

RP528

**LAND ACQUISITION, RESETTLEMENT,  
REHABILITATION**

**AND**

**INDIGENOUS PEOPLES'**

**POLICY**

**(LARRIPP)**

Department of Public Works and Highways  
Republic of the Philippines

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## ACRONYMS

AD	Ancestral Domain
ADB	Asian Development Bank
ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AF	Affected Families
ARAP	Abbreviated Resettlement Action Plan
BIR	Bureau of Internal Revenue
CA	Commonwealth Act
CADT	Certificate of Ancestral Domain Title
CALT	Certificate of Ancestral Land Title
CCA	Community Consultative Assembly
CLOA	Certificate of Land Ownership Award
CP	Certification Precondition
DENR	Department of Environment and Natural Resources
DEO	District Engineering Office
DPWH	Department of Public Works and Highways
EMA	External Monitoring Agent
EO	Executive Order
FBI	Field Based Investigation
FPIC	Free and Prior Informed Consent
ICC	Indigenous Cultural Communities
IMA	Internal Monitoring Agent
IP	Indigenous Peoples
IPAP	Indigenous Peoples Action Plan
IPRA	Indigenous Peoples' Rights Act
JBIC	Japan Bank for International Cooperation
LARRIPP	Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples' Policy
LGU	Local Government Units
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MOU	Memorandum of Understanding
MRIC	Municipal Resettlement Implementation Committee
NCIP	National Commission on Indigenous Peoples
NRIMP	National Roads Improvement and Management Project.
PAF	Project Affected Family
PAP	Project Affected Person
PMO	DPWH Project Management Office
RA	Republic Act
RAP	Resettlement Action Plan
RIC	Resettlement Implementation Committee
RO	DPWH Regional Office
ROW	Right of Way
TCT	Torrens Certificate of Title
WB	World Bank

## DEFINITION OF TERMS

**Abbreviated Resettlement Action Plan (ARAP)** -- The Resettlement Action Plan (RAP) refers to the planning document that describes what will be done to address the direct social and economic impacts associated with involuntary taking of land or land acquisition. The ARAP is acceptable if fewer than 200 people are affected. It is also acceptable if more than 200 people are affected so long as all land acquisition is minor (10 percent or less of all holdings is taken) and no physical relocation is required.

**Ancestral Domain** -- As defined in R.A. 8371 (IPRA), refers to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social, and cultural welfare. It includes land, forests, pasture, residential, agricultural, and other lands individually owned whether inalienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or who practice shifting cultivation. As clarified in Section 4 of R.A. 8371, ancestral domains cover not only the physical environment but the total environment including the spiritual and cultural bonds to the area which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

**Ancestral Lands** -- As defined in R.A. 8371 refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, *force majeure* or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

**Ancestral Domain Sustainable Development and Protection Plan (ADSDPP)** -- 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 a proposed infrastructure project and the long-term development goals and priority concerns of the affected ICC/IP.

**Certificate of Ancestral Domain Title (CADT)** -- As defined in R.A. 8371, it refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with IPRA.

**Certificate of Ancestral Lands Title (CALT)** -- As defined in R.A. 8371, it refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands.

**Certificate of Land Ownership Award (CLOA)** -- It refers to a certificate issued to grantees of the comprehensive agrarian reform program. The provisions of CA 141 shall govern in the CLOAs awarded under the Public Land Act.

**Certification Precondition (CP)** -- It is a document issued by the NCIP attesting that the applicant or project proponent has complied with the requirements for securing the affected ICCs/IPs in accordance to the Free, Prior and Informed Consent Guidelines of 2006.

**Collective Attachment** -- It means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. Collective attachment also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.

**Community Consultative Assembly (CCA)** -- The CCA is part of the FPIC process convened for the purpose of presenting the project to the IP community. The participants to the CCA are the elders or leaders of the IP community; the representatives of IP households/ families within the area affected; the representatives of the applicant or the project proponent/s; the FPIC team constituted by the NCIP; and the representatives of development Non-Government Organizations (NGOs) duly accredited by the NCIP and authorized by the IP Community to be present within the ancestral domain area.

**Compensation** -- This means payment in cash or in kind at replacement cost for an asset to be acquired or affected by an infrastructure project.

**Cut-off Date** -- It is the date of commencement of the census of affected families within the project boundaries. Persons not covered at the time of census-taking will not be eligible for claims of compensation entitlements. Cut-off date for land-taking will be set on the date that the parcellary survey was conducted but the value of the land will be based on the agreed values of the land at the time of taking.

**Customary Law** -- It refers to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted, and observed by respective ICCs/IPs.

**Disturbance Compensation** -- It is the compensation amount for lessees of agricultural land severely affected (i.e., >20% of the land or when the land is no longer economically viable) by the project, equivalent to five times the average gross harvest during the last five years (RA 6389 and EO 1035, series of 1985).

**External Monitoring Agent (EMA)** -- It is an independent entity or individual designated by the Department to monitor the implementation of the RAP and the IPAP.

**Field Based Investigation** -- It refers to the ground investigation to determine whether or not the plan, program, project, or activity overlaps with or affects an ancestral domain, the extent of the affected area, and the ICCs/IPs whose FPIC is to be obtained.

**Financial Assistance** -- It is the cash amount paid to agricultural tenants/settlers/occupants severely affected by the project, equivalent to the average gross harvest for the last three years and not less than PhP15, 000 per ha (EO 1035), in addition to the cash payment/compensation for their crops actually damaged by the project.

**Free and Prior Informed Consent** -- As defined in R.A. 8371, it means the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable and appropriate to the community.

**Free and Prior Informed Consent Guidelines of 2006** -- It is also known as National Commission on Indigenous Peoples' Administrative Order No. 1, Series of 2006 implementing Sections 44 (m), 46(a), 57, 58, 59, and 7 of Republic Act 8371 or the Indigenous Peoples' Rights Act.

**Inconvenience Allowance** -- It is the compensation amount given to each PAP who holds full title to or a legalizable tax declaration over the land and structures severely affected by the project, and who consequently has to move elsewhere.

**Indigenous Cultural Community/Indigenous People** -- As defined in R.A. 8371, it refers to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other

distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions or cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

**Indigenous Peoples' Action Plan (IPAP)** -- An IPAP is written when an infrastructure project has 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 also specifies ways that the identified adverse effects are avoided, minimized, mitigated, or compensated. The formulation of the IPAP is mandated by DPWH Department Order No. 327 series of 2003.

**Indigenous Political Structure** -- As defined in R.A. 8371, it refers to organizational and cultural leadership systems, institutions, relationships, patterns and processes for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holder, or any other tribunal or body or similar nature.

**Land Acquisition** -- It is the process of acquiring land from the current owners pursuant to the provisions of RA 8974 modes of acquisition. The modes of land acquisition are Donation, Barter or Exchange, Purchase, Quit Claim or Expropriation.

**Memorandum of Agreement (MOA)** -- It refers to the document signed by the project proponent, the affected IPs, and/or the NCIP and other relevant parties embodying the terms and conditions agreed upon to ensure, among others, 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. The MOA serves as the IPAP for affected IPs living in ancestral domain and IPs resettled in lands of the public domain due to previous government projects/policies and involuntary displacement because of war and natural calamities. For the complete listing of the MOA's contents, refer to NCIP Administrative Order No. 1 series of 2006, Part VIII.

**Memorandum of Understanding (MOU)** -- It refers to the document signed by government agencies, e.g. DPWH and NCIP, DPWH and LGUs governing their

relationship regarding aspects of the project, e.g. resettlement, process of conducting FBI, issuance of Certification Precondition (CP), and conduct of FPIC.

