



KENYA ELECTRICITY MODERNIZATION PROJECT (KEMP)

Peri-Urban and Off Grid Sub- Components

RESETTLEMENT POLICY FRAMEWORK

JANUARY 2015

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ACRONYMS AND ABBREVIATIONS

AMI	Advanced Metering Infrastructure
CLB	Community Land Board
CPS	Country Partnership Strategy
CRWC	County Resettlement Working Committee
DLO	District Land Office
DPs	Displaced Persons
EAC	East African Community (EAC)
EIA	Environmental Impact Assessment
EMS	Energy Management System
ERC	Energy Regulatory Commission
GCRC	Gross Current Replacement Cost
GDP	Gross Domestic Product
GOK	Government of Kenya
ICT	information and communications technology
IDA	International Development Association
IPP	Independent Power Producers
KEMP	Kenya Electricity Modernisation Project
KPLC	Kenya Power and Lighting Company
KSHS	Kenya Shillings
LA	Land Act 2012
LAC	Land Administration Committees
LACT	Land Acquisition Compensation Tribunal
LEP	Livelihoods Enhancement Programme
LLM	live-line maintenance
LRA	Land Registration Act 2012
LRCC	Locational Resettlement and Compensation Committees
M&E	Monitoring and Evaluation
MOEP	Ministry of Energy and Petroleum
MOF	Ministry of Finance
MTR	Mid-Term Review
NEMA	National Environment Management Authority
NES	National Electrification Strategy (NES)
NGO	Non-Governmental Organisation
NLC	National Land Commission
NLP	National Land Policy
OP	Operational Policy
OVC	Orphaned Vulnerable Children
PAD	Project Appraisal Document
PAP	Project Affected Persons
PIU	Project Implementation Unit
PIM	Project Implementation Manual
PLO	Project Liaison Officer
PPA	Purchase Power Agreement (PPA)
PPP	Public-Private-Partnership
PPT	Project Preparation Team

RAPs	Resettlement Action Plans
REA	Rural Electrification Authority
RPF	Resettlement Policy Framework
SCADA	Supervisory Control and Data Acquisition
USD	United States Dollar
VMGF	Vulnerable and Marginalised Groups Framework
VMGP	Vulnerable and Marginalised Groups Plan
VRB	Valuation Registration Board
WB	World Bank

BASIC INFORMATION

- 1. Country and Project Name: KENYA ELECTRICITY MODERNIZATION PROJECT (KEMP)**
- 2. Project Development Objectives:** to increase access to electricity; (b) to improve reliability of electricity service and; (c) to restore Kenya Power and lighting Corporation (KPLC's) financial sustainability.
- 3. Expected Project Benefits:**

Beneficiaries will be households that will be connected to the electricity network for the first time and whose use of electricity will replace kerosene and other fuels for lighting and will enable productive activities. A second group of beneficiaries will be existing electricity consumers for whom the quality and reliability of electricity service will improve. Improved reliability of electricity service is especially important for existing business customers since they will experience less service interruptions and consequently their financial losses will reduce. Kenya Power Electricity & Lighting Company Ltd (KPLC) will be a beneficiary through the restructuring of its commercial debt that will restore its financial sustainability.
- 4. Identified Project Social Risks:**

Minimal adverse social risks are anticipated under this project and no resettlement is expected under any component of this project. Component C1 Peri- Urban Electrification will be implemented by KPLC in up to 50 locations across the country targeting 125, 000 households. The majority of low and medium voltage lines will mainly be constructed along the road reserve and existing rights of ways. Anticipated social impacts will be minimal and mostly involve KPLC compensation for crops and or/trees which could be damaged during construction. Sub-component C2-Off grid electrification will be implemented by the Rural Electrification Authority (REA) and is aimed at electrification of households on off-grid based on renewable energy hybrid mini-grids using public private partnership (PPP) approaches. This will require the acquisition of land for the hybrid generation facilities However these will have a relatively small footprint (typically no more than half an acre) and siting of such sub-project will avoid need for resettlement.

Recipient: Government of Kenya – Ministry of Energy and Petroleum

Responsible Government/Country Agency for RPF Implementation: Kenya Power and Lighting Company Limited (KPLC) for Sub component CI- Peri Urban Electrification and the Rural Electrification Authority (REA) for C2-Off-grid Electrification.

Total Project Cost (USD million): Approx. USD\$ 457.5

IDA/IBRD (USD million): Approx. 250

SCF-SREP Grant (USD million): 7.5

PROPOSED GUARANTEE (USD million): 200

Government (USD million):

Name/Contacts who prepared RPF:

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Rural Electrification Authority: Edward Gakunju, KEMP Project Manager

Date RPF Prepared: January 13,2015

EXECUTIVE SUMMARY

Background

The Government of Kenya has pledged to stimulate economic growth and accelerate job creation to improve the economic wellbeing of Kenyans. Among the many interventions to achieve this is expansion of the power distribution system to be within reach and thus enable more Kenyans to connect to the grid at affordable cost and hence initiate economic activities at the micro-economic level. The current trend of network expansion driven by customer demand is approaching saturation in the urban areas. In the foreseeable future there is a likelihood of the annual connectivity stagnating at the 300,000-400,000 level. To jumpstart and accelerate connectivity, it is necessary to develop a new mind set, as initially happened at the previous period of expansion in 2004.

To reduce the cost burden of increased connectivity on Kenya Power & Lighting Company (KPLC), as well as reduce the amount paid by the customer to connect to the grid, the strategy proposed is to extend the distribution network to as near the customer as possible using external or government funding. This can initially be achieved by extending the low and medium voltage network on existing and other upcoming/new distribution transformers to reach households lying within transformer protection distance (maximization). This model would involve building low and medium voltage lines both single phase and in selected cases, three phase along peri-urban roads.

The Kenya Electricity Modernization Project – to be financed by the World Bank Group through the International Development Association (IDA) - aims to support the Government's initiatives of ensuring increased electricity access to Kenyans, particularly among low income groups in peri-urban areas. The existing and new distribution transformers (pole-mounted) shall be optimized through extension of the low and medium voltage network to reach households located in the vicinity of these transformers.

The exact sub-project sites are not yet definitively identified. Once they are established Environmental Impact Assessments (EIAs) and or Environmental Management Plans (EMPs) will be prepared as required by NEMA and World Bank guidelines.

KPLC Kenya Electricity Modernization Project Context

KPLC has a total of 35,000 distribution transformers spread across the country. The transformers were installed for various reasons, i.e. for new customers, reinforcement of existing transformers due to load growth, reinforcement to reduce length of the low

voltage lines hence improve reliability, etc. As such, the majority of the transformers have varied lengths of the low voltage network emanating from them, some of which will be passing in close proximity to potential customers. Other transformers will require extensions and additional transformers to enable access for those potential customers located further from existing transformers.

Data collected from across regions served by KPLC indicates that the company has the potential to connect approximately 472,002 households (corresponding to approximately 1.2 million customers) that are within 600 meters of the transformers through individual service lines. Of these households, some will be within developed areas, the majority of who will be reached by a service cable drop or a pole, whereas in the more dispersed zones in the Peri-urban and rural areas, construction of a 600m low voltage line for a single customer may well be required. Some areas will require an MV extension which nevertheless will not exceed 2kms with installation of new 50KVA transformers to cater for those potential customers located further than 600metres from existing transformers. It is estimated that the addition of new transformers in Peri-urban areas will lead to additional connections for 122,500 households benefiting an estimated 618,750 people.

The Kenya Electricity Modernization project intends to support the Government's initiatives of ensuring increased electricity access to Kenyans, particularly among the low income groups and those in Peri-Urban areas. The existing and new distribution transformers shall be exploited to the maximum through extension of the low and medium voltage network to reach households located in the vicinity of these transformers.

KEMP Project Objectives

The proposed project development objectives (PDOs) are: (a) to increase access to electricity; (b) to improve reliability of electricity service; and (c) to strengthen KPLC's financial situation.

KEMP Project Components

Component A- Improvement in Service Delivery and Reliability

The objective of this sub-component is to enhance flexibility in operations and allow a more efficient management of the distribution network.

Sub- Component A-1 Upgrade of the Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS).

Sub- Component A-2-Distribution system enhanced flexibility.

Sub-component A-3-Enhance maintenance practices to improve the quality in electricity supply.

Component B: Revenue Protection Program

The main objective of the RPP is to permanently protect KPLC's revenues from sales to the segment of large and medium customers representing around 70 percent of the KPLC's sales, ensuring that all users in that "high value" segment are systematically billed according to their accurately metered full consumption.

Component C: Electrification Program

This component will support the government's objective of 70 percent household connectivity by 2017 by providing financing for the connection of new households in a more cost-effective manner. Payment of a connection fee will not be a pre-requisite for households to be connected. However, households may be required to contribute to the national electrification program in return for a connection as it is government policy. The amount of this contribution will however be based on household affordability so that no household remains unconnected due to inability to pay the contribution.

Sub-component C1 - Peri-urban electrification.

Sub-component C2 – Off-Grid electrification

Component D: Technical Assistance and Capacity Building

This component will finance consultancy services, feasibility studies for new investments, training actions and other activities to support, among others:

- (i) *Preparation of the National Electrification Strategy (NES).*
- (ii) *Detailed national technical specifications and standardization.*
- (iii) *Regulations for enforcing quality on electricity service delivery.*
- (iv) *Project preparation support and feasibility studies for new investment projects as required.*

World Bank safeguards policies

The KEMP project has triggered the following environmental and social safeguard policies of the World Bank: (a) Safeguard OP 4.01, Environmental Assessment; (b) OP 4.04, Natural Habitats; (c) OP 4.11, Physical Cultural Resources; OP 4.10, Indigenous People, and OP 4.12, Involuntary Resettlement. The following safeguard policy instruments have been prepared and publicly disclosed for the different sub-components.

KEMP Project Component	Policy Instrument
A1. Upgrade of the Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS). A2. Distribution system enhanced flexibility.	Environmental and Social Management Plan (ESMP)
C1. Peri-urban electrification	Environmental and Social Management Framework (ESMF) Resettlement Policy Framework (RPF)
C2: Off-grid electrification	Environmental and Social Management Framework (ESMF) Resettlement Policy Framework (RPF) Vulnerable and Marginalized Framework (VMGF)

The activities in the KEMP project are expected to trigger OP/BP 4.01 (Environmental Assessment) and OP/BP 4.04 (Natural Habitats) although as a precautionary measure, OP/BP 4.11 Physical Cultural Resources is also triggered for this sub-component. The safeguards instruments prepared for any subprojects will address the requirements of any applicable policies.

OPERATIONAL SAFEGUARDS TRIGGERED FOR KEMP PROJECT		
	Sub-Component C1- Peri-Urban Electrification	Sub-component C2- Off Grid Electrification
OP/BP 4.01: Environmental Assessment	✓	✓
OP/BP 4.04 Natural Habitats	✓	✓
OP/BP 4.36 Forests	X	x
OP 4.09 Pesticide Management	X	X
OP/BP 4.11 Physical Cultural Resources	✓	✓
OP/BP 4.10 Indigenous Peoples	X	✓
OP/BP 4.12 Involuntary Resettlement	✓	✓
OP/BP 4.37 Safety of Dams	X	X
OP 7.50 Projects in International Waters	X	X
OP 7.60 Projects in Disputed Areas	X	X

The exact sub-project sites for the peri-urban and off-grid electrification components are not yet definitively identified. Therefore at this stage it is neither possible to determine

the exact location, demography and impact on assets and/or livelihood of neither the PAPs nor the resettlement related impoverishment risks they might face. However, as noted no resettlement is envisaged and the siting of sub-project investments will, as much as possible, take this into consideration. Moreover, the majority of adverse impacts are minimal given the nature of the investments related to low voltage distribution network to connect new customers.

Once the sites are established and it becomes clear that there will be economic or physical impacts that require compensation mitigation actions, sub-project RAPs will be prepared as required by NEMA and World Bank guidelines.

Purpose and Scope of RPF

With regard to social safeguards the project will trigger Operational Policy (O.P. 4.12) Involuntary Resettlement for sub projects under Component C1 (Peri Urban Electrification) related to way leaves acquisition and Component C2 (Off-Grid Electrification) which includes construction of mini grids, solar power installations and wind turbines all requiring land acquisition. Minimal adverse social risks are anticipated under this project and no resettlement is expected under any component of this project.

Anticipated Sub-project Impacts under Component C1 (Peri Urban Electrification). This sub-component will be implemented by the KPLC. The investments proposed under sub component C1 will focus on the upgrading of existing infrastructure within the existing right of ways. No new high voltage (HV) lines are planned rather the focus will be on covering as many households as possible through use of existing medium and low voltage lines to households. The LV lines do not require land acquisition and/or involuntary resettlement of households as would HV transmission lines. Because no HV lines are envisaged, the project also does not plan to build any new sub stations. C1 Peri- Urban Electrification aims to be implemented in up to 50 locations across the country targeting 125, 000 households. No resettlement is envisaged under this sub-component. This can initially be achieved by extending the low and medium voltage network on existing and other upcoming/new distribution transformers to reach households lying within transformer protection distance (maximization). This model would involve building low and medium voltage lines both single phase and three phase along Peri-urban access roads. The anticipated social impacts will be minimal and might involve KPLC compensation to for crops and or/trees which could be damaged during way leave acquisition.

Anticipated Sub-project impacts under Sub-component C2-Off grid electrification. This sub-component will be implemented by the REA and is aimed at providing Off Grid Electrification solutions based on renewable energy hybrid mini-grids using public private partnership (PPP) approaches. These sub-project investments may require the acquisition of land for the mini grids, however the proposed off-grid solutions (turbines, solar panels) will have a relatively small footprint and siting of such hybrid generation facilities can easily be located in places that avoid the need for resettlement.

The purpose of this Resettlement Policy Framework is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who may be affected by the various sub-projects to be implemented under the KEMP specifically sub component C2. The RPF therefore is prepared to guide and govern KEMP as subprojects are selected for financing and sets out the elements that will be common to all subprojects that will entail involuntary resettlement.

The RPF will present: (a) the relevant policy and legal framework pertaining to involuntary resettlement; (b) anticipate the potential project impacts and provide mitigation provisions; (c) eligibility criteria for compensation; (d) valuation methods for compensation of asset categories; (e) steps for RAP preparation, implementation and monitoring; (f) and disclosure requirements.

The Bank O.P.4.12 requires that the RPF report must be disclosed as a separate and stand-alone report by the Government of Kenya and the World Bank. The disclosure of this document should be both in locations where it can be accessed by the general public and at the Info shop of the World Bank.

Methodology for RPF Preparation

Legal Framework

There are a number of national and local legal frameworks that regulate land relations in Kenya. These frameworks define land rights, ownership, procedures and requirements of transfer and acquisition of land between individuals and groups. They also provide procedures for the acquisition of land by the state or a public body for public projects.

Among the most important legal instruments in this regard which were reviewed are the Constitution of Kenya; Land Act; National Land Commission Act; Land Valuers Act; Land Registration Act 2012 and Land Adjudication Act; and the Way leaves Act Cap 292.

The World Bank's safeguard policy on involuntary resettlement, OP 4.12 is to be complied with where involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources, may take place as a result of the project. Where there is a discrepancy between the national laws and the Bank OP 4.12 The higher of the two standards will be followed in this policy framework.

Potential Project Impacts and Mitigations

Potential Impacts

No significant displacement of persons is expected except for the (a) compensation of assets (crops/trees) damaged during way leave acquisition a under sub-component C1 and (b) acquisition of required land for the construction of investments under sub component C2 (which include wind turbines and solar panel installations). The sub projects are likely to have two categories of effects, permanent and temporary. Permanent effects will result into an infinite loss of use of property, vegetation, or land by the affected person as a result of the sub project activities. This is likely to occur where permanent installations are established. Temporal effects will result in an interruption in the current use of property or land by the affected person as a result of the sub project activities. This is likely to occur during, for instance, installation of solar panels or wind turbines.

Possible Environmental and Social impacts

Benefits/Positive impacts

- Employment and wealth creation
- Local Material Supplies
- Up Scaling Electricity Access to the Poor
- Improve connectivity due Connection payment model
- Social Inclusion
- HIV/AIDS education and awareness
- Health benefit of the project
- Benefits to education
- Improved standard of living
- Increase in Revenues
- Improved Security
- Improved Communications
- Gender Considerations

Negative Environmental and Social Impacts

- Loss of assets (land and/or crops from land/right of way acquisition)
- Impact on Natural Vegetation and Biodiversity
- Impacts on air quality from vehicle exhaust emissions
- Risk of sparks/fire from live conductors
- Solid waste
- Electric shocks and electrocution of people
- Occupation safety and health hazards
- Public health risk
- Construction material sourcing-wooden poles
- Oil Leaks from transformers
- Noise during construction
- Contamination from CCA & creosote-treated poles

Provisions are made under this RPF and the related safeguards instruments (Environmental and Social Management Frameworks (ESMFs), Vulnerable and Marginalized Frameworks (VMGFs)) to minimize all such impacts. Provisions are also made in this RPF to accommodate all potential situations, including the very unlikely cases that entail actual displacement and livelihood restoration assistance in accordance with the World Bank Policy on Involuntary Resettlement, OP 4.12. Every precaution will be taken to avoid resettlement. The generation facilities (that will require land acquisition) in the sub-project investments under sub-component C2 Off Grid Electrification have a relatively small footprint (the hybrid generation facility will typically occupy no more than half an acre) and therefore there is flexibility in site selection.

The potential social impacts to be addressed within the context of preparing this Resettlement Framework have been identified. It is expected though that site-specific social analysis/assessment studies will be carried out within specific localities, as and when required. The framework for the compensation/ resettlement will then be applied incorporating specific (1) institutional arrangements, (2) resettlement/ compensation eligibility criteria, (3) implementation procedures, (4) financial responsibilities, and (5) monitoring and evaluation plan.

Eligibility for Compensation

Determination of the eligibility of the bona fide occupants of the assets/properties to be compensated shall be done through a transparent and legal process, taking into consideration all the existing laws of Kenya and policies of the World Bank. Compensation will be paid to all categories of Project Affected Persons as described in the eligibility criteria and entitlement matrix section of this report. All those persons enumerated before the cutoff date will be eligible for compensation. This RPF applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

Valuation Methods FOR COMPENSATION

Crops Compensation

The compensation of the crops will be paid at market rate for the production lost. This rate incorporates the value of crops and the value of the labor invested in preparing new land. Market value is equivalent to average of last three years market value for the mature and harvested crop. The value of the labor invested in preparing agricultural land and ploughing will be compensated at the average wage in the community for the same period of time. REA and KPLC will undertake an assessment of trees/crop damage through a census count of crops/trees affected by the sub-project investments (number, type and breast height diameter of mature trees, photographs of affected per each parcel affected).

Agricultural land

Compensations for agricultural land will be calculated as the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or

use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

Land in urban areas

Compensation for land in urban areas will be calculated as the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.

Houses and other structures

This compensation shall comprise the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.

Loss of Income

Losses of income for businesses will be estimated from net daily/monthly profit of the business verified by an assessment of visible stocks and activities. In addition to the compensation, disturbance allowances of 15% of total compensation will be considered. The estimation of supplementary assistance for affected commercial structures or business units will generally be based on the estimated income obtained from the use of the business/commercial unit and the estimated period of disruption of business activities.

Project Screening and Preparation

Sub projects Screening

Sub-projects might have a social impact on the community. Potential socio-economic impacts that will require mitigation measures, resettlement and compensation will have to be identified. The subprojects will be screened to know whether involuntary resettlement, land acquisition, or loss, denial or restriction of access to land and other economic resources will be caused by the implementation of the sub-project or whether the sub-project result in the permanent or temporary loss of crops, fruits and household infrastructures such as granaries, outside toilets, kitchens, and other structures.

Preparation of RAPs

Specific Resettlement Action Plans will be drafted by the Project Implementation Units (PIUs) to be set up specifically in KPLC and REA for the Peri-Urban and Off-Grid electrification sub-components respectively of KEMP in consultation with other parties responsible for resettlement specifying the procedures it will follow and the actions it will take to properly resettle and compensate affected people and communities. It should be noted that the project anticipates minimal relocation of households if at all.

Community Sensitizations

Communities within the project areas will be sensitized on the project and likely project impacts and the extent of their involvement to ensure project success. Measures instituted to address negative project impacts will be well communicated to the community.

Public Consultations and Participation

As per World Bank requirements the borrower or client is responsible for conducting and providing evidence of meaningful consultation with communities likely to be affected by environmental and social impacts, and with local stakeholders, and also for ensuring broad community support.

Participatory Stakeholder Forums were held on 6th and 12th January, 2015 to consult with stakeholders on the environmental and social safeguards documents for the KEMP project. The Forums were attended by a large and diverse group of participants and stakeholders from across the country representing different institutions, government agencies, NGOs, indigenous people's representatives, the private sector, the Office of the President, contractors, county governments, and investors and other players in the energy sector, among others. A comprehensive list of the participants is included in the minutes of the Stakeholder Forum consultations appended to this report. The feedback was overall positive and stakeholders were supportive of the objectives of the project to increase access to and reliability of electricity services. They were also broadly satisfied with the proposed safeguard instruments and the mitigation measures provided for in the instruments. Consultations will be conducted in a timely manner in the context of key project preparation steps, in an appropriate language, and in accessible places. The results of the consultations will be adequately reflected in the project design and in the project documentation. For consultations on the safeguards instruments, including the RPF framework refer to Annex 9 of this document.

During implementation, (PAPs) will be informed about their rights and options. A grievance mechanism will be set up and all grievances will be recorded and acted upon.

The grievance mechanisms will include:

- (a) Sub-country Resettlement Compensation Committees (SCRCC) including representatives of the national land commission, the Implementing Agency (IA); county administration representative, sub-country land registrar, and two PAPs; and
- (b) Locational Resettlement Compensation Committees (LRCCs) based in each administrative location where sub-projects are located and shall be the voice of the PAPs to include location chief, assistant chiefs, men and women PAPs, youth and vulnerable groups' representatives.

The participation of local leaders and PAPs in disseminating information and resolving disputes will be important once RAP implementation starts. PAPs representatives will participate in the sub-project workshops at mid-term and at the end of RAP implementation. To the extent possible, the RAP should include social accountability

tools to assess the quality of RAP implementation, and in some cases, assist the RAP team in tracking expenditures.

Documentation

The names and addresses of affected persons will be compiled and kept in a database including claims and assets. The records are also important especially for future monitoring activities. Documentation will include documents relevant to land transactions (voluntary and involuntary).

Procedure for Delivery of Compensation

Consultation and public participation with the PAPs will initiate the compensation process to ensure that all affected individuals and households are well informed and adequately involved in the entire process. Those who hold title to the land resources will be duly informed and in case there are no clearly identified owners or users of land to be acquired, MOEP, the respective county and national government administrations through the lands officers and the traditional leaders of the respective communities where the land is located will be solicited to help identify owners or users in order to sensitize them on the project and its implications.

The REA/PIU and KPLC/PIU either through their internal teams or through a consulting firm will undertake a detailed survey of all losses that will result for each household, enterprise, or community affected by the project. During inventories of assets, the owners or persons authorized to represent them on their behalf will be required to countersign them to minimize the possibility of subsequent claims or disputes regarding claims.

Compensation payment will be made by REA and KPLC to the PAPs or by court order on the amount of compensation where this has been the subject of litigation between the project and the Affected Entity.

RPF Implementation and Monitoring

Compensation and Resettlement Committees - The Compensation and Resettlement Committees at Sub County and Locational level will be responsible for organizing and ensuring that compensations payable to PAPs are made in line with the provisions and procedures of this RPF.

