

PREPARATION OF ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK FOR THE SOUTH EAST ASIA DISASTER RISK MANAGEMENT (SEA DRM) PROJECT FOR LAO PDR

ETHNIC GROUPS ENGAGEMENT FRAMEWORK

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LIST OF ACRONYMS

ADRIF	Asia Disaster Resilience Insurance Fund
ARAP	Abbreviated Resettlement Action Plan
CBO	Community Based Organizations
CSO	Civil Society Organizations
DDMC	Department of Disaster Management and Climate Change
DIA	Designated Implementing Agency
DMH	Department of Meteorology and Hydrology
DoPC	Department of Planning and Cooperation
DoR	Department of Road
DoW	Department of Waterways
DPWT	Department of Public Works and Transportation
DRM	Disaster Risk Management
DRO	District Resettlement Office
DRR	Disaster Risk Reduction
ECoP	Environment Code of Practice
EGEF	Ethnic Groups Engagement Framework
EGDP	Ethnic Groups Development Plan
EMO	Ethnic Minority Organizations
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FPIC	Free, Prior and Informed Consultation
GoL	Government of Lao PDR
GRC	Grievance Redress Committee
IDA	International Development Association
M&E	Monitoring and Evaluation
MoF	Ministry of Finance
MoICT	Ministry of Information, Culture and Tourism
MoNRE	Ministry of Natural Resources and Environment
MPI	Ministry of Planning and Investment
MPWT	Ministry of Public Works and Transport
NSEDP	National Socioeconomic Development Plan
OP/BP	World Bank Operational Policies
PAD	Project Appraisal Document
PAH	Project Affected Households
PAP	Project Affected People
PDO	Project Development Objective
PDR	People's Democratic Public
PESA	Preliminary Environmental and Social Assessment

PIU	Project Implementation Unit
PMU	Project Management Unit
PRO	Project Resettlement Office
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SEA DRM	South East Asia Disaster Risk Management
SIA	Social Impact Assessment
SMMP	Social Management and Monitoring Plan
USAID	United States Agency for International Development
VRS	Village Resettlement Sub-committees
WB	World Bank
WBG	World Bank Group

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1.0 INTRODUCTION

This document is the Ethnic Group Engagement Framework (EGEF) for the South East Asia Disaster Risk Management (SEA DRM) Project prepared in conjunction with the Lao PDR Ministry of Public Works and Transport (MPWT) through the Department of Waterways (DoW), for possible financing by the World Bank (WB). The EGEF provides guidance on the process of engaging potential project affected people (PAP) comprised of, among others, ethnic groups, and the process of free, prior and informed consultation (FPIC), in development and implementation of sub-projects to be financed under the Lao PDR SEA DRM Project.

1.1 PROJECT DEVELOPMENT OBJECTIVE AND COMPONENTS

The goal of the proposed World Bank Group (WBG) funded SEA DRM Project is to reduce the risk of flooding and enhance disaster risk financing capacity within the Lower Mekong Sub-region. The proposed SEA DRM Project will be funded by the WBG through an International Development Association (IDA) loan in three SEA countries – namely, Lao People’s Democratic Republic (PDR), Cambodia, and Myanmar. The project will allow these aforementioned riparian countries to achieve and expand outcomes in three key areas, including flood risk management investments, disaster risk assessment and financing, and a zero balance contingent emergency response component.

The overall tripartite country SEA DRM Project objective is “to promote and harmonize disaster risk management at the regional level”. Each of the three SEA countries have developed a number of sub-projects which will be subject to further assessment and consideration for funding purposes.

The Lao PDR country-specific SEA DRM Project Development Objective (PDO) is “to help reduce the risk of flooding and enhance disaster risk financing capacity within the Mekong region”. The Lao PDR SEA DRM Project is comprised of the following five components:

Component 1: Urban Flood Risk Management

This component includes a set of investments designed to strengthen flood resilience in Oudomxay Province, particularly, for the provincial capital of Muang Xay and areas in close proximity. Urban flood risk management infrastructure investments proposed for Oudomxay provincial capital and close proximity include financing for riverbank protection, dike, drainage canal, flood gates, weir and riverside parks. Such infrastructure will protect the urban core from flash floods that occur regularly during the rainy season. The designated implementing agency (DIA) for this sub-project will be the DoW under the MPWT.

Component 2: Hydromet Modernization and Disaster Risk Management Systems

This component includes financing for capacity building measures to enhance and strengthen forecasting, early warning and disaster risk management (DRM) systems in the Ministry of Natural Resources and Environment (MoNRE). This component is further bifurcated into two sub-components including: (i) weather forecasting and early warning systems to strengthen the Department of Meteorology and Hydrology (DMH) capacity to predict floods and enhance early warning communication systems; and (ii) DRM through enhanced regulatory capacity in the Department of Disaster Management and Climate Change (DDMCC).

Component 3: Disaster Risk Financing and Insurance

This component includes technical assistance to increase financial resilience of Lao PDR against natural disaster and climate risks in terms of the Government of Lao PDR's (GoL) capacity to meet post-disaster funding needs. This component is further segregated into three sub-components including: (i) national-level disaster risk financing technical assistance for the development of a national financial protection strategy building on a combination of national and regional disaster risk financing instruments. The strategy would build on existing GoL capacity and previous WB support to the Ministry of Finance (MoF) and Ministry of Planning and Investment (MPI); (ii) establishment of the Asia Disaster Resilience Insurance Fund (ADRIF) to support activities for the establishment of a regional disaster risk pooling mechanism; and (iii) financing of the GoL contribution to join the ADRIF.

Component 4: Project Management

This component will support management and implementation of the project. It will include technical and fiduciary staff who will be seconded to the Project Management Unit (PMU) from relevant implementing departments. The project management component will finance institutional support and capacity development for implementation and fiduciary arrangements; including procurement, financial management, management of safeguards issues, internal and external auditing, and the establishment of the project monitoring, evaluation and reporting systems.

Component 5: Contingency Emergency Response

This “zero component” allows rapid reallocation of project proceeds for emergency recovery and reconstruction support in the event of a declared disaster. This component would finance disbursements against a positive list of critical goods and/or the procurement of specific works, goods, services and operation costs required for emergency recovery. An Emergency Response Operational Manual would be developed for this component detailing financial management, procurement, safeguards and any other necessary implementation arrangements to be submitted to and accepted by the WBG prior to the disbursement of project proceeds.

