

LAO PEOPLE'S DEMOCRATIC REPUBLIC

LAO ROAD SECTOR PROJECT (LRSP)

ADDITIONAL FINANCING

Resettlement Policy Framework

MINISTRY OF PUBLIC WORKS AND TRANSPORT

April 3, 2012

FOREWORD

The sustained economic growth of Lao PDR depends on the expansion of its transport network in an environmentally and socially sound manner. This requires thorough planning, careful construction, and sustained maintenance and management of the network at the central, provincial, and district levels.

In 2010 the Ministry of Public Works and Transport (MPWT) received a grant assistance from the World Bank for development of the road sector namely the Lao Road Sector Project (LRSP) and a Resettlement Policy Framework (RPF) was developed on January 27, 2009, disclosed on April 23, 2009, and has been applied to the project as a means to minimize the potential negative impacts of the project due to land acquisition. In 2012 an additional financing has been provided by the World Bank for financing the financial gaps and the need for additional capacity building. In this context the RPF that has been applied for the LRSP will be applied the LRSP additional financing.

For any question about the RPF, please contact Mme PhoNgeun Souvannavong, the Director of Environmental and Social Division (ESD), the Public Works and Transport Institute (PTI).

Introduction

This document constitutes the **Policy Framework for Compensation, Resettlement and Rehabilitation of Displaced Persons (RPF)** for the Lao Road Sector Project in the Lao People's Democratic Republic. The Ministry of Public Works and Transport in Lao PDR (GoL) has agreed to apply World Bank environmental and social safeguard policies in the design and implementation of this project, including OP 4.12, "Involuntary Resettlement." For this project, design and scheduling considerations make it impossible to determine the extent of resettlement planning requirements at appraisal. The RPF establishes principles and procedures to be followed if subsequent stages of project design or implementation are to cause land acquisition or other involuntary restrictions on access to land or other resources. In such instances, the RPF requires that a Resettlement Plan (RP) is prepared for World Bank review and approval. The RP ensures that any such potential impacts are minimized, and that any persons affected by such impacts are provided ample opportunity, through provision of compensation or other forms of assistance, to improve or at least restore their incomes and living standards.

Project Description

The project components identified for Bank financing include (1) periodic maintenance; (2) road safety; (3) network development - improvement and upgrading of national and provincial roads; and (4) institutional strengthening. Among them, only network development and rural access road component might involve with potential land acquisition and resettlement. For those subprojects that would involve land acquisition and resettlement, separate resettlement plans need to be developed by following the policies and procedures set out in this policy framework.

Policy Objectives and Key Definitions

OP 4.12 provides essential guidance on objectives and principles that are applicable in projects generating land acquisition and resettlement-related impacts. Key objectives and definitions are as follows:

Every reasonable effort will be made to avoid or minimize the need for land acquisition, and to minimize all resettlement-related adverse impacts. If land acquisition and associated adverse impacts cannot be avoided, the principle objective of the RPF is to ensure that all persons subjected to adverse impacts ("displaced persons" as defined below) are compensated at replacement cost (as defined below) for lost land and other assets and otherwise provided with any rehabilitation measures or other forms of assistance necessary to provide them with sufficient opportunity to improve, or at least restore, their incomes and living standards.

"Displaced persons" refers to all of the people who, on account of the activities listed above, would have their (1) standard of living adversely affected; or (2) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed temporarily or permanently; (3) access to productive assets adversely affected, temporarily or permanently; or (4) business, occupation, work or place of residence or habitat adversely affected; and "displaced person" means any of the displaced persons.

"Replacement cost" is the method of valuation of assets which determines the amount of compensation sufficient to replace lost assets, including any necessary transaction costs. Compensation at replacement cost is defined as follows: For agricultural land, it is 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.

For 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. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in OP 4.12, Para. 6.

