

Resettlement Planning Document

Land Acquisition and Resettlement Framework
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Resettlement Framework and Plan

ACCRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
APs	Affected Persons
CEF	Compensation and Entitlement Form
DMS	Detailed Measurement Survey
DRC	District Resettlement Committee
EA	Executing Agency (or MOH)
GOL	Government of Lao PDR
GRCs	Grievance and Redress Committees
Health SDP	Health Sector Development Program, or the Project
IMA	Independent Monitoring Agent
LAR	Land Acquisition and Resettlement
LARF	Land Acquisition and Resettlement Framework
LARP	Land Acquisition and Resettlement Plan
LFNC	Lao Front for National Construction
LWU	Lao Women's Union
m ²	square meter
MDGs	Millennium Development Goals
MOF	Ministry of Finance
MOH	Ministry of Health
MPI	Ministry of Planning and Investment
NA	National Assembly
NAFES	National Agriculture and Forestry Extension Service
NLMA	National Land Management Agency
NGO	Non Government Organization
OM	Operational Manual
OP	Operational Policy
para.	paragraph
PICs	Project Implementation Consultants
PIAs	Provincial Implementation Agencies
PM	Prime Minister
PCU	Project Coordination Unit
PPTA	Project Preparatory Technical Assistance
PRC	Provincial Resettlement Committee
Project	Health Sector Development Program
RCS	Replacement Cost Survey
RCs	Resettlement Committees
SES	Socioeconomic Survey
SSS	Social Safeguards Specialist
STEA	Science, Technology and Environment Agency
WREA	Water Resources and Environment Authority

DEFINITION OF TERMS

Affected Persons (APs) – includes any person, entity or organization affected by the Project, who, on account of 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 in all or any part of a house, buildings, land (use for residential, commercial, agricultural, and forest as well as for plantation and grazing), water resources, fish ponds, communal fishing grounds, annual or perennial crops and trees, or any movable 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, temporarily or permanently..

Compensation – refers to any payment in cash or in kind of the replacement cost of the acquired assets.

Cut-off Date – means the date prior to which the occupation or use of the Project area makes residents/users of the Project area eligible to be categorized as APs. The cut-off date for the Project is the last day of the detailed measurement survey (DMS) in each subproject.

Displaced Persons – are people or entities directly affected by the Project through the loss of land and the resulting loss of residence, other structures, or other assets.

Entitlement – is a range of measures comprising compensation in cash or in kind, income restoration, transfer assistance, income substitution, and relocation which are due to APs, depending on the nature of their losses, to restore their economic and social base.

Grievance Procedures – is the process established under law, local regulations, or administrative decisions to enable property owners and other displaced persons to redress issues related to acquisition, compensation, or other aspects of resettlement.

Household – means all persons living together as a single social unit. They are identified in a census being an instrument of their recognition and legitimacy to receive compensation, rehabilitation and assistance under the Project.

Improvements - Structures constructed (dwelling unit, fence, waiting sheds, animal pens, utilities, community facilities, stores, warehouses, etc.) and crops/plants planted by the person, household, institution, or organization in the affected lands.

Income Restoration – is the reestablishment of income sources and livelihoods of APs to their pre-project levels.

Indigenous Peoples – belong to a certain group of people from cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, natives and aboriginals.

Land Acquisition - the process whereby a person is compelled by the Government through the Project Executing Agency to alienate all or part of the land a person owns or possesses to the ownership and possession of the government agency for in the implementation of the Project or any of its components in return for fair compensation..

Rehabilitation – means assistance provided to severely affected APs losing 10% or more of productive assets (i.e. farmland, fishpond, vegetable garden, etc.), incomes, employment or sources of livelihood such as shops and place of work have to be reconstructed and/or relocated. The livelihood support may be given in cash or in kind or

employment during Project construction to improve or at least achieve full restoration of living standards to pre-project levels.

Relocation – is the physical shifting of AP from his/her pre-Project place of residence and/or business.

Replacement Cost - The value determined to be fair compensation for land based on its productive potential, the replacement cost of houses and structures (current fair market price of building materials and labor without depreciation or deductions for salvaged building material), and the market value of residential land, crops, trees, and other commodities.

Resettlement - All measures taken to mitigate any and all adverse impacts of the Project on AP's property and/or livelihood, including compensation, relocation (where relevant), and rehabilitation.

Resettlement Plan – is the planning document that describes what activities to be done in addressing the direct social and economic impacts associated with involuntary taking of land.

Severely Affected Person – is a person who will: (i) lose 10% or more of their productive assets, such as agriculture/aquaculture landholding, and/or (ii) physically displaced from housing; and/or (iii) lose 10% or more of total income sources due to the Project.

Vulnerable Group – are distinct group of people who might suffer disproportionately or faced 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 line; (iii) the landless; (iv) children without means of support; and (iv) indigenous peoples and/or ethnic minorities.

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I. INTRODUCTION

A. Rationale

1. The Health Sector Development Program (Health SDP¹, or the Project) will be implemented by the Government of Lao PDR (GOL) as a sector project. The Project will comprise support via a program grant for a comprehensive set of policy actions that will address key constraints in access to health care services particularly for women, children and ethnic groups. An accompanying project grant will finance a set of investments directly linked with and supportive to the implementation of the policy actions in the Ministry of Health (MOH). With support from the Ministry of Finance (MOF) and the Ministry of Planning and Investments (MPI), MOH has requested the Asian Development Bank (ADB or the Bank) to consider the SDP modality in support of the next 5-year plan that will contribute to achieving the three Millenium Development Goals (MDGs)².

B. Project Description

2. The Health SDP is designed for the improvement of health programs and projects at the MOH central level with priority on the following subprograms:

- (i) Maximizing past investments on the country's health sector to achieve MDGs. In this subprogram, the SDP's project investment will support primary health care (PHC), with a focus on maternal and child health (MCH), in terms of improving access quality, acceptability, affordability and management nationwide.
 - (ii) Helping develop the sector approach to improve overall health service delivery nationwide in terms of efficiency, effectiveness and sustainability. This subprogram shall provide complementary support for standardizing maternal health care services, human resource development policy, and personnel management making health care more affordable for the poor through health equity funds and results-based planning and budgeting.
3. Civil works covered by subprogram (i) of the Project will involve the upgrading, rehabilitation or replacement of structures of four (4) existing district hospitals and 20 health centers in the provinces of Luang Prabang, Xiengkhouang, Phongsali, and Oudomxay to maximize past investments.

C. Resettlement Framework

4. The MOH as the Executing Agency (EA) has prepared this Land Acquisition and Resettlement Framework (LARF), as an expression of its commitment to and has been agreed with ADB that it will prepare a Land Acquisition and Resettlement Plan (LARP) in case there shall be land acquisition and resettlement that would arise from changes in the scope and detailed design of civil works. This LARF prescribes the approaches in LARP preparation and in addressing the compensation and resettlement issues resulting to: (a) loss of land; (b) loss of trees; (d) loss of house or structures; and (e) other losses of affected persons (APs). Likewise, the LARF outlines the information required for a satisfactory LARP (refer to **Annex 1**) that will spell out the mitigation of potential impoverishment risks and the equitable distribution of development opportunities to persons that will be displaced by the Project, in compliance with the relevant policies of ADB on involuntary resettlement and the applicable legal and policy framework in Lao PDR.

¹ This acronym is used in this report to distinguish it from Health System Development Project being implemented by MOH with funding assistance also from ADB (Project No. P32313)

² The three MDGs are: (i) Goal No. 1: Eradicate poverty; (ii) Goal No. 4: Reduce child mortality; and (iii) Goal No. 5: Improve maternal health. The targets for these MDGs in Laos are to reduce each area of concern by 50% between 1990 and 2015.