The scope of these investments will be refined during project preparation. Guiding principles for selections will include the following: (i) impact at scale, (ii) effectiveness and sustainability, (iii) poverty alleviation impact, (iv) leveraging potential/value added, (v) feasibility (political, budget, implementation, safeguards); (vi) institutional readiness; and (vii) regional benefits.

Major safeguards documents to be developed for the country-specific Lao PDR SEA DRM Project include a preliminary environmental and social assessment (PESA), an environmental and social management framework (ESMF), ethnic group engagement framework (EGEF) and resettlement policy framework (RPF). The current EGEF for the Lao PDR SEA DRM Project only covers Components 1 and 2 above. The other three components either do not have works associated with them (i.e. Components 3 and 4) or, are being conducted under separate contract (i.e. Component 5).

1.2 APPLICABLE WORLD BANK SAFEGUARD POLICIES

Under the SEA DRM Project, it is intended that disaster prone areas of Lao PDR will be targeted for specific investments. Various levels and magnitude of potential environmental and social impacts are envisaged from the implementation of sub-projects depending on their scale and location. The construction of two riverside parks and flood mitigation sub-project initiatives to be implemented under Component 1 might involve potential land acquisition and/or resettlement impacts for ethnic groups

(including Khmu, Thai Dam and Phou Noi). Based on the initial consultations with the recipients regarding possible investments, the project will likely trigger the following World Bank safeguards policies: *Indigenous Peoples* (OP/BP 4.10) *Environmental Assessment* (OP/BP 4.01), *Natural Habitats* (OP/BP 4.04), *Physical Cultural Resources* (OP/BP 4.11), *Involuntary Resettlement* (OP/BP 4.12), *Projects on International Waterways* (OP/BP 7.50), and *Safety of Dams* (OP/BP 4.37).

As the proposed Lao PDR SEA Project urban flood risk management sub-project may include initiatives implemented in areas where ethnic groups are present, and because national level project activities (e.g., policy reforms, institutional strengthening and capacity building) may have implications for ethnic groups, the WBG OP/BP 4.10 *Indigenous Peoples'* safeguard policy applies to the project. The GoL does not recognize indigenous status and instead uses the term ethnic group to classify the non-Lao-Tai ethno-Linguistic group. Only one nationality, "Lao", is recognized.

The EGEF provides a guideline document (OP/BP 4.10) to decision-makers early in the project preparation process to ensure that due consideration is given to adequate consultation and engagement of ethnic groups, including ethnic minority groups. As such, the level of social assessment conducted will depend on the nature and scale of the proposed sub-project initiatives and its potential impact on ethnic groups. The EGEF provides guidance on how to engage potential PAP of ethnic groups in the FPIC process and in the development and implementation of sub-projects to be financed under the Lao PDR SEA DRM Project.

The World Bank may decide to use a country's systems to address environmental and social safeguard issues in a Bank-financed project that affects ethnic groups. This decision is made in agreement with the requirements of the applicable WBG policy on country systems.

2.0 LEGAL AND REGULATORY FRAMEWORK CONCERNING ETHNIC GROUPS

2.1 LEGAL FRAMEWORK CONCERNING ETHNIC GROUPS

2.1.1 Constitution of the Lao PDR (2015)

Lao PDR does not have specific legislation for its ethnic groups. However, the former 1991 Constitution and current adjusted Constitution of 2015 (chapter four, articles 34-51) guarantee that all Lao people have fundamental rights and obligations to develop the country. The Constitution defines Lao PDR as a multi-ethnic State, with equality among all ethnic groups.

Article 8 states that:

The State pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the right to protect, preserve and promote the customs and cultures of their own tribes and of the nation. All acts of creating division and discrimination among ethnic groups are forbidden. The State implements every measure to gradually develop and upgrade the economic and social level of all ethnic groups.

Article 13 states that the country's economic system is for the purpose of improving the living standards, both materially and spiritually, of Lao PDR's multi-ethnic people.

Article 19 emphasizes the importance of building schools to provide education for all, especially in areas inhabited by ethnic minority groups.

Article 35 guarantees that Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group.

2.1.2 Ethnic Minority Policy (1992)

The Resolution of the Political Bureau Concerning the Affairs of Various Minorities, especially the Hmong Minority (Hmong Policy 1981) adapted in 1981 was the first explicit statement of policy on ethnic groups since the founding of the Lao People's Democratic Republic in 1975. The policy also attempted to improve the living conditions of Hmong people, and to increase national security for the country as a whole. In 1992, the policy was adjusted and developed into a resolution of the Administrative Committee of the party to become The Ethnic Minority Policy under the Resolution on Ethnic Affairs in the New Era, which applies to all ethnic groups throughout the country. There are no specific articles in it, rather it is an agreement on the principles that all ethnic groups should have improved access to services and that all discrimination must be eradicated.

The general policy of the GoL concerning ethnic groups was designed to:

- Build national sentiment (national identity);
- Realize equality between ethnic groups;
- Increase the level of solidarity among ethnic groups as members of the greater Lao family;
- Resolve problems of inflexible and vengeful thinking, and economic and cultural inequality;
- Improve the living conditions of the ethnic groups step-by-step; and
- Expand, to the greatest extent possible, the good and beautiful heritage and ethnic identity of each group and their capacity to participate in the affairs of the nation.

The policy calls for protection against and eradication of dangerous diseases and to allow ethnic groups to enjoy good health and a long life. The GoL is expected to provide appropriate investments to enlarge the health care network by integrating modern and traditional medicine.

The collection of data on the ethnicity of government employees, retired ethnic officials, the handicapped, and families of those killed in action is another activity called for in the policy.

Disseminating information in the remote areas is mandated, through many methods, especially, radio broadcasting in minority languages. The plan calls for engagement of specialist officials who speak minority languages and who possess knowledge of science, production, and socioeconomic problems. The question of where these persons are found is not addressed.

The Ethnic Minorities Committee under the National Assembly is charged with the responsibility to draft and evaluate proposed legislation concerning ethnic groups, lobby for its implementation and implementation of socioeconomic development plans. Ethnic groups' research is the responsibility of the Institute for Cultural Research under the Ministry of Information, Culture and Tourism (MoICT). The lead institution for ethnic affairs is the mass (political) organization, the Lao National Front for Construction, which has an Ethnic Affairs Department.

2.1.3 The 8th National Socioeconomic Development Plan (2016-2020)

The overall objective of the 8th National Socioeconomic Development Plan (NSEDP) is to ensure that Lao PDR graduates from Least Development Country status. It is designed with three outcomes, and each with a set of Performance Targets.

