

# Indigenous Peoples Planning Framework

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Republic of the Philippines: Water District  
Development Sector Project

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## CURRENCY EQUIVALENTS

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Currency unit	–	Philippine peso (Php)
Php1.00	=	\$0.0224074572
\$1.00	=	Php 44.63

## ABBREVIATIONS

ADB	–	Asian Development Bank
AH	–	affected household
AP	–	affected person
EA	–	executing agency
EMA	–	external monitoring agency
GAD	–	gender and development
GAP	–	gender action plan
HH	–	Household
IA	–	Implementing Agency
IOL	–	Inventory of losses
IP	–	Indigenous Peoples
IPP	–	Indigenous Peoples Plan
LGU	–	Local Government Unit
LWUA	–	Local Water and Utilities Administration
m <sup>3</sup>	–	cubic meter
MSFWD	–	Metro San Fernando (La Union) Water District
NEDA	–	National Economic and Development Authority
PIB	–	public information booklet
PIU	–	project implementation unit
PMU	–	project management unit
PPTA	–	project preparatory technical assistance
RF	–	Resettlement Framework
RP	–	Resettlement Plan
SES	–	Socio economic Survey
SPS	–	ADB's Safeguard Policy Statement (2009)
WD	–	Water District
WDGRC	–	Water District Grievance Redress Committee

## GLOSSARY

- Ancestral Domain Sustainable Development & Protection Plan (ADSDPP)** – Consolidation of plans of Indigenous Peoples (IPs)/Indigenous Cultural Communities (ICCs) within an ancestral domain for the sustainable management and development of their land and natural resources as well as the development of human and cultural resources based on their indigenous knowledge systems and practices.
- Affected People (APs)** – includes any person, entity or organization affected by the Project, who, on account of the involuntary acquisition of assets in support of the implementation of the Project, would have their (i) standard of living adversely affected; (ii) right, title or interest in all or any part of a house and buildings, pavements and other physical improvements, land (including residential, commercial, agricultural, plantations, forest and grazing land), water resources, annual or perennial crops and trees, or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily; and (iii) business, profession, work or source of income and livelihood lost, partly or totally, permanently or temporarily.
- Ancestral Domain** – Areas generally belonging to IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by the IPs, by 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 will include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable 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 IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of IPs who are still nomadic and/or shifting cultivators.
- Ancestral Land** – Land occupied, possessed and utilized by individuals, families and clans who are members of the 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.
- Certificate of Ancestral Domain Title (CADT)** – A title formally recognizing the rights of possession and ownership of IPs over their ancestral domains identified and delineated in accordance with the Indigenous Peoples Rights Act (IPRA).
- Certificate of Non-Overlap** – A certificate issued by the National Commission on Indigenous Peoples (NCIP) attesting to the fact that the area where a particular

plan, program, project or activity will be done, does not overlap with or affect any ancestral domain.

- Certification Precondition (CP)** – A certificate issued by the NCIP, signed by the Chairperson, attesting to the grant of free and prior informed consent (FPIC) by the concerned IPs/ICCs after appropriate compliance with the requirements provided in this guidelines.
- Free and Prior Informed Consent** – A consensus of all members of an IP community 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 to the community.
- Rehabilitation** – means assistance provided to severely affected APs due to the loss of 10% or more of productive assets (i.e., farmland, crops and trees, vegetable garden, etc.), incomes, and employment, or when sources of living such as shops and places of employment have to be reconstructed completely and/or relocated. The livelihood support may be given in cash or in kind or a combination of the two in order to improve or at least achieve full restoration of living standards to pre-project levels.
- Vulnerable Groups** – are distinct groups of people who might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement and specifically include: (i) households headed by women, the elderly or disabled, (ii) households living below the poverty threshold, (iii) the landless, and (iv) indigenous people and ethnic minorities.

#### **NOTE**

In this report, "\$" refers to US dollars.

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## I. INTRODUCTION

1. The Water District Development Sector Project (WDDSP) aims to improve health conditions in the proposed service expansion areas through the improvement in the distribution of urban water and sanitation services. The project will be implemented as a sector loan. The Executing Agency (EA) is the Local Water and Utilities Administration (LWUA) while the implementing agencies (IAs) are the local water districts (WD) in the subproject areas.
2. The Asian Development Bank's (ADB) Poverty Reduction Strategy recognizes that indigenous peoples (IPs) may suffer from social exclusion, and lack basic services and social capital, and therefore remain in poverty. As such, they require special support.
3. IPs are accorded protection by the project based on ADB's Policy on Indigenous Peoples as contained in its *Safeguard Policy Statement (2009)* as well as on the country's *Indigenous People's Rights Act of 1997*.
4. The proposed sites for water supply expansion in the franchise area of Metro San Fernando (La Union) Water District and for water supply expansion and for the septage treatment in the franchise area of City of Koronadal Water District (CKWD) being considered for the Project do not have distinct IP groups which may be affected in any way by the proposed infrastructure interventions. Should there be any IPs in other subproject areas to be identified during implementation of the sector loan, an Indigenous Peoples Plan (IPP) shall be prepared in accordance with the Indigenous Peoples Planning Framework (IPPF).

