

PUBLIC-PRIVATE PARTNERSHIP (PPP) GOVERNING BOARD
Resolution No. 2018-12-02
December 14, 2018

FOR : All Heads of Departments, Bureaus, Offices, Commissions, Authorities or Agencies of the National Government, Government-Owned and/or Controlled Corporations, Government Financial Institutions, State Universities and Colleges, Local Government Units

SUBJECT: **SAFEGUARDS IN PPP: MAINSTREAMING ENVIRONMENTAL, DISPLACEMENT, SOCIAL AND GENDER CONCERNS**

1. Background

- 1.1 In the Philippines, there has been a continuing effort to integrate environmental and social safeguards¹ in infrastructure projects. Pursuant to Republic Act (R.A.) No. 6957, as amended by R.A. No. 7718 (the Build-Operate-and-Transfer [BOT] Law), its implementing rules and regulations (IRR), and other related issuances such as the Investment Coordination Committee (ICC) Guidelines, PPP projects are developed, evaluated, and implemented considering the project's technical, financial, economic, environmental, and social aspects.
- 1.2 Despite the presence of such laws and issuances, however, these are largely encompassing and/or sectoral in nature, which make it difficult for implementing agencies (IAs) to identify safeguard issues, and address them accordingly throughout the PPP project cycle. For instance, environmental and social safeguards are normally part of a project's feasibility studies (FS); however, there are limited means to monitor how these issues are translated into relevant aspects of a PPP project—from identifying issues during the conduct of FS; evaluating proposed mitigating measures to address the same; operationalizing these safeguards through the PPP contract; and monitoring their implementation.
- 1.3 Safeguard policies need to be systematically integrated into the PPP process to ensure the streamlining of the PPP project development and approval process, while ensuring that desired outcomes and project objectives are met.

2. Objectives

- 2.1 This guideline aims to prevent delays associated with safeguard concerns in the PPP process. These delays arise from some IAs' limited resources and capacity to review all safeguard laws, decrees, orders, issuances, rules and regulations requiring integration in infrastructure and development projects, and limited understanding on how the safeguard requirements affect the various phases of delivering a PPP project (development, review and approval, procurement, and implementation). Moreover, this guideline aims to capture the lessons learned from the application, or the lack thereof, of safeguards in PPP projects.

¹ "Safeguards are measures taken to avoid or minimize and manage the negative impacts of aid investments on people and the environment" (*Department of Foreign Affairs and Trade [DFAT] Safeguard Policy for Aid Program*)

2.2 Specifically, this guideline aims to assist the IA:

- a. *During the project development phase*, in identifying applicable requirements in laws, decrees, orders, issuances, rules and regulations, and the corresponding required studies, outputs, or standards for a particular PPP project; and ensure that safeguards are considered in the project's FS and design;
- b. *During the review and approval phase*, in ensuring that the approved terms of the project consider various safeguard concerns identified during the project development phase, including the proposed mitigating measures;
- c. *During the procurement phase*, in ensuring that safeguard considerations are integrated in the PPP contract, including identified mitigating measures.
- d. *During implementation*, in identifying specific monitoring, evaluation and feedback mechanisms to ensure that safeguard measures embedded in the PPP contract are complied with, and in providing the IA with mechanisms for managing unforeseen safeguard concerns.

3. Applicability

3.1 This guideline is intended to cover all PPP projects, including all variants and arrangements under the BOT Law and its IRR and joint venture agreements, among others, undertaken by government entities such as the National Government Agencies (NGAs), Government-owned or Controlled Corporations (GOCCs), Local Government Units (LGUs), and other government instrumentalities.

4. Safeguards Scope

For purposes of this guideline, the scope of safeguards is defined in terms of the following:

Type of Safeguard	Coverage
A. Environmental	1. Safeguards from environmental impacts <ol style="list-style-type: none"> a. Environmental quality impact management including the aesthetics and natural landscape; b. Sustainable use of natural resources; c. Biodiversity and ecosystem impact management with special consideration on the preservation of endemic and endangered species of flora and fauna; and d. Health and safety considerations including post-project implementation/post-construction risks and hazards management
	2. Resilience to man-made and natural hazards including climate change hazards
	3. Climate change mitigation (e.g. reduction of greenhouse gas emissions)

Type of Safeguard	Coverage
B. Displacement	<ol style="list-style-type: none"> 1. Right-of-way (ROW) acquisition, including acquisition of private and public properties, resettlement of informal settler families (ISFs), and relocation of utilities; 2. Dismantling of affected structures; 3. Management of affected employees; and 4. Compensation and livelihood restoration
C. Social and Gender	<ol style="list-style-type: none"> 1. Considerations for Indigenous People (IP); 2. Protection and consideration for vulnerable groups (persons with disability, senior citizens, children, poor); 3. Culture and heritage preservation; and 4. Gender equality/responsiveness and women empowerment

5. Project Development Phase

The policy of the State, as provided for in Presidential Decree 1151 (Philippine Environmental Policy), to fulfill the social, economic and other requirements of the present and future generations, while ensuring the attainment of an environmental quality conducive to a life of dignity and well-being, shall serve as a guide in the identification and development of PPP Projects.

5.1 During this Phase, the IA shall:

- a. Identify applicable requirements in laws, decrees, orders, issuances, rules and regulations (*See Annex A: Guide on the Identification of Applicable Safeguard Systems*); and
- b. Ensure that identified safeguard concerns are considered in the project FS and integrated in the project design (*See Annex B: Common Safeguard Requirements, and Annex C: Prescribed contents of the safeguards chapter of the FS*).

5.2 For unsolicited projects, the IA may use Section 5 of this guideline to review the completeness of proposals and their adherence to relevant safeguard laws, decrees, orders, issuances, rules and regulations.

5.3 In addition, the following shall serve as guidance to the IA to prevent avoidable delays and to ensure that safeguard concerns are addressed in the development of a PPP project.