“Land acquisition” is the process whereby a person involuntary loses ownership, use of, or access to, land as a result of the project. Land acquisition can lead to a range of associated impacts, including loss of residence or other fixed assets (fences, wells, tombs, or other structures or improvements that are attached to the land).

“Rehabilitation” is the process by which displaced persons are provided sufficient opportunity to restore productivity, incomes and living standards. Compensation for assets often is not sufficient to achieve full rehabilitation.

“Cut-off Date” is the date prior to which the ownership or use establishes eligibility as displaced persons for compensation or other assistance. The cut-off date is established in the RP. It normally coincides with the date of the census of affected persons, or the date of public notification regarding the specific civil works that would cause displacement. Persons coming into the project area after the cut-off date are not eligible for compensation or other assistance.

Key Principles

World Bank's OP 4.12 establishes several key principles to be followed in resettlement planning and implementation. Of particular relevance for this RPF are the following:

- a) Wherever possible, project designs and RPs should be conceived as development opportunities, so that displaced persons may benefit from the services and facilities created for, or by, project activities.
- b) All displaced persons are entitled to compensation for lost assets, or to alternative but equivalent forms of assistance in lieu of compensation; lack of legal rights to the assets lost will not bar displaced persons from entitlement to such compensation or alternative forms of assistance.
- c) Compensation rates as established in a RP refer to amounts to be paid in full to the individual or collective owner of the lost asset, without depreciation or deduction for taxes, fees or any other purpose.
- d) When cultivated land is acquired, effort should be made to provide land-for-land replacement.
- e) Replacement house plots, sites for relocating businesses, or replacement agricultural land should be of equivalent use value to the land that was lost.
- f) The resettlement transition period should be minimized. Compensation for assets should be paid prior to the time of impact, so that new houses can be constructed, fixed assets can be removed or replaced, and other necessary mitigation measures can be undertaken prior to actual displacement.

- g) Displaced persons are to receive support (direct assistance or allowances) to meet moving expenses or for temporary subsistence until they can resume productive activities.
- h) Displaced persons should be consulted during the process of RP preparation, so that their preferences regarding possible resettlement arrangements are solicited and considered; and RPs are publicly disclosed in a manner accessible to displaced persons.
- i) The previous level of community services and access to resources will be maintained or improved after resettlement.
- j) Responsibility must be clearly established for meeting all costs associated with land acquisition and resettlement, and for ensuring that sufficient funds are available as they become needed.
- k) Clear institutional arrangements must be established to ensure effective and timely implementation of all resettlement and rehabilitation measures.
- l) Adequate arrangements for effective monitoring will be made on implementation of all resettlement measures.
- m) Methods by which displaced persons can pursue grievances will be established, and information about grievance procedures will be provided to displaced persons.

Lao PDR Legal and Regulatory Framework

The legal context in Lao PDR has been changing rapidly over the last few years. A Constitution was introduced in 1991, forestry and water resources laws in 1996, and land law in 1997. While they are subject to interpretation, the various legislative initiatives provide a legal foundation for the consideration of resettlement and compensation. Recently MoNRE (Ministry of Natural Resources and Environment) has drafted a National Policy on Resettlement and Compensation, which is still to be approved. The policy is based on the following laws and decrees:

- 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

Preparing and Approving RPs

For this project, overall responsibility for preparation and implementation of any necessary RPs rests with Ministry of Public Works and Transport. Other agencies or jurisdictional units with direct responsibility for acquiring land or implementing resettlement measures including Department of Road, in MPWT and relevant PWT in relevant provinces, will coordinate activities as necessary to ensure effective resettlement planning and implementation in a timely manner.