## II. OBJECTIVES AND POLICY FRAMEWORK

5. The principles and objectives governing the preparation and implementation of IPPs shall be consistent with applicable Philippine laws and ADB safeguard policies on IPs. They aim to uphold the dignity, rights and well-being of IP communities and their right to participate in decision-making on development projects, programs and plans that affect their rights, lives, and well-being.

### A. APPLICABLE PHILIPPINE LAWS ON INDIGENOUS PEOPLES

6. To date, the most comprehensive law recognizing and protecting the rights of IPs in the Philippines is Republic Act 8371 also known as the Indigenous Peoples Rights Act (IPRA) enacted in 1997. Pertinent provisions of the law include:

- a. **Definition of indigenous peoples.** Under the IPRA, the term Indigenous Peoples/Indigenous Cultural Communities (IPs/ICCs) "refers to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally-bounded and defined territory, and who have, under claims of ownership since time immemorial occupied, possessed customs, traditions and other distinctive cultural traits, and who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures became historically differentiated from the majority of Filipinos. IPs/ICCs shall likewise include peoples who are regarded as indigenous on account of 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 and 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.” (Sec. 3.h)

**b. Establishment of the National Commission on Indigenous Peoples (NCIP) and defining its powers and functions.** The NCIP “shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the IPs/ICCs and the recognition of their ancestral domains and their rights thereto” (Sec.38). As such, it is mandated to protect and promote the interest and well-being of the IPs/ICCs with due regard to their beliefs, customs, traditions and institutions” (Sec. 39). Among its powers and functions that are pertinent to the WDDSP are: (i) to issue certificates of ancestral land/domain title (sec 44.e); (ii) to enter into contracts, agreements or arrangement with government or private agencies as may be necessary to attain the objectives of the IPRA (Sec. 44.f) (iii) to coordinate development programs and projects for the advancement of IPs/ICCs and to oversee their proper implementation (Sec 44.h); (iv) to issue appropriate certifications as a pre-condition to the grant of permit, lease, grant or any similar authority for the disposition, utilization, management or appropriation by any private individual, corporate entity or government agency on any part or portion of the ancestral domain, taking into consideration the consensus approval of the IPs/ICCs (Sec 44.m).

**c. Right to decision-making and participation.** The IPRA explicitly upholds the right of IPs/ICCs to “determine and decide priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them” (Sec. 17). They also have 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 as well as to maintain and develop their own indigenous political structures (Sec. 16).

**d. Free and prior informed consent** is defined under IPRA as “the consensus of all members of the IPs/ICCs, 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 to the community” (Sec. 3.g).

**e. Natural resources within ancestral domains.** “The IPs/ICCs shall have the priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains” (Sec. 57).

7. Other relevant laws include the following:

8. **The Comprehensive Agrarian Reform Law or CARL (RA 6657)**, which requires the government to apply the principles of agrarian reform, or stewardship, whenever applicable, in the disposition or utilization of other natural resources, including lands of the public domain, and their lease or concession, suitable to agriculture, subject to prior rights of indigenous communities to their ancestral lands.

9. **The Local Government Code of 1991 (RA 7160)** provides IPs with the option to establish tribal barangays as similarly recognized by the IPRA.<sup>1</sup>

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<sup>1</sup> Section 18 of the IPRA states that IPs “living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces, or cities where they do not

10. **The National Integrated Protected Areas System (NIPAS) Act of 1992 (RA 7586)** safeguards protected areas (PAs) from further encroachment. It allows the implementation of development projects with compatible uses, or which enhance the protection of these PAs. It includes specific provisions that protect the rights of IP communities to their ancestral domain.<sup>2</sup>

11. **The Philippine Mining Act of 1995 (RA 7942)** requires proponents of mining projects in IP areas to secure an IPs' free and prior informed consent.

12. **The Conservation and Protection of Wildlife Resources and their Habitats Act of 2001(RA 9147)** mandates that the collection of wildlife by IPs may be allowed for traditional use and not primarily for trade.<sup>3</sup>

## **B. ADB POLICY PRINCIPLES**

13. The objective of ADB's Safeguard Policy Statement (2009) and its Policy on Indigenous Peoples is to design and implement projects in a way that fosters full respect for IPs' identity, dignity, human rights, livelihood system, and cultural uniqueness as defined by the IPs themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of project, and (iii) can participate actively in projects that affect them.