Grievance Redress Committee- The Grievance Redress Committee will be responsible for receiving and logging complaints and resolving disputes. The GRC will resolve each grievance or dispute to ensure that redress actions are implemented by whoever is mandated to undertake such action. If affected persons are not satisfied with the GRC, they will be entitled to seek redress through the Courts of Law.

Monitoring and Evaluation Team - The monitoring and evaluation team will be responsible for the monitoring of the RAP implementation programme to ensure that stated targets are met and project affected persons are duly compensated in line with the

RAP requirements. The sequence of implementation activities and responsibilities are summarized in the table below.

Roles and Responsibilities

The implementation activities will be the responsibility of REA/PIU and KPLC/PIU with support from other departments of their organizations and the Ministry for Energy and Petroleum. The sub County/County governments in the targeted sub project areas will be heavily involved in all resettlement, relocation and compensation efforts for sub projects where resettlement is indicated.

No.	Institution	Responsibility
1.0	Ministry Energy and Petroleum, KPLC and REA	<ul style="list-style-type: none"> Overall supervision of the RPF and resettlement/compensation plan. To provide funds for compensation payment. Trigger the process through inventory of affected persons and assets and implement planning close consultation.
2.0	KPLC SHE& PIU & REA PIU	<ul style="list-style-type: none"> Prepare resettlement plans and assist with implementation and capacity building to the PAPs. To oversee gender related issues to ensure that vulnerable women, former IDPs, the poor and elderly are compensated equally.
4.0	Project Implementation Unit and GRM Committee	<ul style="list-style-type: none"> To liaise with district and MALF in ensuring peaceful implementation of the process including handling any grievances.
5.0	KPLC and REA registered Land Valuation Officers	<ul style="list-style-type: none"> To carry out the valuation and compensation payment process and reporting for the affected persons. This will be undertaken by registered Valuers in the department of Property and Administration. In case of a dispute provisions will be made for independent registered valuer.
6.0	KPLC and REA PIUs and Resettlement Committees	<ul style="list-style-type: none"> To assist the community and support in the inventory of affected persons.
7.0	PIU,SHE & PIU and REA PIU in consultation with VMGOs and provincial administration	Assist with implementation and capacity building. Assist with sensitization and monitoring where need be.

Capacity for Implementation

Borrower capacity in implementing safeguards. In April 2008, KPLC formally established an environmental unit within its Safety, Health and Environment (SHE) Department. The staffing of this unit consists of:

	Professional	Number in department
1.	Safety Engineers	10
2.	Environmental and Social Specialists	7
3.	Socio-Economists	3
4.	Occupational Health and Safety officer	1
5.	Occupational Health and Public Safety Officer	1

Based on the preparation of environmental and social (resettlement) instruments since then, and implementation of EMPs, the SHE department has sufficient capacity to determine and monitor the mitigation of potential adverse environmental and social impacts. However, KPLC will undertake regular capacity building on its staff to ensure standard practice.

There will be an environmental specialist and a social specialist assigned to the KPLC/PIU for the Per-Urban Electrification sub-component. Timely and informed consultation with stakeholders will be undertaken early in the project preparation process, and that these meetings are adequately documented. Stakeholder concerns, when justifiable, will be recorded and responded to in a timely manner.

SHE's performance in preparing RAPs, and monitoring EMPs and RAPs for World Bank funded projects is excellent.

The PIU for REA (Off-Grid electrification sub-component) has an environmental specialist. A social development/safeguards specialist will be assigned to the REA/PIU. The environmental and social performance of the REA will be closely monitored by the Bank social and environmental specialists. EIAs/EMPs submitted by REA will require site-specific information. Scheduling of compensation payments will be closely monitored to ensure that, in the majority of cases, compensation is paid prior to the start of civil works.

Monitoring Aspects

The monitoring and evaluation will be the main mechanism to alert KEMP of any delays and problems and these activities will help measure the extent to which the main objectives of the RPF have been achieved. To ensure that the implementation of resettlement is executed in line with this RPF, the activities will be monitored and evaluated internally by KPLC and REA PIUs at the national level and on ground at the sub County level. The PIUs will undertake the routine internal monitoring and evaluation of the implementation of the resettlement issues so as to ensure that all the responsible units follow the schedule and comply with the principles of the resettlement plan. A number of objectively verifiable indicators shall be used to monitor the impacts of the compensation and resettlement activities. Annual evaluations will be made in order to determine whether the PAPs have been paid in full and before implementation of the individual subproject activities, and whether the PAPs enjoy the same or higher standards of living than before.

Budget and Funding

At this stage, it is not possible to confirm the exact number of people who may be affected. This is because the technical designs and details have not yet been developed and the land needs have not yet been fully identified. The budgets (KPLC and REA) will be developed from the specific social assessment studies and mitigation/livelihood restoration measures to be developed. The budgets will cover resettlement activities including compensation cost for affected assets.

For the Off-grid sub-component the REA/PIU will prepare the resettlement budget and will finance this budget in accordance with the administrative and financial management rules and manuals of the PIU. The annual budget allocation through the Ministry of Energy and Petroleum to REA will provide all the funds for resettlement.

Disclosure

This RPF will be disclosed in compliance with relevant Kenyan regulations and the World Bank Operational Policy OP 4.12 on Involuntary Resettlement. The document will be disclosed at the Info shop of the World Bank and will also be available to any interested persons. KPLC and REA will also provide copies of the RAPs for disclosure at the World Bank Info shop for public access.

DESCRIPTION OF THE PROJECT AND POTENTIAL INVESTMENTS CAUSING RESETTLEMENT

Context

During the last decade, Kenya has emerged as one of the growing number of success stories in Africa. Kenya has the largest economy in East Africa. Gross Domestic Product (GDP) is projected to grow 4.7 percent a year in 2014 and 2015. Kenya's poverty level is estimated to have declined from 47 percent in 2005, to between 34 to 42 percent in 2013. The population in Kenya doubled over the last 25 years and by 2040, Kenya – with a predicted 75 million people; and a strong emerging middle class – is expected to become the 21st largest economy in the world. Kenya's economy is more diversified than most countries in Sub-Saharan Africa. About 55 percent of Kenya's GDP comes from services, transport, finance, tourism, information and communications technology (ICT) and trade – sectors that critically depend upon reliable power supply. With relatively low levels of debt, a stable exchange rate, and declining inflation, Kenya is able to run higher fiscal deficits to maintain its public investment program, especially in infrastructure.

Vision 2030, Kenya's long-term development strategy, targets expanded infrastructure access as a key element in achieving higher levels of economic growth. *Vision 2030* targets an average annual economic growth rate of 10 percent between 2013 and 2030. This significantly higher economic growth will require modern, efficient infrastructure facilities to expand the productive sectors of the economy and improve access to markets. The upgrade of the infrastructure platform calls for rehabilitating the road network, upgrading the railways, improving urban public transport, and expanding access to electricity and safe water. In an effort to improve equity of opportunity, the overall program gives a special emphasis to expanding the access of the rural and urban poor to basic services such as electricity, water, and sanitation.

Kenya's dynamic private sector faces serious infrastructure constraints. Electricity supply and transport need to be improved if Kenya is to maximize its potential for private sector-led growth. Kenya's vibrant private sector is a major source of economic growth, driven by expanding services in telecommunications and transport. Kenya benefits from its geographical location that is favourable to trade, with the port of Mombasa serving as the most important gateway for imports to the East African Community (EAC) countries, South Sudan and eastern DRC. Considering that affordable and reliable electricity supply is an essential underpinning of Kenya's competitiveness, investment in the T&D infrastructure, along with efficiency in operations and maintenance, remain critical for the country.

Higher levels of electricity service reliability and quality are necessary for stronger economic growth and increased competitiveness. Currently, poor quality and reliability of service imposes high costs on business (including the capital cost of self-generation and loss of production). Enterprises experience frequent electricity service interruption and many have self-power generation on their premises in order to meet their electricity needs.

Approximately 32 percent of the population has access to electricity. Accelerating the pace of electrification in line with the government’s target of 70 percent electrification by 2020 can contribute to eliminating extreme poverty and achieving shared prosperity.

Project Development Objectives

The proposed project development objectives (PDOs) are:(a) to increase access to electricity; (b) to improve reliability of electricity service; and (c) to restore KPLC’s financial sustainability.

KENYA ELECTRICITY MODERNIZATION PROJECT COMPONENTS

The Kenya Electricity Modernisation Project has 4 different components as described below. However, this RPF focuses on sub components C1 (Peri-urban electrification) and C2 (Off-grid electrification) which triggers OP. 4.10 and hence the need for this RPF.

Component A- Improvement in Service Delivery and Reliability

Sub-Component A1: Upgrade of the Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS). The objective of this sub-component is to enhance flexibility in operations and allow a more efficient management of the distribution network. This component will finance upgrades of the SCADA/EMS by incorporating key existing substations to the system and installing additional switchgear in medium voltage distribution networks.

Sub- Component A-2. Distribution system enhanced flexibility. To reduce duration of system interruptions, KPLC is also implementing various actions to automate and enhance the operational flexibility of the distribution network (in particular at the medium voltage level).The component aims at achieving 90 percent automation of the networks in Nairobi by installing a total of 1000 load break switches in assets operating at 11, 50 and 66 kV, with associated RTU’s and communications features enabling remote control and operations.

Sub-component A-3. Enhance maintenance practices to improve the quality in electricity supply. In order to further reduce interruptions in electricity service, KPLC will implement live-line maintenance (LLM). The component will finance specific equipment, tools and intensive training of staff in charge of the works.

Component B: Revenue Protection Program

The main objective of the RPP is to permanently protect KPLC’s revenues from sales to the segment of large and medium customers, ensuring that all users in that “high value” segment are systematically billed according to their accurately metered full consumption. This component will finance implementation by KPLC of a revenue protection program (RPP), based on the application of Advanced Metering Infrastructure (AMI), and the adoption of organizational arrangements (creation of one or more metering control centres (MCCs) aimed to optimize the systematic use of the information provided by the

metering system and undertake consistent corrective field action as needed. The component will include: (i) creation of the MCCs and investments in infrastructure needed to operate them; (ii) incorporation of a state-of-art MDM and training of staff of the IMCs in its proper use; (iii) supply and installation of AMI for the 4,300 high and medium voltage users and 40,000 large low voltage customers, and incorporation of those customers to the respective MCCs.

Component C: Electrification Program

This component will support the government's objective of 70 percent household connectivity by 2017 by providing financing for the connection of new households in a more cost-effective manner. Payment of a connection fee will not be a pre-requisite for households to be connected. However, households may be required to contribute to the national electrification program in return for a connection as it is government policy. The amount of this contribution will however be based on household affordability so that no household remains unconnected due to inability to pay the contribution (during appraisal, the specific principles will be assessed and agreed with KPLC and the regulator).

Sub-component C1. Peri-urban electrification. This sub-component that will be implemented by KPLC will finance the design, materials and construction works required to electrify all households and businesses in some high density peri-urban areas located close to existing electricity networks. Those areas will be defined by the Government and will be distributed across the country. The selection of those areas will depend on high density areas, measured through the ratio number of prospective users/km², located close to existing electricity networks and KPLC will make a proposal to MOEP for its approval. It is estimated that 125,000 households will be connected. This sub-component introduces new implementation and procurement arrangements to maximize the resources available and efficiently implement the project.

Sub-component C 2: Off-grid electrification. This sub-component will support off-grid electrification solutions in areas that cannot be cost effectively served by the national grid through pre-feasibility studies, tender preparation, and implementation support. It will be implemented by REA. The off-grid electrification solutions are based on renewable energy hybrid mini-grids using Public-Private-Partnership (PPP) approaches to serve isolated communities of between 200 to 3,000 households and public, commercial and industrial loads.

This sub-component will be implemented by REA and will support the implementation of off-grid electrification solutions in areas whose connection to the national grid is financially not viable in the short and medium term. Electrification of those areas will be implemented through mini-grids supplied preferably by hybrid generation systems, combining renewable resources (solar or wind) and thermal units running on diesel. This sub-component will test a PPP approach. The selection of project areas is based on the number of potential users and their demand, supported by an on-going market sounding, a demand survey and pre-feasibility studies being carried out by REA. Typically, the schemes will be implemented in villages of 150-400 prospective users and approximate demand of 250-500kVA. This sub-component will be supported by IFC data collection

and regulatory analysis for mini-grids. In addition to this Project, IFC will also be financing stand-alone solar PV and micro-grids to reach consumers in remote areas that neither the national grid nor mini-grids will cover in the medium term.

This sub-component will be independently supported by IFC market data collection and regulatory analysis for mini-grids, as well as the financing of stand-alone solar PV and micro-grids to support stand-alone pico-solar, solar home systems, and solar micro-grids electricity services to reach consumers in remote areas that neither the national grid nor mini-grids will cover in the next decade.

Component D: Technical Assistance and Capacity Building (Estimated cost \$10million IDA Credit)

This component will finance consultancy services, feasibility studies for new investments, training actions and other activities to support, among others:

- (v) *Preparation of the National Electrification Strategy (NES).* The NES' objective is to achieve universal access to electricity services meeting applicable standards on quality on a sustainable manner in the shortest possible time and optimizing allocation of resources from a country's perspective. This sub-component will be implemented by MoEP.
- (vi) *Detailed national technical specifications and standardization.* This assistance will support the technical and economic optimization of the design and construction of electricity networks needed to supply new users located in currently not served areas, meeting applicable standards on service quality. This will result in the addition of new standardized construction units to those currently applied by KPLC and REA. This sub-component will be implemented by KPLC.
- (vii) *Regulations for enforcing quality on electricity service delivery.* Assistance to ERC to implement a regime on service quality, based on systematic monitoring of key parameters through direct access of the records of the information systems used by KPLC. This will also combined with assessments on KPLC for attention of customers' complaints and KPLC commercial systems. This sub-component will be implemented by MOEP through ERC.
- (viii) *Project preparation support and feasibility studies for new investment projects as required.* This will finance consultancy services, training actions and other activities to support the implementation of the project. This sub-component will be implemented by KPLC.

Project beneficiaries will be spread across the country helping to sustain broad-based support for Project activities. The investments to improve delivery of reliable electricity service will be focused in economic growth poles around the country thus benefiting businesses in all regions. The Component C1, for peri-urban electrification, will be implemented in up to 50 locations in peri-urban areas across the country. The

areas will be firmed up during design of the low voltage networks to serve clusters within the areas. Component C2 (off-grid electrification) will be implemented in approximately 6 locations in a number of regions. This sub-component would finance green-field mini-grid investments in the remote areas unreachable by the national grid in the next decade or so.

This sub-component will support the implementation of off-grid electrification solutions in villages in rural areas where connection to the national grid is economically unviable in the short and medium term. Electrification of these villages will be through mini-grids, combining renewable resources (solar or wind) and thermal units. This sub-component will pilot Public-Private-Partnership (PPP) arrangements.

An Independent Power Producer (IPP) with a Purchase Power Agreement (PPA) with KPLC will implement the hybrid generation system. The IPP will invest in the fuel-based generation component and SREP and IDA funding will finance the supply and installation of the renewable generation facilities and the mini-grid distribution network. The construction of the distribution infrastructure will be implemented by REA and new users will become KPLC's customers. To ensure sustainability of provision of electricity services to users connected to the mini-grid, a contract between KPLC and a local company providing operation (network and commercial) and maintenance services will be signed. Fees charged by the services contractors will be passed through in KPLC's allowed tariff revenues set by ERC. The selection of project areas is based on the number of potential users and their demand. Communities with 150-400 prospective users and approximate demand of 250-500kVA have been identified.

World Bank Safeguard Policy

The Involuntary Resettlement policy of the World Bank was reviewed in detail to understand the project's direct economic and social impacts that may be caused by involuntary taking of land resulting in:

- a) Relocation or loss of shelter;
- b) Loss of assets or access to assets, or
- c) Loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

The potential for involuntary restriction of access to legally designated areas and protected areas resulting in adverse impacts on the livelihoods of the displaced persons was also be assessed.

Need for a Resettlement Policy Framework

The RPF derives from the World Bank's Involuntary Resettlement Policy OP/BP/4.12, which sets out safeguard measures where a Bank-assisted project will involve involuntary resettlement of persons to make way for implementation of the project, and/or where such resettlement may result in loss of assets for those being resettled. The RPF provides the basis for preparing Resettlement Action Plans for individual sub-projects once their location and scope are known to mitigate such effects.

Purpose of the Framework

The purpose of this Resettlement Policy Framework is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who may be affected by the various sub-projects to be implemented under the KEMP sub-components C1 and C2. In particular it will be used among others: -

- To avoid, manage, and/or mitigate potential risks arising out of damage to assets, disruption to work, temporary negative impacts on livelihoods and/or in the unlikely case of displacement.
- To develop a Resettlement Action Plan and propose an implementation framework for RAP to mitigate such effects

Objectives of the RPF

The objectives of the Resettlement Policy Framework (RPF) are to:

1. Establish the resettlement and compensation principles and implementation arrangements for Peri-Urban Electrification and Off-Grid Electrification KEMP sub-projects;
2. Describe the legal and institutional framework underlying Kenyan approaches for resettlement, compensation and rehabilitation;
3. Define the eligibility criteria for identification of Project Affected Persons (PAPs) and entitlements;
4. Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders;
5. Provide procedures for filing grievances and resolving disputes; and
6. Development of an outline for the development of Resettlement Action Plans

Scope

The resettlement policy framework covers the following elements, consistent with the provisions described in OP 4.12, paras. 2 and 4:

- a) Description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement framework is required
- b) Principles and objectives governing resettlement preparation and implementation;
- c) Description of the process for preparing and approving resettlement plans;
- d) Estimated population displacement and likely categories of displaced persons, to the extent feasible;
- e) Eligibility criteria for defining various categories of displaced persons;
- f) Legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- g) Methods of valuing affected assets;
- h) Organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;

- i) Description of the implementation process, linking resettlement implementation to civil works;
- j) Description of grievance redress mechanisms;
- k) Description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- l) Description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- m) Arrangements for monitoring by the implementing agency and, if required, by independent monitors.

Resettlement Implications of KEMP'S C2 - OFF GRID COMPONENT

With regard to social safeguards the project will trigger Operational Policy (O.P. 4.12) Involuntary Resettlement for sub projects under Component C1(Peri Urban Electrification) related to way leaves acquisition and Component C2 (Off-Grid Electrification) which includes construction of mini grids, solar power installations and wind turbines all requiring land acquisition. Minimal adverse social risks are anticipated under this project and no resettlement is expected under any component of this project.

Anticipated Sub-project Impacts under Component C1 (Peri Urban Electrification).

The investments proposed under sub component C1 will focus on the upgrading of existing infrastructure within the existing right of ways. No new high voltage (HV) lines are planned rather the focus will be on covering as many households as possible through use of low voltage lines to households. The LV lines do not require land acquisition and/or involuntary resettlement of households as would HV transmission lines. Because no HV lines are envisaged the project also does not plan to build any new sub stations. C1 Peri- Urban Electrification aims to will be implemented in up to 50 locations across the country targeting 125,000 households, no resettlement is envisaged under this component. This can initially be achieved by extending the low and medium voltage network on existing and other upcoming/new distribution transformers to reach households lying within a certain distance of the transformer. This model would involve building low and medium voltage lines both single phase and in selected cases, three phase in the reserve along Peri-urban access roads. The anticipated social impacts will be minimal and mostly involve KPLC compensation to for crops and or/trees which could be damaged during way leave acquisition.

Anticipated Sub-project impacts under Sub-component C2-Off grid electrification.

This component *will* be implemented by the Rural Electrification Authority and is aimed at providing Off Grid Electrification solutions based on renewable energy hybrid mini-grids using public private partnership (PPP) approaches. In particular, construction of hybrid generation systems, combining renewable resources (solar or wind) and thermal units running on diesel is likely lead to acquisition of a land and/or the loss of assets in the selected sites on a permanent or temporary basis for the proposed investment infrastructures. These sub-project investments that require the acquisition of land will have a relatively small footprint (typically no more than half an acre for the generation

hybrid facilities) and siting of such sub-project investments can easily be located in places that avoid the need for resettlement.

Project Activities with displacement potential

The main investments/sub projects¹ under envisaged to have displacement potential are listed below and mainly entail those under sub component C2. The construction of the following infrastructure will lead to permanent or temporary land acquisition:

1. Acquisition of Way leaves resulting in crop compensation
2. Wind Farms
3. Solar Power
4. Hydropower Mini grids

The exact impact of the proposed investments under the sub component C2 is unknown at this stage and will only be known when further feasibility work is carried out in locations proposed by MoEP for the this subcomponent.. Nevertheless, the construction of mini grids, wind turbines and installation of solar panels that involve land acquisition has the potential of adversely affecting the livelihoods of communities in selected sites specifically through involuntary resettlement. Private land and assets (farmland), cultural and community assets as well as spiritual sites may also be lost.

The purpose of this Resettlement Policy Framework is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who may be affected by the various sub-projects to be implemented under the KEMP specifically sub components C1 (Peri-urban electrification) and C2 (Off-grid electrification). The RPF therefore is prepared to guide and govern KEMP as subprojects are selected for financing and sets out the elements that will be common to all subprojects that will entail involuntary resettlement.

Project Implementation

Resettlement implementation, will be done at three levels namely National – Ministry of Energy and Petroleum, Implementing agencies and National Land Commission; at the Sub County level the Resettlement and Compensation Committee; and then at the grassroots level, Locational Resettlement and Compensation Committee.

Ministry of Energy and Petroleum

The main agencies involved in implementation of the RPF will be REA and KPLC. They will have responsibility for the implementation of the sub-components and will act as the central agencies responsible for holding all information relevant to the RPF and subsequent RAPs. MOEP also has the responsibility for the mobilization of funds to REA from Government for resettlement and compensation purposes of specific approved RAP.

¹ Investment and sub projects are used interchangeably in this document. They refer to investment which will be funded under KEMP

The Ministry of Energy and Petroleum (MoEP) will be responsible for overall coordination and oversight of the project, including (i) definition of areas to be electrified based on technical and policy development priorities; (ii) consolidating information from implementing agencies; (iii) monitoring the implementation of project; and (iv) evaluating the project. The MoEP will hire, on a competitive basis, a Project Coordinator to consolidate the information prepared by the implementing agencies and will report to the Principal Secretary, MoEP

The Rural Electrification Authority an agency of government under the MoEP will implement Component C2 of the project. Its mandate under the draft Energy bill is proposed to be expanded to include promotion and development of renewable energy resources (excluding large scale). The REA will be supported by a Technical Advisory Service (Consultant) for implementation of component C2 of the project.

Kenya Power and Lighting Company (KPLC) will have the responsibilities of project owner for Components A, B, C1 and D(iv), including: (i) project preparation; (ii) appraising and approving subprojects, organizing the management and implementation of programs/projects; (iii) ensuring adequate and capable management resources; (iv) conducting appraisal and approval of technical design, total cost estimates and cost estimates of subprojects; (v) negotiating, signing and supervising the implementation of contracts; (vi) implementation of safeguards activities, (vii) substation land and way leaves acquisition (if required), and (viii) signing the on lending and on grant agreements with National Treasury for the credit and grant, and repaying credit proceeds.

Kenya Power and Lighting Company will provide the overall coordination of the sub projects under the sub component C2. KPLC has the overall role of the coordination and quality control, and among its other roles, it ensures that the investment prepare the needed safeguards instrument, in this case the RAP, in accordance to the RPF. KPLC will screen proposed sub projects to determine their viability and feasibility. Once a sub project is proposed for funding, KPLC will prepare individual RAPs as required since KPLC has adequate in house capacity in developing RAPs as witnessed in the KEEP and these RAPs will be reviewed by the World Bank before implementation. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies. MoEP will implement the corresponding technical assistance and capacity building activities under Component D (i) D (ii) and D (iii).

