


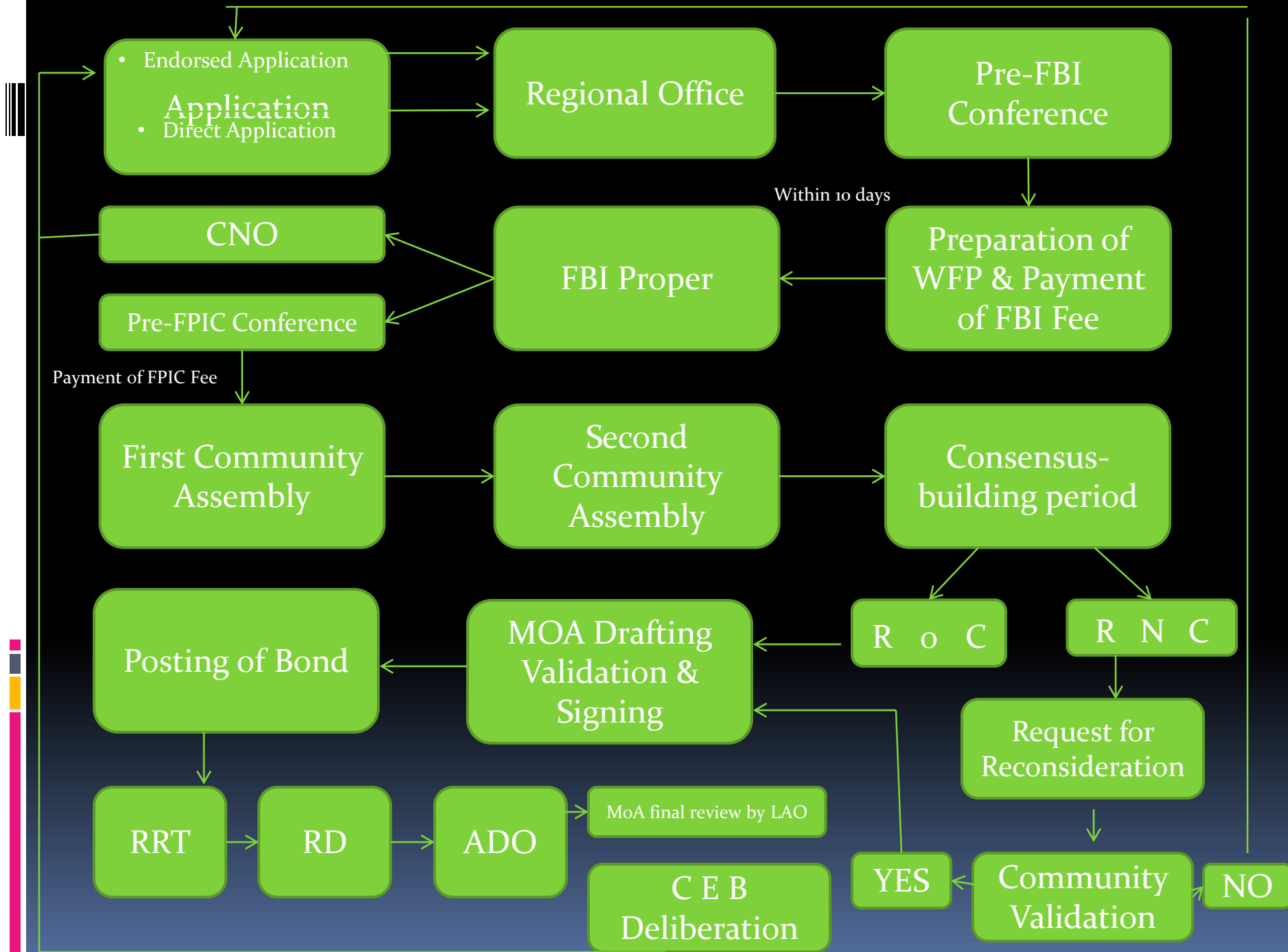
NCIP Administrative Order
No. 3 Series of 2012

**THE REVISED
GUIDELINES ON
FREE AND PRIOR
INFORMED
CONSENT [FPIC]
AND RELATED
PROCESSES OF 2012**



Photo by Art Alladiw

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- Sec. 59. Certification Precondition – all departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, that no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, that no department, government agency or government-owned or controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: Provided, finally, that the ICCs/Ips shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.




FBI Team and its duties and functions

The team is composed of NCIP personnel and two (2) IP elders/leaders to do the following:

1. Consult with the AD representatives;
2. Conduct the pre-FBI Conference, prepare the WFP for the FBI;
3. Determine the affected area, the probable effects of the activity, and the number of affected ICCs/IPs;
4. Identify the elders/leaders and determine presence of disputes/conflict with adjacent ancestral domain/s;
5. Submit recommendations to the Regional Director and other functions as may be directed.



Pre-FBI Conference

1. Orientation on the requirements of the FBI process;
 2. The identity and other basic information about the applicant;
 3. Detailed project profile;
 4. Work and Financial Plan; and
 5. Other important matters that may be agreed upon
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FPIC Team its duties and functions

If the recommendation is that there is an overlap over ancestral domain, then an FPIC team will be organized composed of NCIP personnel and two (2) IP elders/leaders to do the following:

1. Convene and facilitate First general assembly, to validate the following: (1) FBI Report; (2) Identity of Elders and Leaders; (3) Decision-Making Process; (4) Census of IPs; (5) Area affected; (6) Existence of boundary conflict and mechanisms to resolve such;
2. Invite the appropriate independent experts, if available, to give their opinions on any aspect of the project;
3. Prepare/draft the Resolution of Consent and the MOA, or Resolution of Non-Consent, as the case may be;
4. Make an accounting, of all monies and properties received;
5. Prepare and submit report with recommendation.