**Prescription Period** -- As stipulated in Article 1141 of Civil Code, real actions over immovables prescribe after thirty (30) years. This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription (1963).

**Production Cost (palay, vegetable and corn)** -- This includes among others, land preparation, transportation, seedling and fertilizer. The amount may vary depending on the location, type of seedling, etc.

**Professional Squatters** -- As defined by Republic Act 7279, the term applies to persons who have previously been awarded homelots or housing units by the government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area; to non bona fide occupants; and to intruders of lands reserved for socialized housing. The term also refers to individuals or groups who occupy lands without the expressed consent of the landowner and who have sufficient income for legitimate housing. This definition excludes individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.

**Project Affected Family (PAF)** -- It consists of all members of a household residing under one roof and operating as a single economic unit, who will be adversely affected by the project. For resettlement purposes, Project Affected Persons (PAPs) will be dealt with as members of Project Affected Families (PAFs).

**Project Affected Person (PAP)** -- It includes any person or persons, household, a firm, or a private or public institution who, on account of the execution of the project, would have their right, title or interest in all or any part of a house, land (e.g., residential, agricultural or pasture), annual or perennial crops and trees, or any other fixed or moveable asset acquired or possessed, in full or in part, permanently or temporarily.

**Project Boundaries** -- It may be defined as the project construction limits, or it may refer to the Right-of-Way limits, whose width varies from 20 to 60 meters as prescribed in the special laws such as Commonwealth Act 141 (Public Land Act), PD 635, EO 113 (1955), EO 621 (1980), etc.

**Project Proponent** -- It refers to the DPWH.

**Project Implementation Office** -- It refers to the duly designated Management Office (for foreign-funded projects) within the DPWH Central Office and to Regional and District Offices (for locally funded projects)



**Rehabilitation** -- It refers to assistance provided to PAFs seriously affected due to the loss of productive assets, incomes, employment or sources of living, as supplement compensation for acquired assets in order to achieve full restoration of living standards and quality of life.

**Relocation** -- This refers to the physical displacement of a PAF from his/her pre-project place of residence and his/her transfer to another place.

**Replacement Cost** -- This is the amount necessary to replace the structure or improvements based on the current market prices for materials, equipment, labor, contractor's profit and overhead, and all other costs associated with the acquisition and installation in place of the affected improvements/installation.

**Resettlement** -- This is a generic term that covers all measures taken to mitigate any and all adverse social impacts of a project on the PAFs, including compensation and relocation.

**Social Impact Assessment or Social Assessment** -- It is a framework for incorporating social or stakeholders' analysis and participatory processes in project design and implementation.

**Squatting Syndicates** -- As defined in R.A. 7279, these refers to groups of persons who are engaged in the business of illegal housing for profit or gain.

**Time of Taking** -- This refers to the time when both parties, the landowner and the proponent, agreed on the true value of the land being purchased.

**Voluntary Initiated or Solicited** – These are infrastructure projects that the IPs communally or through their legitimate leaders without coercion or manipulation expressed their need for as evidenced by a written endorsement and duly validated by the NCIP following the procedures set forth in the FPIC Guidelines of 2006

## **CHAPTER I. INTRODUCTION**

The first Land Acquisition, Resettlement and Rehabilitation (LARR) Policy was formulated in 1999 specifically for the World-Bank assisted First National Road Improvement and Management Program (NRIMP). 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) and the Japanese Bank International for Cooperation (JBIC) in their projects.

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

To ensure uniformity of standards in Resettlement Planning, a revised LARR Policy, 3<sup>rd</sup> edition, was formulated. This third edition of the policy now contains the Department's Indigenous Peoples Policy, based on the Indigenous Peoples' Rights Act (IPRA) and NCIP Administrative Order No. 1, series of 2006 or the Free and Prior, Informed Consent Guidelines of 2006.

The 3rd edition, now called the Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples' Policy or LARRIPPP shall provide guidance to those preparing resettlement action plans (RAPs) and safeguard instruments for Indigenous Peoples (IPs) affected by all types of infrastructure projects implemented by the DPWH, whether foreign or locally funded.

This policy includes the principles and objectives of the involuntary resettlement policy, the legal framework, eligibility, compensation and entitlements, the indigenous peoples' policy framework, 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 and safeguard instruments for IPs.

## **CHAPTER II. LEGAL FRAMEWORK**

The policy framework governing Resettlement Action Plans for Structures and Land is derived from the Philippine Constitution, Republic Act (RA) 8974, RA 8371 or the Indigenous Peoples' Rights Act, Environmental and Social Safeguards Policies of the financing institutions and other applicable laws.

Hereunder are the various provisions and prescriptions of laws, policies and guidelines governing the operation and implementation of resettlement action plans and safeguards for indigenous peoples.

### **A. Basic National Policy**

1. Article III, Section 9: "Private property shall not be taken for public use without just compensation."
2. Article XII, Section 5: "The State...shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being. By an act of Congress, customary laws governing property rights or relations can be applied in determining the ownership and extent of ancestral domains."

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**B. 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.**

1. Implementing Rules and Regulations of RA 8974 provides the different bases for land valuation for the following modes of acquisition: negotiated sale and expropriation.
2. 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.
3. 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, equipment, labor, contractor's profit and overhead, and all other attendant costs associated with the acquisition and installation in place of the affected improvements/installation.
4. **Modes of Acquisition.** 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.
5. **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, as determined 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.
6. Standards to determine market value. Negotiated sale between DPWH and the PAF based on the following standards to determine the market value:
  - a. The classification and use for which the property is suited;
  - b. The development costs for improving the land;
  - c. The value declared by the owners;
  - d. The current selling price of similar lands in the vicinity;

- e. The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value for improvements thereon;
  - f. The size, shape and location, tax declaration and zonal valuation of the land;
  - g. The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
  - h. 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 restore their lives, dwellings, and productive assets as early as possible.
7. **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 also 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.
8. **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 from the total compensation cost.
9. **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 which is two (2) years. Beyond two years, PAPs who could not comply with the requirement have to settle the case in court.
10. **In case of expropriation.**

- a. **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 the 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.
  
- b. **For Land:** If the owner contests the Department's second offered value for 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).

### **C. Indigenous Peoples' Rights Act (IPRA) of 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 important provisions of the IPRA are:

1. The right to their ancestral domains. (Chapter III, Section 11);
  
2. 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);
  
3. 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 determined by them; (Chapter IV, Section 16);
  
4. 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);
  
5. The right to stay in their territory and not to be removed from that territory. 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);
6. The right to be secure in the lands to which they have been resettled; (Chapter III, Section 7d);
  7. The right to determine and decide their own priorities for the lands they own, occupy, or use; (Chapter IV, Section 17);
  8. The right to maintain, protect, and have access to their religious and cultural sites; (Chapter IV, Section 33);
  9. 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. 1 or the *Free and Prior Informed Consent (FPIC) Guidelines of 2006*.

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

1. **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.
2. **Presidential Decree 635** amended Section 112 of CA 141 increasing the width of the reserved strip of twenty (20) meters to sixty (60) meters.
3. **EO 113 (1995) and EO 621(1980)**
  - a. 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;
  - b. ROW shall be at least 60 meters in unpatented public land; and
  - c. ROW shall be at least 120 meters through natural forested areas of aesthetic or scientific value.
4. **EO 1035**
  - a. Financial assistance to displaced tenants, indigenous peoples, and settlers equivalent to the average annual gross harvest for the last 3 years and not less than PhP15, 000 per ha.

