



Lao People's Democratic Republic
Peace Independent Democracy Unity Prosperity

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**Capacity Building
For
Environment and Social Management
In
Energy and Transport Sectors**

**National Policy
on
Resettlement and Compensation
(Final Draft)**

Science, Technology and Environment Agency

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Table of Contents

Table of Contents

List of Acronyms and Abbreviations

PART I INTRODUCTION	01
01. Introduction	
02. Definitions	
PART II SCOPE, ELIGIBILITY & LEGAL FRAMEWORK	03
03. Scope of the Policy	
04. Eligibility	
05. Legal Framework	
PART III OBJECTIVES	03
06. Objectives	
PART IV COMPENSATION & ENTITLEMENTS	04
07. Compensation Principles	
08. Other Assistance During Relocation and Transition Period	
09. Economic Rehabilitation	
10. Community Services and Resources	
11. Local Culture & Practices	
12. Ethnic Group Issues	
13. Resettlement Linked to Projects	
PART V RESETTLEMENT SITE DEVELOPMENT	06
14. Resettlement Site Development	
PART VI PUBLIC PARTICIPATION AND CONSULTATION	07
15. Public Participation and Consultation	
16. Grievance Redress Mechanism	
PART VII REPORTING AND DOCUMENTATION	07
17. Reporting and Documentation	
PART VIII MONITORING, SUPERVISION & EVALUATION	09
18. Resettlement Monitoring and Supervision	
PART IX RESETTLEMENT COST AND BUDGETS	09
19. Resettlement Cost and Budget	
PART X INSTITUTIONAL ARRANGEMENTS	09
20. Regulatory Agency	
21. Implementing Agency	
22. Other Relevant Ministries and Authorities	
23. MO/Private Sector Institutions/Domestic Consultants	
PART XI COMPLIANCE	10
24. Compliance	

List of Acronyms and Abbreviations

AP	Affected Person
EMDP	Ethnic Minority Development Plan
GoL PDR	Government of Lao Peoples Democratic Republic
GRC	Grievance Redress Committee
IA	Implementing Agency
IEE	Initial Environmental Examination
Lao PDR	The Lao Peoples Democratic Republic
MO	Mass Organizations
NGO	Non-Government Organization
PI	Public Involvement
RA	Regulatory Agency
RP	Resettlement Plan
SA	Social Assessment
SIA	Social Impact Assessment
STEA	Science, Technology and Environment Agency

**LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY**

National Policy on Resettlement and Compensation

PART I. INTRODUCTION

1. Background

1.1 Development projects, even when undertaken in the public interest, have social impacts and associated costs on individual persons, communities, and the environment. Said adverse social impacts may be any or a combination of the following: loss of abode, loss of fixed assets, loss of income and/or employment, displacement, separation of family members, disintegration of communities, etc. These impacts may be marginal or severe and/or irreparable. Yet, these adverse social impacts are often borne by project-affected persons (APs) not by their own wish but involuntarily.

1.2 The resettlement efforts to mitigate adverse social impacts of development projects need to be carried out within an overall legal framework following clearly defined resettlement principles and operational procedures. Additionally, the Lao PDR's policy on poverty reduction needs to be integrated into resettlement efforts, with special attention to vulnerable groups. In view of the Government's efforts to give impetus to its development efforts and to deal with adverse social impacts and implementation problems, there is an urgent need for a national policy on involuntary resettlement and compensation with an aim to: (i) integrate social dimensions in development projects, (ii) address measures to mitigate adverse social impacts with a particular focus on vulnerable groups, and (iii) have a comprehensive approach to address social issues.

1.3 The National Policy on Resettlement and Compensation, hereinafter the 'Policy', addresses social impacts that result due to involuntary acquisition of assets and changes in land use, and key social concerns.

2. Definitions. Definitions of key terms are provided as follows:

- a) **Compensation.** Compensation means payment in cash or in kind for an asset to be acquired or affected by a project at replacement cost.
- b) **Cut-off Date.** 'Cut-off date' is 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 affected persons. In many projects, the cut-off date coincides with the commencement of the census of affected persons within the project area boundaries. Persons not covered in the census are not eligible for compensation and other entitlements.
- c) **Entitlements.** Range of measures comprising compensation, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to affected people, depending on the type and degree of their losses, to restore their economic and social base.
- d) **Implementing Agency** (aka Project Proponent/Project Authority/Executing Agency) is the agency, public or private, that is responsible for planning, design and implementation of a development project.