14. ADB's Policy on Indigenous Peoples defines "indigenous peoples" in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social or political institutions that are separate from those of the dominant society and culture, and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

15. To achieve the above objective, the following principles will be observed:

- a) Screen early on to determine (i) whether IPs are present in, or have collective attachment to, the subproject sites; and (ii) whether subproject impacts on IPs are likely.
- b) Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential subproject impacts, both positive and adverse, on IPs. Give full consideration to options the affected IPs

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constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays"

<sup>2</sup> Related to this is the Implementing Rules and Regulations (IRR) of Department AO (DAO) 92-25 that states "The zoning of a protected area and its buffer zones and management prescriptions within those zones will not restrict the rights of indigenous communities to pursue traditional and sustainable means of livelihood within their ancestral domain unless they so concur."

<sup>3</sup> "Traditional use" means utilization of wildlife by indigenous people in accordance with written or unwritten rules, usage, customs, and practices traditionally observed, accepted and recognized by them.



prefer in relation to the provision of subproject benefits and the design of mitigation measures. Identify social and economic benefits for affected IPs that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on IPs.

- c) Undertake meaningful consultations with affected IP communities and concerned IP organizations to solicit their participation in: (i) designing, implementing and monitoring measures to avoid adverse impacts or when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) tailoring subproject benefits for affected IP communities in a culturally appropriate manner. To enhance IPs' active participation, subprojects affecting them will provide for culturally appropriate and gender inclusive capacity development and establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the IPs' concerns.
- d) Ascertain the consent of affected IP communities to the following project activities: (i) commercial development of the cultural resources and knowledge of IPs; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods of the cultural, ceremonial, or spiritual uses that define the identity and community of IPs. For the purposes of policy application, the consent of affected IP communities refers to a collective expression by the affected IP communities, through individuals and/or their recognized representatives, of broad community support for such subproject activities. Broad community support may exist even if some individuals or groups object to the subproject activities.
- e) Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected IP communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that the benefits are equitably shared.
- f) Prepare an IPP that is based on the social impact assessment with the assistance of qualified and experienced experts and that draws on indigenous knowledge and participation by the affected IP communities. The IPP should include a framework for continued consultation with the affected IP communities during subproject implementation; specifies measures to ensure that IPs receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse subproject impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
- g) Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before subproject appraisal, in an accessible place and in a form and language(s) understandable to affected IP communities and other stakeholders. The final IPP and its updates should also be disclosed to the affected IP communities and other stakeholders.
- h) Prepare an action plan for legal recognition of customary rights to lands or territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that IPs have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.

- i) Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

### **C. GAP ANALYSIS**

16. ADB's policy principles on IPs as outlined above are mostly consistent with the policies and principles found in the IPRA. The WDDSP will adopt ADB's policies as these have more direct and application to the specific circumstances of the Project. A possible gap pertains to the definition of free and prior informed consent (FPIC). Whereas the IPRA defines FPIC as a consensus of all members of the IP community, to be determined in accordance with customary laws and practices, ADB's policy defines consent as a collective expression of broad community support through individuals or recognized representatives. Reconciling the two policies, the WDDSP policy will follow legally mandated procedures for obtaining FPIC as required by IPRA. Consent may be expressed through individuals and/or recognized representatives and will be considered as consent if consensus was obtained through a community process conducted in accordance with customary laws or practices as certified by NCIP and fully documented in the subproject IPP.

### **D. CRITERIA FOR SELECTING AND SCREENING SUBPROJECTS AND COMPONENTS**

17. In selecting and screening project components and subprojects, likely impacts, both positive and negative, on IP groups will be considered. Subprojects and project components that are likely to result in negative impacts for IPs should be avoided. Should any issues be identified and not resolved, then the subproject should be rejected as infeasible unless there are extenuating circumstances that require further action.

18. If certain project components or subprojects with negative impacts are unavoidable in order to bring about greater benefits to the local population, including IP communities or groups, an IPP will be prepared containing the measures to be undertaken to minimize, mitigate and compensate for the negative impacts and ensure that the IP population is not disadvantaged in any way because of the Project, ensure the meaningful and culturally-appropriate participation of the IP groups in the planning and implementation of the subproject, that they are equal beneficiaries of the subproject, and that project benefits are culturally-appropriate.