II. LAND ACQUISITION AND PROCESSING REQUIREMENTS

5. Based on ADB policy/practice on Land Acquisition and Resettlement (LAR) and Sector Loans, project appraisal will require the preparation of LARF for the whole Project that will govern the preparation of LARPs. All civil works during the Health SDP implementation will be screened according to their impacts on LAR. The screening criteria based on the degree of LAR impacts are:

- (i) Category A (Significant) - as a result of the required civil works, 200 or more people will experience major impacts, that is, being physically displaced from housing, or losing 10% or more of their productive (income-generating) assets. A full LARP is required.
- (ii) Category B (Not significant) - as a result of the civil works, fewer than 200 people will be physically displaced from housing or lose less than 10% of their productive (income-generating) assets. A short LARP is required.
- (iii) Category C (No resettlement effect) - the subproject does not require temporary or permanent land acquisition, and there are no impacts involving the loss of land, structures, crops and trees, businesses or income. LARP is not required.

6. However, per selection criteria developed in the PPTA, only civil works with Category B and/or Category C will be funded under the Project. The categorization form for screening the involuntary resettlement impacts of civil works is shown in **Annex 2**.

III. PROCEDURES AND MILESTONES IN LARP

A. Procedures in LARP Preparation

7. If land acquisition is unavoidable and the preparation of a short LARP is therefore required, the following procedures will be undertaken:

- (i) Undertake a census of 100% APs.
- (ii) Undertake detailed measurement survey (DMS)³ of losses of all APs. At the same time, inform the potential APs (without discrimination) of the scope of civil works, its likely impacts, and principles and their entitlements, as stipulated in this LARF.
- (iii) Undertake a socioeconomic survey (SES)⁴ of at least 10% of all affected households and 20% of severely affected households. A gender analysis will be included in the LARP.
- (iv) Simultaneous with SES, undertake a replacement cost survey (RCS) for various types of affected assets as a basis for establishing compensation rates at replacement cost. Determine the losses in accordance with the entitlement matrix.⁵
- (v) Prepare the Short LARP based on detailed design, with complete census and inventory of lost assets with time-bound implementation schedule, procedures for grievance mechanism and monitoring and evaluation, and a budget.
- (vi) Disseminate the information on land acquisition to all APs in a form and language they understand, and closely consult them on compensation and resettlement options, including relocation sites and economic rehabilitation where applicable.
- (vii) Finalize the Short LARP and translate into Lao language.

³ Data will be gender and ethnic minorities disaggregated.

⁴ It will include disaggregated data on gender.

⁵ If there are new categories of APs and/or losses identified during the DMS (other than those described in the entitlement matrix), the entitlements will be derived in accordance with ADB's policy and guidelines.

- (viii) Disclose the draft and final Short LARP in accordance with ADB's policy on public communications to the affected communities, and on ADB's website. The draft Short LARP will be disclosed to APs prior to submission to ADB for approval.

B. Activity Milestones for LARP and Civil Works Implementation

8. The EA will follow the prerequisites to comply with ADB's involuntary resettlement policy requirements on sector project, like Health SDP. Such prerequisites are defined in the following activity milestones:

- **At Loan Appraisal.** The EA will submit an acceptable LARF, and Short LARP where applicable, before ADB conduct the Project appraisal.
- **Award of Civil Works Contracts.** The EA will first complete the implementation of LARP duly accepted and approved by ADB by paying the full compensation, entitlements and/or allowances as well as the completion of relocation of APs and clearance of civil works sites prior to the award of civil works contracts. In case of civil works with Resettlement Category C, the EA will request for "No Objection" from ADB for the award of civil works contract.
- **Initiation of Civil Works.** The compliance on LARP implementation will be a condition for the EA to request ADB's "No Objection" for the award of civil works contract. Construction contract will not be awarded for a specific civil work until all resettlement activities have been satisfactorily completed for that specific site, agreed rehabilitation assistance is in place, all compensation and assistance in cash and in kind have been paid and delivered to the APs, and the site is free of all encumbrances. Commencement of civil works may commence in subprojects without any resettlement impacts (Category C).

IV. LEGAL AND POLICY FRAMEWORK

9. The legal and policy framework formulated in this LARF are built upon the laws and decrees currently enforced in Lao PDR and the relevant policies of ADB. This LARF will govern the LARPs that shall be prepared under the Project. From the laws and decrees of the GOL, these refer to: (a) the country's 1991 Constitution; (b) Decree No. 192/PM Prescribing for the Compensation and Resettlement of People Affected by Development Projects (July 2005); and (c) Regulation No. 2432/STEA covering the Implementation of Decree No. 192/PM. From the relevant policies of ADB, this LARF is guided by: (i) Involuntary Resettlement Policy (1995); (ii) OM Section F2/BP, OM Section F2/OP (September 2006); and (iii) the related policies, such as, Policy on Indigenous Peoples (1998), Policy on Gender and Development (1998), Public Communications Policy (2005) and Accountability Mechanism (2003). The provisions and principles adopted in this LARF will supplement the provisions of relevant laws and decrees currently enforced in Lao PDR (paras 11-14), wherever a gap exists.

A. Laws on Land Acquisition and Compensation in Lao PDR

1. The 1991 Constitution

10. The fundamental legal bases on ownership and management of land in Lao PDR are found in the country's 1991 Constitution. Relevant to the requirements in LAR are found in the following constitutional provisions:

Article 6: The State protects the freedom and democratic rights of the people which cannot be violated by anyone. All state organizations and functionaries must popularize and propagate all policies, regulations and laws among the people and together with the people, organize their

implementations in order to guarantee the legitimate rights and interest of the people. All acts of bureaucratism and harassment that can be physically harmful to the people and detrimental to their honor, lives, consciences, and property are prohibited.

Article 8: The State pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the right to protect, preserve and promote their customs and culture. All acts of division and discrimination among ethnic groups are prohibited.

Article 14: The State protects and expands all forms of state, collective and individual ownership...

Article 15: The State protects the right to ownership (rights to governing, rights to using or transferring) and all the rights to inherit the property of organizations and individuals. As for the land which is under the ownership of the national community, the State ensures the rights to using, transferring, and inheriting it in accordance with the law.

Article 28: Lao citizen have the right to lodge complaints and petitions and to propose ideas with state organizations concerned in connection with issues pertaining to the right and interest of both collectives and individuals. Complaints, petitions and ideas of the citizens must be considered for solution as prescribed by law.

2. Laws on Land Acquisition and Expropriation in Lao PDR

11. With respect to specific legislations on land acquisition and compensation, there are 14 legislations and regulations which are currently enforced in Laos. The “*Study on Expropriation and Compensation in Lao PDR (2007)*”⁶, sponsored by Lao-German Land Policy Development Project, had analyzed the provisions of each law on their applicability and responsiveness to the public. Assessed in the perspective of land acquisition, compensation and resettlement satisfactory for processing sector loan by multilateral development institutions, like ADB and The World Bank, 12 of these legislations are short of meeting the involuntary resettlement policy requirements.

12. One directive and a decree such as **The Technical Notification on State Land and Housing, and Natural Resource Management (undated 1991[?])** and the **Prime Ministerial Decree on Land No. 99/PM (1992)** are both silent on compensation. While compensation to land is provided for in the respective provisions of the **Electricity Law No. 02/NA (1997)**, **Public Road Law No. 04/NA (1999)**, the **Ministerial Directive on the Implementation of Asset Law No. 2085/MOF (2004)** and the **Law on the Promotion of Foreign Investment No. 11/NA (2004)** as well as the **Prime Ministerial Decree on the Implementation of Land Law No. 101/PM (2005)**, they are broadly defined and subject to interpretation which are not satisfactory to meet the standard involuntary resettlement policy requirements of multilateral development institutions..

13. The **Draft of the Prime Ministerial Decree on State Land Lease and Concession** which was circulated on 6 September 2007, recommends for taking the assessed value of the agricultural land and adding the estimated value of the normal (?) harvest in a year multiplied by 5 (Article 13.1), or 10 for orchards, or 3 for cattle raising. Similar approach is recommended for construction land (Article 13.2). Such provision seems to go backwards compared to Decree No.192/PM (2005). The **Ministerial Directive on the Registration of Land Parcel Division and Land Parcel Consolidation No. 966/NLMA (2007)**⁷ creates a confusion when it insists that expropriation should not affect the environment, residences and areas where people make a living. Such is difficult to implement since expropriation will

⁶ Land Policy Study No. 11 (December 2007) under Lao Land Titling Project II, entitled “*Study on Expropriation and Compensation in Lao PDR*” sponsored by Lao-German Land Policy Development Project.

