

# **VOLUME 4 – CHAPTER 8**

## **ORGANIZATIONAL FRAMEWORK AND RESPONSIBILITIES**

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## **8 ORGANIZATIONAL FRAMEWORK AND RESPONSIBILITIES**

The organizational framework for the Nam Theun 2 Project, and the responsibilities of the parties involved, are presented in detail in Chapter 6 of Volume 1. The present chapter presents details relating specifically to the Project Lands program.

### **8.1 OVERALL ORGANISATION AND COORDINATION OF RESPONSIBILITIES**

Nam Theun 2 (NT2) is the largest and most complex development project in which the Lao Government has been involved, in cooperation with the private sector. In response to the Projects resettlement component, GoL has established a specific resettlement organizational structure, which comprises:

- a Resettlement Committee (RC),
- a Resettlement Management Unit (RMU),
- seven District Resettlement Working Groups (DRWGs)
- and Village Resettlement and/or Development Committees (VRCs)

Collectively, these organizations form the GoL agencies responsible for implementing, in cooperation with the NTPC, the NT2 Projects Social Development Plan (SDP). On its side, the Nam Theun Power Company (NTPC) has established a Social and Resettlement Division, or Resettlement Office, to manage and implement NTPC's responsibilities in the furtherance of the SDP.

While detailed descriptions of these institutions, including their responsibilities and staffing, are presented later in this chapter, the relationship and coordination between the GoL, which was first outlined in the CA of 3/10/02, has now been refined. A new overall organization chart for social and resettlement matters on the NT2 Project has been adopted, as shown in Chapter 6 of the SDP Volume 1. Within this overall framework, and through their parallel agencies, the GoL and the NTPC are jointly responsible for the planning, implementation and outcomes of the social and resettlement program of the NT2 Project. However, GoL or NTPC will take specific or primary responsibility for certain program components, or have equally shared responsibilities for other components, as summarised below

- NTPC and GoL share joint responsibility for the conduct of surveys etc, although NTPC takes the lead in data analysis.
- NTPC has primary responsibility for infrastructure design and construction, with GoL support as required;
- GoL has primary responsibility for consultations with villagers, and for community development, with NTPC support as required;
- NTPC has primary responsible for budget preparation, disbursements and acquittals;
- NTPC and GoL share joint responsibility for program scheduling and monitoring;
- GoL and NTPC share joint responsibility for development and support to livelihood restoration programs such as agriculture, livestock, forestry and fisheries; and
- GoL as primary responsibility for disbursement of compensation to PAPs, with NTPC support as required.

Mechanisms in place to ensure close coordination and cooperation between the GoL and NTPC include;

- the NTPC will become an official member of the RC, as co-Chairman;
- NTPC is the source of funding for the program, and will act as procurement agent;
- all plans and budgets are developed reviewed and approved by both the RO and the RMU;
- the RC has the right to review and provide approval or no-objection to all plans; and
- the NTPC's RO and the GoL's RMU share the same office in Nakai.

## **8.2 GoL RESETTLEMENT ORGANIZATIONS**

Until recently, no formal administrative structure existed in Lao PDR to deal with involuntary resettlement caused by large development projects. For a small number of cases, which involved involuntary resettlement, *ad hoc* institutional arrangements had been made at the project level for resettlement implementation. The 2003 Decree on Involuntary Resettlement and Compensation designates the Science, Technology and Environment Agency (STEA) as the regulatory Agency charged with the responsibility for policy oversight. STEA is authorised, in this Decree, to (a) disseminate information, (b) review, evaluate and approve or otherwise Resettlement Plans, (c) review monitoring reports; and (d) provide technical guidelines to Implementing Agencies.

In the case of the Nam Theun 2 Project, the Government has established specific units (or committees) to work with the NTPC to plan and implement the Project, including:

- ❖ the Resettlement Committee;
- ❖ the Resettlement Management Unit; and
- ❖ the District Resettlement and Compensation Working Groups.