- e) **Land Acquisition** means the process whereby a person is compelled by a public agency to alienate all or part of the land a person owns or possesses, to the ownership and possession of that agency, for a public purpose in return for compensation .
- f) **Project Affected Person (PAP/AP)** includes any person or persons, household (sometimes referred to as project affected family), a firm, or a private or public institution who, in the context of acquisition, or repossession, of assets or change in land use, as of the cut-off date, on account of the execution of a development project, or any of its subcomponents or part, would have their:
 - i) Standard of living adversely affected;
 - ii) Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected: or
 - iii) Business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected, with or without displacement.

AP means persons or affected household and consists of all members of a household residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components. For resettlement purposes, affected persons will be considered as members of affected households.

- g) **Rehabilitation** means assistance provided to APs seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets in order to improve, or at least achieve full restoration of living standards and quality of life to pre-project level.
- h) **Relocation** means the physical shifting of an AP from his/her pre-project place of residence, place of work or business premises.
 - i. i) **Replacement Cost** is the amount needed to replace an asset and is the value determined as compensation for: Agricultural land the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes;
 - ii. Land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
 - iii. Houses and other related structures based on current market prices of materials, transportation of material to construction site, cost of labor and contractor's fee, and cost of any registration and transfer taxes. In determining replacement cost, depreciation of the assets and value of salvaged building materials are not taken into account and no deductions are made for the value of benefits to be derived from the project;
 - iii. Crops, trees and other perennials based on current market value; and
 - iv. Other assets (i.e. income, cultural, aesthetic) based on replacement cost or cost of mitigating measures.
- j) **Resettlement** refers to all measures taken by the Project Proponent to mitigate any and all adverse social impacts of a project on the APs, including compensation for lost

assets and incomes and the provision of other entitlements, income restoration assistance, and relocation, as needed.

- k) **Social Assessment (SA) or Social Impact Assessment (SIA).** SA or SIA is a framework for incorporating social analysis and participatory process in project design and implementation.
- l) **Vulnerable group.** These are distinct groups of people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) elderly households with no means of support and landlessness, (v) households without security of tenure, and (vi) ethnic minorities.

PART II. SCOPE, ELIGIBILITY & LEGAL FRAMEWORK

3. Scope of the Policy

The Policy would be applicable to all development projects carried out by public and private sector, regardless of funding sources, resulting in acquisition, of land and/or other assets, change in land use and restriction on access to community resources affecting community livelihood and income sources.

4. Eligibility

All people residing, cultivating or making a living within the area to be acquired for a project as of the formally recognized cut-off date should be considered as project affected persons (APs) for purposes of entitlements to compensation, resettlement and rehabilitation assistance in accordance with the policy, and lack of legal title to the land or structure affected by project should not bar any person for such entitlements/assistance.

5. Legal Framework

The Policy is based on the following laws and decrees that provides legal framework for resettlement:

- The Constitution of the Lao PDR
- The Land Law No. 01/97 SPS, dated 12 April 1997
- The Forestry Law No. 01/96, dated 11 October 1996
- The Water and Water Resources Law No. 02/96, dated 11 October 1996
- The Environmental Protection Law No. 02/99 SPS, dated 3 April 1999
- The Electricity Law No. 02/97 SPS, dated 12 April 1997
- The Road Law No. 04/99 SPS, dated 03 April 1999
- The Mineral Resources Law (April 1997)
- The Town Planning Law No. 03/99 SPS, dated 03 April 1999
- Regulation 1266/95 of MCTPC on Valuation of Vehicles, Houses, Built Structures and Household Facilities for Government Employees-Personnel

PART III. OBJECTIVES

6. Objectives. The objectives of the Policy include the following:

- Projects are designed so that resettlement is avoided or, if unavoidable, minimized by examining all design options available to the project and the losses incurred by affected people are redressed such that APs share project benefits, assisted to develop their economic, social and cultural potential in order to improve or at least restore their incomes and living standards to pre-project levels and are not worse off than they would have been without the project.