⁷ This Ministerial Directive supersedes Directive No. 996/MOF.

always harm the livelihood of the concerned community in some degree. Compensation has to be provided appropriately but was not defined.

14. The **Law on Water and Water Resources No. 126/NA (1996)** and the **Law on Mining No. 04/NA (1997)** provide for more reasonable terms of compensation, such as: (i) resettlement of the population and assurance of their livelihoods; (ii) compensation of damage to land, constructions and crops; (iii) rent of land; (iv) environmental protection; and (iv) improvement and rehabilitation of affected persons, which are inarguably close to Decree No.192/PM (2005) than the 10 laws, that include Land Law No. 04/NA (2003)⁸. However, they are short of the provisions for replacement cost, transition allowance, gender development and assistance to vulnerable groups. The **Land Law No. 04/NA (2003)** addresses the land management and land titling in Lao PDR. However, it has no well-defined compensation of affected persons, except that in Article 71 which provides for land-for-land compensation taken from 5% of the total area of the village, district, municipality, province or city.

15. Considered as equal to or compliant with the involuntary resettlement policy requirements of ADB are the **Prime Ministerial Decree on Compensation and Resettlement of People Affected by Development Projects No. 192/PM (2005)** and the **Regulations for Implementing Decree No. 192/PM No. 2432/STEA-PMO (2005)**. Their provisions were assessed as liberal, progressive and detailed as well as friendly towards those affected by development projects. The guidelines of the Regulations cover all stages of development, from project identification and feasibility study through construction and operation of the project, which is either funded by GOL and private investors or donors. They stipulate that where significant large or entire landholdings are affected by a project, such as agriculture, residential and commercial land, the compensation shall be land-for-land arrangement of equivalent size and productivity and must be acceptable to affected people and project owners. In case of affected assets other than land, compensation maybe cash or in kind needed to replace houses and infrastructure, without deduction for depreciation or value of salvaged building materials, or other assets on the land (crops and trees). In case of cash compensation, the amount should be at replacement cost. The affected persons must be provided with other assistance during transition period, such as transport and food allowance, suitable development assistance and economic rehabilitation like income restoration measures enabling them to attain pre-project livelihood levels. These provisions are summarized in the following key policy points⁹:

- (i) They endorse the principle of compensation for all losses at replacement cost, in cash or in kind.
- (ii) They cover losses of or damage to structures, crops, trees and other assets located on affected land, loss of business and/or other sources of income.
- (iii) They adopt the ADB standards to define APs, vulnerable groups and criteria and procedures to determine the eligibility of APs to entitlements for compensation, rehabilitation and/or resettlement assistance.
- (iv) They define the rights of affected persons without recognized land use rights; and establish compensation principles for, among other situations, partially affected assets, tenants and temporary losses.
- (v) They recognize the rights of APs as circumstance require to assistance for relocation individual and/or to group resettlement sites; and for economic rehabilitation and income restoration.

⁸ The 2003 Land Law supersedes the earlier Land Law 01/NA of 12 April 1997

⁹ Adopted from Land Acquisition and Compensation Framework (July 2008), Lao PDR: Small Towns Water Supply and Sanitation Sector Project, pp 10 and 11.

- (vi) The regulations set out the procedures for resettlement planning and social assessments, as well as preparation of strategies to address the needs of ethnic minorities and women affected by land acquisition.
- (vii) They establish the procedures that conform to ADB standards for consultation, information dissemination, disclosure and grievance redress as well as monitoring and evaluation.

B. ADB Policy on Involuntary Resettlement

1. The Bank's Main Policy Requirements

16. The EA is aware that the Bank has its policy requirements as established in *ADB Policy on Involuntary Resettlement (1995)*, which are defined and provided for in OM Section F2/BP and OM Section F2/OP (September 2006). Emphasized in the Policy are the following key policy points: (i) avoid involuntary resettlement whenever feasible; (ii) minimize resettlement where population displacement is unavoidable; and (iii) ensure that displaced persons receive assistance so that they are at least as well-off as they would have been in the absence of the Project. Behind the Bank's Policy on Involuntary Resettlement are the following main principles:

- (i) Involuntary resettlement should be avoided where feasible.
- (ii) Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.
- (iii) All compensation is based on replacement cost.
- (iv) Each involuntary resettlement is conceived and executed as part of a development project or program.
- (v) Affected people should be fully informed and consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation.
- (vi) Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- (vii) The absence of a formal legal title to land is not a bar to ADB policy entitlements.
- (viii) Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cut-off date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.
- (ix) Particular attention must be paid to the needs of the poorest affected people and vulnerable groups that may be at high risk of impoverishments. This may include affected households without legal title to land or other assets, households headed by women, the elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic status.
- (x) The full cost of resettlement and compensation should be included in the presentation of project costs and benefits.

- (xi) Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and ensure compliance with involuntary resettlement procedures during implementation.

2. Other ADB Involuntary Resettlement-Related Policies

17. **Policy on Indigenous Peoples (1998).** The Bank defines “indigenous peoples” as groups with social or cultural identities distinct from that of the dominant or mainstream society. “Indigenous peoples” is a generic concept that includes cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, natives and aboriginals. ADB recognizes the potential vulnerability of indigenous peoples in the development process and development interventions that affect them. As such, the development programs and civil works interventions to be spelled out in LARP shall (i) be consistent with the needs and aspirations of affected indigenous peoples; (ii) be compatible in substance and structure with affected indigenous peoples’ cultures and social economic institutions; (iii) be conceived, planned, and implemented with the informed participation of affected communities; (iv) be equitable in terms of development efforts and impacts; and (v) not impose the negative effects of development on them.

18. **Policy on Gender and Development (1998).** The Bank’s *Poverty Reduction Strategy (1999)* recognized that improving the status of women is critical to any strategy to reduce poverty, and therefore highlights gender as an important cross-cutting theme in ADB’s poverty reduction work. Specific to land acquisition and involuntary resettlement, they will be given equal opportunity in terms of participation in public consultation, decision-making for development activities, equal compensation and special assistance measures.

19. **Public Communications Policy (2005).** It seeks the active participation of affected people and other stakeholders during the development and review of safeguard policies on ADB-assisted programs and projects. With respect to land acquisition and involuntary resettlement, the EA shall make available the LARP to affected people in the following manner, consistent with ADB’s OM Section F2/OP (September 2006): (i) before Project appraisal, the draft LARP; (ii) after completion of the LARP, the final LARP; and (iii) following revisions to the LARP as a result of detailed technical design or change in scope in the program or project, the revised LARP. The information from LARP can be made available in the form of brochures, leaflets or booklets in the local language/s. When APs include non-literate people, other appropriate communication methods will be used. The draft LARP, final LARP and revised LARP shall be publicly disclosed at ADB website.

20. **Accountability Mechanism (2003).** The Mechanism is part of ADB’s continued efforts to enhance its capacity in responding to and/or resolving the problems associated with the implementation of its policies in all programs or projects it assists. It consists of a consultation phase and a compliance review phase, by which the problems or issues raised by the affected people and/or stakeholders are investigated and resolved. The complaints can be written in any national language of the affected people and should be addressed to the concerned ADB operations department that has responsibility to the program or project. In Lao PDR, the complaints shall be addressed through the ADB Resident Mission in Vientiane Capital City.

C. Bridging the Gaps between Lao PDR Legislation and ADB Policy

21. The GOL’s Decree No. 192/PM and the ADB policy only differ on the definition of severely affected persons; the Bank’s OM Section F2/BP and OM Section F2/OP distinguished it at 10% or more¹⁰ while Decree 192/PM (Article 8[1]) placed it at 20% or more

¹⁰ Footnote No. 12 in OM Section F2/BP provides that major impacts are defined as involving affected people being physically displaced from housing and/or having 10% or more of their productive income generating assets lost. The percentage was confirmed in para. 19 of OM Section F2/OP.

of productive income generating assets. However, the “10% or more” definition of severely affected persons has been adopted in this LARF as part of the Project’s resettlement policy and will be followed in any LARP that will be prepared under Health SDP.