As part of the rural development and poverty reduction strategy, one focus of the 8th NSEDP is to consolidate and convert villages in remote areas inhabited by ethnic groups into small towns, and link these areas with roads and improved infrastructure. It states that tailored interventions are needed for the poorest groups, where the lack of access to infrastructure, markets and services remain barriers to growth and poverty reduction. Social welfare policy and poverty reduction must be tailored to ethnic people's specific needs and capabilities, and to address gender issues among various ethnic groups in order to improve the human capital of future generations.

The 8th NSEDP emphasizes the importance of continuing to improve and develop the information and culture sector by actively enhancing heritage and cultural values on the basis of the cultural diversity of the different ethnicities, and to share these traditions with the international forum. This five-year plan also promotes equality among multi-ethnic people, by promoting a sense of pride of the historical characteristics of various ethnic groups, and to rely on elders and leaders at the grassroots level of various ethnic groups to promote unity among ethnic group members as a means to ensure development.

2.1.4 Land Law (2013)

The formal law governing land rights in Lao PDR includes the 2003 Constitution, the 1990 Law on Property, the 2004 Law on Protection and Development of Women and the 2005 Law on Heritage and Basis of Inheritance, and the revised 2013 Land Law.

The Constitution guarantees that the State will protect property and inheritance rights of individuals and organizations. It also declares all land to be a "national heritage" and that the State will ensure use, transfer and inheritance rights to land as defined by law. The 1990 Law on Property establishes and defines five forms of property, including: State property; collective property; individual property; private property (property belonging to a private economic unit other than an individual or collective); and personal property (items for personal use). It also establishes that ownership of all land, underground resources, water, forests and wild animals is vested in the State, though the State may grant rights of possession, use, transfer and inheritance to other entities (GoL Constitution 2003; GoL Property Law 1990).

All land in Lao PDR belongs to the population as a whole, and the State must safeguard long-term rights to land by ensuring protection, use, usufruct, transfer and inheritance rights. The Land Law lays out categories of land (agricultural, forest, water area, industrial, communication, cultural, national defense and security and construction) and defines the scope of use rights for each. It also establishes the basic organization of land-use management authorities and framework for land registration. The Land Law provides the basis for registering land rights and defines land certificates and land titles. Individuals and organizations access land through land-use rights. Recent land titling programs have formalized permanent land-use rights in urban and peri-urban areas, and land allocation programs have formalized temporary land-use rights for agricultural and forest land. Communal tenure, which is common in rural areas, has not been formalized.

The Land Law provides that land titles shall constitute evidence of permanent land use rights, and establishes a system of temporary land use certificates for agricultural and forest land, allowing rights to such land to be passed by inheritance, but not transferred, leased or used as collateral. The Land Law also does the following: allows Lao citizens to lease land from the State for up to 30 years; allows the State to lease out land or grant land concessions to non-citizens; prohibits land speculation; and guarantees compensation for State takings of land use rights. The Land Law provides for settlement of land disputes before the local land-management authority or before the People's Court.

Many ethnic groups practice a system of land use and resource management which is uniquely adapted for upland areas. This has developed over generations (i.e., is traditional), and is underpinned through ritual and customary practices (Mann and Luangkhot 2008). These customary systems of land management and allocation exist alongside the formal system, with initiatives in recent years to integrate some traditional practices into the formal law. In many rural areas of Lao PDR, communities control common property, such as forests or pastureland, and have devised local customary rules for the management of land resources and allocation of land to group members. The 1990 Property Law recognizes cooperative or communal property rights generally. The Prime Minister's 2006 Decree 88 on Land Titling and the 7th NSEDP included provisions to issue communal land titles for land allocated by the government to village communities (USAID 2013). Many ethnic communities have traditionally recognized certain areas of forest as sacred forest sites, or spirit forests, and this is an important cultural aspect which should be respected.

Under customary or informal rules in rural areas, local communities often control common property, including upland areas, grazing land, village-use forests and sacred forests. All community members are entitled to use communal land, and village authorities may grant similar use rights to those from surrounding villages. Communal tenure systems have evolved over a long period and vary from village to village. There is no formal registration process for communal tenure, though it remains an important part of the cultural, political, social and economic frameworks of rural communities (World Bank 2006; Mann and Luangkhot 2008).

Rural families may also hold land use rights under informal or customary rules. These land use rights are usually attributed to family plots, paddy land or land for swidden agriculture. These land use rights may be allocated by customary local authorities under local rules, and varies from village to village. The village chief (i.e., Nai Ban) may issue a Village Heads Certificate on Land Ownership, which while not valid on its own, may be used by local authorities to resolve disputes or used by the family as additional proof of ownership when applying to the state for a land survey certificate (World Bank 2006; Mann and Luangkhot 2008; GTZ 2009).

The Land Law also stipulates that, in case public infrastructure development projects cause damages to trees, crops or buildings of the private owners, the land owners have the rights to be compensated for the damages.

2.1.5 Relevant International Instruments

The Constitution of Lao PDR has been amended to incorporate human rights principles outlined in the international treaties and conventions of which Lao PDR is a signatory party. Chapter four, articles 34 to 51 explain the basic rights of Lao citizens. In addition, basic rights as delineated in international instruments are included in many other national laws, such as the law on the protection of the rights and the interests of children, 2006 (see Table 1). The GoL set up the National Human Rights Research Centre in Vientiane, whose main objective is to support, encourage, and implement human

rights within the country. Its mandate also considers the carrying out of research on ethnic groups. The Centre was approved by decree, No. 95, dated 11/07/06 and by Prime Minister’s decree, No. 137, dated 24/07/2006.

Table 1 International treaties and conventions in Lao PDR.

No	Name of Convention	Date of Signature	Date of Ratification/Accession
1	International Covenant on Civil and Political Rights	7 December 2000	29 September 2009
2	Convention on the Rights of Persons with Disabilities	15 January 2008	29 September 2009
3	International Convention for the Protection of All Persons from Enforced Disappearance	29 September 2008	Not yet ratified
4	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Not yet signed	Not yet ratified
5	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	21 September 2010	26 September 2012
6	Convention on the Rights of the Child		8 May 1991 (a)
7	Convention on the Elimination of All Forms of Discrimination against Women	17 July 1980	14 August 1981
8	International Covenant on Economic, Social and Cultural Rights	7 December 2000	13 February 2007
9	International Convention on the Elimination of All Forms of Racial Discrimination		22 February 1974 (a)
10	UN Convention Against Corruption	10 December 2003	29 September 2009

3.0 ETHNIC GROUPS IN THE PROJECT AREAS

Lao PDR is one of the most ethnically diverse countries in South East Asia. The country’s population of approximately 6.8 million people can be categorized into four broad ethno-linguistic families: The Lao-Tai (67%), the Mon-Khmer (21%), the Hmong-Lu Mien (8%), and the Sino-Tibetan (3%). These groups encompass 49 distinct ethnicities and over 200 ethnic sub-groups. Specifically, the Lao-Tai is comprised of eight ethnic groups, the Mon-Khmer thirty-two, the Hmong-Lu Mien two, and the Sino-Tibet seven.

