize a questionnaire administered to 100% of affected households. It would be necessary to hire Enumerators to interview head of affected households and or in the absence of head of household, the wife or next person of aged who can make decision for the family may take as a replacement.

2. Conduct of Inventory of Land and Assets

To determine the extent or magnitude of losses, an inventory of losses (IOL) will be carried out covering 100% of the affected families. This will be undertaken simultaneously with the socioeconomic survey (SES) by the Consultant hired by DPWH. The IOL specifies the types of losses such as land, structure income, crops and other assets.
The following are involved in the inventory and site identification.

1. Local Government Units (LGUs) – responsible for the conduct of inventory and identification of sites for resettlement and socialized housing

2. Housing and Land Use Regulatory Board (HLURB)
   - prepare guidelines for the inventory and identification of sites for socialized housing and periodic training and technical assistance in the conduct of inventory
   - provide relevant information on land use and zoning and assist in the preparation of Land Use Plan incorporating the identified sites for socialized housing

3. National Mapping and Resource Information Authority (NAMRIA) – provide base maps, aerial photographs and other cartographic materials needed for the inventory.

4. Land Management Bureau (LMB) – furnishes the LGUs with cadastral maps, inventory of government-owned lands and other relevant data.

5. National Housing Authority (NHA) – makes available existing guidelines and criteria on the identification of sites for socialized housing, accept and act as repository (of deeds, TCTs, pleas, etc.) of government-owned lands found suitable for the above stated purpose, and assist the concerned LGUs in the implementation of appropriate housing programs arising from the inventory gathered on socialized housing projects.

6. Other agencies which can provide relevant information and data requirements:
   - Bureau of Internal Revenue (BIR) – provides data on land valuation and taxation.
   - Department of Agriculture/Bureau of Soils and Water Management (BSWM) – provides data on Network of Protected Agricultural Areas.
   - Department of Agrarian Reform (DAR) – provides data on lands covered by the Comprehensive Agrarian Reform Program (CARP).

4 POLICY ON ELIGIBILITY, COMPENSATION AND OTHER ENTITLEMENTS

The settlement of claims for compensation for lost assets of PAFs is summarized in the matrix at the end of this section. The determination of compensation and entitlements is based on the legal framework and principles of the LARR policy.

a. Criteria for Eligibility for compensation

1) Landowners

i. Legal owners (agricultural, residential, commercial and institutional) who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership.

ii. Users of arable land who have no land title or tax declaration

iii. Agricultural lessees

2) PAFs with Structures
i. Owners of structures who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership.

ii. Owners of structures, including shanty dwellers, who have no land title or tax declaration or other acceptable proof of ownership.

iii. Renters

b. Indicators of Severity of Impacts

Properties to be acquired for the project may include the entire area or a portion of it. Hence, compensation for such assets or properties depends on whether the entire property will be affected or just a portion of it.

Severe – The portion of the property to be affected is more than 20% of the total land area or even less than 20% if the remaining portion is no longer economically viable or it will no longer function as intended. The owner of this property (land or structures, etc.) shall be entitled to full compensation in accordance to RA 8974.

Marginal – the impact is only partial and the remaining portion of the property or asset is still viable for continued use. Compensation will be on the affected portion only.

c. Compensation per category of assets affected.

The classifications or categories of assets to be compensated include Land, Structures, other Improvements and Crops, Trees and Perennials. Described below are the compensation and entitlements provisions for which the PAFs are eligible, per classification of assets affected.

1) Compensation for Structures

Compensation in cash for the affected portion of the structure, including the cost of restoring the remaining structure, as determined by the concerned Appraisal Committee, with no deduction for salvaged building materials.

2) Compensation for Other Improvements

i. Compensation in cash at replacement cost for the affected portion of public structures to government or non-government agencies or to the community in case of a donated structure by agencies that constructed the structure.

ii. Compensation to cover the cost of reconnecting the facilities, such as water, power and telephone.

3) Compensation For Crops, Trees and Perennials

i. Cash compensation for perennials of commercial value as determined by the DENR or the concerned Appraisal Committee

ii. PAFs will be given sufficient time to harvest crops on the subject land

iii. Compensation for damaged crops (palay and corn) at market value at the time of taking. The compensation will be based on the cost of production per ha, pro-rata to the affected area.
iv. Entitlement for fruit-bearing trees will be based on the assessment of the Provincial or the Municipal Assessors where the project is located.

4) Compensation For Land

Computation of the replacement cost of land shall be pursuant to RA 8974. The initial offer to the PAF is the indicated price in the current zonal valuation issued by the Bureau of Internal Revenue (BIR) for the locality where the property is located. If the offered price is not acceptable to the PAF, the second offer will be current market value at the time of taking, based on the standards prescribed in Sections 5 and 6 of RA 8974.

a. Land swapping if feasible, ‘land for a new parcel of land of equivalent market value, at a location acceptable under zoning laws, or a plot of equivalent value, whichever is larger, in a nearby resettlement area with adequate physical and social infrastructure. When the affected holding has a higher value than the relocation plot, cash compensation will cover the difference in value.

b. Holders of free patent, homesteads under CA 141, or the Public Lands Act, will be compensated for improvements only.

c. Holders of Certificates of Land Ownership Award (CLOA) granted under the Comprehensive Agrarian Reform Act shall be compensated pursuant to the provisions of RA 8974. However, CLOAs granted under Public Land Act or CA 141 landowners shall be compensated for the affected improvements only.

d. Other Types of Assistance or Entitlements

i. Disturbance Compensation - For agricultural land severely affected the lessees are entitled to disturbance compensation equivalent to five times the average of the gross harvest for the past 3 years but not less than PhP15,000.

ii. Income Loss. For loss of business/income, the PAF will be entitled to an income rehabilitation assistance not to exceed P 15,000 for severely affected structures, or to be based on the latest copy of the PAF’s Tax record for the period business activities.

iii. Inconvenience Allowance in the amount of P 10,000.00 shall be given to PAFs with severely affected structures, which require relocation and new construction.

iv. Rehabilitation assistance (skills training and other development activities) equivalent to PhP15,000 per family per municipality will be provided in coordination with other government agencies, if the present means of livelihood is no longer viable and the PAF will have to engage in a new income activity.

v. Rental Subsidy. Will be given to PAFs without sufficient additional land to allow the reconstruction of their lost house under the following circumstances:

a. The concerned properties are for residential use only and are considered as severely affected.

b. The concerned PAFs were physically residing in the affected structure and land at the time of the cut-off date.
c. The amount to be given will be equivalent to the prevailing average monthly rental for a similar structure of equal type and dimension to the house lost.

d. The amount will be given for the period between the delivery of house compensation and the delivery of land compensation.

vi. Transportation allowance or assistance. If relocating, PAFs to be provided free transportation. Also, informal settlers in urban centers who opt to go back to their place of origin in the province or be shifted to government relocation sites will be provided free transportation

e. Entitlement Matrix

<table>
<thead>
<tr>
<th>Type of Loss (Classified as Agricultural, Residential, Commercial, Institutional)</th>
<th>Application</th>
<th>Entitled Person</th>
<th>Compensation/Entitlements</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAND</td>
<td>More than 20% of the total landholding lost or where less than 20% lost but the remaining land holding become economically unviable.</td>
<td>PAF with TCT or tax declaration (Tax declaration legalized to full title)</td>
<td>PAF will be entitled to cash compensation for loss of land at 100% replacement cost at the informed request of PAFs. If feasible, land for land will be provided in terms of a new parcel of land of equivalent productivity, at a location acceptable to PAFs, or Holders of free or homesteads patents and Holders of Certificates of Land Ownership (CLOA) under CA 141 Public Lands Act will be granted under Comprehensive Agrarian Reform Act shall be compensated for the land at zonal value. If granted under Voluntary Offer to Sell by the Landowner. CLOA issued under CA 141 shall be subject to the provisions of Section 112 of Public Lands Act shall receive compensation for damaged crops at market value at the time of taking. Rehabilitation assistance in the form of skills training equivalent to the amount of P000 (non-cash), per family, if the present means of livelihood is no longer viable and the PAF will have to engage in a new income activity.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>PAF without TCT</td>
<td>Cash compensation for damaged crops at market value at the time of taking. Agricultural lessors are entitled to disturbance compensation equivalent to five times the average of the gross harvest for the past 3 years but not less than PhP 15,000.</td>
</tr>
<tr>
<td>Less than 20% of the total</td>
<td>PAF with TCT or lost tax</td>
<td>PAF will be entitled to (Tax Cash compensation for loss of land at 100%</td>
<td></td>
</tr>
</tbody>
</table>

Entitlement Matrix
<table>
<thead>
<tr>
<th>Landholding or where less than 20% lost or where the remaining landholding is still viable for use</th>
<th>Declaration or declarations that are legalizable to full title</th>
<th>Replacement cost at the informed request of PAFs. Holders of free or homesteads or patents and CLOAs under CA 141 Public Lands Act will be compensated on land improvements only. Holders of Certificates of Land Ownership Award (CLOA) granted under the Comprehensive Agrarian Reform Act shall be compensated for the land at zonal value. if granted under Voluntary Offer to Sell by the Landowner. CLOA issued under CA 141 shall be subject to the provisions of Section 112 of the Public Land Act. Cash compensation for damaged crops at market value at the time of taking.</th>
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<td>PAF without TCT</td>
<td>Cash compensation for damaged crops at market value at the time of taking. Agricultural lessors are entitled to disturbance compensation equivalent to five times the average of the gross harvest for the past 3 years but not less than PhP 15,000. (Computation Pro-rata)</td>
<td></td>
</tr>
</tbody>
</table>
## Entitlement Matrix

<table>
<thead>
<tr>
<th>Type of Loss</th>
<th>Application</th>
<th>Entitled Person</th>
<th>Compensation/Entitlements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STRUCTURES</strong> (Classified as Agricultural, Residential, Commercial, Institutional)</td>
<td>More than 20% of the total landholding lost or where less than 20% lost but the remaining structures no longer function as intended or no longer viable for continued use.</td>
<td>PAF with TCT or tax declaration (Tax declaration legalized to full title)</td>
<td>PAF will be entitled to cash compensation for loss of entire structure at 100% of replacement cost. Rental subsidy for the time between the submission of complete documents and the release of payment on land.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PAF without TCT</td>
<td>PAF will be entitled to cash compensation for loss of entire structure at 100% of replacement cost. Rental subsidy for the time between the submission of complete documents and the release of payment on land.</td>
</tr>
<tr>
<td></td>
<td>Less than 20% of the total landholding or where less than 20% lost or where the remaining structure can still function and is viable for continued use.</td>
<td>PAF with TCT or lost tax declaration or declarations that are legalizable to full title</td>
<td>Compensation for affected portion of the structure.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PAF without TCT</td>
<td>Compensation for affected portion of the structure.</td>
</tr>
<tr>
<td><strong>IMPROVEMENT</strong></td>
<td>Severely or marginally affected</td>
<td>PAF with or without TCT, tax declaration, etc.</td>
<td>PAF will be entitled to cash compensation for the affected improvements at replacement costs</td>
</tr>
<tr>
<td><strong>CROPS, TREES PERENNIALS</strong></td>
<td></td>
<td></td>
<td>PAF will be entitled to cash compensation for the affected crops, trees, perennials at current market value as prescribed by DENR and LGUs.</td>
</tr>
</tbody>
</table>
4.1 RELOCATION OPTIONS

PAPs will be provided with options suitable to their preference. Cash compensation will be paid for affected assets at replacement value. The PAPs will not be displaced until after they have received in full the compensation and applicable allowances due to them. A Resettlement site with housing units and complete basic amenities will be provided by the concerned LGUs to accommodate PAPs who will opt to resettle in these sites.

4.2 GRIEVANCE REDRESS

A grievance redress mechanism aims to ensure that the complaints and grievances of PAPs are addressed and resolved in a timely and satisfactory manner. A community based Resettlement Committee will be established in the barangays where grievances can be dealt with more effectively by local people tasked to address the issues and concerns of affected households.

3 PROCEDURES FOR GRIEVANCE

Grievances related to any aspect of the project or sub-project will be handled through negotiations and are aimed at achieving consensus following the procedures outlined below:

a) The grievance shall be filed by the PAP with the Resettlement Implementation Committee (RIC) who will act within 15 days upon receipt thereof, except complaints and grievances that specifically pertain to the valuation of affected assets, since such will be decided upon by the proper courts;

b) If no understanding or amicable solution can be reached, or if the PAP does not receive a response from the RIC within 15 days of registry of the complaint, he/she can appeal to the concerned Regional Office, which should act on the complaint/grievance within 15 days from the day of its filing;

c) If the PAP is not satisfied with the decision of the Regional Office, he/she, as a last resort, can submit the complaint to any court of law.