- b. Disturbance compensation to agricultural lessees equivalent to 5 times the average gross harvest during the last 5 years.
- c. Compensation for improvements on land acquired under Commonwealth Act 141.
- d. Government has the power to expropriate in case agreement is not reached.

**5. MO 65, Series of 1983**

- a. 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.
- b. 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.

**6. Republic Act 6389**

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

**7. Article 141, Civil Code**

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

**8. NCIP Administrative Order No. 1, Series of 2006 or the Free, Prior and Informed Consent Guidelines of 2006.**

The Free and Prior Informed Consent (FPIC) Guidelines of 2006 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.

**E. ADB/World Bank Resettlement and Indigenous Peoples' Policy**



## **1. Basic Principles of Resettlement Policy**

- a. Involuntary resettlement should be avoided where feasible.
- b. Where population displacement is unavoidable, it should be minimized by exploring all viable project options.
- c. 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.
- d. People affected should be fully informed and consulted on resettlement and compensation options.
- e. Involuntary resettlement should be conceived and executed as part of the project.

## **2. Operational Policies for Resettlement**

- a. 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.
- b. 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.
- c. 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.
- d. 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.

- e. The full costs of resettlement and compensation should be included in the presentation of project costs and benefits
- f. 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 Headquarters in Washington. Thus, it must be covered by a specific proposal with all the required information.

### **3. Basic Principles of World Bank's Indigenous Peoples' Policy (O.P 4.10)**

- a. The World Bank recognizes that Indigenous peoples play a vital role in sustainable development, and it aims to ensure that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples.
- b. The World Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and impacts from development projects.
- c. Involuntary resettlement of indigenous peoples is to be avoided whenever feasible.
- d. The project proponent or borrower undertakes a social assessment whenever screening shows that Indigenous Peoples are present in, or have collective attachment to, the project area. The social assessment is necessary to evaluate the project's potential positive and adverse effects on indigenous peoples.
- e. When a project is found to definitely affect Indigenous Peoples, the project proponent engages in a free, prior, and informed consultation with them.
- f. On the basis of the social assessment and the free, prior, and informed consultation, the proponent ascertains if the affected Indigenous Peoples' communities provide their broad support to the project.



## **CHAPTER III. 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 LARRIPP.

### **A. Criteria for Eligibility for compensation**

#### **1. Landowners**

- a. 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.
- b. Users of arable land who have no land title or tax declaration
- c. Agricultural lessees

#### **2. PAFs with Structures**

- a. 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;
- b. Owners of structures, including shanty dwellers, who have no land title or tax declaration or other acceptable proof of ownership;
- c. Renters

#### **3. 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.

- a. 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.

- b. 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.

#### **4. 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.

##### **a. Compensation for Structures**

- i. 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.

##### **b. 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.

##### **c. 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.

#### **d. Compensation For Land**

- i. 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.
- ii. Land swapping if feasible, 'land for land', will be provided in terms of 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
- iii. Holders of free patent, homesteads under CA 141, or the Public Lands Act, will be compensated for improvements only.
- iv. 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 land improvements only.

#### **e. 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 **PhP 15,000** for severely affected structures, or to be based on the latest copy of the PAF's tax record for the period corresponding to the stoppage of 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

## 5. Entitlement Matrix

**Table II.1. Entitlement Matrix**

Type of Loss	Application	Entitled Person	Compensation/Entitlements
LAND (Classified as Agricultural, Residential, Commercial, or Institutional)	More than 20% of the total landholding lost or where less than 20% lost but the remaining land holding become economically unviable.	PAF with TCT or tax declaration (Tax declaration can be legalized to full title).	PAF will be entitled to: <ul style="list-style-type: none"> <li>• Cash compensation for loss of land at 100% replacement cost at the informed request of PAFs</li> <li>• 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</li> <li>• Holders of free or homestead patents and CLOAs under CA 141. Public Lands Act will be compensated on land improvements only.</li> <li>• Holders of Certificates of Land Ownership Award (CLOA) granted under the Comprehensive Agrarian Reform Act shall be compensated for the land at zonal value.</li> <li>• Cash compensation for damaged crops at market value at the time of taking.</li> <li>• Rehabilitation assistance in the form of skills training equivalent to the amount of ₱15, 000.00, per family, if the present means of livelihood is no longer viable and the AF will have to engage in a new income activity.</li> </ul>
		AF without TCT	<ul style="list-style-type: none"> <li>• Cash compensation for damaged crops at market value at the time of taking.</li> <li>• 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 ₱15, 000.</li> </ul>



Type of Loss	Application	Entitled Person	Compensation/Entitlements
	Less than 20% of the total landholding lost or where less than 20% lost or where the remaining land holding still viable for use.	AF with TCT or tax declaration (Tax declarations that are legalizable to full title)	PAF will be entitled to: <ul style="list-style-type: none"> <li>• Cash compensation for loss of land at 100% replacement cost at the informed request of PAFs</li> <li>• Holders of free or homestead patents and CLOAs under CA 141. Public Lands Act shall be compensated on land improvements only</li> <li>• Holders of Certificates of Land Ownership Award (CLOA) granted under the Comprehensive Agrarian Reform Act shall be compensated for the land at zonal value.</li> <li>• Cash compensation for damaged crops at market value at the time of taking.</li> </ul>
		AF without TCT	<ul style="list-style-type: none"> <li>• Cash compensation for damaged crops at market value at the time of taking.</li> <li>• 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 PhP15, 000.</li> </ul>
STRUCTURES (Classified as Residential/ Commercial/ Industrial)	More than 20% of the total landholding loss or where less than 20% loss but the remaining structures no longer function as intended or no longer viable for continued use.	AF with TCT or tax declaration (Tax declaration can be legalized to full title).	AF will be entitled to: <ul style="list-style-type: none"> <li>• Cash compensation for entire structure at 100% of replacement cost.</li> <li>• Rental subsidy for the time between the submission of complete documents and the release of payment on land.</li> </ul>
		AF without TCT	AF will be entitled to: <ul style="list-style-type: none"> <li>• Cash compensation for entire structure at 100% of replacement cost.</li> <li>• Rental subsidy for the time between the submission of complete documents and the release of payment on land</li> </ul>
	Less than 20% of the total landholding lost or where the remaining structure can still function and is viable for continued use.	PAF with TCT or tax declaration (Tax declaration can be legalized to full title).	<ul style="list-style-type: none"> <li>• Compensation for affected portion of the structure.</li> </ul>
		PAF without TCT	<ul style="list-style-type: none"> <li>• Compensation for affected portion of the structure.</li> </ul>

<b>Type of Loss</b>	<b>Application</b>	<b>Entitled Person</b>	<b>Compensation/Entitlements</b>
IMPROVEMENTS	Severely or marginally affected	PAF with or without TCT, tax declaration, etc.	PAF will be entitled to: <ul style="list-style-type: none"><li>• Cash compensation for the affected improvements at replacement cost</li></ul>
CROPS, TREES, PERRENIALS			PAF will be entitled to: <ul style="list-style-type: none"><li>• Cash compensation for crops, trees, and perennials at current market value as prescribed by the concerned LGUs and DENR.</li></ul>

## **CHAPTER IV. ON INDIGENOUS PEOPLES WHO WILL BE AFFECTED BY THE PROJECT**

Indigenous peoples who will be affected by the project deserve special attention because of their unique vulnerability and their distinct ways of relating to the physical environment. The DPWH recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to their physical environment and the natural resources on which they depend. This exposes IPs to certain types of risks and to intensified levels of impacts that the dominant groups in Philippine society do not face when confronted by infrastructure development projects. Hence, the objective of this chapter is to ensure that DPWH-implemented projects do no further harm to IPs and leave them worse off with the projects than without.