In Oudomxay Province, there are approximately 12 different ethnic groups, of which the largest is the Khmu ethnic group. According to the provincial administration, the Khmu, who are part of the Mon-Khmer linguistic family and include Khmu Lue, Khmu Khong, Khmu Ou, Khmu Bit, constitute approximately 60% of the population. The Hmong Khao ethnic group, the second largest ethnic group, is part of the Hmong Mie and comprises 14% of the ethnic groups. The Tai-Dam ethnic group, the smallest ethnic group, is part of the Tai-Kadai family and comprises 2% of the ethnic groups. Other ethnic groups living in the province include Akha, Phouthai (Thai Dam and Thai Khao), Phou Noi (Phou Xang, Phou Kongsat, and Phou Nhot), Lao Houy (also “Lenten”), Phouan, Ly, Yang, Ikho and Ho (Oudomxay Provincial Information, Culture and Tourism Department). Each of the twelve ethnic minorities has its own languages, cultural heritage and traditions.

In one of the villages identified for sub-project infrastructure development, Nasao Village, there are Khmu, Phou Noi, and Kar Mouk ethnic groups. The ethnic group composition for a second village, Nalao Village, is provided in Table 2.

Table 2 Ethnic group composition in Nalao Village, Oudomxay capital city, Oudomxay Province, 2016.

Ethnic Group	Number of Households	Total Population	Number of Females
Lao Loum	13	64	38
Thai Dam	1	5	2
Lue	253	1,182	663
Kar Mouk	5	54	20
Hmong	3	27	14
Hor	12	132	47
Phou Noi	12	111	35
Total	299	1,575	819

The information below on the two largest ethnic groups residing in Oudomxay Province, Khmu and Hmong, is from the Study on Women’s Land and Property Rights under Customary or Traditional Tenure Systems in Five Ethnic Groups in Lao PDR (Mann and Luangxhot, 2008).

Khmu are said to be the oldest inhabitants of northern Lao PDR, and are now settled throughout all northern provinces and as far as Bolikhamxay Province. Next to the Lao Loum, they are numerically the largest ethnic group in the country. They have several sub-groups which co-reside, including Rok, Luu, Ou, and Khrong. Khmu are strongly governed by spirits, both benevolent and dangerous, which influence foundations of customary law. The world of the spirits consistently influences gender relations, land use and property rights, and change disturbs the relationship between the Khmu and the external world. Different levels of spirits govern different choices made by men and women – some spirits are territorial, associated with particular places or locations, others are associated with the village and under the authority of the territorial spirit. The belief in spirits can influence the choices made by men and women in their daily routine, seasonal activities, property rights and relationships between the sexes. Other spirits govern the structure of the household and are normally ancestral who continue to protect the well-being of families. Lastly, there are individual spirits, linked to the household.

Each sub-group may be composed of several patrilineal clans called “ta”. Ta names are totemic, meaning they are taken from a natural object, or animal, or bird, to which the clan considers itself closely related and usually has prohibitions associated with the totem. Among Khmu Lue in Oudomxay, ta may include Teu Mong (a kind of civet cat), Teu va (a kind of fern), Teu Kok (a species of bird), etc. The totem is the household spirit, and membership of a ta depends in which house a child is born. Ta membership determines marriage choices and by association, property rights.

Hmong Khao (“White” Hmong) is one of five Hmong sub-groups present in Lao PDR. After Khmu, Hmong has the largest population of all ethnic groups in the country. The Hmong trace their origins in Lao PDR to waves of migration from China in the early years of the 19th century. Causes for this migration attributed by both Hmong respondents and research sources include historical conflict between Hmong and Han Chinese, population growth, unacceptable burden of taxation and refusal to integrate with Han Chinese. Migrated Hmong are now found throughout the northern provinces of Lao PDR, southern Yunnan, northern Viet Nam and northern Thailand.

Typically, Hmong have settled in the highest areas of the upland, even preferring to be buried on mountain tops. They have a reputation of being both hard working and more recently, assertive in Oudomxay Province over acquiring land and property. Hmong Khao are also structured by clans, or seng (e.g., Toe, Veu, Tsiong, Moa, Lee, Va, Ya, Ha, Ja, and Keu). The seng determines the boundaries of land and property rights, and protects the role of men as transmitters of those rights by constraining women's choices, particularly as to who and when a woman may marry.

4.0 POTENTIAL PROJECT IMPACTS ON ETHNIC GROUPS

It is expected that investments in Oudomxay's provincial capital urban flood risk management will have both positive and negative impacts that could ensue as a result of sub-project implementation of the proposed riverbank protection, drainage canal reparation, dike and flood gates, and riverside park(s) infrastructure. Urban flood risk management sub-project activities will be beneficial for the majority of Muang Xay residents whose properties and livelihoods will be largely uninterrupted because of the proposed infrastructure investments. It is expected that construction and installation of urban flood risk management infrastructure investment will bring socioeconomic, health and ecological benefits, such as, protecting the river from siltation and sedimentation as a result of runoff and riverbank erosion, and reducing the loss of lives and/or livelihoods caused by flooding. The project will help create an environment of safety, health and well-being for the majority of people who have suffered from the effects of flash flood events in the past.

Environmental and social effects and impacts will differ markedly depending upon the type and scope of the particular urban flood risk management sub-project and its location. For construction of new infrastructure in Oudomxay's provincial capital, Muang Xay, and vicinity, it is likely that for most people, the potential negative (adverse) impacts will be moderate and localized, although cumulative effects cannot be discounted. However, for people living in the areas identified for the construction of two riverside park(s), major impacts due to resettlement and/or the loss of riverine land may result. During the preliminary community consultations in the provincial capital, it was determined that some households living in the areas identified for the riverside park(s) are from ethnic groups (Khmu, Phou Noi, and Kar Mouk).