## **III. IDENTIFICATION OF AFFECTED INDIGENOUS PEOPLES**

19. The presence of some of the following characteristics in varying degrees is used to identify tribal or indigenous communities in the Philippines:

- (i) A close attachment to their ancestral territories and natural resources.
- (ii) Self-identification and identification by others as members of a distinct cultural group.
- (iii) An indigenous language, often different from the national language.
- (iv) The presence of distinct social, cultural and political institutions.
- (v) Primarily subsistence oriented production.

20. The total IP population in the Philippines is approximately 12-15 million. There are about 171 ethnolinguistic groups.<sup>4</sup> The exact numbers of IP communities which are likely to be affected will be determined for each subproject. Subprojects may potentially affect IP households in ancestral domains, upland barangays and water source communities. There may also be concentrated IP populations or migrant ethnic groups in rural and urban settings. Potential impacts may include restrictions in the use of land and water resources traditionally used by the IP communities or within their ancestral domain, and their exclusion from project benefits if the water source communities are not part of the targeted service areas of the project. Potential positive effects may include the IP communities' increased access to water and sanitation services and provision of livelihood activities that are compatible with watershed enhancement.

21. The initial identification of IPs in a subproject area will be based on population data submitted by the water district (WD) in its initial subproject application. The initial social impact assessment should establish the presence of IPs, if any, and provide an overview of the IP population in terms of territory occupied within the subproject site, to ensure IP participation at the earliest instance.

22. There are no distinct IP groups which may be affected in any way by the proposed infrastructure interventions of the subprojects of the pilot WDs. In the City of Koronadal, there are IPs living in potential water source areas. Two of the most well-known IPs in the City of Koronadal area are the B'laan and the T'boli. They live in the regions between northwestern Koronadal to Lake Sebu (B'laan) and between Lake Sebu to Lake Buluan (T'boli). The T'bolis also inhabit the areas between Lake Buluan and the highlands of Davao City. However, the proposed subproject of CKWD will not be tapping water sources in the areas where there are IP groups. Watershed management is not a component of this subproject.

#### **IV. SOCIAL IMPACT ASSESSMENT AND INDIGENOUS PEOPLES PLAN FOR SUBPROJECTS AND/OR COMPONENTS**

23. A social impact assessment, including carrying out a socioeconomic survey (SES) shall be carried out by the implementing agency (IA) with the support of the project implementation consultants. Information gathered through the SES will provide baseline information on IP and/or ethnic minority living conditions and any challenges to their effective participation in the Project, which will be used in the development of specific actions in the IPP to address these concerns and maximize benefits to ethnic minority communities. Outputs of the social impact assessment will include the following:

- a. A review of the legal and institutional framework applicable to IPs in the subproject context.
- b. Baseline information on the demographic, social, cultural and political characteristics of the IP communities, the land and territories they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- c. Key project stakeholders and a culturally appropriate and gender-sensitive process for meaningful consultation with IPs at each stage of project preparation and implementation.

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<sup>4</sup> Indigenous Peoples of the Philippines, [http://www.adb.org/Documents/Reports/Indigenous\\_Peoples/PHI/chapter\\_3.pdf](http://www.adb.org/Documents/Reports/Indigenous_Peoples/PHI/chapter_3.pdf)

- d. An assessment, based on meaningful consultation with the affected IP communities, of the potential adverse and positive effects of the project and its components, including a gender sensitive analysis of the specific vulnerabilities of, and risks to, the affected IPs.
- e. A gender-sensitive assessment of the IPs' perceptions about the project and its impact on their social, economic and cultural status.
- f. Measures necessary to avoid, minimize, mitigate and/or compensate for adverse effects, as determined based on meaningful consultation with the affected IP communities.

24. Data sets include population size in relation to total population of franchise area, a profile of the economic activities of the group/s, differences in socioeconomic status between IPs and majority populations, identification of the existing problems in performing economic activities or access to basic services such as water and sanitation, and local government capacity in addressing IP issues, particularly in connection with development projects.

25. Guidelines to be observed in conducting the social impact assessment are as follows:

- IPs shall be represented<sup>5</sup> in the socio-economic survey that will be conducted. Data will be gathered to identify vulnerable groups, indigenous knowledge systems and practices, and structures that can help improve management of water user groups and natural resources.
- Design activities will include a participatory walk-through with members of the IP community, local government officials and project technical staff. Specific issues that may affect IP group/affected persons will be formally noted at this point.
- The WD will identify the leadership of the IPs, and community consultation(s) will be convened to identify specific concerns related to project design and implementation for both water and sanitation.
- Guidelines for affected IP households/properties shall follow those established under the resettlement framework. Apart from compensation for affected assets, additional measures will be taken to improve their living conditions and not just return them to pre-disturbance status.
- The WD will assess whether IPs have any water access issues and should note whether any of these are due to ethnic factors.
- Indigenous knowledge shall be harnessed with the full participation and consent of the IP communities, including determining water sources and natural environmental flows and determining local products and economic opportunities for livelihood development.

