

Primer on the Application of Financial or Technical Assistance Agreement (FTAA)

(For applications filed on August 26, 2005, or thereafter)

NOTE: This Primer is based on Republic Act No. 7942, i.e., "The Philippine Mining Act of 1995" and its implementing rules and regulations.

What is a Financial or Technical Assistance Agreement (FTAA) ?

An Financial or Technical Assistance Agreement may be entered into between a Contractor and the Government for the large-scale exploration, development and utilization of gold, copper, nickel, chromite, lead, zinc and other minerals except for cement raw materials, marble, granite, sand and gravel and construction aggregates.

Who is qualified to apply for an FTAA?

The following Qualified Person may apply for an FTAA:

- (a) any **Filipino citizen** of legal age and with capacity to contract;
- (b) a **Filipino-owned Corporation, Partnership, Association or Cooperative**, at least sixty percent (60%) of the capital is owned by Filipino citizens, organized or authorized for the purpose of engaging in mining with technical and financial capability to undertake mineral resources development and duly registered in accordance with the law; or
- (c) a **Foreign-owned Corporation, Partnership, Association or Cooperative** duly registered in accordance with law and in which less than fifty percent (50%) of the capital is owned by Filipino citizens.

How much area is granted for an FTAA?

The maximum FTAA contract area that may be applied for or granted per Qualified Person in the entire Philippines are the following:

- a. One thousand (1,000) meridional blocks or approximately eighty-one thousand (81,000) hectares onshore,
- b. Four thousand (4,000) meridional blocks or approximately three hundred twenty-four thousand (324,000) hectares offshore or
- c. Combination of one thousand (1,000) meridional blocks onshore and four thousand (4,000) meridional blocks offshore.

What is the term of an FTAA?

An FTAA has a term of twenty-five (25) years from the date of its issuance, and renewable for another term not exceeding twenty-five (25) years. The following are the phase of mining operations of an FTAA:

- a. Exploration - up to two (2) years from date of FTAA execution, extendible for another two (2) years;
- b. Pre-feasibility study, if warranted - up to two (2) years from expiration of the exploration period;
- c. Feasibility study - up to two (2) years from the expiration of the exploration/pre-feasibility study period or from declaration of mining project feasibility; and
- d. Development, construction and utilization - remaining years of FTAA.

What are the mandatory requirements in the acceptance of an FTAA application?

An FTAA application shall be filed in the Mines and Geosciences Bureau (MGB) Regional Office (RO) concerned, for mineral and non-mineral reservation areas, using the prescribed form (MGB Form No. 07-1) through payment of the filing fee and submission of eight (8) sets of the FTAA proposal and five (5) sets of the following:

- a. Upon filing of the application, the following mandatory requirements –
 - Duly certified **Certificate of Registration, Articles of Incorporation and By-Laws** issued by the Securities and Exchange Commission or authorized Government agency(ies) concerned, or Certification from the Bureau/Regional Office concerned that the said documents are duly registered in that Office;
 - Location map/sketch plan** of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using a NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
 - Two-year Exploration Work Program** (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;

- Proof of technical competence**, including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Exploration Work Program;
- Proof of financial capability** to undertake the activities pursuant to the Exploration Work Program, such as **latest audited financial statement** and, where applicable, **Annual Report** for the preceding year, **credit line(s)**, **bank guarantee(s)** and/or similar **negotiable instruments**; and
- Affidavit of Undertaking** pursuant to DMO No. 99-10, as amended, declaring:
 1. The list of applications he/she/it has filed and the Mining Permit(s)/Contract(s) granted to him/her/it including the corresponding hectarage and location of the areas, disaggregated on a per province basis; and
 2. The list of other Applicant(s)/Contractor(s)/Permittee(s) in which more than seventy percent (70%) of the authorized capital stock is held by stockholders of the applicant, including the corresponding hectarage, disaggregated on a per province basis.

Note: Any application with incomplete mandatory requirements shall not be accepted.

b. After the acceptance of the application but prior to the approval of the FTAA:

- Posting of financial guarantee/performance bond and letter of credit** or other forms of **negotiable instruments** from any Government-accredited bonding company or financial institution, in favor of the Government upon notification by the Secretary, which shall be in any foreign currency negotiable with the Bangko Sentral ng Pilipinas or in Philippine Peso in such amount equivalent to the expenditure obligations of the applicant for any year;
- Certificate of Environmental Management and Community Relations Record (CEMCRR)/Certificate of Exemption**;
- Environmental Work Program** (MGB Form No. 16-1 or MGB Form No. 16-1A);
- Approved survey plan**;
- Environmental Compliance Certificate (ECC)**;

Environmental Protection and Enhancement Program
(MGB Form No. 16-2);

Social Development and Management Program;

For OFFSHORE applications, the following additional requirements shall be submitted:

Name, port of registry, tonnage, type and class of survey vessel(s) or platform(s) . If a foreign vessel is to be used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and the necessary clearances obtained;

A certification from the Coast and Geodetic Survey Department of NAMRIA that the proposed Exploration Work Program was duly registered to provide update in the publication of “Notice to Mariners” together with a list of safety measures to regularly undertaken to ensure the safety of navigation at sea and prevent accident;

An agreement to:

1. Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
2. Notify the Bureau 30 calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
3. Allow the Bureau’s authorized personnel, the Philippine Coast Guard and other authorized persons during reasonable hours to board the vessel(s) while within the Exclusive Economic Zone.

