

# Resettlement and Ethnic Minority Development Framework

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July 2014

## VIE: Second Lower Secondary Education for the Most Disadvantaged Areas Project

Prepared by the Ministry of Education and Training, Socialist Republic of Viet Nam for the Asian Development Bank

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**SUBJECT:** **PPTA-8207 (VIE): Endorsement to the Resettlement and Ethnic Minority Development Framework for Second Lower Secondary Education for the Most Disadvantaged Areas Project**

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Dear Dr. Schelzig,

Thank you for ADB's cooperation in the development of Resettlement and Ethnic Minority Development Framework (REMDF) for Second Lower Secondary Education for the Most Disadvantaged Areas Project. We have reviewed the REMDF and confirm endorsement to the document as attached.

We look forward to your further cooperation.

Best regards,



Dao Ngoc Nam  
PMU Director

## ABBREVIATIONS

ADB	–	Asian Development Bank
AH	–	affected household
AP	–	affected person
BOET	–	Bureau of Education and Training
CAP	–	corrective action plan
CEC	–	Continuing Education Center
CPC	–	Commune People’s Committee
CPMU	–	central project management unit
DCRC	–	District Compensation and Resettlement Committee
DDR	–	due diligence report
DMS	–	detailed measurement survey
DOET	–	Department of Education and Training
DPC	–	District People’s Committee
EA	–	executing agency
EM	–	ethnic minority
GOV	–	Government of Viet Nam
GRM	–	grievance review mechanism
INSETT	–	in-service teachers training
IP	–	indigenous people
IPP	–	indigenous people’s plan
IRP	–	Income restoration program
LAR	–	land acquisition and resettlement
LSE	–	lower secondary education
LSS	–	lower secondary school
LSEMDAP II	–	Second Lower Secondary Education for the Most Disadvantaged Areas
LSEMDRP	–	Lower Secondary Education for the Most Disadvantaged Regions Project
LURC	–	Land Use Right Certificate
MIS	–	management information system
MOET	–	Ministry of Education and Training
MOLISA	–	Ministry of Labour, Invalids and Social Affairs
MOU	–	Memorandum of Understanding
NGO	–	nongovernment organization
PAM	–	project administration manual
PIB	–	public information brochure
PIC	–	project implementation consultant
PPC	–	Provincial People’s Committee
PPMU	–	provincial project management unit
PPTA	–	project preparatory technical assistance
REMDF	–	Resettlement and Ethnic Minority Development Framework
REMDP	–	Resettlement and Ethnic Minority Development Plan
RP	–	Resettlement Plan
SPS	–	Safeguard Policy Statement

## GLOSSARY

Affected Person	Any person, household, firm or private institution who, on account of changes resulting from the project, or any of its phases, will have its (i) standard of living adversely affected; (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, salt mining, and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected with or without displacement. In the case of AH, it includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components.
Compensation	Payment in cash or in kind to replace losses of land, housing, income, and other assets caused by the project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates plus any transaction costs, such as administrative charges, taxes, registration, and titling costs, without deduction for depreciation.
Cut-off Date	This refers to the date prior to which the occupation or use of land in the project area makes residents/users of the same eligible to be categorized as AP.
Detailed Measurement Survey	Survey where all fixed assets (i.e., lands used for residence, commerce, agriculture, including ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the proposed facilities are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact on the livelihood and productive capacity of APs will be determined. The final cost of resettlement can be determined following completion of the DMS.
Entitlement	The range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc., which are due the APs, depending on the type and severity of their losses, to restore their economic and social base.
Ethnic Minority	People with a group status having a social or cultural identity distinct from that of the dominant or mainstream society with the following characteristics: (i) self-identification as members of distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitat and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant and culture; and (iv) a distinct language, often different from the official language of the country or region.
Income restoration program	Activities to support severely affected, poor and vulnerable APs to recover their income/livelihood to pre-project levels, in addition to compensation for affected assets.
Land acquisition	Process whereby an individual, household, firm, or private institution is

	compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
Rehabilitation	Additional support provided to APs losing productive assets, incomes, employment, or sources of living to supplement payment of compensation for acquired assets in order to achieve, at a minimum, full restoration of living standards and quality of life.
Relocation	Physical relocation of an AP from her/his pre-project place of residence and/or business.
Replacement cost	Amount needed to replace an affected asset net of transaction costs such as administrative charges, taxes, registration, and titling costs.
Resettlement	Includes all measures taken to mitigate any and all adverse impacts of a project on AP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation, as needed.
Resettlement Plan or Resettlement and Ethnic Minority Development Plan	Time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Severely affected households	AHs that will (i) lose 10% or more of their total productive land and/or assets, (ii) have to relocate, and/or (iii) lose 10% or more of their total income sources due to the project.
Stakeholders	Individuals, groups, or institutions that have an interest or stake in the outcome of a project. The term also applies to those potentially affected by a project. Stakeholders include land users, country, regional and local governments, implementing agencies, project executing agencies, groups contracted to conduct project activities at various stages of the project, and other groups in civil society, which may have an interest in the project.
Vulnerable groups	Distinct groups of people who might suffer disproportionately or face the risk of being further marginalized by 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, and (iv) children and the elderly who are landless and with no other means of support.

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## I. INTRODUCTION

### A. Overview

1. Since 2008, the Government of Viet Nam (GOV) has been implementing the Lower Secondary Education for the Most Disadvantaged Regions Project (LSEMDRP). Its project performance has been impressive and exceeded expectations. However, there are still unmet demands and needs in lower secondary education (LSE), specifically with respect to the further improvement of the quality of LSE particularly in poor disadvantaged areas of the country where large populations of ethnic minorities reside. That being the case, GOV and the Asian Development Bank (ADB) have agreed to provide continued support to LSE in most disadvantaged areas through a second phase project, the Second Lower Secondary Education for the Most Disadvantaged Areas Project (LSEMDAP II or the Project).

2. None of the facilities constructed under LSEMDRP had land acquisition or involuntary resettlement impacts. All school buildings, boarding houses and other facilities were built within the school premises. No ethnic minorities were adversely affected by the construction work. On the other hand, the facilities helped improved access of ethnic minorities of LSE in the project areas.

### B. Project Description

3. However, access of ethnic minorities to LSE is still limited due to the lack of classrooms and semi-boarding facilities. Many ethnic minority parents' do not send their children to school due to lack awareness of the need for education. Relevance of the LSE curriculum to the local needs of EM groups is also low. Low quality of teaching also results in less motivation for EM students to complete LSE. Dropout rate among EM students in the project provinces is almost double the overall rate of 2.7%. Physical, financial and cultural barriers adversely affect the ability of children in EM areas to attend schools. LSEMDAP II aims to address these issues.

4. LSEMDAP II will expand the geographic coverage to 28 provinces and 135 districts from 17 provinces and 103 districts covered in LSEMDRP (Table 1; Fig. 1). Ten provinces<sup>1</sup> from the previous project and 18 new provinces have been included. In the Northern Midlands and Mountains, Central Highlands, and Mekong Delta, the proportion of ethnic minorities in the population is included as one of the criteria for selecting the districts. The project will benefit 200 lower secondary schools (LSSs) distributed in four disadvantaged areas.

**Table 1: Provinces and Districts in Four Project Regions**

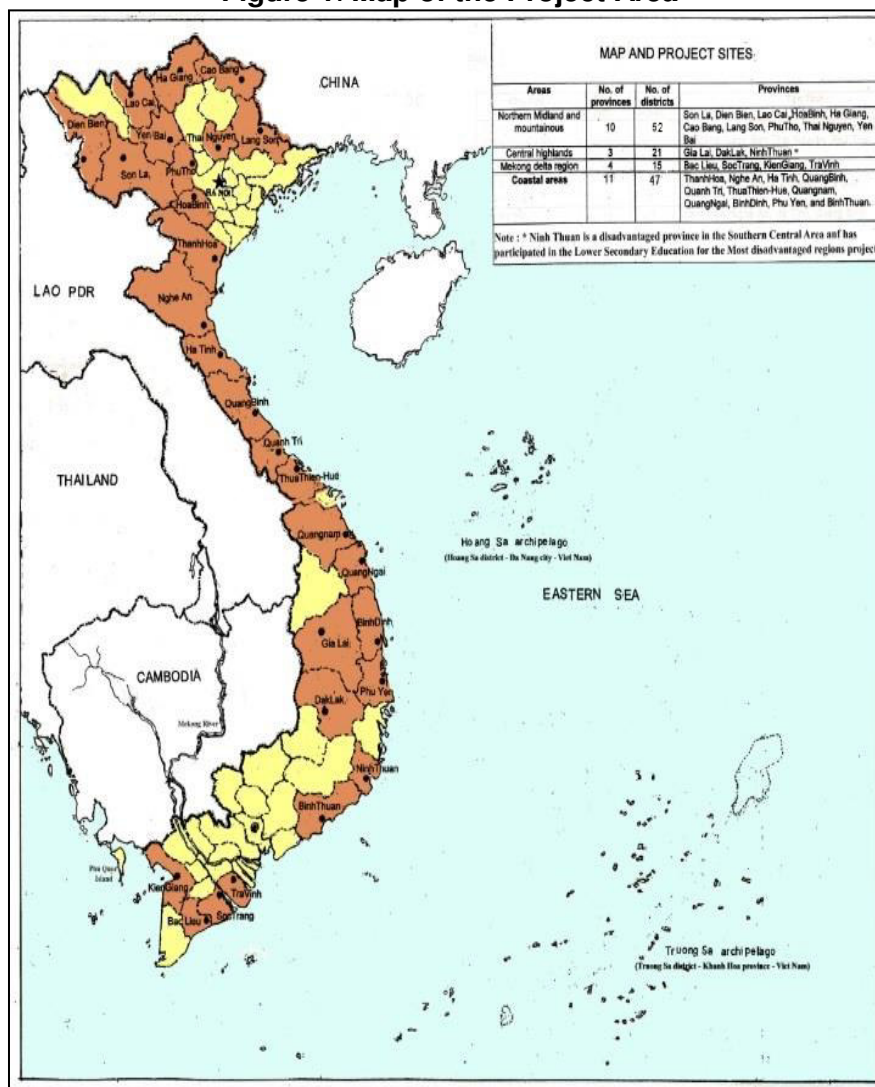
Project Regions	Number		Provinces Selected for LSEMDAP II
	Provinces	Districts	
Northern Midlands and Mountains	10	52	Son La, Dien Bien, Lao Cai, Hoa Binh, Ha Giang, Cao Bang, Lang Son, Phu Tho, Thai Nguyen, and Yen Bai
Central Highlands	3	21	Gia Lai, Dak Lak, and Ninh Thuan
Mekong Delta	4	15	Bac Lieu, Soc Trang, Kien Giang, and Tra Vinh
Coastal Areas	11	47	Thanh Hoa, Nghe An, Ha Tinh, Quang Binh, Quang Tri, Thua Thien Hue, Quang Nam, Quang Ngai, Binh Dinh, Phu Yen, and Binh Thuan

<sup>1</sup> LSEMDRP provinces include Ha Giang, Dien Bien, Son La, Yen Bai, Lao Cai and Cao Bang in Northern Midlands and Mountains; Gia Lai, Ninh Thuan and Dak Lak in the Central Highlands Region; and Soc Trang, Tra Vinh and Kien Giang in the Mekong Delta.

Project Regions	Number		Provinces Selected for LSEMDAP II
	Provinces	Districts	
<b>Total</b>	<b>28</b>	<b>135</b>	

Source: Project Detailed Outline (November 2013).

**Figure 1: Map of the Project Area**



5. The project has four main outputs aimed at improving access of poor and EM students to LSE in disadvantaged regions:

6. **Output 1: Increased access to LSE and LSE equivalency program.** Output 1 involves the construction of (i) 660 new classrooms; (ii) 350 new semi-boarding houses with 70 kitchens; (iii) 21 common toilets for lower secondary schools (LSSs); (iv) 57 toilets for semi-boarding houses; and (v) 250 housing units for teachers. An intensive awareness campaign will be conducted to encourage parents to enrol their children in LSS and support their schooling.

7. **Output 2: Decentralized Teaching and Learning Tools Developed.** This output involves: (i) development of regional and competency-based textbooks for ethnic minority areas; (ii) development of district continuing education centers (CECs) as the new platform for in-

service teacher training (INSETT); (iii) development of life skills and preservation and promotion of ethnic minority cultures and values; (iv) development of disaster management education; and (v) provision of vocational counselling and guidance suitable to ethnic minority areas. This output does not involve civil works.