5.0 IMPLEMENTATION ARRANGEMENTS FOR THE EGEF

The project's positive impacts will depend upon the degree to which it is successful in ensuring the inclusion of vulnerable groups, including ethnic groups, women, elderly and youth/children. This requires a participatory approach in the design and planning process and safeguards to overcome economic and cultural barriers.

The construction of two parks and flood mitigation sub-project initiatives to be implemented under Component 1 might involve potential land acquisition and/or resettlement, with potential for adverse impacts for ethnic groups and other vulnerable groups. An important component of the EGEF is to ensure that social safeguard policies protecting ethnic groups are implemented in conjunction with the existing processes for local planning and engagement with the communities.

Implementation of the EGEF for sub-projects funded in areas where ethnic groups reside requires that (a) the WBG screens to identify whether ethnic groups are present in, or have collective attachment to, the project area; (b) the borrower undertakes a social impact assessment to assess potential

impacts and identify culturally appropriate benefits; (c) the borrower conducts FPICs with affected ethnic groups leading to their broad community support for the relevant project activities; and (d) the borrower prepares and discloses an Ethnic Group Development Plan (or Ethnic Group Engagement Framework) to address particular issues concerning ethnic groups, provide culturally appropriate benefits, and ensure the avoidance or mitigation of adverse impacts.

The level of detail necessary to meet the borrower's requirements specified in paragraph (b), (c), and (d) is proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on the ethnic groups, whether adverse or positive.

5.1 SCREENING FOR THE PRESENCE OF ETHNIC GROUPS

The World Bank will undertake a screening early in the project preparation phase, to determine whether ethnic groups are present in, or have collective attachment to, the project area. The World Bank may seek the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area. The World Bank will also consult the ethnic groups concerned and the borrower. The World Bank may follow the borrower's framework for identification of ethnic groups during project screening, when that framework is consistent with this policy.

If, based on the screening, the World Bank concludes that ethnic groups are present in, or have collective attachment to, the project area, OP/BP 4.10 is triggered and the procedures described in this EGEF will be followed. This includes the requirement that the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the ethnic groups, and to examine project alternatives where adverse effects may be significant.

5.2 SOCIAL IMPACT ASSESSMENT

A Social Impact Assessment (SIA) is the process of identifying and reviewing the social effects of current or proposed infrastructure projects and other development interventions. According to the International Association for Impact Assessment, this includes the processes of analyzing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions.

The breadth, depth, and type of analysis in the social assessment are proportional to the nature and scale of the proposed project's potential effects on the ethnic groups, whether such effects are positive or adverse. The SIA should be integrated into the sub-project's Environmental and Social Impact Assessment (ESIA) as described in the ESMF and results used to develop the Social Management and Monitoring Plan (SMMP).

During the preliminary community consultations in Oudomxay's provincial capital, the following suggestions were made to mitigate the social impacts on project affected households (PAHs) and PAPs, including ethnic groups:

- Collection of primary data is paramount, as secondary data is usually not up-to-date;
- Involvement of local people in a participatory community-based impact analysis is important to ensure that vulnerable people, including ethnic groups, are not excluded from the decision-making related to the new development;
- If resettlement is required for vulnerable groups, including ethnic groups, emphasis should be put on improved education opportunities to give them more livelihood options;

- Inclusion of Disaster Risk Reduction (DRR) awareness training is important in public awareness messaging; and
- Provision of information and messages in local people's own language is important and the facilitator who explains the project should be speaking the local language.

5.3 FREE, PRIOR AND INFORMED CONSULTATION PROCESS

The World Bank's policy on ethnic groups requires a FPIC process leading to broad community support from ethnic groups benefiting from, or affected by, World Bank-financed sub-projects. The borrower needs to use consultative methods that are appropriate to the social and cultural values of the affected ethnic groups and their local conditions and, in designing these methods, gives special attention to the concerns of ethnic women, youth, and children and their access to development opportunities and benefits.

The usual platform for consultations are part of the SIA, and the scope of the consultations required will vary depending on the specific project and the nature of effects to be addressed. The methodology used will depend on the type of communities affected by the specific project (e.g., their vulnerability, language and ongoing interactions with the dominant society or neighboring communities).

The consultation process needs to ensure:

- Ethnic groups are not coerced, pressured or intimidated in their choices of development;
- Ethnic groups' consent is to be sought sufficiently in advance of any authorization or commencement of activities and respect is shown to time requirements of ethnic minority group consultation/consensus processes; and
- Ethnic groups have full information about the scope and impacts of the proposed development activities on their lands, resources and well-being. Information should be provided on the nature, size, pace, reversibility and scope of any proposed project or activity; the purpose of the project and its duration; locality and areas affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks; personnel likely to be involved in the execution of the project; and procedures the project may entail. This process may include the option of withholding consent.

Consultation and participation are crucial components of a consent process, and the consultation process must be documented. Consultations should be conducted in the relevant ethnic language(s) when needed and sufficient lead time (minimum two weeks) should be given to ensure that all affected ethnic groups are able to participate in consultations fully informed of the sub-project and preparation of an EGEF.

Arrangements for consultations should be carefully considered and tailored to the sub-project context, the anticipated impacts and the context of the local communities. Consultation approaches may include:

- Community meetings, both with the community as a whole and with sub-groups;
- Focus group discussions and participatory planning exercises;
- Distribution of project information in both full format (project documents, assessment reports, etc.), simplified formats such as posters and brochures, and audio-visual material using local languages;

- Identification of contact persons within the communities (some training may be appropriate to enhance their ability to engage meaningfully in the consultation process);
- Involvement of the affected ethnic groups, Ethnic Minority Organizations (EMOs) if any, and other local civil society organizations (CSOs) identified by the ethnic groups; and
- Opportunities for consultation at each stage of project preparation and implementation.

5.4 PREPARATION OF AN ETHNIC GROUP DEVELOPMENT PLAN

According to the World Bank OP/BP 4.10, when screening indicates that ethnic groups are likely to be present, the findings from the SIA and FPIC process will be used by the designated implementing agency to prepare an Ethnic Group Development Plan (EGDP) for the specific sub-project affecting ethnic groups. The EGDP will establish the measures through which the borrower will ensure that (a) ethnic groups affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on ethnic groups are identified, those adverse effects are prevented (avoided), minimized, mitigated, or compensated. The EGDP should be prepared in a flexible and pragmatic manner, and its level of detail will vary depending on the specific project and the nature of effects to be addressed. The borrower integrates the EGDP into the project design.