A. Environmental Safeguards

1. Environmental impact assessment (EIA) shall be conducted simultaneously with the conduct of FS.
2. For PPP projects requiring Environmental Compliance Certificates (ECC) or Certificate of Non-Coverage (CNC), the IAs shall follow the requirements and procedures set forth in the Department of Environment and Natural Resources - Environmental Management Bureau's (DENR-

EMB) Revised Procedural Manual for DENR Administrative Order No. 30, series of 2003, and any amendments thereof, to avoid delays in securing the same due to non-compliant applications. This shall include the preparation of the appropriate type of EIA Report (e.g. Environmental Impact Statement [EIS], Environmental Performance Report and Management Plan [EPRMP]) and securing the ECC or CNC.

3. In addition to the PPP project's impact to the environment, the IA shall consider resiliency to man-made and natural hazards including climate change risks by: (a) including as part of the criteria in selecting the project location, the vulnerability to short and long-term impacts of natural hazards; (b) assessing disaster risk through the identification of applicable climate and natural hazards, and considering these in the project's risk allocation matrix; (c) coming up with an adaptation and risk management plan containing appropriate disaster resiliency measures, and incorporating the same in the project design, and, if applicable, in the business continuity plan for projects with operations and maintenance components; and (d) documenting in the FS climate change mitigation strategies (e.g. energy/water conservation measures, green building).
4. Other project-specific environmental safeguard requirements (e.g. geotechnical studies, hydrological studies, charting and geo-tagging of trees) shall be identified and a corresponding compliance plan should be prepared during project development. These shall serve as inputs to the project siting, design, and cost, and are subject to validation during the implementation stage when the detailed engineering design has been finalized.

B. Displacement Safeguards

1. The extent of physical and economic displacement shall be considered in deciding on project location alternatives. Whenever possible, forced displacement shall be avoided by considering all viable alternative actions or design options.
2. For ROW and resettlement requirements, the IA shall follow the rules and procedures in R.A. No. 10752 (the Right of Way Act) and R.A. 7279 (the Urban Development and Housing Act), their IRRs, and any amendments thereof.
3. The IA may request for the technical assistance of the Housing and Urban Development Coordinating Council (HUDCC) in preparing and implementing the required agency-level manual of procedures for ROW acquisition.
4. The IA shall likewise prepare a ROW/Resettlement Action Plan (RAP) for each PPP project, as may be applicable. A summary of the RAP shall be incorporated in the project FS and design, and shall include, but is not limited to, the following:

- i. people and assets (i.e. land and improvements) that will be affected, including information on their socio-economic profile and restoration of their compensation and livelihood;
 - ii. extent of the impact of the required ROW and the measures to mitigate these impacts;
 - iii. resettlement requirements, including whether the resettlement shall be onsite, in-city, or off-site, in line with the National Housing Authority Memorandum Circular No. 2015-0015, and any amendments thereof; and
 - iv. schedule, timing, and costs of the required activities under the RAP.
- 5. In projects with displacement concerns as identified in the RAP, the IA is advised to coordinate with key shelter agencies, local government units, and affected stakeholders. The IA is further advised to develop a consultation plan, pursuant to PPP Governing Board Resolution No. 2016-06-02 "Guidelines on Public Consultation and Engagement for PPP Projects".
- 6. The timelines of various components mentioned above (i.e. social preparation, construction of sites, and actual transfer) shall also be considered in relation to the required milestones of the PPP contract.
- 7. For projects that require national government support, including resettlement costs, the IA shall submit to the Department of Budget and Management (DBM) a request for the issuance of a letter of commitment (LOC), with supporting documents, as required under DBM National Budget Circular No. 564, and any amendments thereof.
- 8. For projects involving the acquisition of government properties, the IA may execute an agreement with the concerned government agency detailing the terms of the transfer of the property, such as the terms of replication, restoration, and/or removal of existing structures and/or facilities; other activities such as geo-tagging and tree accounting as may be applicable; appropriate compensation as may be applicable; and other obligations of the parties to ensure the smooth delivery of required ROW.

C. Social and Gender Safeguards

- 1. In deciding on project location alternatives, the compatibility with existing/proposed development plans (e.g. LGU land use plan) and national development plans (e.g. sectoral plans, and multi-sectoral plans such as disaster risk reduction and management plans) shall be taken into consideration.
- 2. Accessibility or universal design concept shall be incorporated in the project design including the physical facility, and information and communication technologies (e.g. websites).

3. Gender analysis shall be undertaken to identify gender issues that the proposed project must address and anticipate, such as those that might arise from the implementation of the project. Goals, objectives, outcomes and outputs that include gender and development (GAD) statements that will address identified gender issues shall be incorporated in the FS Report. The IA may refer to the Harmonized GAD Guidelines (HGDG), and any amendments thereof, for guidance on designing gender-responsive sector-specific projects (e.g. infrastructure, information and communication technology, and education projects).
4. For those projects requiring ICC approval, the proponent agencies are required to accomplish and submit the HGDG Gender-Responsiveness Checklist or the *Combined Generic Checklist for the Project Identification and Design Stages*, and any amendments thereof, as additional Project Evaluation (PE) Form.

6. Review and Approval Phase

- 6.1 For projects that require ICC approval/endorsement, the IA shall comply with the requirements set forth by the ICC, pursuant to the ICC Guidelines (i.e. Checklist for Proposed PPP Projects for ICC Review) and any amendments thereof.
- 6.2 For projects which have sizeable ROW and/or resettlement components, the concerned safeguard agency may be requested to provide inputs to the project appraisal or invited in the ICC-Technical Board (TB) discussions.
- 6.3 For projects not requiring ICC approval/endorsement, the concerned approving body (e.g. Local Sanggunians) shall ensure that the approved terms of the project considered the various safeguard concerns identified during the project development phase using Annexes A to C as checklist.
- 6.4 For unsolicited projects, the review shall consider all applicable requirements in laws, decrees, orders, issuances, rules and regulations, and the corresponding required studies, outputs, or standards for a particular PPP project. The appropriate approving body shall ensure that the approved terms of the project considered safeguard issues and proposed appropriate mitigating measures for these concerns.
- 6.5 Immediately after project approval, the IA shall implement its RAP, including the notification of HUDCC and other concerned agencies regarding the resettlement requirements of the approved project, and acquisition of affected private properties.