8. **Output 3: New School Clustering Established.** This output involves the (i) establishment of teachers' networking among cluster group schools in ethnic minority areas; (ii) improvement of science education through school clusters; (iii) improvement of effectiveness and performance of school libraries; and (iv) pilot-testing of school block grants to address the local needs of cluster schools. Approximately, 100 new science laboratories and 70 libraries will be constructed under this output.

9. **Output 4: Project implementation and monitoring and evaluation (M & E) capacity enhanced.** This output will support capacity development in project management, implementation, and monitoring and evaluation (M&E) to enable education managers at the provincial and district levels and staff of the Central Project Management Unit (CPMU) and the Provincial Project Management Units (PPMUs) to successfully implement the project within the available financial resources and time frame.

### C. Expected Impacts of the Project

10. The project is classified as B for involuntary resettlement and indigenous people. Civil works and construction activities will be done inside the compounds of existing LSSs. Land acquisition will be unlikely. In case some facilities would require land, such would be minimal considering the nature of the civil works. The project is expected to have positive impacts on ethnic minorities, particularly in improving their access to LSSs and improving quality and relevance of secondary education to the situation of ethnic minorities. Adverse impacts on ethnic minorities, if any, will be limited to loss of land in the unlikely case that a facility will be constructed beyond the existing LSS compounds. The REMDF guides the screening of site-specific adverse impact of the facilities to ethnic minorities and describes the project elements that provide benefit to ethnic minorities.

11. Field assessments conducted in 48 initially screened LSSs during the PPTA confirmed that no land acquisition/resettlement will be required for the additional facilities, should such schools be considered by the project. All the initially surveyed LSSs have adequate land for the proposed facilities to be constructed under Outputs 1 and 3. Only one-third of the lands are currently occupied by existing structures. Screening will be done at all sites once the selection of the 200 LSSs has been approved by MOET. In case some schools will require the acquisition of land, a Resettlement Plan (RP) or Resettlement and Ethnic Minority Development Plan (REMDP) will be prepared.

12. Outputs under the project are expected to improve the accessibility, quality, and relevance of LSE to the needs of ethnic minorities and disadvantaged students, which will, in turn, lead to increased enrolment and student retention as well as increased promotion and completion rates in the project areas. The project will also enhance the ability of LSE students to make informed decisions on their further studies and career choices after completing LSE. The project is expected to benefit 432,523 LSE students, of whom 61.45% are ethnic minorities.<sup>2</sup>

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<sup>2</sup> TA 8207-VIE: Project Preparatory Technical Assistance for the Second Lower Secondary Education for the Most Disadvantaged Areas Project (LSEMDAP II): Feasibility Study Report. PRIMEX. Hanoi, Viet Nam. April 2014.

#### D. Ethnic Minorities in the Project Areas

13. Of the 53 ethnic minority groups in the country, 38 are found in areas covered by the project. These EM groups possess, in varying degrees, the characteristics of indigenous people, as defined in ADB's Safeguard Policy Statement (SPS) (2009). The ethnic minority groups found in the project area include the following:

- (i) **Northern Midlands and Mountains (52 districts):** Cao Lan, Dao, Giay, H'Mong, Ha Nhi, Hoa, Kho Me, La Chi, La Ha, Muong, Ngai, Nung, Phu La, San Chay, San Diu, Thai, Tay and Xinh Mun;
- (ii) **Central Highlands (21 districts):** Cham, Co Ho, Cho Ro, E De, Gia Rai, Hoa, M'Nong, Muong, Nung, Thai and Tay;
- (iii) **Mekong Delta (15 Districts):** Cham, Hoa, Khmer, Kho Me, Muong, Nung and Tay.
- (iv) **Coastal Areas (47 districts):** Ba Na, Bru-Van Kieu, Cham, Co, Co Tu, Chut, Dao, E De, Gie Trieng, H'Mong, Hoa, Hre, Kho Me, Lao, M'Nong, Muong, Odu, Ra Glai, Ta Oi, Thai, Tho and Xe Dang.

14. The Northern Midlands and Mountains, Central Highlands and the Mekong Delta regions have large populations of ethnic minorities. Poverty incidence in these regions is also high, ranging from 22%–29%. The coastal areas are better off, with a poverty incidence of 12.6%, lower than the national average of 14.8%, in 2008 (Table 2).

**Table 2: Poverty Incidence in Project Regions (%)**

Project Regions	Poverty Incidence (%)
Northern Midlands and Mountains	29.4
Central Highlands	20.4
Mekong Delta	22.2
Coastal Areas	12.6

Source: Statistical Yearbook of Viet Nam, 2010.

15. The three project regions with large EM populations have poor LSE performance. Promotion rate averaged 96.0% (96.9% for males and 95.1% for females), and varied from 97.1% in the Northern Midlands and Mountains to 94.2% in the Central Highlands and 95.5% in the Mekong Delta in school year (SY) 2012–2013.<sup>3</sup> In SY2012–2013, LSE dropout rate was 1.5% in the Northern Midlands and Mountains, 3.8% in the Central Highlands, and 3.4% in the Mekong Delta. The three regions have a total of 30,600 teachers, of whom more than 9,200 (or 30.0%) are from ethnic minority groups. However, majority of teachers teach subjects that are not within their areas of specialization, and none have undergone training or are pursuing graduate studies.

16. The feasibility study for LSEMDAP II conducted in during the PPTA provided the following profile of EMs in the project area:

- (i) EMs have their own languages and cultures and use their own native languages or dialects to communicate with each other within their own group. They maintain their unique identity and culture. Their cultures and traditions help reinforce their identity and unite them together as a distinct group. They vary in terms of their assimilation and levels of economic success, with some groups having achieved commensurate levels with Kinh, while others struggle to educate their children (World Bank, 2009). Their different geographical locations have resulted in unequal development among ethnic groups.

<sup>3</sup> Source: PPTA Consultant's field survey.

- (ii) Majority of EMs live in remote isolated areas. Their livelihood depends on agriculture, especially subsistence farming. Very few are involved in cash crop plantations such as coffee, rubber, and cashew. EM-headed households living in 400 of Vietnam's poorest communes depend on agricultural sources of income, which accounted for nearly 70% of their total average income, while wage income accounted for 18%. EMs continue to depend on swidden or shifting cultivation agriculture. Majority use upland irrigated lands.<sup>4</sup>
- (iii) Compared to the Kinh, EMs are less likely to be traders or involved in shop keeping. Around 70% of youth prefer to stay in their villages to look for work. Only 22% are open to migrate. With respect to employment with government agencies, around 22% of surveyed Kinh said a member of their households had served as a government official compared to only 9% for EMs.
- (iv) An analysis by UNFPA<sup>5</sup> of the *2009 Vietnam Population and Housing Census* revealed that, similar to the national unemployment rate, the unemployment rates of the largest ethnic groups are not high, but display differences. The Khmer have the highest unemployment rate (5%), which is 1.5% times higher than the national average. The ethnic groups of the Hmong, Thai, Muong, and Tay have very low unemployment rates ranging from 0.4-1.6%.<sup>6</sup> Except for the Thai people, there are gender differences in unemployment rates among ethnic groups. While the Kinh and Tay have higher unemployment rates for men than for women, the unemployment rates of the Muong, Khmer, and Hmong women are higher than those of the men.
- (v) According to a UNFPA report, the largest number of people are engaged in household enterprises (77%), followed by State agencies (9.6%), private enterprises (6.5%), foreign-invested enterprises (3.4%), self-employment (3.1%), and cooperatives/ collectives (0.3%). Among the six economic categories, the numbers of working population of the five major EMs (in terms of percentage) are lower than those of the Kinh in all categories. Among the six large ethnic groups, the Kinh have the highest proportion of people working in the public sector (10.5%), private sector (7.3%), and foreign-invested enterprises (3.8%). Among the other five ethnic groups, the Tay, Muong, and Khmer people have higher proportions of workers in the State, private, and foreign investment sectors than the Thai and Hmong people. The majority of EMs depend on subsistence agriculture for their livelihood.
- (vi) During the 1990s, Viet Nam's rapid economic growth, combined with geographically targeted pro-poor policies, such as P135 and HEPR, resulted in a decline in the incidence of poverty among ethnic minorities. In 1993, 86% of Viet Nam's ethnic minority population lived below the poverty line; in 2002, less than 70% were considered poor (Swinkels and Turk, 2004). Poverty reduction among ethnic minorities varies greatly from one region to another, and that there is considerable diversity in poverty levels within poor, remote areas. Only Khmer in

<sup>4</sup> World Bank. *Country Social Analysis: Ethnicity and Development in Vietnam – Summary Report, 2009*

<sup>5</sup> United Nations Population Fund (UNFPA). 2011. *Ethnic Groups in Viet Nam: An Analysis of Key Indicators from the 2009 Viet Nam Population and Housing Census*.

<sup>6</sup> According to official definition, unemployed people are those who are not working but have a desire to work and who have actually spent time looking for employment.

the south and some ethnic minorities, such as the Tay and Nung in the northern upland region, have benefited from the economic growth of the 1990s. The living standards of most ethnic minorities in the Central Highlands and of the Hmong in the Northern Uplands (particularly in the Northwest) have remained stagnant (Baulch *et al.*, 2004; Swinkels and Turk, 2006).

- (vii) EMs account for about 15% of Viet Nam's 90 million total population. With higher fertility rates than Kinh (i.e., ethnic Vietnamese), they are the fastest-growing segment of the Vietnamese population. While EM groups account for less than 15% of the country's total population, they make up more than half of the poor (World Bank, 2009).
- (viii) Areas with a high density of poor households are also the areas with a high percentage of EM groups. About 62 poor districts are mainly inhabited by EM groups, with the percentage of poor households at 43.89%. The districts with very high poverty rates include Mu Cang Chai (Yen Bai province) at 75.4%; Tram Tau (Yen Bai province), 72.21%; Muong Ang (Dien Bien province), 63.19%; Dong Van (Ha Giang province), 56.79%; Muong Nhe (Dien Bien province), 56.54%, and Tua Chua (Dien Bien province), 56.41%. In general, the average income of EM households is less than 20% of the national average.
- (ix) WB's *Viet Nam Poverty Assessment* (2012) reported that as of 2010, about 66.3% of minorities still lived below the poverty line, and 37.4% lived below the extreme poverty line, on the average. In comparison, only 12.9% of the Kinh majority population was still poor, and only 2.9% lived below the extreme poverty line in 2010. Because the Kinh make up a much larger share of the population in Viet Nam, they still account for just over half (53%) of the total poor in Viet Nam.
- (x) The reasons for the higher poverty rate of ethnic minorities have been studied by several researchers (e.g., Baulch *et al.*, 2004), and include the following:
  - a. **Difficult geographical condition.** EM groups mainly inhabit mountainous, remote areas, and places with complicated geography, which make commuting difficult and causes considerable differences in economic development. Majority of poor ethnic minorities continue to live in more isolated and less productive upland regions of Viet Nam. Three-quarters of their total income is derived from agriculture and allied activities, which are affected by harsh weather conditions.
  - b. **Limited assets.** EM groups generally have limited physical assets (i.e., land, capital, credit) as well as social assets (i.e., education, health, and access to social services). Linked to limited assets, EMs face disadvantages in productivity and ownership of land, choice of crops, and access to credit and financial services. Despite the rapid expansion in opportunities for off-farm employment and concomitant income diversification over the last decade, the link between landlessness and poverty has increased, particularly in the Mekong Delta.
  - c. **Language barrier.** A number of qualitative studies have shown the significant influence that poor ability in the Vietnamese language has on EMs, particularly women, to access employment (Oxfam and Action Aid Viet Nam,

2008) and government services (VASS, 2009) as well as engage in markets (WB, 2009) and receive social transfers (Baulch *et al.*, 2010). The direct link between Vietnamese language capability and poverty is measurable. Calculations using VHLSS data show that rural EM households who cannot speak Vietnamese well (i.e., interviewed via an interpreter) are 1.9 times more likely to be poor than EM households who can speak Vietnamese, and 7.9 times more likely to be poor than Kinh and Hoa living in rural areas.