### **A. 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 those areas belonging to IPs covered by a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT). It also covers areas that have pending applications to be declared as an ancestral domain.

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

1. those projects that are voluntarily initiated and solicited by the IPs/ICCs.
2. those infrastructure projects that would require Free and Prior Informed Consent; and
3. 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 civil works and related activities. These situations are:

1. When land acquisition (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.
2. When due to land acquisition (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.
3. When removal of Indigenous Peoples results in resettlement outside their ancestral domain.

4. When land acquisition 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.
5. When land acquisition 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
6. When natural resources inside ancestral domains are extracted and used for civil works.

## **B. 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 LARRIPP* remains operative even in cases of voluntary solicitation or initiation. **In general, no IPAP is required for projects that are voluntarily solicited or initiated by IPs.**

The project proponent will provide documentation that the projects have indeed been voluntarily and initiated or solicited by Indigenous Peoples. A representative of the NCIP should be invited and be present to witness that the consultation was indeed free from coercion or manipulation, gender and inter-generationally inclusive, and conducted with proper disclosure of information and in a manner appropriate to the social and cultural values of the affected IP communities and their condition. Voluntarily initiation and solicitation is subject to validation by the National Commission on Indigenous Peoples in conformity to IPRA and NCIP Administrative Order No. 1 or the Free and Prior, Informed Consent Guidelines of 2006.

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 Understanding (MOU) 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 LARRIPP will guide the eligibility of affected IPs/ICCs, compensation, and other entitlements.

In the event of non-consent by affected Indigenous Peoples in their ancestral domain, the procedure set forth in Part V, Section 27c of NCIP Administrative Order No.1 or the Free, Prior and Informed Consent Guidelines of 2006 shall apply.<sup>1</sup>

In the event ICCs/IPs outside of ancestral domains will be affected, Section D of this Chapter shall apply.

**Table IV.1: IP Location and Requirements for FPIC and IPAP**

	Location	Requirement for FPIC	Requirement for IPAP
Voluntarily initiated or solicited by IPs;	Inside Ancestral Domain	None	None
	Outside Ancestral Domain	None	None
Projects that are not voluntarily initiated or solicited by IPs	Inside Ancestral Domain	Yes	MOA=IPAP
	Outside Ancestral Domain	None except for a special case discussed in Section 6.5.4 of this chapter	IPAP required
	Outside Ancestral Domain	None	IPAP

### C. LAND ACQUISITION INSIDE ANCESTRAL DOMAINS

In the event land (including structures, improvements, crops, trees, and perennials) is to be acquired 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 2006* are found in the Social and Environmental Management Systems (SEMS) Manual.

<sup>1</sup>Part V Section 27c "Decision Meeting" of Administrative Order No.1 states:

If the consensus is against the project, the leaders or elders will be required to submit their written decision in the form of a Resolution. Further, the applicant [the project proponent], may ask the council of elders/leaders to explain the decision. If the reasons for the denial of the consent is something that the applicant can readily address or a counterproposal or a new proposal is made by the applicant, the council of elders/leaders may require another period, if they desire, to re-consider their decision but in no case shall it exceed ten (10) days from the time of the first decision sought to be reconsidered.

Free and Prior Informed Consent (FPIC) must be determined using methods appropriate to the social and cultural values of the affected Indigenous Peoples' 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 2006*, 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.

### **1. Land Acquisition without resettlement**

The project may involve the acquisition of land and/or the structures, improvements, crops, trees, and perennials on it. The acquisition 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 LARRIPP. 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 IPAP/MOA. Temporary restrictions on indigenous peoples' access to natural resources and religious and culture sites during project implementation plus the measures to minimize them shall be disclosed by the proponent. Measures to mitigate these temporary restrictions will also be contained in the IPAP/MOA.

Compensation for lands acquired, 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 43 to 46 of the *FPIC Guidelines of 2006*.

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 LARRIPP 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 the Indigenous Peoples' Action Plan (IPAP).

## **2. Land Acquisition with removal and resettlement**

By policy, involuntary resettlement 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 2006* or the provisions of any agreement that the DPWH may have reached with the NCIP. Following their customary law, the Indigenous Peoples' Communities 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 LARRIPP. 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 2006*. 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.

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

In the exceptional case **when the resettlement site is outside the affected ancestral domain**, the *FPIC Guidelines of 2006* or the provisions of any agreement that the DPWH may have reached with the NCIP shall also apply. Following their customary law, the IPs 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 following the procedures set forth in *The Free and Prior Informed Consent (FPIC) Guidelines of 2006*.

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 shall serve as the Indigenous Peoples' Action Plan (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 choose to be resettled outside their ancestral domain would be resettled in the designated resettlement sites.

#### **D. LAND ACQUISITION 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 Indigenous Peoples' 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. 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' Communities. The proponent shall also disclose this LARRIPP to the affected ICCs/IPs. If necessary, separate consultations will be held with IP women and children and with ICC's leaders. A representative of the NCIP will be invited and should be present in the meeting.*

### **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 LARRIPP. 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 receiving ICC/IPs would be obtained first following the FPIC Guidelines of 2006.

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 LARRIPP. 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 safeguards to ensure gender equity, 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 LARRIPP. The project proponent will draft an IPAP that ought to cover those who will be resettled and another IPAP for those who will remain.

## **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.

## **3. Resettled IPs occupying lands of the public domain**

A special case is 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 2006* apply to these types of IPs if they are affected by projects.

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

## **E. EXTRACTION OF NATURAL RESOURCES INSIDE ANCESTRAL DOMAINS AND THEIR USE**

The provisions of the LARRIPP binds 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, extraction of natural resources by DPWH's contractors or by agents of the contractor inside ancestral domains shall abide by the *FPIC Guidelines of 2006*, specifically Section 39 on *Small Scale Quarrying*. Contractors have joint and solidary 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 natural resources.



**Table IV. 2. Summary of Impact and Corresponding Safeguard Instruments**

Location of Affected IPs	Impact	Relocation Site and Magnitude of Affected Families to be relocated	Guiding Framework	Safeguard Instrument
Inside Ancestral Domain	Without Resettlement	Not Applicable (NA)	FPIC Guidelines of 2006 and/or possible MOU between the DPWH and the NCIP For compensation and entitlements, Chapter II and III of the LARRIPP	MOA = IPAP
	With Resettlement	Inside	FPIC Guidelines of 2006 and/or possible MOU between the DPWH and NCIP For compensation and entitlements, Chapter II and III of the LARRIPP	MOA=IPAP
		Outside Ancestral Domain	FPIC Guidelines of 2006 and/or possible MOU between the DPWH and NCIP For compensation and entitlements, Chapter II and III of the LARRIPP	MOA=IPAP
		Mixed: Some IPs resettled outside ancestral domain; others remain inside	FPIC Guidelines of 2006 and/or possible MOU between the DPWH and the NCIP For compensation and entitlements, Chapter II and III of the LARRIPP	For those 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