7. Procurement Phase

- 7.1 During Procurement, the IA shall ensure that safeguard measures are embedded in the PPP contract. For instance, to address displacement concerns, the IA may refer to the PPP Governing Board Resolution No. 2016-06-04 "Managing Government Employees Affected by PPP Projects", and any amendments thereof, which provides for a reference to standard provisions that may be embedded in the PPP contract.

- 7.2 In addition, the IA may address identified safeguard concerns by integrating proposed mitigating/management measures to the Minimum Performance Standards and Specifications (MPSS) and Key Performance Indicators (KPIs) of the PPP contract. Sample MPSS and KPIs are provided as part of Annex D.
- 7.3 As a general rule, the set of MPSS should include compliance with statutory requirements relating to safeguards and other applicable standards based on the assessment and recommendations from the FS.
- 7.4 KPIs, on the other hand, may be identified as basis for the monitoring and evaluation of safeguard-related outcomes, such as compliance with relevant environmental standards, and social development commitments in each reporting period.
- 7.5 Sustainable consumption that will influence the pattern of production beneficial to environment, the local economy and the overall social well-being, especially of the host community, shall be integrated as part of the procurement standards for materials and services needed for the project. The IAs may consider this in drafting their MPSS.
- 7.6 The PPP contract shall also have explicit provisions on safeguards, particularly a template for reporting on the implementation of safeguard requirements identified in Section 5 of this guideline, which may be translated into safeguards related MPSS and KPIs as part of the reporting requirements of the private proponent to the IA. The IA may refer to Annex E as a guide in formulating project-specific monitoring template.

8. Implementation Phase

- 8.1 Compliance plans to safeguard issues, formulated during project development stage (e.g. ROW requirements, infrastructure plan with tree charting), shall be validated based on the project's approved detailed engineering design.
- 8.2 The private proponent shall prepare monthly project-specific Safeguards Implementation Report based on the template for reporting specified in the contract (refer to item 7.6).
- 8.3 The IA shall oversee the implementation of safeguard requirements pursuant to the signed PPP contract and manage unforeseen safeguard concerns that may arise during project execution. The IA may utilize the Independent Consultant to ensure that safeguard considerations embedded in the contract are complied with.
- 8.4 The PPP Center shall include in its monthly report the evaluation of implementation of safeguard-related provisions in the contract, focusing on the safeguard-related MPSS and KPIs as identified in the item 7.6 and shall document safeguard-related best practices and lessons learned in the Implementation Phase, pursuant to the PPP Governing Board Resolution No. 2015-09-01 "PPP Projects Monitoring Framework and Protocols."

- 8.5 The PPP Center shall facilitate the resolution of safeguard compliance difficulties and issues through coordination with the relevant safeguard-mandated agencies, as necessary. This may include compliance to safeguards as part of the PPP contract and other unforeseen safeguard issues that arise during implementation.
- 8.6 In cases of emergencies due to unforeseen circumstances such as those related to natural disasters or insurgency incidences, immediate rehabilitation and restoration of affected project components surrounding environment shall be ensured by the IA, consistent with the provisions of the signed PPP contract.

9. Effectivity

This Guideline shall take effect immediately after approval of the PPP Governing Board.

I hereby certify that the approval *ad referendum* of this guideline was ratified by the PPP Governing Board at its meeting held on December 14, 2018.



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ANNEXES

ANNEX A: Guide on the Identification of Applicable Safeguard Systems

This Annex is provided to help the IA identify applicable safeguard requirements in laws, decrees, orders, issuances, rules and regulations. It also provides a menu of safeguard systems that should be considered in the context of proposed PPP projects (Column 1), the statutes these systems are based on (Column 2), and the applicable references which may provide further details on the particular safeguard system (Column 3).

The matrix below is sub-divided into: (a) general safeguard requirements applicable to all PPP projects; and (b) safeguard requirements based on project location. The list is not exhaustive, but serves to outline the statutory requirements which the IA and private proponent should consider.

Safeguard System	Statutes	References
a) General requirements applicable to all projects		
Environmental Impact Assessment (EIA) Process (e.g. Environmental Clearance Certificate, Certificate of No Coverage)	Presidential Decree (PD) No. 1586 (Philippine EIS System)	<ul style="list-style-type: none"> Department of Environment and Natural Resources (DENR) summary flowchart of the EIA Process (http://eia.emb.gov.ph/wp-content/uploads/2016/07/EIA-Process-Figure-1-2-of-RPM.pdf#new_tab)
Alignment with National and/or Local Climate Change Action Plan as consideration in project development	Republic Act (R.A.) 9729 (Climate Change Act)	<ul style="list-style-type: none"> National manuals on climate change (e.g. greenhouse gas emissions) (http://climate.gov.ph/knowledge-bank/knowledge-products/national-manuals)
Alignment with the National and/or Local DRRM Plan as consideration in project development	R.A. 10221 (Philippine Disaster Risk Reduction and Management [DRRM] Act)	<ul style="list-style-type: none"> DRRM plans (e.g. National DRRM Plan 2011-2028, National Disaster Response Plan for Hydro-Meteorological Hazards) (http://121.127.9.136:81/drrmkc/plans/) Department of the Interior and Local Governance (DILG) Memorandum Circular (MC) No. 2012-52: Inventory of Population at Risk in Vulnerable Areas, Identification of Mitigation Measures, and Preparation of Mitigation and Rehabilitation Plans (https://docs.google.com/file/d/0B06WbaGFBZuPSFFBWHRMMHZzYjg/edit) DILG MC 2012-02: Promoting the Construction of Rainwater Collectors in all Barangays in the Philippines to Mitigate the