KPLC Project Implementation Unit (PIU) for sub-Component Peri-Urban Electrification. A dedicated project implementation unit (PIU) in KPLC will be created with the purpose to ensure the PIU staff will not have responsibilities other than for the sub-component itself. The existing PIU in KPLC will have responsibility for the other KPLC implemented components. The PIU for Component C1 (KEMP Electrification) will be headed by a Chief Engineer who will report to the Manager Electrification.

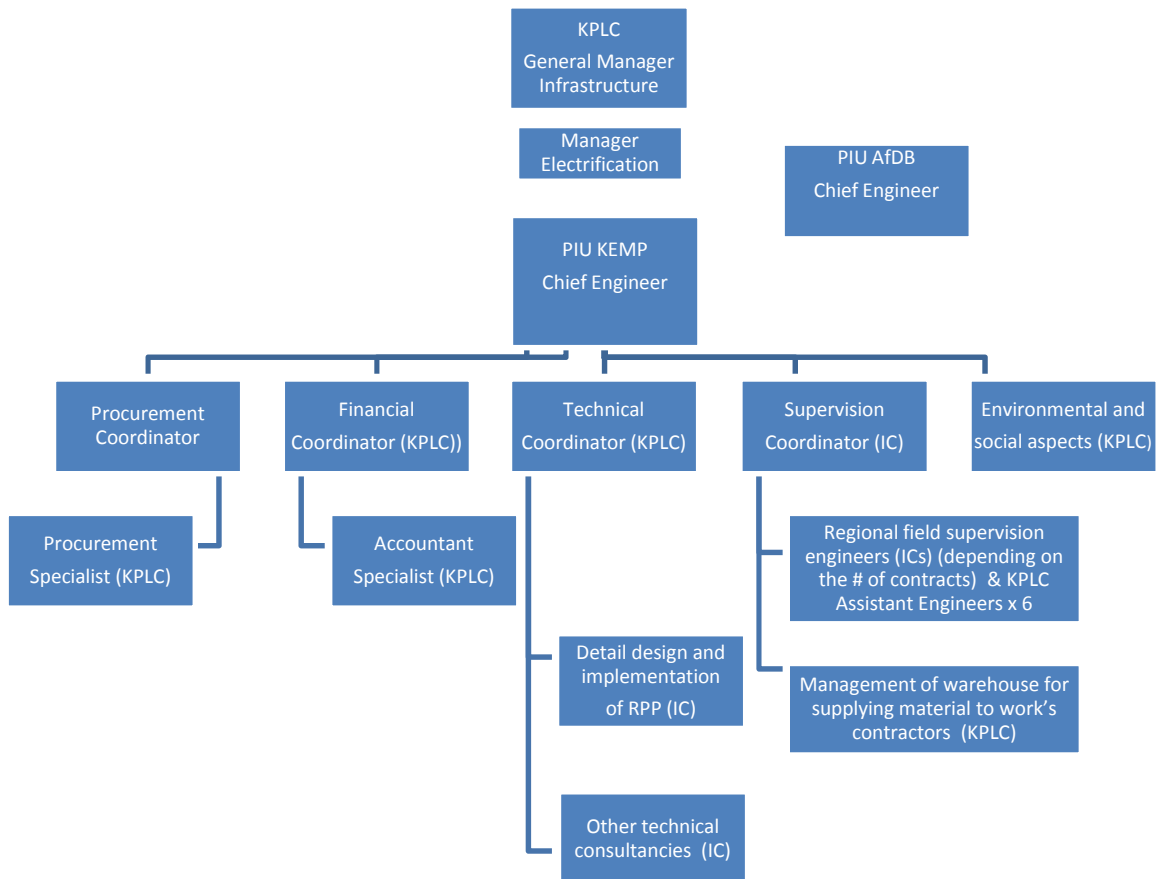
KPLC will assign to dedicated team the responsibility for the implementation of the sub-component, including procurement and contract supervision. The PIU will be composed of KPLC assigned staff from various relevant departments to carry out the day-to-day

activities of project implementation. Additionally, the PIU will be supported by some technical consultants if need be for the technical design of sub-components. In order to ensure successful implementation of the project, KPLC will appoint senior staff to the PIU for the following positions:

- Project Coordinator for KEMP at KPLC
- Financial management
- Technical management
- Environmental and Social management
- Procurement management
- Materials management

The REA/PIU will be further supported as necessary by individual consultants and consultant firms (including environmental and social development specialists).

KPLC Project Implementation for Component C1

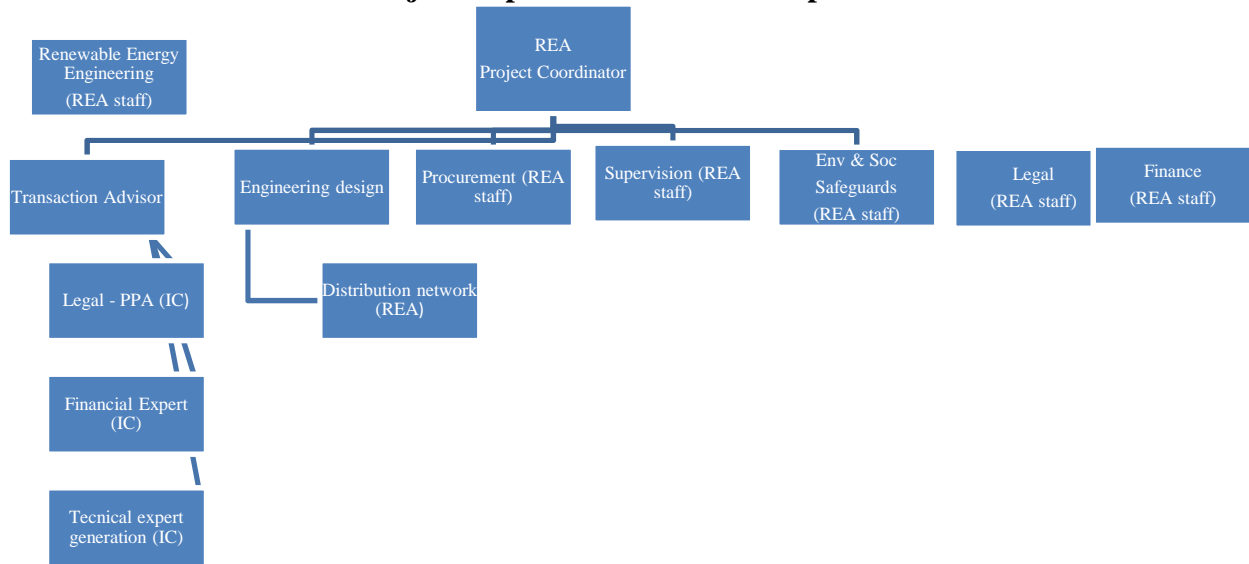


REA’s capacity to implement Component C2 will be strengthened through deployment of existing specialized REA staff to the existing PIU of the IDA financed KEEP. These will include the following additional staff (a legal specialist, procurement specialist, a social specialist and renewable energy engineer). The PIU has an environmental

specialist. The unit will be supported by a transaction adviser (consultant firm) that will provide all the specialized expertise in the areas of structured finance, design of competitive processes for selection of private entities in public private partnership arrangements, contract negotiations with private parties, project supervision, etc.

The REA/PIU will be further supported as necessary by individual consultants and consultant firms (including environmental and social development specialists).

REA Project Implementation for Components C1



METHODOLOGY & CATEGORIES OF PROJECT AFFECTED PERSONS

The preparation of this Resettlement Policy Framework (RPF) entailed the following;

A literature review

Baseline information from secondary literature was reviewed in the process of preparing the RPF in order to increase project understanding. Documents reviewed include:

- *Project Appraisal Document (PAD)*
- *Constitution of Kenya,*
- *Government of Kenya Valuation Act*
- *World Bank Involuntary Resettlement Operational Policy 4.12.*
- *Land Act 2012*
- *Land Registration Act 2012*
- *Land Adjudication Act 2012*
- *Way Leaves Act Cap 292*

Public Consultations and Participation

Consultative Forums were held on 6th and 12th January, 2015, to deliberate with stakeholders on the environmental and social safeguards documents for the KEMP project. The Forums were attended by a large and diverse group of participants and stakeholders from across the country representing different institutions, government agencies, NGOs, indigenous people's representatives, the private sector, the Office of the President, contractors, county governments, and investors and other players in the energy sector, among others. A comprehensive list of the participants is included in the minutes of the Stakeholder Forum consultations in Annex 9 of this report.

As per World Bank requirements the borrower or client is responsible for conducting and providing evidence of meaningful consultation (i.e., consultation that is free, prior and informed) with communities likely to be affected by environmental and social impacts, and with local stakeholders, and also for ensuring broad community support. The objectives of the consultations was to disclose information on KEMP and disclose the draft safeguard documents to relevant stakeholders and to provide opportunity to the stakeholders to voice their opinions and concerns on different aspects of the project. Four safeguards instruments prepared for the KEMP were presented to key stakeholders and discussed. These were: (a) Resettlement Policy Framework for KEMP; (b) Vulnerable and Marginalized Group Framework (VMGF) for KEMP; (c) Environmental and Social Management Framework (ESMF) for Peri Urban Component and the (d) Environmental and Social Management Framework for the Off Grid Component. The feedback was overall positive and stakeholders were supportive of the objectives of the project to increase access to and reliability of electricity services. They were also broadly satisfied with the proposed safeguard instruments and the mitigation measures provided for in the instruments.

The Forums began with an introduction and description of the KEMP Project, and an explanation of the reporting and management requirements with regard to social and environmental issues. This was followed by specific presentations on the environmental and social safeguard documents under the project, including an explanation of the grievance redress mechanism. It was emphasised that more consultations will be held with communities that will be proposed as targeted beneficiaries, during the sub-project selection process.

Consultation is based on stakeholder analysis and is preceded by disclosure of adequate project information and environmental and social information to ensure that participants are fully informed. This process will continue throughout the selection of sub-projects and will continue as needed. Consultations will be conducted in a timely manner in the context of key project preparation steps, in an appropriate language, and in accessible places. The results of the consultations will be adequately reflected in the project design and in the project documentation.

The following were social issues raised during consultation are as follows:

Comment/Question	Response / Remarks from Kenya Power
Resettlement Frameworks – I did not see a lot of input on gender. In the case of compensation it is the men who will want to pick the money and the women will be left out	Gender considerations will be addressed, especially during consultations in identifying impacts to allow all parties affected, including women to understand the compensation and voice their concerns. Issues of payment that involves family property disputes will be handled as they arise. The county administrators from the county and national government will be engaged in dealing with such disputes.
Input on other marginalized groups – widows, orphans, single mothers etc. not seen in the VMGF. How will they be protected?	Within Vulnerable and marginalized groups there could be certain groups who are also vulnerable such as; the aged, orphaned children, female headed households, disabled and persons living with HIV/AIDs. During preparation of actual VMGP these groups will be accorded special attention to ensure they do not miss out on the benefits of the project and that they are not negatively impacted by the project.
Vulnerable groups in urban areas – there are truly marginalised groups in slums; need to capture uniqueness of urban areas in terms of marginalized groups.	The KEMP project component of electrifying peri-urban areas does not envisage any resettlement because only low voltage lines will be put in place. Therefore, no adverse impacts will occur in urban areas to disadvantage vulnerable groups further
On marginalized groups what about the youth and accessing contracts from these projects?	Marginalized groups (youth) and KPLC contracts: due to type of financing for this type of project there are specific guidelines that ensure competitive bidding and open process. Contractors covering all groups such as youth women are welcome so long as skills exist amongst them. In maintenance and as the systems continue to run contractors will participate actively, and in the supply of spare parts. In the main works there are strict guidelines which will be specified in the tender documents.
How will quality of compensation and resettlement be safeguarded? – will quality of resource being compensated be retained?	Quality of compensation is well explained in the RPF document pages 32, 33 and chapter 8 on valuation and compensation.
Community land – is there an audit process that will be put in place to mitigate disfranchisement of women and address gender in case of compensation for use of community land?	Community property is handled differently. The parties concerned are called for a meeting so that there is consensus. If it is land that is held in trust discussions are held first with the trustees and then the members. Deliberate effort will be put to ensure women participate

	including holding consultative meetings with women only so assess to assess specific impacts and appropriate mitigations
In pastoral communities you have to coerce women to give their opinions, they usually will not give their comments. Men will not be concerned about water and firewood. When the land is compensated for land, women are able to continue to using it. However when its financial compensation women lose out on livelihood as the men take the money.	<p>Consultations will be done on how to loop the women in and have appropriate mitigations. In case of issues involving payments of family property national government (the administration) will be engaged i.e. chiefs to advice.</p> <p>In communities where women are shy to speak in meetings, they will be consulted differently so that mitigation measures will be sensitive to their needs.</p>
What is the plan for capacity building for women to utilize electricity for their development and enhance their livelihoods that is, reap benefits of projects?	Women will be sensitized on various ways they can use electricity for economic benefits.
<p>The KEMP project is more of a national project and there is a lot of diversity in social and environmental issues. There isn't a one size fits all, so need to recognize diversity.</p> <p>Take lessons learnt from previous projects as well.</p> <p>Caution on social impacts – resettlement was downplayed; presentation mentioned that there would be not mass movements, so what does actually mass mean? It is not just about the numbers, the project should anticipate handling of difficult cases which could be few but problematic</p> <p>When you go to a place where land adjudication has not been done then other challenges will present. Also need to consider impacts if developing on a world heritage sites. In addition consider the long term sustainability of the Off- Grid component</p>	<p>Comments well taken and issues will be addressed as and when necessary.</p> <p>The ESMF, VMGF and RPF are guidelines and commitments from the proponent that environmental and social issues will be handled. This is because exact locations of the projects are not yet identified. Once site identification is done the specific Environmental Impact Assessment, vulnerable and Marginalized Groups Plans and Resettlement Action plans will be prepared as required.</p> <p>Project will ensure a proactive and robust grievance redress mechanism</p>
The purpose of the RPF and VMGF is to ensure public participation and full compensation to the affected farmers through consensus. The services of Kenya Forest Service can be outsourced at gazette rates for forest resource assessment in order to minimize conflicts with land owners and avoid litigation in law courts which are expensive and time consuming (Use of experts and professional bodies can help alienate challenges and compensation and resettlement plans)	Comments well taken and will be considered

The opinions and suggestions of the stakeholders will assist in taking appropriate decisions for effective engagement of PAPs where the sub-projects will be implemented. The consultations were aimed at fostering an atmosphere of understanding about the project among individuals, groups and organizations, who could affect or be affected by the sub-projects. As a part of project implementation, an effective public consultation and

access to information plan will be developed. The RPF was prepared specifically for the Off Grid Components which will be implemented in rural areas. The exact sub-project sites are not yet identified. Once they are established individual RAPs will be prepared as required by World Bank guidelines and further public consultations and stakeholder engagements will be conducted at this stage. KPLC affirmed it would take the concerns into consideration. The minutes for the consultation are in Annex 9.

The consultations were attended by 128 people (113 participants and 15 KPLC staff). They included 1 County Governor, (Migori); 5 County Ministers of Energy, Water and NRM (Kiambu, Nairobi, Homa Bay, Nyamira, and Taita Taveta counties). There were also representatives from the MoEP, KenGen, 24 representatives from Provincial Administration (Chiefs, Assistant to Sub county Commissioners); REA and other agencies working in energy; representatives from the private sector; and NGOs working in marginalized areas with VMGs. See Annex 9 for summary of issues raised in the consultations and attendees list.

Definition of Project Affected Persons

This RPF described and considers Project Affected Persons (PAPs) to be those who stand to lose as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, fishing areas or important cultural sites, commercial properties, tenancy, income-earning opportunities as well as their social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, using eminent domain or other regulatory measures, and could include restricted or reduced access to legally designated fishing areas and protected areas such as gazetted forests as well as grazing land.

The RPF applies to all economically and/or physically displaced persons regardless of the total number of affected or the severity of impact and whether or not PAPs have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, the elderly, women and children, including marginalized groups, or other economically and/or physically displaced persons who may not be protected through Kenya's land legislation.

Categories of PAPs

The likely displaced persons (economically or physically) under sub component C2 investments are categorized into the following groups namely:-

- Project affected persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities related to a given investment under sub component C2 of KEMP.
- Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by an investment under sub

component C2 of KEMP. These include members like the head of household, male, and female members, dependent relatives and members, tenants, etc.

- Vulnerable groups who could be a member of affected households. They include vulnerable members, such as those who are too old or too ill; children; those stricken with HIV/AIDS; women; unemployed youth, and orphans; households headed by women that depend on sons, brothers, and others needing support and are especially vulnerable. The vulnerable groups are eligible for additional assistance under this RPF, as it is explained later in *Entitlement Matrix, Table 4*.
- Affected local community – A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion. For example project activities could lead into loss of welfare or cultural erosion etc. In addition, the investments under sub component C2 can cause breakdown of communities and social networks due to physical separation as a result of the investment specific infrastructures if not mitigated.

Approximate number of PAPs

Determination of the number of PAPs is not possible at this time due to the nature of sub component C1 and C2 investments specifically locations, nature, scope and magnitude. At this stage, sub project descriptions (feasibility studies, technical designs) do not exist for any of the sub project investments to allow estimation of number of the PAPs. The purpose of this RPF is therefore to establish the mechanisms, procedures and principles for compensation and livelihood restoration for all potentially affected people under and guide the preparation of the RAPs for individual investments. The number of PAPs including determination of physical or economic displacement will only be established through the census which will be undertaken as part of the preparation of the investment specific RAP.

Potential sites for sub-projects

Investments location for sub-project investments will be identified the sites have been identified following which, if necessary sub project specific RAPs will be developed by KPLC&REA PIUs supported by the National Land Commission (NLC) and the Sub County and Locational Resettlement and Compensation Committee (SCRCCs and LRCCs) (explained later in the document) and project affected persons.

PRINCIPLES & OBJECTIVES GOVERNING RESETTLEMENT PREPARATION & IMPLEMENTATION

The objectives of the Resettlement Policy Framework (RPF):

The objectives of the RPF are to:

- Establish the resettlement and compensation principles and implementation arrangements for this project;
- Describe the legal and institutional framework underlying Kenyan approaches for resettlement and compensation;
- Define the eligibility criteria for identification of PAPs and entitlements;
- Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes.

The RPF will apply to all sub project investments, which will be financed under sub components C1 and C2. The procedures will be carried out throughout preparation and implementation of the sub projects, and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a RAP is required, it will be prepared in accordance with guidance provided in this RPF. The RPF follows the guidance provided in the World Bank Operational Policy on Involuntary Resettlement (OP4.12), as described in *Annex 8* as well as Kenyan laws related to land acquisition.

The RPF ensures that any possible adverse impacts of sub project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks can be minimized by:

- Avoiding displacement of people without a well-designed compensation and relocation process;
- Minimizing the number of PAPs, to the extent possible;
- Compensating for losses incurred and displaced incomes and livelihoods; and
- Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs livelihoods and their wellbeing.

Rationale for preparing the RPF

Project investments under sub components C1 and C2 have not been identified at the time of preparation of this RPF. This RPF therefore will be the basis for preparing the project investments specific RAPs. The RPF will set out the procedures for the development of more detailed RAPs for those investments/sub projects and associated facilities that have an impact on land, assets, and livelihoods. The RPF ensures that any possible adverse impacts are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks.

RPF principles under KEMP

1. *Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.*
2. *This RPF applies to all PAPs regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles.*
3. *Where involuntary resettlement and land acquisition are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing resources to give PAPs the opportunity to share project benefits.*
4. *PAPs will be meaningfully consulted and will participate in planning and implementing of the resettlement activities.*
5. *PAPs will be assisted in their efforts to ideally improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.*
6. *Measures to address resettlement shall ensure that project affected peoples are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.*
7. *All PAPs will be identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.*
8. *Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, marginalized groups and the ethnic minorities or other displaced persons who may not be protected through the Kenyan law. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.*
9. *The implementation of individual RAPs must be completed prior to the implementation of the investments under sub component C1 and C2 of KEMP.*

As noted above, investments will avoid or at least minimize involuntary resettlement to the extent possible. However, where it is unavoidable, appropriate measures to mitigate adverse impacts will be carefully planned and implemented following the general framework outlined in this document.

Involuntary Resettlement

Involuntary resettlement, if left unmitigated, normally gives rise to severe economic, social, and environmental risks. People face impoverishment when their productive assets or income sources are lost and social networks are weakened. Some of the impacts of resettlement, if not mitigated, include: (a)*Landlessness* (b)*Joblessness* (c)*Homelessness* (d)*Marginalization* (e)*Increased morbidity and mortality* (f)*Food insecurity* (g)*Educational loss* (h)*Loss of access to common property* and (i)*Social displacement*.

ENTITLMENT UNDER RPF

PHYSICAL DISPLACEMENT

No physical displacement is envisaged in this project. If people must move to another location due to the implementation of a sub projects under component C1 or C2 of KEMP, the GoK, through the Implementing Agency (IA) with engagement of National Land Commission² (NLC) as is required by the Land Act 2012 will ensure that just compensation is provided. This RPF offers displaced persons choices among others feasible resettlement options, including adequate replacement housing, land or cash compensation based on the replacement cost where appropriate. In accordance with OP.4.12, displaced PAPs will also be provided full relocation costs above the compensation amount. Particular attention will be paid to the needs of the poor and the vulnerable, who will be assisted through capacity empowerment during the RAP implementation to adapt to new environments.

In the case of physically displaced persons with recognized or recognizable rights, the project will offer the choice of replacement property of at least equal value, equivalent or better characteristics and equal or better location or cash compensation at full replacement value. Replacement value includes all the expenses which replacing a property will cost. Where displaced persons own and occupy structures, the project will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost.

Compensation in kind maybe offered in lieu of cash compensation based upon mutual agreement between the EA and PAPs as provided for by the Land Act 2012. The Land Act 2012, the legal instrument governing land acquisition and compensation in Kenya, specifies that all PAPs must receive just compensation. It is specific in regard to costs related to moving, disturbances, and legal fees for land transactions of the PAPs. This presents a gap where if not properly interpreted may not see the PAPs getting compensation for the above-related costs unless the Bank procedures are followed. For

²National Land Commission (NLC) is the legally constituted body authorized to undertake or give approval to compulsory acquisition of Land, according to Land Act 2012.

that reason, in all instances where compensation will be undertaken, unless the interpretation of just compensation by NLC is taken to mean all other related costs of relocation mentioned above then the Bank policies will apply and will require that these costs are fully met by the implementing agency.

Economic displacement

The Land Act 2012, Part VIII, section 111 and 125, talks of just, full and prompt payment in the assessment of NLC in case of economic displacement. There is no specific mention of moving allowance and disturbance allowance as part of the compensation. Again, as highlighted above unless “just payment” is interpreted to include related costs of economic displacement, the World Bank procedures that provide for the same will be followed instead of the host country regulation. If land acquisition for a given sub project causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the project will meet the following requirements:-

- a) *Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;*
- b) *In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net income during the period of transition, and for the cost of transfer and reinstallation of plants, inventory, machinery and other equipment;*
- c) *Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable;*
- d) *Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost;*
- e) *Provide additional targeted assistance (e.g. credit facilities, training or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;*
- f) *Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.*

In particular, the taking of land and related assets will take place only after full compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and relocation costs have been provided to economically or physically displaced persons.

LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the KEMP. The chapter seeks to highlight major issues related to Kenya’s land legislation with regards to compulsory land acquisition and involuntary resettlement. It provides a brief overview of Kenya’s Land Policy, Kenyan Constitution 2010 and related provisions connected with land use, planning, acquisition, management and tenure, and more specifically the legislation related with land expropriation or acquisition, land valuation and land replacement. The chapter compares the Kenyan legislation with the World Bank provisions on resettlement, with gaps highlighted and recommendations drawn to fill gaps.