Pre-FPIC Conference

1. The FBI Report;
 2. Finalization and approval of WFP/Deposit/Remittance of Fee;
 3. Setting of schedules and tasking;
 4. Orientation on the FPIC process, protocols, and prohibited acts;
 5. Submission by the applicant of an undertaking committing full disclosure of records and information on the plan, program, project or activity, and allow the community full access of such;
 6. Submission by the applicant of an Environmental and Socio-cultural Impact Statement, detailing the possible impact of the plan, program, project or activity upon the ecological, economic, social and cultural aspect and how these may be avoided, mitigated and/or addressed;
 7. Others as may be required by the FPIC team or as may have been surfaced during the conduct of the FBI.
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First Community Assembly

1. Orientation on IPRA and the FPIC process
 2. Validation FBI report and the area/s affected
 3. The Census of IPs/Migrant IPs/Non-Ips
 4. Identification and validation of IP Elders and Leaders
 5. Determination of the Decision-making or consensus-building process/es
 6. Consensus on the involvement of NGOs/CSOs
 7. Validation of the members of the FPIC Team representing the community
 8. Presentation of the agreed WFP
 9. Option, selection and invitation of independent expert/s to conduct EIA or give their expert opinions
 10. Arrangements for conflict/dispute resolution mechanisms by the chosen/elected IP Elders/Leaders
 11. Date and place of Second community assembly
 12. Other matters that may be necessary and pertinent
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Second Community Assembly

1. Presentation by the applicant of the plan, program, project or activity that it seeks to undertake. The presentation shall include:
 - a) The Operation Plan and the scope and extent of the proposal;
 - b) The cost and benefits of the proposal to the ICC/IP and their ancestral domains;
 - c) The perceived disadvantages or adverse effects to the community; and
 - d) The measures adopted by the applicant to avoid or mitigate these;
2. Sharing by an expert/s, if engaged or invited, to include presentation of the result of the EIA if available, expert opinion/s on any aspect, recommendation/s, and identification of affected area/s;
3. Remarks or inputs of other stakeholders, e.g. concerned NGAs, LGUs, NGO, IPO;
4. Open forum to give the ICCs/IPs the chance to ask questions and to speak out their concerns relative to the presentations and the project; and
5. Other important matters that are agreed upon during the assembly.

Contents of MoA

- Inclusive dates/duration of agreement, detailed benefit-sharing provisions and its monitoring of the implementation;
- Mitigation and resettlement plans for potential risks, redress mechanisms;
- Provisions in case of merger, reorganization, transfer of rights, acquisition by another entity, or joint venture;
- List of responsibilities of the company and the affected community;
- Detailed use of all funds to be received by the host ICC/IP communities ensuring transparency;
- Responsibilities of the applicant as well as the host IP community;
- Remedies and/or penalties for non-compliance or violation of the terms and conditions

The Regional Review Team (RRT)

1. TMSD Chief
2. Regional Attorney
3. Regional FPIC Focal Person

Duties and Responsibilities

1. Make a judicious and complete review of the FPIC report and the MOA;
2. Render a report, under oath, of their findings and recommendations to the Regional Director;
3. Summon any member of the FPIC Team, representative of the ICCs/IPs, or representative of the proponent to clarify matters contained in the report and the MOA;
4. Appear before the Commission when so required; and
5. Perform such other functions as may be directed by the Regional Director.

SUMMARY OF ISSUED CERTIFICATION PRECONDITION BY NATURE OF PROJECT

- Mining exploration/operation projects – 172 (49%)
- Renewable Energy Projects (Hydro Power Plant/
Geothermal/Dam/Wind/Solar) – 53 (15%)
- Industrial Sand and Gravel/Quarry – 4 (1%)
- Forestry related projects/
agro-industrial projects – 57 (16%)
- Research/Processing Plant/Livelihood Proj. water
system/Tourism Projects – 12 (3%)
- Transmission Line Proj./Base Television Relay;
Special Land use/Others – 22 (6%)
- Exercise of Priority Rights to Natural
Resources/Community Solicited Project – 32 (9%)

Salient Provisions

- No similar application in one ancestral domain
- Reports are under oath
- Dormant CP and inactive application
- Posting of bond
- Royalties/CRDP
- Reconsideration
- Non-transferability
- Visitorial and monitoring powers

Prohibited Acts

- 1. *The applicant*
 - Employment of threat, coercion, or intimidation; Bribery.

- 2. *NCIP Officer or employee*
 - Acceptance or receipt of money, gifts, or any valuable things from the applicant; Use of falsified narration of facts.
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- 3. *IP community or member and/or Elder/leader*
 - Solicitation and acceptance or receipt of gifts, money or other valuable things from the applicant; consorting or mediating with the applicant to unduly influence the result of the FPIC Process.

- 4. *NGOs/ CSO/,GAs/LGUs/Other Groups*
 - Undue influence or interference with the FPIC process or to the community.

An aerial photograph of a lush green valley with terraced rice fields. The terraces are filled with young rice plants, and the surrounding hills are covered in dense tropical forest. A small stream flows through the valley. The text 'HAGIYO' is overlaid in the center in a bold, blue, sans-serif font.

HAGIYO

MATAGU-TAGU TAKUN NAM-IN

Resource Management
Division
Ancestral Domains Office