PAPs shall be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures.

All complaints received in writing (or written when received verbally) from the PAPs will be documented and shall be acted upon immediately according to the procedures detailed above.

4.4 INCOME RESTORATION AND RELOCATION STRATEGIES

PAPs losing their productive assets and income sources will participate in an income restoration program that will be developed as a collective effort of the PAPs, DPWH the executing agency and the relevant people’s committees. A livelihood program will be
initiated upon settlement and appropriate livelihood intervention program shall be started to ensure that the quality of life of PAPs will be sustained than before resettlement took place.

1. Objectives

The objectives of the income restoration intervention are to restore and stabilize income of PAPs during displacement to ensure quality of life and sustain pre-project economic condition.

2. Potential Categories of Affected livelihood

The categories of affected livelihood that will be potentially affected are identified below along with appropriate income restoration measures.

<table>
<thead>
<tr>
<th>Potential Affected Livelihood/other categories</th>
<th>Income Restoration Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary loss of Farming/productive land</td>
<td>Compensation at replacement cost on temporary loss of productive land;</td>
</tr>
<tr>
<td></td>
<td>Vocational training on change of/ or alternate livelihood;</td>
</tr>
<tr>
<td></td>
<td>Rice subsidy as specified in the entitlement Matrix per household</td>
</tr>
<tr>
<td>Affected businesses</td>
<td>Compensation for lost income</td>
</tr>
<tr>
<td></td>
<td>Vocational training</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
<tr>
<td>Affected jobs (employees)</td>
<td>Compensation for 3 months on lost of income</td>
</tr>
<tr>
<td></td>
<td>Vocational training assistance</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
<tr>
<td>Affected income of Vulnerable persons</td>
<td>Special assistance as specified in the entitlement Matrix</td>
</tr>
<tr>
<td></td>
<td>Vocational training</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
</tbody>
</table>

3. Approach and Strategy

The Income Restoration Program (IRP) will adopt an approach that will address the immediate and sustain the long-term rehabilitation of affected PAPs. The proposed strategy will respond to the PAPs’ need for work and economic opportunities after relocation and in the long term, a sustainable livelihood restoration program that will ensure improved socio-economic conditions of the PAPs.
The social survey results will be used to track both a) extent of land lost, and b) disaggregated requests made by PAPs for livelihood assistance.

Livelihood restoration and vocational training will be based on consultation with the affected households to ensure that the courses developed meet their capacities, resources and interests. A disaggregated training and vocational needs assessment of PAPs and a rapid local economic appraisal of target barangays will be undertaken by DEO to determine occupational and local market needs and serve as a basis for demand-driven skills training and short-term vocational training.

Linkages to area vocational training centres and respective Municipal/City Social Welfare and Development (SWD) and Department of Labor and Employment (DOLE) will be further developed in order that priority linkage and employment referral be provided to those displaced from livelihoods by the project.

(i) Short Term Strategy

a) Job placement or temporary work during construction

Some of the ways to enhance capacity of PAPs to augment income will focus on (i) absorption of skilled family members of PAPs into the Project. The DEO will ensure provision of employment support during construction and project operation. The Barangay Resettlement Committee (BRAC) will coordinate and arrange with the DEO to identify family members of PAPs who are skilled workers for employment. DPWH will screen applicants, provide training if necessary and give priority employment to affected PAPs. Some possible work during construction of the plant site and coal extraction would require workers as masons, drillers, drivers, operators, or during operations, as maintenance workers; employment scheme related to demolition and relocation, food for work and sweat equity in house reconstruction.

b) Transitional Stabilization Assistance

Economically displaced PAPs will also be provided with transitional assistance to offset potential losses in income while they make the transition to alternative livelihoods. PAPs losing productive land will be provided with a stabilisation allowance in the form of a cash allowance equivalent to 30kgs of rice per household member for periods of 3 to 6 months based on the severity of impact and whether or not they need to relocate. Other PAPs experiencing loss of non-land based income sources are entitled to receive an income substitution allowance equivalent to 6 months income (for businesses with or without tax receipts) and 6 months net wage (for affected employees). The level of assistance for businesses without or without tax receipts and employees without labour contracts will be based on the minimum wage.

c) Social Services/Nutritional program

Other initiatives that will supplement income will be provided in the form of short term welfare services focusing on vulnerable groups such as, children under 5, undernourished
children, pregnant women, old and disabled persons. A supplementary feeding program will be administered by the Project for the women during the settlement phase. If appropriate, this will be continued until desired level of nutritional status has been achieved.

(ii) Long Term Strategy

The strategy would include implementation of the following activities:

a) Vocational skills training

Conduct of vocational skills training to fully avail of the job opportunities that will be generated by the project, as well as to link market demand for possible job referral and placement and requirements from nearby industrial factories, and even for overseas jobs.

b) Agricultural enhancement program

An agricultural enhancement program will be established especially targeting farmers who remain in the project area and whose lands are partially affected. The Livelihood Specialist will coordinate with institutions such as the DA and DAR and tap resources that will provide support for extension programs that will enable affected farmers to increase productivity from smaller productive land areas. One such program would be the development of vegetable production for backyard gardening. Vegetable cultivation provides an opportunity to significantly increase food. The program will establish farms near the relocation sites intended for intensive farming technologies and high value crops, and training of farmers for appropriate technology.

c) Micro finance/credit assistance

Linking livelihood support with some existing social assistance of government program such as financing micro and small enterprises to enable PAPs gain access to credit assistance for income generation projects particularly for women.

d) Linkages to Cooperatives

Farmer’s cooperatives are common which are vehicles for promoting economic support and continuing capital-build – up assistance. Cooperative development is supported by the national law RA 6938, Article 123 which encourages communities to undertake formation and organization of cooperatives that are responsive to the community’s economic growth and development.

Majority of the farmers in the areas are members of farmers cooperative however, problems on financing and proper management needs to be strengthened.

e) Special Measures to Support Vulnerable Groups

Vulnerable PAPs (those with income below the poverty threshold, disabled, households headed by women) will be entitled to participate in any training course. Priority assistance will be provided in terms of loan assistance, and other form of support to augment their
income. Additional food subsidies equivalent will be granted for a period one year to PAPs under this category.

5 indigenous people

The SEMS Policy Framework Operations Manual incorporates the procedures that the National Commission on Indigenous Peoples (NCIP) has issued concerning the formulation of the Ancestral Domains Sustainable Development and Protection Plan (ADSDPP) and obtaining the Free and Prior, Informed Consent (FPIC) of Indigenous Peoples (FPIC). It also relates the requirements demanded by the NCIP with the requirements of multilateral lending agencies.

5.1 Legal and Institutional Framework

The rights of Indigenous Peoples are well-established in Philippine laws and jurisprudence. The Philippine Constitution acknowledges and promotes the rights of indigenous cultural communities to their ancestral domains and recognizes the applicability of customary laws in determining the ownership and extent of these ancestral domains. (Section 22, Article II; Section 5, Article XII). It directs the State to protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions and to consider these rights in the formulation of national plans and policies. (Section 17, Article XIV).

Following the directive of the Constitution, Congress passed the Indigenous Peoples’ Rights Act (IPRA) in 1997. The IPRA sets conditions, requirements, and safeguards for plans, programs, and projects affecting Indigenous Peoples. It spells out and protects the rights of Indigenous Peoples.

The IPRA also created the National Commission on Indigenous Peoples (NCIP) to carry out the policies set forth in the IPRA. The NCIP has issued a number of orders that puts into operation the provisions of the IPRA, the most important for the purposes of this policy is NCIP Administrative Order No. 3 or the Free and Prior Informed Consent (FPIC) Guidelines of 2012.

5.2 Coverage of the Policy on Indigenous Peoples

This policy covers all Indigenous Peoples or Indigenous Cultural Communities (ICC) whether they are living outside or inside an officially declared ancestral domain or an area that has a pending application to be declared as an ancestral domain.

It applies to projects that pass through three (3) types of procedures:

- those projects that are voluntarily initiated and solicited by the IPs/ICCs.
- those infrastructure projects that would require Free and Prior Informed Consent; and
- those projects that do not require Free and Prior Informed Consent (FPIC).
It contemplates **six (6) types of situations** where Indigenous Peoples may be affected by NRIMP-2 civil works and its linked projects. These situations are:

- When the involuntary taking of land (including structures, improvements, crops, trees, and perennials) occurs inside an officially declared ancestral domain or an area with a pending application to be declared as an ancestral domain.
- When due to the involuntary taking of land (including structures, improvements, crops, trees, and perennials) inside an officially declared ancestral domain or an area with a pending application to be declared such results in the removal and resettlement of Indigenous Peoples.
- When removal of Indigenous Peoples results in resettlement outside their ancestral domain.
- When the involuntary taking of land occurs outside an ancestral domain or outside an area with a pending application to be declared such and Indigenous Peoples, whether as individuals, families or as a community, are among those to be resettled.
- When the involuntary taking of land occurs outside an ancestral domain or an area with a pending application to be declared such and Indigenous Peoples are among those affected but no IPs will be removed from the locale and resettled elsewhere; and
- When natural resources inside ancestral domains are extracted and used for civil works.

**Three Types of Procedures:**

Given the public nature and benefit derived from infrastructure projects, the policy of the DPWH is for the IPs to voluntarily solicit and initiate an infrastructure project. For projects that the IPs without coercion, freely solicit and initiate inside or outside ancestral domain, there is obviously no requirement for a Free and Prior Informed Consent (FPIC). *Chapter III or the Policy on Eligibility, Compensation and other Entitlements of this LARRP* remains operative unless by voluntary concurrence of the proponent and the affected ICC/IP, this policy is superseded by a separate Memorandum of Agreement (MOA). This MOA shall serve as the IPAP. **In general, no IPAP is required for projects that are voluntarily solicited or initiated by IPs.**

If an infrastructure project is not voluntarily initiated or solicited by the ICCs/IPs, the project proponent will work to enter into a separate Memorandum of Agreement (MOA) with the NCIP. In the absence of an agreement with the NCIP, the *FPIC Guidelines of 2006* will apply **only if an Ancestral Domain will be affected.** Chapter II and III of this LARRP will guide the eligibility of affected IPs/ICCs, compensation, and other entitlements.

In the event that an impasse results, DPWH will invoke Section 7c of the IPRA that allows the use of the State’s power of domain, however, is a last resort.

In the event ICCs/IPs outside of ancestral domains will be affected, Section 6.5 of this Chapter shall apply.
<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement for FPIC</th>
<th>Requirement for IPAP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voluntarily initiated or solicited by IPs;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inside Ancestral Domain</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>No</td>
<td>None</td>
</tr>
<tr>
<td>Projects that are not voluntarily initiated or solicited by IPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inside Ancestral Domain</td>
<td>Yes</td>
<td>MOA=IPAP</td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>No except for a special case</td>
<td>IPAP required</td>
</tr>
<tr>
<td>Invocation of Eminent Domain as a last resort</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inside Ancestral Domain</td>
<td>Yes but result of FPIC process is negative</td>
<td>IPAP</td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>No</td>
<td>IPAP</td>
</tr>
</tbody>
</table>

5.3 Determining the Presence of Indigenous Peoples or the Existence of Ancestral Domains in Potential Project Areas

Objectives:

a. To identify if there are Indigenous Peoples living or using the land in the vicinity of the project.

b. To determine if a project identified for possible implementation will affect an ancestral domain.

Offices/Persons Involved:

For projects at the Central Office:

- Project Director and staff;
- Environmental and Social Safeguards Division (ESSD) Staff assigned for the Region where the project will be implemented;

For other projects
Director, Regional Office and staff

Regional Environmental Assessment Office (REAO) staff

District Engineer, DEO and staff

**Procedure:**

1. Once the necessity for a particular project is established during the Project Identification Stage, the first step is to prepare a brief Project Description

   a. Type of Proposed Structure;

   b. Scope of Work: Specify project type according to the following:

      i. *Development:* Construction of a new productive unit;

      ii. *Rehabilitation:* Restoration of an existing unit to essentially the same condition as when it was first constructed;

      iii. *Reconstruction:* Construction involving major modifications to the existing unit in terms of design, magnitude, and efficiency

      iv. *Improvement:* Restoration of an existing unit to a condition better than that of the present.

   c. Project Technical Description: A short and concise description of the physical and technical nature of the project, including the standard units of physical measurement of the category, e.g. for buildings – in square meter; for roads – in kilometer; for flood control, in lineal meters.

   d. Municipality(ies) to be traversed/affected by the project;

   e. Justification/benefits of the project;

   f. Location Map of the Project

2. Visit the NCIP Provincial, Regional, or Central Office and do preliminary research or scoping:

   a. An Ethnographic Map of the Project Area;

   b. A Masterlist of Ancestral Domains

   c. Ancestral Domain Sustainable Development and Protection Plan
3. Visit the NCIP Provincial, Regional, or Central Office and submit the above Project Description.