- d. **Early marriage.** The custom in some EM groups of early marriage and many offsprings is one of the causes of poverty among the minorities. A national survey<sup>7</sup> conducted in 2009 showed that the average ages at first marriage for Kinh people were 26.6 for males and 23.1 for females; however, the average ages for marriage among the Hmong group are only 19.9 for males and 18.8 for females. While the national average birth rate is 2.03, it is 1.95 for Kinh, 3.0 for Hmong, 2.58 for Gia Rai, 1.91 for Dao, and 1.78 for Khmer.
  - e. **Limited capacity.** Limited capacity mainly results from disadvantages in access to quality education, higher dropout rates, late enrolment, lack of community pre-schools, limited ability in the Vietnamese language, mobility, exposure to new ideas and technologies, specific cultural norms and a perception of EM resistance to change.
- (xi) The WB CSA (2009) identified three underlying factors that help explain why the EMs continue to lag behind the Kinh majority. These are differences in assets, capacity, and in voice. *Differences in assets* refer to fewer EM physical assets (land, capital, credit) than Kinh, as well as fewer social assets (education, health, access to social services). Linked to fewer assets, EMs face disadvantages in productivity and ownership of land, choice of crops, and access to credit and financial services. *Differences in capacity* are the result of disadvantages in access to quality education, higher dropout rates, late enrolment, lack of community pre-schools, poor Vietnamese language ability, lack of mobility and exposure to new ideas and technologies, specific cultural norms, and a perception of EM resistance to change. *Differences in voice* lead to a lack of EM confidence in engaging the wider society and the marketplace, as well as a widespread negative EM cultural stereotype.

## II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

### A. Objectives of the REMDF

17. MOET prepared this Resettlement and Ethnic Minority Development Framework (REMDF) to guide (i) the screening and categorization of the proposed facilities for the candidate LSSs for potential land acquisition, resettlement impacts, and adverse impacts on ethnic minorities; and (ii) preparation and implementation of an RP or REMDP based on relevant laws of the Government of Viet Nam (GOV) and the policy requirements of ADB's SPS, 2009. Measures to enhance engagement and positive impacts on EMs are incorporated in the overall project design.

### B. Policy Framework

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<sup>7</sup> United Nations Population Fund (UNFPA). 2011. *Ethnic Groups in Viet Nam: An Analysis of Key Indicators from the 2009 Viet Nam Population and Housing Census*.

## 1. Screening and Categorization

18. School facilities will be constructed in around 200 LSSs under the project. Once MOET approves the shortlisted LSSs and the proposed additional facilities, CPMU will screen each site for potential land acquisition/resettlement impacts and adverse impacts on EMs. Facilities/LSSs that will involve significant land acquisition/involuntary resettlement and/or ethnic minority adverse impacts (Category A) will be excluded from the project.<sup>8</sup> Proposed facilities that will not involve any land acquisition/involuntary resettlement or adverse impacts on ethnic minorities (Category C) will be prioritized. Facilities with minor impacts (Category B) may be considered subject to the preparation and implementation of an RP/REMDP acceptable to ADB.

19. The CPMU will summarize the results of the screening in each batch/phase<sup>9</sup> into a due diligence report (DDR) to be submitted to MOET for approval. The DDR will (i) indicate which proposed works have no land acquisition or resettlement impacts, (ii) provide the number of affected persons (APs) and types of losses/impacts for specific sites, (iii) verify if any of the APs are ethnic minorities or vulnerable, and (iv) clarify if there are adverse effects on ethnic minorities' access/use of land and livelihood. The screening checklist for subproject LSSs is shown in Annex 1.

## 2. The Legal Framework

20. The REMDF is based on laws, regulations, and procedures on land recovery and ethnic minorities of the Government of Viet Nam and ADB's SPS (2009) requirements 2, 3, and 4 and cross-cutting policy themes on social development.<sup>10</sup> The REMDF will be submitted to ADB for concurrence and posting on the ADB website. It will be translated into Vietnamese and distributed to the central and local agencies, affected households, and other individuals responsible for project preparation and implementation.

### a. ADB Safeguard Policy Statement (2009)

21. The ADB SPS (2009) consolidates ADB's safeguards requirements on involuntary resettlement (IR), indigenous peoples (IP), and environment. IR safeguards aim to: (i) avoid IR wherever possible; (ii) minimize IR by exploring project and design alternatives; (iii) enhance, or at least restore, the livelihoods of all APs in real terms relative to pre-project levels; and (iv) improve the standards of living of the displaced poor and other vulnerable groups.

22. IP safeguards aim to design and implement projects in a way that fosters full respect for IPs' identity, dignity, human rights, livelihood systems, and cultural uniqueness, as defined by the IPs themselves, so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

23. The ADB SPS (2009) applies to all ADB-financed and/or ADB-administered sovereign and non-sovereign projects, and their components regardless of the source of financing, including resettlement actions conducted by the borrower/client in anticipation of ADB support.

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<sup>8</sup> Impacts are considered significant if 200 or more persons will be physically displaced from housing, or lose 10% or more of their productive assets (income generating), including ethnic minorities' loss of access/customary use of land and livelihood.

<sup>9</sup> Civil works for Outputs 1 and 3 will be divided into three phases/batches.

<sup>10</sup> See <http://www.adb.org/site/safeguards/involuntary-resettlement>



24. For projects/subprojects involving facilities and/or business activities that already exist or are under construction, the borrower is required to undertake an environment and/or social compliance audit,<sup>11</sup> including on-site assessment, to identify past or present concerns related to impacts on the environment, IR, and IP. The audit should determine whether actions were in accordance with ADB's safeguards principles and requirements and identify and plan appropriate measures to address outstanding compliance issues. Where noncompliance is identified, a corrective action plan (CAP) agreed on by ADB and the borrower will be prepared.

25. ADB conducts safeguard reviews, as part of its overall due diligence, which involve field visits and desk reviews to: (i) confirm that key impacts and risks have been identified; (ii) effective measures to avoid/minimize/mitigate/compensate for the adverse impacts are incorporated into the safeguard plans and project designs; (iii) ensure that the borrower understands ADB's safeguard policy principles and requirements and has adequate capacity and commitment; (iv) the roles of third parties are appropriately defined in the plans; and (v) meaningful consultations with APs have been conducted.

26. **Involuntary resettlement.** IR covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas regardless of whether such losses and involuntary restrictions are full or partial, permanent or temporary.

27. Projects are expected to: (i) screen early to identify IR impacts and risks and determine the scope of resettlement planning; (ii) carry out meaningful consultations with APs, host communities, and concerned non-government organizations; (iii) improve, or at least restore, the livelihoods of all APs; (iv) provide APs with needed assistance; (v) improve the standards of living of the displaced poor and other vulnerable groups, including women head of households, to at least national minimum standards; (vi) develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement; (vii) ensure that APs without title to land, or any recognizable legal rights to land, are eligible for resettlement assistance and compensation for loss of non-land assets; (viii) prepare a resettlement plan elaborating on APs' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule; (ix) disclose both the draft and final resettlement plan in a form and language understandable to APs and other stakeholders; (x) conceive and execute IR as part of a development project or program; (xi) pay compensation and provide other resettlement entitlements before physical or economic displacement; (xii) monitor and assess resettlement outcomes, their impacts on the standards of living of APs, and whether the objectives of the resettlement plan have been achieved.

28. Full replacement cost is calculated based on: (i) fair current market value at the time of compensation; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. In the calculation, structures will be compensated at replacement costs without deduction for the value of salvageable materials. It is expected that qualified and experienced experts will undertake the valuation of acquired assets.<sup>12</sup>

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<sup>11</sup> ADB. 2009. *Safeguard Policy Statement* (Paragraph 12, Appendix 4 Special Requirements for Different Finance Modalities). Manila.

<sup>12</sup> ADB. 2009. *Safeguard Policy Statement* (Paragraph 10, Appendix 2, Involuntary Resettlement). Manila.

29. Persons or households without formal legal rights nor recognized or recognizable claims to the acquired land are still entitled to be compensated for their loss of assets other than land, such as dwellings or other improvements on the land at full replacement cost, provided that they have occupied/used the land or structures in the affected land prior to the cut-off date.

30. **Indigenous peoples safeguards.** These safeguards are triggered if a project/subproject directly or indirectly affects the dignity, human rights, livelihood systems, or culture of indigenous people or affects the territories or natural or cultural resources that they own, use, occupy, or claim as an ancestral domain or asset. The term ‘indigenous peoples’ is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

31. Projects are expected to: (i) screen early on to determine (a) whether indigenous peoples IPs are present in, or have collective attachment to, the project area; and (b) whether project impacts on indigenous peoples are likely; (ii) undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on indigenous peoples IPs; (iii) consult meaningfully affected indigenous peoples communities and concerned indigenous peoples’ organizations, (iv) ascertain the consent of affected indigenous peoples’ communities to project activities that involve commercial development of the cultural resources and knowledge of indigenous peoples, physical displacement from traditional or customary lands and commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of indigenous peoples; (v) avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources, (vi) prepare an Indigenous Peoples Plan (IPP) that is based on the social impact assessment; (vii) disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected indigenous peoples’ communities and other stakeholders; (viii) prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves activities that are contingent on establishing legally recognized rights to lands and territories that IPs have traditionally owned or customarily used or occupied, or involuntary acquisition of such lands; and (ix) monitor and disclose the implementation of the IPP.

#### **b. GOV Laws on Land Recovery, Resettlement, and Ethnic Minorities**

32. **The 2013 Constitution.** GOV promulgated the country’s *new Constitution in 2013*, which became effective on 1 January 2014. It stipulates political, economic, cultural, educational, technological, and environmental regulations. The 2013 Constitution provides that land recovery (involuntary land acquisition) can be made for socioeconomic development projects in line with national and public interest.

33. **Land Law of 2013.** GOV has amended the *Land Law* in November 2013. which will become effective on 1 July 2014. The law has 23 articles and 17 sub-articles dealing specifically with land acquisition and IR. On 15 May 2014, the Prime Minister signed Decree 43 on implementing the Land Law, Decree 44 regulating land prices and Decree 47 on resettlement, compensation and support which will also become effective on 1 July 2014. These decrees will supersede existing decrees and circulars that deal with the same subject, specifically, *Decree 17/2006/ND-CP* (27 January 2006), *Decree 84/2007/ND-CP* (25 May 2007), *Decree No. 197/2004/ND-CP* (3 December 2004), *Decree No. 69/2009/ND-CP* (13 August 2009), *Decree No. 188/2004/ND-CP* (16 November 2004), *Decree No. 123/2007/ND-CP* (27 July 2007), and *Decree No. 189/2013/ND-CP* (20 November 2013) .

34. **Ethnic Minorities.** GOV recognizes 54 different ethnic groups in the country. The Kinh are considered the majority, while the rest are considered ethnic minorities. Viet Nam's Constitution considers all ethnic nationalities in Viet Nam as equal and united and prohibits all acts of ethnic discrimination and division. Ethnic minorities have the right to use their own language and writing, to preserve their ethnic identity, and to nurture their customs, traditions, and culture. The State facilitates ethnic minorities in bringing into play their internal powers for development together with the country. A ministerial-level government body, Committee for Ethnic Minority and Mountainous Areas Affairs (CEMA) is tasked to develop and oversee policies and programs to promote the welfare of ethnic minorities. Programs that target ethnic minorities are numerous and diverse and cover a wide range of issues including poverty reduction, resettlement, forest land allocation, education, health and communication, cash subsidies on land reclamation, improvement of commune and village infrastructure, etc.<sup>13</sup>

35. Ethnic minorities are recognized through various policies on development issued by GOV and the *Cultural Heritage Law of 2011*. Ethnic minorities in Viet Nam are recognized based on the following four criteria: (i) a language different from the national language; (ii) long traditional residence on, or relationship with, the land and a long, traditional, social and institutional system; (iii) a self-provided production system; and (iv) cultural identity and self-identification as a distinct cultural group that is accepted by neighbouring ethnic groups. GOV does not consider ethnic minorities as indigenous peoples.