- Attention is paid to affected ethnic minority and other vulnerable groups, especially the poor, in order to enhance their future prospects and for poverty alleviation.
- The entire resettlement process is carried out through a meaningful involvement of project-affected communities, and their existing social and cultural institutions are supported to the greatest extent feasible.
- Resettlement is envisioned and carried out as an integral part of the development project.

PART IV. COMPENSATION AND ENTITLEMENTS

7. Compensation Principles

7.1 APs will be provided with compensation for their lost assets affected in full or in part, at full replacement cost.

7.2 Where significantly large or entire land holding affected by a project, the general mechanism for compensation for affected agriculture, residential or commercial land will be through provision of "land for land" arrangements of equivalent size and productivity and at location acceptable to the AP. In case suitable land is not available, and at informed request of the AP cash compensation at current market value will be provided in addition to the assistance for relocation. However, when the portion of the land to be lost represents 20% or less of the total area of the landholding with remaining area viable for continued use, where the livelihood is not land-based, cash compensation at full replacement value for the affected portion will be provided. In cases where only part of the land holding is affected but the remaining land becomes economically unviable, the AP will be entitled to surrender the entire holding and to compensation for entire holding at full replacement value, or land-for-land option.

7.3 If the house or structure is only partially being affected by the Project and the remaining structure is rendered unviable or in area less than the minimum house size under the prevailing standards, the AP will be entitled to surrender the entire structure and to compensation for the entire structure at full replacement cost without depreciation or deductions for salvaged material.

7.4 In case of APs affected by partial loss of structures and the remaining structures are viable for continued use, they will be entitled to assistance in cash or material for restoration of the remaining structure in addition to the compensation at replacement cost for affected portion.

7.5 APs whose land or assets are temporarily taken by the works under the project will be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. Assets which are only temporarily affected or inoperable, will be compensated at 10% of the replacement cost of affected assets provided that such assets or properties are required by the project for a maximum of 6 months. In case the assets are required by the project for periods longer than six months, the amount of compensation should be negotiated with the owner of said property, and the project shall insure that the land and structures are returned in its pre-project state.

7.6 Tenants, who have leased a house / structures for residential or other purposes and affected by the project, will be provided with a cash assistance equivalent to three months rental allowance and expenses to cover for other losses, and will be assisted in finding alternative rental accommodation.

7.7 APs without any legal title or ownership right to the affected land and assets they occupy should be compensated for their lost assets at replacement cost. If needed such

APs will be provided additional assistance to ensure that they are able to improve their household income levels and are not worse-off due to the project.

7.8 All previous claims and unresolved issues related to tenure status and ownership of land and other assets on each sub-project or components will be resolved prior to initiating any new land acquisition measures on the respective sub-project or component.

8. Other Assistance During Relocation and Transition Period

8.1 APs displaced and severely affected due to the loss of incomes and means of livelihood would be provided with a food allowance and suitable development assistance after displacement during the transition period until they are able to restore their incomes or livelihood standards or reach the targeted level of household incomes on a sustainable basis.

8.2 All displaced persons will be given a transport allowance or assisted in transfer to the resettlement site or their choice of relocation, as the case may be.

8.3 In the case of loss of business, APs will be provided with a special allowance for the loss of business income during the transition period.

9. Economic Rehabilitation

9.1 All APs severely affected by the project due to the loss of productive assets (agricultural, commercial or industrial land), means of livelihood, incomes, employment or businesses, and access to community resources will be entitled to rehabilitation measures including income restoration programs, training to improve skills and other assistance for self-employment; over and above their entitlements for compensation and other allowances, enabling them to attain, at a minimum, pre-project livelihood levels on sustainable basis.

9.2 These rehabilitation measures would specifically focus on vulnerable groups such as households without tenure security or with weak tenure status, female-headed households, disabled-headed households, itinerant workers, households falling below the national poverty line or those severely affected by the project and are likely to fall below the poverty line, elderly households with no means of support and landless households. Adequate assistance, in addition to compensation for affected assets and other allowances, should be provided such that their economic and social well-being can be improved and to enable such APs achieve household income targets set above the national poverty line. At least 30% of such rehabilitation assistance measures will be reserved for women.

9.3 For displaced persons whose land-based livelihood are affected due to the project, preference should be given to land-based resettlement strategies, or where land is not available, non-land-based options built around opportunities for employment or self-employment in addition to cash compensation for lost assets.