Safeguard System	Statutes	References
		<p>Adverse Impacts of Climate Change https://docs.google.com/file/d/0B06WbaGFBZuPeF9sbW9sSnJD Rkk/edit</p> <ul style="list-style-type: none"> • DILG MC No. 2011-187: Availability of Geo-Hazard Maps in the DILG Website https://docs.google.com/file/d/0B06WbaGFBZuPUVNFcmpOWUw zYWs/edit • DILG MC 2011-80: Active Faults, Liquefaction Susceptibility Maps, and Earthquake-Triggered Landslide Susceptibility Maps Available in PHIVOLCS Website https://docs.google.com/file/d/0B06WbaGFBZuPTm05UEVITmc2 dzg/edit
Conduct of public consultation	R.A. 7160 (Local Government Code); Philippine EIS System	<ul style="list-style-type: none"> • PPP Governing Board Resolution No. 2016-06-02, Guidelines on Public Consultation and Engagement of PPP Projects https://ppp.gov.ph/wp-content/uploads/2018/07/PPPC_GUIDE_Public-Consultation-Engagement-20160621.pdf
Management of Solid Wastes	R.A. 9003 (Ecological Solid Waste Management Act)	<ul style="list-style-type: none"> • R.A. 9003 and its IRR http://nswmc.emb.gov.ph/wp-content/uploads/2016/07/RA-IRR-2012-NEW-SEND-FILE-sept-10.pdf • Annotated Outline 10-Year Solid Waste Management Plan for LGUs/Provinces http://nswmc.emb.gov.ph/?page_id=50
Management of toxic substances and hazardous wastes including those from hospitals and facilities with laboratory	R.A. 6969 (Toxic Substances, Hazardous and Nuclear Waste Control Act)	<ul style="list-style-type: none"> • R.A. 6969, IRR, Chemical Control Orders and related issuances http://chemical.emb.gov.ph/?page_id=121 • Revised Procedures and Standards for the Management of Hazardous Wastes and other related issuances https://emb.gov.ph/9482-2/
Water Pollution Control	R.A. 9275 (Philippine Clean Water Act)	<ul style="list-style-type: none"> • DENR Administrative Order 2016-08 Water Quality Guidelines and Effluent Standards

Safeguard System	Statutes	References
	<p>PD 979 (Marine Pollution Control Decree)</p> <p>PD 1067 (Water Code of the Philippines)</p> <p>R.A. 8749 (Philippine Clean Air Act)</p>	<p>(http://denr.gov.ph/laws-and-policies.html)</p> <ul style="list-style-type: none"> • PD979 (http://www.coastguard.gov.ph/index.php/related-laws/29-auxiliary-menu/related-laws/191-presidential-decree-no-979) • Marine Environmental Protection Handbook (https://drive.google.com/file/d/1FogyiDN-gilLVAvnLzLZ6HVuuO3BUtGU5/view) • Water Permit Application (http://www.nwrp.gov.ph/index.php/products-and-services/water-permit-application) • Laws and Policies for Air Quality Management (http://air.emb.gov.ph/?page_id=27)
Gender mainstreaming	<p>R.A. 7192 (Women in Development and Nation-Building Act)</p> <p>RA 9710 (Magna Carta of Women); R.A. 10028 (An Act Expanding the Promotion of Breastfeeding)</p>	<ul style="list-style-type: none"> • Harmonized Gender and Development Guidelines (www.pcw.gov.ph/publication/harmonized-gender-and-development-guidelines-project-development-implementation-monitoring-and-evaluation-0) • NEDA-ICC Project Evaluation Form on Gender-Responsiveness Checklist for PPP Projects (http://www.neda.gov.ph/investment-coordination-committee/)
Integration of persons with disability into the mainstream society	<p>R.A. 7277 (An Act Providing for the Rehabilitation, Self-Development and Self-Reliance of Disabled Persons and their Integration into the Mainstream Society); R.A. 10754 (An Act Expanding the Benefits and Privileges of Persons with Disability)</p>	<ul style="list-style-type: none"> • Batas Pambansa Blg. 344 or "Accessibility Law" (http://www.ncda.gov.ph/disability-laws/implementing-rules-and-regulations-irr/)
Right-of-Way (ROW)/Resettlement Action Plan	<p>R.A. 10752 (Right-of-Way [ROW] Act)</p>	<ul style="list-style-type: none"> • Department of Public Works and Highways (DPWH) ROW Acquisition Manual (www.dpwh.gov.ph/dpwh/sites/default/files/issuances/DO_124_s_2017_1.pdf)
Observance of proper and humane relocation and resettlement	<p>R.A. 7279 (An Act to Provide for a Comprehensive and Continuing Urban</p>	<ul style="list-style-type: none"> • National Housing Authority (NHA) MC 2561 Guidelines for Relocation and Resettlement

Safeguard System	Statutes	References
procedures in urban development and housing	Development and Housing Program)	<p>Under the Housing Program for Informal Settler Families (ISFs) in Danger Areas in Metro Manila</p> <ul style="list-style-type: none"> • NHA MC No. 2015-0015 Guidelines for Site Selection, Site Suitability, and Site Planning for NHA Housing Development Projects (https://www.nha.gov.ph/corpgovseal/pdf_files/Corporate-Social-Responsibility/Guidelines_for_Site_Selection_Site_Suitability_Site_Planning.pdf)
b) Requirements based on project location		
Safeguards on the use of foreshore areas: Management and Disposition	C.A. 141 (Public Land Act)	<ul style="list-style-type: none"> • Issuances on lease of lands of public domain <ul style="list-style-type: none"> ○ (http://lmb.gov.ph/index.php/87-programs-and-projects/ii-land-disposition/146-ld-lease-2016) ○ (http://lmb.gov.ph/index.php/resources/laws-and-policies/policies-regulations#commonwealth-act-ca) and ○ (https://drive.google.com/file/d/0B0ZnT4SsFJM6WDZTZEIjbVZuVDQ/view)
Safeguards on the use of foreshore areas: Reclamation Projects	R.A. 1899 (An Act to Authorize the Reclamation of Foreshore Lands by Chartered Cities and Municipalities)	<ul style="list-style-type: none"> • DENR Administrative Order 2018-14 – Guidelines on the Issuance of Area Clearance for Reclamation Projects and Proclamation / Special Patents over reclaimed lands (https://server2.denr.gov.ph/uploads/rmdd/dao-2018-14.pdf)
<ul style="list-style-type: none"> • Consistency with the National and Local Biodiversity Strategy and action plan • Special use agreement within Protected Areas (SAPA) • Integrated Protected Area Fund (IPAF) for use of ecosystem services 	R.A. 11038 (Expanded National Integrated Protected Areas System Act [NIPAS] of 2018, Amending R.A. 7586 NIPAS Act); RA 9147 (Wildlife Conservation and Protection Act); R.A 9072 (Caves and Cave Resources Management and Protection Act)	<ul style="list-style-type: none"> • NIPAS Act (http://www.bmb.gov.ph/elibrary/mainmenu-policies-52359/republic-acts/ra-2018)