### c. Comparison of the ADB SPS (2009) and GOV Policies Related to Land Recovery and Ethnic Minorities

36. The Land Law (2013) is the primary legislation that regulates land recovery/involuntary land acquisition in Viet Nam. Several aspects of the 2013 Viet Nam Land Law are similar to the policy objectives and principles of ADB's IR safeguards. However, differences remain in: (i) compensation of APs without land use rights for their non-land assets; (ii) compensation for illegally established structures; (iii) compensation of certain structures based on the value of a new structure; (iv) compensation for income losses for unregistered businesses; (v) consultation requirements; (vi) exploring benefit sharing schemes where possible; (vii) identification of poor and vulnerable groups and implementation of targeted measures to assist them; (viii) level of detail and information required for resettlement planning; (ix) explicit requirement to pay compensation and other resettlement entitlements prior to displacement; (ix) inclusion of interest accrued in compensation; and (x) monitoring and disclosure of monitoring reports.

37. GOV does not consider ethnic minorities as indigenous peoples. There is no specific requirement for development projects concerning ethnic minorities, particularly on: (a) the conduct of screening; (ii) social impact assessment by qualified and experience experts of the

<sup>13</sup> Hai-Anh Dang. 2010. *A Widening Poverty Gap for Ethnic Minorities*. Viet Nam.

indigenous groups in the project area; (iii) preparation of an IPP to address adverse impacts on ethnic minorities and maximize positive impacts; (iv) assisting ethnic minorities affected by projects in getting recognition of customary rights to lands or long-term renewable custodial or user rights; (v) seeking consent of affected ethnic minorities to projects that cause displacement to traditional/customary land, commercial development of cultural resources, and/or commercial development of natural resources within customary lands; and (vi) sharing of benefits with ethnic minorities in case of commercial development of natural resources.

38. Viet Nam's legislation<sup>14</sup> allows that, in case of difference between Viet Nam's regulations and requirements of donors in a project funded under Official Development Assistance (ODA) where Viet Nam has agreed to, the policies/requirements of the donors will apply. Table 3 shows the summary of the key differences between the ADB SPS (2009) and Viet Nam's regulation and the policy to be applied to LSEMDAP II.

**Table 3: Comparison between the ADB SPS (2009) and GOV Regulations on Land Acquisition/Land Recovery and Ethnic Minorities**

<b>Aspect with Difference</b>	<b>ADB SPS, 2009</b>	<b>Viet Nam Regulations (i.e., Land Law 2013, etc.)</b>	<b>Policy for LSEMDAP II</b>
Screening of projects/subprojects for IR and ethnic minority impacts	Screen early to identify IR and ethnic minority and impacts	No requirement for screening for IR/ethnic minority impacts	All proposed civil works under Components 1 and 3 will be screened for IR and adverse impacts on ethnic minorities. Civil works without adverse impacts will be prioritized while those that involve significant impacts will not be considered.
Consultation requirements APs and IPs (ethnic minorities)	Requires meaningful consultation with all types of APs and affected IPs (ethnic minorities)	Consultation is required mainly for affected land users (particularly those with legal right on the affected assets)	Consultation with all APs and adversely affected IPs/ ethnic minorities will be required for the preparation and implementation of RP/REMDP. Ethnic minority consultations are also integrated in the preparation and implementation of project components with positive benefits to ethnic minorities
Policy on poor and vulnerable APs	Requires the identification of poor and vulnerable groups and implementation of measures to assist them.	No specific requirement to identify poor and vulnerable among APs, but may consider providing additional support to assist those that may require additional support to cope their displacement.	Poor and vulnerable households, as defined under the project, will be identified through the commune and ethnic minority leaders and provided with additional assistance, including support for livelihood restoration.
Compensation of non-land assets/ structures	Compensate based on replacement cost of non-land assets/structures (constructed before cut-off date regardless of legal status on land)	Compensate APs with legal rights (LURCs) to non-land assets/ structures. Certain structures are compensated at less than 100% of the value of a new structure.	All affected non-land assets built before the cut-off date, regardless of the legal status of the AP on the land and conformity with approved land use, will be compensated based on the value of a new structure, including cost of construction without deduction for depreciation, salvageable materials and other transaction costs.
Compensation	Requires	Compensates registered	No distinction between registered or non-

<sup>14</sup> Article 87, Clause 2, of the 2013 Land Law states that, "...for projects using loans from foreign and international organizations for which the State of Viet Nam has committed to a policy framework for compensation, support, resettlement, that framework is applied."

<b>Aspect with Difference</b>	<b>ADB SPS, 2009</b>	<b>Viet Nam Regulations (i.e., Land Law 2013, etc.)</b>	<b>Policy for LSEMDAP II</b>
of unregistered businesses for income loss	compensation for net income lost during the transition period and cost of transferring regardless of registration.	businesses only.	registered businesses with regard to compensation entitlement for lost income and other assistance.  APs losing income will be finalized during conduct of DMS.  If there is no proof of income, compensation will be based on the minimum wage in the province and the number of days of business disruption.
Timing of compensation payments and displacement	Requires that compensation is provided before physical or economic displacement.	Requires APs' handover of asset before displacement, but does not explicitly require that the APs receive compensation prior to handover.  Requires that land recovery be conducted only after the construction of houses or infrastructure in the resettlement area is completed.	Compensation/allowances will be received by the APs before the handing over of their land or removal of their affected assets.
Monitoring and disclosure of monitoring reports	Requires that RP/REMDP implementation is monitored and that monitoring reports are disclosed.  Disclose monitoring reports.	No explicit requirement for periodic monitoring, reporting, and disclosure of project-specific implementation of RP/REMDP.	CPMU will monitor and report on the implementation of the RP/REMDP.  Monitoring report will be submitted to ADB for review and uploading to the ADB website for disclosure.

ADB = Asian Development Bank, AP = affected person, CPMU= central project management unit, DMS = detailed measurement survey, GOV = Government of Viet Nam, IR = involuntary resettlement, LSEMDAP = Lower Secondary Education for the Most Disadvantaged Areas Project, LURC = Land Use Right Certificate, REMDP = resettlement and ethnic minority development plan, RP = resettlement plan, SPS = Safeguard Policy Statement.

#### **d. Project Policy**

39. For LSEMDAP II, the following policies will apply:

- (i) Involuntary resettlement and impacts on land, structures, and other fixed assets will be avoided or minimized, where possible, by exploring all alternative options.
- (ii) All proposed civil works will be screened in terms of land acquisition and resettlement (LAR) and adverse impacts on ethnic minorities. LSSs, where the proposed civil works will not have LAR impacts/adverse impacts on ethnic minorities will be prioritized. Civil works that have significant LAR/adverse ethnic minority impacts will not be considered. Safeguard due diligence for existing facilities and previous resettlement activities conducted in anticipation of the project will also be conducted, and corrective action will be prepared in case of non-compliance.

- (iii) Compensation and assistance will be based on the principle of replacement cost at the time of acquisition following the entitlement matrix in the REMDF. Provisions in the entitlement matrix may be updated based on the situation at the time of RP/REMDP preparation, but may not be lowered.
- (iv) Households losing 10% or more of their productive land or other assets (generating income) or are physically displaced from housing will be considered as severely affected.
- (v) APs without title or any recognizable legal rights to land are eligible for resettlement assistances and compensation for non-land assets at replacement cost.
- (vi) Residential and agricultural land for replacement should be close to the previous places, as much as possible, and be suitable to APs.
- (vii) Meaningful consultations will be carried out with the APs and concerned groups and their participation will be ensured from planning up to implementation. Comments and suggestions of APs and communities will be taken into account.
- (viii) The RP/REMDP will be disclosed to APs in a form and language(s) understandable to them through a public information brochure (PIB). RPs/REMDPs will be disclosed on the ADB website.
- (ix) Resettlement identification, planning, and management will ensure that gender concerns are incorporated.
- (x) Special measures will be incorporated in the RP to protect socially and economically vulnerable groups and people living below the generally accepted poverty line.
- (xi) Existing cultural and religious practices will be respected in the preparation and implementation of RP/REMDP
- (xii) Culturally appropriate and gender-sensitive social impact assessment and monitoring will be carried out in various stages of the project.
- (xiii) Resettlement transition stage should be minimized. Restoration measures will be provided to APs before the expected starting date of construction in a specific site.
- (xiv) Budget for payment of compensation, assistance, resettlement, and support will be prepared sufficiently and made available during project implementation and by the project provinces.
- (xv) The CPMU will not issue notice of possession to contractors until the District Compensation and Resettlement Committee (DCRC) officially confirms that: (i) payment has been fully disbursed to the APs and rehabilitation measures are in place; (ii) already-compensated, assisted APs have cleared the area in a timely manner; and (iii) the area is free from any encumbrance.
- (xvi) Cut-off date is the date of notification on land recovery by the concerned people's committee (PC) following the procedures described in Article 69 of the Land Law (2013).
- (xvii) Local patriarchs (*zia lang*) will be consulted in the preparation of the proposed civil works and other project activities. In case there are potential adverse impacts (including minor land acquisition), a Resettlement and Ethnic Minority

Development Plan (REMDP) will be prepared. For civil works with only positive impacts on ethnic minorities, civil works preparation and implementation will include measures for ensuring ethnic minorities' participation and inclusion in subproject benefits as elaborated in the Project Administration Manual.

- (xviii) Reporting and internal monitoring will be defined clearly as part of the project's management information system (MIS). Internal monitoring of the implementation of resettlement and ethnic minority development plan (EMDP) will be carried out by PPMUs and CPMU. Monitoring reports will be submitted regularly and disclosed on the ADB website.

#### **e. The Land Acquisition Process**

40. If land acquisition cannot be avoided in a proposed facility to be constructed under the project, land will be recovered following the process described in the 2013 Land Law:<sup>15</sup>

- (i) The competent State agency notifies<sup>16</sup> the affected land users of the land recovery the date of the meeting with the APs will be considered the cut-off date.
- (ii) The DCRC, assisted by the commune PC and other units, conduct the surveys, inventories, and consultations. For impacts involving ethnic minorities, traditional leaders/patriarchs (*zia lang*) will also be involved. The Resettlement Committee also requests the land administration unit for assistance in determining the specific-price of affected land.
- (iii) The land administration unit (with inputs from independent appraiser) determines the specific price of the affected assets as per Article 114 of the Land Law (2013).
- (iv) The DCRC prepares the draft compensation plan based on the surveys, appraisals, and consultations and posts comments from APs.
- (v) The DCRC notes the comments received and submits the revised draft plan to the district PC for approval.
- (vi) The district PC approves the plan, issues the land recovery decision and allocates/transfers the funds required for compensation payment and rehabilitation assistance.
- (vii) Each AP is notified<sup>17</sup> of the land recovery decision. Notice on the land recovery decision is also posted in the commune PC office and public places.
- (viii) Compensation is paid to each AP within 30 days from the issuance of the decision.

<sup>15</sup> Detailed regulations will be provided in decrees to be issued upon the effectiveness of the 2013 Land Law on 1 July 2014.

<sup>16</sup> Notice of land recovery is sent to each affected land user, published in meetings with APs and through mass media, and posted at the office of the commune PC and public places in the area where land is to be recovered. The notice should include the schedule for the land recovery including the surveys, inventories, and consultation activities. Notification should be done at least 90 days (for agricultural land) or 180 days (for non-agricultural land) before issuing the decision on land recovery.

<sup>17</sup> The notice on the land recovery decision and approved compensation plan that is sent to each AP clearly shows the level of compensation and support, time to arrange replacement land or house, and time to handover the recovered land.

(ix) AP hands over the land/asset upon receipt of the compensation/allowance.

**C. Eligibility and Entitlement**

41. **Eligibility.** The notification on land recovery by the competent agencies, as per Article 67 of the Land Law (2013), will be considered as the cut-off date for establishing the eligibility of APs for compensation and assistance for each specific site. People/entities who build or introduce improvements in the affected area after the cut-off date will not be eligible for compensation and support under the project.

42. There are three types of APs that are eligible to be compensated and assisted: (i) persons with Land Use Rights Certificates (LURCs) on the affected land; (ii) persons who do not currently possess an LURC on the affected land but have a claim that is recognizable under national laws; or (iii) persons who do not have any recognizable claim to the affected land. APs included under (i) and (ii) above will be compensated for the affected land, affected non-land assets, and income/livelihood losses. APs included under (iii) will not be compensated for the affected land, but will be compensated for affected non-land assets (provided these were established prior to the cut-off date) and income/livelihood losses.