When ethnic groups are the sole or the overwhelming majority of direct project beneficiaries, the elements of an EGDP should be included in the overall project design, and a separate EGDP is not required. In such cases, the Project Appraisal Document (PAD) includes a brief summary of how the project complies with the policy, in particular the EGDP requirements.

Where required, an EGDP should include the following elements, as needed (proportional to the scope, benefits, impacts and risks of the sub-project):

- a) Project description and summary description of issues relating to ethnic groups;
- b) A summary of the legal and institutional framework applicable to ethnic groups;
- c) A summary of the social assessment including baseline information on the demographic, social, cultural, and political characteristics of the affected ethnic groups, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend;
- d) A summary of the results of the FPIC with the affected ethnic groups that led to broad community support for the sub-project;
- e) A framework to ensure free, prior, and informed consultation with the affected ethnic groups during the implementation of sub-project activities;
- f) Measures to ensure that the affected ethnic groups receive social and economic benefits that are culturally appropriate;
- g) A description of the institutional arrangements for the implementation of the EGDP;
- h) Measures to avoid, minimize, mitigate, or compensate for adverse effects;
- i) The cost estimates and financing plan for the EGDP;
- j) Grievance redress mechanisms accessible to the affected ethnic groups; and
- k) Monitoring, evaluating and reporting on the implementation of the EGDP, along with specific monitoring indicators (disaggregated by ethnicity).

6.0 INSTITUTIONAL ARRANGEMENTS

In Lao PDR, MPWT is responsible for management of public works, urban development, and land and water transport, including management of domestic water supply and sanitation in urban areas. It is a relatively large ministry comprised of key departments and institutes, namely, the Department of Road (DoR), the Department of Waterways (DoW), the Department of Urban Development, among others. DoW is responsible for riverbank protection and flood, port and navigation channels, waterways transport, inspection division and technical divisions. The Lao PDR SEA DRM Project Oudomxay provincial town Muang Xay urban flood risk management sub-project will be implemented by a PMU and the Technical Division which will be responsible for planning and supervision of safeguards measures performance and compliance and related activities. The DoW PMU will be responsible for establishment of mutually agreed environmental and social safeguards procedures, supervision and training of safeguards for MPWT.

The sub-project will be implemented following GoL processes. MPWT will be the DIA through the DoW. Overall management and coordination will be the domain of the Department of Planning and Cooperation (DoPC). DoW will be responsible for planning and implementation of urban flood risk management related activities falling under SEA DRM Project Components 1, 2 and 3 through a dedicated project, namely, the Lao PDR SEA DRM Project established with a mandate to coordinate an urban flood risk management plan at central and local levels. DoW will work in close coordination with and provide technical support to the Department of Public Works and Transportation (DPWT) Waterway Sector in Oudomxay Province with conducting the works and supervision. The DPWT Waterway Sector in Oudomxay Province will establish a PIU responsible for implementation and monitoring of environmental and social safeguards. The DoW will also be responsible for implementation of an urban flood risk management safety program to be implemented under the Lao PDR SEA DRM Project.

Depending upon training and professional experience in environmental and social safeguards implementation and monitoring, it is likely that DoW and cooperating department staff will require additional training and support. They should be supported by a technical assistance consultant team that will assist in the implementation of the ESMF requirements while building staff capacity to address safeguards issues. Table 3 presents key DIA and cooperating subnational government responsibilities at different stages of the project life cycle, particularly if it relates to ethnic groups.

The DoW PMU (under MPWT) will clarify tasks and responsibilities regarding implementation of the urban disaster risk management sub-project in Oudomxay's provincial capital, Muang Xay. The DoW will review screening reports prepared by the local DPWT PIU and prepare draft terms of reference for an environmental and social management plan (ESMP) and requirements to prepare an abbreviated Resettlement Action Plan (ARAP) and Resettlement Action Plan (RAP), if applicable, and EGDP, as necessary. The ESMP and planning documents (i.e., ARAP/RAP and EGDP) will be shared with stakeholders during consultations. Issues and observations noted from the consultations will be incorporated. Documentation will also be released for public disclosure and submitted to the World Bank for review.

Table 3 Key responsibilities for ESMF implementation.

Sub-project Cycle	MPWT/DoW	DPWT Oudomxay, Waterway Sector (as sub-project owner)
Screening	<p>Advise applicants and other stakeholders about environmental and social safeguard procedures.</p> <p>Review the concept note/idea and screen for potential safeguard issues, and advise applicants regarding the nature and content of the safeguard documents and measures to be prepared.</p>	<p>Assess any potential safeguard issues early in the preparation process, including screening for the presence of ethnic groups.</p> <p>Describe potential safeguard issues in the safeguard screening form to be attached to the sub-project proposal.</p>
Preparation	<p>Advise applicants on safeguard issues, as needed.</p>	<p>Undertake safeguard preparation actions as required, such as consultations with local communities and/or collection of data.</p> <p>Design safeguard measures and prepare documents, such as an Environment Code of Practice (ECoP), ESMP, RAP, EGDP, etc. as agreed with DoW.</p> <p>If applicable, disclose draft safeguard documents with the sub-project proposal to affected communities prior to final review of proposal by the MPWT/DoW.</p>
Review and approval	<p>Review sub-project proposals for safeguard impacts and social risks.</p> <p>Assess the adequacy and feasibility of the safeguard assessment and consultation process. If needed, request further steps.</p> <p>Assess the adequacy and feasibility of safeguard measures and documents. If needed, request appropriate changes to these and reassess prior to final approval.</p> <p>If the ethnic groups (equivalent to WB OP/BP 4.10) are affected, ascertain that they have provided their free, prior and informed consent to sub-project activities affecting them.</p> <p>If applicable, publicly disclose safeguard related information on the website after sub-project approval.</p>	<p>Submit sub-project proposal with safeguard measures and documents as agreed. If requested by the DoW, take additional steps to meet ESMF and safeguard policy provisions. Re-submit proposal with revised safeguard measures and documents, as needed. All national and local legislation and regulations will be complied with.</p> <p>Prepare an action plan as needed if the sub-project is likely to have impacts on CSOs (non-profit associations and CBOs).</p>
Implementation	<p>Supervise and review safeguard documents and issues during sub-project implementation. If needed, request changes to safeguard measures.</p> <p>Review and approve Plan of Actions that are required to be prepared during implementation of sub-projects.</p>	<p>Disclose final safeguard documents, if any, to affected communities.</p> <p>Monitor and document the implementation of safeguard measures.</p> <p>When the ethnic groups (equivalent to WB OP/BP 4.10) are affected, include them in participatory monitoring and evaluation exercises.</p>
Evaluation	<p>Ensure inclusion and review of environmental and social safeguard issues and outcomes in mid-term and final sub-project evaluation and reporting, including concerning any lessons learned on the sustainability of each sub-project.</p>	<p>Evaluate the implementation and outcomes of safeguard measures.</p> <p>When the ethnic groups (equivalent to WB OP/BP 4.10) are affected, include them in participatory evaluation exercises.</p>

7.0 MONITORING AND EVALUATION ARRANGEMENTS

Monitoring is a key component of the EGEF during the Lao PDR SEA DRM Project implementation. As the DIA, the MPWT DoW would appoint adequate full-time staff as part of the internal monitoring process. These staff will monitor the process of land acquisition or land donation in collaboration with local village or district authorities. From the outset of the project, capacity building will likely need to be given on the monitoring process for designated GoL staff and through the various levels of devolved responsibility.