Once it is determined that land acquisition or any associated impacts is essential to complete any project activities, and once setting criteria establish the land area to be acquired, resettlement planning should begin. The project owner will carry out, or cause to be carried out,

a census survey to identify and enumerate all displaced persons, and a socioeconomic survey to determine the range and scope of adverse impacts in the affected area. The census survey must cover 100% of the persons to be displaced; the socioeconomic survey may be undertaken on a sample basis. The surveys, which may be undertaken separately or simultaneously, determine whether a full RP or an “abbreviated” RP (as defined in OP 4.12, Annex A) is necessary. When the number of persons affected exceeds 200, a full RP is necessary. Where impacts on all displaced persons are relatively minor, or fewer than 200 people are affected, an abbreviated RP may be prepared. Impacts are considered “minor” if the affected people are not physically displaced and less than 10% of their productive assets are lost.

If a RAP is necessary, it will be prepared in accordance with the policy principles and planning and implementation arrangements set forth in this RPF. The RP is based on accurate baseline census and socioeconomic survey information, and establishes appropriate mitigation measures (e.g., compensation for assets, transitional assistance, and economic rehabilitation assistance) as appropriate for all categories of adverse impacts. Depending on the categories of impacts, the RP specifically addresses the following:

- a) description of the activity causing land acquisition;
- b) range and scope of potential adverse impacts;
- c) socioeconomic survey and baseline census survey information;
- d) review of relevant laws and regulations relating to land acquisition and resettlement;
- e) specific compensation rates (or alternative measures) for all categories of affected assets;
- f) other measures, if any, necessary to provide opportunities for economic rehabilitation of displaced persons;
- g) eligibility criteria for compensation and all other forms of assistance;
- h) relocation arrangements, if necessary, including transitional support;
- i) site selection and site preparation, if necessary;
- j) restoration or replacement of community infrastructure and services;
- k) organizational arrangements for implementation;
- l) consultation and disclosure arrangements;
- m) resettlement implementation schedule;
- n) costs and budget;
- o) monitoring arrangements;
- p) grievance procedures;
- q) summary entitlements matrix

If an abbreviated RP is to be prepared, it also must be based on principles and planning and implementation arrangements established in this RPF. An abbreviated RP normally includes the following contents:

- a) a census survey of displaced persons and valuation of assets;
- b) description of compensation and other resettlement assistance to be provided;
- c) eligibility criteria;
- d) consultation and disclosure arrangements;
- e) organizational arrangements for implementation
- f) timetable and budget;
- g) monitoring arrangements;
- h) grievance procedures

Any RPs prepared in accordance with this RPF must be reviewed and approved by the Bank prior to awarding of contracts for the civil works causing the displacement.

Entitlement Policy

All displaced persons are eligible for compensation and/or other forms of assistance, as relevant to the nature of impacts affecting them.

In general, people eligible for compensation would include those affected in the following ways:

Land to be permanently acquired for the project: This includes a) owners with formal legal title, b) land users eligible for formal legal title under Lao PDR law, and c) those residing on, or using, state land prior to an established cut-off date, usually the date of public notification regarding the specific civil works activity that would cause displacement. Displaced persons in categories a) and b) are entitled to compensation at replacement cost. In lieu of formal compensation, displaced persons in category c) are provided with alternative forms of assistance, in value equivalent to replacement cost.

Loss of houses, other structures and fixed assets, including trees and standing crops: Owners of houses and other assets (regardless of whether they hold land title or building permits for structures erected prior to the cut-off date).

Losses associated with temporary impacts: This includes temporary loss of land, and transitional costs associated with moving, or disturbance to businesses during construction.

Specifically, displaced persons will be entitled to the following types of compensation and rehabilitation measures:

1. *Displaced persons losing agricultural land:*

- a) The preferred mechanism for compensation of lost agricultural land will be through provision of replacement land of equal productive capacity and satisfactory to the displaced person. If satisfactory replacement land cannot be identified, compensation at replacement cost may be provided.
- b) Displaced persons will be compensated for the loss of standing crops at market price, for economic trees at net present value, and for other fixed assets (ancillary structures, wells, fences, irrigation improvements) at replacement cost.
- c) Compensation will be paid for temporary use of land, at a rate tied to duration of use, and the land or other assets will be restored to prior use conditions at no cost to the owner or user.