43. **Entitlements.** Compensation will be based on the category of AP and type of losses. The entitlement matrix developed based on the project policy and relevant provisions of the 2013 Land Law is presented in Table 4. The unit rates or amount of allowances indicated in the entitlement matrix can be adjusted during RP preparation to reflect the actual situation at the time of implementation. However, the adjusted amounts and unit rates cannot be lower than the provisions in the entitlement matrix.

**Table 4: Entitlement Matrix**

Type of Loss/ Impact	Eligible Persons/Entities	Entitlements	Implementation Issues
<b>1. COMPENSATION FOR AFFECTED ASSETS AND INCOMESOURCES</b>			
Permanent loss of land	Land users <sup>18</sup> with LURCs or eligible to be granted LURCs	Allocation of land with the same land use purpose as the recovered land at a location acceptable to the AP with LURC in the names of both the household head and his/her spouse, and without charge for taxes, registration and land transfer charges; or If no land is available, cash compensation based on the specific land price of the recovered land without deduction for stamp, duties, fees or other payments.	An independent/licensed valuator is engaged to determine the specific price of the affected land as per Articles 114-116 of the Land Law 2013.  Detailed guidelines to be provided in the decree on land pricing along with effectivity of the Land Law in July 2014.

<sup>18</sup> Land users include individuals, households, organizations, communities, etc., as defined under Article 5 of the Land Law 2013.



Type of Loss/ Impact	Eligible Persons/Entities	Entitlements	Implementation Issues
	Land lease holders	<p>-Cash compensation for the remaining investment costs on the land plus,</p> <p>Cash compensation for the remaining rental period (for leases with one-time full payment for the entire lease period)</p>	Based on provisions in Articles 76–78 of the Land Law (2013).
Temporary loss of land	Land users/land lease holders	<p>Rental in cash, which will be no less than the net income that would have been derived from the affected property during disruption; and</p> <p>Restoration of the land within one month after use; compensation is paid at full replacement cost or ‘land for land’ compensation if contractor fails to restore the affected land within one month after the use (agreement between parties will be monitored by PMU).</p>	<p>If the quality of land will be radically changed when returned to APs, requiring the APs to change the land use, then the APs should be compensated for all envisaged cost of losses.</p> <p>Contracts with the contractors should include an article regulating specifically the responsibilities of the contractors.</p> <p>To be determined at the start and during implementation of the civil works.</p> <p>PPMU is in charge of monitoring and reporting the restoration of the temporarily used affected land.</p>
Full or partial loss of house or other structures/ land-attached assets	Owners of the structures (built on the affected land before the cut-off date) regardless of land use right on the affected land and legal status of the structure	Cash compensation for the affected structures at full replacement cost for materials and labor, without deduction for depreciation or salvage value of construction materials.	<p>The calculation of rates will be based on the actual affected area and not the useable area.</p> <p>For partially affected structures, if the remaining structure is no longer viable, compensation will be based on the cost of the entire structure.</p>
Loss of crops, trees, and aquaculture	Affected land users, growers, planters, regardless of land use right on the affected land	<p><u>Annual crops</u>: cash compensation equal to the output value of the harvest period (highest yield in the preceding 3 years of the local main crop and the average price at the time of land recovery).</p> <p><u>Perennial crops</u>: cash compensation equal to the current value of the planting area calculated in local prices at the time of land recovery.</p> <p><u>Plants that can be replanted to another location</u>: cash compensation for moving cost and actual damage due to moving and Replanting. <u>Forest trees planted with funds from State budget</u>: cash compensation for the value of the actual</p>	<p>Calculations will be based on provisions in article 90 of the Land Law (2013).</p> <p>Detailed guidelines will be provided in the decree on compensation to be issued upon the effectiveness of the Land Law in July 2014.</p>

Type of Loss/ Impact	Eligible Persons/Entities	Entitlements	Implementation Issues
		<p>damage.</p> <p><u>Aquatic resources and livestock</u>: cash compensation based on actual damage due to early harvesting.</p>	
Income loss due to disruption of production/ business	Owners of affected businesses, regardless of registration status of the affected business	<p>Registered business: cash compensation for loss of income based on net income (tax receipts) for the duration of disruption of business activities (up to a maximum of 30% of taxable income for one year if loss is permanent)</p> <p>Unregistered business: cash assistance equivalent to the official monthly minimum wage in the province x 3 months</p>	
	Employees and hired laborers	Cash compensation for lost wages or salary equal to current wages or salary for each day(or month) they cannot work (up to a maximum of 3 months wage in case of permanent loss).	
<b>2. ECONOMIC REHABILITATION AND RELOCATION ASSISTANCE</b>			
<b>2.1 Economic Rehabilitation Assistance</b>			
Severe loss of agricultural land	Affected households (AHs) losing 10% or more of their agricultural land	<p>AHs directly cultivating the affected land are entitled to:</p> <p>(i) Losing from 10 to 30% of agricultural land holding: cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;</p> <p>(ii) Losing more than 30% to 70% of total agriculture landholding: cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;</p> <p>(iii) Losing more than 70% of total agriculture landholding: cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area; and</p> <p>(iv) In-kind assistance to be decided in consultation with eligible AHs</p>	<p>To be updated once the new decree on compensation is issued in July 2014.</p> <p>In-kind support will be determined by the PPC during the RP preparation.</p> <p>In-kind assistance may include, but not limited to, agricultural extension assistance, and training and job-referral to non-agricultural occupations.</p>

Type of Loss/ Impact	Eligible Persons/Entities	Entitlements	Implementation Issues
	Job training/creation allowance	Cash assistance equal to 1.5-5 times of compensation value for affected land area but not exceeding land quota in locality. If AP requests for training, he/she will be entitled to a free training course	Eligibility will be confirmed during DMS.  Level of assistance for job training/creation to be decided by PPC
Re-establishment of affected business	Relocating AHs/ individuals using residential land in combination with service trading	Preferential loans to develop production/ business plus support in the form of free training, career change, and facilitating job search for working-age AH members.	Based on Article 84 of the Land Law (2013)
<b>2.2 Relocation Assistance</b>			
Relocation	All relocating AHs	<p>Minimum of VND3,000,000 cash assistance if AH is relocating within the same province; or Minimum of VND5,000,000 cash assistance if AH is relocating to another province or based on regulation per province, whichever is higher.</p> <p>Housing rent allowance for 6 months for temporary relocation during rebuilding of new house (not applicable to AHs rebuilding on the same plot)</p>	<p>Eligible AHs include (i) owners of residential structures that are totally or partially affected and remaining portion is not viable; (ii) non-titled AHs allocated alternative residential land or housing; (c) tenants; and (d) businesses and eligible land use/management organizations that relocate. At the time of compensation, the level of allowance will be re-evaluated to ensure that the APs have enough assistance to relocate. If allocation of land for relocating household is delayed, additional rental allowance equal to duration of delay will be provided.</p>
<b>2.3 Special Allowance for Social and Economically Vulnerable Households</b>			
Vulnerable groups	Poor and vulnerable households	<p>Poor households: cash assistance equal to 30 kg of rice (at market price) per each family member per month for at least 36 months Other vulnerable households: assistance of minimum VND2,000,000 per household to improve their social and economic conditions or based on regulation per province, whichever is higher</p> <p>All vulnerable households: participation in income restoration program regardless of severity of impact</p>	Eligible households are those who are classified as vulnerable under relevant definition of MOLISA.

### III. SOCIOECONOMIC INFORMATION

#### A. Detailed Measurement Surveys and Affected Person Census

44. Based on the detailed design, the DCRC (assisted by the commune PC and representatives from the Fatherland Front) will conduct a DMS of all affected assets (land and structure) and census of all AHs, quantifying the possible social impact in terms of loss of land, assets and income. The DMS will include information on: (i) total and affected areas of land by type of land assets; (ii) total and affected areas of structures, by type of structure (main or secondary); (iii) legal status of affected land and structure assets and duration of tenure and ownership; (iv) quantity and types of affected crops and trees, quantity of other losses; and (v) quantity/area of affected common property, community, or public assets by type.

45. In parallel, a census of the AHs will be conducted to obtain basic socioeconomic information, such as ethnicity, gender of household head, household size, vulnerability status, primary and secondary income sources. APs' knowledge and preferences for compensation and, as required, relocation sites and rehabilitation measures will also be ascertained.

## **B. Valuation of Affected Assets**

46. Procedures outlined in the decree on land pricing, to be issued by July 2014, will be followed in determining the specific price of the affected asset. Independent appraisers will be engaged. The valuation and determination of compensation rate will comply with the full replacement cost elements<sup>19</sup> required under ADB's SPS (2009). The DCRC will agree on the rates of compensation with the APs. Disagreements over valuation and extent of land-take should be negotiated as quickly as possible in order to reduce delays in starting the civil works. If there is further disagreement over the value of land or assets, the complaint may be brought to the grievance committee for resolution.

## **C. Preparation of the RP/REMDP**

47. Based on the results of the census, DMS, valuation of affected assets, and consultations with the APs and key stakeholders, the PPMU (assisted by the resettlement consultant team) will prepare the RP for ADB review. The RP will include measures to ensure that the socioeconomic condition, needs, and priorities of women are identified, and that the process of land acquisition will not disadvantage women. If any adverse impacts on the ethnic minorities are identified, an REMDP is required to adequately address those impacts. The RPs/REMDPs will be prepared in English, translated to the local language, and disclosed to the APs.

48. Each RP will have the following basic contents (i) executive summary; (ii) project description; (iii) scope of land acquisition and resettlement; (iv) socioeconomic information and profile; (v) information disclosure, consultation, and participation; (vi) grievance redress mechanism; (vii) legal framework; (viii) entitlement, assistance, and benefits (including cut-off date); (ix) relocation of housing and settlements (if relevant); (x) income restoration and rehabilitation (if relevant); (xi) resettlement budget and financing plan; (xii) institutional arrangements; (xiii) implementation schedule; and (xiv) monitoring and reporting plan, showing how activities will be scheduled with time-bound actions in coordination with the civil works. In case some APs belong to ethnic minorities, the plan should include a description of other adverse impacts (in addition to land/asset loss and livelihood) and measures to address such impacts.

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<sup>19</sup> The ADB SPS (2009) requires that calculation of full replacement cost be based on (i) fair market value; (ii) transaction costs, (iii) interest accrued, (v) transitional and restoration costs; and (v) other applicable payments. Where market conditions are absent or in the formative state, APs and host populations will be consulted to obtain adequate information about recent land transactions, land value by types, and other related information.

49. Where subprojects/facilities involve voluntary land donation, the RP/REMDP will also include arrangements to deal with losses on a voluntary basis with appropriate safeguards. Such land donations will require a written agreement with the respective landowners. It may be in a form of a Memorandum of Understanding (MOU) between the landowner(s) and the commune or district PC or other documentation acceptable to ADB, witnessed by an independent third party, e.g., NGO, Women's Union, or Fatherland Front. Voluntary land donation will only be accepted if this does not severely affect the living standards and livelihood of APs.

#### **IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE**

50. MOET and the participating provinces, through the CPMU/PPMUs, will promote the active participation of project-based stakeholders including the following: (i) commune PCs, (ii) mass organizations, (iii) parents/teachers, (iv) students, (v) residents, and (vi) APs. They will be informed of the project and their inputs/feedback will be sought to improve the relevance and effectiveness of the project activities and outputs. Among APs, participation will focus on addressing unavoidable impacts and ensuring that they are compensated for affected assets and that their livelihoods are not affected or are restored. A summary of the communication strategy for various stakeholders is provided in the Project Administration Manual (PAM).

51. In LSSs, where the proposed facilities will involve LAR issues and adverse effects on ethnic minorities, the PPMU must ensure that proper notification is made following Article 67 of the Land Law (2013) and disseminate details of the approved REMDF. The PPMUs, with assistance from relevant district and commune PCs, will conduct a series of public meetings to provide information regarding project activities and the proposed resettlement and compensation arrangements. Feedback will also be sought from traditional ethnic minorities leaders on addressing adverse impacts on APs and maximizing benefits to ethnic minorities.

52. Public meetings will be held to inform and get feedback from the beneficiaries and communities on the proposed facilities and project activities, construction schedule, likely impacts, and mitigation measures. Among the APs, the meetings will enable the PPMU to (i) disseminate information on the DMS and valuation results and assistance to each affected household, and (ii) listen to their feedback and suggestions. APs will be informed well in advance, of the date, time and location of each meeting. In case of removal or relocation of tombs/graveyards or other religious or cultural significant items, special consultations should be made to ensure that measures for the removal of such tombs are agreed and are culturally appropriate. The RP/REMDP, as endorsed by GOV and ADB, will be disseminated to the APs in a language that is understandable to them through a public information brochure (PIB) and posted on the ADB website.