Safeguard System	Statutes	References
Free, prior and informed consent (FPIC) from Indigenous Peoples groups	R.A. 8371 (Indigenous Peoples Rights Act)	<ul style="list-style-type: none"> National Commission on Indigenous Peoples (NCIP) Administrative Order No. 3 Series of 2012 Revised Guidelines on FPIC and Related Processes (http://www.ncipro67.com.ph/resources/downloads/) Joint DENR-NCIP Memorandum Circular No. 2007-01 Management of Overlapping Protected Areas and/or Their Buffer Zones and Ancestral Domains/Lands (http://ncipcar.ph/index.php/issuances/joint-memo-circulars)
Restrictions and processes for project areas within those issued Certificates for Ancestral Domain, Ancestral Land, Ancestral Land Claim		Issuance of tree-cutting permits
Minimizing negative impact on culture and cultural heritage including management of chance finds	R.A. 10066 (National Cultural Heritage Act)	<ul style="list-style-type: none"> Cultural heritage as specific type of risk identified in the ICC Generic Preferred Risk Allocation Matrix (https://ppp.gov.ph/press_releases/generic-preferred-risks-allocation-matrix-qgram/)
Alignment of activities with the watershed management plan	PD 1559 (Further Amending PD No. 705, Forestry Reform Code)	<ul style="list-style-type: none"> Revised Forestry Code (http://policy.denr.gov.ph/basicpollforcode/pd1559.pdf)
Alignment of development plans	R.A. 6657 (Comprehensive Agrarian Reform Law)	<ul style="list-style-type: none"> Comprehensive Agrarian Reform Program (http://www.dar.gov.ph/ra-6657-what-is-carp-comprehensive-agrarian-reform-program)
Equal access to fishery resources	R.A. 8550 (The Philippine Fisheries Code)	<ul style="list-style-type: none"> Fisheries-related legislation (https://www.bfar.da.gov.ph/lawAndRegulation.jsp)

ANNEX B: Common Safeguard Requirements

Based on the applicable safeguard systems as identified using Annex A, this Annex provides a menu of the typical safeguard requirements that should be considered in project costing. Items I to IV identify common safeguards: during the preparation of the project site, during project construction, and for the O&M component of PPP projects, respectively; while item IV outlines a typology of PPP projects and their common safeguards requirements.

The list is not exhaustive, but is intended to help the IA identify project-specific aspects which may have additional cost components, such as the requirement of technical equipment and/or assistance, and which the IA should consider in developing a PPP project.

I. Pre-Construction Safeguards

During preparation of the project site, safeguards should include:

- a) The project site free and clear of legal encumbrances (i.e. authority over the area to be developed including title, lease agreement [foreshore lease agreements, special use agreements in special area, as applicable], ROW, etc.);
- b) All other permits and clearances required prior to construction have been secured from various government agencies, including permits from the LGUs; and
- c) Validation of the RAP based on the detailed engineering design, as applicable.

II. Safeguards During Construction

For most projects, construction activities are similar, thus necessitating similar safeguards. The following areas should be considered in crafting safeguards-related provisions for construction activities in the contract:

- a) Minimization of the level of dust pollution and vibration;
- b) Minimization of noise pollution especially on sensitive receptors taking note of appropriate standards;
- c) Minimization of the cutting of trees;
- d) Implementation of erosion prevention measures;
- e) Prevention of habitat disruption and distraction;
- f) Implementation of appropriate protocols for archeological chance finds, as necessary;
- g) Proper storage methods for construction materials, fuel, grease, waste oils, and other wastes and proper management of equipment washings to avoid siltation/contamination of water bodies through runoff into drains, canals, waterways;

- h) Collection and disposal of construction wastes in appropriate manner especially for hazardous building materials (e.g. Polychlorinated biphenyls [PCBs] materials and asbestos containing materials from old buildings to be dismantled, if any);
- i) Maintenance of sanitary conditions at the construction site by providing appropriate facilities like toilets, potable water supply, etc.;
- j) Implementation of traffic control procedures to prevent traffic hazard or inconveniences to surrounding residents (e.g. giving reasonable prior notice and suitable alternative access to surrounding community, as necessary); and
- k) Priority in hiring local residents and compliance with applicable labor laws, ordinances and similar issuances including gender equality related policies.

III. Common Safeguard Requirements for Purely O&M PPP Projects and PPP Projects with O&M Components

Projects that are purely O&M in nature are eligible for Certificates of Non-Coverage for ECC. While the conduct of EIA is optional, other applicable requirements should be complied with. The following are typical safeguards requirements that should be considered in the drafting of the contract of: (1) purely O&M projects; and (2) PPP projects with O&M components:

- a) Optimal design of a management system for solid wastes and sewage considering the detailed assessment of the projected generation;
- b) Consideration of gender, cultural and vulnerable sectors including persons with disabilities' concerns in the design of the O&M System, including employment and livelihood opportunities;
- c) Implementation of water and energy conservation measures and of sustainability-based procurement standards for materials and services as part of the O&M Systems;
- d) Integration of health and safety considerations into the design of the O&M System;
- e) Proper maintenance of drainage, pollution control systems (e.g. oil-water separator) and storage and disposal systems for waste oils, chemicals and other hazardous wastes (e.g. busted lamps) as part the O&M; and
- f) Integration in the O&M design of appropriate disaster preparedness and risk management plan to address specific geologic hazards in the project site.