**Table IV.2. Summary of Impact and Corresponding Safeguard Instruments (Continued)**

Location of Affected IPs	Impact	Relocation Site and Magnitude of Affected Families to be relocated	Guiding Framework	IP Instrument
Outside Ancestral Domain	With Resettlement	Whole Community or a Large Portion of the Community	LARRIPP 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 receiving IP community. FPIC Guidelines of 2006 and/or possible MOA between the DPWH and NCIP shall apply.  For compensation and entitlements, Chapter II and III of the LARRIPP	IPAP
		A Few Families but majority of the IP Community remains.	Explore option to resettle in the immediate vicinity of the IP community  For compensation and entitlements, Chapter II and III of the LARRIPP	IPAP to cover both PAFs to be resettled and the IP community that remains.
	Without Resettlement	Not Applicable	For compensation and entitlements, Chapter II and III of the LARRIPP	Depending on the number of IP PAFs, either a stand-alone IPAP will be drafted or a special IP Section in the Abbreviated RAP.
Outside of Ancestral Domain IPs who have been resettled in lands of the public domain	With or Without Resettlement	Whole Community or a Portion	FPIC Guidelines of 2006  For compensation and entitlements, Chapter II and III of the LARRIPP	MOA=IPAP

## **CHAPTER V. PUBLIC PARTICIPATION AND CONSULTATION**

### **A. NON-IPS**

The information campaign will convey to all PAPs that:

1. Regarding the road project that has triggered the Involuntary Resettlement Safeguard Policy: Why is it important? Who would benefit from it? What are the benefits that project affected families would derive from the project?
2. 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;
3. the BIR zonal valuation and the fair market value may be substantially different;
4. 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 are met:
    - i. The Affected Persons (AP) have decided to donate their land based on informed consent, 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;
    - ii. Land redistribution or donations do not affect the donor's livelihood;
    - iii. Land to be donated is titled, un-rented, and has no encumbrances; neither is occupied by informal settlers;
    - iv. 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. 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.
  - b. If they do not agree, DPWH will offer them compensation at BIR zonal valuation rates;

- c. If the PAPs still 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:
  - i. land use classification;
  - ii. development costs for improving the land;
  - iii. value declared by PAPs;
  - iv. current selling price of similar properties in the vicinity, based on deeds of sale;
  - v. disturbance
  - vi. tax declaration and BIR zonal valuation
  - vii. 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;
- 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 LARRIPP implementation or any aspect of the project will be handled through negotiations and are aimed at achieving consensus according to the following procedures:

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1. The PAPs will lodge their grievances by writing to the Resettlement Implementation Committee (RIC) for immediate resolution.
2. 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 to or file an appeal at the DPWH Regional Office (RO).
3. 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:

1. **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.
2. **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, children, and elderly who are among the PAPs shall likewise be consulted and mobilized to participate in the consultation meeting and discuss 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 ESSO, which will also 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.

## **B. Indigenous Peoples**

### **1. Inside Ancestral Domains**

The process of consultation for IPs inside ancestral domains begins with a consultation with the Provincial Consultative Bodies (PCB) to present the project concept and map and to determine if the project would affect ancestral domains and IPs, the presence of IPs in the area, or the existence of collective attachment of IPs to the area affected.

If consultation with the Provincial Consultative Bodies show that an FBI is necessary, the process set forth in Part IV of NCIP Administrative Order No. 1 series of 2006 for the conduct of the FBI shall be followed unless the DPWH enters into a Memorandum of Understanding (MOU) with the NCIP, in which case the provisions of the Memorandum of Understanding shall be followed.

If the FBI found that an ancestral domain will be affected, the DPWH RO with the NCIP will consult the Ancestral Domain's Sustainable Development and Protection Plan (ADSDPP), if available, to determine a fit exists between the road project and the listing of priority development projects in the ADSDPP.

If a fit were found to exist, the DPWH RO with the assistance of ESSO should hold public consultations to explore and obtain the affected IP community's voluntary solicitation or endorsement of the project. The project proponent will provide documentation that the projects have indeed been voluntarily and initiated or solicited by Indigenous Peoples. A representative of the NCIP should be invited and be present to witness that the consultation was indeed free from coercion or manipulation, gender and inter-generationally inclusive, and conducted with proper disclosure of information and in a manner appropriate to the social and cultural values of the affected IP communities and their condition. Voluntarily initiation and solicitation is subject to validation by the National Commission on Indigenous Peoples in conformity to IPRA and NCIP Administrative Order No. 1 or the Free and Prior, Informed Consent Guidelines of 2006.

If the ancestral domain has no ADSDPP, the DPWH RO, the NCIP, and ESSO will hold public consultations to explore and obtain the affected IP community's voluntary solicitation or endorsement of the project. Requirements for documentation, the manner of consultation, and validation stated in the previous paragraph will apply.

If no voluntary solicitation or initiation is obtained from the affected IP community, or if none is validated by the NCIP, the process of obtaining the Free and Prior, Informed Consent (FPIC) of the affected IP community/ies commences. The process of consultation to be followed is that set forth in Part V of NCIP Administrative Order No. 1 or the FPIC Guidelines of 2006.

## **2. IPs outside ancestral domains.**

If the FBI determines that no ancestral domain will be impacted by the project but IP groups are found and the probability is great that these IP groups will be affected, the following procedure shall apply:

With the NCIP, the project proponent conducts a separate consultation with these IPs to ascertain if they are migrants or have been resettled in the area due to a government project or to displacement caused by war and natural calamities. If the latter were the case, Section 37 of NCIP Administrative Order No. 1 or the Free, Prior, and Informed Consent Guidelines of 2006 applies. If the former were the case, the project proponent will ensure that subsequent and separate consultations with the IP groups will

- a. Use methods that are appropriate to the social and cultural values of the affected IP communities and their local conditions;
- b. that these methods give special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits;
- c. that the affected Indigenous Peoples' communities are provided with all the relevant information about the project (including the potential adverse effects) in a culturally appropriate manner at each stage of project preparation and implementation;
- d. that the consultation methods are guided by an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the project proponent, the affected IPs' communities, IP organizations, and if any, other local civil society organizations identified by the affected IP communities.

These consultations should be witnessed by a representative of the National Commission on Indigenous Peoples (NCIP). The project proponent will ensure that these consultations are properly documented and the reports signed by the NCIP representative and by leaders and members of the IP community.

## **CHAPTER VI. GRIEVANCE PROCEDURES**

### **A. NON-IPS**

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:

1. 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;
2. 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;
3. 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.

### **B. IPs**

#### **1. Inside Ancestral Domains**

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. 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 satisfaction is obtained or an impasse

results, the IP communities can 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 2006*. At their choosing, the IPs may avail of the grievance procedure and mechanisms spelled out in Section 47 of *The Free and Prior Informed Consent (FPIC) Guidelines of 2006* for complaints regarding the MOA.

## **2. Outside Ancestral Domains**

Affected ICCs/IPs living outside ancestral domains can file their grievance or complaint with the Resettlement Implementation Committee. Procedures applicable to Non-IPs shall apply to affected ICCs/IPs living outside ancestral domains. In settling complaints and grievances, the first option is to use customary dispute resolution processes. Conflicts should be resolved at the ICC/IP level first before elevating it to the Resettlement Implementation Committee. A representative of the NCIP should be present during the community dispute resolution process to serve as witness or translator. With the concurrence or at the request of both the project proponent and the ICC/IPs, the NCIP may facilitate the dispute resolution process.