#### **V. COMPENSATION, INCOME RESTORATION, AND RELOCATION**

53. The DCRC will process the compensation payment and allowances following the approved RP/REMDP and the individual compensation plans agreed with the APs. Given the nature of the interventions, it is unlikely that such will involve relocation of APs. However, in case there are APs who will be severely affected (i.e., be physically displaced from housing or lose 10% or more of their productive asset) by the proposed facilities or are vulnerable, the RP/REMDP will include an income restoration program (IRP) that may include training, additional allowances for job change, microfinance support, referral to job opportunities, etc. that are appropriate and acceptable to APs. The budget, timing, and implementation arrangements for such activities will be reflected in the RP/REMDP.

54. In LSSs, where the proposed facilities involve land acquisition or adverse impacts on ethnic minorities, award and start of civil works will be conditional on the confirmation by the district and PPMU that the APs have received the compensation payments and allowances based on the approved RP/REMDP and that the site is ready for handover to the contractor.

## **VI. SPECIFIC PROJECT COMPONENTS FOR ETHNIC MINORITIES**

55. The project's four main outputs all aim to improve access of poor and ethnic minority students to LSE in disadvantaged regions. Improvement of school facilities (including construction of semi-boarding schools, teacher housing, laboratories, etc.), complemented by awareness campaigns among ethnic minority households, are expected to improve access of ethnic minorities to LSE and interest of ethnic minorities parents to send their children to school. Similarly, development of regional and competency-based textbooks and modules that are relevant to ethnic minorities, teacher training, vocational counselling, and clustering of schools in ethnic minority areas aim to improve effectiveness of LSSs in addressing specific requirements of ethnic minorities.

56. Elements of the EMDP are integrated into the overall project design. Consideration for regional nuances in the ethnic minorities' situation and needs will be integrated in the design of the training on awareness raising, competency-based teaching/instructional materials, preservation of ethnic minority culture and values, disaster management, and vocational counseling for LSS staff.

57. The consulting team to support the CPMU will be headed by an EM Education Specialist to ensure that education materials and activities are culturally-appropriate to the EMs in the project areas. The TL will be supported by a more field-based EM specialist team composed of one international and one national ethnic minority development specialist undertake more intensive field assessment on regional and cultural specificities, provide input on the staff training modules on development of life skills and preservation/promotion of EM cultures and values and vocational counselling appropriate for EMs, and facilitate consultation activities with EM groups, and EM feedback in the project areas.

58. CPMU and PPMUs will identify and seek the opinion of the *zia lang* on the design of the new school facilities, awareness campaign for ethnic minority households, and design/content of the textbooks and modules. Coordination will also be made with the provincial committee on ethnic minorities on various project activities.

59. Participation in consultation, training, and other project activities (including enrolment and access to the semi-boarding schools and other facilities constructed under the project) will be monitored by gender and ethnicity to assess to what extent the ethnic minorities participate and benefit from the project.

## **VII. GRIEVANCE REDRESS MECHANISM**

60. Grievances related to any aspect of the subprojects/components of LSEMDAP II will be handled through negotiation aimed at achieving resolution. This grievance redress mechanism (GRM) aim to address grievances, complaints, and queries regarding land acquisition, compensation, resettlement, and adverse impacts on ethnic minorities in a timely and satisfactory manner. In case of land acquisition, APs or households will be made fully aware of their rights and the detailed procedures for filing of grievances and the appeal process. The

GRM and appeal procedures will be explained in the PIB, which will be distributed to all APs or households.

61. APs, including their spouses, are entitled to lodge complaints regarding any issues on land acquisition and resettlement, such as entitlements, rates and payment, and procedures for resettlement and income restoration programs. Complaints can be written or in verbal narrative. In the case of verbal complaints, the designated commune or district officials will record the complaint during the first meeting with the complainant.

62. The PPMU officers will serve as grievance officers. The designated commune officials will attempt to settle the issues at the commune level through appropriate community consultations. All meetings will be recorded, and copies will be provided to the complainants. A copy of the minutes of meetings and actions undertaken will also be provided to CPMU and ADB upon request. This Grievance Redress Mechanism is governed by the: (i) *Laws on Complaints No. 02/2011/QH13*, and; (ii) *Regulations on Grievance of Government Decree 75/2012/ND-CP* (November 20, 2012).

#### **A. Stages in Complaint Handling**

63. Under the project, there will be three stages for seeking resolution of complaints. If still unresolved, grievances can be elevated to a court of law for resolution. The complainants will be exempted from all administrative and legal fees that might be incurred in the resolution of their grievances and complaints. The GRM process for the project is shown below.

- (i) **First Stage, Commune Peoples' Committee (CPC).** The complainant may register his/her complaint verbally or in writing to any member of the CPC, either through the Village Chief or directly to the CPC. The CPC will register the complaint and meet the complainant. The CPC secretariat will document and keep the files of all complaints that it handles. The CPC has up to 30 days or 45 days (for complex cases) to resolve the complaint. If the complaint is not resolved, it can be brought to the DPC or a lawsuit initiated at the people's court.
- (ii) **Second Stage, District Peoples' Committee (DPC).** The complainant may bring the case to any member of the DPC. The DPC has up to 30 days or 70 days (for complex cases) to resolve the complaint. The DPC documents and maintains a file of all complaints that it handles and informs the DCRC of any determination/decision made. The DCRC will support the DPC to resolve the complaint. The DPC notifies the complainant of its decision. If the AP does not hear from the DPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing, to any member of the PPC.
- (iii) **Third Stage, Provincial Peoples Committee (PPC).** The PPC has up to 30 days or 70 days (for complicated cases or complaints in remote areas) to resolve the complaint. The PPC documents and files all complaints that it receives. Within 45 days from the date of receipt of the decision from the PPC Chairperson and if the complainant does not agree with the decision, the complainant may bring the case to the people's court. The time limit for appeal should not exceed 60 days (or 70 days for complicated cases) from the date of acceptance. The agency that receives the complaint will record the proceedings done for the complaint.

- (iv) **Final Stage, Arbitration in a Court of Law.** Complaints may be brought to the people's court for arbitration. If the Court finds that the acquisition of land is not compliant with the law, such land acquisition will be suspended or stopped. The government agency that issued the decision should cancel the decision allowing land acquisition and compensate the owner for any damage/s done on the land. Within 30 days after the decision of the court, the concerned resettlement and compensation committee will pay for the damage/s to the landowner, as ordered by the Court. But if the arbitrating judge finds the land acquisition to be legal, the complainant must abide and comply with the decision of the Court.

## **B. Grievance Tracking and Reporting**

64. The DCRC will maintain a system for the recording of queries, suggestions, and grievances of the APs. All queries, suggestions, and grievances as well as resolutions thereon will be recorded and sent to the CPMU for monitoring. The full costs of establishing and operating the GRM are included in the project cost, as part of the contingency. In case it has become necessary to establish a GRM, the CPMU will appoint staff from the PPMUs to check the procedures for the resolution of grievances and complaints. The CPMU will train the staff on grievance procedures and strategies and share the same with the DCRCs. The DCRCs will ensure that the complaining APs are provided with copies of the decisions or resolutions reached.

## **VIII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION**

### **A. Institutional Capacity Assessment**

65. MOET is the Project EA, but it does not have an office that deals with environmental and social safeguards, and neither do the DOETs nor the BOETs. When MOET implemented LSEMDRP, it delegated the safeguards and social development tasks to the CPMU and PICs. However, no RP/REMDP was prepared in LSEMDRP since there was no land acquisition then. In LSEMDAP II, CPMU will lead the implementation and hire the services of PICs. The CPMU will be assisted by PPMUs in the project provinces and will involve the PCs and local organizations like Women's Union and Fatherland's Front.

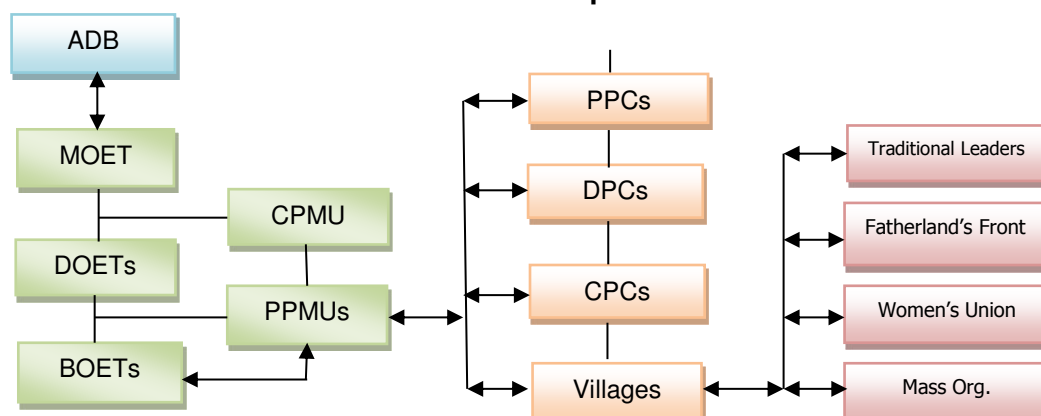
66. The project Feasibility Study Report indicated several concerns that need to be addressed through capacity enhancement, especially for MOET, DOETs, and BOETs. Education managers need to be trained, along with the teachers, in order for them to efficiently manage and maximize the positive impacts of the project. Another area of concern is the MIS. An MIS relevant to project implementation will be developed as a tool for assessing whether the project's goal of LSE improvement has been achieved.

### **B. Implementation Arrangements**

67. The CPMU will be the extension of MOET's authority in the project, and will coordinate with the PPMUs. The DOETs will create the PPMUs in the Project provinces which will coordinate with local organizations starting from PPCs down to the CPCs and chiefs of villages. Other local organizations are the Women's Union, the Fatherland's Front, traditional EM leaders, etc. Figure 2 illustrates the institutional arrangements and coordination in the implementation of RPs/REMDPs and Outputs 2 and 3 of the Project.



**Figure 2: Institutional Arrangements and Coordination in the Implementation of RPs/REMDPs and Outputs 2 and 3**



ADB = Asian Development Bank, BOET = Bureau of Education and Training, CPMU = central project management unit, CPC = Commune People's Committee, DPC = District People's Committee, DOET = Department of Education and Training, MOET = Ministry of Education and Training, PPC = Provincial People's Committee, PPMU = provincial project management unit.

### C. Capacity Enhancement

68. CPMU will engage and mobilize the Social Safeguards Team (one international expert and three national specialists) to conduct safeguards screening of the proposed facilities in the 200 LSSs, prepare due diligence reports, and assist the PPMUs in preparing the RPs/REMDPs. The international Social Safeguards Specialist will train his/her three national counterparts, along with the representatives of PPCs, DCRCs, and CPCs. They will also orient the PPMUs and mass organizations on their respective roles. The TORs of the international and the national social safeguards specialists is shown in Annex 2.

69. MOET will send the education managers and officials, along with the principals and teachers, for training in their respective fields in order to produce good results, as desired in Outputs 2 and 3. The topics for training will be finalized during project implementation, but the budgets are included as major components of the project cost. A good number of personnel at all levels of MOET should also be trained on MIS relevant to the desired outcomes of the Project.

### D. Roles and Responsibilities of Main Institutional Players

70. **MOET.** As the Project EA, MOET will (i) create the CPMU as the overall implementing arm of LSEMDAP II; (ii) request ADB for its "No Objection" for the award of civil works and construction contracts; (iii) endorse the RPs/REMDPs to PPCs for the approval of budget for implementation after securing the concurrence from ADB and upload the same on the ADB website; (iv) submit the RP/REMDP completion report; and (iv) submit semi-annual project progress reports to ADB, including the status of project activities for ensuring culturally appropriate ethnic minority engagement and benefits.