These units or committees are staffed by current GoL staff who are seconded to work either full time or part time for the Nam Theun 2 Project, except in the case of GoL engaging hired staff during peak periods of activity.

### **8.2.1 The Resettlement Committee**

The RC is responsible to the Vice Prime Minister, who is the chairman of the national level Nam Theun 2 Project Steering Committee.

The joint World Bank and Asian Development Bank pre-appraisal mission of October 2004 has recommended that the NTPC become a member of the NT2 Resettlement Committee, in the position of co-Chairman.

Following the recommendation of the Gender Action Plan and Review, three provincial women leaders will be included on the RC, while the Deputy RMU staff will continue to be filled by the Khammouane LWU.

#### **Roles and Functions of Resettlement Committee**

The RC is responsible for ensuring that those aspects of the SDP that are GoL's responsibility to implement are carried out on time and on budget. In addition, the RC has joint overall responsibility for all resettlement and compensation activities, even though many may be carried out by others, NTPC included, which will be made more practical by the inclusion of the NTPC in the RC.

The Concession Agreement, Schedule 4, Part 1, clause 4 specifies that the RC has the overall responsibility for directing, guiding, and managing the Resettlement Process, and its main roles and functions include<sup>1</sup>:

- Preparing, or advising the RMU and RO in the preparation, of plans and policies relating to resettlement in order to ensure the achievement of the Resettlement Objectives;
- Coordinating with the GoL Nominated Representative in relation to the Resettlement Process;
- Coordination and liaison with the NTPC;
- Allocating roles and responsibilities for relevant agencies involved in the Resettlement Process, including the RMU, the DRWGs and the VRCs, and ensuring that the overall staffing pattern promotes gender sensitivity;
- Preparing and issuing the Resettlement Regulations and internal rules;
- Monitoring and supervising the implementation of the obligations of both the GoL and the NTPC with respect to the Resettlement Process, including providing approvals to activities carried out by RMU, other GoL agencies and no-objections to the activities of the company's RO.
- Appointing an independent monitoring agency;

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<sup>1</sup> These roles and responsibilities are a paraphrase of those appearing in the CA.

- Facilitating transparency and accountability of management and activities undertaken under the RC's supervision; and
- Liaison with external organisations on resettlement issues relating to the project;
- Reviewing and resolving issues arising among the various Government Agencies and the Company, including disputes which may arise between the RMU and RO, before it is deemed a dispute and thus resolution is required according to the Consultation and Dispute Procedure
- Ensuring entitlements are distributed to PAPs and that view of PAPs are heard and incorporated into Project design.
- Setting an annual resettlement budget, with the participation of NTPC in compliance with the work plans and policies mentioned above; and
- Providing guidelines for the allocation of the budget:

In addition, the RC has the right to review all Resettlement Works, either those in the regular (monthly, quarterly and annual) plans or ad hoc plans, prepared by the RMU or Company's RO. The RC will ensure observance of the Safeguard Policies detailed in Section 3.9, concerning Involuntary Resettlement, Indigenous People, Cultural Property and Gender.

The Resettlement Committee meets every 6 months to review the past 6 months activities, and the work plan and budget for the following 6 months. In between these bi-annual meetings, the chairman (the Provincial Governor of Khammouane) is the standing member and takes all decisions, and provides signatures, for all matters relating to or under the responsibility of the RC.

### **8.2.2 Resettlement Management Unit**

In January 1997, the RC issued an administrative notice defining the main responsibilities of the RMU, which were further elaborated on in the Concession Agreement (CA) between the NTPC and GoL.

