

AusAID-ADB support to Lao Integrated Water Resources Management

Design Summary Implementation Document (DSID)

11 November 2010

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Attachment 1 – Australian Mekong Water Resources Program Delivery Strategy

Attachment 2 – ADB Technical Assistance Report

Attachment 3 – Independent Appraisal Report

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Introduction

1. This Design Summary Implementation Document (DSID), prepared by AusAID Mekong Water Resources and Infrastructure Unit, based at Vientiane Post, proposes AusAID support to Integrated Water Resources Management (IWRM) in Laos, in partnership with the Asian Development Bank (ADB), as part of the **Australian Mekong Water Resources Program**.
2. AusAID is being asked by ADB to provide a grant of US\$3 million to the **Laos National Integrated Water Resources Management Support Project (NIWRMSP)** working with the Government of Lao PDR (GOL), via the Water Resources Environment Administration (WREA) and the National University of Laos (NUOL). In addition, ADB will contribute US\$300,000 from their own Technical Assistance Special Fund (TASF IV), with an additional US\$600,000 being provided from the Spanish Cooperation Fund. All would be administered by ADB.
3. This Activity will provide Capacity Development Technical Assistance (CDTA) support for the implementation of the Lao NIWRMSP, that has been designed with prior Australian financial and advisory support to GOL via ADB TA 7013. There has been a careful process of Activity development that has learned from past experiences by the ADB and others within the challenging political context of Lao PDR's land and water resources, energy and infrastructure sectors.
4. The CDTA will commence as soon as possible in 2011 to ensure there is only a brief gap in support to the GOL between end of TA7013 and commencement of NIWRMSP. The Project will run for four years 2011-2014. Based on needs and results, a second phase may be sought.
5. The outputs by 2015 are:
Output 1 – National capacity built in IWRM;
Output 2 – River basin management developed;
Output 3 – National groundwater management action plan prepared;
Output 4- IWRM education strengthened at NUOL.
6. The outcome¹ by 2015 is for WREA to be providing effective leadership in water resources decision-making, and for NUOL to be providing effective leadership in the provision of tertiary education for water resources management professionals.
7. This outcome will be reached with the assistance of not only ADB, AusAID and Spain, but also: World Bank, Finland, Germany, France and UNDP who are also providing IWRM-related supports to WREA and NUOL through other modalities. These other supports, in combination, mean that all components of the NIWRMSP are getting some support.
8. The impact sought by the NIWRMSP, to which this CDTA will contribute, is to ensure sustainable water resources use and development, protection of water sources, minimizing social and ecosystem impacts and development of a sustainable financial basis for water resource management. To be reached, this impact is dependent on changing the behavior of many other social actors in Laos.

¹ The outcome and impact statements in this DSID are in accordance with the suggested enhancements by PJ Meynell, Independent Appraiser of this Activity Design.

9. The Lao NIWRMSP is complementary to and reinforcing of existing bilateral and regional activities supported by Australia, namely: i) **Implementation of the Lao PDR Water Resources Policy, Strategy and Action Plan for 2011-2015**, ii) **Technical Assistance to Lao PDR for Capacity Building in the Hydropower and Mining Sectors Project**, and program support to the **Mekong River Commission**.