4. The NCIP Regional Director should order the conduct of a pre-Field Based Investigation (FBI) Conference. (following NCIP Administrative Order No. 3, series of 2012 or the Free and Prior Informed Consent Guidelines of 2012). The purpose of the pre-FBI is to determine if a known ancestral domain is affected.

5. Attend the pre-FBI conference at the provincial or regional office of the NCIP.

6. If during the pre-FBI conference, it was determined that no known ancestral domain would be affected, the Provincial Officer submits report to the NCIP Regional Director. **Otherwise, proceed to step 10.**

7. Within three days upon receipt of the report, the Regional Director of the NCIP will issue a Certificate of Non-Overlap (CNO) to the project proponent. The CNO comes with a signed undertaking that the applicant agrees to the conduct of the FBI/FPIC requirement should it be found later that there is, in fact, an overlap in whole or in part of any ancestral domain.

8. Report receipt of the CNO.

9. Commence feasibility studies.

10. If the NCIP has definitely determined that an overlap exists with a known ancestral domain or the NCIP is not certain that the project does overlap with a known ancestral domain, request through the NCIP a meeting with the Provincial Consultative Bodies of IPs.

11. Prepare for the meeting. The meeting can have either of two objectives:

   a. If an overlap cannot be ascertained by the NCIP, seek the PCB guidance regarding the presence of IPs in the area or the existence of an ancestral domain.

   b. If an overlap has been determined, work to have the PCB endorse the project. Consult the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) to see if the road project is part of the priorities of the IP community.

12. Present the above Project Description to the Provincial Consultative Bodies (PCBs)
of IPs.

13. If the PCB cannot ascertain the presence of IPs and ancestral domains, the NCIP can call for an FBI. Proceed to 8.2.2 Obtaining Voluntary Initiation or Solicitation from Indigenous Peoples

14. If the PCB can ascertain the presence of IPs and ancestral domains and has determined that there is an overlap, request for an endorsement. Proceed to 8.2.3. The Field Based Investigation

5.4 The Field Based Investigation (FBI)

The Free and Prior Informed Consent (FPIC) Guidelines of 2012 spells out the procedure for obtaining the Free and Prior Informed Consent for affected communities. It details the process for conducting Field Based Investigation (FBI) and obtaining the Certification Precondition from the NCIP attesting that the applicant has complied with the requirements for securing the affected ICC/IP’s FPIC. It also provides the procedure for validating projects solicited/initiated by Indigenous Peoples.

NCIP Administrative Order (AO) No. 3, series of 2012 calls for the conduct of a Field Based Investigation (FBI) to ascertain if a plan, program, project or activity overlaps with or affects an ancestral domain. It is also conducted to ascertain the extent of the affected areas and the ICCs/IPs whose FPIC is to be obtained. For the conduct of the FBI, NCIP Administrative Order No. 3, series of 2012 directed the formation of an FBI team for each province consisting of at least five (5) members, two of whom shall come from the Provincial Office and one (1) from the Community Service Center (Service Center) or vice versa and two (2) IP elders/leaders identified by the CSC. Based on the NCIP AO No. 3, the project proponent, presumably to avoid conflicts of interest, have no role in the conduct of the FBI. However, funding for the conduct of the FBI is to be provided by the project proponent.

Whatever the participation of the DPWH is in the FBI process, it is to the best interest of the DPWH that the FBI be conducted properly. The FBI process properly done can stand in place of the social assessment required by multilateral lending agencies whenever initial screening shows that Indigenous Peoples are likely to be affected by the project.

The Field Based Investigation (FBI) should be conducted ideally during the feasibility studies stage. The results are important inputs for crafting the budgets for the different contract packages and for drawing different scenarios to avoid, minimize, or mitigate adverse effects to Indigenous Peoples and ancestral domains.

Objectives:

a. To list down the possible tasks of the DPWH during the FBI.

b. To determine the equivalency of the FBI with the requirements of multilateral
lending agencies for social assessment.

**Offices/Persons Involved:**

For projects, at the Central Office:

- Environmental and Social Safeguards Division (ESSD) Staff assigned for the Region where the project will be implemented;

For other projects

- Regional Environmental Assessment Office (REAO) staff

**Procedure:**

1. Prepare a budget for the conduct of the FBI.
2. Secure vehicles and necessary logistics for the FBI team.
3. Join the FBI team;
4. Furnish the FBI team with the necessary documents.
   5. Advise the FBI team regarding the technical aspects of the project, e.g. extent, from what station the road rehabilitation begins where it ends, location of potential quarry sites.
5. Observe consultations with indigenous peoples.
6. Prepare a back-to-office report.
Table 4: Comparison of Social Assessment Requirement and the Field Based Investigation

<table>
<thead>
<tr>
<th>O.P. 4.10 of the World Bank (Operational Policy on Indigenous</th>
<th>Country System: Field Based Investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A review, on a scale appropriate to the project, of the</td>
<td>IP Policy Framework as part of the LARRP of the project proponent. Found in the Social and Environmental Management Systems Manual (SEMS) of NRIMP-2.</td>
</tr>
<tr>
<td>legal and institutional framework applicable to Indigenous Peoples;</td>
<td></td>
</tr>
<tr>
<td>2. Gathering of baseline information on the demographic,</td>
<td>FBI:</td>
</tr>
<tr>
<td>social, cultural and political characteristics of the</td>
<td>• Copy of the latest official barangay or municipal census record indicating the IP population in the affected area, and/or other available listings;</td>
</tr>
<tr>
<td>affected Indigenous Peoples’ communities, the land and territories that they</td>
<td>• Views and opinions of elders/leaders on what should cover the area affected following Section11 (a) of the Guidelines, their approximation of the number of IP household heads within the area affected;</td>
</tr>
<tr>
<td>have traditionally owned or customarily used or occupied,</td>
<td>• Indicative map showing the extent of the overlap and the names of Sitios and Barangays affected;</td>
</tr>
<tr>
<td>and the natural resources on which they depend;</td>
<td></td>
</tr>
<tr>
<td>FBI:</td>
<td>• Validation and listing of elders/leaders of the affected community;</td>
</tr>
<tr>
<td></td>
<td>• Initial documentation of concerned ICCs/IPs decision-making process for purposes of Section 25 of the guidelines;</td>
</tr>
<tr>
<td></td>
<td>• Recommendations needed for the proper conduct of the FPIC proceedings.</td>
</tr>
</tbody>
</table>
3. Taking the review and baseline information into account, the identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation. FBI

- Highlights of the discussion sand attendance sheet duly signed/thumb marked by the IP elders/leaders;
- Addressed in the FPIC process found in NCIP Administrative Order No. 3 or the Free, Prior and Informed Consent Guidelines of 2012

4. An assessment, based on free, prior, and informed consultation, with the affected Indigenous Peoples’ communities, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples’ communities given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live; Addressed in the FPIC process found in NCIP Administrative Order No. 3 or the Free, Prior and Informed Consent Guidelines of 2012.

5. The identification and evaluation, based on free, prior, and informed consultation with the affected Indigenous Peoples’ communities, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

5.5 **OBTAINING VOLUNTARY SOLICITATION OR INITIATION FROM INDIGENOUS PEOPLES**

Voluntary solicitation or initiation from Indigenous Peoples can greatly enhance the social acceptability, and hence, the feasibility of the project. Given the public nature and function of national roads and highways, the policy of the DPWH is to first obtain the voluntarily endorsement of Indigenous Peoples whose ancestral domains will be affected by the civil works component and linked activities. By voluntary the process by which this endorsement is obtained should be free from coercion and manipulation, through a process consistent with the affected IPs customary law, witnessed by an official of the National Commission on Indigenous Peoples (NCIP), participated in by the recognized leaders/elders of the community.
All expressions of voluntary initiation or solicitation of projects should be properly documented. NCIP Administrative Order No. 3 s. 2012 states that the NCIP shall validate all expressions of voluntary initiation or solicitation of projects and provides a process for doing so.

**Objectives:**

- To spell out the process for obtaining voluntary solicitation or initiation from IPs

**Offices/Persons Involved:**

For projects, at the Central Office:

- EIA team
- Survey Team
- Environmental and Social Safeguards Division (ESSD) Staff assigned for the Region where the project will be implemented;
- Regional Environmental Assessment Office (REAO) staff

**Procedure:**

1. In the course of conducting the perception survey or the public consultations as part of the EIA process, the EIA team may have encountered Indigenous Peoples (IPs), the Survey Team Leader should flag this to the EIA team leader.

2. The EIA team leader (if a non-ESSD staff or a consult) should inform the REAO

3. The REAO staff crafts a separate consultation process for IPs affected.

4. The REAO coordinates with the NCIP Provincial and Regional Office regarding the consultation, i.e. the framework, the process, the date, the venue, etc.

5. Ensure that NCIP attends and witnesses the consultation.

6. Carry out the consultation according to the IPs customary law, in a language understood by them, with adequate representation from all sectors of the community, and attended by the leaders. The project proponent may decide to let the NCIP representative facilitate the meeting. Disclose the project in a manner that is informative but would not unduly raise expectations or anxieties.

7. Obtain the following information:
a. the IP groups in the area;
b. the number of IPs;
c. their location;
d. the areas that they use for livelihood;
e. their practices, whether nomadic or sedentary;
f. their “rootedness” in the area, i.e. whether they are migrants, whether they are “indigenous” or have collective attachment to the area, and whether they had settled there after being displaced by a government project, by war, natural calamities, and other forcible means.
g. their attitudes towards the project;

8. Comprehensively document the proceedings;
9. Diligently record the names of those who attended.
10. Obtain their signatures to attest to their attendance.
11. If expressions of voluntarily solicitation or initiation are obtained, document this.
12. Translate in a language that the IPs understand;
13. Obtain the signatures of the IP elders/leaders and members of the community
14. Obtain the signature of the NCIP representative as facilitator/witness.
15. Submit these documents to the NCIP for validation and/or issuance of Certification Precondition.

5.6 Obtaining the Free, Prior and Informed Consent (FPIC) from Indigenous Peoples

Plans, programs, projects, and activities that affect ancestral domains and Indigenous Peoples that have been resettled in public lands due to past government projects and due to natural calamities and war require the Free, Prior, and Informed Consent of the affected ICCs/IPs. (For the scope of these plans, program, projects, and activities, see Part II of the NCIP Administrative Order No. 3 or the Free, Prior, and Informed Consent Guidelines of 2012.) The process for obtaining the FPIC is explained in Part II, Section 13 of NCIP Administrative
Order No.3 series of 2012. The DPWH is the project proponent and has no other role than to present the project. The process is managed by the FPIC. However, there are things that DPWH should avoid so as not jeopardize the process, and with it, the project.

**Objective:**

- To list down actions that should be avoided by DPWH personnel when dealing with affected IP communities before, during, and after the FPIC process.

**Offices/Persons Involved:**

For projects at the Central Office:

- Environmental and Social Safeguards Division (ESSD) Staff assigned for the Region where the project will be implemented;

For other projects:

- Regional Environmental Assessment Office (REAO) staff

**Actions to be Avoided:**

- Employment or use of force, threat, coercion, intimidation, at any degree or in any manner, including those done by individuals or group of persons acting for the applicant;

- Bringing of firearm/s in the community during visits by the applicant or group of persons acting for the applicant. When needed, armed security shall be obtained from local police authorities or the Armed Forces of the Philippines as requested by the NCIP;

- Bribery of promise of money, privilege, benefit or reward other what is presented by the applicant during the consultative community assembly/first meeting and with the elders/leaders;

- Clandestine or surreptitious negotiations with IP individuals, some members of the community concerned or leaders done, without the knowledge of the council of elders or majority of the members of the community;

- Donations to the community or to any of its members for the purpose of influencing the decision of the ICCs/IPS.

- Holding of unauthorized meeting such as but not limited to wining and/or dining
sessions and the like or such other activities with the NCIP Official and personnel and/or members of the affected community, with the intention of unduly influencing the result of the FPIC process;

- Deliberately delaying the progress of the FPIC process.