V. COMPENSATION AND ENTITLEMENT POLICIES

22. The overall objective of the EA in defining the compensation and entitlement policy for Health SDP is to assure ADB of its commitment that it will ensure that all APs will be able to maintain and, preferably, improve their pre-project living standards and income-earning capacity through compensation for the loss of tangible and non-tangible assets and the provision of other assistance and rehabilitation measures.

A. Principles

23. The following land acquisition and resettlement principles have been adopted for Health SDP for execution by the EA and the Project implementer:

- a) Avoid or minimize acquisition of lands and other assets as well as involuntary resettlement as much as possible, by identifying possible alternative project designs and engineering solutions that have the least impact on populations, particularly on vulnerable groups.
- b) APs without land certificate or land title or legal rights to the assets lost will not be deprived from receiving compensation, entitlement and rehabilitation measures. The APs will not be displaced from affected land until the village officials have allocated suitable alternative land, or the EA has paid them sufficient compensation to purchase suitable land within the same or neighboring village.
- c) Systematically inform and consult the APs about the Project, the rights and options available to them, the proposed mitigating measures, special assistance measures to vulnerable groups and the need for the preparation of LARPs. All LARPs will be disclosed in a language understood by APs and involve them in decision-making process concerning their resettlement.
- d) APs, community leaders, civil society organizations, non-government organizations (NGOs), and members of local peoples’ organizations and representatives of districts and villages hosting the civil works will be included in the consultative process.
- e) Properly identify and record the APs in a census instrument whose demographic data can be disaggregated by gender. The cut-off date of their eligibility for compensation is the last day of the DMS based on the final detailed civil works design. The APs will be notified in advance prior to acquisition of lands.
- f) Provide the following compensation and rehabilitation measures to APs: replacement of land for land of equal size acceptable to APs; compensation, in cash or in kind, at replacement cost for houses, other structures and other affected assets without deduction for depreciation or the values of salvageable materials; transition subsistence allowances; transportation allowance; and supplementary subsistence allowance to severely affected vulnerable APs.
- g) Payment of compensation to non-tangible assets of APs like lost income from productive assets or jobs will be calculated at replacement cost or current market rates at the time of compensation.
- h) Lands being donated voluntarily will not be used/accepted for the Project unless: (i) the land users have been fully consulted; (ii) confirmed through verbal and written

record and verified by an independent third party; (iii) will not severely affect the living standards of APs; and (iv) adequate redress mechanism is in place.

- i) During LAR implementation process, special assistance measures will be incorporated to protect the socially and economically vulnerable groups that will be affected and improve their standard of living.
- j) Incorporate the gender concerns, specific gender-consultation and information disclosure in LAR planning and implementation, including the guarantee to women's assets, property, and land certificate or land title, and ensure their income and living standards are restored.
- k) Respect the existing cultural resources and religious practices and observances in the affected community.
- l) Commit and release adequate budgetary support to cover the costs of compensation, entitlements and resettlement as well as critical activities associated with resettlement within the agreed LAR implementation period.
- m) Establish effective mechanism for arbitration of complaints and grievances during LAR implementation.
- n) Establish institutional arrangements and human resources for consultation, liaison, land acquisition, resettlement and monitoring to ensure the effective implementation of LAR prior to the commencement of civil works.
- o) Set up appropriate reporting (including auditing and redress functions), monitoring and evaluation mechanisms, as part of the resettlement management system.
- p) Provide replacement land and complete the payment of compensation to affected properties, and other resettlement assistance prior to displacement of APs before the award of civil works contracts.

B. Eligibility

24. All persons and entities "with" or "without" land certificate and/or land title, who are residing, using, working on the lands that shall be permanently acquired, and identified during the DMS are eligible to receive compensation. Livelihood activities that may be affected by temporary land acquisition are also eligible for compensation. Eligibility for compensation will be limited by a cut-off date to be established for each site on the last day of the census and impact assessment. APs who have established their structures within the sites after the cut-off date are not eligible for compensation. However, they will be given sufficient advance notice to dismantle their structures and vacate the affected premises prior to the initiation of civil works. The dismantled structures will not be confiscated and they will not pay any fine or sanction. But if all avenues for amicable resolution have been exhausted to vacate the premises, forced eviction will be enforced.

C. Categories of APs

25. The persons that are likely to be affected by land acquisition under the Project were determined through the assessment of the adjacent surroundings of health facilities during consultations with people and health officials in the five provinces. Land acquisition in each site can only be ascertained after the completion of detailed design. The sizes of lands occupied by district hospitals vary from 0.31 has. to 6.0 has. as health centers are from 2,000 m² to 3,000 m² in areas designated by the respective district government. The buildings and other structures of district hospitals occupy 1.6% - 29% of their designated lands while the buildings of health centers share 20% - 30% of their respective land area.

But if there will be land acquisition, particularly for health centers, the categories of persons and/or households that may be affected were defined on the basis of Lao law and ADB policy on involuntary resettlement, such as the following:

- (i) Legal users of land that include individuals and households with recognized land use rights verifiable through: (a) land titles; (b) land use certificates (Form 01); (c) survey certificates; (d) land tax receipts; (e) residency certificates; (f) documents supporting customary land use; and (g) application forms for land title. Legal users of land also include the unregistered users that have permission of village authorities.
- (ii) Non-legal users include individuals and households without recognized land use rights.
- (iii) Owners of houses and/or structures with or without recognized land use rights or permits issued to construct structures.
- (iv) Agricultural and non-agricultural laborers or employees that may be permanently affected by land acquisition.

26. The above categories of APs, including their socioeconomic conditions, incomes to determine poverty levels and disaggregated by gender, will be validated during the joint DMS and socioeconomic surveys. Information on socioeconomic status of the area and APs as well as losses of properties will be disclosed in the LARP.

D. Types and Levels of Losses

27. Since civil works shall be undertaken within the existing sites of district hospitals and health centers, the following types and levels of Project-induced impacts are broadly envisaged: (i) permanent loss of residential lands; (ii) loss of houses and/or structures; and (iii) loss of trees. Any of these properties will be affected if the district hospitals and/or district health centers will expand their existing perimeters. Temporary loss of lands is not anticipated as there are enough spaces for mobility during the delivery of construction materials

E. Entitlement Matrix

28. The Entitlement Matrix in **Table 2** provides the main types of losses and the corresponding coverage of compensation and entitlements to eligible APs. However, it does not cover all resettlement impacts/losses. During the preparation of LARPs, the census and DMS will be the basis for determining the final compensation and entitlements based on actual impacts/losses including appropriate relocation and rehabilitation assistance and special assistance to poor and vulnerable groups. Replacement cost surveys (RCS) in each district will be carried out to determine the actual replacement costs and current market rates of affected assets. Standards described will not be lowered but can be enhanced in the LARPs, as required.