Contents of the internal monitoring include:

- Payment and use of the funds for land acquisition compensation and restoration;
- Participation, consultation, and support to ethnic and other vulnerable groups;
- Land readjustment and reallocation;
- Quality and quantity of newly reclaimed land;
- Schedule of the above activities;
- Implementation policies and rules in the resettlement plan;
- Participation and consultation of the affected people during the ARAP/RAP implementation; and
- Staffing, training, work schedule and resettlement operation at various levels.

Semi-annual and periodic monitoring will be undertaken as per specific activities in order to:

- Improve environmental and social management practices;
- Ensure the efficiency and quality of the environmental and social assessment processes;
- Establish evidence- and performance-based environmental and social assessment for the Lao PDR SEA DRM Project; and
- Provide an opportunity to report the results of safeguards instrument impacts and proposed mitigation measures' implementation.

With regard to the Lao PDR SEA DRM Project proposed sub-project initiatives' implementation, the MPWT DoW DIA PMU will conduct monitoring activities during the feasibility studies and ESMP to determine the extent to which mitigation measures are successfully implemented. Monitoring will focus on three key areas: (i) compliance monitoring; (ii) impact monitoring; and (iii) cumulative impact monitoring.

In conjunction with internal monitoring by MPWT DoW staff, it will be important to include procedures for external monitoring and evaluation (M&E). The external M&E function aims to provide regular monitoring and evaluation of land acquisition and land donation for the Lao PDR SEA DRM Project, in order to assess whether the objectives are achieved or not. Through formal surveys, interviews with PAP and PAH, focus group discussions and other information collection methods, the external M&E function would assess the whole process of land acquisition or land donation for PAP and PAH. The external monitoring will also provide an early warning function for the project management department

and a complaint and grievance channel for PAP and PAH. During the preliminary community consultations, a suggestion was made that members of the World Bank should also participate in the monitoring process. It was also recommended that a community committee should be established as part of the external monitoring processes. This community committee would be comprised of a cross-section of local people, including one representative from each ethnic group, women, elderly, youth, and community leaders.

External monitoring indicators will include:

- Progress: including the preparation of the ARAP/RAP, and implementation of compensation;
- Quality: including to what extent PAP and PAH are satisfied with compensation and restoration;
- Compensation Fund: including the payment and use of the funds for land acquisition compensation; and
- Affected People: including PAP and PAH socioeconomic situation before and after the project and economic restoration of the affected people.

A qualified external monitoring entity will come from an independent organization, such as a CSO (non-profit association, CBO), academic research institute or consultancy in Lao PDR. The major responsibilities of the external monitoring organization will include:

- Develop the ARAP/RAP in conjunction with the internal monitoring team;
- Observe all the aspects of the ARAP/RAP and its implementation; provide M&E reporting to the World Bank through the Project Resettlement Office (PRO); and
- Provide technical consulting services to the PRO in terms of information investigation and processing.

8.0 GRIEVANCE REDRESS MECHANISM

As the DIA, MPWT DoW will establish a grievance redress committee at varying governance levels, one at village level (such as the VRS) and another at district or provincial level. These committees will receive, evaluate and facilitate the resolution of PAP and PAH concerns, complaints and grievances. Grievance redress committees would be comprised of representatives of PAP and PAH, community leaders, and independent civil society organizations (non-profit associations and CBOs) in addition to representatives from village and district levels, and PMU and PIU authorities. The grievance redress committees will function, for the benefit of PAP and PAH, during the entire life of the sub-project initiatives, including the defects liability period.

Consultation with PAP and PAH will take place early in the process of the Lao PDR SEA DRM Project planning. Prior to sub-project commencement, village leaders will conduct a survey of directly affected peoples' land and assets. Village leaders will conduct FPIC with affected groups, including businesses and PAP and PAH to discuss options in the case of land acquisition and land donation. The whole process is to be well documented.

All complaints and grievances will be received in writing, or if given verbally then written at the same time and place, from PAP and PAH and duly recorded by each level of the grievance committee. A

template or form could be developed that is easy to understand and to fill in for anyone who wishes to issue a complaint. PAP and PAH will be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures. Grievances related to any aspect of the proposed sub-project initiatives will be dealt with through negotiations with the ultimate aim of reaching a consensus. Grievance redress procedures aim to provide a time-bound and transparent mechanism to voice and resolve social and environmental concerns linked to the sub-project initiatives. These grievance redress procedures are not meant to circumvent the government's inbuilt redress process, nor provisions of the national laws, but rather to address PAP and PAH concerns and complaints promptly, making it readily accessible to all segments of PAP and PAH and different populations and scaled to the risks and impacts of the sub-project initiatives.

The abbreviated RAP and RAP will establish the means for PAP and PAH and displaced businesses to bring complaints to the attention of relevant project authorities. Grievance procedures should include reasonable performance standards, including time required to respond to complaints and should be provided without charge to those displaced persons. The ARAP/RAP should also state other avenues available to aggrieved persons if the Lao PDR SEA DRM Project-related procedures fail to resolve complaints. Article 25 of Decree 192/PM (2016) requires the Lao PDR SEA DRM Project to establish an effective mechanism for grievance resolution. The decree requires that the sub-project proponent, Provincial DPWT Oudomxay Waterway Sector, is responsible for setting up the grievance redress mechanism and to taking actions to resolve issues.