#### **Responsibilities of RMU**

The responsibilities of RMU, under the leadership of the RC, and in close coordination with the RO, include the following:

- a) Coordinating, in partnership with the RO, the planning and implementation of the Resettlement Process;
- b) Work with the Companies RO in day-to-day management of the Resettlement Process in accordance with the general policies and specific directions of the RC;
- c) Organising, coordinating and facilitating GOL authorities to participate in resettlement planning by carrying out socio-economic surveys of the affected people, consulting with affected villages, investigating potential resources and developing livelihood scenarios, and identifying and assisting most vulnerable families;
- d) Carry out public consultations throughout the Resettlement Process to help identify needs and solutions to potential problems and generally keeping PAP's informed;
- e) Managing the designated GoL implementation budget for the Resettlement Process;
- f) Obtaining and allocating resettlement budgets to DRWGs, or to other agencies (public or private) directly involved in resettlement implementation;
- g) Ensuring that all RMU and DRWG staff receive training on gender, ethnic and poverty concerns and participatory processes, and consciously practice these approach in their daily tasks
- h) Providing guidance and training for DRWG staff and other GOL institutions
- i) organizing community participation and skills training for PAP, with particular attention to providing opportunity for the most vulnerable and most disadvantaged in communities
- j) monitor the progress of implementation of the obligations of GOL and ensure their programs and completed within the agreed schedule, and the safeguard procedures on gender, ethnicity, resettlement and culture;
- k) In collaboration with the DRWGs coordinate the civil works with the RO, organise technical training from various institutions for PAPs, organising them to develop their allocated farm plots and arranging the logistics for the physical relocation of the households;
- l) Ensuring that the Lao Women's Union (LWU) is able to participate in the Resettlement Process and to address gender issues and initiate income generating activities targeted to women;

- m) Ensuring that all staff and advisors are provided training on gender, poverty and ethnic sensitivity.
- n) Promoting gender and ethnic equity within the RMU, especially concerning personnel recruitment at all levels, assignment of authority, and staff training (see Section 9.10 on Setting Gender Balanced Targets.)
- o) Ensuring that gender equity within village resettlement and development tasks, especially in planning, decision-making, assignment of authority, data collection, training, remunerations, and income-generating opportunities.
- p) Ensuring that the Lao Women's Union (LWU) helps to lead the Resettlement Process, especially to monitor gender equity and women's security.
- q) Ensuring that the Lao National Front (LNFC) is able to participate in the Resettlement Process and to address ethnic minority issues; and
- r) Participating in the Grievance Procedure.

The RMU will coordinate the GOL activities and responsibilities for the resettlement process and together with the Resettlement Office of NTPC manage those field activities undertaken by the DRWG/DCWG.

### **Staffing and Organization of RMU**

RMU staff will generally be experienced national and provincial level managers and professionals able to coordinate and advise on a range of key activities. They will also be required to report on the plans and progress of activities to the RMU cabinet and directly to the RC, as required. Overall personnel recruitment will aim for a 50-50 gender balance. The RMU will be composed of a cabinet and seven technical and administrative units. RMU Cabinet;

- i Infrastructure Development Unit;
- ii Livelihood Development and Training Unit;
- iii Social Services Development Unit;
- iv Consultation and Disclosure Unit;
- v **Land Asset Registration and Titling Unit** - This unit will work with NTPC Project Lands team, or their contractors (who will take the lead in surveys and registration) and be responsible for GoLs input and responsibilities in this program, including land registration and land titling;
- vi Monitoring and Evaluation Unit;
- vii Administration and Finance Unit.

### **8.2.3 District Resettlement Working Groups**

DRWGs have been established in three Districts: Nakai, Khamkeut and Gnommalath Districts. In the other four Districts - Mahaxai, Xe Bangfai, Nongbok, Xaibouly - the DRWGs have name been re-designated as 'compensation' working groups, as the term 'resettlement' in these Districts was confusing local villagers.

The DRWG are responsible for implementing, in cooperation with villagers, and under the technical direction of the RMU and RO, the relocation, rehabilitation, compensation and development activities specific to their Districts, using gender, ethnic and poverty sensitive approaches;

The District Resettlement Working Groups will be directly responsible, under the direction of the RMU, for implementing the relocation and rehabilitation work in their district, including:

- Carrying out consultations on resettlement and compensation entitlements among PAPs;
- Organising and facilitating the process of identifying Resettlement Sites, designing village layout and plot allocation and distribution;
- Organising the implementation of the required livelihood programs for the villages;
- Arranging logistics for the relocation and providing relocation and transitional assistance;
- Providing progress reports to the RMU and the district governments;
- Participating in the Grievance Procedure; and
- Supervising the VRCs.