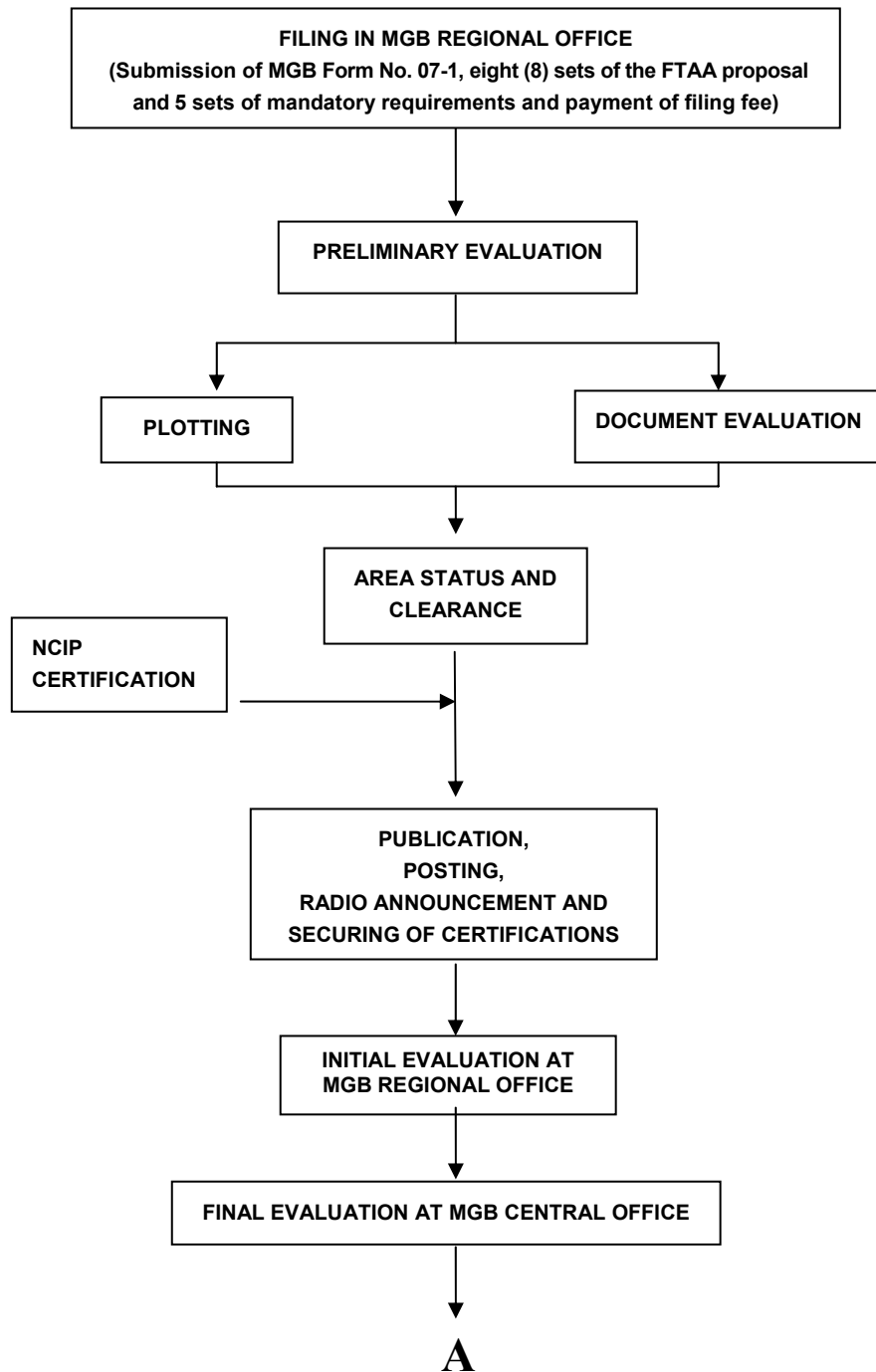
Certification Precondition from the National Commission on Indigenous Peoples attesting that –

- a. The proposed permit area does not overlap any ancestral land/domain claim in case of non-Indigenous People (IP) area; or
- b. The Free and Prior Informed Consent (FPIC) has been issued by the Indigenous Cultural Community (ICC)/IP concerned.

Other supporting documents that may required by the Mines and Geosciences Bureau.

- c. After the approval of the FTAA but prior to registration - An **authorized capital** of at least **Four Million U.S. Dollars (US\$4,000,000.00)** or its Philippine Peso equivalent; and
- d. In support of the application for approval of the declaration of mining project feasibility –
- Mining Project Feasibility Study;**
 - Three (3)-Year Development/Utilization Work Program;**
 - Proof of technical competence**, including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Development/Utilization Work Program; and;
 - Proof of financial capability** to undertake the activities pursuant to the Development/Utilization Work Program, such as **latest audited financial statement** and where applicable, **Annual Report** for the preceding year, **credit line(s)**, **bank guarantee(s)** and/or similar **negotiable instruments**.

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