71. **CPMU.** CPMU will: (i) screen the subproject LSSs for IR and adverse impacts on ethnic minorities; (ii) provide the overall planning, coordination, guidance and supervision of the implementation of RPs/REMDPs; (iii) obtain PPCs' approval and ADB's concurrence before implementing the RPs/REMDPs; (iv) provide training to implementing agencies, all PPMU staff, and DCRC staff; (v) coordinate with relevant agencies and institutions; (vi) establish a database

of APs for each subproject, as well as beneficiaries and key stakeholders, for the implementation of Outputs 2 and 3; (vii) establish procedures for internal monitoring and review of project-level progress reports; (viii) coordinate between contractors and local communities to ensure prompt identification and compensation for impacts occurring during construction; (ix) establish procedures for the resolution of grievances; (x) advise MOET to request ADB for its “No Objection” for the award of civil works contract; and (xi) prepare for MOET the RP/REMDP completion report and semi-annual project progress reports to ADB.

72. **PIC.** Consultants will assist the CPMU in all its tasks, including safeguards screening of proposed facilities, preparation of RPs/REMDPs, safeguards training of PPMUs, DPCs, DCRCs and CPCs, monitoring of RP/REMDP implementation, capacity building of managers and teachers, development of textbooks, awareness campaign, development and maintenance of MIS and database, internal monitoring, resolution of grievances, and reporting.

73. **DOET.** As the provincial counterpart of MOET, the DOET will: (i) set up PPMUs in 28 project provinces that will coordinate with CPMU; (ii) coordinate with BOETs on the demarcation of the school’s land boundaries; (iii) assist MOET in its functions as described above; and (iv) coordinate with MOET on the implementation and monitoring of Outputs 2 and 3.

74. **PPMUs.** As the extensions of CPMU in the provinces, each PPMU will: (i) facilitate the submission of documents by the candidate LSSs for screening at the CPMU; (ii) facilitate and arrange the public consultations, public meetings, and conduct of DMS/socioeconomic survey (SES); (iii) coordinate with PPCs for approval/decision in case of land acquisition; (iv) coordinate with competent State agency for the declaration of cut-off date as to the eligibility of APs; (v) supervise the implementation and internal monitoring of social safeguards and the four project outputs in coordination with BOETs, DPCs, CPCs, village chiefs, and traditional EM leaders; (vi) prepare progress reports for CPMU on the implementation of RPs/REMDPs; and (vii) facilitate the request of MOET to ADB for its “No Objection” in the award of civil works and construction contracts to contractors.

75. **PPCs.** The PPCs will: (i) approve the final RPs/REMDPs; (ii) issue the decisions approving land valuations applied for compensation rates, allowances, and other support to APs, especially vulnerable groups, based on the principles of RPs/REMDPs; (iii) approve the budget allocations for compensation, support, and resettlement; (iv) direct and supervise the relevant provincial departments to implement the RPs/REMDPs effectively; (v) authorize the DPCs to approve compensation, assistance, and resettlement plans; (vi) provide instructions to relevant agencies in resolving APs’ complaints/grievances related to compensation, assistance, and resettlement according to their law-prescribed competence; (vi) provide instructions to relevant agencies in the examination and handling of violations on compensation, assistance, and resettlement domain.

76. **DPCs.** The DPCs will: (i) establish the DCRCs in areas where land acquisition will take place, and be in-charge of payment for compensation and assistance to APs; (ii) review and endorse the RPs/REMDPs for approval of the PPC; (iii) approve and take responsibility before the law on the legal basis and accuracy of the detailed compensation, assistance, and resettlement options in their locality; (iv) secure the LURCs or certificates on land owning rights for the households and individuals whose lands are entirely recovered; (v) facilitate the adjustment of LURCs of households and individuals whose lands were partially recovered; (vi) facilitate the allocation of lands for APs who will be resettled; (vii) through the CPC chairmen, assist in the resolution of complaints; (viii) coordinate with the CPC chairmen on the ground

clearance of subproject areas; and (ix) approve the schedule and monitoring of progress of land acquisition and resettlement implementation based on the RPs/REMDPs approved by ADB.

77. **CPCs.** The CPCs will assist the DCRCs in their resettlement tasks. CPCs will: (i) mobilize local mass organizations, the Women's Union, and the Fatherlands' Front to assist in resettlement activities; (ii) coordinate with EM traditional leaders on the disclosure and public meetings in their villages; (iii) mobilize people who will be required to implement the compensation, assistance, and resettlement policy according to the approved RPs/REMDPs; (iv) coordinate with DCRCs and working groups to communicate the reasons for land acquisition to the people whose lands will be acquired; (v) notify and disclose all options, compensation, assistance, and resettlement, which were approved by DPCs; (vi) assign commune officials to assist the DCRCs in preparing the RPs/REMDPs and the implementation of resettlement activities; (vii) identify replacement land for affected households; (viii) sign the Compensation Forms agreement with the affected households; (ix) assist in resolving grievances and complaints; and (x) actively participate in all resettlement activities and concerns.

78. **DCRCs.** Each DCRC will be composed of DPC vice-chairman as the head of the Committee and of representatives of the DONRE, DOF, DOET; CPC chairmen and affected households (including affected women-headed households), traditional EM leaders, members of District Farmers' Association, and Women's Union. The main responsibilities of the DCRCs are to: (i) organize, plan, and carry out compensation, assistance, and resettlement activities; (ii) assist in consultation and disclosure activities, design and implementation of income restoration program, coordination with various stakeholders; (iii) prepare compensation plan and submit to DPCs for approval; (iv) implement compensation, assistance, and resettlement alternatives and be responsible for the legality applied in compensation, assistance, and resettlement policy in the approved RPs/REMDPs; (v) assist in the identification and allocation of land for relocated households; (vi) lead and coordinate with the CPCs in the timely delivery of compensation payment and other entitlements to affected households; and (vii) assist in the resolution of grievances.

79. **Fatherland's Front.** As an institution in-charge of ethnic minority affairs in Viet Nam, the Fatherland's Front in the localities can assist in: (i) convincing the parents of EMs to enrol their children in LSSs; (ii) attending the consultations in prioritizing the construction of infrastructure in LSSs; (iii) inviting the traditional EM leaders to share their opinions on the development of competency-based textbooks for the EMs; and (iv) resolving grievances or complaints.

80. **Women's union and other mass organizations.** They will participate in the following activities: (i) assistance in identification of replacement land; (ii) assistance in facilitating the clearance of subproject land; and (iii) assistance in the resolution of grievances and complaints.

## **E. Project Implementation Schedule**

81. The project will be implemented in six years, including the detailed design in the first year. Prior to preparatory activities, it is expected that the PIC has been established and that the PIC social safeguards team has been mobilized along with the international consultant/s in Output 2 of the project to assist in the safeguards screening of candidate LSSs. The schedule of land acquisition and resettlement during the first three years of project implementation is shown in Figure 3.

Figure 3: RP / REMDP and Outputs 2 and 3 Implementation Schedule				
No.	IMPLEMENTATION ACTIVITIES	2015	2016	2017
<b>I. RP / REMDP</b>				
<b>A. Preparatory Activities</b>				
1	Screening, categorization and validation of LSSs	■		
2	Project disclosure and public consultations	■		
3	Conduct of DMS and SES.	■		
4	Conduct of replacement cost surveys	■		
5	Processing of DMS and SES data	■		
6	Writing the DDRs and draft final RPs/REMDPs	■		
7	Endorsement of DDRs and approval by ADB	■		
8	ADB issues "No Objection" for civil works contract award.- Category C	■		
9	Award of civil works contracts - Category C.		■	
10	Confirmation with APs on compensation and resettlement options	■		
11	Finalize the RP/REMDP by PICs and submit to CPMU/MOET	■		
12	Endorsement of RP/REMDP for approval by ADB	■		
13	Concurrence ADB to implement RP/REMDP	■		
14	Allocation of relocation land.		■	
<b>B. Implementation Activities</b>				
15	Issuance of public notices on the implementation of RPs/REMDPs		■	
16	Mobilization of local mass organizations		■	
17	Release budget /payment of compensation and assistance.		■	
18	Resolution of grievance and redress		■	
19	Acquisition of land and relocation.		■	
20	Clearing and hand over of lands		■	
21	ADB issues "No Objection" for the award of civil works contract-Cat. B		■	
22	Internal monitoring	■	■	■
<b>II. CONSTRUCTION PHASE</b>				
23	Bidding and award of civil works and construction contract		■	
24	Recruitment of labor for construction		■	
25	Civil works and construction of subprojects		■	
26	Internal Monitoring		■	■
27	Inspection, handover and acceptance of contracted infrastructure		■	■
<b>III. EM DEVELOPMENT PLAN IMPLEMENTATION</b>				
<b>A. Output 2</b>				
28	Awareness raising campaign		■	■
29	Consultation on priority infrastructure and textbooks		■	■
30	Development of regional competency-based textbooks		■	■
31	Development of district Continuing Education Centers		■	■
32	Development of skills and preservation, promotion of EM cultures/values		■	■
33	Development disaster management education		■	■
34	Provision of vocational counselling and guidance suitable to EMs		■	■
35	Award of housing units for teachers		■	■
36	Internal monitoring		■	■
<b>B. Output 3</b>				
37	Establishment of teachers' networking among cluster groups		■	■
38	Training of teachers		■	■
39	Internal monitoring		■	■

Note: Internal monitoring for Output 3 will be continued until the end of project implementation.

## IX. BUDGET AND FINANCING

### A. Costing

82. All RPs/REMDPs will be provided with budgets for implementation. The budgets will include the amount of compensation for affected assets of APs, provision for assisting severely affected and vulnerable persons, administrative cost and contingency. The budget for compensation of affected properties of APs will be based on replacement costs, which rates have been consulted with, and approved by, their respective PPCs. The budgets for assistance will be based on what is provided for by law, and the budgets for administration and for contingency will represent 2% and 20% of the total cost of compensation, respectively. The cost for the social safeguards team is covered as part of the total project cost. The budgets for implementing the RPs/REMDPs will represent Government's equity in the project.

83. A total amount of about \$37.524 million has been budgeted for the implementation of Outputs 2 and 3, broken down into: civil works (\$11.256,6 million), equipment and furniture (\$9.379,7 million), textbooks and instruction materials (\$5.240,9 million), staff development (\$7.999,6 million), consulting services (\$1,720.0 million), block grants (\$1.500 million) and awareness raising campaign (\$0.427,5 million). These have not covered the contingencies. The total amount excluding contingencies comprises 41.6% of the \$93.0 million total investment for LSEMDAP II (Table 5).

**Table 5: Cost for Implementing Outputs 2 and 3 of LSEMDAP II**

Budgeted Items	Amount in \$'000		
	Output 2	Output 3	Total
Civil works		11,256.6	11,256.6
Equipment and furniture	2,648.8	6,730.9	9,379.7
Textbooks and instruction materials	4,507.0	734.0	5,240.9
Staff development (in-country training)	7,597.3	402.3	7,999.6
Consulting services	1,720.0	-	1,720.0
Block grants		1,500.0	1,500.0
Awareness raising campaign	427.5	-	427.5
<b>Total</b>	<b>16,473.1</b>	<b>20,623.8</b>	<b>37,524.3</b>

Note: Some items in Outputs 1 and 4 were included as they are relevant to the development of EMs, such as awareness raising campaign and development of textbooks.

Source: Project Preparatory Technical Assistance consultant's estimate.

### B. Flow of Funds

84. The costs for implementing the RPs/REMDPs represent the government's equity in the project, or they can be included in the project loan, except for the cost of recovered lands. The DPC will approve the budget for implementing the RPs/REMDPs, and the amount will be released to the DCRCs, which will then pay the compensation and assistance to APs. As the costs of implementing Outputs 2 and 3 are major components of the loan from ADB, these will be withdrawn from the escrow account and used by MOET as programmed.

## X. MONITORING AND REPORTING

### A. Scope of Monitoring

85. All RPs/REMDPs will be subject to monitoring. Internal monitoring will focus on the progress of land acquisition, full payment to APs/AHs, resolution of grievances, if any, and

compliance with the overall social safeguards policy. External monitoring is not required since only a few APs are expected from each subproject LSS. For Outputs 2 and 3, monitoring will cover its implementation and qualify the progress on the timely delivery of inputs related to achieving the project's overall objectives. LSE performance will be evaluated following the delivery of inputs necessary to meet project goals. It is expected that implementation of the RPs/REMDPs for the proposed facilities would take less than three months to implement after approval. Hence, monitoring of the RP/REMDP will be in a form of a completion report.