Table 2: Entitlement Matrix

	Type of Loss/Impacts	Application	Eligible Persons	Compensation and Entitlements
				<ul style="list-style-type: none"> • With sufficient remaining lands to rebuild houses or structures: (i) cash compensation at replacement cost at current market prices for land of similar type within the district; (ii) civil works contractor to improve remaining land, e.g. land filling and leveling, at no cost to APs in order to rebuild their houses or structures. • Without sufficient remaining lands to rebuild

1	Permanent Loss of Land (including agricultural and commercial land)	Residential Lands	Legal users of residential lands land.	<p>houses or structures, it's either (i) replacement land of equal size and category at locations within the area satisfactory to APs with registered title or secured tenure; or (ii) cash compensation at replacement cost equal to current prices for land of similar category nearby, plus assistance to purchase and registration of the land.</p> <ul style="list-style-type: none"> Where remaining land is not viable to rebuild houses or structures, APs may request the Project to acquire the entire landholdings. All transaction fees, taxes and other costs associated with replacement land and/or issuance of title or secured tenure will be paid for by the Project. If the head of household is married, the title will be issued and registered in the names of both spouses.
			Non-legal users	<ul style="list-style-type: none"> APs will not receive compensation for affected land. If they have no other residential landholdings, they will be allocated replacement lands with leasehold tenure to rebuild their houses.
		Agricultural Land	Owner	<ul style="list-style-type: none"> <u>Replacement agricultural land of similar productivity or cash compensation at replacement cost equal to current prices for land of similar category nearby, plus assistance to purchase and registration of the land.</u> Where remaining agricultural land is not viable for agricultural purposes, APs may request the Project to acquire the entire landholdings. All transaction fees, taxes and other costs associated with replacement land and/or issuance of title or secured tenure will be paid for by the Project. If the head of household is married, the title will be issued and registered in the names of both spouses.
			Tenant/ Sharecropper, Labor	<ul style="list-style-type: none"> <u>APs will not receive compensation for affected land.</u> <u>Assistance to APs to secure similar opportunities for tenancy or crop sharing.</u>
		Commercial Land	Owner	<ul style="list-style-type: none"> <u>Replacement commercial land of similar productivity or cash compensation at replacement cost equal to current prices for land of similar category nearby, plus assistance to purchase and registration of the land.</u> <u>Where remaining commercial land is not viable for commercial purposes, APs may request the Project to acquire the entire landholdings.</u> <u>All transaction fees, taxes and other costs associated with replacement land and/or issuance of title or secured tenure will be</u>

				<u>paid for by the Project. If the head of household is married, the title will be issued and registered in the names of both spouses.</u>
			Tenant	<ul style="list-style-type: none"> • <u>APs will not receive compensation for affected land.</u> • <u>Assistance to APs to secure similar opportunities for tenancy.</u>
2	Loss of houses/ Structures	Completely destroyed house or structure	Owners of structures regardless of their land use rights status	<ul style="list-style-type: none"> • Cash compensation at full replacement cost based on current market prices for construction materials and cost of delivery, and cost of labor for the dismantling and rebuilding the structure of similar size and quality without any depreciation and deductions for salvaged material.
		Partially affected houses or structures	Owners of structures regardless of their land use rights status	<ul style="list-style-type: none"> • APs will receive cash compensation at full replacement cost based on current market prices for materials, including the cost of delivery, and cost of labor for the dismantling and rebuilding or repair the affected portion of the house or structure without any depreciation and deductions for salvaged material.
			Tenant	<ul style="list-style-type: none"> • <u>Assistance to APs to secure similar arrangement for housing.</u>
3	Loss of trees	Fruit trees and nut trees	Owners of structures regardless of their land use rights status	<ul style="list-style-type: none"> • Cash compensation at replacement cost based on current market prices given the type, age, and productive capacity at the time of compensation.
		Timber trees	Owners regardless of their land use rights status	<ul style="list-style-type: none"> • Cash compensation at replacement cost based on current market prices given the types, age, and diameter at breast height of trees at the time of compensation.
4	Transition and subsistence allowance		APs that relocate and rebuild houses and/or structures on remaining land or new land	<ul style="list-style-type: none"> • If civil works has no impact on main source of income, cash allowance and/or in-kind assistance equal to 16 kg of rice per household member for three (3) months.
			APs that lose 10% or more of their productive /essential assets	<ul style="list-style-type: none"> • If civil works affect the main source of income, or losing 10% or more of productive/essential assets, cash allowance and/or in-kind assistance equal to 16 kg of rice per household member for six (6) months.
5	Supplementary Allowance		Vulnerable APs that are severely affected by relocation of house and/or structure	<ul style="list-style-type: none"> • The supplementary subsistence allowance could either be cash and/or equal to 16 kg of rice per household member for one (1) month.
			Vulnerable APs that are severely affected by losing 10% or more of their productive/essential assets.	<ul style="list-style-type: none"> • Eligible to participate in income restoration program as provided for by the Project. • Employment of any household member as laborers in Project civil works.
6	Transportation allowance		APs that relocate to new land to rebuild new house and/or structure	<ul style="list-style-type: none"> • Assistance in cash or in-kind to move structure or deliver salvage materials, new building materials and personal possessions to new site.
7	Unanticipated impacts		All categories of legitimate APs and	<ul style="list-style-type: none"> • Provision of any of the above compensation and entitlements to APs.

		stakeholders.	<ul style="list-style-type: none"> EA and ADB will work to resolve outstanding resettlement issues (para. 53 of OM Section F2/OP)
8	Loss of business, employment and sources of livelihood		<ul style="list-style-type: none"> <u>Assistance as may be determined following an independent valuation of impact.</u>

ADB – Asian Development Bank; APs – affected persons; EA – Executing Agency; OM – Operational Manual; OP – Operational Policy.

VI. GENDER IMPACTS AND MITIGATING MEASURES

29. In compliance with **ADB Policy on Gender and Development (1998)**, the Project will pay particular attention to women to ensure that they are: (i) entitled to receive compensation for their affected land, structures and trees; (ii) clearly listed as household heads to be provided with allowances for transition and subsistence, transportation, and supplementary allowance for being vulnerable as the result of land acquisition; (iii) given preference for employment of one of its household members in civil works (iv) extended other form of assistance during relocation, i.e. sending of medical personnel to see to it if there are: (a) pregnant women who are due to deliver their child, (b) elderly household members who are sick, and (c) physically disabled members who are unable to move. In order to ensure that the preceding forms of assistance will be extended to women, the following actions will be initiated:

- (i) Inclusion of women in the impact enumerators.
- (ii) Use of census instrument where gender data can be disaggregated to determine how many women are likely to be affected by civil works and establish their pre-Project conditions.
- (iii) Inclusion of women as major participants in the consultation processes.
- (iv) Highlight the effect of LAR impacts on women in monitoring and evaluation of LARP. User certificates in joint names, joint bank accounts for compensation payments
- (v) Use of participation/consultation strategies that encourage women and poor households to get involve in resettlement planning and implementation;
- (vi) Complaints/grievances lodged by women or poor households will be given attention;
- (vii) Where possible, include women government officials in coordination committees to facilitate the LARP preparation and implementation.

30. Specific action plans for women will be incorporated in LARP.

VII. INDIGENOUS PEOPLES AND VULNERABLE GROUPS

31. In compliance with **ADB Policy on Indigenous Peoples (1998)** and consistent with Project principle (i) in this LARF, the Project will identify certain social groups that may be less able to restore their living conditions, livelihoods and income levels that will be at greater risk of impoverishment. The EA will commit to provide special attention to IPs and vulnerable groups like landless, poor, and households headed by women from indigenous peoples (IPs), disabled, elderly or children without means of support, in addition to compensation. Such commitment will be written in a section in LARP detailing the specific action plans for IPs and vulnerable groups.

32. The impacts of the programs of Health SDP are discussed in separate reports on Social Analysis and the Indigenous Peoples Development Framework, both are presented as supplementary appendices to the PPTA main report.

VIII. PUBLIC PARTICIPATION AND DOCUMENTS DISCLOSURE

33. The Project is designed to encourage participatory approaches that involve information exchange and decision-making during LARP preparation process. In compliance with **ADB Public Communication Policy (2005)**, information exchange will cover information dissemination to and consultation with district and village officials about the Project; their assistance will also be solicited for the inventory of affected assets and the census of APs. Decision making involves the collaboration of the EA with APs and the extension of choice to APs to decide on their preferences on compensation and/or other resettlement assistance, including compensation rates. The objective of information exchange is to allay the fears of APs about what may happen once the Project is implemented¹¹. The objectives of consultation are to: (a) obtain some of the details that could be overlooked during LARP preparation; (b) formulate resettlement options that balance the APs' needs and capabilities with technical requirements of the civil works; and (c) help avoid unnecessary and costly subproject development delay. The processes and mechanisms that ensure the active involvement of APs and other stakeholders will be described in the LARP applicable in the existing conditions in every civil works site. Every public consultation will be documented and summarized in the prescribed form in **Annex 3** and will be appended to the LARP. The attendance sheets of participants will be provided in electronic files, when requested.