5.7 Preparing An Indigenous Peoples’ Development Plan (IPDP) or Indigenous Peoples’ Action Plan (IPAP)

Objective

The objective of this chapter is to assist the DPWH ESSD, the Regional Environmental Impact Assessment Office (REIAO) staff, and the RAP Focal Person at the District Engineering Offices (DEO) in the preparation of an Indigenous Peoples’ Development Plan (IPDP) or the Indigenous Peoples’ Action Plan (IPAP). (For brevity and consistency, the acronym IPAP will be used throughout the text.)

This chapter does the following:

- It explains what an IPAP is;
  - It explains the rationale for an IPAP;
- It discusses the situations when an IPAP has to be drawn up;
- It explains the larger policy and legal framework impacting the crafting of the IPAP and the significance or relationship of existing country instruments to the IPAP;
- It compares the contents of the IPAP to that of the Memorandum of Agreement (MOA) required by the National Commission on Indigenous Peoples whenever a plan, project, or activity affects an ancestral domain;
- It spells out specific tasks involved in the crafting of an IPAP at each stage of the project cycle.

Offices/Persons Involved:

For projects, at the Central Office:

- Environmental and Social Safeguards Division (ESSD) Staff assigned for the Region where the project will be implemented;

For other projects
Regional Environmental Assessment Office (REAO) staff

Legal References:


What is an IPAP?

When an infrastructure project has been found through the social assessment to have potentially adverse effects on Indigenous Peoples there is need to formulate an Indigenous Peoples Plan (IPAP). The IPAP sets out measures through which the DPWH and other government agencies will ensure that Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits. It also specifies ways that the identified adverse effects are avoided, minimized, mitigated, or compensated.

Why an IPAP?

In the process of construction, upgrading, rehabilitation, or maintenance of infrastructure projects exerts impacts on the surrounding community. Many of these impacts are negative and can either be temporary or permanent. These affect different groups in varying degrees of intensity. Because of pre-existing conditions and circumstances, some are more vulnerable than others. The distinct circumstances of Indigenous Cultural Communities (ICCs) or Indigenous Peoples (IPs) expose them to types and degrees of risks from infrastructure projects that more mainstream groups or dominant groups in society do not and are not likely to experience. These risks include loss of identity and culture, destruction of customary livelihoods, exposure to disease, heightened experience of discrimination as infrastructure projects displace them from the land on which their identity and way of life are inextricably linked and deprive them of natural resources they depend on. Aware of these risks, national and DPWH policy calls for prudence, caution, and care in the planning, design, and implementation of infrastructure projects to avoid potentially adverse effects on Indigenous Peoples or when avoidance is impossible, to minimize, mitigate, or compensate for these adverse effects.

In what situations does an IPAP need to be formulated?

An IPAP has to be formulated whenever Indigenous Peoples are likely to be affected by an infrastructure project regardless of number, the type of effect, their intensity, or their location.

In the extremely rare case, when a project affects only one (1) Indigenous Person (IP), an IPAP still has to be prepared. The question in this situation is if the IPAP is to be presented as
a stand-alone document or integrated in other social safeguard documents such as the Resettlement Action Plan (RAP).

The impact on the IP community or families may be marginal or minor not involving any resettlement, affecting only a insignificant fraction of the IP families’ land and requiring only a small amount of compensation. Nevertheless, an IPAP still needs to be formulated.

An IPAP has to be crafted if the affected IPs are residing in their ancestral domain or outside. In the case when IPs are to be resettled while other affected IPs will remain in their area of residence, an IPAP has to be formulated for both resettled IP and those staying put in the area of residence.

<table>
<thead>
<tr>
<th>Number.</th>
<th>When a Stand-Alone IPAP has to be formulated</th>
<th>When the IPAP is integrated as a Special</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Impact</td>
<td>Mixture of Severe and Marginal With Resettlement or No</td>
<td>Mixture of Severe and Marginal With Resettlement or No</td>
</tr>
<tr>
<td>Location</td>
<td>Inside and Outside an Ancestral Domain</td>
<td>Inside and Outside an Ancestral Domain</td>
</tr>
</tbody>
</table>

If the project is voluntarily initiated or solicited by IPs, should an IPAP be formulated?

If a project were voluntarily initiated or solicited by IPs, an IPAP is not required. In the event, the DPWH enters into a Memorandum of Agreement (MOA) with the affected IP community, inside or outside an ancestral domain, that provides for benefits other than those provided by law, this MOA will serve as an IPAP.

What are the policies and framework governing the formulation of an IPAP?

Republic Act 8371 or The Indigenous Peoples’ Rights Act (IPRA) recognizes certain rights of Indigenous Peoples or Indigenous Cultural Communities (ICCs) that bear upon the formulation of an IPAP. These are:

- The right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will impact upon their ancestral domains; (Chapter III, Section 7b);
- The right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures
The right to receive just and fair compensation for any damages inflicted by or as a result of any project, government or private; (Chapter III, Section 7b)’

The right to stay in their territory and not to be removed from that territory through any means other than eminent domain. If relocation is necessary as an exceptional measure, it can only take place with the free and prior informed consent of the IPs and ICCs concerned; (Chapter III, Section 7c);’

The right to be secure in the lands to which they have been resettled; (Chapter III, Section

The right to determine and decide their own priorities for the lands they own, occupy, or use; (Chapter IV, Section 17).

NCIP Administrative Order (AO) No. 1 series of 2004 sets out guidelines for the formulation of the Ancestral Domain Sustainable Development and Protection Plan or ADSDPP. As defined in AO No.1 series of 2004, an ADSDPP “embodies the goal and objectives, policies and strategies of ICCs/IPs for the sustainable management and development of their ancestral domain and all resources therein including the human and cultural resources such as Indigenous Knowledge Systems and Practices (IKSPs). Its aim is to ensure that the rights of ICCs/IPs are protected, promoted, and recognized. Anchored on a community-based planning approach, the ADSDPP serves as a community-based blueprint for the ICC/IPs’ total development plan.

The ADSDPP contains the list and schedule of programs/projects towards the sustainable development and protection of ancestral domains. This list facilitates the conduct of the Free and Prior Informed Consent (FPIC). The ADSDPP has three (3) major parts: the Ancestral Domain and Community Situationer; the Development Plans and Programs; and the ADSDPP Implementation Policies and Mechanisms.

NCIP Administrative Order (AO) No. 3 series of 2012 or the Free and Prior Informed Consent (FPIC) Guidelines of 2012 enumerates and elaborates on the guidelines for the exercise of the Free, Prior, and Informed Consent by Indigenous Peoples on any plans, projects, or activity that are to be introduced into or would affect any ancestral domain area. It also spells out in details the procedure for applying for a Certification Precondition, for the conduct of Field Based Investigation (FBI), and for securing the Free and Prior Informed Consent of the affected ICC/IPs. When the ICC/IPs gives its Free and Prior Informed Consent to the infrastructure project, the terms and conditions are embodied and formalized in a Memorandum of Agreement between and among the project proponent, the affected ICC/IPs, the NCIP, and other involved parties.
World Bank Operational Policy 4.10 states that if projects are likely to positively or adversely affect Indigenous Peoples (IP), the borrower conducts a social assessment. On the basis of this social assessment and in consultation, the borrower or project proponent prepares an Indigenous Peoples’ Plan (IPP) or Indigenous Peoples’ Action Plan (IPAP). The IPAP spells out measures by which the proponent will ensure that:

- Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits;
- Potential adverse effects on Indigenous Peoples are identified and these adverse effects are avoided, minimized, mitigated.

The level of detail and complexity of the IPAP depends on the specific project and the kind of effects to be addressed. For instance, when the overwhelming majority of those to be adversely affected are IPs, then an IPAP needs to be prepared. The proponent integrates the IPAP into the project design.

*What are the differences among ADSDPP, the Memorandum of Agreement (MOA), and the IPAP?*

The ADSDPP is a long-term community-based, comprehensive plan that contains the ICCs/IPs’ collective vision, mission, general objectives, long-term goals, and priority concerns. The ADSDPP contains a list of development plans and projects that is used as reference in determining the fit between the proposed infrastructure project and the long-term development goals and priority concerns of the affected ICC/IP. Being long-term, the ADSDPP does not refer to specific impacts of projects; neither does it refer to measures to enhance positive effects or avoid, minimize, mitigate, or compensate adverse impacts.

The Memorandum of Agreement (MOA) is a requirement of the IPRA and NCIP Administrative Order No. 3 series of 2012 or the Free, Prior and Informed Consent Guidelines of 2006. It is forged when:

- a project affects a known ancestral domain or an IP community which has been resettled in lands of the public domain due to a government project or to displacement because of war, natural calamities,
- the affected ICC/IPs have given their Free, Prior and Informed Consent (FPIC) to the Project.

The MOA sets down the terms and conditions of the agreement reached between the proponent and the affected IP community/ies. The FPIC team prepares the MOA strictly according to The FPIC Guidelines of 2012 lists down the contents of the MOA:

- the detailed premises of the agreement;
- All parties involved;
- Inclusive dates/duration of the agreement;
- Other than what has already been granted by law, the benefits to be derived by the host ICC/IPs indicating the type of benefits, specific target beneficiaries as to sector and number, the period covered, and other pertinent information that could guide the future monitoring and evaluation of the MOA;
- Use of all funds to be received by the host ICC/IP communities, ensuring that a portion of such funds shall be allocated for development projects, social services, and/or infrastructures in accordance with their development framework;
- Detailed measures to protect IP rights and value systems;
- Detailed measures to conserve/protect any affected portion of the ancestral domain critical for watersheds, mangroves, wildlife sanctuaries, forest cover, and the like;
- Responsibilities of the applicant as well as the host IP community;
- The monitoring and evaluation system of the MOA, to include submission of reports and creation of monitoring teams; Whether the concerned ICCs/IPs shall require another FPIC to be conducted in case of merger, reorganization, transfer of rights, acquisition by another entity, or joint venture;

<table>
<thead>
<tr>
<th>Elements of an IPAP (from O.P. 4.10 of the World)</th>
<th>MOA of the FPIC Guidelines of 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>A review, on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples</td>
<td>LARRIP</td>
</tr>
<tr>
<td>Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples’ communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend</td>
<td>FBI report (separate NCIP or Philippine government requirement and pre-requisite to the conduct of the FPIC process)</td>
</tr>
<tr>
<td>A summary of the social assessment</td>
<td>FBI Report (separate NCIP or Philippine government requirement)</td>
</tr>
<tr>
<td>A summary of the results of the free, prior, and informed consultation with the affected Indigenous Peoples’ communities during project implementation</td>
<td>FPIC report of the FPIC team plus the Resolution of Consent or Non-Consent issued by the affected IP communities (separate NCIP or Philippine government)</td>
</tr>
<tr>
<td>An action plan of measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.</td>
<td>MOA</td>
</tr>
<tr>
<td>When potential adverse effects on Indigenous Peoples are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects</td>
<td>MOA</td>
</tr>
<tr>
<td>The cost estimates and financing plan for the IPAP</td>
<td>MOA</td>
</tr>
<tr>
<td>Accessible procedures appropriate to the project to address grievances by affected Indigenous Peoples’ communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.</td>
<td>Provided for in Section 37 and 38 of the FPIC Guidelines of 2012. Provided for in the IP Policy Framework and Procedures, a separate World Bank Requirement</td>
</tr>
<tr>
<td>Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPAP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples’ communities.</td>
<td>MOA:</td>
</tr>
</tbody>
</table>

- Remedies and/or penalties for non-compliance or violation of the terms and conditions which includes applicability of customary laws and imposition of sanction/s.
• Undertaking in writing to answer for damages which the ICCs/IPs may suffer on account of the plan, program, project or activity or a cash bond or a surety bond to be deposited or posted by the applicant if the ICCs/IPs so requires; and

• Other requirements provided in the Guidelines.

The IPAP is a World Bank requirement crafted by the proponent for Bank-financed projects, whenever these projects have been found through the social assessment to have potentially adverse effects on Indigenous Peoples. The IPAP sets out measures through which the DPWH and other government agencies will ensure that Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits. It specifies ways that the identified adverse effects are avoided, minimized, mitigated, or compensated. It also includes a financing plan and a mechanism for monitoring.

Can the MOA serve as the IPAP?

To answer the question, it is important to determine what the contents of an IPAP are. The elements of an IPAP are found on the left column of the matrix below. Their equivalents in the MOA prescribed by the FPIC Guidelines of 2012, safeguard instruments, and Government of the Republic of the Philippines instruments are found on the right column.

How does one go about crafting the IPAP? At what stages of the project cycle does an IPAP need to be formulated?