AusAID background

10. The proposed Lao NIWRMSP supports the logic of the Australian Mekong Water Resources Strategy (AMWRS). The goal of the AMWRS is to promote regional cooperation to achieve sustainable development through better use and management of the Mekong Region's water resources. The goal is supported by three inter-related strategic objectives: strengthening institutions; building reliable knowledge that is readily available; and, making more informed decisions on the region's water resources. The Lao NIWRMSP is relevant to all three objectives.
11. The Lao NIWRMSP builds on the Aid program's existing support of improved water resource management articulated in the Australian Mekong Water Resources Program Delivery Strategy 2009-2012, approved in March 2009 (provided as Attachment 1).
12. To achieve the Australian Mekong Water Resources Program's goal and objectives, activities supported by Australia address one or more of the following priority issues: i) capacity building—technical and social capacity building to enable IWRM; ii) environmental change—adapting to climate and other environmental change; iii) food security—ensuring there is enough food for vulnerable and marginalised people; iv) hydropower assessment—comprehensively assessing options, including alternatives; v) transboundary engagement—engaging more constructively on water-related issues between all six countries of the Mekong Region; and vi) corporate social responsibility—encouraging private sector leadership and accountability. The Lao NIWRMSP is particularly relevant to the priority issues of capacity building, food security and hydropower assessment.
13. The Australian Mekong Water Resources Program portfolio for 2009-12 comprises eight key activities with three partner groups. At the regional level a key partner is the Mekong River Commission (MRC). At the national level, key partners are national governments, usually with delivery in partnership with multilateral development banks, such as ADB and The World Bank. Transnational partnerships are also underway with non-state actors with an emphasis on improving water-related governance and accountability. This Activity would deepen Australia's engagement with the GOL.
14. This DSID builds upon initial documentation examined in an AusAID Concept Peer Review (CPR), held Tuesday 15 June 2010. The feedback received before, during and after the CPR meeting was built into revised design documentation submitted for AusAID consideration in October 2010. This design documentation comprises what ADB refer to as the Technical Assistance Report (TAR)² (provided as Attachment 2). AusAID's point of engagement in the ADB throughout the design phase of this Activity has been the Agriculture, Environment and Natural Resources Division in the South East Asia Department.

² The TAR describes the essential administrative and management requirements to implement the program and project on time, within budget, and in accordance with GOL and ADB policies and procedures. The ADB are waiting on the AusAID decision and, if favourable, will finalise their documentation and circulate in December 2010, seeking an ADB Board decision early 2011.

15. An Independent Appraisal has been prepared by Peter-John Meynell (provided as Attachment 3, with Quality at Entry Report provided as Attachment 4). The independent appraiser is generally supportive of the Activity, however, makes substantial suggestions for improving the Design and Monitoring Framework provided by ADB.

Recent history of Lao IWRM institutional evolution

16. In 1997, the Nam Ngum Watershed Management Project (ADB TA 2734-LAO) identified the need for a river basin approach to management of the catchment of the Nam Ngum River. A part of the recommended basin approach was to redistribute the benefits of concentrated economic developments, such as hydropower, to stimulate rural development throughout the basin area. Implementation of recommendations made by this technical assistance (TA) was difficult because of the structure of the government agencies and the lack of history of cooperative working relations between agencies. In response to this situation, the Government decided to establish the Water Resources Coordination Committee (WRCC).
17. ADB provided a further technical assistance project (TA 3006 LAO), in 1998-1999 to assist in establishing and strengthening WRCC and its secretariat. WRCC had the responsibility under its mandate "to provide advice to the Government on matters relating to water and water resources". It also has the mandate to coordinate the planning, management, follow-up, inspection and protection of water and water resources aimed at sustainable development and utilization of water and water resources in line with the government policy of socio-economic development."
18. In 1999-2000, ADB assisted WRCC to draft a national water policy and a decree to implement the Water Law (TA 3205-LAO). During 2001-2002, under TA3544-LAO, ADB and WRCC prepared the Nam Ngum River Basin Development Sector Project (NNRBDSP), which commenced implementation of an integrated river basin approach in the Nam Ngum River basin. NNRBDSP, funded by ADB and the Agence Française de Développement, was jointly implemented by the Ministry of Energy and Mines (MEM), the Ministry of Agriculture and Forestry (MAF) and the WRCC. The responsibility of WRCC was later transferred to the Water Resource and Environment Administration (WREA) when it was formed.
19. In parallel with the development of integrated river basin capacity, other donors, particularly Denmark and Germany, were assisting by developing the capacity for watershed management within the Ministry of Agriculture and Forestry (MAF). While the focus of the river basin work was on development, management and use of water resources, the focus of the watershed work was on promoting more sustainable land use. Both river basin management and watershed management emphasized planning and management along hydrological boundaries.
20. In the mean time other donors had been strengthening the management of the MRC and more lately the skills and capacity of the national Mekong Committees and their secretariats. AusAID made significant contributions to this work. MRC oriented its work program away from a focus on individual projects to be developed jointly by the cooperating countries towards an Integrated Water Resource Management (IWRM) approach.
21. Implementation of the NNRBDSP commenced in 2004 and included a component based initially in the WRCC Secretariat and later, following its formation, in the Department of Water Resources, in the Water Resources and Environment Administration.