34. A primer on LARP will be prepared and translated into Lao language and will be distributed to host districts and villages as well as to APs and the stakeholders. The MOH will endorse the full English version of LARP to ADB for approval and for posting at the ADB website.

IX. GRIEVANCE REDRESS MECHANISM

35. Grievance and redress mechanism is provided for in **ADB Accountability Mechanism (2003)** and is confirmed in Articles 12 and 13 of **Prime Ministerial Decree No. 192/PM (2005)**. Under the Project, communications with APs will be designated to the national Project Coordination Unit (PCU) that will be created for implementing the Health SDP, through the Project Implementation Consultants (PICs) in collaboration with Provincial Implementing Agencies (PIAs) and resettlement committees. One of the important functions of the PCU is to ensure that the APs are aware of the procedures in filing complaints or grievances that may arise during LARP implementation so that unnecessary delays in civil works construction could be avoided. A primer on grievance and redress mechanism and appeals process will be disseminated to APs during the DMS. Upon mobilization, the PCU will assign a desk unit to receive complaints from the APs or stakeholders related to environment and social safeguards. Grievance and Redress Committees (GRCs) at the provincial, district and village levels will be mobilized, and they will be composed of the members of resettlement committees. Their structures are described in paras. 42, 43 and 44.

36. Grievances or complaints from APs will be solved in a timely and satisfactory manner. The APs can submit their grievances to GRCs either in verbal or written form, at no cost to them. The procedural steps for filing and resolution of grievance and complaints are described in **Table 3**.

Table 3: Grievance Redress Procedures

Stages	Activities/Procedures
Stage 1	At the village level, AP files a complaint/grievance verbally or in writing to GRC. If unwritten the GRC will assist to put it in writing and hear the complaint in public for transparency, and based on their traditional method of conciliation and mediation.

¹¹ The World Bank; *Involuntary Resettlement Sourcebook; Planning and Implementation of Development Projects*; published by World Bank in 2004; p. 125.

	Resolution is within 5 days after the complaint/grievance was received.
Stage 2	If no solution or understanding is reached within 5 days, the AP can bring the complaint at the district level. The GRC at the district level will meet the AP, and resolve within 10 days after receiving the complaint.
Stage 3	If the AP is still unsatisfied or has not received any decision from the GRC at the district level, he/she can seek redress at provincial GRC that should decide for it in 10 days.
Stage 4	The AP may elevate the complaint for hearing at the PCU if still unsatisfied with the decision of GRC at the provincial level. The PCU will ensure to resolve each complaint within 10 days after receiving the appeal.
Stage 5	As a last resort, the AP may file the case to the local Court of Law, with assistance from PCU. The decision of the Court of Law is final and executory.

AP – affected person, GRC – Grievance and Redress Committee, PCU – Project Coordinating Unit

X. MANAGEMENT OF LARP PREPARATION AND IMPLEMENTATION

A. Organizational and Institutional Arrangement

1. The MOH

37. As the project EA, the tasks of the MOH in implementing the LARP are: (i) endorsement of LARP for the review and approval by ADB, after the Water Resources and Environment Authority (WREA) has approved the LARP (para.51); (ii) approval and release of adequate budgetary support for payment of compensation and allowances to APs; and (iii) facilitate coordination by PCU with MOH and government offices at the provincial and district levels. The MOH will assign one Project Accountant to the PCU that will record, control and monitor the payments to APs. The MOH will request ADB for “No Objection” for the release of funds for civil works construction upon substantial compliance of LARP implementation. Substantial compliance means the complete payment of compensation to APs, in cash or in-kind, and allowances.

2. The PCU

38. As the coordinating arm of MOH, the PCU will supervise the PICs. The PCU will be headed by the National Project Director designated by MOH and will be assisted by a multidisciplinary team of consultants, that include the safeguards specialists, such as in environment, social development and resettlement. One Project Accountant from the MOH will be assigned to PCU (para. 37)

3. The PICs

39. The PICs comprised by the association of international and national consulting firms or individuals will be hired for the Project, in accordance with ADB’s *Guidelines on the Use of Consultants* (2007, as amended from time to time). Related to LARP preparation and implementation, the PICs will: (i) assist the PCU and the Project Steering Committee in screening and processing the proposed civil works; (ii) collaborate with resettlement committees to conduct public consultations and participation, and assist the PIAs in preparing the LARP for civil works with land acquisitions; (iii) collaborate with provincial governments to mobilize the resettlement committees in all levels; (iv) request budget to and release of funds by MOH, through the MOF, for payment of compensation and allowances to APs; (v) establish the PIAs and coordinate with MOH offices in all levels (vi) design and implement internal monitoring, including LARP implementation; (vii) submit quarterly monitoring report to ADB; and (viii) advise the EA on when to request for “No Objection” for the release of loan to Health SDP with civil works component. One International Social Safeguards Specialist (SSS) and one national counterpart will join the PICs whose tenures shall be determined upon commencement of Project implementation to assist the PIAs in preparing, implementing and monitoring the LARP. Hire the services an Independent

Monitoring Agent (IMA) for the periodic monitoring and evaluation / 3rd party validation of LARP implementation.

4. The PIAs

40. The PIAs will supervise the Project subprograms with civil works component and will serve as the extension offices of the PCU in the provinces. Each PIA will have an Engineer on staff with assistance from national consultants and staff. One staff shall be assigned as coordinator that includes activities related to LARP, such as, preparation, implementation and monitoring and evaluation as well as in the mobilization of resettlement committees (RCs) at the provincial, district and village levels. The PIAs will provide list of APs to PRCs for certification.

5. Resettlement Committees

41. Article 34 of Regulation No. 2432/STEA for the implementation of the Prime Ministerial Decree No. 192/PM, states that the local authorities will assist the Project in various resettlement planning and implementation activities. This support will be formalized into RCs established in the provincial, district and, in some instances, village levels.

a. Provincial Resettlement Committees

42. The Provincial Resettlement Committees (PRCs) will operate under the Provincial Socio-Economic Development Coordinating Committees (PSEDCCs) which have been established for projects funded by ADB and other donors. For the Project, the MOH will request the Governors of the five provinces to extend the mandate of their PRCs, or to form new PRCs. The PRC will be chaired by the Provincial Vice-Governor with representatives from the offices of District Governor, MOH, DOF, and from Lao Women's Union (LWU) and the Lao Front for National Construction (LFNC). The PRCs will: (i) certify the official list of APs and their entitlements based on the result of DMS; (ii) establish compensation rates at replacement cost for affected assets, based on RCS; (iii) manage the funds disbursed from the provincial DOF for payment to APs; (iv) endorse the draft final versions of LARP as prepared by PIAs with assistance from PICs; (v) hear and resolve AP grievances and complaints in instances where the APs are not satisfied with the decisions appealed at the district level; and (vi) address any other land acquisition, compensation and/or resettlement issues that may arise in the implementation of civil works, or request guidance on policy and procedures from the PCU/PICs.

b. District Resettlement Committees

43. Each District Resettlement Committee (DRC) will be headed by the District Governor with representatives from district offices of MOH, Finance, Planning and Cooperation, Agriculture and Forestry; chiefs of affected villages; district representatives of LWU, LFNC and the Youth Union; and, AP representatives including women and ethnic minorities. The roles and responsibilities of the DRCs are: (i) assist PIAs in verifying land acquisition and resettlement impacts; (ii) collaborate with PIAs and assist to collect for DMS, SES and RCS; (iii) certify the list of APs identified during DMS and provide the same to PIAs for endorsement to PRCs (iv) identify and consult APs that are eligible and who wish to make voluntary contributions of affected lands and collaborate with PIAs and appropriate mass organizations during the process to negotiate and verify the voluntary contribution; (v) inform the APs and other stakeholders of the cut-off date, disseminate the official list of APs after completion of AP census and DMS, and monitor if there are new settlers in the civil works area discouraging them that they are not eligible for compensation and assistance; (vi) facilitate public meetings and consultations with APs and stakeholder in collaboration with village committees; (vii) collaborate with PIAs to consult vulnerable groups and/or APs that require rehabilitation and/or assistance to determine their needs, priorities and preferences; (viii) act as grievance and redress committees to hear and resolve grievances and

complaints of APs and other stakeholders that were appealed at the village level; and (ix) assist and facilitate, as required, the work of IMA for external monitoring of LARP implementation.