2. *Displaced persons losing residential land and structures*

- a) Loss of residential land and structures will be compensated either in-kind (through replacement of house site and garden area of equivalent size, satisfactory to the displaced person, or in cash compensation at replacement cost.
- b) If after partial land acquisition the remaining residential land is not sufficient to rebuild or restore a house or other structures of equivalent size or value, then at the request of the displaced person the entire residential land and structure will be acquired at replacement cost.
- c) Compensation will be paid at replacement cost for fixed assets.

- d) Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area and will be assisted in identifying alternative accommodation.

3. *Displaced persons losing business*

- a) Compensation for loss of business will involve, as relevant: (i) provision of alternative business site of equal size and accessibility to customers, satisfactory to the displaced business operator; (ii) cash compensation for lost business structures; and (iii) transitional support for loss of income (including employee wages) during the transition period.

4. *Infrastructure and access to services*

Infrastructure (such as water sources, roads, sewage systems or electrical supply) and community services (such as schools, clinics or community centers) will be restored or replaced at no cost to the communities affected. If new resettlement sites are established, infrastructure and services consistent with local standards will be provided at no cost to the relocated persons.

Rehabilitation Measures

Compensation may be sufficient to allow displaced persons to restore incomes if paid at replacement cost, assuming that replacement assets are available. Often, however, resettlement may require displaced persons to obtain new skills required for resuming production in a new environment, or to pursue new sources of income. The RP should assess the significance of impacts to be imposed on displaced persons, and provide measures to assist those significantly affected in adapting to new livelihood challenges. Terms for participation in such measures, including training, extension services, or employment, along with responsibility for providing them, should be specified in the RP.

Consultation and Disclosure

To promote active project engagement and adaptation to changed living circumstances, displaced persons should be provided with opportunities to participate in planning and implementation. At minimum, displaced persons should be consulted on preferences and concerns during the resettlement planning process. All displaced persons are to be informed regarding potential impacts and proposed mitigation measures, including compensation rates. The RP will be disclosed, in a manner and location accessible to displaced persons while in draft, and subsequently disclosed again following finalization.

Implementation Arrangements

The RP reviews organizational arrangements, to ensure that implementation procedures are clear, that responsibility is clearly designated for provision of all forms of assistance, and that adequate coordination among all agencies involved in RP implementation is assured. The RP must include a detailed implementation schedule, linking the project construction timetable to resettlement-related activities. The implementation timetable should establish that compensation (in cash or in kind) should be completed at least one month prior to initiation of civil works, and at least three months before residential structures are demolished.

Costs and Budget

Each partial and full resettlement plan will include detailed cost of compensation and other rehabilitation entitlements and relocation of displaced persons, if that be the case, with a breakdown by agricultural land, residential land, business land, houses, businesses and other assets. The cost estimates will make adequate provision for contingencies. The resettlement plans will explicitly establish sources for all funds required, and will ensure that fund flow is compatible with the timetable for payment of compensation and provision of all other assistance.

Grievance Procedure

RPs will establish means for displaced persons to bring complaints to the attention of relevant project authorities. Grievance procedures should include reasonable performance standards, e.g., time required to respond to complaints, and should be provided without charge to displaced persons. The RP should also state other avenues available to aggrieved persons if the project-related procedures fail to resolve complaints.

Resettlement Monitoring

In addition to internal project monitoring arrangements, the project owner will ensure that RP implementation will be monitored by a qualified agency independent of project implementing agencies. The RP should establish the scope and frequency of monitoring activities. External monitoring reports will be prepared for simultaneous submission to the project office and the World Bank.

Resolving Inconsistencies

As provided in legal documentation for the project, if there is any inconsistency between the laws and regulations of Lao PDR and this policy framework, the domestic law or regulation shall be waived to the extent necessary to achieve RPF requirements.