IV. Other Common Safeguard Requirements by Project Type

PPP Project Types	Minimum/Common Safeguards Requirements
1. Construction of Highways/ Roads and Railways with O&M	Considerations for detailed engineering design: <ul style="list-style-type: none"> - adequate consultation on the access needs and concerns of various sectors for the alignment alternatives being considered - extent of displacement - baseline data on the environmental sensitivity (e.g. natural habitats where nesting and breeding patterns could be disrupted) and geologic hazards in the proposed alignment alternatives
	Compliance with the ROW Acquisition Standard Requirements
	Livelihood impact assessment and management especially for vulnerable sectors and adequate compensation and/or resettlement of physically and economically displaced people
	Drainage study and management plan to prevent flooding hazards that may be caused by the project or could affect the project
	Detailed study on the traffic baseline, assessment of impact of the project on traffic and corresponding management plan
2. Construction of Transport Terminals (land, sea, air) with O&M	Input to site selection: <ul style="list-style-type: none"> - Adequate consultation on the transport terminal needs and concerns of various sectors for the alternative sites being considered - Extent of the displacement - Baseline data on natural hazards and on the environmental sensitivity of the proposed alternatives
	Water pollution control system through the installation of appropriate management systems such as oil-water separator, treatment system for bilge water from ships for port projects, proper storage facility for waste oils, chemicals and other hazardous wastes (e.g. busted lamps) prior to collection for disposal and the appropriate design of drainage system connecting to centralized treatment facility, as appropriate
	Optimal design for the location of waste bins and temporary storage for solid wastes based on a detailed assessment of the projected generation and collection system
	Optimal design for the sewage system based on a detailed assessment of the projected generation and the existing common sewage system in the project area
	Adequate Risk Management to address natural hazards in the final project site including tsunami or storm surge risks especially of seaport projects shall be integrated in the project design
	Detailed study on the traffic baseline, assessment of impact of the project on traffic and corresponding management plan

PPP Project Types	Minimum/Common Safeguards Requirements
	Livelihood impact assessment and management especially for vulnerable sectors and adequate compensation and/or resettlement of physically and economically displaced people
3. Construction of Buildings with O&M	<p>Input to site selection</p> <ul style="list-style-type: none"> - Baseline data on the actual use / land use plan, environmental sensitivity, current environmental issues (especially for tourism projects) and geologic hazards in the proposed project site alternatives - Space requirement, access and compatibility with adjacent land uses - For schools, hospitals and other similar facilities, projected number of users and accessibility (especially for vulnerable sectors) shall be considered <p>Consideration in the project design of the geologic and other natural hazards including climate change risks in the proposed project site</p> <p>Drainage study and management plan to prevent flooding hazards that may be caused by the project or could affect the project</p> <p>Optimal design for the location of waste bins and temporary storage for solid wastes based on a detailed assessment of the projected generation and collection system</p> <p>Optimal design for the sewage system based on a detailed assessment of the projected generation and the existing common sewage system in the project area</p> <p>Adequate parking space allocation considering the assessment of the projected users and existing local ordinances, if any</p> <p>Detailed study on the traffic baseline, assessment of impact of the project on traffic and corresponding management plan</p> <p>Consideration of energy efficiency (and other green architecture concepts) and concerns on gender, cultural and vulnerable sectors, including persons with disabilities, in the design of the building</p>
4. Water Supply and Septage Management Project (Construction, O&M)	<p>Input to site selection:</p> <ul style="list-style-type: none"> - Water quality of the alternative sources of water being considered - Availability and competition with existing users for the alternative sources of water being considered – to be shown in a map or plan of possible extraction points indicating sustainable yield to cover the projected demand of the service coverage area - Water supply and septage needs (current and future projections) assessment including adequate consultations with stakeholders - Land use compatibility <p>Consideration of the following as key design criteria for the water treatment facility, as may be necessary for water supply projects:</p>

PPP Project Types	Minimum/Common Safeguards Requirements
	<ul style="list-style-type: none"> - Amount of water to be treated - Existing use and quality of the water source - Appropriate water quality standards (e.g. drinking water standard, etc.) <p>Adequate consultations / IEC with the surrounding communities on the identified water source especially for surface water, so as to protect headwaters from contamination caused by dumping of wastes, run-off from farm operations, etc.</p> <p>Consideration of the existing land-use and adjacent communities on the specific design and layout of the septage management facility with special consideration on odor management</p> <p>Sludge management system for septage management projects.</p>
5. Solid Waste Management Project	<p>Input to the selection of the specific project site:</p> <ul style="list-style-type: none"> - Type of facility being considered and the type and projected amount of wastes to be handled, including among of waste generated daily and quality of the waste - Space requirement for the specific type of facility and corresponding buffer requirements for adjacent communities - Minimal disruption / inconvenience to existing users of access routes - Avoid infringing on critical habitats and areas with significant biodiversity (e.g. wetlands) - Site should not be prone to flooding - For sanitary landfills, the soil should be relatively impermeable and have a high capability of containing contaminants (e.g. clay), the bottom of the landfill should be significantly above the water table and the site should be away from groundwater recharge area sources and not draining to surface waters - Land use compatibility - Involvement of the community is recommended <p>For sanitary landfills, use of appropriate liner (e.g. clay, synthetic depending on the waste characterization and geological structure)</p> <p>Maintain erosion and surface drainage control measures to avoid runoff to nearby bodies of water and avoid creating stagnant waters that could breed disease carriers</p> <p>Proper management of odor</p> <p>Traffic management plan for truck routes</p> <p>Management measures in cases of storms so as to contain waste materials</p>
6. Renewable Energy Projects (solar, wind, waste to energy, hydro)	<p>Input to the selection of project site for wind mills and solar power facilities:</p> <ul style="list-style-type: none"> - Adequate consultations on competing land-uses in proposed project sites as windmills solar facilities take-up a lot of space - Renewable energy sites identified by the Department of Energy