c) Village Committees

44. There are fifteen legislations in Lao PDR, including the 1991 Constitution, Prime Ministerial Decree No. 192/PM (2005) and Regulation No. 2432/STEA (2005), that define the village rights and responsibilities in the management and use of lands and forest resources in Laos. And, many villages in the country have an existing arbitration unit that is convened to resolve disputes among residents. Under the Project, the village arbitration unit can be established as a committee to provide valuable assistance to PIAs and DRCs in LARP preparation and implementation, such as the following: (i) facilitate public information, meetings and consultations with APs and other stakeholders and help to ensure the village and APs' awareness of the Project policies on compensation; (ii) assist in carrying out the DMS, SES and RCS in the village and confirm the results; (iii) assist in the identification of residential lands to be allocated as replacement land to APs; (iv) collaborate with DRCs and PIAs to assess the needs and preferences of severely affected and vulnerable APs to provide the idea for PIAs in the design and implementation of the appropriate relocation assistance, income restoration and other rehabilitation measures; (v) mobilize village-level support to assist the severely affected and the vulnerable APs in the dismantling and rebuilding of their houses or structures; and (vi) act as the grievance and redress committee, in the absence of village arbitration unit in the area, for the resolution of complaints and grievances of APs.

B. Training and Orientation

1. Preparation Stage

45. The SSS will orient the PRCs on the background of the Project, the procedures in LARP preparation and the flow of coordination with the DRCs, especially on the certification of the list of APs. Pro-forma list will be provided to PRCs. For the district and village levels, the SSS will explain to DRCs and village committees the flow of coordination between them and the PRCs, as well as remind the rationale for the Project disclosed in the joint project disclosure and public consultation meetings during the PPTA. As village committees shall be involved in the exercise, workshops will be conducted for them to have the idea on filling up the DMS and SES questionnaires, forms for RCS and in summarizing the list of APs for certification by DRCs. They will also be guided on the proper approach to APs during the surveys. Coordinators at the PIAs will be oriented on recording the meetings with APs and stakeholders at various stages of the preparation pertaining to issues raised and their preferences.

2. Implementation Stage

46. The SSS will design the forms essential for the recording and control of and monitoring the payments of compensation, allowances and assistance extended to APs. The SSS will orient the Project Accountant assigned at the PCU and the PRCs (being responsible for the release of payment to APs) on filling up the forms. The status of payment and implementation will be included in the periodic internal monitoring report by PCU to ADB. The SSS will also orient the PRCs, DRCs and village committee on handling the grievances and complaints filed by APs. The SSS will also appraise the IMA on the procedures applied in the preparation of LARP, the DMS, the implementation arrangements and the pertinent documents used as well as in the flow of funds released for payment of APs.

C. Voluntary Donation of Land

47. The EA does not rule out the possibility of land donation for the Project. However, in such a situation, the PCU and the PICs will adopt the conditions and procedures for voluntary contributions that have been established in other projects in Lao PDR¹². Voluntary contributions will apply only to small portions of residential land and only in instance where the small portion of land is very minor. The following criteria will be strictly complied with:

- (i) The total area of agricultural land together with residential land that is being donated by AP is not less than 300 m².
- (ii) If the AP's residential land area is more than 300 m², the area of land that can be donated should not be more than 5% of the total landholding.

48. Voluntary land donation according to these criteria will follow the process in accordance with ADB's OM Section F2/OP (2006)¹³ as similarly provided for in Prime Ministerial Decree No. 192/PM (2005). Voluntary land contribution under the Project shall be only accepted condition to the establishment of the following safeguards:

- (i) There is full consultation on lands being donated for district hospitals and health centers with affected landowners, any non-titled affected people and stakeholders;
- (ii) There will be assurance that voluntary donations will not severely affect the living standards, livelihoods and incomes of the affected people, and are linked directly to benefits of the affected people, with firm commitment to the community to replace any losses that are agreed to through verbal and written record by the affected people;
- (iii) Any voluntary donation will be confirmed through verbal and written agreement and verified by an independent third party such as designated non-government organization (NGO) or legal authority;
- (iv) The district and village authorities will establish adequate grievance redress mechanism for the Project and inform the APs and stakeholders of the foregoing procedures.
- (v) Land donated is free from any dispute on ownership or any other encumbrances;
- (vi) Consultations with the affected households is conducted in a free and transparent manner without any coercion, in a public place and in the presence of community leaders, civil society/NGO representatives; and
- (vii) Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained.

D. Database Management

49. All data on APs recorded in the DMS will be maintained at the PCU, with duplicate copies at the PIAs. From the filled-up DMS forms, the SSS from the PICs will produce three (3) sets of computerized data on APs; (i) list of APs and their affected properties; (ii) individual ledger of APs that will serve as their individual Compensation and Entitlement Form (CEF); and (iii) status of payment of compensation and entitlement of APs for internal monitoring purposes. The CEF will be prepared in three copies; one for PCU, one for PIAs and one for the AP. Each CEF will have provision for the calculation of compensation of affected assets and will be finalized when compensation and entitlements shall have been agreed with the APs. The PRCs will stamp the word "paid" in CEF after the AP has received

¹² Small owns Water Supply and Sanitation Sector Project (ADB TA. 4875); The Northern Greater Mekong Region Transport Network Improvement Project (ADB TA 4742); and the Northern and Central Region Water Supply and Sanitation Project (ADB Grant 0016 [SF] Lao) have adopted similar policies.

¹³ Footnote 6 of OM Section F2/OP (2006), p.2.

the payment. The SSS will design the CEF each has numeric code specifically assigned to the APs.

E. Replacement Cost Survey

50. Information on replacement costs is a key element for budget preparation in LARP. So that reasonable budget should be established, the PICs, assisted by village committees, will conduct desk research and interviews with peoples in affected areas comprising the APs and the not affected ones. Information from desk research refer to the relevant issuances on land values from the provincial and district offices of the National Land Management Authority (NLMA), but only in support to PRCs that will establish the compensations rates at replacement cost. The PRCs will also consider the market studies of recognized individual or institutions involved in land valuation. As to prices of assets attached to the affected lands, the PICs will conduct researches for PRCs' consumption, in coordination with the DRCs and the village committees in districts hosting the civil works; suppliers of construction materials for houses, and the provincial and/or district offices of National Agriculture and Forestry Extension Services Office (NAFES) for trees and crops, among others. The RCS shall be parallel with the conduct of DMS. But in case of delay in civil works implementation, the costs will be validated and updated in LARP, where appropriate.

F. Review, Endorsement and Approval of LARP

51. The PIAs will submit their respective draft final LARP to PCU after incorporating the comments of APs and translated into English and Lao versions. Following a review that the LARP complies with the Project policies and procedures, the PCU will submit the LARP to the PRC that will formally endorse to WREA, for approval in behalf of the GOL. The WREA-approved LARP will then be disclosed to the affected community. The PCU, in coordination with MOH, will then submit the LARP to ADB prior to Project loan appraisal for review and concurrence. The Bank will place it on ADB website for downloading by the public.

XI. RESETTLEMENT BUDGET AND FINANCING

52. The LARP will have a section that details the resettlement budget and financing arrangement. The budget will include the compensation to assets and land at replacement costs, other allowances and assistance to APs, cost of RCS, administration cost, monitoring and reporting and contingency allowance for unforeseen expenses and for cushioning the effect of inflation during LARP implementation. Assumptions on unit replacement costs in calculating the compensation of APs will be disclosed. The cost of LARP represents the counterpart fund of the GOL it being part of the overall Development Expenditures of the Project. The MOH, in coordination with MPI, will approve the budget for LARP and request MOF for the timely release of funds to PRCs that will manage the compensation payments to APs. The broad description of the flow of funds will be discussed in the LARP.