22. During late 2006 and 2007, the Lao Government commenced a restructure of water resource management agencies. WREA was established in April 2007 within the Office of the Prime Minister. It absorbed the responsibilities of the Environment Department from the Science Technology and Environment Agency (STEA), the WRCC Secretariat and the LNMC Secretariat. A Minister to the Prime Minister's Office is Head of both WREA and the Lao National Mekong Committee (LNMC).
23. In addition, the Department of Meteorology and Hydrology was transferred from the MAF to WREA. The WRCC Secretariat was upgraded to become the Department of Water Resources (DWR) and a restructure of responsibilities (previously held by STEA) created the Water and Environment Research Institute.
24. In March 2009, the Government upgraded and re-mandated the LNMC to take on the role as national water apex body. In addition to its previous responsibilities for coordination with the programs of the MRC, new responsibilities were assigned to: i) Review, recommend and oversee the implementation of the national water resources policy and strategy; ii) Create River Basin Committees; and iii) Advise on river basin management plans.
25. The LNMC Secretariat, which was relocated from the Prime Minister's Office to WREA in May 2007, was incorporated into DWR in March 2009. The responsibilities of the DWR include support and input from Laos to international water and environment management programs of the MRC and Secretariat support to the LNMC in its role as the national water apex body.
26. The changes have created a need to revise a number of laws and regulatory instruments, including the Water Law, which is also now considered to need some basic revision and further detail to specify water resource management processes.
27. Overall, it can be said that there has been a substantial institutional reform process where many significant steps have been taken. The NIWRMSP will contribute to sustaining this reform process.

Rationale for continued Aid program support of Laos IWRM

28. AusAID has been working with ADB for more than two years on IWRM-foundation work, in preparation for this new, proposed assistance. Existing Laos IWRM support to WREA (via ADB TA 7013), has made good progress on national policy and strategy work that will be completed in December 2010. This TA was extended to assist WREA prepare for what is now a multi-donor IWRM support program. All this work is on-track.
29. In May 2007 the Government of Laos (GOL) requested ADB assistance to strengthen the capacity of WREA. ADB mobilised a fact-finding mission in October 2007 to explore the feasibility of a technical assistance project on "Capacity Strengthening and Policy Support for Water Resources and River Basin Management". Thereafter ADB negotiated a partnership with AusAID and it was agreed to provide TA to update the water resources policy and strategy, and design the NIWRMSP.
30. A further ADB fact-finding mission in May 2009 discussed the need and scope of a "TA cluster" (referred to by ADB as 'C-CDTA') to contribute to the implementation of the NIWRMSP. Preliminary understandings were reached on the terms of reference of consultants, cost estimates, and implementation arrangements of the TA cluster. These were again discussed during a consultation mission in November 2009 when representatives of WREA, Government of Australia and ADB signed a memorandum of understanding on these agreements.