PPP Project Types	Minimum/Common Safeguards Requirements
	<ul style="list-style-type: none"> - Optimum solar, hydro and wind energy resources that can be harnessed all year round for the proposed alternative sites - Locating dams for hydropower projects away from fault line and other geological hazards that might cause its failure - Compatibility with existing land-uses in adjacent areas for the sites being considered so as to minimize nuisance especially for waste to energy projects <p>Proper disposal of solar panels (usually containing hazardous materials) at the end of its life</p> <p>Proper management of the re-injection process in geothermal power plants so as not to cause contamination in groundwater or surface water</p> <p>Proper management of hydrogen sulfide emissions in geothermal power plants so as not to trigger acid rain</p> <p>Proper management of odor and air emissions for waste to energy projects</p> <p>Minimize flooding land for hydroelectric reservoir especially in critical habitats</p> <p>Management of risk of dam failure that may cause flooding of communities</p>
7. Reclamation Projects	<p>Input to site selection:</p> <ul style="list-style-type: none"> - Adequate consultation on the concerns of existing users of alternative water bodies being considered to be reclaimed - Ecological state of the water bodies to be reclaimed - Compliance with land use plan and survey analysis - Other data relevant to requirements from the Philippine Reclamation Authority, such as geotechnical analysis and hydro technical analysis <p>Proper choice of reclamation methods and equipment (for dredging and dumping) to ensure minimum seabed disruption and dispersion of sand thereby minimizing habitat damage and impact on aquatic ecology</p> <p>Construction of proper containment structure during reclamation such as silt curtains and sheet piles and permanent structures after reclamation works</p> <p>Reclamation should be designed in such a way as not to block the natural flow of rivers, streams and other natural outlets to the sea</p> <p>Adequate compensation / livelihood opportunities for existing users of the area to be reclaimed who will be displaced as a result of the project</p>

PPP Project Types	Minimum/Common Safeguards Requirements
	Management of the dispersion of water pollutants which can include heavy metals and other hazardous materials due to seabed disturbance
	Other specific management measures depending on the use of the reclaimed land

ANNEX C: Prescribed Contents of the Safeguards Chapter of the FS

This Annex outlines the prescribed contents of the FS with regard to safeguards in PPP projects, including environmental, displacement, social and gender concerns.

I. Scope and Objectives of Safeguards Study

This should describe an overview on how the safeguards study was used in planning the different components/aspects of the project detailed in the other chapters of the report.

II. Process Documentation

This section should describe documentation of methodologies, stakeholder studies, schedules of reconnaissance survey/baseline data gathering, social preparation/IEC, Public consultations, scoping, etc. The documentation should include a sex-disaggregated listing of stakeholder groups consulted, including Indigenous People (if any), women and other marginalized groups, like fisher folks, farmers, etc.

III. Summary of Safeguard Considerations in Project Identification and Preparation

1. Safeguard considerations in the planning and identification of the project location (may include hazard/risk analysis)
2. Summary of relevant safeguard requirements, standards and coordination needs that apply specifically to the proposed PPP project at various stages of development and corresponding compliance plan.

IV. Summary of Environmental Impact Assessment (EIA) and Proposed Management Measures

This shall be based on the EIA Report prepared which should be compliant with the requirements of the Philippine Government as well as that of the funding institutions. The report shall be submitted separately or annexed to the FS Report. Only the following shall be included in the safeguards chapter of the FS:

1. The key findings in the assessment of the environmental impacts of the project including the ECC conditions and EIA review recommendations that should be integrated into the project design; and
2. Summary of the management/mitigation and monitoring plan for identified project environmental impacts including project-specific occupational health and safety considerations and other recommendations contained in the EIA (i.e. EIS, IEE, EPRMP, etc.)

V. Climate Change and Natural Hazards Resiliency Considerations

1. Report on disaster risk assessment based on climate and natural hazards identification shall be undertaken for consideration in project risk allocation matrix;

2. Summary of the adaptation and risk management plan based on the identification of climate risks and natural hazards in proposed project location. It should cover both the identified risks to the project and risks to the surrounding environment that could be triggered by the proposed project (this can be detailed in the technical design section);
3. Summary of climate change mitigation contribution (e.g. energy/water conservation measures, green building, etc.)

VI. Safeguards for Displacement (as may be applicable)

1. Summary assessment of the extent of physical and economic displacement highlighting how it affected/influenced the project design based on the analysis of the following:
 - Number of project affected persons (PAPs) and assets (land and improvements) they will lose due to the acquisition of Infrastructure Right of Way (IROW);
 - Socio-economic profile of the PAPs; and
 - Extent of impacts of the IROW on the PAPs and their assets and the measures to mitigate these impacts;
2. Summary of the ROW action plan including identification of appropriate standards and requirements for dismantling of structures, relocation of informal settlers, compensation and livelihood restoration.

VII. Gender Considerations¹

1. Process documentation of the involvement of women and men in project identification and design, collection of sex-disaggregated data and gender related information and the conduct of gender analysis and identification of gender issues
2. Summary of the Results of Gender Analysis considering the gaps and inequalities related to gender roles, perspectives, and needs, or access to and control of resources and the constraints and opportunities related to women's and men's participation in the project
3. Goals, objectives, outcomes and outputs that include GAD statements that will address gender issues identified in the gender analysis, including the following:
 - a. the inclusion of women and girl children among the direct or indirect beneficiaries; and
 - b. consideration of long-term impact on women's socioeconomic status and empowerment and strategies for avoiding or minimizing negative impacts on women's status and welfare.

¹ Based on the Harmonized Gender and Development Guidelines Tool

4. Identification of activities that respond to identified gender issues, including constraints to women's participation and corresponding budgets for these activities.