When the affected IPs are less than 20% of the total Project Affected Persons (PAFs), a separate section is contained in the Full Resettlement or Abbreviated Resettlement Action Plan (RAP). When the affected IPs are more than 20% of the total Project Affected Persons (PAFs), a full-blown IPAP is drafted.

The RAP Focal Person at the District Engineering Office with the support and technical assistance of the ESSD and the REAO will prepare the IPAP. Preparations for the crafting an IPAP should begin at the Pre-Feasibility Studies stage.

At the pre-Feasibility Studies stage, it is important to determine if the project as conceived will likely pass through or affect a known ancestral domain.

At the FS stage, the objective is to make an initial identification of those contract packages that will likely affect ICCs/IPs, the different ICCs/IPs who will likely be affected, and the potential effects on them. At this stage, consultation should begin with Provincial Consultative Bodies (PCBs) of IPs and with those IPs who will likely be affected by the project. The objective of the consultation is to gauge their attitude towards the project while taking care not to raise expectations. To identify the IPs, the Field Based Investigation may be conducted here by the NCIP alongside the Social Impact Assessment that the DPWH will be doing. If support is evident or if the Contract Package is identified in the Ancestral Domain Sustainable Development and Protection Plan (ADSSPP), (assuming the ADSSPP were available) the project proponent may, with or without the NCIP, get written statements
of endorsement or voluntary solicitation. The NCIP can validate if these written endorsements or voluntary solicitation were obtained freely, without manipulation, after proper disclosure, in a consultation representative of the potentially affected IPs/ICCs. The Feasibility Studies should also produce a list of scenarios or alternatives for each Contract Package (CP).

During project appraisal, the cost and benefits, including the risks of each Contract Package are assessed. At the end of the project appraisal, the list of contract packages is finalized. If there are CPs that will likely affect IPs, an IP policy framework is drawn up by the proponent.

At the Detailed Engineering Stage, consultations continue. The Resettlement Action Plan (RAP) is finalized. After the design has been finalized, this is disclosed to the affected ICCs/IPs. Their initial support is finalized. If no endorsement is made, the NCIP with the DPWH commences the Free and Prior Informed Consent process for affected IPs living inside their Ancestral Domain. If successful, the FPIC process should result in a Memorandum of Agreement (MOA) which doubles as an IPAP. For those affected IPs living outside an ancestral domain, an IPAP is drawn, provided that IPs constitute more than twenty percent (20%) of Project Affected Persons (PAP). If less than this proportion, a special chapter on IPs is appended to the full-blown or abbreviated Resettlement Action Plan (RAP). The MOA and/or the IPAP should be integrated in the project design.

Implementation of the IPAP and/or MOA commences prior to construction and continues during construction. Observance of the IPAP and/or MOA is monitored internally by the DPWH and externally by the External Monitoring Agent (EMA). The NCIP also monitors the MOA and/or IPAP.

In the post-construction stage, an evaluation is conducted of the Resettlement Action Plan and the MOA/IPAP to determine if the ICCs/IPs were better off with the project than without it or at the very least, they maintained the quality of life they enjoyed before project implementation.
<table>
<thead>
<tr>
<th>Stage in the Project Cycle</th>
<th>Objective</th>
<th>Activities</th>
<th>Output</th>
<th>Relation to IPAP/IPAP Elements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Feasibility Studies</td>
<td>To determine if the project will pass or affect a known ancestral domain area.</td>
<td>Prepare project plan, description and other relevant documents, including indicative map. Submit these to the NCIP. If available, obtain a listing of Ancestral Domains including ethnographic maps. Examine if the project will pass through a known ancestral domain. If not, apply for a Certificate of Non-Overlap.</td>
<td>Project profile, plan, description, Other relevant documents Application for a Certificate of Non-Overlap</td>
<td>Certificate of Non-Overlap</td>
</tr>
</tbody>
</table>

No ancestral Domain means no MOA. IPAP may still be needed if indigenous peoples are found to be those affected.
<table>
<thead>
<tr>
<th>Stage in the Project Cycle</th>
<th>Objective:</th>
<th>Activities</th>
<th>Output</th>
<th>Relation to IPAP/IPAP Elements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feasibility Studies</td>
<td>To identify those contract packages that will most likely affect IPs. To initially identify the IP groups who will likely be affected by the project; To ascertain initial impacts of contract packages on IPs. To determine IPs’ initial attitude towards the project.</td>
<td>To review legal and institutional framework governing IPs. Coordinate with the NCIP for Social Impact Assessment and for consultations with the Provincial Consultative Bodies (PCBs). To Consult PCBs if the project will affect known ancestral domains or if there are indigenous peoples living along the route or in the immediate vicinity. Obtain endorsements/statements of support/solicitation from PCBs. If PCBs cannot ascertain the presence of IPs or an ancestral domain, DPWH works with the NCIP to conduct Field Based Investigation. The FBI conducted can serve as the Social Assessment required by O.P. 4.10. If available, consult the ADSDPP. During the FBI, conduct first consultation with ICC/IPs likely to be affected by the project. Assess ICC/IPs’ attitude towards the project.</td>
<td>Social Impact Assessment Report Written endorsement that the project are voluntarily initiated/solicited by affected IP communities and PCBs.</td>
<td>Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples’ communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend as part of the FBI and the Social Impact Assessment Report A summary of the results of the free, prior, and informed consultation with the affected Indigenous Peoples’ communities. If voluntary endorsements/solicitation are secured from the ICCs/IPs, no IPAP needed. If no voluntary endorsement, explore alternative routes.</td>
</tr>
<tr>
<td>Stage in the Project Cycle</td>
<td>Objective</td>
<td>Activities</td>
<td>Output</td>
<td>Relation to IPAP/ IPAP Elements</td>
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<tr>
<td>----------------------------</td>
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</tr>
<tr>
<td>Project Appraisal</td>
<td>To determine whether to proceed with the contract package or not.</td>
<td>To assess project feasibility, costs and benefits and risks. To finalize list of contract packages. To craft the project’s framework governing IPs.</td>
<td>Policy Framework Governing IPs</td>
<td>Institutional and Legal Framework Governing IPs</td>
</tr>
<tr>
<td>Detailed Engineering (including RAP Preparation)</td>
<td>To obtain free and prior informed consent from the affected ICCs/IPs; finalize the IPAP, and integrate it in the project design.</td>
<td>DPWH: If unfinished continue getting voluntary endorsement from IPs. NCIP: Conduct validation of consultation s to determine if indeed project was voluntarily solicited or initiated by IPs. NCIP with DPWH: If not voluntarily solicited, conduct free, prior, and informed consent proceedings including presentation of detailed design of the road.</td>
<td>Detailed Design, RAP IPAP Written endorsement from IPs that the Contract Packages are voluntarily solicited initiated</td>
<td>Certification Precondition (that validates the consultations done); Validation Of Resolution of Consent or Non-Consent</td>
</tr>
<tr>
<td>Stage in the Project Cycle</td>
<td>Objective</td>
<td>Activities</td>
<td>Output</td>
<td>Relation to IPAP/ IPAP Elements</td>
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<td>----------------------------</td>
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<tr>
<td></td>
<td></td>
<td>Integrate the MOA and/or the IPAP into the project design</td>
<td></td>
<td>procedures appropriate to the project to address grievances by affected Indigenous Peoples’ communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPAP.</td>
</tr>
<tr>
<td>Construction</td>
<td>To implement and monitor implementation of the IPAP</td>
<td>Implementation of IPAP Monitoring of IPAP</td>
<td>External and Internal Monitoring Reports</td>
<td>Monitoring Reports</td>
</tr>
<tr>
<td>Post Construction</td>
<td>To assess the overall effect of IPAP implementation</td>
<td>Post-Project Monitoring of IPAP</td>
<td>External and Internal Evaluation Reports</td>
<td>Evaluation Reports</td>
</tr>
</tbody>
</table>
6.1 **Relocation Options**

PAPs will be provided with options suitable to their preference. Cash compensation will be paid for affected assets at replacement value. The PAPs will not be displaced until after they have received in full the compensation and applicable allowances due to them. A Resettlement site with housing units and complete basic amenities will be provided by the concerned LGUs to accommodate PAPs who will opt to resettle in these sites.

6.2 **Grievance Redress**

A grievance redress mechanism aims to ensure that the complaints and grievances of PAPs are addressed and resolved in a timely and satisfactory manner. A community based Resettlement Committee will be established in the barangays where grievances can be dealt with more effectively by local people tasked to address the issues and concerns of affected households.

6.3 **Procedures for Grievance**

Grievances related to any aspect of the project or sub-project will be handled through negotiations and are aimed at achieving consensus following the procedures outlined below:

   a) The grievance shall be filed by the PAP with the Resettlement Implementation Committee (RIC) who will act within 15 days upon receipt thereof, except complaints and grievances that specifically pertain to the valuation of affected assets, since such will be decided upon by the proper courts;
   b) If no understanding or amicable solution can be reached, or if the PAP does not receive a response from the RIC within 15 days of registry of the complaint, he/she can appeal to the concerned Regional Office, which should act on the complaint/grievance within 15 days from the day of its filing;
   c) If the PAP is not satisfied with the decision of the Regional Office, he/she, as a last resort, can submit the complaint to any court of law.

PAPs shall be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures.

All complaints received in writing (or written when received verbally) from the PAPs will be documented and shall be acted upon immediately according to the procedures detailed above.

6. **Income Restoration and Relocation Strategies**

PAPs losing their productive assets and income sources will participate in an income restoration program that will be developed as a collective effort of the PAPs, DPWH the executing agency and the relevant people’s committees. A livelihood program will be initiated upon settlement and appropriate livelihood intervention program shall be started to ensure that the quality of life of PAPs will be sustained than before resettlement took place.

1. **Objectives**
The objectives of the income restoration intervention are to restore and stabilize income of PAPs during displacement to ensure quality of life and sustain pre project economic condition.

2. Potential Categories of Affected livelihood
The categories of affected livelihood that will be potentially affected are identified below along with appropriate income restoration measures.

<table>
<thead>
<tr>
<th>Potential Affected Livelihood/other categories</th>
<th>Income Restoration Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary loss of Farming/productive land</td>
<td>Compensation at replacement cost on temporary loss of productive land;</td>
</tr>
<tr>
<td></td>
<td>Vocational training on change of/ or alternate livelihood;</td>
</tr>
<tr>
<td></td>
<td>Rice subsidy as specified in the entitlement Matrix per household</td>
</tr>
<tr>
<td>Affected businesses</td>
<td>Compensation for lost income</td>
</tr>
<tr>
<td></td>
<td>Vocational training</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
<tr>
<td>Affected jobs (employees)</td>
<td>Compensation for 3 months on loss of income</td>
</tr>
<tr>
<td></td>
<td>Vocational training assistance</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
<tr>
<td>Affected income of Vulnerable persons</td>
<td>Special assistance as specified in the entitlement Matrix</td>
</tr>
<tr>
<td></td>
<td>Vocational training</td>
</tr>
<tr>
<td></td>
<td>Provide access to credit assistance</td>
</tr>
</tbody>
</table>

3. Approach and Strategy
The Income Restoration Program (IRP) will adopt an approach that will address the immediate and sustain the long-term rehabilitation of affected PAPs. The proposed strategy will respond to the PAPs’ need for work and economic opportunities after relocation and in the long term, a sustainable livelihood restoration program that will ensure improved socio-economic conditions of the PAPs.

The social survey results will be used to track both a) extent of land lost, and b) disaggregated requests made by PAPs for livelihood assistance.

Livelihood restoration and vocational training will be based on consultation with the affected households to ensure that the courses developed meet their capacities, resources and interests. A disaggregated training and vocational needs assessment of PAPs and a rapid local economic appraisal of target barangays will be undertaken by DEO to determine occupational and local market needs and serve as a basis for demand-driven skills training and short-term vocational training.

Linkages to area vocational training centres and respective Municipal/City Social Welfare and Development (SWD) and Department of Labor and Employment (DOLE) will be further developed in order that priority linkage and employment referral be provided to those displaced from livelihoods by the project.