## **B. Approach and Methodology**

86. Based on the approved RPs/REMDPs, the PIC social safeguards team will prepare the lists of APs/AHs and their affected properties opposite their names, then validate the same in the DMS. Validation forms for each AP/AH will be prepared with spaces for recording findings in the field. The PICs will coordinate with PPMUs to arrange the activities for monitoring. They will visit the sites, check records, and interview the DCRCs, CPCs, or village chiefs, BOETs, and APs. The findings will be written in the RP/REMDP completion report. In case gaps are noted in RP/REMDP implementation, the PIC social safeguards team will recommend a corrective action plan (CAP), which will be submitted to ADB for review prior to implementation.

87. For the safeguards monitoring of project activities for ensuring ethnic minorities' participation and benefits, the social safeguards team will conduct semi-annual field validations in selected sites representing the four project regions. The PPMUs will facilitate their meetings with DOETs and BOETs, DPCs, CPCs/village chiefs, the traditional EM leaders (through the Fatherland's Front) to validate the progress and accomplishments of the following: (i) awareness raising campaign; (ii) consultations with EMs and communities; (iii) development of textbooks; (iv) training of teachers; (v) establishment of teachers' network and CECs; and (v) training on MIS for progress monitoring of LSE performance as the centerpiece of the project. The PIC will prepare progress reports on these. At the end of the project, a comprehensive Project Evaluation Report will be prepared to assess if the objectives of the safeguards activities were met.

## **C. Internal Monitoring Reports**

88. Various reports will be prepared for internal monitoring (see Table 6).

**Table 6: Report Deliverables**

<b>Type of Reports</b>	<b>Recipient</b>	<b>Frequency</b>	<b>Remarks</b>
Completion Reports – RP / REMDP	TL / CPMU	Once per site	Recommend award of contract and start of civil works
Progress Reports, Outputs 2 and 3	TL / CPMU	Quarterly	Will be done towards end of the project
Evaluation Report	TL / CPMU	One time	For incorporation in Project Completion Report

## **D. Internal Monitoring Indicators**

89. Table 7 shows the indicators for internal monitoring that may be updated in the course of project implementation.

**Table 7: Internal Monitoring Indicators for RP/REMP and Outputs 2 and 3 Implementation**

Areas of Concern		Internal Monitoring Indicators
Input Indicators	RP / REMDF	<ul style="list-style-type: none"> <li>(i) Were subproject information booklets already approved by CPMU and ready?</li> <li>(ii) Were attendance sheets and other logistics enough for disclosures and consultations?</li> <li>(iii) Was the DMS sufficient to extract information from the APs?</li> <li>(iv) Have all the surveyors been oriented on filling up the DMS/census?</li> <li>(v) Were the APs notified on the schedule of land acquisition?</li> <li>(vi) Were lands to be acquired demarcated based on detailed engineering and architectural design?</li> <li>(vii) Were PPMUs advised to coordinate with BOETs, DPCs, CPCs or chiefs of villages, Fatherland's Front, traditional EM leaders, and concerned mass organizations?</li> </ul>
	Outputs 2 and 3	<ul style="list-style-type: none"> <li>(i) Were land acquisitions and resettlement in project areas completed?</li> <li>(ii) Were the engineering and architectural designs for the school buildings, semi-boarding houses for the students, housing units for teachers, and other infrastructure already available?</li> <li>(iii) Were the other experts in the PICs for monitoring coordination already known?</li> <li>(iv) Were the logistics for monitoring adequate for the interview of the DOET and BOET officials?</li> <li>(v) Were the PPMUs already advised to coordinate with DOETs, BOETs DPCs, CPCs or chiefs of villages, Fatherland's Front, traditional EM leaders, and concerned mass organizations?</li> </ul>
Process Indicators	RP / REMDF	<ul style="list-style-type: none"> <li>(i) Has the database system for APs been established?</li> <li>(ii) Were the venues for project disclosures and consultations held in neutral places?</li> <li>(iii) Were locally-based stakeholders identified?</li> <li>(iv) Were there any issues raised during disclosures and consultations?</li> <li>(v) Were the APs composed of different groups of EMs?</li> <li>(vi) Were the APs/AHs informed of their rights and the mechanism for grievance resolution in case they have complaints?</li> <li>(vii) Did all the APs/AHs who owned lands have Land Use Right Certificates?</li> <li>(viii) Have all the affected lands and properties been classified?</li> <li>(ix) Were there any severely affected and vulnerable APs/AHs identified in the DMS?</li> <li>(x) Were the lands to be acquired not part of the ancestral domains of the EMs?</li> <li>(xi) Have replacement cost surveys been conducted and were the results compared with the prescribed prices issued through Decisions from the concerned PPCs?</li> <li>(xii) Were the drafts of RPs/REMPs consulted with APs/AHs before they were finalized?</li> </ul>
	Outputs 2 and 3	<ul style="list-style-type: none"> <li>(i) Were awareness raising campaigns have been conducted in districts or communities?</li> <li>(ii) Were local people and EMs consulted on priorities for infrastructure to be built in the schools?</li> <li>(iii) Were local people and EMs informed on the new curricula for LSE?</li> <li>(iv) Were the training programs for teachers have already been finalized?</li> <li>(v) Were parents of the EMs and poor students who dropped out and repeaters have been consulted.</li> <li>(vi) Have DOETs and BOETs adopted any other means of public promotion for the new LSE curricula aside from consultations and awareness raising campaigns?</li> </ul>
Output Indicators	RPs / REMDF	<ul style="list-style-type: none"> <li>(i) Has the database system on APs been established?</li> <li>(ii) Were the budgets for land acquisition, resettlement and assistance approved and ready for release?</li> <li>(iii) Have all the APs/AHs been paid their compensation, allowances, and assistance?</li> <li>(iv) Have all the grievances and/or complaints of the APs already been resolved?</li> <li>(v) Are the land/s to be acquired already cleared of obstruction and encumbrances?</li> <li>(vi) Were land acquisition and resettlement completed and can the EA already request ADB for "No Objection" for the award of civil works and construction contracts to contractors?</li> </ul>

	Outputs 2 and 3	<ul style="list-style-type: none"> <li>(i) Are the programmed infrastructure for LSSs already available?</li> <li>(ii) Were many EM teachers and students accommodated in the housing units and semi-boarding houses?</li> <li>(iii) Were the toilets modest and have adequate sources of water been provided to housing units and semi-boarding houses?</li> <li>(iv) Have the regional and competency-based textbooks on EM areas been developed?</li> <li>(v) Have the district CECs been developed as the new platform for INSETT?</li> <li>(vi) Are life skills and preservation and promotion of EM cultures and values being developed?</li> <li>(vii) Has vocational counseling and guidance suitable to EMs been introduced?</li> <li>(viii) Has teachers' networking among cluster group schools in EM areas been established?</li> <li>(ix) Were teachers trained and sent to seminars and workshops?</li> <li>(x) Were improvements on science education through school clustering already applied?</li> <li>(xi) Have the effectiveness and performance of school libraries improved?</li> <li>(xii) Has the piloting of school block grants addressing the local needs of cluster schools been initiated?</li> <li>(xiii) Have improvements in LSE system be noted in terms of increases in promotion rates and decreases in rates of dropout and repetition?</li> </ul>
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**E. Adverse Impacts on EMs in Addition to Loss of Land, Assets or Livelihood**

Adverse impacts on Ethnic Minorities in Addition to Loss of Land/Assets or Access to Land/Assets or Livelihood (write NA is none): \_\_\_\_\_

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**F. Involuntary Resettlement/Ethnic Minority Category<sup>1</sup>**

- Category A for IR or EM, to be excluded from the Project
- Category B for IR and ethnic minorities, an REMDP is required
- Category B for IR and Category C for IP, an RP is required
- Category C. Action limited to ensuring participation, and maximizing culturally-appropriate benefit for EMs

**Need for Income Restoration Program (for subprojects categorized as B for IR)**

- No AH can be considered severely affected or vulnerable, income restoration program not required.
- Some AHs can be considered either as severely affected or vulnerable, income restoration program is required

Screened by: \_\_\_\_\_ Validated by: \_\_\_\_\_  
Date: \_\_\_\_\_ Date: \_\_\_\_\_

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<sup>1</sup> Proposed school facilities are considered as **Category A** if 200 or more persons will experience significant impacts (i.e. will be physically displaced from housing and or lose 10% or more of their productive (income generating) land; **Category B** if less than 200 persons will experience significant impacts; and **Category C** if there is no land acquisition/resettlement impact and no adverse impact on EMs.



## ANNEX 2

### TERMS OF REFERENCE FOR RESETTLEMENT SPECIALISTS

#### A. Introduction

1. The Socialist Republic of Viet Nam, through the Ministry of Education and Training (MOET), will implement the Second Lower Secondary Education for the Most Disadvantaged Areas Project (LSEMDAP II) with assistance from the Asian Development Bank (ADB). The project will be implemented over a period of six years and cover about 200 lower secondary schools (LSSs) in 135 districts from 28 provinces in four disadvantaged regions. The project will form a social safeguards team comprising of one international consultant and three national consultants to assist the Central Project Management Unit (CPMU) of MOET in the social safeguards aspects of project implementation.

#### B. Duties and Responsibilities

2. **International Resettlement Specialist.** The international Resettlement Specialist should have a university degree in sociology, anthropology, or related discipline, and have at least 12 years of experience in the preparation/implementation of resettlement plan (RP) and indigenous peoples' plan (IPP) in Asia, preferably in Southeast Asia. He/she will report to the team leader of the Project Implementation Consultant (PIC) and will be involved in the project intermittently for two person-months spread over two years to perform the following tasks:

- (i) Develop and supervise the plan for social safeguards screening of the proposed facilities for about 200 candidate LSSs;
- (ii) Develop and supervise the training of key staff of the CPMU, PPMU, and district staff on the REMDF, safeguards screening, RP/REMDP preparation and monitoring/evaluation, and ethnic minority development approaches;
- (iii) Summarize the results of the social safeguards screening, advise CPMU and PPMUs on the required actions, and prepare a due diligence report for ADB review and disclosure;
- (iv) Facilitate project disclosure and public consultations in areas where the RP or REMDP will be prepared;
- (v) In coordination with PPMUs, facilitate the DMS/SES in project areas where the LSSs fall under Category B;
- (vi) Prepare the RP and REMDP for Category B subprojects consistent with ADB's Safeguards Requirement 2 of the 2009 Safeguard Policy Statement, and due diligence reports for Category C subprojects to be followed by the national consultants when he/she is demobilized;
- (vii) Establish a separate internal monitoring system for RP/REMDP and for Outputs 2 and 3;
- (viii) In coordination with PPMUs, assist in internal monitoring of the implementation of RPs or REMDPs along with the activities implemented for Output 2 and Output 3 of the project; and
- (ix) Ensure that payments for compensation, allowances, and assistance to APs in each subproject area are completed and no grievance or complaint is left unresolved before informing the CPMU, which will, in turn, advise MOET to request ADB for "No Objection" for the award of civil works and construction contracts.

3. **National Resettlement Specialists (3 persons at 16 months totally).** The specialists should have university degrees in sociology, anthropology, or related discipline, and have at

least five years of experience in the preparation of LARP. They will be involved in the project intermittently for a total 16 person-months, spread over six years, to perform the following tasks:

- (i) Conduct the safeguards screening of the proposed facilities and assist in the preparation of the due diligence report;
- (ii) Participate in project disclosure and public consultations in areas where the RP or REMDP will be prepared;
- (iii) Assist in coordinating with PPMUs to facilitate the DMS/SES in project areas in which LSSs fall under Category B;
- (iv) Assist in the research on data/information that may be required by their international counterpart;
- (v) Assist in processing the DMS/SES data in the preparation of RPs and REMDPs for Category B subproject LSSs;
- (vi) Assist in the validation of Category C subprojects, especially the ownership of lands, for the preparation of due diligence reports;
- (vii) Assist in the preparation of RPs and/or REMDPs for Category B subprojects consistent with ADB's Safeguards Requirement 2 of the 2009 SPS and due diligence reports for Category C subprojects;
- (viii) Coordinate with PPMUs in the internal monitoring of RP or REMDP implementation together with the activities implemented for Outputs 2 and 3 of the project; and
- (ix) Assist in validating the completion of payments for compensation, allowances, and assistance to APs in each subproject area, and validate that no grievance or complaint is left unresolved.