31. In the interim, in July 2009 a supplementary component was added to TA 7013-LAO to strengthen WREA internal processes and staff capacities to ensure effective program governance and financial management. The assistance for implementation of the NIWRMSP is targeted particularly to the Nam Ngum River Basin and initiation of the Nam Ngum River Basin Committee and its activities.
32. Post confirms that this Activity is fully supported by WREA Minister Madame Khempheng Polsena, and WREA Permanent Secretary Madame Monemany Nhoibouakong, and the other key WREA staff responsible for implementing government policy. Madame Khempheng is well known to AusAID, since at least the mid 1990s, due to her prior leadership of the STEA, and during her time serving with the ADB in Manila. Madame Monemany is an extremely capable Permanent Secretary who has been actively involved with her Minister in establishing WREA, reshaping water resources policy and strategy, and as a part of that, organising implementation arrangements for the NIWRMSP. Both of these senior government officials have served with distinction in key roles in the MRC: Khempheng as Council Chair, and Monemany as Joint Committee Chair.
33. Success would see Lao water resources policy, planning and decision-making integrating hydropower and agricultural development and making careful, evidence-based choices about energy production, water and land use. WREA will function as a viable, efficient and effective organisation demonstrating national leadership in water resources management, leading the implementation of the Lao government's new water resources policy and strategy.
34. AusAID's value-added to this activity is the multiple points of engagement (described below) that can be leveraged in support of the achievement of Lao NIWRMSP objectives.
35. **Lao Ministry of Energy and Mines Hydropower Mining Technical Assistance (HMTA).** Support to MEM was approved in April 2010 to improve hydropower sector governance and contribute to a more strategic, transparent and sustainable hydropower industry. This MEM Activity is now underway with the GOL, with AusAID working in partnership with the World Bank. It is recognized that support to MEM is a medium term venture and a 10 year timeframe is realistic. Serious efforts are being made to ensure that the HMTA and this Activity are mutually supportive and complementary. For example, on 10-11 November 2010 there have been meetings in Vientiane between representatives of World Bank, ADB, AusAID and MRC to ensure constructive alignment between the various initiatives.
36. **Mekong Region Futures (2010-2012):** As part of the alliance between AusAID and CSIRO, the Mekong Region Futures project is exploring the nexus between food, water and energy to contribute to better planning decisions in and between these sectors. The Lao implementing team includes WREA, International Water Management Institute (IWMI) and Duke University. At the request of WREA, the initial Lao work is focusing on an examination of the pros and cons of proposed water transfer from Laos to Thailand. Subsequent work will be exploring the implications for Lao and the wider region of the proposed China-ASEAN railway, lignite and bauxite mining.
37. **Mekong River Commission (2009-2013):** AusAID support to the MRC is now concentrated in three core Activities: Mekong IWRM Project, Mekong Climate Change Adaptation Initiative, and the Integrated Capacity Building Program. Each could be complemented by new Australian support to the NIWRMSP. It is now widely recognized that it is essential for line agencies, such as WREA and MEM, to be more directly connected with the regional water resources development issues and the opportunities that investments in the MRC can provide. Australian participation in the steering committees of each of these Activities can promote this constructive shift in emphasis and beneficiaries.

38. **The MRC Mekong IWRM Project** builds on previous MRC work to develop water resources management tools, procedures and guidelines. These measures are essential for making fully informed decisions on the reasonable and equitable use of water across the Mekong Basin (a requirement of State Parties of the Mekong Agreement). Part of the MIWRMP is the operation by the MRCS of the Procedures for Notification, Prior Consultation and Agreement (PNPCA). The GOL via the Lao National Mekong Committee will ensure that Lao perspectives in PNPCA and MRC processes are more reflective of the views of the GOL as a whole, not just WREA.
39. **The MRC Climate Change Adaptation Initiative** is building knowledge and improving the capacity of Mekong governments to adapt to and manage climate change. WREA is actively involved, but is also independently establishing its own climate change adaptation policies, and is pursuing any support the international community may be willing to provide. The WREA Minister has a fully funded climate change advisor provided by UNDP.
40. **The MRC Integrated Capacity Building Program** is developing a critical mass of Mekong nationals qualified to improve the capacity of the MRC and other players so they can operate more effectively in national and transnational water resources management arenas. In addition, many Lao scholarship holders have graduated from Australian universities at post-graduate level or currently study in Australia on full scholarships in fields such as water resources management, agriculture and health. Also, in recent years many Lao colleagues have participated in short courses as part of Mekong teams supported under the Australian Leadership Awards Fellowships. Examples are the groups that have been hosted by the International Centre of Excellence in Water Resources Management in Adelaide.
41. Australian investments with the MRC are being made with full understanding by AusAID of that the hydropower expansion across the Mekong Basin will dominate the MRC agenda for at least the next decade. Efforts to strengthen MRC will only realise their potential benefit if counterpart agencies in member countries, such as WREA and MEM in Laos, are also building their capacity to sensibly manage, regulate and sustainability develop sector.
42. In concert with existing Australian-supported initiatives, the Lao NIWRMSP provides a substantial new opportunity to support Laos to improve the management of its precious freshwater resources at a time when development pressures are peaking.