10. Community Services and Resources

10.1 In cases community facilities and infrastructure such as schools, factories, water resources, roads, sewage system or electrical supply is damaged due to the project, the project developers will ensure that these would be restored or repaired as the case may be, at no cost to the community.

10.2 Any acquisition of, or restriction on access to resources owned or managed by affected community as a common property should be mitigated by arrangements ensuring access to improved or at least equivalent resources on a continuing basis.

11. Local Culture & Practices

11.1 Local cultural and religious properties, practices and beliefs should be respected and to the extent possible preserved.

11.2 Where local communities elect to make voluntary contribution of affected land without compensation in accordance with traditional practices, this should be acceptable only for marginal impacts (partial impact on land without causing any displacement or impact on structures, and with remaining assets viable for continued use) and only when direct benefits to affected people can be assured. The process of consultation with APs should be conducted in an open and transparent manner and decisions for 'voluntary' contribution should be based on 'informed choice' of affected people. People who elect to make voluntary contributions must be informed of their rights to compensation, and the process and decisions must be documented.

12. Ethnic Group Issues

12.1 Where in a project cultural minorities are affected, the mitigation measures and social and economic benefits they receive to improve their status would be in harmony with their cultural preferences and would be decided in consultation with affected communities. The mitigation measures and assistance should also include institutional strengthening and capacity building of tribal elders, and community groups working on resettlement activities.

12.2 Community participation and consultation framework and grievance redress mechanism for ethnic minority groups should be developed in culturally appropriate ways familiar to the affected community, in consultation with their leaders, and in close collaboration with local officials.

13. Resettlement Linked to Project

Resettlement transition period should be minimized and the acquisition of assets, compensation payment in full, resettlement and rehabilitation activities for a segment/section or phase (except where long-term rehabilitation measures such as vocational training or other measures recommended) should be completed prior to the initiation of construction work under the respective segment/section or phase thereof.

PART V RESETTLEMENT SITE DEVELOPMENT

14. Resettlement Site Development

14.1 All relocating persons should be provided with suitable housing or developed house-lots, shop-lots as necessary, agricultural sites of sufficient size with productive potential and locational advantages better or at least equivalent to the old site. Replacement agricultural land, house/business plot will be as close as possible to the land that was lost and/or acceptable to the APs.

14.2 The replacement land for residential resettlement will be provided in fixed plot sizes according to the prevailing standards and planning practices. However, if the lost land of AP is in size larger than the plot sizes for relocation, a cash compensation to cover the difference of the area will be given to the AP.

14.3 All replacement land for agriculture, residential and businesses will be provided with secured tenure status and without any additional cost, sales taxes, fee, and surcharge to the APs at the time of transfer. Land titles for replacement land shall be issued in the joint names of husband and wife.

14.4 Attention should be paid to ensure that resettlement site development does not cause any adverse environmental impacts to the surrounding areas. All resettlement sites for relocation of displaced persons will be provided with adequate access to public facilities and services, income earning opportunities and market.

14.5 Where relocation is considered necessary, the 'host' community would also be entitled to compensation and other assistance similar to the project affected persons. Infrastructure and public services provided to the host community as necessary to improve, restore, or maintain accessibility would be the same level as provided for the displaced persons.

PART VI PUBLIC PARTICIPATION & CONSULTATION

15. Public Participation and Consultation

The resettlement process should be carried out in a participatory manner, in which stakeholder concerns are taken into account at all stages of the project cycle, particularly during the planning and implementation phases of land acquisition, valuation and resettlement process. APs should be fully informed of the provisions of the policy, their entitlements to compensation for their lost assets, allowances and other assistance as provided for in the Policy.

16. Grievance Redress Mechanism

16.1 There should be effective mechanisms in place for hearing and grievance redress during the resettlement planning and implementation in a project.

16.2 The GoL PDR at the request of the Project authorities will establish a Grievance Redress Committee (GRC) for each district to address complaints and grievances pertaining to land acquisition, compensation and resettlement and to pre-empt all disagreements being referred to courts. The committee will consist of:

- i) District official
- ii) Village heads
- iii) Representative of the APs, other than the village head;
- iv) Village elders or representatives of MO;
- v) Project official.