The staff of the DRWG are drawn from local district staffing allocation, seconded to work, generally full time, on the NT2 Project activities. However, during peak staff requirements the GOL will have to recruit a large number of extra 'hired' staff who will in most cases be recruited from recent University graduates. The type and number of staff depends on the types and scale of resettlement tasks in that particular district. Tables 6-4 and 6-5 indicate the type, number and scheduling of staff required in Nakai District and other districts.

### **8.3 NTPC'S RESETTLEMENT ORGANIZATION**

NTPC is responsible for preparing the SDP jointly with the resettlement organizations from GoL. The NTPC has established a Resettlement Office (RO) to be specifically responsible for all social and resettlement activities of the NTPC, in close cooperation with the GoLs RC and RMU.

The NTPC's Resettlement Office will be responsible for:

- Providing sufficient human resources to ensure the objectives and targets of the SDP are met, by the engagement of national and international experts;
- Providing funding for the implementation of the resettlement activities consistent with the quantity and quality of the agreed entitlements and measures;
- Providing prompt and adequate compensation to the Resettlers and the other PAPs in accordance with the NT2 Resettlement Policy, with such compensation being based on the principle of actual full replacement or the payment of full replacement cost;
- Providing for any other costs associated with mitigating the social effects of the Project on any PAPs, in accordance with this Part;
- Ensuring appropriate consultation and participation methods are used, utilising local knowledge in developing production systems that suit the Resettlers' needs and environment and which avoid dependency on the Project or any Government Authority;
- Providing housing and community buildings at resettlement sites, reasonable access to all weather roads provided where practical, plus water and electricity connections to all resettlers' houses.

#### **Location of the NTPC's Resettlement Office**

The NTPC's Resettlement Office will have an office in the following locations:

- Vientiane;
- Nakai, the main field office;
- Gnommalath, the field office for project Lands activities;
- Thakhek, mainly logistical and coordination support; and
- Khamkerd, to support (for 2 years) the Project Lands work and the one resettlement village of Ban Nam Pan).

#### **Staffing of the NTPC's Resettlement Office in relation to Project Lands;**

The RO will have staff nominally allocated to the following Units:

- Livelihoods (planning and development) Unit;
- Infrastructure (design, planning and construction) Unit ;
- Administration and Finance Unit;
- Project Lands Unit;
- Consultation, Disclosure and Ethnic Unit; and ;
- Monitoring, Mapping, Database and Document Unit.

#### **8.3.1 Responsibilities of NTPC Resettlement Office**

The RO will be concerned with all aspects related to resettlement, and livelihood, social and community development, including Project Land resettlement and compensation.

Close and daily liaison and cooperation between the RO and the RMU have been, and will continue to be a feature of the social and resettlement activities in the NT2 Project, as both the GoL and the Project

developers have a clear goal to ensure all social and resettlement issues are dealt with professionally and fairly, and in a timely and sustainable manner.

The Concession Agreement, Schedule 4 Part 1 states that, under the direction of the RC, the RO will have the following responsibilities:

- Monitoring the implementation of the NPTC obligations under the Schedule and ensuring that they are implemented;
- Providing quarterly reports to the RC in the format required on status of resettlement activities being carried out;
- Co-ordinating closely with the RMU in the planning and implementation of the Resettlement Process;
- Liasing and cooperating in good faith with the Government Authorities responsible for resettlement including the RMU at the working level;
- Seeking the RC's approval/no-objection for all activities the RO proposes to undertake prior to undertaking such activities by submitting plans to the RC;
- Ensuring that consultation and participation methods and implementation processes ensure gender, ethnic and poverty sensitivity, so that the least advantaged families and persons are given equitable opportunities;
- Assisting Lao institutions to foster human and physical resource capacity to sustain development efforts, build local ownership and model self-reliant mechanisms.
- Ensuring the use of local knowledge in developing production systems that suit the Resettlers' needs and environment and which avoid dependency on the Project or any Government Authority;
- Complying with all reasonable guidelines, policies and directions issued by the RC from time to time in accordance with the NT2 Resettlement Policy and within the funding obligations of the CA in relation to the Resettlement Process.