Activity summary

As described in ADB Technical Assistance Report (Attachment 2):

43. **Output 1: National capacity built in integrated water resources management.** The program will help the WREA cabinet and participating departments to implement appropriate program and project management systems to ensure good governance of the program and subsequent WREA operations. The TA will focus immediately on building the capacity of WREA's program management unit (PMU), located in DWR, to effectively coordinate program management and serve as the secretariat of the program national steering committee. It will support continuing professional development for WREA staff in cooperation with relevant WREA departments, MRC training programs, and the NUOL. Training courses will be aimed at management, technicians, and training of trainers. Capacity development will include priority training programs for the staff of national agencies; emerging basin organizations; provincial agencies; and academic, private, and nongovernment organizations. Training will be provided on the role of IWRM and basin management in climate change adaption and mitigation in rural communities. Capacity development will promote actions to help implement the gender action plan of the Prime Minister's Office.
44. The strengthened WREA training program will coordinate capacity development and training in all components of the program to ensure that appropriate training opportunities and subjects are available to relevant candidates and avoid duplication and overlap.
45. The TA will help WREA to establish performance management capability in the monitoring and evaluation unit in the WREA Cabinet Office and develop a gender action plan to ensure that WREA capacity development and field operations are implemented equitably.
46. **Output 2: River basin management developed.** The program will help WREA develop and implement IWRM in river basins, including dealing with large projects in water resources development, working across sectors and with communities and the private and public sectors. The TA will focus on developing and testing appropriate river basin institutional arrangements adapted to local conditions in selected pilot river basins, ultimately leading to river basin plans being integrated into government planning and investment decisions. The TA will promote IWRM as key to mainstreaming climate change adaptation into resource management in the Lao PDR. Three case studies will help develop specific climate change adaptation interventions in the Nam Ngum Basin relevant at both the farm and sub-basin level to assess barriers and identify potential countermeasures. The national water resources inventory will be updated to categorize basins and to identify critical IWRM issues and locations.
47. **Output 3: National groundwater management action plan prepared.** The program will assist the WREA units responsible for groundwater management in preparing an initial approach to and action plan for managing groundwater systematically for sustainable use. The TA will enable WREA to (i) assess key public and private stakeholders and their groundwater information needs and uses and assess institutional, policy, and standards settings; (ii) use existing information, data, and the understanding of key stakeholders to estimate probable groundwater resources, conditions, usage, and demand; (iii) evaluate monitoring networks and databases, practices, and procedures and recommend improvements; and (iv) assess the training needs of groundwater management specialists, including identifying the units and/or staff members to target, so that the training is relevant and focused.

48. **Output 4: Integrated water resources management education strengthened at the National University of Laos.** The program will assist the Water Resource Engineering Department of the NUOL in preparing the strategic plan and detailed proposals for bachelor-level qualification in IWRM. The TA will initiate the retraining of teaching staff and support the in-house development of the strategic plan and proposals for future support. The Department will review IWRM good practices and implementation experience, as well as governance and institutions; stewardship; management devolution to the lowest appropriate level; organizational functions at the national, river basin, and local level; and stakeholder participation in decision-making regarding the trade-offs among economic, social, and environmental objectives, etc. Specialist assistance will be provided to advise the curriculum development team on mainstreaming climate change into the IWRM degree program at the NUOL. The strategic plan and detailed proposal will present the rationale for the proposed curriculum and retraining of teaching staff, including a design and monitoring framework and detailed monitoring and evaluation plan as the bases for seeking support for tertiary IWRM training.

Funding

49. An AusAID grant would be the major contribution to the CDTA, built further by US\$300,000 from the ADB's Technical Assistance Special Fund (TASV-IV), and US\$600,000 from the Spanish Cooperation Fund, and the equivalent of US\$310,000 from the GOL – tallying US\$4.21 million equivalent, disbursed between 2011 and 2014. The CDTA cost estimate is summarised in the TAR (page 7). The AusAID contribution is allocated to:

Consulting services - US\$1.9 million
 Surveys and studies - US\$720,000
 Reports and communications – US\$20,000
 Equipment – US\$200,000
 Workshops and training support - US\$80,000
 Contingency costs - US\$80,000

50. The AusAID grant would be paid into an ADB trust fund.
51. It is proposed the AusAID grant would be disbursed over three financial years:
- | | |
|---------|----------------|
| 2010/11 | A\$1.0 million |
| 2011/12 | A\$1.0 million |
| 2012/13 | A\$1.0 million |
52. The forward funding requirements for AusAID of this Activity were foreshadowed in the Delivery Strategy, and can be met from within the MK1 program fund base allocation (assuming same real growth on the 2010-11 base).