16.3 Grievances related to any aspect of the project or sub-project will be handled through consultations conducted in a transparent manner and aimed at resolving matters through consensus at the project level before complainants forward these to higher level and ultimately to the court of law. The Project Authorities will document all complaints received in writing (or written when received verbally) from the APs.

16.4 APs will be exempted from all administrative and legal fees incurred in pursuant to the grievance redress procedures including cases of complaints taken to the court of law.

PART VII REPORTING AND DOCUMENTATION

17. Reporting and Documentation

The project Proponents would carry out necessary studies and field investigations and prepare following required reports and documents for submission to the respective ministry and the Regulatory Agency for review and approval.

17.1 Initial Social Assessment (ISA) / Land Acquisition Assessment

Project Proponents will carry out necessary field investigations for ISA, either as part of the IEE or as a standalone exercise, in order to identify relevant social issues, likely impacts and the types of groups of people likely to be affected by the project. The report on ISA should be submitted by project proponents to the relevant ministry (in the case of private sector developer) and to the Regulatory Agency for review and approval prior to proceeding for further studies.

17.2 Social (Impact) Assessment

In major projects with likely indirect and economic impacts on communities, within or in the vicinity of project areas, project proponents will conduct social assessment at the pre-feasibility or feasibility stage of the project preparation, as the case may be, to address indirect social and economic impacts using appropriate mitigation measures with special attention paid to vulnerable groups, including ethnic minority groups. The report on social assessment should be prepared by project proponents for submission to the relevant ministry (in case of private sector developer) and to the Regulatory Agency for review and approval to facilitate project process.

17.3 Resettlement Plans

17.3.1 Land Acquisition and Compensation Report

In case the impacts of the project are mostly marginal such that less than 200 persons (about 40-50 families) are affected by the project either marginally or with limited displacement, a Land Acquisition and Compensation Report for each project, sub-project, or component will be prepared by project proponents and submitted to the Regulatory Agency for review and approval. In case of private sector project, the report should be first submitted to the relevant ministry. The ministry, upon its satisfaction with the report will submit to the RS for review and approval. Compensation, resettlement and rehabilitation activities will only commence after the report is found acceptable by relevant ministry and approved by the RA.

17.3.2 Resettlement Plans (RPs)

In case the impacts of the project are severe, regardless of number of affected people or where more than 200 people (40-50 families) are affected by the Project, its component or sub-project, a Resettlement Plan (RP) for each component or sub-project will be prepared in accordance with the provisions of this Policy. Project proponents will submit required RP to the RA for review and approval. In case of private sector projects, the RP should be first submitted to the relevant ministry. The ministry, upon its satisfaction with the RP will submit to the RA for review and approval. Compensation, resettlement and rehabilitation activities will only commence after the RP is found acceptable by the relevant ministry and approved by the RA.

17.4 Ethnic Minority Development Plans (EMDPs)

a. Where in a project any ethnic minority groups are affected, particular attention should be paid to collect additional information focusing upon household ownership of economic and productive assets; economic information of community (e.g., brief information on economic and natural resources, production and livelihood systems, tenure systems); social information of community (e.g., brief description of kinship, value system, types of social organizations of formal/informal groups, farming groups, etc.), especially those that can help the group in adjusting to potential impacts from the project; and potential impact of sub-project on the social and economic livelihood. The RP should include a separate section to address ethnic minority issues and suggested actions to ensure that the social and economic benefits they receive are in harmony with their cultural preferences.

b. Where the impacts on ethnic minority are likely to be significant, a standalone Ethnic Minority Development Plan will be prepared. The description of resettlement measures and the types of development assistance proposed will ensure that the social and economic benefits proposed will be in harmony with their cultural preferences. Where a standalone EMDP is necessary, the project proponent will be required to submit it to the relevant ministry (in case of private sector developer) and to the RA for review and approval.

PART VIII MONITORING, SUPERVISION & EVALUATION

18. Resettlement Monitoring and Supervision

18.1 Adequate arrangements should be made for effective and timely supervision and internal monitoring of the implementation of the resettlement and rehabilitation measures.