## **CHAPTER VII. INSTITUTIONAL ARRANGEMENTS**

### **A. The Project Implementation Office or the Project Management Office (PMO) of the DPWH**

It has overall responsibility for implementing the project. In coordination with relevant agencies, the PMO shall manage and supervise the project, including resettlement activities and land acquisition. It shall ensure that funds for the timely implementation of the RAP, IPAP, and MOA are available and that expenses are properly accounted for. The PMO shall be assisted by ESSO (formerly EIAPD per D.O. # 58 dated May 21, 2004) in providing technical guidance and support in the implementation of the RAP, IPAP, and MOA.

### **B. Environmental and Social Services Office (ESSO)**

ESSO shall provide technical guidance and support in the implementation of the RAP and IPAP and will be responsible for the following resettlement and IP safeguard activities:

1. overall preparation and planning of the RAP and IPAP;
2. coordinate with the NCIP and with DPWH field offices in the preparation, planning, and if needed, revision of the MOA for affected ancestral domains;
3. submit RAP, IPAP, and MOA budget plans (to include compensation, relocation costs, operations) for approval and allocation of needed resources by the DPWH central office;
4. in accordance with the Department's resettlement policies, guide the District Engineering Offices and the Regional Offices in their tasks, such as the identification of IPs who will likely be affected by the project, verification of PAFs, final inventory of affected assets, information dissemination, public consultation, presentation during the CCA of the affected IP community, and dispute resolution;
5. amend or complement the RAP and IPAP in case problems are identified during the internal and/or external monitoring of its implementation;
6. in collaboration with its counterpart in the Region, follow-up with the DPWH Regional Office the processing of compensation claims of PAFs and the release of funds for the implementation of the IPAP and the MOA;
7. in collaboration with the PMO, monitor the actual payment of compensation to PAFs and release of funds for the implementation of the IPAP and the MOA;

8. in collaboration with its regional counterpart and with the NCIP (for ancestral domains), prepare periodic supervision and monitoring reports on RAP, IPAP, and MOA implementation for submission to the PMO and the Bank.

### **C. District Engineering Offices of the DPWH**

As the major implementer of this undertaking, the DEOs shall act as the Technical Coordinator and shall: a) oversee the staking-out, verification and validation of the PAFs' assets; b) conduct inventories of properties that will be affected; c) approve disbursement vouchers/payments; d) submit reports on disbursements, payments to PAFs and release of funds for IPAP and MOA implementation to the Regional Office and the PMO; and e) submit Monthly Progress Reports to ESSO, the Regional Offices and the PMO. The DEO will also be a member of the Resettlement Implementation Committee (RIC) and will actively participate in its functions.

### **D. Regional Offices of the DPWH**

The Regional Office shall act as the Liaison between ESSO and the District Office and shall ensure that the RAP, IPAP, and the MOA (in coordination with the NCIP and the affected IP community) are implemented as planned. Its specific activities are: a) monitor the RAP, IPAP, and MOA implementation and fund disbursement; b) submit the monthly progress reports to ESSO, c) monitor payments to PAFs and release of funds for MOA and IPAP Implementation. The RO will also address grievances filed at its office by the PAFs for speedy resolution.

### **E. National Commission on Indigenous Peoples (NCIP)**

The NCIP is the primary government agency through which ICCs/IPs can seek government assistance. The IPRA vests upon the NCIP the power to issue certificate of ancestral land/domain title (CALT/CADT). (Section 44e) It has the power to issue appropriate certification as a pre-condition to the grant of permit, lease, grant or any other similar authority for the disposition, utilization, management, and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned.

NCIP Administrative Order No. 1 series of 2006 vests upon the NCIP Regional Office the responsibility to receive applications for the issuance of Certification Precondition. It is responsible for the conduct of the Field Based Investigation and overseeing the process for obtaining the Free and Prior, Informed Consent from the affected IPs/ICCs. The NCIP also validates expressions of voluntary initiation or solicitation for certain projects made by IP communities.

## **F. Resettlement Implementation Committee (RIC)**

It shall be composed of representatives from the Regional Office and District Engineering Office, the City/Municipality, the NCIP provincial and/or regional office, affected barangays, and PAFs/PAPs with separate representation for IP/ICC communities affected by the project. Selection of these ICC/IP representatives shall follow the procedures of the NCIP.

Its functions are:

1. Assist the DPWH staff engaged in LARRIPP activities in (a) validating the list of AFs; (b) validating the assets of the PAFs that will be affected by the project (using a prepared compensation form); and (c) monitoring and implementing the LARRIPP;
2. Assist the DPWH and NCIP staff in identifying who among the Project Affected Persons are IPs or belong to ICCs;
3. Assist the DPWH staff engaged in the LARRIPP activities in the public information campaign, public participation and consultation;
4. Assist DPWH in the payment of compensation to PAFs;
5. Receive complaints and grievances from PAFs and other stakeholders and act accordingly;
6. Maintain a record of all public meetings, complaints, and actions taken to address complaints and grievances; and
7. In coordination with concerned government authorities, assist in the enforcement of laws/ordinances regarding encroachment into the project site or Right-of –Way (ROW).

The MRIC shall be formed through Memorandum of Understanding (MOU) between DPWH, the concerned local government unit, with the National Commission on Indigenous Peoples (NCIP) provincial or regional office.



## **CHAPTER VIII. MONITORING MECHANISM**

### **A. OBJECTIVE**

The main objective of monitoring the implementation of the Resettlement Action Plans (RAPs), MOA with IPs in ancestral domains, and IPAPs is to determine if these RAPs, MOA, and IPAPs are being carried out in accordance with this LARRIPP. It involves the monitoring of land acquisition, payment of compensation for lost assets, resettlement of persons severely affected by the project, and release of funds for and the actual implementation of MOA (ancestral domains) and IPAPs.

### **B. SCOPE**

The RAPs to be prepared, implemented and monitored, shall cover all the items mentioned in the RAP outline including but not limited to the identification and compensation for the affected following: for Structure and Other Improvements, and Land that will have to be taken for right-of-way and income restoration. The content of the MOA with affected IPs will follow the outline spelled out in Part VIII of the Free, Prior and Informed Consent Guidelines of 2006. The outline of the IPAP is spelled out in the Social, Environmental Management Systems Manual (SEMS).

### **C. MONITORING MECHANISM**

#### **1. Supervision and Internal Monitoring**

The Environmental and Social Services Office (ESSO) under D.O. 58 of the DPWH shall conduct the supervision and in-house monitoring of implementation of the RAPs and the IPAPs (for affected IPs outside the ancestral domain) and will be alternately called the Internal Monitoring Agent (IMA).

The tasks of the Internal Monitoring Agent are to:

- a. Regularly supervise and monitor the implementation of the RAPs and IPAPs (for those affected IPs living outside ancestral domains) in coordination with the concerned District Engineering Office (DEO), Regional Office (RO), and the Resettlement Implementation Committee (RIC). The findings will be documented in the quarterly report to be submitted to the PMO, which in turn will submit the report to the Bank;
- b. Coordinate with the NCIP regarding the monitoring and evaluation of the situation of affected IP communities, inside or outside ancestral domains;
- c. Coordinate with the NCIP and the affected IP community in the monitoring and evaluation of the MOA;
- d. Verify that the re-inventory baseline information of all PAFs has been carried out and that the valuation of assets lost or damaged, the provision of compensation and other entitlements, and relocation, if any, has been carried out in accordance with the LARRIPP and the respective RAP Reports;
- e. Ensure that the RAPs, IPAPs, and (with the NCIP and the affected IP communities) the MOA are implemented as designed and planned;
- f. Verify that funds for implementing the RAPs, MOA, and IPAPs are provided by the PMO in a timely manner and in amounts sufficient for the purpose;
- g. Record all grievances and their resolution and ensure that complaints are dealt with promptly;
- h. With the relevant branch of the NCIP and the MRIC, monitor the implementation of IPAPs covering affected IP communities living outside ancestral domains.