Specific comments on AusAID's 5 quality principles

Clearly stated objectives

53. The Design and Monitoring Framework (DMF) needs to be improved as a condition of AusAID support. Suggestions for improvement are made by the independent appraiser to straighten-up the language and logic of the sought after Outcomes and Impact. Having said that, it should be noted that the intent of the objectives of the CDTA and the NIWRMSP are agreed with WREA and, to the extent possible, with other development partners contributing to WREA.

Effective monitoring and evaluation arrangements

54. As noted above, the DMF needs to be improved. Solid suggestions for such improvement have been made by the independent appraiser. AusAID M&E colleagues may have additional suggestions. It is suggested that a condition of AusAID approval would include rapid revision of the DMF before the TAR is submitted to the ADB Board.
55. The allowance for M&E in the current TAR looks light and it may be necessary to re-allocate some of the unallocated TA person-months to boost this critical element of the Activity.
56. To ensure efficient M&E of the entire NIWRMSP – including this Activity, and other parts of the NIWRMSP to be supported by other donors – AusAID should seek assurance from ADB and other donors that they will adhere to WREA's request for coordinated M&E, review missions etc. through WREA's NIWRMSP PMU.

Appropriately addresses sustainability

57. As with MEM, it is recognized that AusAID support to WREA is a medium term venture and a 10 year timeframe is realistic if we are to be serious about sustainability.
58. There are at least two aspects to sustainability: sustainability of the Lao water resources development trajectory, and sustainability of the initiatives to be supported by this Activity.
59. Regarding the Lao development trajectory, a commonly expressed concern is that many of the Lao development decisions will have been taken – some of which will have irreversible impacts – before WREA is fully functional, before NUOL is turning out an IWRM-trained workforce etc. Whilst there is some basis for this concern, we do not agree that it is “too late” for Lao IWRM. Management of the country's natural resources, including water, will be an ongoing and essential role of government for the foreseeable future. IWRM-related initiatives have already started. An IWRM-conscious community is already forming. This Activity will support some of those initiatives and build this community.
60. Regarding the sustainability of the specific initiatives to be supported by this Activity: GOL is evidencing support to WREA, but eventually it must find a way to finance the expanding mandate of WREA, or else the Administration will be unable to adequately discharge its responsibilities. The creation of RBCs is a clear example. Without adequate financing of these initial institutional experiments they will fail. This Activity is important in providing technical assistance support to the first of these experiments, the Nam Ngum River Basin Committee and its Secretariat. However, operating costs will be assisted but not fully met by this Activity. The Minister has more fundraising to do.
61. WREA has been taking substantial forward strides, and this Activity is clearly in line with the new National Water Resources Policy, Strategy and Action Plan for 2011-2015. Reaching all of WREA's and NUOL's aspirations will be difficult, but without this Activity, even more so.

Implementation and risk management

62. The implementation arrangements are proposed to be normal ADB fare for CDTA projects. ADB are discussing bolstering their resident mission in Vientiane, but in reality day-to-day implementation will depend on the Chief Technical Advisor working in close cooperation with the PMU and the various Program Implementation Units (PIUs) in the parts of WREA and NUOL that hold principal implementation responsibilities.

63. It should be noted that the Lao National Mekong Committee has been restructured, the NIWRMSP operational management arrangements are in place, the new water resources policy and strategy is on-track to being approved, the new River Basin Management decree is approved, the new Environment and Social Impact Assessment decree is approved, the new GOL financial management system is being presented to development partners - so clear and substantial progress is evident.
64. The ADB Team Leader is very experienced in Laos water resources policy and practice and will provide the overall management to the Activity.
65. The AusAID Senior Water Resources Advisor will join the development partner review missions.
66. AusAID will also have a seat on the WREA Development Partners Group that will meet at least twice per annum with WREA senior management.
67. Micro- or Activity-implementation risks are manageable as there are suitable governance arrangements in place, including for financial management.
68. Macro-risks include:
 - WREA being ignored or regularly over-ridden by more powerful parts of GOL, developers, military or people/families with extensive influence. Lao MEM is also marginalized from many decision-making forums. Mitigating actions: efforts such as this CDTA and the NIWRMSP to strengthen WREA.
 - Existing Memorandums of Understanding for projects across the country restrict the room to move of GOL to revisit earlier decisions. Mitigating actions: the strengthening of the MEM by the World Bank and AusAID, World Bank Country Economic Memorandum and PRSO-related discussions that stipulate policy milestones. Victory is far from being declared, but the effort is strategic, coordinated and will be sustained.
 - Failure of this new AusAID investment to 'dock' neatly with other NIWRMSP components, or other supports to GOL. Mitigating actions: consistent efforts to clarify GOL/WREA NIWRMSP governance arrangements, and semi-structured interaction with other WREA development partners, and the relevant Ministers;
69. It should be recognised that some of the risks listed above are features of the operating environment and are therefore the issues that the Program is attempting to address. Many constructive reforms are embedded in the new National Water Resources Policy and Strategy, and the NIWRMSP that has been developed to support their implementation.