The responsibilities and tasks of the RO that are directly related to Project Lands include:

- (i) **Database Management:** The RO will develop and maintain Project Land databases, which will include land and assets database and registries, PAP socio-economic database and compensation agreement database.
- (ii) **Project Lands Baseline Study:** NTPC will be responsible for this component, and provide support and TA to:
  - Remote Sensing data acquisition and analysis;
  - Socio-economic surveys (by engagement of a contractor);
  - Land parcel and Assets registration (by engagement of a contractor);
  - Compensation agreements (with the GoL); and
  - Compensation implementation (with the GoL).
- (iii) **Consultations:** NTPC will assist the FOL in all aspects of the Public Consultations, Participation and Disclosure Program.
- (iv) **Livelihood Rehabilitation**

## **8.4 VILLAGE ORGANIZATIONS**

### **Village Resettlement and Development Committees**

Villages already have administration and development committees, and these will continue to be strengthened to ensure that villages can fully participate in decision making, and then development of their ownership of activities related to the NT2 project. In those Nakai plateau villages where relocation is required, villages have already appointed their own VRC, which is generally made up of the five main members of the village administration. These five members are elected every two years, and comprise:

- Village chief;
- Deputy Village Chief, in charge of economic development;
- The LWU, which traditionally plays a role in promoting social and economy development of women;

- The Lao Youth Union (LYO); and
- The Lao National Front for Construction (LNFC) which includes the village elders.

Thus, the VRCs, later to become the Village Development Committees (VDCs) are basically the current village administration, which are elected every 2 years, and their main tasks will be to prepare for, and then effect, resettlement and compensation.

These VRCs have and will continue to receive special training in regard to the various functions they will be required to undertake. Being directly responsible to the DRWGs/DCWGs, some of the typical responsibilities of the VRC/VDCs include:

- Representing the interests of the village;
- Public consultation with their village in relation to the Resettlement Process;
- Coordinating with mass organisations at village level in relation to the Resettlement Process;
- Developing Village Development Plans (VDPs) for their village;
- Monitoring and evaluating the Resettlement Process in their village;
- Organising villagers in implementing relocation and agricultural development (including selection of village sites); and
- Participating in the Grievance Procedure.

## **8.5 GRIEVANCE COMMITTEE**

Irrespective of how well conceived and planned the resettlement program may be, individual or village complaints will be encountered. To ensure that the basic rights and interests of resettlers are protected, concerns adequately addressed and entitlements delivered, a grievance procedure has been designed for NT2.

The grievance procedures, and more particularly the agencies involved, have recently been reviewed in order to avoid lengthy procedures for addressal of grievance. Thus, there will only be now three levels, or agencies involved in reviewing and adjudicating on grievances brought forward by villagers (see Chapter 8 in Volume 1 for details), namely:

- (i) Village Grievance Committee, composed of an equal number of women and men elders and other respected persons in the community, which will be strengthened by the NT2 Project;
- (ii) District Grievance Committee, which will be basically the Districts Justice Department, assisted by 3 other people from (a) the District cabinet, (b) the LWU, and (c) the LNFC to form a gender-balance review process;
- (iii) The Provincial Courts.

This Project Grievance Committee (PGC) will review and adjudicate upon grievances submitted by any persons, firstly at the village, then the District and finally the Provincial level (if the earlier step could not resolve the grievance) or RMU level. The GoLs RMU, the DRWGs and the NTPC would be called as technical specialists or witnesses to any grievance hearing.