## **2. Monitoring of MOA with Affected IPs inside Ancestral Domains**

The procedure for monitoring Memoranda of Agreement (MOA) that the project proponent enters into with affected IPs inside Ancestral Domains will be guided by the monitoring, evaluation, and reporting arrangements set forth in that MOA.

## **3. Monitoring of IPAPs for Affected IPs living outside Ancestral Domains**

The monitoring of the IPAP for affected ICCs/IPs living outside ancestral domains will be the responsibility of the Internal Monitoring Agent (IMA) in coordination with the NCIP. Reports of the IMA will be verified by the External Monitoring Agent (EMA).

#### **4. External Monitoring and Evaluation**

An External Monitoring Agent (EMA) will be commissioned by the DPWH-PMO to undertake independent external monitoring and evaluation. The EMA for the Project will be either a qualified individual or a consultancy firm with qualified and experienced staff. The Terms of Reference of the engagement of the EMA shall be prepared by the DPWH and shall be acceptable to the Bank prior to the engagement.

The tasks of the EMA are the following:

- a. Verify results of internal monitoring;
- b. Coordinate with the NCIP regarding the monitoring and evaluation of the situation of affected IP communities, whether inside (covered by the MOA) or outside ancestral domains (covered by the IPAP);
- c. Verify and assess the results of the information campaign for PAFs rights and entitlements, including the consultation with affected IPs living outside ancestral domain;
- d. Verify that the compensation process has been carried out with the procedures communicated with the PAFs and affected IPs during the consultations;
- e. Assess whether resettlement, MOA, and IPAP objectives have been met; specifically, whether livelihoods and living standards have been restored or enhanced;
- f. Assess efficiency, effectiveness, impact and sustainability of resettlement, IPAP, and MOA implementation, drawing lessons as a guide to future resettlement and indigenous peoples' policy making and planning;
- g. Ascertain whether the resettlement, MOA, and IPAP entitlements were appropriate to meet the objectives, and whether the objectives were suited to PAF and IP conditions;
- h. Suggest modification in the implementation procedures of the RAPs, MOA, and IPAP, if necessary, to achieve the principles and objectives of the Resettlement Policy and IP Framework.
- i. Review on how compensation rates were evaluated; and
- j. Review of the handling of compliance and grievances cases.

## **D. STAGES and FREQUENCY OF MONITORING**

The stages and monitoring frequency of the contract packages by the IMA and EMA as follows:

### **1. Compliance Monitoring.**

This is the first activity that both IMA and EMA shall undertake to determine whether or not the RAPs, IPAPs, and MOA were carried out as planned and according to this policy.

The EMA will submit an Inception Report and Compliance Monitoring Report one month after receipt of Notice to Proceed for the engagement. The engagement of the EMA shall be scheduled to meet the Policy's requirement of concluding RAP, MOA, and IPAP implementation activities at least one (1) month prior to the start of civil works.

**2. Semi-Annual Monitoring** - The EMA will be required to conduct a monthly monitoring of RAP, MOA, and IPAP implementation activities.

### **3. Final Evaluation**

Final evaluation of the implementation of the LARRIPP will be conducted three months after the completion of payments of compensation to PAPs and three months after the completion of the IPAP. For the MOA, the EMA will coordinate with the NCIP and the affected IP community on the dates of the final evaluation.

### **4. Post- Evaluation**

This activity will be undertaken a year after the completion of the project, to determine whether the social and economic conditions of the PAFs and the affected IPs after the implementation of the project have improved.

## **E. SCHEDULE OF IMPLEMENTATION OF RAPS AND MONITORING**

The PMO in coordination with the ESSO shall establish a schedule for the implementation of RAPs and IPAPs and the required monitoring taking into account the project's implementing schedule. It is expected that one month prior to the start of the civil works, all RAP activities have been determined by the IMA and EMA as having been concluded. For IPAP and MOA, all activities that relates to land acquisition, resettlement, including compensation, should also have

been completed one month before the start of civil works. For activities other than those that execute Chapter III of this LARRIPP but are nonetheless covered by the MOA and the IPAPs, their completion is not a pre-requisite for the start of the civil works component.

## F. REPORTING

The EMA is accountable to the PMO and reports to the ESSO. The PMO submits copy of EMA's and IMA's Reports to the Bank.

## G. MONITORING INDICATORS

### 1. FOR THE IMA

Monitoring Indicators	Basis for Indicators
1. Budget and timeframe	<ul style="list-style-type: none"> <li>☐ Have all land acquisition and resettlement staff been appointed and mobilized for the field and office work on schedule?</li> <li>☐ Have capacity building and training activities been completed on schedule?</li> <li>☐ Are resettlement implementation activities being achieved against the agreed implementation plan?</li> <li>☐ Are IPAP and MOA activities being implemented and targets achieved against the agreed time frame?</li> <li>☐ Are funds for resettlement being allocated to resettlement agencies on time?</li> <li>☐ Are funds for the implementation of the IPAPs and MOA allocated to the proper agencies on time?</li> <li>☐ Have resettlement offices received the scheduled funds?</li> <li>☐ Have agencies responsible for the implementation of the IPAPs and MOA received the scheduled funds?</li> <li>☐ Have funds been disbursed according to the RAP?</li> <li>☐ Have funds been disbursed according to the IPAPs and MOA?</li> <li>☐ Has the social preparation phase taken place as scheduled?</li> <li>☐ Has all land been acquired and occupied in time for project implementation?</li> <li>☐ Have all clearance been obtained from the NCIP?</li> <li>☐ Have the consent of the IP community in the affected ancestral domain been obtained?</li> </ul>
2. Delivery of Compensation and Entitlements	<ul style="list-style-type: none"> <li>☐ Have all AFs received entitlements according to numbers and categories of loss set out in the entitlement matrix?</li> <li>☐ Have AFs received payments for <u>affected structures and lands</u> on time?</li> <li>☐ Have AFs losing from temporary land borrow been compensated?</li> <li>☐ Have all received the agreed transport costs, relocation costs, income substitution support and any resettlement allowances, according to schedule?</li> <li>☐ Have all replacement land plots or contracts been provided? Was the land developed as specified? Are measures in train to provide land titles to PAFs?</li> <li>☐ <u>How many PAFs opted to donate their land to the government?</u></li> <li>☐ <u>How many PAFs did not receive payment because their title is covered by the provisions of Sec. 112 of CA 141?</u></li> </ul>