Analysis and lessons

70. The NIWRMSP itself was the product of a needs analysis undertaken by WREA, with the support of ADB, as part of TA7013. Many lessons have been taken into account, such as the need to clearly allocate responsibilities within WREA, and the need to manage development partners so that not too much time is taken in administratively servicing numerous small project supports.
71. The negotiation of the National Water Resources Policy, Strategy and Action Plan for 2011-2015 is also the result of a substantial soul-searching by WREA and other parts of GOL of the preferred future direction and shorter term steps that need to be taken. The records and reports of TA7013 capture this detail.

72. Missing from the TAR is more in-depth analysis of the experiences of recent development interventions, including by the ADB, with French funding, in the Nam Ngum River Basin Development Project. Such a review, undertaken by ADB in October 2010, should be available in the near future and should explicitly inform ADB management of this proposed Activity. Lessons should also be available from the first two phases of the Lao Strengthening Environmental Management (SEM) initiative, recently reviewed, taken over, and extended with the support of the Government of Finland.
73. The TAR is also silent about the extent of the challenges that WREA still face in gaining traction within the GOL and with powerful actors that drive major development projects and natural resources harvesting or mining across the country.
74. Gender receives only cursory treatment in the TAR and is the subject of recommendations by the independent appraiser.
75. Although this Activity is deemed a CDTA and couches many of its aspirations in capacity building terms, it is also clearly intended to improve water resources governance outcomes. The wealth of experience accumulated in relation to donor-funded governance interventions is that governance interventions rarely succeed or fail solely on their ability to successfully (or otherwise) build technical capacity within the governance institutions they target. The key to a successful governance reform intervention is its ability to clearly identify the winners and losers from reform and do everything within the Activity space to strengthen, empower and give the upper hand to the pro-reform stakeholders. Activities can do this through their contribution to changed policy, dialogue processes, revised institutional structures and relationships between institutions and changes to other relevant processes of governance.
76. Successful Activities use winner/loser analysis, and identification of the strategies needed to empower pro-reform stakeholders, to define what the Activity space should be. If governance interventions concern themselves purely with technical capacity building needs there is a risk they will fail to achieve their higher level aims. The poor governance outcomes that projects seek to address are rarely due to only technical capacity constraints within the relevant governance institutions. Just as likely, it is the result of incentives facing and power relationships between key stakeholders. For example: "Although necessary and often first rate, technocratic solutions alone have been ineffective in delivering real change or lasting results in governance reforms" (World Bank 2008 publication – 'Reforming Governance Systems Under Real-World Conditions'). This World Bank report identified six key challenges for governance reformers; the following four are probably most relevant to this Laos Activity:
 - uncovering the challenges inherent in building support for governance reform through political analysis;
 - securing political will and the best methods for reaching out to political leaders, policy makers and legislators;
 - gaining support of public sector middle managers, often the strongest opponents of change;
 - building broad coalitions of pro-change influentials and dealing with powerful vested interestsThis type of analysis does not come through in the TAR.