Table 1. Summary of relevant legal statutes applicable to KEMP-Sub Component C2

Legal Framework	Functional Relationship to Resettlement
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals’ right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim has to be given written reason for the action taken that undermines the right.
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.
The Valuers Act 532	The act establishes valuer’s registration board, which has the responsibility of regulating the activities and conduct of registered valuers in accordance with the provision of the act.
Environment and Land Court Act, 2011	This act establishes Environment and Land Court, a court with status of high court which shall facilitate the just, expeditious, proportionate and accessible resolution of disputes related to land and environment, including compulsory land acquisition, land tenure, titles, boundaries, compensation, valuations, rates, land use and environmental planning.
Way Leaves Act Cap 292	Section 3 of the Act states that the Government may carry any works through, over or under any land whatsoever provided it shall not interfere with any existing building or structures of an ongoing activity. (e.g. transmission lines, pipelines, canals, pathways etc. Where any developments are affected, the Act recommends for compensation. Section 6 (1), “the Government shall make good all compensation to the owner of any tree or crops destroyed or damaged”. The Act further explains the process of resolving conflicts that arise in determining the compensation value.

THE NATIONAL LAND POLICY

The National Land Policy (“NLP” or “Policy”)³ was adopted in August 2009 with the aim of providing an overall framework for new legislation and defining key measures required to address critical issues such as land administration, access to land, land use, and restitution related to historical injustices and an outdated legal framework. The NLP addresses constitutional issues such as compulsory acquisition and development control.⁴ Section 45 of the NLP defines compulsory acquisition as “the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation.”⁵ Under the current Constitution,⁶ the Land Act 2012 empowers the National Land Commission (under the guidance of Minister for Lands) to exercise the power of compulsory acquisition on behalf of the State.⁷ Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.⁸

THE CONSTITUTION OF KENYA

The Constitution of Kenya, 2010,⁹ protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.¹⁰ Article 40(3) states:

“The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation” –

- a) results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or*
- b) is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –*
 - (i) Requires prompt payment in full, of just compensation to the person; and*
 - (ii) Allows any person who has an interest in or right over, that property a right of access to a court of law.¹¹*

The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act, 2012 designates the NLC as the institution empowered to compulsorily acquire land.¹² Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is “for a public purpose or in the public interest,” but

³Sessional Paper No. 3 of 2009 on National Land Policy (referred to as the “National Land Policy” in this report) was adopted in August 2009 by the Ministry of Lands. Available at http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48, accessed May 25, 2011.

⁴ Development control is the power of the State to regulate the property rights in urban and rural areas and is derived from the State’s responsibility to ensure that the use of land promotes the public interest.

⁵Sessional Paper No. 3 of 2009 on National Land Policy, § 45.

⁶ The Constitution of Kenya, 1963, was replaced in 2010.

⁷ Land Act, § 6, 2012.

⁸Sessional Paper No. 3 of 2009 on National Land Policy. §233(d).

⁹ The Constitution of Kenya, 2010, was adopted by the Government of Kenya on 27 August 2010. The full text is available at http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf, accessed May 25, 2011.

¹⁰ Constitution of Kenya, art. 40.

¹¹ Id.

¹² The Land Act, 2012 The Government of Kenya, Section 8.

neither the Constitution nor any law provides an exclusive list of permissible public purposes or interests. The state's exercise of this power is left at the discretion of NLC, and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to court.

Article 40(3) (a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to "occupants in good faith" of land acquired by the state who do not hold title for such land.¹³ An occupant in good faith is a "bona fide" occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation.¹⁴

In addition to Article 40, Chapter 5 of the Constitution is relevant to compulsory acquisition. This chapter, entitled "Land and Environment," is divided into two parts. Part 1 deals with land, and Part 2 deals with environment and natural resources. Part 1 of Chapter 5, articles 60 – 68, describes the principles of land policy. Land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas.¹⁵ These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.¹⁶

Land Tenure System in Kenya

Land tenure in Kenya is classified as public, community or private.¹⁷ Public land consists of government forests (other than those "lawfully held, managed or used by specific communities as community forest, grazing areas or shrines"¹⁸), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas.¹⁹ Public land will be managed by the National Land Commission (NLC).²⁰ Community land includes land that is "lawfully held, managed or used by specific communities as community forest, grazing areas or shrines," and "ancestral lands and lands traditionally occupied by hunter-gatherer communities."²¹ Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya.)

¹³ Constitution of Kenya. Id. at art. 40(5).

¹⁴ Constitution of Kenya. Id. at art. 40(6).

¹⁵ Id. at art. 60.

¹⁶ Id. at art. 60(2).

¹⁷ Id. at art. 61.

¹⁸ Id. at art. 63(d)(i).

¹⁹ Id. at art. 62(g).

²⁰ Id. at arts. 62(3), 67(2)s (a).

²¹ Id. at art. 63(d)(i) and (ii).

Customary Land Tenure

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit number of similar characteristics as follows:

- First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources.
- Individuals or families thus claim property rights by virtue of their affiliation to the group.

Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. Freehold land is governed by the Land Registration Act, 2012. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

Leasehold Tenure

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

Public Tenure and the National Land Commission

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012. These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land. However the new constitution grants those rights to the NLC which is governed by the *National Land Commission Act, 2012* that specifies the role of NLC as:

- to identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;
- evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and
- acquire land for public purposes
- solve land disputes and deal with historical land injustices
- share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or
- May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument.

Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships and other urban centers and open water bodies.’ The Government Lands Act does not contain any notion of trusteeship by government of the land to her people.

Notwithstanding the fore-going, it is a common law doctrine to the effect that common property resources such as rivers, forests and parks are held by the state in trust for the general public. Consequently, the state cannot alienate these resources or use them in a way detrimental to public interest. This is the doctrine that would ensure that public land cannot be alienated or committed to waste to the detriment of public interest. It is the case that the statutory framework for land ownership in Kenya is heavily influenced by common law jurisprudence on land ownership-the owner’s rights include the rights of use and abuse. In Kenya however, the development of physical planning legislation has vested in the state the cumulative rights of other land owners. The regulatory power is referred to as police power.

LAND ACT, 2012

The Land Act ²²is the Kenya’s framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.).The LA was adopted on 2nd May 2012 and provides for sustainable administration and management of land and land based resources including compulsory acquisition. The Act is based on the 2010Constitution that recognizes the rights of the landowner and the necessity for fair and just compensation.²³

THE WAY LEAVES ACT Cap 292

The Act provides for certain undertakings to be constructed e.g. transmission lines, pipelines, canals, pathways etc. through, over or under any lands. Section 3 of the Act states that the Government may carry any works through, over or under any land whatsoever provided it shall not interfere with any existing building or structures of an ongoing activity. Where any developments are affected, the Act recommends for compensation. Section 6 (1), “the Government shall make good all compensation to the

²² Land Act, 2012.

²³ The Constitution of Kenya, 2010 recognizes prompt and just compensation when compulsory acquisition of land is made.

owner of any tree or crops destroyed or damaged”. The Act further explains the process of resolving conflicts that arise in determining the compensation value. The installation of low voltage lines will require the acquisition of way leaves of 10 meters within the affected areas. In accordance with the Act (section 4), notice will be given before carrying out works with full description of the intended works and targeted place for inspection. Any damages caused by the works would then be compensated to the owner as per section 6 and as per the provisions of World Bank OP 4.12 as spelt out in this framework.

LAND ACQUISITION PROCESS -

Proof that compulsory possession is for public good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit; and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

Respective Government agency or cabinet must seek approval of NLC

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The NLC will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. But at the same time the NLC may reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

Publication of notice of intention to acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*.²⁴ It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar.²⁵ The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the

²⁴ The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

²⁵ Land Act, 2012, 107

acquiring public body.²⁶ NLC will therefore be required to make a comprehensive notice that includes description of land, public purpose for which the land is acquired and the acquiring public body.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

Serve the notice of inquiry

Thirty days after the publication of the Notice of Intention to Acquire, the NLC then schedules a hearing for public inquiry. NLC must publish notice of this hearing in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct those interested in the land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.²⁷

Holding of a public hearing

The NLC convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, the NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant.²⁸

Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the NLC of documents of title to the land. The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide opportunity to those interested in the land to hear the justification of the public authority in laying claims to acquire the land.

Valuation of the land

Part III of the Land Act 2012, section 113 (2a) states that “*the Commission shall determine the value of conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the persons interested in the land have or have not appeared at the*

²⁶ Government of Kenya 1994. Coastal Aquaculture Limited v. The Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Mombasa H.C. Misc. Appl., No. 55 of 1994, http://www.kenyalaw.org/CaseSearch/case_download.php?go=97115264151454584840489&link=, accessed May 25, 2011.

This ruling was upheld by the Court of Appeal. Coastal Aquaculture Limited v. the Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Nairobi. No. 252 of 1996, http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=49186237036025529910634, accessed May 25, 2011.

²⁷ Land Act, 2012 (112).

²⁸ *Id.* at article 112.

inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae stipulated that it would develop. Nonetheless, just compensation could also be interpreted as market rated. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

Matters to be considered in determining compensation:

Market value of the property, which is determined at the date of the publication of the acquisition notice.²⁹ Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial. Increased market value is disregarded when:

- *It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.*
- *It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.*
- *Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.*
- *Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.*
- *Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant’s life).*
- *Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the Commissioner takes possession of the land.³⁰*

Matters not to be considered in determining compensation:

- a) *The degree of urgency, which has led to the acquisition.*
- b) *Any disinclination of the person’s interest to part with the land.*
- c) *Damages sustained by the claimant, which will not represent a good cause of action.*
- d) *Damages which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future land use.*
- e) *Increased land value accrued by its future use.*
- f) *Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.³¹*

Award of compensation

Under the Land Act 2012 section 117, the State may award a grant of land in lieu of money compensation (“land for land”), upon agreement, and provided the value of the

²⁹*Id.* at article 112 and article 111.

³⁰ Schedule 2 governing compensation.

³¹ Schedule 3 governing compensation for compulsory acquisition.

land awarded does not exceed the value of the money compensation that would have been allowable.³² The law stipulates that any dispossessed person shall be awarded the market value of the land.³³ The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the National Land Commission (NLC) has determined the amount of compensation, the NLC prepares and serves a written award of compensation to each legitimate claimant.³⁴ The NLC will publish these awards which will be considered “final and conclusive evidence” of the area of the land to be acquired, the value of the land and the amount payable as compensation.³⁵ LA, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney’s fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that “first offer compensation shall be paid promptly” to all persons interested in land³⁶ before a notice of acquisition is issued. Section 119 provides a supplementary condition and states that if the size of land is greater than the size of land in respect of which the award has been made, then NLC shall compensate for excess size “as soon as practicable.”³⁷ Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.³⁸

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying any persons interested accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

All cost related to compensation and resettlement of PAPs will be financed by the Government of Kenya and is a condition for the loan from the World Bank.

Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC serves notice to all persons with interest in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the

³²Land Act, 117.

³³Land Act, Schedule

³⁴Land Act, 115

³⁵Land Act, 115

³⁶Land Act, This language reflects the language of the Kenya Constitution, 1963.

³⁷Land Act, 119

³⁸Land Act 115.

register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.³⁹

Temporary Possession

The Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

Urgent Acquisition

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire, and on the expiration of that time the Commission shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar. On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court⁴⁰. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the *Environment and Land Court Act, 2011* empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- *The determination of such person's right over the land;*
- *The amount offered in compensation; and*

³⁹Land Act, 115 and 116

⁴⁰ Land Act 2012, Section 128

- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*⁴¹

Parties will pay fees as determined by Environment and Land Court, which may waive them completely or in part on grounds of financial hardship.⁴²

CHILDREN AND ORPHANS –PROVISION of LAND POSSESSION

The Land Act 2012, Part III, section 27⁴³ recognizes the capacity of a child as being capable of holding title to land through a trustee and such a child shall be in the same position as an adult with regard to child's liability and obligation to the land.

THE VALUERS ACT

Valuation of land is a critical aspect of compulsory acquisition practice. Compensation awards will be made by the National Land Commission based on land valuation determined by registered valuers. The Valuers Act⁴⁴ establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers which shall include the date of entry in the register, the address of the person registered the qualification of the person and any other relevant particular that the Board may find necessary. As of March 2011, there were 285 registered valuers in Kenya.⁴⁵The Valuers Act does not provide for a description of the valuation procedures and methods.

In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Ksh.10, 000) and/or imprisonment for three years. Fees for land valuation in case of compulsory acquisition are established based on the value of the property as "the first Kshs 400,000 at 1 per cent. Residue at 0.5 per cent"⁴⁶ and are paid by those who requested the valuation. Sub-project RAPs will make use of the services of registered valuers who are approved by Valuers Registration Board.

⁴¹*Land Acquisition Act.* at article 29(7).

⁴²*Land Acquisition Act* at article 43.

⁴³"A child shall be capable of holding title to land through a trustee and such child be in the same position as an adult with regard to the child's liability and obligations to the land".

⁴⁴ The Valuers Act, Chapter 532, http://www.kenyalaw.org/kenyalaw/klr_app/frames.php, accessed May 25, 2011.

⁴⁵ Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

⁴⁶*Legal Notice 32.*

COMPARISON OF KENYAN LAWS AND WORLD BANK REQUIREMENTS

The legal framework on land acquisition and resettlement vary to a given extent when compared to the World Bank's Operational Policy on Involuntary Resettlement (O.P. 4.12 is widely accepted as reflecting international standards on involuntary resettlement.

Table 2 next page outlines World Bank policies on involuntary resettlement and compares them to Kenyan legislation on the same. Whenever the Kenya regulations on land acquisition are less stringent than that of OP. 4.12 the bank procedures will apply.

Table 2. Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
GENERAL REQUIREMENTS			
World bank OP4.12 has overall policy objectives, requiring that: 1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives. 2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties. 3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels.	1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest. 2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures. 3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.	1. The Law does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable. 2. Same as the World Bank 3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It does not talk about improving livelihood or restoring them to pre-project status.	I. For each of the subproject, ensure that resettlement issues are considered at the design stage of the project in order to avoid/ minimize resettlement. Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.
PROCESS REQUIREMENTS			
Consultation: Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs	The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.	Same as World Bank	Implement consultation procedures as outlined in both Kenyan legislation and World Bank.
Grievance: For physical resettlement, appropriate and accessible grievance mechanism will be established.	Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through	Kenyan legislation meets OP4.12 requirements.	N/A

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
	Environmental and Land Court. Way Leaves Act Cap 292. The Act explains the process of resolving conflicts that arise in determining the compensation value.		
<p>Eligibility Criteria <i>Defined as:</i> (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);</p> <p>(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and19</p> <p>(c) those who have no recognizable legal right or claim to the land they are occupying</p>	<p>The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights</p> <p>Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood.</p> <p>The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p>	<p>Kenya’s Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated.</p> <p>The constitution of Kenya on the other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p>	<p>Ensure ALL users (including illegal squatters, labourers, rights of access) of affected lands are included in the census survey or are paid (see Section 4).</p>
<p><i>To determine eligibility:</i> Carry out resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>Same as World Bank</p>	<p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
<p>Measures: Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based.</p>	<p>Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be granted to land to land compensation.</p>	<p>Land for Land provided for in the Land Act but act not specific on when it should be applied except when the affected person chooses to receive land to land award.</p>	<p>Ensure that all alternative options are considered in preference to providing cash compensation (as outlined in the Entitlement Matrix).</p>
<p>Cash based compensation should only be made where (a) land taken for the project is a small fraction of the</p>	<p>Land Act 2012 appears to prefer mode of compensation by the Government to</p>	<p>Cash based compensation seems to be the preferred mode of awarding</p>	<p>Use World Bank OP4.12 procedures in determining form of compensation</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p> <p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>	<p>the affected population.</p> <p>Way leaves Act Cap 292 notes that where any developments are affected, the Act recommends for compensation. Section 6 (1), “the Government shall make good all compensation to the owner of any tree or crops destroyed or damaged”.</p> <p>Land Act talks of prompt, just and full compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just and fair compensation has not been put in place.</p> <p>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not included in just compensation</p> <p>The Act is does not out rightly stipulate assistance for relocation but we can interpretthat relocation cost will be included in just compensation.</p>	<p>compensation to the affected population by Government of Kenya</p> <p>Just compensation as stipulated in the Land Act not yet specifically defined.</p> <p>Land Act very clear on attorney fees that it is not included. OP 4.12 includes those cost as part of full replacement</p> <p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Implement World Bank policy on Attorney’s fees.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>Valuation: With regard to land and structures, “replacement cost” is defined as follows:</p> <p>For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors’ fees, plus the cost of any registration and transfer taxes.</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive fair and just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer.</p> <p>Land Act 2012 talks of fair and just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just and fair compensation. Way leaves Act Cap 292 notes that where any developments are affected, the Act recommends for compensation. Section 6 (1), “the Government shall make good all compensation to the owner of any tree or crops destroyed or damaged”.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of ‘just and fair compensation has not been defined.</p> <p>Interpretation of just and fair compensation not clear</p> <p>Interpretation of just and fair compensation not clear.</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</p> <p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>
<p>Monitor Adequate monitoring and evaluation of activities to be undertaken.</p>	<p>According to Land Act can be undertaken County Land Boards.</p>	<p>Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation</p>	<p>Implement as prescribed in the World Bank OP4.12 and Kenyan Law.</p>

Comparative Analysis of World Bank OP 4.12 and Kenya's requirements Relevant to the Process

Table 3: Comparative Analysis of World Bank OP 4.12 and Kenya's requirements Relevant to the Process

Category of PAPs and Type of Lost Assets	Kenyan Law	World Bank OP4.12
Land Owners	Fair and just compensation which could be inform of cash compensation or Land for Land	Recommends land-for-land compensation. Other compensation is at replacement cost
Land Tenants	Constitution says that 'occupants of land' entitled to some level of pay in good faith. Land Act stipulates that they are entitled to some compensation based on the amount of rights they hold upon land under relevant laws. However, those who acquired land illegally not entitled to any.	PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.
Land Users	Land Act not clear on Land Users although in some cases they can receive some form of compensation depending on the determination by NLC	Entitled to compensation for crops and investments made on the land; livelihood must be restored to at least pre-project levels.
Owners of Temporary Buildings	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the loss temporary buildings.	Entitled to in-kind compensation or cash compensation at full replacement cost including labour and relocation expenses, prior to displacement.
Owners of Permanent buildings	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the permanent building	Entitled to in-kind compensation or cash compensation at full replacement cost including labour and relocation expenses, prior to displacement.
Perennial Crops	Just and fair compensation for the loss of crops	As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,

ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

This chapter is a summary description of the category of the affected groups and the potential type of impacts related to involuntary resettlement. In addition, this chapter describes entitlements for each type and category of impact, and sets out the detailed requirements for determining the value of affected assets and outlining the process by which valuation will be undertaken. It also explains entailment and compensation measures.

Category of PROJECT Affected PERSONS

Affected groups under sub-project investments in this RPF will include:

Affected Household – A household is affected if one or more of its members are affected by sub projects, either by loss of property, land, and access, or otherwise his or her livelihood could be affected in any way by project activities. They include:

- *Any members in the households, men, women, children, dependent relatives and friends, tenants;*
- *Vulnerable individuals who may be too old or ill to farm along with the others;*
- *Relatives who depend on one another for their daily existence;*

Affected Individual – An individual who suffers loss of land, property, other assets or investments made on land, livelihood, and/or access to natural and/or economic resources as a result of the sub project investments under sub component C 2.

Vulnerable Groups and Households – Vulnerable groups, individual or part of the households may have different land needs from most households or needs unrelated to the amount of land available to them, e.g.:

- Female headed households;
- Poor
- Non-farming residents;
- Elderly;
- Disabled;
- Persons Living With HIV/AIDS
- Marginalized and Vulnerable Persons; and
- Orphans and Vulnerable Children

Following is a brief explanation of some of the vulnerable groups identified for this RPF:

- **Orphans** -Due to the impacts of the AIDS crisis in Kenya and the past conflicts around the country, there are a considerable (some estimates put it at 20% of all children or 1.7⁴⁷ million) number of orphaned children, who have lost at least one parent. These children today fall into three categories of care namely (i) those being

⁴⁷According Kenya Bureau of Statistics (KBS) there over 1.7 million orphans, of this, UNAIDS reports 1.1 HIV/AIDS affected orphaned.

looked after by close relatives, (ii) those being looked after by the government, local authorities or NGOs and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard.

- ***HIV/AIDS Afflicted Persons***-Relatively high percentages of the poor and total population are living with HIV or are terminally ill with HIV/AIDS. Many are beneficiaries of numerous health programmes from the government, international organizations and the NGO community.
- ***Widow-Female-headed Households***-These may depend on relatives, sons, brothers, or others for support. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.
- ***Small-scale Female Farmers***-Small-scale female farmers are also vulnerable because they may not have men available within the household to carry out male specific land preparation tasks. Either male relatives in other households help them voluntarily, or they hire men for cash, or food. Land compensation will specifically include the labour costs of preparing new land.
- ***Elderly Persons***-Elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith, kin and neighbours. Losing land will affect their economic viability and resettlement would damage their economic viability even more than losing land since it will separate them from the person or household on whom they depend for their support.
- ***Non-farming households depending on farming household’s*** -This is another category of affected people who could be among the vulnerable. They are non-farming individuals who are engaged in other works, including some agricultural work and their livelihoods could be affected as a result of the project they include landless labourer, fishermen, whose main income come from fishing, sand harvesters, and small businesses relaying on the farming communities. In addition, women non-farmers. These women earn income from other sources and/or depend on relatives for “exchanges” of staple foods. Since they do not farm they will not be affected by the sub-projects need for agricultural land. However, if their buildings lie on land needed by a subproject. They will lose at minimum their social network that they rely on if not resettled together.
- ***Affected Community*** – A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion. For example project activities could lead into loss of welfare or cultural erosion etc. In addition, the investments can cause breakdown of communities and social networks due to

physical separation as a result of the investment specific infrastructures if not mitigated.

These household types are not mutually exclusive, and a female heading a household may be a small-scale farmer or an orphan may be an HIV/AIDS affected person. These groups are particularly vulnerable to land acquisition activities, and as such the following considerations will be made when sub project sites are identified and PAPs listed. In addition, the list above is not an exhaustive list and the socioeconomic survey which will be done for preparation of sub project specific RAPs needs to be exhaustive in the category of the affected people and their sources of livelihoods.

Eligibility type for Compensation

The following are some of the category of impacts eligible for compensation. The list, though, can be added to when socio-economic study and census undertaken for individual investments where other types of impacts could be identified.

- Land
- Property
- Land and property
- Structures on land
- Crops and trees
- Livelihoods
- Grazing land
- Businesses
- Community assets

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out for the preparation of investment specific RAPs. **Table 4** below summarizes the entailments for each group of affected persons.