18.2 In projects with major resettlement component, an experienced and independent external monitoring agency would be contracted by project authorities to periodically carry out external monitoring of the implementation of resettlement activities in accordance with the RPs. Mechanisms should be put in place to involve the affected community in monitoring of resettlement implementation activities. The External Monitoring Agency will submit monitoring reports to the project authorities regularly. The Implementing Agency will regularly provide a copy of the external monitoring reports to the RA.

18.3 In projects with major resettlement component, project authorities will make provision for post-evaluation of resettlement implementation activities, six months to one year after the completion of economic rehabilitation measures in the project, to check whether the economic rehabilitation objectives of the Policy and the RPs have been achieved. If the evaluation indicates that the APs have not been able to achieve the stated objectives and income targets, project authorities will make arrangements for provision of additional assistance to meet the stated objectives.

PART IX RESETTLEMENT COST AND BUDGETS

19. Resettlement Cost and Budget

19.1. Each RP will include detailed cost estimates for compensation and other resettlement entitlements and relocation of APs, if that be the case, with a breakdown by category of APs; agricultural, residential and business land; houses, structures and other fixed assets affected; rehabilitation assistance, transport and other allowances; monitoring and evaluation; management and administration; phases of the project and by financial year. The cost estimates will make adequate provisions for contingencies.

19.2 Total estimated cost of RPs would be included towards the cost of the project. In the case of cost overruns due to unforeseen circumstances or delays, the project authorities/proponents will allocate additional funds as may be necessary.

19.3 In the case of a private sector project developer, respective ministry will devise suitable mechanism, such as 'imprest account' to ensure sufficient funds to meet all costs of resettlement activities prior to final approval for the project.

PART X INSTITUTIONAL ARRANGEMENTS

20. Regulatory Agency (RA)

20.1 Science, Technology and Environment Agency (STEA) in the Office of the Prime Minister is designated as the Regulatory Agency (RA) charged with the responsibility for Policy oversight. The RA will ensure compliance to the Policy with the power to enforce it and to perform an oversight function. This will also ensure that projects are checked for compliance with the Policy.

20.2 STEA is authorized to: a) disseminate information on the Policy through a combination of information and education campaign programs; b) review, evaluate and approve necessary reports and documents, including ISA, Social Assessment, Resettlement Plans, and EMDPs and issue approval for implementation; c) review monitoring reports of the external monitoring agency; and d) provide technical guidance to Implementing Agencies

and other private sector project developers, where necessary, in the preparation of necessary documents, and provide training at national, provincial/district levels.

20.3 STEA is charged with assisting the Government of Lao PDR in preparation of necessary Decree and Implementation Regulations on Involuntary Resettlement and Compensation and for formulation and promulgation of Technical Guidelines (Operational Manual) relative to the various aspects of resettlement plan preparation and implementation.

21. Implementing Agency

Implementing Agencies (Project Proponents), both public or private sector, will have mainstream responsibilities for a project, including making adequate institutional arrangements to ensure effective and timely field investigations and studies for preparation of resettlement plans and/or EMDPs, public consultations, and implementation of resettlement activities, in accordance with the provisions of this Policy, as an integral part of the project and for making adequate and timely provision of necessary funds.

22. Other Relevant Ministries or Authorities

a. While an Implementing Agency remains responsible for carrying out necessary surveys and preparing other required documentation, it will receive assistance as requested from other ministries or agencies which may be useful for inputs into resettlement planning and implementation including planning and delivery of economic rehabilitation assistance.

b. District and local authorities, which have a critical role in the resettlement process, will assist and provide support to the Implementing Agency in implementing the resettlement process. District and local authorities will also assist the Implementing Agency, as may be requested, to ensure public consultation and participation in all aspects of the resettlement process.

23. MO / Other Private Sector Institutions / Domestic Consultants

MO and other private sector institutions will be part of the consultative process at all levels so that the concerns of APs are fairly represented. Where possible, MO, other private sector institutions and domestic consultants with necessary experience and skills will be encouraged to provide necessary assistance in planning and implementation of development efforts, information dissemination, monitoring, and economic rehabilitation measures for improvement of APs livelihood including identification of other social programs and resources.

PART XI COMPLIANCE

24. Compliance

The Government of Lao PDR, on recommendation from STEA, may consider and approve granting commendations to any agency or institution that has shown outstanding performance and compliance with the provisions of the Policy and take appropriate actions against those who fail to comply with the provisions of this Policy.