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	<ul style="list-style-type: none"> <li>☐ How many PAFs opted to donate their lands to the government?</li> <li>☐ How many landholdings were subjected to quit claim? Easement?</li> <li>☐ How many PAFs accepted the first offer at zonal valuation?</li> <li>☐ How many PAFs rejected the first offer and accepted the second offer?</li> <li>☐ How many PAFs resorted to expropriation?</li> <li>☐ How many PAF households have received land titles?</li> <li>☐ How many PAFs have received housing as per relocation options in the RPAP?</li> <li>☐ Does house quality meet the standards agreed?</li> <li>☐ Have relocation sites been selected and developed as per agreed standards?</li> <li>☐ Are the PAFs occupying the new houses?</li> <li>☐ Are assistance measures being implemented as planned for host communities?</li> <li>☐ Is restoration proceeding for social infrastructure and services?</li> <li>☐ Are the PAFs able to access schools, health services, cultural sites and activities at the level of accessibility prior to resettlement?</li> <li>☐ Are income and livelihood restoration activities being implemented as set out in income restoration Plan? For example utilizing replacement land, commencement of production, numbers of PAFs trained and provided with jobs, micro-credit disbursed, number of income generating activities assisted?</li> <li>☐ Have affected businesses received entitlements including transfer and payments for net losses resulting from lost business and stoppage of production?</li> </ul>
<p>3. Public Participation and Consultation</p>	<ul style="list-style-type: none"> <li>☐ Have consultations taken place as scheduled including meetings, groups, and community activities? Have appropriate resettlement leaflets been prepared and distributed?</li> <li>☐ How many PAFs know their entitlements? How many know if they have been received?</li> <li>☐ Have any PAFs used the grievance redress procedures? What were the outcomes?</li> <li>☐ Have conflicts been resolved?</li> <li>☐ Was the social preparation phase implemented?</li> <li>☐ Were separate consultations done for Indigenous Peoples?</li> <li>☐ Was the conduct of these consultations inter-generationally exclusive, gender fair, free from external coercion and manipulation, done in a manner appropriate to the language and customs of the affected IP community and with proper disclosure?</li> <li>☐ How was the participation of IP women and children? Were they adequately represented?</li> </ul>
<p>4. Benefit Monitoring</p>	<ul style="list-style-type: none"> <li>☐ What changes have occurred in patterns of occupation, production and resources use compared to the pre-project situation?</li> <li>☐ What changes have occurred in income and expenditure patterns compared to pre-project situation? What have been the changes in cost of living compared to pre-project situation? Have PAFs' incomes kept pace with these changes?</li> <li>☐ What changes have taken place in key social and cultural parameters relating to living standards?</li> <li>☐ What changes have occurred for vulnerable groups?</li> <li>☐ Has the situation of ICCs/IPs improved, or at least maintained, as a result of the project?</li> <li>☐ Are IP women reaping the same benefits as IP men?</li> <li>☐ Are negative impacts proportionally shared by IP men and women?</li> </ul>

**2. FOR THE EMA**

Monitoring	Basis for Indicators
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Land Acquisition, Resettlement and Rehabilitation Policy, 3<sup>rd</sup> edition (2006)

Indicators	
1. Basic information on PAP households	<ul style="list-style-type: none"> <li>☐ Location</li> <li>☐ Composition and structures, ages, education and skill levels</li> <li>☐ Gender of household head</li> <li>☐ Ethnic group</li> <li>☐ Access to health, education, utilities and other social services</li> <li>☐ Housing type</li> <li>☐ Land use and other resource ownership and patterns</li> <li>☐ Occupation and employment patterns</li> <li>☐ Income sources and levels</li> <li>☐ Agricultural production data (for rural households)</li> <li>☐ Participation in neighborhood or community groups</li> <li>☐ Access to cultural sites and events</li> <li>☐ Value of all assets forming entitlements and resettlement entitlements</li> </ul>
2. Restoration of living standards	<ul style="list-style-type: none"> <li>☐ Were house compensation payments made free of depreciation, fees or transfer costs to the PPAP?</li> <li>☐ Have PAFs adopted the housing options developed?</li> <li>☐ Have perceptions of “community” been restored</li> <li>☐ Have PAFs achieved replacement of key social cultural elements?</li> <li>☐ Have affected IP communities at least maintained their living standards prior to the project?</li> <li>☐ Have proper measures been undertaken to protect their customs, indigenous structures?</li> </ul>
3. Restoration of Livelihoods	<ul style="list-style-type: none"> <li>☐ Were compensation payments free of deduction for depreciation, fees or transfer costs to the PPAP?</li> <li>☐ Were compensation payments sufficient to replace lost assets?</li> <li>☐ Was sufficient replacement land available of suitable standard?</li> <li>☐ Did transfer and relocation payments cover these costs?</li> <li>☐ Did income substitution allow for re-establishment of enterprises and production?</li> <li>☐ Have enterprises affected received sufficient assistance to re-establish themselves?</li> <li>☐ Have vulnerable groups been provided income-earning opportunities? Are these effective and sustainable?</li> <li>☐ Do jobs provided restore pre-project income levels and living standards?</li> </ul>
4. Levels of PAP Satisfaction	<ul style="list-style-type: none"> <li>☐ How much do AFs know about resettlement procedures and entitlements? Do PAFs know their entitlements?</li> <li>☐ Do they know if these have been met?</li> <li>☐ How do PAFs assess the extent to which their own living standards and livelihood been restored?</li> <li>☐ How much do PAFs know about grievance procedures and conflict resolution procedures? How satisfied are those who have used said mechanism?</li> <li>☐ How much do the affected IP communities know about the IP framework in the LARRIPP?</li> <li>☐ Do they know their rights under the IP framework?</li> <li>☐ How much do they know about the grievance procedures available to them?</li> <li>☐ Do they know how to access to it?</li> <li>☐ How do they assess the implementation of the MOA and the IPAPs?</li> </ul>
5. Effectiveness of Resettlement Planning	<ul style="list-style-type: none"> <li>☐ Were the PAFs and their assets correctly enumerated?</li> <li>☐ Was any land speculators assisted?</li> <li>☐ Was the time frame and budget sufficient to meet objectives?</li> <li>☐ Were entitlements too generous?</li> </ul>

	<ul style="list-style-type: none"> <li>☐ Were vulnerable groups identified and assisted?</li> <li>☐ How did resettlement implementers deal with unforeseen problems?</li> </ul>
6. Other Impacts	<ul style="list-style-type: none"> <li>☐ Were there unintended environmental impacts?</li> <li>☐ Were there unintended impacts on employment or incomes?</li> </ul>
7. IP Indicators	<ul style="list-style-type: none"> <li>☐ Are special measures to protect IP culture, traditional resource rights, and resources in place?</li> <li>☐ How are these being implemented?</li> <li>☐ Are complaints and grievances of affected IPs/ICCs being documented?</li> <li>☐ Are these being addressed?</li> <li>☐ Did the project proponent respect customary law in the conduct of public consultation, in IPAP and MOA implementation, in dispute resolution?</li> <li>☐ Did the project proponent properly document the conduct of public consultations, the formulation and implementation of the IPAP and the MOA?</li> <li>☐ Were the public consultations inter-generationally inclusive?</li> <li>☐ Were women and children proportionally represented?</li> <li>☐ Were representatives of the NCIP present in the public consultations? During the monitoring of IPAP and/or MOA implementation?</li> </ul>

## H. INSTITUTIONAL ARRANGEMENT FOR THE EXTERNAL MONITORING FUNCTIONS

The External Monitoring Agent (EMA) shall be an independent agent or firm responsible for the monitoring of the implementation of the RAPs under this project.

The Project Management Office (PMO) is responsible for the engagement of the EMA; ensures that funds are available for the monitoring activities both for the EMA and IMA; and submits EMA's and IMA's Monitoring Reports to the ADB and WB.

The Environmental and Social Services Office (ESSO) act as the Internal Monitoring Agent (IMA) responsible for the monitoring and evaluation of implementation of the RAPs and IPAPs (for those affected IPs living outside ancestral domains.) The ESSO shall provide the EMA copies of RAPs, IPAPs, MOA and other related documents of the monitoring activities.

## I. RESULTS OF THE PUBLIC CONSULTATIONS CONDUCTED.

The EMA shall include during the monitoring, the results of the disclosure of the LARRIPP, RAP, MOA, and IPAP to the PAPs during the public consultation conducted for each project contract packages.