XII. MONITORING AND EVALUATION

53. The primary objective of monitoring is to identify as early as possible the activities achieved and the cause(s) of constraints so that arrangements in LARP implementation can be adjusted. Monitoring is important as LARP implementation is often the critical path for the Project where civil works is involved, due to issues on land acquisition, compensation, rehabilitation and resettlement that may cause for construction delay. The early identification of causes for delay will enable the PICs to prepare the mitigating measures during LARP implementation. In the context of project development, the PICs will use two mechanisms: (i) internal monitoring by PICs in collaboration with PIAs, DRCs and village committees; and (ii) external monitoring by IMA.

A. Internal Monitoring

54. The PICs will routinely perform internal monitoring of LAR with results will be reported to ADB on quarterly basis. Related information will be collected from the field and reported monthly to the PCU to assess the progress and results of implementation, and to adjust the work program. The monthly reports will be consolidated every quarter. Indicators for the internal monitoring will be those related to process and immediate outputs and results, such as the following: (i) information campaign and consultations with APs; (ii) status of land acquisition and payments of compensation or provisions for replacement lands; (iii) compensation of affected structures and other assets; (iv) relocation of APs; (v) payments of loss income; (vi) selection and distribution of replacement land areas; and (vii) income restoration activities.

55. The preceding indicators will be monitored monthly by applying the following approaches: (a) review of DMS on all APs; (b) consultation and informal interviews with APs; (c) in-depth case studies; (d) sample survey of APs; (e) key informant interviews; and (f) public meetings with people in the community hosting the civil works.

B. External Monitoring

56. The PCU will hire the services of IMA at the early stage of LARP implementation for external monitoring. The IMA will come from an independent organization, such as an academic or research institute, or consulting firm in Laos, with experience in resettlement monitoring. The IMA will perform the following activities¹⁴:

- (i) Verify internal reports with APs as to the payments of compensations and entitlements including the levels and timing of the compensation; readjustments of land; preparation and adequacy of resettlement sites; construction of houses; provision of employment and adequacy of income levels; training; special assistance for vulnerable groups; repair, relocation or replacement of house or infrastructure; and provision of transition allowances;
- (ii) Interview a random sample of APs in open-ended discussion to assess their knowledge and concerns about the resettlement process, their entitlements, and the rehabilitation measures;
- (iii) Observe the functioning of the resettlement operation at all levels to assess the effectiveness and compliance with LARP;
- (iv) Verify the nature of grievance issues and the functioning of grievance redress mechanism by reviewing the processing of appeals at all levels by interviewing the aggrieved APs;
- (v) Where feasible, survey the standards of living of APs and the people in unaffected portion nearest the civil works sites before and after the LAR, to assess the effects of resettlement in APs' standard of living; and
- (vi) Advise the EA and the PCU regarding the possible improvements in the implementation of LARP.

57. The IMA will also appraise the recording of LARP transaction in the Project accounting system. The IMA will report quarterly basis. Assessment by the IMA on the compliance in LARP implementation will justify MOH request to ADB for its "No Objection" for the award of civil works contract, and subsequently the release of funds for civil works.

¹⁴ Adopted from *Involuntary Resettlement Sourcebook: Planning and Implementation of Development Projects*; published by The World Bank (2004), p.220.

Annex 1

Outline of a Short Land Acquisition and Resettlement Plan

Executive Summary

A. Introduction

1. Brief description of the Project scope (provide map of Project areas)
2. Types of impacts (summary description of acquisition and other assets)
3. Objectives and Policy

B. Description of Affected Persons and Social Impact Assessment

1. Description of APs including their spatial distribution
2. Gender-disaggregated socioeconomic characteristics of Project Affected Households
 - Total number of families affected by the Project
 - Employment type and major sources of income
 - Tenure status (land and house/structures)
 - Affected land and assets; areas, types of structures, and conditions
3. Categories and numbers of affected households by type and degree of impacts
 - Affected households with loss of entire holdings are required to relocate
 - Affected households with loss of partial holdings and not required to relocate
 - Tenants, landless laborers, informal settlers, etc. affected by the Project
 - Affected households with loss of incomes and employment

C. Compensation and Policy Entitlement Criteria

1. Elements of compensation policy: objectives and entitlement criteria
2. Compensation entitlements for each category of APs
3. Other assistance (transport allowance, rehabilitation assistance, etc.)

D. Cost Estimates and Budget

- Aggregate cost for each type of asset loss and implementation arrangements

E. Information Dissemination, Public Participation, Consultation, and Grievance Resolution

1. Consultation with stakeholders at the different stages of the Project
2. Existing and Project-specific mechanisms for grievance resolution

F. Organizational Set-up

- Organizational structure of the unit/division within the institution that is responsible for management, supervision, and implementation of LARP

G. Implementation Schedule

1. Implementation schedule for land acquisition and compensation for each component of the Project, including description of different activities and their sequence
2. Timetable for implementation of different land/asset acquisition activities in relation to the Project

H. Monitoring and Evaluation

1. Internal Monitoring
2. External Monitoring

Annex 2**Health Sector Development Program****LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT
CATEGORIZATION FORM****A. BASIC INFORMATION**

Please fill up the boxes below by providing brief description and/or information, or put a cross mark (X) where applicable.

1. Type of Health Facility
 District Hospital

 Health Center
2 Location

Country	Province	City or District	Village	Street

3. Brief description of civil works construction involved.**4. Will there be expansion in the health facility area? [] Yes [] No****B. SCREENING QUESTIONS FOR RESETTLEMENT CATEGORIZATION**

Involuntary Resettlement Effects	Yes	No	Extent of Impacts and Remarks
Does the health facility include upgrading or rehabilitation of existing physical facilities?			
Will it include the construction of new physical facilities?			
Will it require permanent land acquisition/s?			
Is land acquisition likely to be necessary?			
Will land acquisition lead to loss of housing			
Will there be loss of business enterprise?			
Will there be loss of incomes and/or livelihoods?			
Will there be loss of trees?			
Is the ownership status and usage of land known?			
Are there any non-titled people who live or earn their livelihood on affected land/s?			
Will people lose access to facilities, services or natural resources?			
Will any social or economic activities be affected by land-use related changes?			

C. INVOLUNTARY RESETTLEMENT CATEGORY

After filling up the columns that answer the questions in Section B, assess the involuntary resettlement category of the proposed civil works construction for the proposed health facility. Put a cross mark (X) on the first box that matches to the involuntary resettlement category of the District Hospital or Health Center being screened.

- Category B :** Not Significant. Less than 200 people (or 40 households) will be physically displaced from housing, or lose 10% of their productive (income-generating) assets. **A Short Land Acquisition and Resettlement Plan is required.**
- Category C :** No land acquisition and resettlement impacts. Land Acquisition and Resettlement Plan is **not required.**

Please provide additional information on affected persons if the proposed civil works construction for District Hospital or Health Center falls under Category B.

Affected Persons	Yes	No	Provide estimate and description of current situation if the answer is Yes
Any estimate of the likely number of households that will be affected civil works?			
Are any of them are poor households?			
Are there any households that belong to ethnic minority groups?			
Are there any households headed by women, elderly or disabled persons?			

Provide schedules if the proposed civil works construction is Category B.

Start of Short LARP Preparation: _____

Schedule to finish the LARP: _____

Schedule of LARP submission to ADB: _____

For the PIU	For the PICs	For the PCU	For the Project Steering Committee
Prepared by:	Verified by:	Endorsed by:	Approved by:
Signature	Signature	Signature	Signature
Name	Name	Name	Name
Position	Position	Position	Position
Date	Date	Date	Date

Annex 3

SUMMARY OF CONSULTATIONS/MEETINGS

Date and Location	Organization/ Agency	Type of Participants	Number of Participants¹⁵	Issues Raised / Responses / Outcomes / Follow –up Actions with Responsibility

¹⁵ Indicate the number of women.