Table 4: Entitlement Matrix

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Less than 20% of land holding affected Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value, taking into account market values for land.
		Community land	Cash compensation for affected land equivalent to replacement value taking into account market value
		Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of land holding lost Land does not become economically viable.	Farmer/ Title holder	<p>Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost.</p> <p>Community land – land for land replacement where feasible or compensation in cash</p> <p>Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location, which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)</p> <p>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)</p>
		Tenant/Lease holder	<p>Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.</p> <p>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)</p>
Land users	Impact on livelihood	Land less, encroachers	Compensation to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	<p>Cash compensation for affected land</p> <p>Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).</p>
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			where such records do not exist)
	Assets used for business severely affected If partially affected, the remaining assets become insufficient for business purposes	Title holder/business owner	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + allowance) Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)
		Business person is lease holder	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.
Residential Land	Land used for residence partially affected, limited loss Remaining land viable for present use.	Title holder	Cash compensation for affected land
		Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)
	Land and assets used for residence severely affected Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws	Title holder	Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost. Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + allowance)
	Land and assets used for residence severely affected	Rental/lease holder	Refund of any lease/ rental fees paid for time/ use after date of removal Cash compensation equivalent to 3 months of lease/ rental fee

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws		Assistance in rental/ lease of alternative land/ property Relocation assistance (costs of shifting + allowance)
Buildings and structures	Structures are partially affected	Owner	Cash compensation for affected building and other fixed assets Cash assistance to cover costs of restoration of the remaining structure
	Remaining structures viable for continued use	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months rental costs
	Entire structures are affected or partially affected Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP. Right to salvage materials without deduction from compensation Relocation assistance (costs of shifting + allowance) Rehabilitation assistance if required (assistance with job placement, skills training)
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant) Relocation assistance (costs of shifting + allowance equivalent to four months rental costs) Assistance to help find alternative rental arrangements Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/informal dweller	Cash compensation for affected structure without depreciation Right to salvage materials without deduction from compensation Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available) Rehabilitation assistance if required assistance with job placement, skills training)
		Street vendor (informal without title or lease to the stall or shop)	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			Relocation assistance (costs of shifting) Assistance to obtain alternative site to re- establish the business.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques, <i>Economic rehabilitation assistance:</i> Provide assistance to facilitate this transition... For example, assistance with and payment for construction of new zero-grazing structures on alternative lands; provision of buffer lands for growth of cattle fodder; assistance with cultivation of fodder, provision of cattle fodder for lag period until cultivated cattle fodder becomes available. Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	Replace water access: Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Loss of communal properties such as burial grounds and places of worship, community centres, and social buildings	Loss of access to these sites, temporarily or permanently, loss of investment made.	Communities affected	Consultation: Undertake consultation with affected households to determine appropriate arrangements and compensation if suitable. Replacing the social building such as schools and dispensaries.
Loss of livelihoods	Loss of means of livelihoods such as small production, such as collection of forest product, fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	Communities engaging in non-farming livelihoods such as hunters and gatherers, fisher folk, beekeeper.	Livelihood restoration programs: Undertake to help the affected communities restore their livelihood.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed)

Processes of Compensation and Entitlement

Formal Processes Involved With Compulsory Acquisition of Land

The following is the formal processes involved when land needed for public development projects is acquired.

Step 1: An acquiring authority makes a formal request to the NLC indicating the purpose of the land to be acquired. The request should prove that the land is needed for public purpose.

Step 2: The Commission will consider the request in view of the guidelines. If the Commission is convinced that the land is required for public purpose, the Commission will write to the Acquiring Agency to that effect, and directs them to acquire the land.

Step 3: The Commission will then give “Notice of Intention” to acquire the land in the “Kenya Gazette or County gazette” side by side with the “Notice of Inquiry”. The public announcements will be made widely in standard mass communication avenues such as newspapers and on the radio.

The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” must mention places and fixed dates when persons interested in the subject land are to submit their claims to the NLC or their appointee.

Step 4: NLC will inspect the land and undertake valuation through any of the registered valuer for just compensation before issuing an award depending on their own assessment and the representations of interested parties as submitted at the inquiry.

Step 5: The award will then be issued in the prescribed form indicating the amount of compensation awarded while the statement form gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, NLC or acquiring authority will issue a first offer cheque, which may be interpreted as the first tranche in settlement. During receipt, the landowner will sign an acceptance letter when receiving the first tranche.

Step 6: After receipt of first tranche a “Notice of Taking Possession and Vesting” will be issued by NLC or acquiring authority on the exact date of taking possession. The notice will instruct the landowner to take his/her title for amendment or cancellation. It is copied to the Government Land Registrar to make necessary changes to the affected deed. On the other hand, if the owner rejects the award, the NLC or acquiring authority deposits the money in special account pending the former’s appeal. Compensation will be based on ‘just compensation’.

Step 7: After notice has been served NLC or acquiring authority shall promptly pay, in full, the remaining compensation in accordance with the award to the persons entitled

Step 8: After the full compensation and after land has been acquired, NLC or acquiring authority shall as soon as practicable ensure that a final survey is undertaken of the land acquired.

Section 117 of Land Act 2012 allows for in-kind compensation as follows:-
“Notwithstanding anything contained in the Lands Act, where the land is acquired for the Government or County government, NLC may agree with the person whom he has determined to be the proprietor of the land that person, instead of receiving an award, shall receive a grant of land, not exceeding in value the amount of compensation which NLC considers would have been awarded, and upon the conclusion of the agreement that person shall, be deemed conclusively to have been awarded and to have received all the compensation to which he is entitled in respect of his interest. An agreement under subsection (1) shall be recorded in the award. Such a grant can be another land or anything equivalent to the value of the land⁴⁸”.

Establishment of Resettlement and Compensation Committee

This RPF outlines the establishment of Sub County and Locational Resettlement Committees in each of the project affected Sub Counties and locations. They will be established to assist the smooth implementation of the RAP, and ensure participatory and transparent implementation of the RAP. These committees will not engage in land acquisition or compensation, as this remains the prerogative of the NLC but will instead facilitate the process for transparency and ownership.

The committees will ensure effective communication among affected persons, NLC and implementing agency and will also include representative of implementing agency or acquiring authority⁴⁹, county representatives, representative of NGO, and representative of the PAPs.

Method to Determine Cut-Off Dates

The entitlement cut-off date refers to the time when the assessment of persons and their property in particular sub project areas is carried out, which is the time when the census or economic survey is initiated. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the area.

Where there are clearly no identified owners or users of land or assets, the respective County Administration will notify the community leaders and representatives to help to identify and locate the land users and owners. These leaders and representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The PAPs will be informed through both formal notification in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

⁴⁸ Land Act 2012, section 117.

⁴⁹Acquiring authority is the implementing agency that has made formal request to acquire land.

METHODS OF ASSETS VALUATION

Valuation is the process of determining the value of land, or an asset that PAPs possesses or use. Compensation for all land use and assets in kind or cash will be required for the following:

- *Land;*
- *Residential buildings, any structures and fixtures;*
- *Cultivated crops (both cash and food crops) and trees; and*
- *Loss of businesses or employment.*

Replacement cost is used for land and properties affected by investments under sub components C1 and C2. For agricultural land, the replacement value it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

For houses and other structures, it is the market cost for replacing the property, including the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer

In addition, resettlement and economic rehabilitation assistance will be provided to the PAPs, as outlined in the Entitlement Matrix. It is essential that if cash compensation is selected then replacement values be used to establish actual compensation for all sub projects to be funded. A registered valuer with Valuers Registration Board (VRB) will undertake the valuation exercise, using existing market price, to establish replacement cost and this will be done as part of the preparation of each investment specific RAP.

Although the type of compensation will be the individual's choice, compensation in kind will be preferred as cash payments raises issues regarding inflation and security. In addition, provision of cash does not ensure that the PAP's income will be restored. For payment of compensation in-kind, the timing and alternative locations will have to be decided and agreed upon by each recipient.

VALUATION PROCESS OF ASSETS

Field Preparation of asset inventory

The first step will be to carry out an asset valuation survey as part of the RAP preparation. KPLC and REA will form teams comprising of; Socio-Economists, Registered Valuers, Lawyers, Accountants, among other relevant professional who will be required for this assignment of carrying out the RAP. The REA and KPLC teams will work closely with sub county resettlement committees, which will be established for the implementation of the RAP in a given sub project County. It will include a representative of the PAPs. Each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the approach described above. The values of each

asset will then be recorded in a register and shown to the affected person for agreement. The register will be signed and a copy given on the spot to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism. The information collected, including census, will have been compiled in electronic and hard copy form, with a separate file for each affected household, including:

- *Census results;*
- *Asset inventory and valuation;*
- *Photographs; and*
- *Any other relevant information.*

The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets. **Table 5** below describes the forms of compensation.

Table 5. Forms of Compensation

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Kenya Shillings, based on the replacement cost. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
Resettlement and Economic Rehabilitation Assistance	Assistance may include livelihood restoration measures, moving allowance, transportation and labor

One purpose of using in-kind compensation will be to reduce inflationary pressure on the cost of goods and services. Local inflation may still occur and thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The issue of security, especially for people who will be receiving cash compensation payments will be addressed by the local administration. The timing and venue for in-kind compensation will be decided by each implementing agency in charge of specific investment with consultation with the PAPs and with the assistance of the resettlement committees.

Methods for Valuing Assets in Kenya

Valuation is not an exact science. There are, however, certain fundamentals and basic appraisal methods, which will enable the valuer to arrive at a logical and supportable estimate of value of property owned by PAPs. Any valuation model to have validity it will have to produce an accurate estimate of the market price. The method will therefore have to reflect the market culture and conditions at the time of valuation. The following method will be considered:-

Investment method

The investment method will treat property like any other investment in the market, where the main factors influencing investment decisions are security of principal, adequate

yield, security of income, administrative costs and capital growth. The procedure is to capitalize the rental income (net of expenses or outgoing) using a coefficient based on the prevailing market yield. Yield adjustments will have to be made where income is terminable. Where ownership will accrue in future or the expected income stream is likely to change, the benefit is deferred at an appropriate rate, where adequate market data are available. Where sale and rental transactions are rare, and there is scarcity of comparative data on rental and capitalization rates, the method will not be used.

Direct comparison method

The method will be used to value assets by comparing like with like. It is a very reliable method if current market information is available on sale prices and rentals. It is usual to reduce sales or rented information on unit price for compensation purpose.

Replacement Cost Approach

Replacement Cost Approach, is where market sale and rental information is not available, value can be arrived at by using the cost approach - that the costs of replacing assets is based on damages caused by project operations. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs.

Gross Current Replacement Cost

Gross Current Replacement Cost (GCRC) is defined as the estimated cost of erecting a new building having the same gross external area as that of the existing one, with the same site works and services and on a similar piece of land.

Other methods

Rates from Contractors:

When rate schedules do not exist or are out of date, recent quotations by contractors for similar types of construction in the vicinity of the project will be used for calculating replacement costs. In projects offering the options of cash compensation or alternative accommodation, the construction cost estimates for alternative accommodation could be used for calculating cash compensation payable.

Schedule of rates from National Construction Authority:

The National Construction Authority have a schedule of rates for preparing estimates for construction projects, which the REA and KPLC teams can use to assess costs for construction materials and labor. When applied to calculate replacement cost, rates current for the period of actual replacement must be used.

As noted earlier, to comply with OP 4.12, under this RPF the replacement cost approach will be used, which includes all expenses to replace a lost property and/or land. No depreciation will be used since the crux of this approach is that the people who lose land and assets will be able to replace them at least at the pre project level.

Calculation of compensation by assets

The following methods of calculation will be adopted for the preparation of the aforementioned standardized asset valuation tables and/or the application of specific case-by-case valuations in the case of sub projects that have significant impacts.

Compensation for Land in urban areas

The compensation will be based on replacement cost, which will be the market price plus the cost of buying a new plot of land and the fees and taxes involved.

Compensation for Agricultural Land

The project will provide first replacement of land for any affected land. If receiving land as compensation, the affected party will then be compensated for the labor required to replant the crops. In the case where there is no alternative land available, cash compensation at full replacement value will be provided. This will be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality.

Any associated costs of purchasing the land i.e., taxes, and registration fees will be included in the compensation. Compensation will also be done for any improvement made on the land with calculation made using current prevailing market rates for labour, equipment and materials. In cases where land lost is only a small fraction of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided will be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land). In addition, the PAPs will be compensated for any permanent improvements made to the land (for instance water distribution and supply lines). This will be calculated based on the price of making the permanent improvement at current prevailing market rates for labour, equipment and materials.

Compensation for land is aimed at providing a farmer and land owners whose land is acquired and used for project purposes, with compensation for land labour and crop loss. The farmer's labour is one of the biggest investments he/she makes in producing a crop, which is higher than all other inputs such as seed and fertilizer. As a result, compensation relating to land will cover the market price of labour invested as well as the market price of the crop lost.

Land Measurement

For purposes of measuring land, the unit of measurement would be that which is used and understood by the affected farmers and if a traditional unit of measure exists in the rural areas, that unit will be used. If a traditional unit of measurement does not exist in a particular area then it is recommended that land should be measured in metres or any other internationally accepted unit of measurement.

However, in such an event, the unit that is being used must be explained to the affected farmers/users and must somehow be related to easily recognizable land features that the communities are familiar with, such as using location of trees, stumps, etc. as immovable pegs. The most important concern of this exercise is to ensure that the affected person is

able to verify using his/her own standards/units of measurement, the size of land that is being lost. This will ensure transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. A farmer should know how much land he/she is losing, in terms of size and the replacement land must be at least of that same size and comparable value as land lost.

Calculation of Crops Compensation Rate

The compensation of the crops will be paid at market rate for the production lost. This rate incorporates the value of crops and the value of the labor invested in preparing new land. Market value is equivalent to average of last 3 years market value for the mature and harvested crop. The value of the labor invested in preparing agricultural land and ploughing will be compensated at the average wage in the community for the same period of time.

Crop Values Determination

The value of each staple crop affected will be taken as the highest market price (over 3 years) reached during the year. This will be validated from current market prices of crops as kept by County Agricultural office.

The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop.

The labor costs will be paid in Kenya Shillings at the prevailing market rates. For transparency reason, all land labor will be compensated for at the same rate. If the land is needed at agriculturally critical date when farmer or PAPs will not have enough time to prepare another land without assistance, support will be provided in the form of labor intensive village hire, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. The farmer will still continue to receive his/her cash compensation to enable him/her to pay for sowing, weeding and harvesting.

Compensation for Buildings and Structures

Compensation will be paid by replacing structures such as houses, buildings, huts, farm, outbuildings, latrines and fences on alternative land provided as an in-kind compensation. Cash compensation would be available as preferred option for structures lost, that are not the main house or house in which someone is living. The ongoing market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement costs without depreciation of the structure. The second option is provision of cash compensation at full replacement value. Replacement values will be based on:

- *Measurements of structures and detail of materials used;*
- *Average replacement costs of different types of household buildings and*
- *Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).*

- *Prices of these items collected in different local markets;*
- *Costs for transportation and delivery of these items to acquired/ replacement land or building site;*
- *Estimates of construction of new buildings including labor required;*
- *Any associated taxes, registration fees.*

Compensation for Community Assets

Community assets include community-owned assets such as water points, wells, marketplaces and community/ public facilities (e.g., schools, wells, clinics police posts). Community assets will be identified through the census and enumerated. In the event that community assets are affected, in-kind and new facilities will be provided even if there are existing facilities at the new location, except if such assets are not needed in the new place. However, if community trees are affected, the community will be compensated through provision of new seedlings equivalent to the value of lost trees. Some community assets such as burial grounds in rare case may need to be moved, therefore the cost of moving graves and related structures should be considered.

Compensation for Sacred Sites

This RPF is conscious of the fact that valuation of sacred places is a difficult undertaking because of the complexity of placing monetary value on a cultural site. Additionally, most sacred sites belong not only to an individual but a family, village or community.

Under this RPF to the largest extent possible, the sacred sites and use of land that is defined to be cultural and/or sacred property by the Banks Safeguards OP 4.11 will be avoided. Sacred sites will include but not restricted only to; museums, altars, initiation centers, ritual sites, ancestral tombs, trees, stones, and cemeteries, which are considered sacred by the project, affected persons. It will also include other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. However, if the impact on some cultural sites is unavoidable, utmost care will be taken to ensure that all related activities affecting such sites and compensation is culturally appropriate and acceptable to the involved community and that all the processes are done in a consultative manner and with full participation of the affected communities.

Compensation for Loss of Enterprises

Business structures in project areas will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income, profits and production during the transition period (time lag between losing the business and re-establishment). If it is not possible or preferable to provide replacement site for an affected business/enterprise, the full replacement cost to re-establish the business, as described above, will be provided.

Compensation for vegetable gardens and beehives

Most vegetable garden, form part of the residential space of most homes-though miniature in size, they make critical component of most family's food and nutritional supplement through provision of vegetables. Until a replacement garden starts to bear, the family displaced (economically or physically), will have to purchase vegetables in the market for daily use. The replacement costs therefore, will be calculated based on the average amount that an average town dweller spends on buying these items for one year per adult from the local market. Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities, or access to hives is denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

Compensation for horticultural, floricultural and fruit trees

Papaya, Banana, Guava, spice crops, medicinal and aromatic crops will form a set of primary fruit trees that are likely to be found in project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of: *subsistence food for families; cash produce that contribute to the export economy; petty market income in some areas, and shade (in the case of mango trees)*. For banana trees, they have a relatively much shorter productive life, normally, than mango trees. For species, banana trees will not bear fruit more than once a year. Therefore, compensation for banana trees would be based on the full market rates for bananas harvested in that year and for one additional year. The second year payment is for the replacement cost of planting a new tree, looking after it and harvesting it which could all be done in one year. This method in general is used for trees/plants that have a relatively short life.

Mango tree and other fruit bearing trees with longer life span will be compensated on a combined replacement/market value. Mango trees used for commercial purposes will be compensated at market value based on historical production records.

If households choose to resettle, they will be compensated for the labor invested in the trees they leave behind. For this RPF, the compensation rate will be based on the value of the mango and other fruits harvested in one season multiply by the years of the maturity of the tree. The compensation could also be in the form of providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income.

Other domestic fruit, shade trees,

As defined in this RPF, individuals will be compensated for wild trees, which are located in their land. Wild productive trees belong to the community when they occur in the bush as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

Compensation for livelihood that are not necessarily land base

For those who have small production and that production is a major part of their livelihoods, such as forest fruit and herbs collectors, fishermen, beehive keepers, livestock owners, tenants, those working on land, sand collectors, earning an income, which is affected by any of sub project investment. The RPF proposes full livelihood restoration and support to such vulnerable groups affected by the project activities. The livelihood restoration support will be in the form of cash plus training and capacity building to engage in new occupation, including activities created by a given sub project.

PREPARING & APPROVING RESETTLEMENT AND COMPENSATION PLANS

This chapter describes how a determination will be made (screening) on whether investments under sub component C1 and C2 will lead to physical or economic displacements. If through the screening process, it is determined that displacement will occur, then the section highlights the steps, process and methodologies for preparing RAPs. The RAPs for each investment will be prepared in accordance with this RPF.

The Screening and Resettlement Processes and planning Process

Screening

Screening will be based on the defined area of impact, primary engineering drawings, maps and, if available, satellite images of the sub project area showing homes, farms, workplaces, schools, health posts, places of worship and other individual and community assets. If screening determines that there will be involuntary resettlement-related impacts, the next step will be to initiate consultations and the preparation of a RAP to mitigate such impacts. In this case these will be quite modest given the modest impacts anticipated. The steps to be undertaken for each individual Resettlement Action Plan (RAP) include; an identification of Project Affected Persons (PAPs), a socioeconomic census and asset inventory of the affected assets, and consultation. Each RAP when prepared will contain the analysis of alternative sites undertaken during the land screening process.

Resettlement Processes and planning,

Once the decision is made on the location of a given sub project and the census is conducted for a preparation of the RAP for a given investment, the implementing agency starts the RAP processes, including the preparation of the RAP as explained below.

Preparation of a Project specific RAP

As soon as a sub-project is approved under the sub component C1 or C2 and the implementing agency will initiate a consultative and participatory process for preparing the RAP as follows:

- (i) A socio-economic survey/census will be completed to determine scope and nature of resettlement impacts including the number of PAPs, the number and size of the assets, the economic activities, the other socio-economic data, and productive assets to be affected, among others.
- (ii) The socio-economic assessment will focus on the potential affected communities, including some demographic data, description of the area, livelihoods, the consultation process, and socio-cultural characteristics of the population. This together with the census will establish baseline information on livelihoods and income, landholding, etc.

Aside from the census and socioeconomic survey, which are the basis for collecting data and information on the PAPs and their assets, the following guidelines will be used when the RAP is being developed.

- (i). Consultation and participatory approaches; A participatory approach will be adopted to initiate the compensation process. Consultations will start during the planning stages when the technical designs are being developed, and at the land selection/screening stage. The process therefore seeks the involvement of PAPs throughout the census and socioeconomic study for identifying eligible PAPs and throughout the RAP preparation process.
- (ii). Notification; All eligible PAPs will be informed about the project and the RAP process. A cut-off date will be established as part of determining PAPs eligibility, which is the date the census or the socioeconomic survey is initiated. In special cases where there are no clearly identifiable owners or users of the land or asset, the RAP team must notify the respective local authorities and leaders. A “triangulation” of information – affected persons; community leaders and representatives; and an independent agent (e.g. local organization or NGO; other government agency; land valuer) – may help to identify eligible PAPs. The RAP team will notify PAPs about the established cut-off date and its significance. They will be notified both in writing and by verbal notification delivered in the presence of all the relevant stakeholders.
- (iii). Notification to NLC: One of the first steps in this process once the census undertaken for the preparation of the RAP is done; the implementing agency makes a written request to NLC⁵⁰ of the intention for the acquisition of the identified area for a given investment. NLC will inspect the land and grant approval for the land to be acquired for the implementation of the project. With this approval, NLC will make a written notification through the *Kenya Gazette* or *County gazette* of the intention to acquire the identified land for public purposes.
- (iv). Documentation and verification of land and other assets; NLC, the legal agency responsible for the approval of compulsory land acquisition and compensation for national and county development projects, together with a contracted registered valuer, and the resettlement committees, will arrange meetings with PAPs to discuss the compensation and valuation process. For each individual or household affected by a given investment/sub-project, the RAP preparation team will complete a Compensation form containing necessary personal information on the PAPs and their household members; their total land holdings; inventory of assets affected; and demographic and socio-economic information for monitoring of impacts. This information will be documented in a report, and witnessed by an independent or locally acceptable and respected community member. The reports will be regularly updated and monitored.

⁵⁰ NLC is the legal body, approved by the law to make all compulsory acquisitions (Land Act 2012, National Land Commission Act 2012 and Constitution of Kenya 2010).

- (v). Compensation and valuation. All types of compensation will be clearly explained to the individual and households involved by REA and KPLC teams, NLC representative and resettlement committees. This will refer especially to the basis for valuing the land and other assets, which will always be done in the presence of the PAPs or their representatives. Once such valuation is established, the NLC will produce, in presence of resettlement committees, a Contract or Agreement that lists all property and assets that will be acquired by the project and the types of compensation selected. *Table 4* above provides a sample of entitlements that are eligible for compensation. These options include in-kind (e.g. replacement housing) and cash compensation. All compensation should occur in the presence of the affected persons and the community local leaders. If cash compensation is the preferred choice of the PAPs, the means to provide such cash compensation will be decided by the PAPs, e.g., through a cheque, direct deposit to the PAPs account or direct payment in cash to PAPs given that access to banking is sometimes a challenge in remote environment. Compensation costs will met by the Government of Kenya.
- (vi). From this point, the provisions of this RPF will be utilised up to payment of the compensation package including resettlement support where appropriate. The costs associated with resettlement or relocation will be included in the RAP budgets for all investments.
- (vii). Payments: The Government of Kenya through the Ministry of Finance will provide funding to the Ministry of Energy and Petroleum, which is the overall implementing agency for the KEMP. Ministry of Energy and Petroleum shall upon receipt of request from the implementing agency for the cost of the RAP implementation, provide funds to the implementing agency for the actual RAP implementation. The compensation amount for the land and properties then is provided to the NLC, which will be in charge of land acquisition. The NLC will make award to the PAPs for the affected land and properties
- (viii). Grievance Mechanism: Establishment of grievance mechanism will be one of the key requirements of the RAP processes for every investment. One of the key roles of the proposed Sub County Resettlement Committees, under individual projects, will be to address disputes. Grassroots based disputes will be dealt by Location Resettlement Committee (LRCC) led by the administrative chiefs (explained in Chapter 9, under Implementation Arrangements. All PAPs will be informed how to register grievances or complaints, including specific concerns about compensation and relocation as well as dispute regarding livelihood restoration measures. The PAPs will be informed about the dispute resolution process, specifically about how the disputes will be resolved in an impartial and timely manner.
- (ix). Environmental and Land Court will provide opportunity for appeal when a solution will not be found using the established local mechanisms. The court will deal with land and compensation related disputes. However, the Land Act 2012 and Environment and Land Court Act 2011 advocates for alternative dispute resolution (ADR) methods in tackling land related disputes. Alternative dispute resolution

approaches will be given preference and based on customary rules, arbitration or third-party mediation. ADR will be promoted or defended as a resolution to disputes related to resettlement and land.