26. A proposed IPP outline is found in Annex C. The IPPs will be submitted to and agreed upon by the Government of the Philippines (through the EA) and ADB.

## **V. CONSULTATION AND PARTICIPATION**

27. WDDSP will adopt a culturally appropriate and participatory approach for IP communities, wherever they are identified to be within a subproject's target areas. IP and/or

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<sup>5</sup> IP coverage in the SES will correspond to the relative proportion of IPs to the general population in the subproject area.

ethnic minority communities, where present in the project areas, will be meaningfully consulted<sup>6</sup> at each stage of subproject preparation and implementation.

28. The planning process shall include a separate community consultation process for IPs within the target area so that IP interests are fully reflected in the WD's plans. The subproject details and its outputs including potential project impacts and mitigation measures, will be disclosed at IP community level meetings and discussed with community groups through participatory focus groups. Groups to be involved in such consultations include IP leaders, IP organizations, IP women, representatives of traditional councils, and barangay and LGU representatives. Consultations will also be held with the National Commission on Indigenous Peoples (NCIP).

29. Consistent with the principle of social equity and environmental justice, the WD will make provisions to give IPs improved access to water and sanitation. The subproject design will be carried out with the support of IPs and/or those affected by project activities. The WD will ensure participation of IPs in all subproject activities and their equal participation in training programs (e.g. sanitation IEC) and evaluations. IP women's participation shall be encouraged through training and participation. Due to watershed degradation and emerging water issues in urban areas, it is critical to ensure sustainable water resources. The IPs' potential role in watershed management shall be recognized, since often they reside in the vicinity of watersheds and major water sources. The WDs can advocate for and support integrated resource management of such areas. Since affordability may be a problem, the WD may actively work with the private sector, NGOs and local government units to leverage resources to expand the reach of water and sanitation services in IP territory.

30. The approach is to improve development outcomes for indigenous communities through their informed participation and decision making. Detailed social analysis and field assessments can be guided by the ADB's Handbook for Incorporation of Social Dimensions in Project Design and the ADB Operations Manual on Indigenous Peoples.

31. The prior and free informed consent of affected IP communities as defined under the IPRA shall be secured in all cases involving the following project activities: (i) commercial development of the cultural resources and knowledge of IPs; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods of the cultural, ceremonial, or spiritual uses that define the identity and community of IPs. For the purposes of policy application, the consent of affected IP communities refers to a collective expression by the affected IP communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.

32. Such consent will be documented through a written attestation by the duly recognized representatives of the IP community and the documentation of the minutes of the consultations

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<sup>6</sup> As per the ADB SPS (2009), meaningful consultation is defined as a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

undertaken in which such consent was expressed, including a list of the names of the attendees along with their signatures or other forms of identification.

## **VI. DISCLOSURE**

33. The affected IP community shall be informed of all project related information, including the social impact assessment, and shall be provided translated copies of the safeguard documents including the Resettlement Plan, the Gender Action Plan, the Indigenous Peoples Plan and the Environmental Impact Assessment Report. The responsibility center in the PIU/WD shall be responsible for disseminating the required information to the IP community.

34. The IPP shall describe the information disclosure, consultation and participation process with the affected IP communities during project preparation as well as the consultation and participation mechanisms to be used during implementation to ensure IP participation. The IPP will also summarize the IP communities' comments on the social impact assessment, identifies the concerns raised during consultations and how these have been addressed in project design.

35. In the case of project activities requiring broad community support and FPIC, the IPP shall document the process and outcome of the consultations for the project activities and safeguard measures addressing the impacts of these activities.

36. The IPP will confirm disclosure of the IPP to the affected IP communities. The IPPs shall be made available to the public through posting on the ADB website. The IPPF will be disclosed on websites of the EA and ADB.

## **VII. GRIEVANCE REDRESS MECHANISM**

37. The Project's grievance redress mechanism (GRM) will be used as the mechanism for IPs to air project-related complaints or grievances. The IA with the support of project implementation consultants will inform indigenous groups about this system at the start of subproject implementation.

38. The Project's GRM, however, should not impede access to the country's jurisdiction or administrative remedies. To the extent possible, the resolution of grievances will be through traditional IP grievance resolution processes and systems, following the principle of precedence of customary laws in the IPRA. All costs involved in resolving the complaints (meetings, consultations, communication and reporting/information dissemination) will be borne by the EA.