(i) Short Term Strategy
a) Job placement or temporary work during construction
Some of the ways to enhance capacity of PAPs to augment income will focus on (i) absorption of skilled family members of PAPs into the Project. The DEO will ensure provision of employment support during construction and project operation. The Barangay Resettlement Committee (BRAC) will coordinate and arrange with the DEO to identify family members of PAPs who are skilled workers for employment. DPWH will screen applicants, provide training if necessary and give priority employment to affected PAPs. Some possible work during construction of the plant site and coal extraction would require workers as masons, drillers, drivers, operators, or during operations, as maintenance workers; employment scheme related to demolition and relocation, food for work and sweat equity in house reconstruction.

b) Transitional Stabilization Assistance

Economically displaced PAPs will also be provided with transitional assistance to offset potential losses in income while they make the transition to alternative livelihoods. PAPs losing productive land will be provided with a stabilization allowance in the form of a cash allowance equivalent to 30kgs of rice per household member for periods of 3 to 6 months based on the severity of impact and whether or not they need to relocate. Other PAPs experiencing loss of non-land based income sources are entitled to receive an income substitution allowance equivalent to 6 months income (for businesses with or without tax receipts) and 6 months net wage (for affected employees). The level of assistance for businesses without or without tax receipts and employees without labor contracts will be based on the minimum wage.

c) Social Services/Nutritional program

Other initiatives that will supplement income will be provided in the form of short term welfare services focusing on vulnerable groups such as, children under 5, undernourished children, pregnant women, old and disabled persons. A supplementary feeding program will be administered by the Project for the women during the settlement phase. If appropriate, this will be continued until desired level of nutritional status has been achieved.

(ii) Long Term Strategy

The strategy would include implementation of the following activities:

a) Vocational skills training

Conduct of vocational skills training to fully avail of the job opportunities that will be generated by the project, as well as to link market demand for possible job referral and placement and requirements from nearby industrial factories, and even for overseas jobs.

b) Agricultural enhancement program

An agricultural enhancement program will be established especially targeting farmers who remain in the project area and whose lands are partially affected. The Livelihood Specialist will coordinate with institutions such as the DA and DAR and tap resources that will provide support for extension programs that will enable affected farmers to increase productivity from smaller productive land areas. One such program would be the development of vegetable production for backyard gardening. Vegetable cultivation provides an opportunity to significantly increase food. The program will establish farms
near the relocation sites intended for intensive farming technologies and high value crops, and training of farmers for appropriate technology.

c) **Micro finance/credit assistance**

Linking livelihood support with some existing social assistance of government program such as financing micro and small enterprises to enable PAPs gain access to credit assistance for income generation projects particularly for women.

d) **Linkages to Cooperatives**

Farmer’s cooperatives are common which are vehicles for promoting economic support and continuing capital-build – up assistance. Cooperative development is supported by the national law RA 6938, Article 123 which encourages communities to undertake formation and organization of cooperatives that are responsive to the community’s economic growth and development.

Majority of the farmers in the areas are members of farmers cooperative however, problems on financing and proper management needs to be strengthened.

e) **Special Measures to Support Vulnerable Groups**

Vulnerable PAPs (those with income below the poverty threshold, disabled, households headed by women) will be entitled to participate in any training course. Priority assistance will be provided in terms of loan assistance, and other form of support to augment their income. Additional food subsidies equivalent will be granted for a period one year to PAPs under this category.

### 6.4 PUBLIC PARTICIPATION AND CONSULTATION

Consultation during the project shall include at least three major rounds of stakeholders consultation, i.e., (i) during project scoping where information of the project was disseminated in all affected communes, (ii) during the resettlement planning and validation of study results (iii) during disclosure of LARP and furthermore as an ongoing basis during project implementation.

#### 6.4.1 PROJECT SCOPING

i. **Courtesy calls** will be conducted to establish initial relationship between the proponent, and the concerned LGUs, barangays and projected affected persons. This activity was done to formalize the entry of the Consultants to the project sites.

ii. **Project orientation.** The orientation activity will discussed the LARRIP communication plan and flow to prepare the communities and PAPs to participate in all aspects of LARP planning. The activity will be conducted through presentation of the project scope and objectives, benefits and advantages as well as the LARRIP communication plan. In this activity, the whole LARRIP is communicated and will allow participants to respond or give their reactions to the project presentation and to surface perceived issues and problems.
iii. Use of local community guide for the survey and interviewers’ training provided the opportunity for the barangay leaders and locals to become part of the data gathering process.

6.4.2 Resettlement Planning

(i) Data collection: Community participation will start with data collection which will served as baseline information on project affected households. Various approaches will be utilized in gathering qualitative and quantitative data which include the following (i) key Informants Interview (KII) with the City, Provincial and District local heads and affected families; (ii) household survey (100%) of project affected households. Collected information through baseline survey will be analysed and processed which will form the benchmark for resettlement planning.

(ii) Formation of the RIC. This task has to be undertaken at the barangay level. The RIC shall comprise of representative leaders chosen by the PAPs whom they can trust to handle issues and grievances during implementation.

(iii) Review of the draft LARP shall be done together with some affected representatives and DPWH RAP Coordinator. The Draft LARRIP shall be translated in a local dialect that is understandable to PAPs. Comments and recommendation resulting for the review exercise shall be incorporated in the finalization of the LARP.

6.4.3 LARRIP Disclosure

LARRIP disclosure and PAPs endorsement of the LARP. Disclosure of the LARP to PAPs will be carried out by the DEO Coordinator and the Consultants through consultation meetings with DP representatives. The basic information of the LARP will be translated into local language and shall be placed in public offices where PAPs can readily access. A project information brochure (PIB) will be distributed to all PAPs indicating general contents which shall include the following items: (i) project profile (ii) project impacts (iii) compensation and entitlements (iv) grievance redress mechanism (v) resettlement procedures, timing of payments and schedule. A Public Information Booklet (PIB) will be prepared for dissemination to affected households on their rights and entitlement. The RP will be disclosed and be made available to the all barangays where affected households can have access to examine its contents.

(ix) Documentation

Proper documentation of the participatory process will be done which will include the following:

- List of names of participants and their signatures
- Minutes of meetings
- Issues raised and Responses
- Photographs of the consultation meetings
The information campaign will convey to all PAPs the following:

i. The road project that has triggered the Involuntary Resettlement Safeguard Policy. Why is it important? Who would benefit from it? What are its benefits to the affected families? Each PAP is entitled to receive just compensation for his/her affected plot at a rate to be negotiated between the BIR zonal valuation and the fair market value as provided by RA 8974;

ii. the BIR zonal valuation and the fair market value may be substantially different;

iii. the negotiations process detailed in RA 8974 provides that:

   a. DPWH first asks the PAPs to donate their affected land, provided that the following conditions shall be met:
      1) The AP’s have decided to donate their that is: prior to the decision, they have been
         (a) informed of their compensation entitlements at market rates;
         (b) actually offered the relative compensation amounts;
      2) Land redistribution or donations do no
      3) Land to be donated is titled, un-rented, has no encumbrances nor is occupied by informal settlers;
      4) The voluntary aspect of land redistribution or donations is documented by a document signed by the donor that he/she is aware of the above conditions. The inclusion of the document in the RAP will be the basis for its approval.

   b. if they do not agree, DPWH will offer them compensation at the BIR zonal valuation rates;

   c. if also in this case they do not agree, the DPWH will promptly seek the services of Land Bank, DBP or an independent appraiser to determine the fair market value based on the following parameters:

      o land use classification
      o development costs for improving the land value declared by PAPs
      o current selling price of similar properties in the vicinity, based on deeds of sale
      o disturbance
      o tax declaration and BIR zonal valuation replacement cost.

   d. DPWH will go back to the PAPs and communicate to them the current market value so determined by an independent land appraiser to specify the negotiation limits (BIR zonal value and current market value);

   e. DPWH than begins negotiations with the PAPs to determine the final compensation;

In addition, based on BIR rules, arrear taxes for donated plots need to be paid or waived. If waiver is not possible, the taxes will have to be paid by the LGU.
f. If the PAPs do not accept the terms of this negotiation and the land valuation possible under RA 8974, their affected properties will be expropriated;
g. DPWH shall immediately pay the PAP whose property is under expropriation the amount equivalent to the sum of one hundred percent (100%) of the BIR zonal valuation and the court shall determine the just compensation to be paid to the PAP within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, DPWH shall pay the PAP the difference between the amounts already paid and the just compensation as determined by the court. In the interim, DPWH will deposit 100% of the BIR valuation into an escrow account.

The information campaign will also convey to the PAPs the available channels for complaints and grievances and related procedures. In this respect the PAPs will be informed that grievances from the PAPs related to the LARR Plan implementation or any aspect of the project will be handled through negotiations and are aimed at achieving consensus according to the following procedures:

i. The PAPs will lodge their grievances by writing to the Resettlement Implementation Committee (RIC) for immediate resolution.

ii. If the complaint is not satisfactorily resolved in 15 days or the PAP does not receive any response from the RIC, the PAP can forward the complaint or file an appeal at the DPWH Regional Office (RO).

iii. If the complaint is not satisfactorily resolved in 15 days or the PAP does not receive any response from the DPWH RO, the PAP can file a legal complaint in any appropriate Court of Law.

The information campaign will be carried out by the IBRD-PMO with the support of ESSO, the Regional Offices and District Engineering Offices and will be implemented through community meetings and leaflets according to the following specifications:

i. **Community Meetings.** Community meetings to be organized in sufficient number and at the appropriate location and time so as to allow the potential participation of all PAPs or their authorized representatives. In the course of the meetings DPWH personnel will explain the reasons for the meeting and will provide the information detailed above. PAPs will be free to ask for clarification and to propose procedures that may facilitate the implementation of the compensation program. When necessary DPWH will provide the PAPs with transportation to reach the meeting venue. At each meeting the numbers and names of the participants will be recorded and minutes of the discussions will be taken by DPWH.

ii. **Leaflets.** A leaflet, printed in the language understandable to the PAPs, providing a statement of purpose, project details and clearly indicating the information listed above to be distributed by the DEOs to each PAP. Additional copies of the leaflet will be distributed during the community meetings. It will also be posted in enlarged poster form in strategic locations.
like the municipal, city and barangay halls.

The women, elderly, and the indigenous people who are among the PAPs shall likewise be consulted and mobilized to participate in the consultation meeting, and discussed with them the socio cultural implication of the Resettlement Action Plan.

To ensure that the DPWH District Engineering Offices fully understand the purposes and mechanisms of the information campaign, workshops on the matter shall be organized and conducted at the DPWH Central Office in Manila or in the DPWH Regional Offices as maybe necessary. Representatives of DEOs affected by the project component shall be the main participants in these workshops.

Internal monitoring will be done by ESSD which at the same time shall be called the Internal Monitoring Agent (IMA) while external monitoring will be carried out by an External Monitoring Agent (EMA) to be hired by DPWH. Reports of the IMA and EMA will be made available to the ROs and/or the DEOs and to all concerned parties, including the PAPs.

6.5 INVOLUNTARY TAKING OF LAND INSIDE ANCESTRAL DOMAINS

In the event land (including structures, improvements, crops, trees, and perennials) is taken inside an ancestral domain, the DPWH and its agents shall observe the Free and Prior Informed Consent (FPIC) Guidelines of 2006 or the provisions of any agreement that the DPWH may have reached with the NCIP. The details of the FPIC Guidelines of 2012 are found in the Social and Environmental Management Systems (SEMS) Manual.

Free and Prior Informed Consent (FPIC) must be determined using methods appropriate to the social and cultural values of the Communities, recognizing the primacy of customs, traditions, practices, and socio-political structures of the ICCs/IPs concerned. The process must be free from any external manipulation, interference and coercion and must give special attention to the concerns of Indigenous women, youth, and children. Free and prior informed consent is obtained only after a full disclosure of the intent, scope, benefits, potential adverse effects of the project, and measures to avoid, reduce, minimize, and mitigate these effects in a language and manner that is culturally appropriate and understandable to the affected Indigenous Peoples’ Communities.

As required by the FPIC Guidelines of 2012, the DPWH or the project proponent shall prepare a presentation of the project to be explained to the affected IP/ICCs during the Consultative Community Assembly (CCA) or the First Meeting, whichever is applicable. The project proponent shall present the goals and the scope of the project, the operation plan including timeframe if available, the cost and benefits of the project to the ICC/IP and their ancestral domains, its relationship to the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) if available, and the perceived disadvantages or adverse effects to the ICC/IP and the measures that the project proponent is proposing to mitigate and minimize these.

In addition, the project proponent will explain during the CCA or the First Meeting, the legal framework governing the taking of private or communal property for public use, the different
modes of acquisition, policy on eligibility, compensation and other entitlements, and the other
applicable laws and policies concerning these. With the NCIP representatives, the project
proponent will explain the proposed grievance procedures to be followed and the institutional
arrangements for monitoring and evaluation.