77. Being too explicit in a winner/loser analysis could have the potential to be counterproductive in relation to the governance reforms we are seeking to achieve. If we seek to engage in a governance intervention in sensitive areas, such as Lao water resources development, we should accept the need for a reasonably explicit assessment of the situation we are seeking to influence. Not to do so runs the risk of us not being able to adequately design our interventions and explain clearly to our key stakeholders what we are trying to achieve and how we are trying to achieve it. Frank and at times sensitive analysis comes with the territory of a governance intervention.
78. For improved water resources management in Laos, the broad policy parameters are in place, and hence this support will predominantly be for policy implementation. This environment may appear easier for donors to operate in since the key policy battles and stakeholder positioning have concluded with the end of the policy formulation process.
79. However, our understanding is that in Laos, as for many other developing countries, policy implementation will be a far greater challenge than the policy formulation process. Policy implementation of the nature envisaged by this project will always be challenging because this is where the losers from governance reform start experiencing real losses. In an environment where there are very significant levels of wealth being appropriated by both private sector stakeholders and various sections of government, reform can be expected to be strongly resisted by the losers both within and outside government. In this environment it will be essential that this Activity empower pro-reform stakeholders to enable them to successfully progress the pro-reform agenda of the Activity. Posturing, positioning, and strategising of key stakeholders (both pro-reform and those opposed) is well underway.
80. There are a range of lessons AusAID have learnt from the implementation experience with the land titling project that are relevant to the design and implementation of this CDTA. These are in the areas of: policy engagement in sensitive areas, institutional certainty, and the availability of donor resources for policy dialogue and project management.
81. The land titling project was relatively successful in building technical capacity to issue land titles and raise revenues from this process in urban and peri-urban areas of Laos. Where it was a lot less successful was in relation to policy formulation and policy engagement with government. GTZ which was responsible for the policy component which produced a range of policy products but the project was never able to get policy traction with the government – with key fora designed to facilitate policy dialogue with government remaining largely inactive.
82. The AusAID assessment of this situation was that it resulted from the fact that the government didn't have a strong/consistent interest in pursuing policy dialogue and reform in areas which would stray into the sensitive rural arena. An area where sub-optimal government decision making was occurring was land concessioning and resettlement (driven by hydropower, mining, plantation agriculture and tourism development concessions and government resettlement policies). The diplomatic but clear message contained in the independent completion report of the project was: "It is difficult to escape the conclusion that if after such an extended period of time an agreed, coherent and transparent legal, policy and administrative framework has not been developed it is because it is in the interests of the government not to do so".
83. In summary, the land titling project was an intervention that was moderately successful in capacity building but failed in supporting a process of higher level governance reforms. As a result the project will have limited long term impact with the independent completion report offering the judgment that "the overall outcome of the project is unsatisfactory".

84. Australia needs to be very sure that there is a commitment from GOL to policy reform and policy implementation in water resources and that we need to be assessing regularly through on-going project policy dialogue and more formal M&E systems that this commitment is being delivered on by the government. As stated earlier, we also need to be doing all we can within the Activity space to strengthen the position of the pro-reform stakeholders to ensure that these policy commitments are delivered on. We definitely want to avoid the possibility of a similar project epitaph to that of the land titling project. To a certain extent WREA can be seen as a pro-reform stakeholder, contesting for influence and authority with other Ministries and organizations. Resistance to any increasing influence of WREA has been clearly expressed to AusAID during November 2010 meetings with, for example, MEM and Electricite du Laos.
85. The land titling project started off engaging with the Department of Lands and building capacity within that institution to improve land administration governance. Fairly late in the project a range of land administration-related functions shifted to a new National Land Management Agency. This shift damaged a significant percentage of the capacity building undertaken by the project and brought with it a new set of government priorities for land administration which differed from the previously agreed project agenda. These factors were detrimental to project effectiveness and sustainability. This situation is unlikely to be repeated in this WREA-focused support.
86. The lesson here is that we need to secure a commitment from the government to retaining or adjusting early in project implementation the key institutions and institutional structures that the project will engage with to ensure maximum project impact and longer term sustainability. This institutional commitment from government is an essential companion to the policy commitment discussed earlier. Negotiations with GOL should refer to this experience and seek government commitment to demonstrate institutional stability and sustainability in relation to the Activity space. With WREA, this has clearly happened.
87. The land titling project was task-managed by the World Bank from Washington and significant dialogue in relation to policy and program management only really occurred during the two supervision missions per year arrangement that the Bank scheduled. This arrangement proved to be inappropriate given the politically sensitive broader land management arena in which the project operated. As a result the project experienced delays in implementation and more importantly wasn't able to effectively engage in policy dialogue with the government or sufficiently influence institutional change processes which subsequently damaged the project's effectiveness and sustainability.
88. The relevant lesson here is that projects that operate in sensitive areas need high level management attention by administering agencies (in this case the World Bank) and donors (Australian and Spain) on an ongoing basis. Remote management does not usually work.