39. The Water District Grievance Redress Committee (WDGRC, which will also handle IP issues) formed in each WD will receive grievance cases from affected IP community members. All the affected IP households will be informed of the GRM by means of community assemblies and/or the IP community leaders. The assistance of IP community leaders will be obtained to ensure that the grievance redress mechanism is accessible to the members of the community and is gender-inclusive. The WDGRC will be composed of the WD-PIU head as chair, concerned NGOs and barangay officials and women heads of households as members.

40. Cases of grievances will be documented in a culturally appropriate manner so as to establish a record of the nature of the grievance, the parties involved, the details of the discussion or deliberation on the case, and the agreement or decision reached which shall be signed or attested to in a manner customarily practiced by the parties concerned.

41. The decision of the court is for finality of case resolution. Below are the steps to be followed in filing grievances and the procedures for redress.

**Step 1:** The complainant, assisted if needed by a non-government organization (NGO) or an IP community leader, provides the background and files the grievance/complaint verbally or in writing to WDGRC. If unwritten, the WDGRC Secretary will put it in writing and will reproduce it in four (4) copies for distribution; the original copy to WDGRC, two are for the WD-PIU, and one for file of the complainant. The complainant, WDGRC, as well as representatives of PIU will meet to discuss the complaint and resolve it within 15 days.

**Step 2:** If no solution or understanding is reached within 15 days, the complainant files the grievance/complaint to the WDGRC central desk at the PMO for it to be resolved within 15 days after filing. The written complaint shall be reproduced in four (4) copies; the original to PMU/RC, two for WD-PIU, and one for the file of the complainant.

**Step 3:** Again, if no solution or understanding is reached within 15 days and if the grievance/complaint qualifies for hearing at the Municipal Trial Court (MTC) or Regional Trial Court (TRC), the household may request for assistance of the *pro bono* lawyer from the Public Attorney's office, through the WDGRC. The *pro bono* lawyer shall assist the household in reproducing the formal complaint in five (5) copies to be distributed as follows; the original to the appropriate court, one each for PMU, PIU, WDGRC and for the file of the complainant.

**Step 4:** The MTC or RTC assesses the merit of the grievance/complaint, schedules the hearing and renders a decision. Appeals can be elevated to the high court. The Supreme Court's decision is final and executory.

## VIII. INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

42. WDDSP seeks to maximize the participation of IPs in the subproject areas, to ensure their equal inclusion in all subproject benefits, activities and training programs and to avoid or mitigate any adverse impacts of subprojects on IPs.

43. All IP activities will be carried out as part of the normal subproject development activities. Ethnic minority issues will be resolved or compensated through the agreed Project mechanisms and as established in the Project's resettlement framework/resettlement plan and in this IPPF.

44. Implementation of IPPs will be in partnership with NGOs and with concerned agencies such as the NCIP, Department of Environment and Natural Resources (DENR) and barangays and city government. Monitoring of the implementation of the IPPs will be the responsibility of the PMU at LWUA.

45. Survey and consultations will be done by the project preparation team. A responsibility center for social preparation, capacity building, social impact assessment, communication and preparation of IPPs, if required, shall be established within the WD. An NGO may be engaged to assist in the social development activities and shall be chosen following a selection process and criteria. (Please check Annex A: Sample Terms of Reference for NGO Participation.)

46. Since certain components require coordination with other agencies, the responsibility center is also designated to strengthen partnerships on such components as sanitation, pro-poor water provision, hygiene education and integrated watershed management plan implementation,

etc. Among others, partners for watershed management include DENR, NCIP, local government and appropriate agencies which may take the lead in plan implementation. Alternatively, the WD can initiate its own water source protection program. LWUA shall see to it that ADB's Policy on Indigenous Peoples is implemented through its monitoring and training support functions.

## **IX. MONITORING AND REPORTING ARRANGEMENTS**

47. The PMU/LWUA, with assistance from the project implementation consultants, will be responsible for supervision and monitoring of IP- and ethnic minority-related issues for the Project, including documentation and reporting. The PMU will report on IPP implementation progress as part of quarterly project progress reports submitted to the EA and ADB. ADB supervision missions will also periodically review IPP progress and whether or not the subproject is successful in delivering culturally appropriate benefits and mitigating adverse impacts on ethnic minorities. The PMU will closely coordinate with the NCIP on monitoring of IP engagement, as per IPRA requirements.<sup>7</sup>.