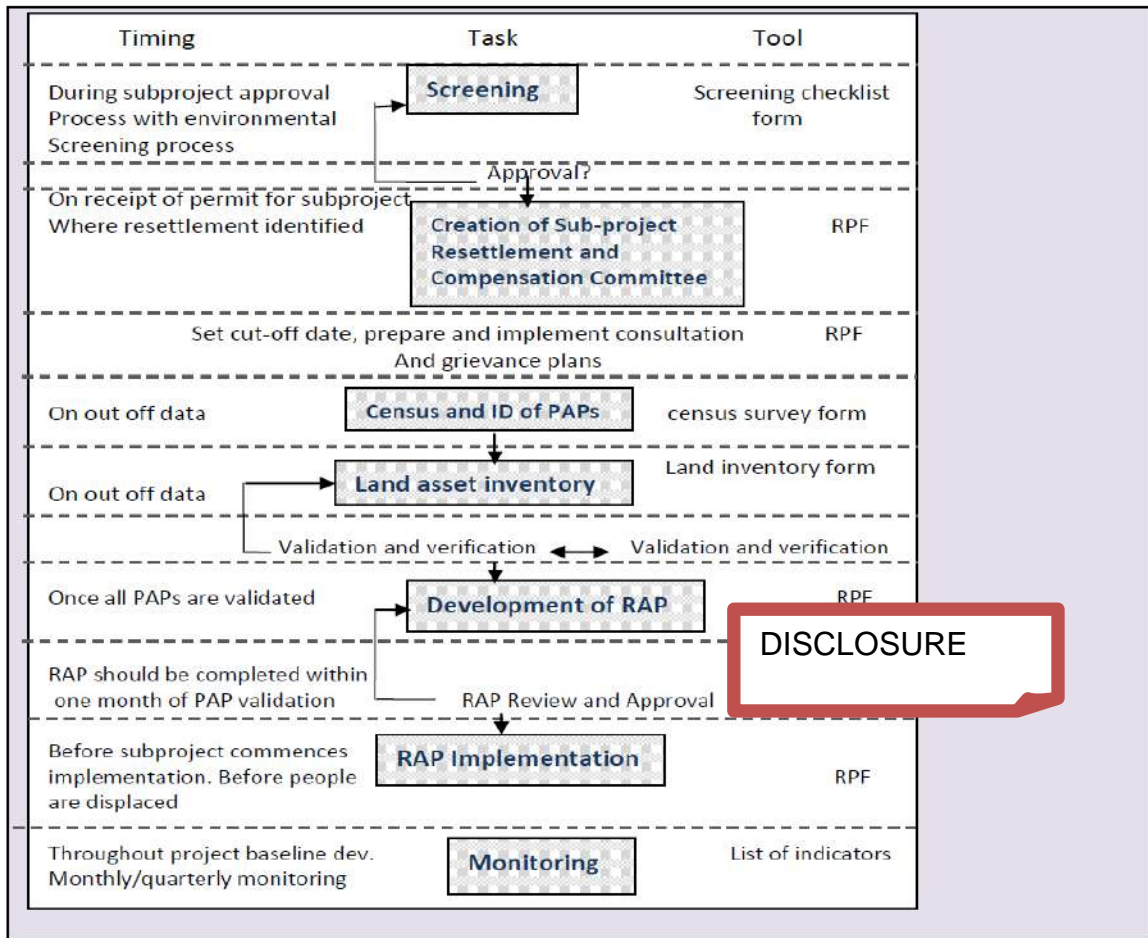
Consultation: All the investments will provide for informed participation of affected persons and communities, including host communities, in decision-making processes related to resettlement.

Approval of Resettlement Action Plans:

The PIUs in REA and KPLC and World Bank will review all RAPs developed. For quality assurance, it is required that RAPs prepared for specific investments be submitted to the World Bank for review to ensure that they are produced in line with principles of this RPF and safeguards quality control. Gaps in quality shall be addressed through reviewers and the KPLC and REA teams (PIUs).

Once the individual RAPs are approved, they will be disclosed in the REA &KPLC websites, and in the Bank infoshop. In addition, each RAP will be available in the localities (Local Chief's Office) where the investments are intended. The entitlement section of each RAP and the entitlement matrix will be translated into the Kiswahili (where need be) and be distributed among the affected communities.

FIGURE 1. RAP SCREENING AND APPROVAL PROCESS



IMPLEMENTATION ARRANGEMENTS

The Ministry of Energy and Petroleum MoEP will be responsible for overall coordination of the project and consolidate the information related to the project implementation. KPLC will be responsible for the implementation of Component A, B, C-1 and Components D (i) and D (iv). REA will be responsible for the implementation of Components C-2. MoEP will be responsible for D (ii) and D (iii).

Institutional Roles for RAPs preparation and implementation under KEMP

Resettlement implementation, will be done at different levels namely, Implementing agencies and National Land Commission; at the Sub County level the Resettlement and Compensation Committee; and then at the grassroots level, Locational Resettlement and Compensation Committee.

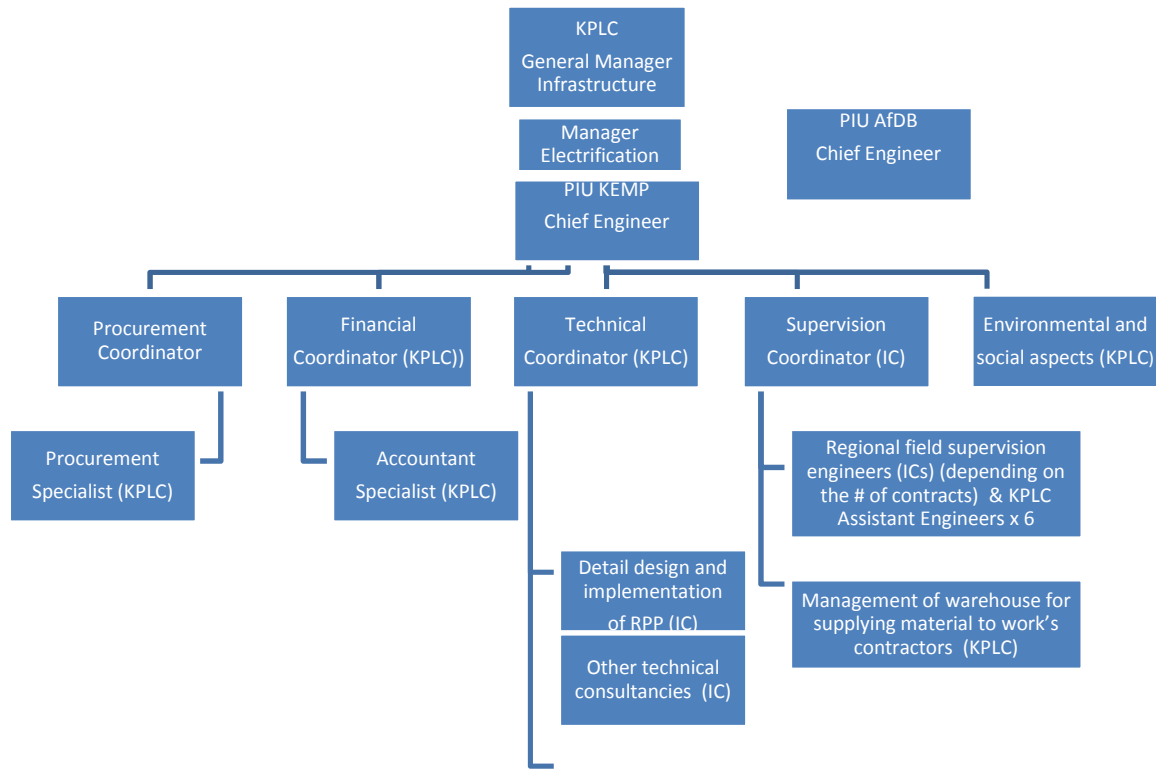
The Ministry of Energy and Petroleum (MoEP) will be responsible for overall coordination and oversight of the KEMP project, including (i) definition of areas to be electrified based on technical and policy development priorities; (ii) consolidating information from implementing agencies; (iii) monitoring the implementation of project; and (iv) evaluating the project. The MoEP will recruit a Project Coordinator to consolidate the information prepared by the implementing agencies and will report to the Principal Secretary, MoEP

The Rural Electrification Authority an agency of government under the MOEP will implement Component C2 of the project. Its mandate under the draft Energy bill is proposed to be expanded to include promotion and development of renewable energy resources (excluding large scale). The REA will be supported by a Technical Advisory Service (Consultant) for implementation of component C2 of the project.

Kenya Power and Lighting Company (KPLC) will have the responsibilities of project owner for Components A, B, C1 and D(iv), including: (i) project preparation; (ii) appraising and approving subprojects, organizing the management and implementation of programs/projects; (iii) ensuring adequate and capable management resources; (iv) conducting appraisal and approval of technical design, total cost estimates and cost estimates of subprojects; (v) negotiating, signing and supervising the implementation of contracts; (vi) implementation of safeguards activities, (vii) substation land and way leaves acquisition (if required), and (viii) signing the on-lending and on-grant agreements with National Treasury for the credit and grant, and repaying credit proceeds.

Kenya Power and Lighting Company will be responsible for the needed safeguards instrument, in this case the RAP for Component C1 (Peri-Urban Electrification), in accordance to the RPF. KPLC will screen proposed sub projects to determine their viability and feasibility. Once a sub project is proposed for funding, KPLC will form a RAP team that will prepare the RAP and forward to the World Bank for review. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies.

Figure 1: KPLC Project Implementation



KPLC Project Implementation Unit (PIU). A dedicated project implementation unit (PIU) in KPLC will be created with the purpose to ensure the PIU staff will not have responsibilities other than for the project itself. The PIU for Component C1 (KEMP Electrification) will be headed by a Chief Engineer who will report to the Manager Electrification.

KPLC will assign to dedicated team the responsibility for the project implementation, including procurement and contract supervision. The PIU will be composed of KPLC staff members assigned from various departments to carry out the day-to-day activities of implementation of the sub-component. Additionally, the PIU will be supported by some technical consultants (where need be) for the technical design of sub-components. In order to ensure successful implementation of the project, KPLC will appoint senior staff to the PIU for the following positions as indicated in Figure 1 above:

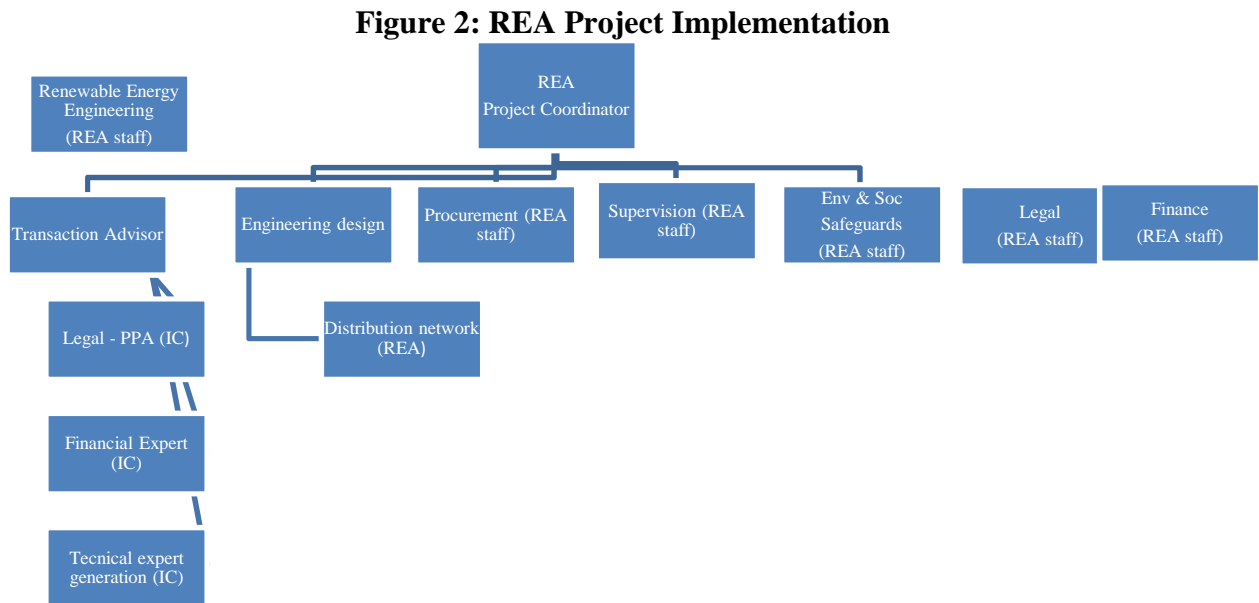
- Project Coordinator for KEMP at KPLC
- Financial management
- Technical management
- Environmental and Social management
- Procurement management
- Materials management

The first role of the PIU with regards to the preparation of the RAPs will be to screen all sub projects and to determine if they need to prepare a RAP.

Once the RAP is prepared, the World Bank will review the RAP for consistency of such document with RPF. As part of this review, it will collect all the needed information and documentation for the preparation of the RAP and later all the documentation for its implementation. Even though NLC and implementing agencies are responsible for direct implementation of RAP, all the RAP information regarding the preparation and implementation will be passed to the PIU for review, documentation and filing.

REA Project Implementation Unit (PIU) .REA’s capacity to implement Component C2 will be strengthened through deployment of existing specialized REA staff to the existing PIU of the IDA financed KEEP. These will include the following additional staff (a legal specialist, procurement specialist, environment & social specialist and renewable energy engineer). The unit will be supported by a transaction adviser (consultant firm) that will provide all the specialized expertise in the areas of structured finance, design of competitive processes for selection of private entities in public private partnership arrangements, contract negotiations with private parties, project supervision, etc.

Figure 2 illustrates the implementation arrangements for this component.



The REA PIU will be responsible for the needed safeguards instrument, in this case the RAP for Component C2 (Off-Grid Electrification), in accordance to the RPF. REA will screen proposed sub projects to determine their viability and feasibility. Once a sub project is proposed for funding, REA will form a RAP team that will prepare the RAP and forward to the World Bank for review. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies.

National Land Commission (NLC)⁵¹

The National Land Commission (NLC) is the legal agency under the new constitutional dispensation responsible for compulsory acquisition of private land for public development by national government and county governments. NLC is governed by National Land Commission Act 2012, which stipulates one of its roles as that of compulsory acquiring land for national government and county governments' development projects among other roles. Key roles of NLC in the implementation of this RPF and subsequent RAPs will include: provide approval to acquire land; notifies landholders in writing of the intention to acquire land; assist in resolving disputes related to compensation; undertake public consultation on intended acquisition with the help of SCRCC; receive money from MOEP for actual payment of entitlement awards to PAPs.

Sub County Resettlement and Compensation Committees (SCRCC)

NLC does not yet have structures on the ground and hence for the purposes of efficient implementation of the P RAPs, this RPF proposes the constitution of SCRCCs for each project. SCRCCs will be established at the sub county level to ensure participatory and transparent implementation of the RAP. The SCRCCs will not engage in land acquisition or compensation as this remains the prerogative of the NLC. For purposes of this RPF, SCRCC will help NLC carry out its mandate efficiently- particularly ensuring effective communication of NLC with the affected communities. Members to SCRCC will include representation from the following agencies and entities

- Representative of NLC, as the chair of SCRCC to grant legitimacy to the acquisition and resettlement process and ensure that legal procedures as outlined in Land Act 2012 and binding document of the RPF are adhered to.
- Representative of the implementing agency as the acquiring institution.
- The County Administration representative, which will provide the much needed community mobilization, and support to the sub project and to the process of resettlement
- Sub County Land Survey Officer will survey all affected land and produce acquisition map.
- The Sub County Gender and Social Development Officer who will be responsible for livelihood restoration programs.
- The Sub County Lands Registrar will verify all affected land and validate the same.
- Two PAP representative from Location Resettlement Committee – act as voice for the PAPs
- NGOs and CBOs locally active in relevant fields to ensure effectiveness, fairness, just compensation, and transparent process in the whole acquisition process.

⁵¹ National Land Commission is established by National Land Commission Act 2012 and Chapter 8 of Land Act 2012 outlines its specific role in compulsory acquisition process.

The SCRCC will have the following specific responsibilities:

- Ensuring effective flow of information between NLC and PAPs and the implementing agency and the PAPs
- Coordinate Locational Resettlement and Compensation Committees (LRCCs), validate inventories of PAPs and affected assets;
- Coordinate activities between the various organizations involved in relocation; facilitate grievance and conflict resolution; and provide support and assistance to vulnerable groups.
- Conducting extensive public awareness and consultations with the affected people so that they can air their concerns, interests and grievances.
- Resolving disputes that may arise relating to resettlement process. If it is unable to resolve any such problems, channel them through the appropriate formal grievance procedures laid out in this RAP.
- Assist with the livelihood restoration activities.

Locational Resettlement and Compensation Committee (LRCC)

Since sub counties are fairly large, further decentralized resettlement unit will be formed at the location of the sub project. Subsequently, Locational Resettlement and Compensation Committees (LRCCs), based in each administrative location of sub projects, will be established. The LRCCs will be constituted by implementing agencies and SCRCCs through consultation with the PAPs and will act as the voice of the PAPs. The LRCCs will work under guidance and coordination of DRCC and implementing agencies. LRCCs will be formed two to three weeks after the formation of the DRCC. Their membership will comprise of the following:

- The locational Chief, who is the Government administrative representative at the locational unit and who deals with community disputes will represent the Government in LRCC
- Assistant Chiefs, who supports the locational Chief and Government in managing local community disputes in village units will form membership of the team.
- Female PAP, elected by women PAPs, will represent women and children related issues as regards resettlement and compensations
- Youth representative, elected by youths, will represent youth related concerns in the LRCCs
- Male representatives elected by the members of the PAPs
- Vulnerable persons representative, will deal and represent vulnerable persons issues in the LRCC.
- Business representative, will represent business people concerns in LRCC
- CBO representatives

Membership of LRCCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatically be members of the team by virtue of their positions. Each of LRCCs will elect their own chairperson and a secretary among themselves. The roles of LRCCs will include among others the following:

- Conducting extensive public awareness and consultations with the affected people.

- Help ensure that local concerns raised by PAPs as regards resettlement and compensation among others are promptly addressed by relevant authorities.
- Assist KPLC team working on RAP preparation and validation of it
- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the DRCC.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women, orphaned children affected by the sub project are addressed.
- Assist the PAPs in the process of compensation, including helping those who cannot write or read.
- Help the vulnerable during the compensation and restoration for their livelihoods
- Ensure that all the PAPs in their locality are informed about the content of the RAP.

IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

Before any project investment is implemented, PAPs will need to be fully compensated by NLC in accordance with the principles of this RPF and the RAPs. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation prior to displacement and preparation of resettlement sites with adequate facilities, where required. Taking of land and related assets may take place only after compensation has been paid and where applicable, resettlement sites and moving allowances have been provided to displaced persons. For project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the RPF and individual RAPs.

The schedule for the implementation of activities related to specific RAPs, will be prepared based on the principles of this RPF, and must be agreed between the NLC, implementing agency, MOEP, SCRCCs and affected PAPs to give legitimacy to the whole process as outlined in the law.

These will include the target dates for start and completion of civil works, the dates of the possession of land and properties used by PAPs, dates of the full compensation, dates of transfer of titles to NLC, and date of hand over of land to implementing agency. This schedule will be determined by the NLC in consultation with the implementing agency, SCRCC and the PAPs. The consultation process will ensure that RAPs contains acceptable measures agreed upon among all stakeholders that link resettlement activity to civil works under each specific investment in compliance with this policy.

The timing mechanism of these measures will ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected.

Implementation schedule

Each investment/sub project once identified and screened, if required, will prepare an individual implementation schedule, which will be included in the RAP for that investment. Therefore all RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities. The plan will include a target date when the expected benefits for resettled persons and host community, if relevant, would be achieved. Arrangements for monitoring of implementation of the resettlement and evaluating its impact will be developed during the preparation of individual RAPs implementation schedules. The principles for preparation of monitoring and evaluation are discussed in *Chapter 14, Monitoring and Evaluation*. Target dates for achievement of expected benefits to resettled persons and hosts will be set and the various forms of assistance to the resettled persons will be disseminated to them.

Planning and coordination of the tasks of the various actors involved in the RAP implementation will be key to successful RAPs implementation. To achieve this, workshops will be organized with the stakeholders and other relevant government agencies, at individual sub project launching and at the commencement of every project investment identified to have adverse social impacts. The workshops will focus on (i) taking stock of the legal framework for compensation, (ii) describing institutional arrangements and mechanisms for payment of compensation, (iii) defining tasks and responsibilities of each stakeholder and (iv) establishing a work plan in accordance to individual tasks in RAP.

GRIEVANCES REDRESS MECHANISMS

Grievance procedures are required to ensure that PAPs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. The procedures should also ensure that the entitlements are effectively transferred to the intended beneficiaries. PAPs will be informed of the intention to implement the grievance mechanism, and the procedures will be communicated at the time of the preparation of investments' specific RAPs.

Under KEMP, grievances may arise from members of communities who are dissatisfied with (i) the eligibility criteria; (ii) valuation of assets and compensation, or (iii) actual implementation of RAPs, among others. This chapter sets out the measures to be used to manage grievances.

The Land Act 2012 and National Land Commission Act 2012 obligate the NLC to manage grievances and disputes related to resettlement or land amicably. NLC will be expected to put in place mechanisms and structures that arbitrate or negotiate with PAPs or landowners whenever there are any grievances concerning their compensation.

Overview

A key element of resettlement activities will be the development and implementation of a grievance mechanism in all investments. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. A clear time schedule will be defined for resolving grievances under each investment, ensuring that they are addressed in an appropriate and timely manner.

The grievance procedure will be simple and will be administered, as far as possible, at the project level by the Sub County Resettlement and Compensation Committee (SCRCC).

Cascading down, there will be Locational Resettlement and Compensation Committees (LRCCs) based in each administrative location. It will be established by SCRCC through PAPs consultative meetings chaired the representative of implementing agency. LRCC will act as the voice of the PAPs and will work under guidance and coordination of SCRCC in handling PAPs' grievances. Some of the grievances can be resolved at this level. If not, the LRCC will assist the PAPs to address their grievances to the SCRCC.

The grievance procedure outlined in this RPF will not replace existing legal dispute and grievance redress in the country especially in respect to what will be set up by the NLC, which PAPs will be persuaded to use an option of last resort if they feel dissatisfied.