6.5.1 Involuntary Taking of Land without Resettlement

The project may involve the involuntary taking of land and/or the structures, improvements,
crops, trees, and perennials on it. The taking must ensure that non-replicable cultural property
will not be damaged in the process in accordance with Chapter VI, Section 33 of the IPRA. All
reasonable efforts should be done to ensure that road sections and linked activities projects, will
not pass through religious and cultural properties of IPs, e.g. burial sites and the like and that
these be preserved, respected, and protected in situ.

If passage through, and hence damage to and/or partial or total relocation of religious and
cultural properties is unavoidable, this should be presented to the ICC/IPs in the Consultative
Community Assembly (CCA) or First Meeting whichever is applicable and obtain the Free and
Prior Informed Consent of the affected ICC/IPs. If consent is obtained, modes of compensation
will be guided by Chapter III of the LARRP. The IPs may opt to receive the entitlements laid out
in Chapter III in culturally appropriate form consistent with their customary law.

When completion of the project would involve significant restrictions of access to religious and
cultural sites and to traditional hunting, gathering grounds or natural resources that the IPs use,
these restriction plus the measures to minimize them will be disclosed by the project proponent
to the affected ICC/IPs and included as part of the Abbreviated Resettlement Action Plan (RAP).
Temporary restrictions on indigenous peoples’ access to natural resources and r implementation
plus the measures to minimize them shall be disclosed also by the proponent.

Compensation for the involuntary taking of land, for affected structures, other improvements, for
crops, trees and perennials inside ancestral domain where no removal and resettlement of
IPs/ICCs are involved shall be governed by Chapters II (Legal Framework) and III (Policy on
Eligibility, Compensation, and other Entitlements). The ICC/IPs may opt to receive the
compensation in culturally appropriate form consistent with their customary law. Other than
those granted by Chapter III, benefits to be enjoyed by the host ICC/IPs will be spelled out in the
Memorandum of Agreement (MOA) that will be executed between and among the ICC/IPs, the
project proponent, and other related parties in accordance with Sections 31 to 33 of the FPI Guidelines of 2012.

In the event the impact on certain IPs is severe (involving land whose use is other than residential) and subject to the free and prior informed consent of the affected IPs, land swapping
will be explored first. Conditions pertaining to land swapping and other types of assistance or
entitlements due to the severely affected as found in Chapter III of this LARRP will apply.

The project proponent binds itself to the Memorandum of Agreement (MOA) it enters with the
affected ICC/IPs, especially regarding the manner of transferring compensation and benefits to
the affected persons/families and the community at large. Just the same, the project proponent in
cooperation with the NCIP and the affected ICCs/IPs will include in the MOA measures to ensure
that gender equity participation, transparency, and accountability are observed in the
handling distribution, safekeeping, and use of the funds and in the overall implementation of the MOA.

The MOA with the additions written above shall serve as Action Plan (IPAP).

6.5.2 Involuntary Taking of Land with Removal and Resettlement

By policy, involuntary removal and relocation of ICCs/IPs should be avoided where feasible. If resettlement is unavoidable, the project affected families will be resettled as much as possible within their ancestral domain and in proximity to their original property so as not to disrupt the exercise of traditional resource use rights and livelihood activities.

In presenting the project, the adverse impacts, and the possible resettlement sites, the DPWH and its agents shall observe the Free and Prior Informed Consent (FPIC) Guidelines of 2012 or the provisions of any agreement that the DPWH may have reached with the NCIP. The Indigenous Peoples’ Community will be consulted regarding the resettlement site. The project proponent in cooperation with the relevant government agencies shall ensure that the resettlement site is of equivalent productive potential (or developed to make them so) and spatial advantages, e.g. providing the same degree of access to resources and to public and privately provided services and protection. Barring this, the Resettlement Action Plan (RAP) should include measures to mitigate the lack of access to natural resources, basic services, and to cultural and religious sites.

Compensation for those to be removed and resettled will be governed by Chapters II and III of this LARRP. Benefits agreed upon by the ICC/IPs and the proponent other than those provided by law shall be contained in the Memorandum of Agreement (MOA) in accordance with Sections 43 to 46 of the FPIC Guidelines of 2012. The affected ICC/IPs may choose to receive the compensation and assistance in culturally appropriate form consistent with their customary law.

The project proponent binds itself to the Memorandum of Agreement (MOA) it enters into with the affected ICC/IPs, especially regarding the manner of relocation and the transfer of compensation and benefits to the affected persons/families and the community at large. Just the same, the project proponent in cooperation with the NCIP and the affected ICCs/IPs ought to include in the MOA measures to ensure that gender equity, participation, transparency, and accountability are observed in the handling, distribution, safekeeping, and use of the funds and in the overall implementation of the MOA.

In the exceptional case when the resettlement site is outside the affected ancestral domain, the FPIC Guidelines of 2012 or the provisions of any agreement that the DPWH may have reached with the NCIP shall also apply. The IPs following their customary law, will be consulted regarding the choice of resettlement site. The project proponent in cooperation with the relevant government agencies shall ensure that the resettlement site is of equivalent productive potential (or developed to make them so) and spatial advantages, e.g. providing the same degree of access to resources and to public and privately provided services and protection. Barring this, the Resettlement Action Plan (RAP) should include measures to mitigate the lack of access to natural resources, basic services, and to cultural and religious sites. Efforts must be made to prepare the receiving community.

If the receiving area were an ancestral domain or an area with a pending application for a CADT, the free, prior and informed consent of the receiving Indigenous Peoples’ community will be obtained The Free and following Prior Informed Consent (FPIC) Guidelines of 2012.

The project proponent binds itself to the Memorandum of Agreement (MOA) it enters into with the affected ICC/IPs, especially regarding the manner of relocation and the transfer of
compensation and benefits to the affected persons/families and the community at large. Just the same, the project proponent in cooperation with the NCIP and the affected ICCs/IPs ought to include in the MOA measures to ensure that gender equity, participation, transparency, and accountability are observed in the handling, distribution, safekeeping, and use of the funds and in the overall implementation of the MOA.

The MOA with the additions written above as the IPAP.

In the extremely rare case when some IPs would be resettled by their own choosing or by necessity outside of their ancestral domain while their kindred who are also affected would remain or be resettled in the ancestral domain, depending on the number of IPs to be resettled, either an IPAP or a special section on IPs in the Resettlement Action Plan (RAP) will be prepared for those to be resettled outside the ancestral domain. This is in addition to the MOA that also serves as the IPAP for those remaining inside the ancestral domain. The IPs who chooses to be resettled outside their ancestral domain would be resettled in the designated resettlement sites.

6.6 INVOLUNTARY TAKING OF LAND AFFECTING IPS OUTSIDE ANCESTRAL DOMAINS

In the implementation of infrastructure projects, it may happen that land is taken outside of an officially declared ancestral domain or an area with a pending application to be declared such but IPs still are among those to be affected.

Regardless of the impact, the project proponent will conduct a separate meeting with the IPs to obtain their broad support for the project using methods appropriate to the social and cultural values of the affected, recognizing the primacy of customs, traditions, practices, and socio-political structures of the ICCs/IPs concerned. The process must be free from any external manipulation, interference and coercion and must give special attention to the concerns of Indigenous women, youth, and children. There must be full disclosure of the intent, scope, benefits, potential adverse effects of the project, and measures to avoid, reduce, minimize, and mitigate these effects in a language and manner that is culturally appropriate and understandable to the affected Indigenous Peoples’ also disclose this LARRP to the affected ICCs/IPs. If necessary, separate consultations will be held with IP women and children and NCIP will be invited and should be present in the meeting.

6.6.1 IPs Are to Be Resettled

The project proponent shall disclose during the IP meeting the necessity of relocating the whole or large portion of the IP community or individual IP families. If the IP community were migrants in the place and would have to be resettled, the project proponent can present the option of returning to their place of origin. If this option were chosen, transportation allowance or assistance would be provided along with compensation and other types of entitlements due to those to be resettled as found in Chapter III of this LARRP. The project proponent with the NCIP will prepare the hosting community. If the place of origin and re-settlement of the affected IPs were an ancestral domain or an area with a pending application to be declared such, the Free and Prior Informed Consent (FPIC) of the hosting ICC/IPs would be obtained first following the FPIC Guidelines of 2012.

If the IPs refuse this option, the proponent in cooperation with the relevant government agencies will fully disclose the resettlement site, aware of their possible preference to relocate and reside as a separate and distinct group in one neighborhood to preserve kinship and identity. The resettled IP community shall be compensated and enjoy entitlements the same as those given to
non-IPs as spelled out in this LARRP. The IP community may opt to receive the compensation and entitlements in culturally appropriate form consistent with their traditions and customary law. The project proponent will prepare the hosting or receiving community.

The proponent in collaboration with government agencies will ensure that by resettling the IPs (and non-IPs as well), the latter will at least maintain the level of well-being they enjoyed without the project. For this purpose, the proponent with the NCIP, other government agencies, and the affected IP community will draft an Indigenous Peoples’ Action Plan (IPAP) will contain participation, transparency and accountability.

If resettlement would require a few IP families to be relocated but not others, and if the affected IPs so prefer, the project proponent will explore resettlement options within the immediate vicinity of the impact area so as not to destroy or weaken kinship and other social relations, limit their access to services, disrupt livelihoods, deprive them of traditional resource use rights, if any. The resettled IP families shall be compensated and enjoy entitlements the same as those given to non-IPs as spelled out in this LARRP. The project proponent will draft an IPAP that ought to cover those who will be resettled and another IPAP for those who will remain.

6.6.2 IPs are Not to Be Resettled

IPs affected but do not require resettlement shall be compensated and enjoy the same types and level of assistance and entitlements as non-IPs who are similarly situated. The marginally affected IPs may choose to be compensated or to be assisted in their own manner, consistent with their culture and customary law. Depending on the number of IP PAFs, whether as a community or only a few families, the project proponent will either draft an IPAP or include a special section in the Abbreviated RAP pertaining to IP PAFs.

6.6.3 RESETTLED IPs OCCUPYING LANDS OF PUBLIC DOMAIN

Special cases are IPs who have been removed from their ancestral domain and have been resettled in lands of the public domain because of a government project or displacement due to conflict, natural calamities, and forcible dispossession of land.

These IPs enjoy the right of security of tenure over lands to which they have resettled (Section 7d, IPRA) and shall not be treated as migrants. The Free and Prior Informed Consent Guidelines of 2012 apply to these types of IPs, in all cases of involuntary taking of land with or without resettlement.

The MOA with the additions mentioned above that the project proponent enters into with the affected IPs will serve as the IPAP.

6.7 EXTRACTION OF NATURAL RESOURCES INSIDE ANCESTRAL DOMAINS AND THEIR USE

The provisions of the LARRP bind not only the project proponent or the DPWH but also its agents. Aside from observing environmental laws, environmental and social safeguard policies of the lender, and securing the necessary permits from the DENR and the Local Government Unit concerned, contractors or by agents of the contractor inside ancestral domains and their use inside or outside ancestral domain shall abide by the FPIC Guidelines of 2012, specifically Section 39 on Small Scale Quarrying. Contractors have joint and sole liability for the actions of their employees and their subcontractors or agents.
It should not be construed, however, that the normal cut and fill activities for road construction are extraction of the natural resources.

6.8 GRIEVANCE PROCEDURE

Conflicts within the affected IP community will be addressed within the community itself in the context of its customary law and customary dispute resolution process and mechanisms, in the presence of the relevant staff of the NCIP office with jurisdiction over the area, and if so invited, project-related staff and other stakeholders, e.g. formal local leadership in the barangay and/or the municipality. Inter-community conflicts will be addressed between the communities themselves, according to their customary or agreed upon dispute resolution processes and mechanisms. If an outside facilitator, mediator, or arbiter is required or requested for, the PMO and project implementing and monitoring units in the field will seek the intervention of the NCIP to act as facilitator, mediator, or arbiter. This guideline applies to conflicts or disputes between the IP community/ies and any of the NRIMP-2 project units and implementers. The RAP focal person at the District Engineering Office with the assistance of regional and central office counterparts shall document the proceedings of the discussion or negotiations. This is in addition to the documentation done by the IP community/ies themselves and by the NCIP. If no satisfactory result or impasse results, the IP communities shall be allowed to elevate their complaints and grievances to the Municipal Resettlement Implementation Committee (MRIC) and the Multi-Sectoral Monitoring Team (MMT). The grievance procedure established herein in no way substitutes for or replaces the grievance procedure set forth in The Free and Prior Informed Consent (FPIC) Guidelines of 2012. At their choosing, the IPs may avail of the grievance procedure and mechanisms spelled out in The Free and Prior Informed Consent (FPIC) Guidelines of 2012.