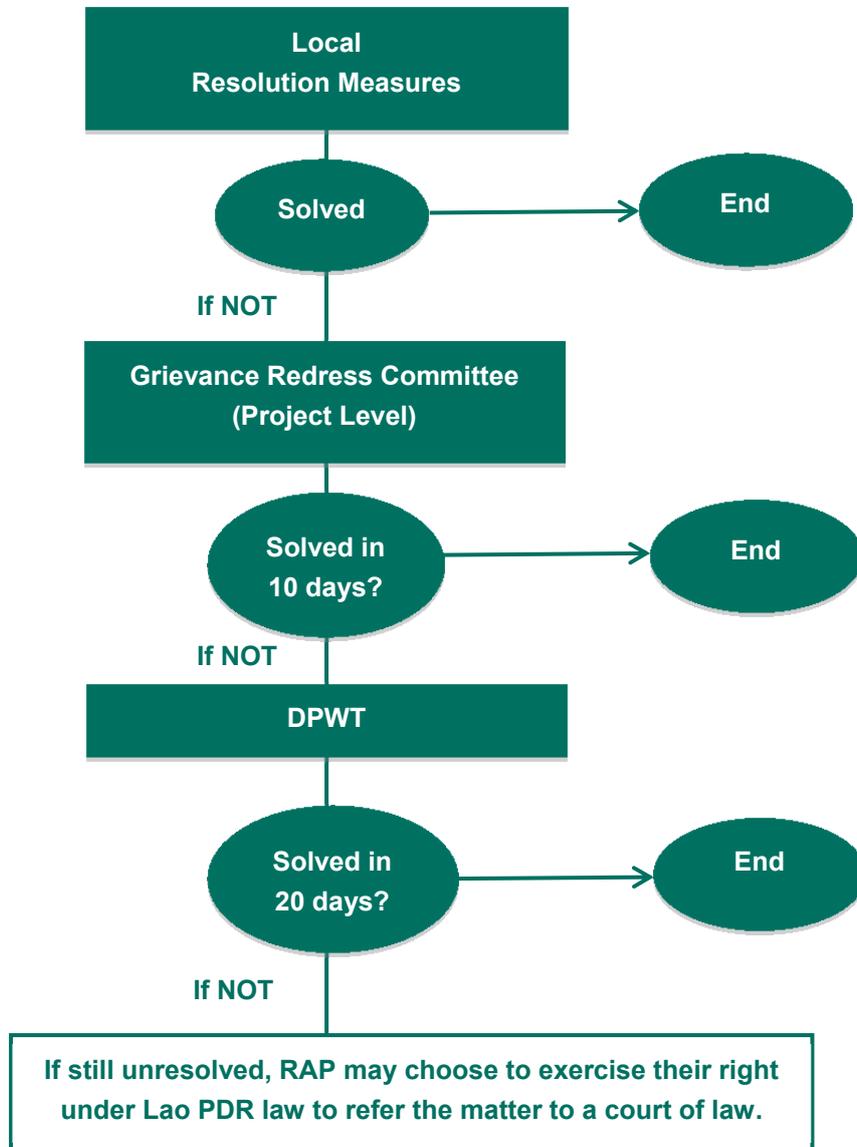
The ESMF contains details on the grievance redress mechanism for the Lao PDR SEA DRM Project. Grievances related to environmental and social issues from directly or indirectly affected ethnic groups as a result of implementation of sub-project initiatives will be resolved by the Grievance Redress Committee (GRC) through the Lao PDR SEA DRM Project grievance redress mechanism presented in Figure 1.

However, the complainant also retains the right to bypass this procedure and can address a grievance directly to the Provincial DPTW PIU office or the national assembly, as provided by law in Lao PDR. At each level grievance details, discussions and outcomes will be documented and recorded in a grievance logbook. The status of grievances submitted and grievance redress will be reported to Provincial DPWT Oudomxay Waterway sector management through the monthly report. In order to effectively and quickly resolve grievances PAP and PAH may have, the following process will be applied:

- Stage 1: if PAP and PAH are not satisfied with the resettlement plan or its implementation, PAP and PAH can issue a verbal or written complaint to be village resettlement subcommittee (VRS) or the district resettlement office (DRO). If it is a verbal complaint, the village should deal with this complaint and document it in a written record. The VRS or DRO should resolve the complaint or grievance within two weeks;
- Stage 2: if PAP and PAH are not satisfied with the result in Step 1, PAP and PAH can file an appeal with the Lao PDR SEA DRM PRO after PAP and PAH receives the decision made in Step 1. The PRO should make a decision within two weeks;
- Stage 3: if PAP and PAH are not satisfied with the result of Step 2, PAP and PAH can file an appeal with the provincial resettlement committee for administrative arbitration after receiving the decision made by the PRO. The administrative arbitration organization should make the arbitrated decision within 10 days; and

- Stage 4: if PAP and PAH are still unsatisfied with the arbitrated decision made by the administrative arbitration organization, after receiving the arbitrated decision, PAP and PAH can file a lawsuit in a civil court according to the relevant laws and regulations in Lao PDR.

Figure 1 GRM process.



PAP and PAH can make a complaint or appeal on any and all aspects of sub-project initiatives' design and implementation, including issues related to resettlement. A complaint and grievance feedback form will be developed under the Lao PDR SEA DRM Project and made available at Oudomxay's provincial capital, Muang Xay, and vicinity, including where PAP and PAH live, for use by PAP and PAH to raise complaints or grievances. PAP and PAH will be clearly informed of the complaint and appeal channels described above through village meetings and other forms of communication. Information and communications technology and media tools should be used to disseminate information. Opinions and suggestions on resettlement provided by concerned people and organizations should be documented and resettlement organizations, at various levels, should study and address any issue in a timely manner.

The organizations addressing the PAP and PAH complaint and appeal process shall not charge any fee. Any expenses incurred due to complaint and appeal should be paid as unexpected expenses by the relevant DIA.

9.0 DISCLOSURE ARRANGEMENTS FOR ETHNIC GROUPS TO BE PREPARED UNDER THE EGEF

The OP/BP 4.10 requires that the borrower disseminates the SIA report and draft EGDP to the affected ethnic groups using culturally appropriate methods and locations. In the case of an EGDP, the document is disseminated using EMOs at the appropriate national, regional, or local levels to reach ethnic groups who are likely to be affected by the project. Where EMOs do not exist, the document may be disseminated using other CSOs as appropriate.

Before project appraisal, the borrower must send the SIA and draft EGDP to the World Bank for review. If the World Bank determines that the documents are acceptable for project appraisal, the Bank makes them available to the public in accordance with The World Bank Policy on Access to Information, and the borrower makes them available to the affected ethnic groups in the same manner as the earlier draft documents.