Based on consensus, the SCRCCs and LRSCs will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions that may delay the implementation of a sub project. If the grievance procedure fails to provide a result, complainants can still seek legal redress. Steps involved with the grievance management include:

- *During the initial stages of the valuation process, the affected persons will be given copies of grievance procedures as a guide on how to handle the grievances. This will include who to contact (a phone number, address and location, time) as well as type of grievances they can refer to this committee.*
- *The process of grievance redress will start with registration of the grievances to be addressed for reference at the locational level through LRCC. In all instances, records will be kept to enable progress updates of the cases.*
- *Traditional local mechanisms will be used and will include local leaders and the affected persons trying to find a solution with the concerned parties.*
- *In cases where a solution cannot be found at the locational or LRCC level reference will be made to the SCRCC.*
- *These will ensure transparency, fairness, consensus building across cases, eliminate nuisance claims and satisfy legitimate claimants at low cost.*
- *The response time will depend on the issue to be addressed but all measures will be put in place to ensure efficiency,*
- *Once the grievance is addressed and agreement reached, the compensation will be paid to the PAPs.*
- *All the processes will be documented, including the names, the type of the grievances, what was done to resolves it, if it was resolved, if not what was the next step taken.*

Should a PAP refuse the compensation suggested, the individual PAP has the right to take his/her case to the civil court for litigation.

The Grievance redress process

As noted earlier, grievance redress will be the functions of the LRCC and SCRCC committees. A grievance log will be established and copies of the records kept by both LRCC and SCRCC to be used for monitoring of complaints.

The grievance redress mechanisms will be designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution which would otherwise take a considerably longer time. If LRCC cannot adequately address the grievance, then reference will be made to SCRCC who shall strive to address the grievances raised.

If a complaint pattern emerges, the implementing agency, SCRCC, and LRCC will discuss possible remedial measures. The above institutions will be required to give advice concerning the need for revisions of procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. Implementing agencies, SCRCCs, LRCCs and the local leaders will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

Detail procedures for grievance management

The procedure for managing grievances under all investments will be as follows:

The affected person will file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing to the sub project LRCC. The grievance note should be signed and dated by the aggrieved person. A selected member of the LRCC will act as the sub Project Liaison Officer (PLO) who will be the direct liaison with PAPs.

The PLO will be working in collaboration with the other LRCCs members as well as SCRCC. Where the affected person is unable to write, the PLO will write the note on the aggrieved person's behalf. Any informal grievances will also be documented by the sub Project Liaison officer. The note should be embossed with aggrieved person's signature or thumbprint. A sample grievance form is provided in Annex 5.A copy of this completed form should be submitted by the sub Project Liaison Officer to SCRCC.

- 1) *The Sub Project Liaison Officer and LRCC will consult to determine the validity of claims. If valid, the Committee will notify the complainant that s/he will be assisted and a response will be given in the due time.*
- 2) *The LRCC will meet and respond within 14 days during which time any meetings and discussions to be held with the aggrieved person will be conducted. If the grievance relates to valuation of assets, a second or even a third valuation will be undertaken, at the approval of SCRCC until it is accepted by both parties. These should be undertaken by separate independent valuers than the person who carried out the initial valuation. The more valuations that are required to achieve an agreement by both parties, the longer the process will take. In this case, the aggrieved person must be notified by the Project Liaison Officer that his/her complaint is being considered.*
- 3) *If the complainant's claim is rejected by the Committees, the Sub Project Liaison Officer will assist the aggrieved person to take the matter to the SCRCC. The SCRCC will look at the complaint raised by the PAPs and provide direction, explanation and a response. Sometimes, it will necessitate the aggrieved person to present him or herself to DRCC to explain him/herself. All efforts will be made to try and reach some consensus with the complainant.*
- 4) *If the aggrieved person does not receive a response or is not satisfied with the outcome by DRCC within the agreed time, s/he may lodge his/her grievance to the County Land Office, also mandated to help resolve such matters and NLC, once is function, which will be the main formal body for grievance mechanisms).*
- 5) *Where the matters cannot be resolved through local routes, the grievance will be referred to courts. The SCRCC will provide assistance at all stages to the aggrieved person to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible.*

Grievance Log

The Project Liaison officer will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- *Date the complaint was reported;*
- *Date the grievance log was uploaded onto the Sub project database;*
- *Date information on proposed corrective action sent to complainant (if appropriate);*
- *The date the complaint was closed; and*
- *Date response was sent to complainant.*

Monitoring Complaints

The Sub-Project Liaison Officer will be responsible for:

- *Providing the sub project SCRCC with a weekly report detailing the number and status of complaints;*
- *Any outstanding issues to be addressed;*
- *Referring the complaints to the SCRCC if not solved at the LRCC level and*
- *Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.*

Management of Grievances in the Kenya Land Laws

The current Kenyan constitution section 159, Land and Environmental Court Act 2011, National Land Commission Act 2012 and Land Act 2012 advocates for alternative dispute resolution mechanisms before seeking formal legal redress in disputes relating to land and resettlement. In practise this can be the village head and other local or traditional dispute resolution mechanisms.

RPF IMPLEMENTATION BUDGET

The actual cost of resettlement and compensation for each investment will be determined during each socio-economic study for the preparation of the individual RAPs. The Government of Kenya will finance all the resettlement compensations cost because they are the party that would be impacting livelihoods. At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs and details of all investments have not yet been finalized. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with investment projects.

However, when these locations are known, and after the conclusion of the site-specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, detailed and accurate budgets for each RAP will be prepared. Each RAP will include a detailed budget, using the following template thus facilitating the preparation of a detailed and accurate budget for resettlement and compensation.

Table 6:. Illustrative Budget Template for the RAP

Asset acquisition	Amount or number	Total estimated cost	Agency responsible
Land			
Structure			
Crops and economic tress			
Community infrastructure			
Land Acquisition and Preparation			
Land,			
Structure,			
Crops areas and others			
Community infrastructure			
Relocations			
Transfer of possessions			
Installation costs			
Economic Rehabilitation			
Livelihoods restoration			
Training			
Capital Investments			
Technical Assistance			
NGO support			
Monitoring			
Contingency			

Table 7: Explanation of Assumptions on Indicative Budget

#	Item	Costs (in KSHS)*	Assumptions
1	Compensation for loss of Land	/hectare	For land acquisition purposes, based on cost realized in projects involving similar issues in Kenya.
2	Compensation for loss of Crops	/hectare of farm lost	Includes costs of labor invested and average of highest price of staple food crops as per methods described in this RPF.
3	Compensation for loss of access to pastoralists	N/a	Those affected would be provided with shared access, or alternate routes (decision agreed

			through consultation and participation of all)
4	Compensation for loss of access to fishing resources.	/fishmonger	Data provided from revised socio-economic study will determine market values of catch, fish products etc. that is produced.
5	Compensation for other livelihoods affected such as gathering medical herbs and plants from the forest, small production such as bee keeper loss of labor income for those dependent on the land taken	n/a	Livelihood restoration program
6	Compensation for Buildings and Structures		This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.
7	Compensation for Trees	/year/tree	Based on methods described in this RPF for compensation for trees.
8	Cost of Relocation Assistance/Expenses	/household	This cost is to facilitate transportation, etc.
9	Cost of Restoration of Individual Income	Say	Assumed to be higher than the GDP/capita.
10	Cost of Restoration of Household Income	Say	Through employment in Program Activities.
11	Cost of Training Farmers, pastoralists and other PAPs		This is a mitigation measure, which seeks to involve those affected by the project activities. This figure represents a costs of around Kshs/person
12	NGO support	Number/years	Administrative support to undertake livelihood restoration or monitoring and evaluation of RAPs implementation
	Cost of restoration of livelihood for vulnerable	/year/	Assumed to be higher than the GPP/capita

In addition to the budget for compensation, budget is needed for the following activities. The budget presented here is indicative and may change substantially depending on the type of sub projects and the number of training and workshops. This is just a sample to indicate the need for these other budget items.

MECHANISMS FOR CONSULTATIONS AND PARTICIPATION IN PLANNING, IMPLEMENTATION AND MONITORING

Public consultations and participation are essential because they afford potential PAPs the opportunity to contribute to both the design and implementation of the project activities and reduce the likelihood for conflicts between and among PAPs and implementing agencies. The way land administration is undertaken in Kenya today is based on long standing a traditional and cultural practice that makes public consultations with the rural communities, indispensable. In recognition of this, particular attention will be paid to public consultations with project-affected individuals/households/homesteads when resettlement and compensation concerns are involved.

Public consultations will take place at the inception of the planning stages when the potential land areas are being considered. The participation strategy will evolve around the provision of a full opportunity for involvement. Therefore, as a matter of strategy, public consultations will be an on-going activity taking place throughout the entire project cycle. For example, public consultation will also occur during the preparation of the (i) the socio-economic study, (ii) the resettlement and compensation plan (iv) the environmental impact assessment and (v) during the preparation of the compensation contract.

Public participation and consultations will take place through meetings, radio programs, public meetings for the explanations of project ideas and requirements, preparation of the RAPs and ESIA's, making public documents, including the RPF and consequent RAPs, available at the national, local levels at suitable locations like the official residences/offices of local chiefs/elders. These measures will take into account the low literacy levels prevalent in these rural communities in Kenya by allowing enough time for responses and feedback.

Notwithstanding, the best guarantor for public interest are the traditional and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole.

The involvement of the PAPs, including the host communities, in case there is physical resettlement and there is a host community, in planning prior to the move will be critical since initial resistance to the idea of involuntary resettlement is expected. To obtain cooperation, participation and feedback with the resettled persons and hosts, space will be provided for both to be actively involved in the preparation phase of the RAPs. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention will be given to vulnerable groups such as the landless, and women to ensure that they are represented adequately in such arrangements.

Conflicts between hosts and resettled persons may develop as increased demands are placed on land, water, forests, services etc. To mitigate the resettlement's impact on host populations, they will be informed and consulted and included in the planning meetings for the resettlement exercise of affected person and impact mitigation plan for the

expansion of services. Any payments due to the hosts for land or other assets provided to resettled persons will be promptly made.

Conditions and services in host communities should improve, or at least not deteriorate with provision of improved education, water, health and production services as mitigation to both groups. This will foster a better social climate for their integration. In the long run, the extra investment will help prevent conflicts and secure the project's aim. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the resettled persons. On the other hand, local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

SCRCC and LRCC are expected to play an important role in the consultation process. They will be in close contact with the affected communities and in continuous communication with them about the projects, their impacts, resettlement and compensation processes, and grievances management, among other things. They will also be the ones communicating the cut-off date and other project related issues to the PAPs.

Data collecting phase

During the preparation of RAPs, preliminary public consultations and socio-economic survey study will be undertaken. It will involve active participation of the all PAPs in provision of preliminary data. PAPs will be important information providers, enabling accurate and effective data. Information about proposed project will also be explained to PAPs in the local language that they understand. Besides, PAPs will be given platform to ask questions about the project, identify impact of the proposed projects, suggest mitigation measures and alternatives to be considered in the technical design that limit impacts. The KPLC and REA teams responsible for RAP preparation will also provide rationale for data collection discuss data with PAPs and give PAPs feedback on the collected data.

Implementation operation

During implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAPs for consideration and endorsement before cash payment or land compensation can be effected.

Monitoring and Evaluation phase

The PAPs representatives will participate in the project completion workshops, to give their evaluation of the impacts of the project. They will also suggest corrective measures, which may be used to improve implementation of supported projects. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as a monitoring and evaluation exercise.

ARRANGEMENTS FOR MONITORING AND EVALUATION

Overview

The arrangements for monitoring will fit the overall monitoring plan of the entire KEMP. All RAPs will set major socio-economic goals by which to evaluate their success which will include (i) affected individuals, households, and communities being able to maintain their pre-project standard of living, and even improve on it, (ii) the local communities remaining supportive of the project and (iii) the absence or prevalence of conflicts (iv) project affected persons reporting satisfaction with the resettlement operation. In order to assess whether these goals are met, RAPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

The objective of the monitoring will be to determine;

- *If affected people are satisfied with the actual resettlement process.*
- *If affected people have been paid in full and before implementation of any project that is causing resettlement.*
- *If affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it.*

The census and/or the socio-economic survey study which are the basis for the preparation of investment specific RAPs, will be used as the base line for the monitoring and evaluation of the individual RAPs.

Who will do the Monitoring

RAP monitoring will be done at two levels, during the regular monitoring of the project by the implementing entities KPLC and REA and by the World Bank every six months.

Methodology Use for the RAP Monitoring

Base line data will be collected from different sources, including the census and socioeconomic study undertaken for the preparation of individual RAPs. In addition, the information collected by the SCRCC and LRCC will be used. Finally, questionnaire (in the case of independent monitoring), and focus groups discussions will be used to collect data and information.

Indicators to Determine Status of Affected People

A number of indicators will be used in order to determine the status of all affected people.

Table 8. Monitoring Indicators (will depend on nature of the project)

Subject	Indicator	Variable
Land	Acquisition of land	<ul style="list-style-type: none"> Area of cultivation land acquired for KPLC developments Area of communal land acquired for KPLC developments Area of private land acquired? Area of government land acquired?
Buildings/ Structures	Acquisition of buildings	<ul style="list-style-type: none"> Number, type and size of private buildings acquired Number, type and size of community buildings acquired Number, type and size of government buildings acquired
	Acquisition of other structures	<ul style="list-style-type: none"> Number, type and size of other private structures acquired Number, type and size of other community structures acquired
Trees and Crops	Acquisition of trees	<ul style="list-style-type: none"> Number and type of trees cut
	Destruction of crops	<ul style="list-style-type: none"> Crops destroyed by area, type and ownership
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> Number of homesteads affected (buildings, land, trees, crops) Number of owners compensated by type of loss Amount compensated by type and owner Number of replacement houses constructed Size, construction, durability and environmental suitability of replacement houses Possession of latrines Water supply access Number of replacement businesses constructed
	Re-establishment of community resources	<ul style="list-style-type: none"> Number of community buildings replaced Number of seedlings supplied by type Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)
Social/ Demographic	Changes to homestead structure	<ul style="list-style-type: none"> Household size (average number of households) Status of “vulnerable” homesteads Residential status of homestead members Movement in and out of the homestead (place and residence of homestead members)
	Access to social facilities	<ul style="list-style-type: none"> Distance/travel time to nearest market centre, church, shop.
	Changes to health status	<ul style="list-style-type: none"> Nutritional status of resettled homestead members Number of people with disease, by type (STDs, diarrhoea, malaria, malnutrition conditions) Mortality rates-Deaths registered per household Access to health care services (distance to nearest facility, cost of services, quality of services) Utilization of health care services Disease prevention strategies Extent of educational programmes Latrine provision at schools Access to clean water sources
	Changes to educational status	<ul style="list-style-type: none"> Literacy and educational attainment of homestead members Access to education facilities School attendance rates (age, gender) Number, type of educational establishments
	Changes to status of women	<ul style="list-style-type: none"> Participation in training programmes Use of credit facilities Landholding status Participation in KPLC and REA-related activities and enterprises

Subject	Indicator	Variable
	Homestead earning capacity	<ul style="list-style-type: none"> • Ownership of capital assets • Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) • Landholding status (tenure) • Changes to livestock ownership: pre- and post-disturbance • Value of livestock sales, and imputed value of barter transactions • Employment status of economically active members • Skills of homestead members • Earnings/income by source • Changes to income-earning activities (agriculture) – pre- and post-disturbance • Changes to income-earning activities (off-farm) – pre- and post-disturbance • Amount and balance of income and expenditure • Realisation of homestead income restoration plans (components implemented, net income achieved) • Possession of bank and savings accounts • Access to income-generating natural resource base (wood, grass, sand, stones)
	Changes in social organisation	<ul style="list-style-type: none"> • Organisational membership of homestead members • Leadership positions held by homestead members
	Population influx	<ul style="list-style-type: none"> • Growth in number and size of settlements, formal and informal • Growth in market areas
Consultation	Consultation programme operation	<ul style="list-style-type: none"> • Number of local committees established • Number and dates of local committee meetings • Type of issues raised at local committees meetings • Involvement of local committees in KPLC development planning • Number of participating NGOs
	Information dissemination	<ul style="list-style-type: none"> • Meetings held • Minutes of meetings • Modes of communication used
	Grievances resolved	<ul style="list-style-type: none"> • Number of grievances registered, by type • Number of grievances resolved • Number of cases referred to court
Training	Operation of training programme	<ul style="list-style-type: none"> • Number of local committee members trained • Number of affected population trained in Project-related training courses
Management	Staffing	<ul style="list-style-type: none"> • Number of implementing agencies by function • Number of GoK ministry officials involved by function
	Procedures in operation	<ul style="list-style-type: none"> • Census and asset verification/quantification procedures in place • Effectiveness of compensation delivery system • Number of land transfers effected • Co-ordination between local community structures, KPLC and GoK officials

Most of the information for these indicators will be collected through survey, interviews and focus group discussions with the affected communities. The data for these indicators will be collected every six months during the RAP implementation by the implementing agency, SCRCC and an independent agency such as a research institute, a university or an NGO. LRCCs will also assist with collection of monitoring data of the RAPs implementation.

The pre-project census information will provide most, if not all of the required information to set a baseline against which performance can be tracked.

In addition to the existing baseline data, the following steps will be taken to ensure the proper monitoring of the RAPs:

- *Questionnaire data will be entered into a database for comparative analysis;*
- *Each individual will have a compensation dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received;*
- *SCRCC specifically the land's office and District Social Development Officer will maintain a complete database on every individual impacted by the sub-project land use requirements.*
- *Regular resettlement status reports submitted by the implementing agency will be reviewed.*

Regular Monitoring of RPF/RAP Implementation

SCRCC will assist in compiling basic information related to compensation and send them to the implementing agency as part of the regular monitoring. Some of the information which will be collected at the SCRCC level will include: time to gauge the performance of the:-

- *Length of time from project identification to payment of compensation to PAPs;*
- *Timing of compensation in relation to commencement of physical works;*
- *Amount of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);*
- *Number of people raising grievances in relation to each project investment;*
- *Number of unresolved grievances.*
- *Number of vulnerable people assisted.*
- *Number of livelihoods restored and types of the livelihood restoration*

REA and KPLC will review the statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. The implementing agencies will directly monitor compensation as undertaken by NLC.

Financial records will be maintained by NLC and REA and KPLC to permit calculation of the final cost of resettlement and compensation per individual or household and they will be included in the monitoring report. The statistics will also be provided to the external independent consultant/agency that will be contracted on an annual basis to monitor the implementation of the RAPs.

ANNEXES

ANNEX 1: GLOSSARY OF TERMS

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

ANNEX 4: COMMUNITY ASSET AND INFRASTRUCTURE

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ANNEX 6: TORS FOR DEVELOPING A RAP

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ANNEX 8: INVOLUNTARY RESETTLEMENT OP.4.12

ANNEX 9: MINUTES PUBLIC CONSULTATION FORUM

ANNEX 10: LIST OF PARTICIPANTS AT THE CONSULTATION WORKSHOP

ANNEX 1: GLOSSARY OF TERMS

DEFINITIONS

Unless the context dictates otherwise, the following terms will have the following meanings:

“Replacement cost for houses and other structures” means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labour and contractors’ fees; and (c) any registration costs.

“Resettlement Assistance” means the measures to ensure that Affected Persons and Displaced Persons under various investments who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

“The Resettlement Policy Framework (RPF)” is an instrument to be used throughout the Kenya Water Security and Climate Resilience Program implementation. The RPF sets out the resettlement objectives and principles, organisational arrangements and funding mechanisms for any resettlement that may be necessary during investments implementation. The RPF guides the preparation of Resettlement Action Plans of individual investments in order to meet the needs of the people who may be affected by the project. The **Resettlement Action Plans (“RAPs”)** for various investments under the sub component C2 of KEMP will therefore be prepared in conformity with the provisions of this RPF.

“Census” means a field survey carried out to identify and determine the number of Projected Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts under various investments. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions (LGIs).

“Cut-off date” is the date of commencement of the census of project-affected persons, within various projects, when those who will move to the area after the time of census will not be compensated.

“Displaced Persons” mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the various investments, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location; lose right, title, interest in any houses, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

“Involuntary Displacement” means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether the Displaced Persons has moved to another location or not.

“Involuntary Land Acquisition” is when the project affected people need to be relocated or give up their rights to land and other assets as a result of development projects or other reasons which are beyond their control in this case the PAPs.

“Land” refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required.

“Land acquisition” means the possession of or alienation of land, buildings or other assets thereon for purposes of the projects.

“Rehabilitation Assistance” means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable Program Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre- project levels.

“Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan” - is a resettlement instrument (document) to be prepared for each individual investment which is prepared based on the principles of this RPF. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of a given investment.

“Replacement cost” means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. It includes expenses that a person will incur in order to replace his or her house or land (at market price) which could include taxes and moving allowance. In terms of land, this may be categorised as follows; (a) “Replacement cost for agricultural land” means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the others costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

Program Affected Person(s) (PAPs) are persons affected by land and other assets loss as a result of a number of projects. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.

“Compensation” means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from activities.

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

Project name:

Project Location

(Include map/sketch): (e.g. Sub County, Division, Location, and Village etc.).

Type of activity: (e.g. new construction, rehabilitation, periodic maintenance)

Estimated Cost:

(Kenyan Shillings)

Proposed Date of Commencement of Work:

Technical

Drawing/Specifications

Reviewed:(circle answer): Yes No

This report is to be kept short and concise.

1. Site Selection:

When considering the location of a project, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.

Issues	Site Sensitivity			Rating
	Low Medium High	Low Medium High	Low Medium High	
Involuntary Resettlement	Low population density; dispersed population; legal tenure is well-defined.	Medium population density; mixed ownership and land tenure.	High population density; major towns and villages; low income families and/or illegal ownership of land; communal Properties.	

2. Checklist questions:

Physical data:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Site area in ha	
Extension of or changes to existing alignment	
Any existing property to transfer to sub-project	
Any plans for new construction	

Refer to project application for this information.

Land and resettlement:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Will the project involve loss of land and other resources?	
Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?	
What is the likelihood of land purchase for the subproject?	
How will the proponent go about land purchase?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

Refer to the Resettlement Policy Framework.

Actions:	
List outstanding actions to be cleared before project appraisal.	
Approval/rejection	Yes/No answers and bullet lists preferred except where descriptive detail is essential.

Recommendations:

Requires a RAP to be submitted on date: _____

Does not require further studies

Reviewer: _____

Name: _____

Signature: _____

Date: _____

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

Socio-economic Household Datasheet of PAPs

<i>Name of Interviewer</i>		<i>Signature</i>
<i>ID Code</i>		
<i>Name of Supervisor</i>		<i>(after verification of interview)</i>
<i>ID Code</i>		

<i>Cell Name</i>		<i>Number of Concession in Village</i>	
<i>ID Code</i>		<i>(GPS Coordinates)</i>	

Date:
 Day Month Year

<i>Name of Head of Extended Family:</i>	
<i>Number of Nuclear Families in Extended Residential Group</i> <i>(including household of head of extended family)</i>	

Household Interview

Name and Surname	Relationship to Head of Family	Sex		Place of Birth	Age	Marital Status	Residence Tenure	Ethnic Group	Religion	Educational Level	Income Earner		Economic Activities	
		M	F								Yes	No	Primary	Secondary
1.														
2.														
3.														
4.														
5.														
6.														
7.														

Relation to Head of Family : 1 HoH; 2 Spouse of HoH ; 3 Child of HoH; 4 Spouse of child of HoH ; 5 Grandchild of HoH; 6 Parent of HoH; 7; 8 9 Other (specify) ; 0 No Answer.

Marital Status: 1 Married ; 2 Widowed ; 3 Divorced ; 4 Unmarried; 0 No Answer.

Residential Status: 1 PRP (Permanent Resident) ; 2 RA (Resident absent) ; 3 Member of non-resident HH; 4 Visitor; 9 Other (specify) ; 0 No Answer.