The findings of the DGC and PGC are binding on the RMU and RO. The Committee must maintain a public record showing all claims received and the decisions made, which must be taken within 30 days. The DGC & PGCs cannot award compensation that goes beyond what is established as a matter of practice or what would be outside the limits of the budgets agreed to by the NT2 project and Resettlement Committee. Beyond the DGC, access to the PGC, or the Court is a last resort.

## **8.6 OTHER AGENCIES AND ORGANIZATIONS**

### **Provincial Authorities**

Khammouane, Savannakhet, and Bolikhamxay Provinces are represented on the Resettlement Committee and in the Resettlement Management Unit. Many aspects of the resettlement implementation require the approval and support of the provincial government including all land allocation activities for resettlement purposes. Similarly all changes in government service facilities, such as setting up new clinics and schools in the villages also require approval by different departments of the provincial governments. Allocating



rights to existing forests to villages requires permission from the provincial government. These approvals will need to be either granted prior to construction commencing, as a fast track approval system or as authority delegated to the RMU, so that delays do not hamper Project implementation. It is important, therefore, that during the resettlement planning and implementation, the RMU work closely with concerned provincial governments and departments to keep them fully informed on progress so that they do not feel by-passed.

The Provincial Office of technical line Ministries will also play a crucial role in the Project Lands programs, especially the Provincial Office of Agriculture and forestry, who will, thru the RMU provide technical support and coordination in the rehabilitation of livelihoods of those whose productive land as are impacted by Project Lands.

### **Lao Women's Union (LWU)**

The LWU will play an important role in resettlement implementation for the Project. They will help organize designated activities, particularly those involving the community, and coordinate training on different subjects, such as public health, family planning, education and skills for women.

Representatives of provincial LWU and district level LWU will be hired as staff in both the RMU, and the DRWGs. In other words, they will be part of the management teams in carrying out designated resettlement activities for the Project. Addressing gender issues in the resettlement villages, and initiating income generating activities targeted to women will also be a responsibility of the LWU.

However, the LWU should not be viewed as the only means of addressing gender concerns. As requested by the LWU and the participants of the Gender Workshop of December 2004, women technicians and leaders of relevant district and provincial departments will be mainstreamed into all aspects of the NTPC work. Furthermore, all GoL seconded personnel and contracted personnel will be required to perform their tasks in a gender sensitive manner.

### **Consultants and Contractors**

Many of the technical activities concerning relocation, infrastructure and livelihood can be carried out by private contractors and local or international consultants under specific contracts to the NTPC or the RMU. Some of these organizations will have technical capacity, extensive knowledge of local socio-economic conditions and experienced local staff, which will allow them to quite effectively carry out some designated components of the resettlement program. Co-operation between consultants and contractors on the one hand and government organizations responsible for implementing the RAP will provide excellent opportunities for the transferral of skills and knowledge. This implies that training (on-the-job) should be an important aspect of contracts. Also, the make-up of the overall consulting selection will be gender-balanced to promote women as role models for professional activities.

Some examples of the types of contracts, which may be let, are:

- (i) **Studies and surveys:** including both baseline studies and soil surveys within the identified agricultural land for each resettled village. Most socio-economic and other surveys will be undertaken jointly by NTPC and GoL, although there may be some sub-contracting to GoL agencies.
- (ii) **Construction:** including house construction by local/national contractors using the villagers themselves as labourers, electricity installations by qualified contractors, irrigation infrastructure by regional/national contractors and road construction also by local contractors.

### **NGO Involvement**

NGOs have skills that may enhance government organizations in carrying out specific tasks as outlined in the RAP. Such tasks may include developing and implementing agricultural activities, organizing community-based development activities, aspects of the health program and adult education. These activities will not only help to develop village-based organizations and capacities, but also provide excellent training opportunities for staff from provincial and district agencies. Besides experience, criteria for selection of NGOs will include the gender and ethnic composition of the hired teams.

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