VIII. Other Social Safeguards

The social impact assessment and management, although currently a part of the EIA requirements in the Philippines, need to be expounded to cover other social safeguard requirements of the government and funding institutions. The report on this shall be reflected in the FS, at the minimum, including the following:

1. List of identified priority social, cultural and economic issues, management strategies (general) and further study requirements identified, as part of the EIA Report and for consideration in the project design. This shall be based on the assessment of the baseline social, cultural and economic conditions and issues in project impact areas using a sex-disaggregated baseline demographic and socio-economic data, including baseline information on persons with disabilities, senior citizens, and Indigenous Peoples (IP).
2. Potential positive social impacts at the minimum, on:
 - a. local and regional employment (direct and indirect) opportunities and associated increases in the living standards and community well-being
 - b. business and procurement opportunities for local and regional small and medium-sized enterprises
 - c. contributions towards, or development of, shared infrastructures
 - d. for projects intended to address specific social issues, like sewage treatment, flood control, solid waste management, the corresponding impacts on the well-being of the people shall be discussed
3. Potential negative social impacts at the minimum, on:
 - a. Communities of the identified key environmental stressors (identified in the EIA) including health impacts.
 - b. Indigenous Peoples (if present or have collective attachment to the project location) - Rapid assessment of IP issues, management strategies (general) and further study requirements based on the IRR of RA 8371 (The Indigenous People's Rights) shall be identified as part of the EIA Report for consideration in the project costing
 - c. Existing culture and cultural resources including physical cultural resources and heritage sites that could be affected based on information from the National Historical Commission of the Philippines, the National Museum, the LGUs and other relevant sources of information.
4. Inclusive Social and Economic Development plan for host community and project impact areas which addresses barriers to inclusion and opportunities for

participation for marginalized sectors including women, persons with disabilities, indigenous peoples and/or IP organizations and senior citizens to enable them to benefit equally from the development

IX. Implementation, Monitoring and Evaluation of Safeguards

1. Recommendation on the integration of safeguards in the work program
2. Recommended aspects for MPSS formulation to ensure that necessary environmental and social safeguards are incorporated in the project implementation
3. Recommended parameters for KPIs which shall be subject to regular monitoring as basis for evaluation of safeguards implementation
4. Identification of safeguards-related project risks and mitigating measures

X. Summary and Conclusions

1. Summary of Environmental and Social Safeguards requirements recommended for inclusion in the Project Plan and Design and the corresponding estimated compliance cost including CAPEX and savings
2. Summary of environmental and social safeguards requirements during project implementation stage with estimated OPEX and savings

ANNEX D: Sample Minimum Performance Standards and Specifications (MPSS) and Key Performance Indicators (KPIs) for Safeguards in PPP

In PPP contracts, there are primary and secondary MPSS, which serve to differentiate standards and specifications between core services and auxiliary services related to a PPP project. For example, in rail projects, the MPSS for the service level of the train system (e.g. high reliability of the train system to commuters) is considered a primary MPSS, while train and station cleanliness may be identified as a secondary MPSS.

Below is a list of safeguard-related MPSS and KPIs, which may vary according to the nature of a project. These sample MPSS and KPIs were formulated based on the type of safeguards identified in Section 4: Safeguards Scope (e.g. environmental safeguards), and which the IA may consider in drafting their PPP contracts.

Type of Safeguard	Sample MPSS
Environmental	<ul style="list-style-type: none"> • Buildings designed to withstand a minimum wind speed of 250 kilometers per hour (using a Wind Importance Factor of 1.15 based on the National Structural Code of the Philippines) • Submission by the Concessionaire of the Environmental Management and Monitoring Plan (EMMP) for the Works, in accordance with the Concession Agreement. EMMP shall conform to all appropriate laws and requirements and shall take into account of the ECC, and other associated submissions, which the Concessionaire shall obtain prior to commencement of the Works
Social and Gender	<ul style="list-style-type: none"> • Separate toilet for boys and girls in school buildings, in accordance with Department of Education standards. The specific types and numbers of fixtures shall depend on the school type. For boys' toilets, the main fixtures shall include: urinal, water closet, counter sink (with 2 faucets shared with girls), and facial mirror. For girls' toilet, the main fixtures shall include: water closet, lavatory (with 1 faucet), facial mirror, and grab bar. Special facilities for differently-abled persons shall be provided • Design public transport infrastructure with gender-responsive physical design features as contextually appropriate, which meet women's specific needs and promote universal access. For example, lower height of steps for entry into public buses, installation of handrails at appropriate height levels, and allocated space for parked baby carriages and shopping carts • Roads designed for all: pedestrians, cyclists, mass transit users, as well as private vehicle users bring benefits to all, especially the poor, of which women make up the majority
	Sample KPIs

<p>Environmental</p>	<ul style="list-style-type: none"> • For water quality, 100% of water samples that meet or exceed the specified potable water standards, as defined by the Philippine National Standards for Drinking Water (PNSDW) • For water pressure, daily (24-hour) water pressure at each water service provider interconnection point equal to or more than 14 meters or 20 pounds per square inch (psi) of head (14 meters head approximately corresponds to the ability to supply to a two-storey building) • Based on the United States Environment Protection Agency Air Quality Standards, dust concentration for total dust particulates should not exceed 0.26 milligram per cubic meter (mg/m³), and for respirable dust should not exceed 0.15 mg/m³ • For train stations, Concessionaire requirement to clean paid/unpaid areas, including male/female toilets, following minimum standards. For daily cleaning: wash all visible interior hard surfaces except ceilings; sweep platforms at least four times daily; clean ticket window glass; wipe passenger information display screen; wipe ticket machine screens and buttons check legibility of timetable and fare information; and inspect for graffiti and general. For monthly cleaning, as for daily cleaning and additionally: clean all Station furniture (seats, cabinets, bins, ticket machine housings); and all cleaning work shall be recorded in a Station cleaning log
<p>Social and Gender</p>	<ul style="list-style-type: none"> • During operation and maintenance phase, consider fare system that benefits men or women performing specific gender roles such as time-based fare: usually for systems that have transfers between the different parts. Time based fares incorporate trip-chaining more easily, allowing people to leave the system for a short period (e.g. to drop children off at school) and re-enter without paying again to continue the trip; • Collection of sex and disability-disaggregated data specially for social PPP projects

ANNEX E: Safeguards Implementation Report

The following items may be integrated in the required reports that project proponents submit to IAs, the basis of which are usually found in the annex/es of the PPP contract. This Annex supplements PPP Governing Board Resolution No. 2015-09-01 “PPP Projects Monitoring Framework and Protocols.”

Safeguard Areas	MPSS and KPIs <i>(to be formulated during procurement phase based on the identified areas during the FS Stage)</i>	Implementation Status / Other Remarks
Safeguards from Environmental Impacts		
Climate Change and Natural Hazards Resiliency Considerations		
Safeguards for Displacement		
Integrating gender considerations based on the Harmonized Gender and Development Guidelines (HGDG)		
Other Social Safeguards		