48. Some indicators relating to process as well as attainment of targets are:

- Social equity can be gauged by size of the population that is served/proportionally represented as targets for access to services and in the water user groups.
- Number of IP households vs. number benefited (for water and sanitation).
- Number of IP workers/staff hired.
- Enhanced role of IPs in community resource management.
- Mechanisms/organizations established.
- Number of livelihood options established/number benefited.
- Linkages established in support of resource management initiatives.
- Output of specific interventions planned—e.g. number of seedlings produced/planted; number of hectares reforested/rehabilitated; survival rate of seedlings planted; number of water user groups established, repayment of microfinance funds.
- Level and quality of participation of IPs—organization of sanitation/water user group, when appropriate; number of participants/women in survey, focus group discussion, key informant interview; number and type of issues resolved.

## **X. BUDGET AND FINANCING**

49. Budget for data-gathering is built into project survey and consultation expenses, including inventory of losses (IOL) for affected persons. IPs shall be targeted as beneficiaries of appropriate and affordable water and sanitation services. This shall be reflected in cost estimates for public faucets, septic tanks and other project features.

50. A special opportunity exists to strengthen forestry stewardship by residents in the vicinity of watersheds. Budgetary support should be established for elements of an IPP such as community organizing, resource management planning and development of livelihood options for buffer zone communities. Budget components will depend on available funding from the

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<sup>7</sup> Section 44 (h) in Chapter III of the IPRA mandates that the NCIP be involved in monitoring of project implementation in relation to indigenous peoples engagement.



WD's own resources, local government counterpart funds, Gender and Development funds and other external resources, and may include:

- Cost of appropriate and affordable water facility as determined by IP users.
- Microfinance allocation for appropriate sanitation facilities.
- Budgetary support for participatory watershed planning—this may be arranged as DENR/local government counterpart.
- Microfinance facility for development of compatible livelihood options such as seedling production, watershed protection, restocking of renewable resources to support rural industry such as bamboo and rattan, etc.
- Watershed management fund (may be managed as a component of WD operations or as contributions for implementation of a local watershed management plan).
- Water user fees, royalties or equivalent (which can be negotiated as contribution for watershed maintenance) – which may be 1% of gross income.
- Participatory monitoring and evaluation.

**Annex A:  
Sample Guide for NGO Engagement**

1. The project shall invite applications for the pre-qualification process from organizations interested to be engaged as support organization for social development work in the Water District Development Sector Project (WDDSP).

2. Non-government organizations (NGOs) can be engaged for gender mainstreaming and community mobilization depending upon their capability to render the required services as shown in the criteria set for social activities both in pre-qualification and competitive bidding.

3. **Prerequisites for Pre-Qualification for NGOs.** A public notice in local newspaper and public billboards shall be published giving reasonable time for NGOs to apply for pre-qualification. The prerequisites to apply for pre-qualification shall be as follows:

- Must be registered as an NGO.
- Must have written constitution indicating objectives of organization.
- Must have its account audited each year and must submit the latest audit report.
- Must have at least two years of experience in implementation of participatory projects or community development in recent years.
- Newly established NGOs lacking two years of track record but staffed with adequate professionals in required disciplines having at least 5 years experience can also apply for corresponding pre-qualification package.
- Must have engaged professionals and other support staff or is in a position to engage staff.
- The organization must be based in the region or have permanent affiliated office in the province or city.
- The previously pre-qualified NGOs willing to apply for the present work are required to submit copies of renewal of registration and certificate of audit of preceding year.
- NGOs with female staff have an advantage.

4. **Competitive Bidding.** Evaluation of technical proposal and financial proposal will form the main basis for selection of organizations for social development work. Selection will be done by the water district (WD) with assistance of LWUA.

5. **Evaluation of Technical Proposals.** After preparing a list of organizations passing through pre-qualification process, WDDSP shall publish public notice for submission of technical and financial proposals from pre-qualified NGOs. Terms of reference for preparing technical proposal will be provided for competing organizations.

6. Evaluation of technical proposals for the social component will be done by scoring the marks on experience, concept and methodology, qualification and experience of proposed personnel, and financial soundness of the organization:

✓ Experience of organization	15
✓ Proposed concept and methodology	25
✓ Qualification and experience of proposed personnel	50
✓ Completeness of required document	10

7. The type of human resources required:

<b>Type of Staff</b>	<b>Desired Qualification</b>	<b>Experience</b>
Field Coordinator	Bachelor degree in any discipline	Two years in rural development
Community Organizer	Bachelor degree in social sciences	Two years in rural development
Community Mobilizer	Twelve years of schooling	Two years in the area

8. **Functions.** NGO may be contracted out to assist WD in community mobilization, microcredit, income generation, gender mainstreaming, organization of water user groups, training, and delivery of health and education services for the entire project site, with functions as follows:

- a. Assist in conduct of socio-economic survey, consultations and disclosure on project.
- b. Facilitate community planning for delivery of appropriate water and sanitation facilities.
- c. Formation and training of user groups for common water and sanitation facilities.
- d. Lending and management of microfinance facility for sanitation with training of organizations for community management.
- e. Conduct information dissemination on hygiene and sanitation.
- f. Assist WD in gender mainstreaming among clientele.
- g. Assess training needs of water user groups and facilitate training and community meetings.
- h. Participate in natural management planning and prepare resource management plan for specific area covered.
- i. Mobilize external resources for water-related income generating projects, for identified natural resource management and livelihood options and to expand reach of project benefits—e.g. to increase number of beneficiaries for public faucets, sanitation through coordination with other agencies.
- j. Facilitate integration of indigenous knowledge systems and practices in project planning and activities.
- k. Establish participatory monitoring and evaluation system.
- l. Training of WD staff and community volunteers on community organizing principles and techniques.

## Annex B

### Sample Budget Formulation and Implementation of IPP

<b>Expense Category</b>	<b>Proposed Budget</b>
Socio-economic survey	PhP 50,000
Social preparation and NGO community organizing	PhP 1,250,000
Cost of appropriate and affordable water facility	PhP 30,000 for 3 public faucets
Funds for microfinance facility for development of compatible livelihood options such as seedling production, watershed protection, planting of renewable resources to support rural industry such as bamboo and rattan, etc.	PhP 1,500,000
Cost for provision of appropriate sanitation facilities	PhP 40,000 for 2 shared sanitation facilities
Support for participatory watershed planning activities – may be arranged as local government counterpart	PhP 10,000
Watershed management fund for area to be managed by the WD	PhP 500,000
Watershed management fund reflected as water user fees, royalties or equivalent (which can be negotiated for use in watershed maintenance)	computed as 1% of gross income
Monitoring and evaluation	PhP 20,000
Total	PhP 2,400,000+

## Annex C

### Outline Of An Indigenous Peoples Plan<sup>8</sup>

This outline is part of the Safeguard Requirements. An Indigenous Peoples Plan (IPP) is required for all subprojects with impacts on Indigenous Peoples (IPs). Its level of detail and comprehensiveness is commensurate with the significance of potential impacts on IPs. The substantive aspects of this outline will guide the preparation of IPPs, although not necessarily in the order shown.

- A. **Executive Summary.** This section concisely describes the critical facts, significant findings, and recommended actions.
- B. **Description of the Subproject.** This section provides a general description of the subproject; discusses project components and activities that may bring impacts on IPs; and identifies the subproject area.
- C. **Social Impact Assessment.** This section:
- Reviews the legal and institutional framework applicable to IPs in the subproject context.
  - Provides baseline information on the demographic, social, cultural, and political characteristics of the affected IP communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
  - Identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with IP at each stage of project preparation and implementation, taking the review and baseline information into account.
  - Assesses, based on meaningful consultation with the affected IP communities, the potential adverse and positive effects of the subproject. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected IP communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
  - Includes a gender-sensitive assessment of the affected IPs' perceptions about the subproject and its impact on their social, economic, and cultural status.
  - Identifies and recommends, based on meaningful consultation with the affected IP communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the IPs receive culturally appropriate benefits under the subproject.
- D. **Information Disclosure, Consultation and Participation.** This section:
- Describes the information disclosure, consultation and participation process with the affected IP communities that was carried out during project preparation;
  - Summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
  - In the case of subproject activities requiring broad community support, documents the process and outcome of consultations with affected IP communities and any agreement resulting from such consultations for the subproject activities and safeguard measures addressing the impacts of such activities;
  - Describes consultation and participation mechanisms to be used during implementation to ensure IPs participation during implementation; and
  - Confirms disclosure of the draft and final IPP to the affected IP communities.
- E. **Beneficial Measures.** This section specifies the measures to ensure that the IPs receive social and economic benefits that are culturally appropriate, and gender responsive.

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<sup>8</sup> Source: ADB. 2009. *Safeguard Policy Statement*. Manila.

**F. Mitigative Measures.** This section specifies the measures to avoid adverse impacts on IPs; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected IP groups.

**G. Capacity Building.** This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address IP issues in the subproject area; and (b) IP organizations in the subproject area to enable them to represent the affected IPs more effectively.

**H. Grievance Redress Mechanism.** This section describes the procedures to redress grievances by affected IP communities. It also explains how the procedures are accessible to IPs and culturally appropriate and gender sensitive.

**I. Monitoring, Reporting and Evaluation.** This section describes the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected IPs in the preparation and validation of monitoring, and evaluation reports.

**J. Institutional Arrangement.** This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and NGOs in carrying out the measures of the IPP.

**K. Budget and Financing.** This section provides an itemized budget for all activities described in the IPP.