6.9 PROCESS FOR SECURING VOLUNTARY ENDORSEMENT FROM IPs

6.9.1 Legal and Institutional Framework

The rights of Indigenous Peoples are well-established in Philippine laws and jurisprudence. The Philippine Constitution acknowledges and promotes the rights of indigenous cultural communities to their ancestral domains and recognizes the applicability of customary laws in determining the ownership and extent of these ancestral domains. (Section 22, Article II; Section 5, Article XII). It directs the State to protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions and to consider these rights in the formulation of national plans and policies. (Section 17, Article XIV).


The IPRA also created the National Commission on Indigenous Peoples (NCIP) to carry out the policies set forth in the IPRA. The NCIP has issued a number of orders that puts into operation the provisions of the IPRA, the most important for the purposes of this policy is NCIP Administrative Order No. 3 or the Free and Prior Informed Consent (FPIC) Guidelines of 2012.

The Free and Prior Informed Consent (FPIC) Guidelines of 2012 spells out the procedure for obtaining the Free and Prior Informed Consent for affected communities. It details the process for conducting Field Based Investigation (FBI) and obtaining the Certification Precondition from
6.9.2 Rationale for the Process

Given the public nature and function of national roads and highways, the policy is to first obtain the voluntarily endorsement of Indigenous Peoples whose ancestral domains will be affected by the civil works component and linked activities. By voluntary the process by which this endorsement is obtained should be free from coercion and manipulation, through a process consistent with the affected IPs customary law, witnessed by an official of the National Commission on Indigenous Peoples (NCIP), participated in by the recognized leaders/elders of the community, and by a representative of the World Bank. The project proponent (DPWH) will furnish the World Bank with a detailed report of the meeting containing an original copy of the written endorsement or agreement duly signed by IP leaders, representatives of the NCIP and the DPWH. Even as the requisite Certificate of Precondition is still being processed by NCIP, submission of this report will be the basis of the issuance of a No Objection Letter (NOL) for the particular contract package to proceed.

National highways are linear projects, and certain sections will pass inside known ancestral domains and other sections outside. It may happen that the same contract packages will pass through more than one ancestral domain and cut across provinces and even regions. To facilitate the process of IP participation and voluntary IP endorsement of NRIMP-2 contract packages, the processes found below ought to be followed.

6.9.3 Scope of the Process:

The processes outlined below covers all NRIMP-2 contract packages that affect ancestral domains. There may be contract packages affecting IPs but these IPs live outside ancestral domains. For the treatment of these IPs, please refer to Chapter VI, Section 5 of the LARRP. The process to be followed in their case is the process of public participation applicable also to Non-IPs found in the Public Participation module of this Social and Environmental Operations Manual.

The exception is IPs resettled in lands of the public domain due to a government project or to displacement (see Chapter VI, Section 5.3 of the LARRP). For these resettled IPs, the process found in this module applies.

For Contract Packages where IPs have yet to be identified and/or consulted

Step 1: Submission of the project profile and other project documents to the Provincial or Regional Office of the NCIP as required by the NCIP Administrative Order No. 3 Series of 2012.

Step 2: Disclosure of the project to the Provincial Consultative Bodies (PCBs) of IPs presenting the benefits and costs (indicative costs only), adverse impacts, and the means of mitigating these impacts, including DPWH’s Land Acquisition and Rehabilitation Policy (LARRP).

Step 3: If PCBs determine that no ancestral domain or IP group will be affected, the proponent will submit a detailed report of the meeting containing an original copy of the written endorsement proving that the project was indeed voluntarily endorsed by the IPs.

If neither the PCBs nor the NCIP can ascertain that no ancestral domain will be affected, proceed to Step 5.
**Step 4:** The Social Safeguards Officer of the Bank examines the written endorsement and other agreements reached between the IPs and the proponent. Satisfied that the Bank’s safeguard policies have been have been observed, the Bank issues a No Objection Letter (NOL). The No Objection Letter (NOL) does not exempt the proponent from securing the necessary Certification Precondition. It only shows that project has observed World Bank Social Safeguard policies.

**Step 5:** Conduct of an immediate Field Based Investigation (FBI) with the NCIP to determine if there are any IP groups along the route of the project and if any ancestral domain is affected.

**Step 6:** If there are IP groups along the route, there should be consultations with the different IP groups in the area in a manner mutually agreed upon by the NCIP and the project proponent, subject to due diligence by the Bank of the process and substance of the consultation, including attendance of a Bank representative during the consultations.

One of the objectives of the consultations is to determine if the road project will affect an ancestral domain. The proponent makes a disclosure of the project.

**Step 7:** If no ancestral domain will be affected, a detailed report of the consultations will be submitted to the Bank. The report will indicate if the IPs are supportive of the project or not. Proceed to Step 9.

If an ancestral domain will be affected, proceed to Step 8.

**Step 8:** If an ancestral domain will be affected, the proponent and the NCIP asks for a voluntary endorsement of the project. If the IPs voluntarily endorse the project, a detailed report of the consultations containing an original copy of the written endorsement signed by the IP leaders, NCIP representative and the proponent proving that the project was indeed voluntarily endorsed by the IPs.

**Step 9:** The Social Safeguards Officer of the Bank examines the report of the consultations, and if an ancestral domain is affected, the written endorsement and other agreements reached between the IPs and the safeguard policies have been observed, the Bank issues a No Objection Letter (NOL).

The No Objection Letter (NOL) does not exempt the proponent from securing the necessary Certification Precondition and other government permits. It only shows that project has observed World Bank Social Safeguard policies.

Since these are projects voluntarily endorsed by IPs, the written endorsement combined with any other agreements forged by the proponent with the affected IP community (i.e. regarding compensation and entitlements other than those provided in the LARRP) shall serve as the IPAP. The World Bank Social Safeguards Officer shall examine the equivalency of the documents to ensure that proper mechanisms are in place to ensure that gender equity, transparency, participation, and accountability are observed in the determination, distribution, and use of the entitlements and benefits and in the implementation of mitigating measures.

If no endorsement is given, see Section below on No Endorsement Scenarios.

**For IPs who have been consulted**

In the course of the Rapid Social Impact Assessment conducted by the DPWH, some IP groups may have been consulted separately and may have already expressed their support or endorsement of the project,
Step 1: If the IPs have voluntarily endorsed the project, the minutes of the consultation with the IPs plus a written endorsement, if available, will be submitted to the Bank and the NCIP. In addition, the project proponent submits a project profile, map and other documents to the NCIP as required by the NCIP Administrative Order No. 3 series of 2012.

Step 2: The NCIP with the World Bank validates the written endorsement with the Provincial Consultative Bodies (PCB) and the IP groups identified in the minutes or in the written endorsement.

Step 3: Upon the mutual satisfaction of the World Bank and the NCIP that indeed consultation was done free from coercion or manipulation, proper disclosure was made, and that the endorsement was voluntarily given, and those endorsing represented the IP community, the World Bank Safeguards Officer issues a No Objection Letter (NOL). The No Objection Letter (NOL) does not exempt the proponent from securing the necessary Certification Precondition and other government permits. It only shows that project has observed World Bank Social Safeguard policies.

Since these are projects voluntarily endorsed by IPs, the written endorsement combined with any other agreements forged by the proponent with the affected IP community (i.e. regarding compensation and entitlements other than those provided in the LARRP) shall serve as the IPAP. The World Bank Social Safeguards Officer shall examine the equivalency of the documents to ensure that proper mechanisms are in place to ensure that gender equity, transparency, participation, and accountability are observed in the determination, distribution, and use of the entitlements and benefits and in the implementation of the mitigating measures.

If as result of the validation process, it was found that the IPs have not been sufficiently consulted or if the endorsements are lacking (other IP groups have not been part of the process), the proponent will undertake public consultations. A Guideline for public participation module is found in this Social and Environmental Operations Manual.

No Endorsement or No FPIC Scenarios

It may happen that IPs may not want to give an outright endorsement but are open nonetheless to supporting the project. The following process is suggested.

Step 1: If the Provincial Consultative Bodies (PCBs) fail to give an endorsement and requires separate consultations with the different IP groups, the project proponent with the NCIP conducts consultations with the different IP groups. A World Bank representative attends these consultations to ensure that disclosure is made, that the process is free from coercion and manipulation, and that the different sectors in the community are adequately represented.

Step 2: If voluntary endorsement is obtained through these consultations, the project proponent submits the detailed report on the consultations and the written endorsement (or Resolution of Consent) and other agreements reached between the IPs and the proponent. Satisfied that the Bank’s safeguard policies have been observed, the Bank issues a No Objection Letter (NOL). The No Objection Letter (NOL) does not exempt the proponent from securing the necessary Certification Precondition and other government permits. It only shows that project has observed World Bank Social Safeguard policies.

Since these are projects voluntarily endorsed by IPs, the written endorsement combined with any other agreements forged by the proponent with the affected IP community (i.e. regarding compensation and entitlements other than those provided in the LARRP) shall serve as the IPAP. The World Bank Social Safeguards Officer shall examine the equivalency of the documents to ensure that proper mechanisms are in place to ensure that gender equity, transparency, participation, and accountability are observed in the determination, distribution, and use of the entitlements and benefits and in the implementation of the mitigating measures.
In the event, that no endorsement or FPIC is obtained despite the consultations, the following process will be followed.

Step 1: The proponent submits the Resolution of Non-Consent (RNC) to the World Bank Social Safeguards Officer, who will ascertain if all means have been exhausted to obtain voluntary endorsement or FPIC for the project.

Step 2: The DPWH can invoke the power of eminent domain provided for in Section 7c of the Indigenous Peoples’ Rights

Step 3: The proponent draws up an IPAP and submits this to the World Bank.

If expropriation proceedings have to be initiated, proceed to Step 4.

If no expropriation proceed to Step 6.


Step 5: Once the Regional Trial Court issues a Writ of Possession, the proponent submits a copy of the Writ of Possession to World Bank Social Safeguards.

Step 6: The World Bank Social Safeguards Officer examines the IPAP and, as the case may be, the Writ of Possession. Satisfied that the Bank’s safeguard policies have been observed, she issues a No Objection Letter (NOL).
## Summary of Impact and Corresponding Safeguard Instruments

<table>
<thead>
<tr>
<th>Location of Affected IPs</th>
<th>Impact</th>
<th>Relocation Site and Magnitude of Affected Families to be relocated</th>
<th>Guiding Framework</th>
<th>Safeguard Instrument</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inside Ancestral Domain</td>
<td>Without resettlement</td>
<td>Not Applicable</td>
<td>FPIC Guidelines of 2006 and possible MOA between DPWH and NCIP. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>MOA = IPAP</td>
</tr>
<tr>
<td>With resettlement</td>
<td>Inside</td>
<td>FPIC Guidelines of 2006 and possible MOA between DPWH and NCIP. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>MOA = IPAP</td>
<td></td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>Inside</td>
<td>FPIC Guidelines of 2006 and possible MOA between DPWH and NCIP. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>MOA = IPAP</td>
<td></td>
</tr>
<tr>
<td>Mixed: Some resettled outside Ancestral domain; Others remain inside</td>
<td>Inside</td>
<td>FPIC Guidelines of 2006 and possible MOA between DPWH and NCIP. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>For the remaining inside the Ancestral Domain; MOA = IPAP. For those resettled outside the Ancestral Domain: Depending on magnitude, either a stand-alone IPAP or a special chapter in the RAP</td>
<td></td>
</tr>
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<td>Location of Affected IPs</td>
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<td>--------------------------</td>
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</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>With resettlement</td>
<td>Whole community or a large portion of the community</td>
<td>LARRIP Governed by possible MOA between the DPWH and NCIP. Explore option to resettle in their place of origin. If the identified receiving area were an ancestral domain, Free and Prior Informed Consent should be obtained from the hosting IP community. FPIC Guidelines of 2006 and possible MOA between DPWH and NCIP shall apply. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td></td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>A Few Families but majority of the IP Community remains</td>
<td>Explore option to resettle in the immediate vicinity of the IP community. For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>IPAP covers both PAFs to be resettled and the community that remains</td>
<td></td>
</tr>
<tr>
<td>Outside Ancestral Domain</td>
<td>Without resettlement</td>
<td>Not applicable</td>
<td>For compensation and entitlements, Chapter II and III of the LARRIP.</td>
<td>Depending on the number of IP PAFs, either a stand-alone IPAP will be drafted or a special IP Section in the abbreviated RAP.</td>
</tr>
<tr>
<td>IPs who have been resettled in land of the public domain</td>
<td>With or without resettlement</td>
<td>Whole Community or a Portion</td>
<td>FPIC Guidelines of 2006</td>
<td>MOA = IPAP</td>
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