Occupations: -

Principle Occupation: 1. Farmer ; 2 Shepherd; 3 Household ; 4 Merchant; 5 Religious leader, teacher ; 6 Artisan ; 7 Transport ; 8 Unemployed; 9 Other (specify) ; 0 No Answer Secondary Occupations: idem.

Educational Level : 1 Illiterate ; 2 Three years or less; 3 Primary School ; 4 Secondary School ; 5 Technical School ; 6 Religious School; 0 No Answer

Religion: 1 Christian (specify denomination); 2 Muslim; 9 Other (specify); 0 No Answer

Land asset inventory for Project Affected People

Village: _____

Date: _____

Cell: _____

Survey no.	Name of Head of Household	No. of Persons in household	Total land holding of Hhold (m ²)	Land to be acquired (m ²)	Land Use Type *	Loss of % total	Loss of assets		Loss of crops	Loss of other assets	Other losses			
							Structures Permanent	Structures temporary						
							Area of residential	Fruit trees	Agricultural land lost	Other (specify)	e.g. graveyards,	Residence (rented)	Business lost	Income loss

	<i>(m2)</i>	<i>(m2)</i>	<i>land lost (m2)</i>	<i>lost type and number</i>	<i>(m2)</i>	<i>wells, etc. (type and no.)</i>
--	-------------	-------------	---------------------------	---	-------------	---

* Land types are as follows (please fill in the types of land for Kenya)

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

Entitlements of Project Affected People

Location: _____

Date: _____

Village: _____

Survey no.	Name of Head of Household	Compensation for Land			Compensation for structures			Compensation for crops and Trees			Compensation for other assets and losses (e.g., graveyards, wells, businesses, etc)			<i>Total (Ksh)</i>
		Quantity (m ²)	Unit price (Ksh) per m	Entitlement (Ksh)	Quantity (m ²)	Unit price (Ksh) per m	Entitlement (Ksh)	Quantity (m ²)	Unit price (Ksh) per M	Entitlement (Ksh)	Quantity (m ²)	Unit price (Ksh) per m	Entitlement (Ksh)	

ANNEX 4: COMMUNITY ASSETS AND INFRASTRUCTURE
Complete one form for each community asset

1. Village/town/city					
2. Location					
3. Camera and Photograph Number					
4. Type of structure or asset					
01	School	08	Well	15	Water Supply
02	Clinic	09	Public Latrine	16	Sewerage
03	Church, Mosque or Temple	10	Public Laundry	17	Garbage Site/Dump
04	Shrine	11	Play ground	18	Fish Pond
05	Town Hall	12	Cemetery	20	Other
06	Meeting Hall	13	Electric	If other(please Specify)	
07	Well	14	Public Telephone		
4. Name of structure					
5. Formal owner of the structure					
01	District Government				
02	Community or Voluntary Organization				
03	Private Individual				
04	Other(please Specify)				
6.Name and Address of owner (Please state name and address of responsible chairman or secretary if the structure is owned by a community organization or by government)					
6. Plot Number					
7. Telephone Number					
8. Number of users of structure per month					
9. Plot Dimensions					
			M X		
10. Plot Area					
M ²					
11. Land value per m²					
KES					
12. Land Value (no.s 11x12 from Above)					
KES					
13. Estimate of building area					
M ²					
14. Building materials					
a. Floor		b. Walls		c. Roofs	
1.	Earthen	1.	Earthen	1.	Earthen
2.	Cement-plastered earthen walls	2.	Cement-pla n walls	2.	Cement-plastered earthen walls
3.	Straw or bamboo	3.	Straw or bamboo	3.	Straw or bamboo
4.	Unbaked brick	4.	Unbaked brick	4.	Unbaked brick
5.	Baked Brick	5.	Baked Brick	5.	Baked Brick
6.	Cement block	6.	Cement block	6.	Cement block
7.	Galvanized tin	7.	Galvanized tin	7.	Galvanized

					tin
8	Tile	8	Tile	8	Tile
9	Other (Specify)	9	Other (Specify)	9	Other (Specify)
15. Building Value per m²		M ²			
16. Building Value (no.s 14x16)					
Signature of owner of structure					
Print name (Block Capitals)					
Signature of Valuation Surveyor					
Print name (Block Capitals)					
Date					

ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM

Grievance Form				
Grievance Number		Copies to forward to:		
Name of the Recorder		(Original)-Receiver Party		
District		(Copy)-Responsible Party		
Date				
INFORMATION ABOUT GRIEVANCE				
Define The Grievance:				
INFORMATION ABOUT THE COMPLAINANT				Forms of Receive
Name-Surname				<input type="checkbox"/> Phone Line <input type="checkbox"/> Community/ Information Meetings <input type="checkbox"/> Mail <input type="checkbox"/> Informal <input type="checkbox"/> Other
Telephone Number				
Address				
Village				
District				
Signature of Complainant				
DETAILS OF GRIEVANCE				
1. Access to Land and Resources a) Fishing grounds b) Lands c) Pasturelands d) House e) Commercial site f) Other	2. Damage to a) House b) Land c) Livestock d) Means of livelihood e) Other	3. Damage to Infrastructure or Community Assets a) Road/Railway b) Bridge/ Passageways c) Power/Telephone Lines d) Water sources, canals and water infrastructure for irrigation and animals e) Drinking water f) Sewerage System g) Other	4. Decrease or Loss of Livelihood a) Agriculture b) Animal husbandry c) Beekeeping d) Small scale trade e) Other	5. Traffic Accident a) Injury b) Damage to property c) Damage to livestock d) Other
6. Incidents Regarding Expropriation and Compensation (Specify)	7. Resettlement Process (Specify)	8. Employment and Recruitment (Specify)	9. Construction Camp and Community Relations a) Nuisance from dust b) Nuisance from noise c) Vibrations due to explosions d) Misconduct of the project personal/worker e) Complaint follow up f) Other	10. Other (Specify)

ANNEX 6: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP)

The scope and level of detail for the development of individual RAPs plan depends on the project type and project impact. The following sample is written for sub projects with substantial impact and can be tailored based on the type and the impact of the subprojects. With this caveat, following are what is needed for the TOR for the RAP preparation.

a) Description of the investment project area and area of influence: Information presented in this section will include description of the project area showing location, sitting of plants, structures, lands, affected dwellings etc; objectives and strategy; the investment/project objectives; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.

b) Potential Impacts: Description of investment/project components or activities which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement.

c) Community Participation: This sub-section includes:-

- Description of the consultation and participation of the displaced and host communities in design and implementation of resettlement activities including a summary of the views expressed and how these views were incorporated during the preparation of the resettlement plan.
- A review of the resettlement alternatives identified and choices made by the displaced people, including choices related to forms of compensation and resettlement assistance, relocating as individual families or as part of pre-existing families and to retaining access to cultural property (e.g. cemeteries, places of worship etc)
- Description of procedures for redress of grievances by affected people throughout the planning and implementation period.
- Description of measures aimed at sensitizing and educating the affected and host communities on matters of resettlement.

e) Integration with host communities

- Arrangements for consultation with host communities and procedures for prompt payment to the host for land and other assets should be provided to the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons and host communities should be put in place.
- Appropriate measures to augment public services such as education, water, health in host communities in order to avoid disparities between resettled persons and the host communities should be put in place.
- Plan for resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized.

f) Socio-economic Studies

These will include the following:- Population census of the project area including a description of production systems, household organization, baseline information on livelihoods and standards of living of the displaced population (and host communities)

- An inventory of assets of displaced households; the magnitude of the expected loss (total or partial for individual or group assets); and extent of physical and economic displacement;
- Information on disadvantaged/vulnerable groups or persons for whom special provisions may have to be made. Such groups and persons include those living below the poverty line, the landless, the elderly, women, children, indigenous people, ethnic minorities and displaced persons who are not protected through national land compensation legislation. Resettlement involving vulnerable/disadvantaged groups/persons should be preceded by a social preparation phase to build their capacity to deal with issues of resettlement;
- Provisions for updating information on the livelihood of displaced people and their standards of living at regular intervals;
- Description of land tenure systems including common property and non-title based land ownership or allocation recognized locally and related issues;
- Public infrastructure and social services that will be affected; and
- Social and cultural characteristics of displaced and host communities. Appropriate patterns of social organization should be promoted and the existing social and cultural institutions of resettled persons and their host should be retained, supported and used to the extent possible.

(g) Institutional arrangement and responsibilities

This will be the same as the RPF

(h) Eligibility

Definition of displaced persons and criteria for compensation and other resettlement assistance including relevant cut off dates. The assurance should be given that lack of legal title should not bar affected persons from being compensated.

(i) Valuation and Compensation for losses

- The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets.
- A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001, updated February 2011), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

(k) Identification of alternative sites, selection of resettlement site(s), site preparation and relocation

- Institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources.
- Procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites.
- Measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages.
- Legal arrangements for regularizing tenure and transferring titles to resettled persons.

(l) Shelter, infrastructure and social services

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply etc) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host.

(m) Environmental protection: An assessment of possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts.

(n) Implementation Schedules

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation. The schedule should indicate dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance.

(o) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

(p) Monitoring and evaluation

Under this sub-section, information regarding arrangements for monitoring of resettlement activities by the implementing agency is presented. When appropriate, independent monitors will supplement the role of the implementing agency to ensure objectivity and completeness of information. Performance indicators for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts for a reasonable period of time after the resettlement activities have been completed are also presented.(Similar to the RPF)

(q) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP.

(r) Description of programmes for improvement and restoration of livelihoods and standards of living of the affected people.

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy framework

ANNEX 7: OUTLINE OF RESETTLEMENT ACTION PLAN

According to the OP 4.12, annex A, paragraph 24, when there is RPF, then the RAP can be much shorter. It notes: “[W]hen resettlement policy framework is the only document that needs to be submitted as a condition of the loan, the resettlement plan to be submitted as a condition of sub project financing need not include the policy principles, entitlements, the eligibility criteria, organizational arrangements, arrangements for monitoring and evaluation, the framework for participation, and mechanisms for grievance readdress set forth in the resettlement policy framework. The sub project specific resettlement plan needs to include base line census and socioeconomic survey information; specific compensation rates and standards; policy entitlements related to any additional impact identifies through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimate”. This, in addition to the detailed description of the project and its impacts are needed to be included in the RAPs prepared.

Therefore, the following is a more elaborate RAP outline, prepared for the projects without a RPF. It is included in this RPF since it provides detailed outlined for what is needed to be in each section. However, not all sections are required for the individual RAPs, as explained above.

Introduction

- It briefly describes the project.
- Lists project components including associated facilities (if any).
- Describes project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

Minimizing Resettlement

- Describes efforts made to minimize displacement.
- Describes the results of these efforts.
- Describes mechanisms used to minimize displacement during implementation.

Census and Socio-economic Surveys

- Provides the results of the census, assets inventories, natural resource assessments, and socioeconomic surveys.
- Identifies all categories of impacts and people affected.
- Summarizes consultations on the results of the various surveys with affected people.
- Describes need for updates to census, assets inventories, resource assessments, and socio economic surveys, if necessary, as part of RAP monitoring and evaluation.

Legal Framework

- Describes all relevant local laws and customs that apply to resettlement.
- Identifies gaps between local laws and World Bank Group policies, and describe project-specific mechanisms to address conflicts.
- Describes entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
- Describes method of valuation used for affected structures, land, trees, and other assets.
- Prepares entitlement matrix.

Resettlement Sites

- Describes the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.
- Describes the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.
- Demonstrates that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land.
- Provides data on land quality and capability, productive potential, and quantity.
- Give calculations relating to site requirements and availability.
- Describes mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
- Provides detailed description of the arrangements for site development for agriculture, including funding of development costs.
- Have the host communities been consulted about the RAP? Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP?
- Do the host communities have a share of the resettlement benefits?

Income Restoration

- Describes if there are compensation entitlements sufficient to restore income streams for each category of impact?
- Describes additional economic rehabilitation measures are necessary?
- Briefly spell out the restoration strategies for each category of impact and describe their institutional, financial, and technical aspects.
- Describes the process of consultation with affected populations and their participation in finalizing strategies for income restoration.
- Explains if income restoration requires change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?
- Describes how the risks of impoverishment are to be addressed?
- Describes the main institutional and other risks for the smooth implementation of the resettlement programs?
- Describes the process for monitoring the effectiveness of the income restoration measures.
- Describes any social or community development programs currently operating in or around the project area.
- If program exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new program or expand existing programs to meet the development priorities of communities in the project area?

Institutional Arrangements

- Describes the institution(s) responsible for delivery of each item/activity in the entitlement policy
- Describes the Implementation of income restoration programs; and coordination of the activities associated with and described in the resettlement action plan.

- States how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identifies the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
- Describes the external (non-project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.
- Discusses institutional capacity for and commitment to resettlement.
- Describes mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

Implementation Schedule

- Lists the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.
- Prepares a month-by-month implementation schedule of activities to be undertaken as part of resettlement implementation.
- Describes the linkage between resettlement implementation and initiation of civil works for each of the project components.

Participation and Consultation

- Describes the various stakeholders.
- Describes the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
- Describes the process of involving affected populations and other stakeholders in implementation and monitoring.
- Describes the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

Grievance Redress

- Describes the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication methods.
- Describes the mechanism for appeal.
- Describes the provisions for approaching civil courts if other options fail.

Monitoring and Evaluation

- Describes the internal/performance monitoring process.
- Defines key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
- Describes institutional (including financial) arrangements.
- Describes frequency of reporting and content for internal monitoring.
- Describes process for integrating feedback from internal monitoring into implementation.
- Defines methodology for external monitoring.
- Defines key indicators for external monitoring.
- Describes frequency of reporting and content for external monitoring.

- Describes process for integrating feedback from external monitoring into implementation.
- Describes arrangements for final external evaluation.

Costs and Budgets

- Provides a clear statement of financial responsibility and authority.
- Lists the sources of funds for resettlement and describe the flow of funds.
- Ensures that the budget for resettlement is sufficient and included in the overall project budget.
- Identifies resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
- Prepares an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.
- Describes the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.
- Describes the provisions to account for physical and price contingencies.
- Describes the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

Annexes

- Copies of census and survey instruments, interview formats, and any other research tools.
- Information on all public consultation including announcements and schedules of public meetings,
- Meeting minutes, and lists of attendees.

ANNEX 8: OP 4.12 - INVOLUNTARY RESETTLEMENT

Revised February 2011

1. Bank experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

Impacts Covered

3. This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by

(a) the involuntary taking of land resulting in

(i) relocation or loss of shelter;

(ii) lost of assets or access to assets; or

(iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are

(a) directly and significantly related to the Bank-assisted project,

(b) necessary to achieve its objectives as set forth in the project documents; and

(c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12, para. 7](#)).

Required Measures

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) informed about their options and rights pertaining to resettlement;

(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and

(iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.

(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(i) provided assistance (such as moving allowances) during relocation; and

(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are

(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and

(ii) provided with development assistance in addition to compensation measures described in paragraph 6(a);

(iii) such as land preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

(a) specific components of the project will be prepared and implemented;

(b) the criteria for eligibility of displaced persons will be determined;

(c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and

(d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,¹⁵ ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A, para. 11](#)).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30)

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land

(see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honoured.

Eligibility for Benefits

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A, para. 6\(a\)](#)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A, para. 7\(f\)](#)); and

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](#));

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified

(c) a process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also [BP 4.12, para. 16](#)).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A, paras. 2-21](#)) for projects referred to in para. 17(a) above. However, where impacts on the entire displaced population are minor, or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A, para. 22](#)). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see [Annex A, paras. 23-25](#)). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex A, paras. 23-25](#)). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential subborrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A, paras. 23-25](#)). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in para. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

Process Framework

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before to enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

Assistance to the Borrower

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing

- (a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;
- (b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;
- (c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and
- (d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

ANNEX 9: Minutes of Public Consultation Forum

**MINUTES OF KEMP STAKEHOLDER CONSULTION FORUM ORGANISED BY
KENYA POWER
DATE: 6/01/2015
VENUE: THE SAFARI PARK HOTEL, NAIROBI,
TIME: 9:00 AM – 1:30 PM**

Agenda:

Disclosure and consultation on Kenya Electricity Modernization Project (KEMP) safeguard documents.

MIN 01/01/2015 – Preliminaries

Samuel Abaya of Kenya Power called the meeting to attention, he welcomed guests and thanked them for coming.

The meeting was opened by a word of Prayer from Mercy Towett of Kenya Power.

Samuel Abaya then invited John Guda, the Manager - Safety Health & Environment, KPLC.

John Guda officially welcomed guests on behalf of the Ministry of Energy & Petroleum and Kenya Power. He informed participants that the main purpose of this stakeholder forum was to deliberate concerning electrification programs and disclose safeguard documents to be applied in **Kenya Electricity Modernization Project (KEMP)**. Kenya Power plans to connect over 1 million new customers in the FY 2014/2015 and to facilitate in achieving the government's target of moving the current electricity access rate of 30-32 percent to 70 percent by 2017 through various projects some of which may have environmental and/or social challenges. These potential environmental and social impacts would be the subject of this particular meeting.

John Guda then introduced the Kenya Power team, representatives from the Ministry of Energy & Petroleum, Rural Electrification Authority, Energy Regulatory Commission and the World Bank personnel present.

MIN 02/1/2015 – Welcoming Speech

Eng. Michael Adhiambo, the Manager – Projects at Kenya Power, delivered the welcoming speech on behalf of Eng. Stanley Mutwiri, General Manager - Infrastructure Development at Kenya Power.

Eng. Adhiambo welcomed guests to the meeting and thanked them for availing themselves. He informed participants that the Kenya Electricity Modernization Project (KEMP) which would be the subject of this meeting was part of a range of other projects funded by the World Bank. Such projects form part of the Kenya Energy Expansion Project (KEEP). The main purpose of this workshop was therefore to bring all stakeholders on board as KEMP would be undertaken all over the country.

KEMP is aimed at improving access to electricity as currently household access is 30-32 percent and Kenya Power would like to increase this to over 70 percent by 2017. He noted that

as electricity access increases there would therefore be need to improve the system. Therefore he informed participants that KEMP consist of 4 major components:

- Component A - Improvement in Service Delivery and Reliability
- Component B - Revenue Protection Program
- Component C - Electrification Program. This was aimed at increased electricity access to unreached areas, through the Off – Grid Component and Peri- Urban Component. The Off - Grid component would cover sparsely populated areas not covered by main national grid and would be implemented through mini grid areas. The Peri-Urban Component would target areas of lower income groups in towns and cities.
- Component D - Technical Assistance and Capacity Building

Therefore, Eng. Adhiambo noted that all those that will be affected by the projects need to be made aware of impacts to environment and social issues hence the purpose of the meeting. In addition, he informed participants that such public consultations are a key requirement for the National Environment and Management Authority (NEMA). This meeting would also enable people to raise any issues they may have concerning KEMP.

MIN 03/01/2015 Forum Objectives and Frameworks Overview: John Guda

Participants were informed that the main objectives of KEMP were:

1. To increase access to electricity
2. To improve reliability of electricity service
3. To restore KPLC'S financial sustainability

The KEMP components were as follows:

- A – Improvement in Service Delivery and Reliability
- B –Revenue Protection Program
- C – Electrification Program - Peri-Urban electrification and Off-grid electrification
- D – Technical Assistance and Capacity Building

John Guda informed participants that this meeting was concerned with the third component that is the **electrification program**. Thus Kenya Power had prepared various safeguard documents with regards to the electrification component. These documents included *Environmental Social Management Frameworks (ESMF)* for Off-Grid and Peri-Urban Components, the *Resettlement Policy Framework (RPF)* and the *Vulnerable & Marginalised Groups Framework (VMGF)* for the Off-Grid Component. It is these safeguards that would be disclosed during this meeting and inputs from participants collected concerning these.

MIN 04/01/2015 – Presentations on ESMFs – Peri Urban and Off Grid Components

Wilfred Koech of Kenya Power took the participants through two presentations to disclose the Environmental Social Management Frameworks for the Peri-Urban Component and the Off-Grid Component respectively. He informed the participants that the exact sub-project sites were not known yet. When they are identified Environmental Impact Assessments (EIAs) and/or Environmental Management Frameworks (EMPs) will be prepared as needed in accordance with National Environment Management Authority (NEMA) and World Bank guidelines.

The presentations included the background information of Peri-Urban and Off-Grid Components respectively and their objectives; the purpose of the ESMF; the methodology used in preparing the two ESMFs; policy and regulatory frameworks; World Bank Operational

Safeguard Policies that would be triggered by each component respectively; public consultation; the potential beneficial and adverse impacts of each of the components respectively and subsequent mitigation measures.

The Environmental and Social Management Frameworks (ESMFs) would ensure that the KEMP would be implemented in a socially and environmentally sustainable manner. The ESMFs will support capturing of environmental and social issues in decision making.

MIN 05/01/2015 – Presentations on RPF and VMGF – Off Grid Component

Roseline Njeru of Kenya Power took the participants through two presentations namely; the Resettlement Policy Framework (RPF) and the Vulnerable Marginalised Groups Framework (VMGF) for the Off Grid component. These two safeguards were necessary to ensure that KEMP takes care of the social impacts of the project.

The RPF is concerned with social impacts that require resettlement. The RPF is a form of commitment by Kenya Power indicating how it shall handle resettlement in the event it is found necessary. The framework set out principles of how resettlement will be done. However it was noted that Kenya Power was not anticipating major movements of people, however the RPF would cater for resettlement if it were to occur, keeping in line with World Banks Operational Policy 4.12 on Involuntary Resettlement.

The presentation on the RPF included its purpose and objectives; methodology used in preparing the RPF, potential impacts and mitigation measures; compensation; public participation and consultation; RPF monitoring during implementation and the grievance redress mechanisms.

The VMGF would ensure that if vulnerable or marginalised groups would be present in any of the Off- Grid project sites that they are given special attention as such groups are unable to voice and claim their rights as compared to the rest of society. Therefore in case indigenous People are found where the projects will be implemented the World Bank Operational Policy 4.10 on Indigenous People would be triggered.

The VMGF was prepared in anticipation of Vulnerable& Marginalised Groups (VMGs), however it was noted that exact locations of the project were not yet conclusive. Therefore it was not yet known if VMGs are present on any of the Off-Grid Sites. Once locations were known screening would be done to identify the VMGF. If they are present a specific Vulnerable Marginalised Group Plan (VMGP) would be prepared specific for that group.

Further consultations would therefore take place as the Off-Grid Component of KEMP progresses, such consultations are important as they would enable identification together with VMGs the impacts of the project and culturally sensitive mitigation measures. It was also noted that the aim was to enhance project benefits to VMGs and avoid or mitigate any adverse impacts on them. The presentation on the VMGF included the purpose of the VMGF, methodology used to prepare the document, social assessment of VMGs, the potential beneficial and adverse impacts of the project, public participation and consultation Vulnerable and Marginalised Groups Plan, the grievance redress mechanisms, monitoring and reporting arrangements and disclosure arrangements.

MIN 06/01/2015 – Plenary Session

Comment/Question	Response / Remarks from Kenya Power
<p>Okoth Obado – Governor Migori County Main challenge in Migori is inadequate power supply and power outages. Therefore I am pleased to be part of this forum and I hope it will aid in generating solutions to address these issues in Migori.</p> <p>Concerning Power Reliability (one of the objectives on KEMP) – what is happening with the current transformers that are burning out so easily?</p>	<p>Concerning distribution transformers one the greatest challenges is vandalism. It is not that the transformers have become worse. Technology has modernised. It is vandalism, taking components of the transformers and accessories that degrade the life of the transformers. It is a challenge not only for Kenya Power but for the whole country. If there are opportunities to work together maybe through initiatives such as community policing then this issue can be addressed.</p> <p>Initially power to the whole Nyanza area was fed through a substation in Kericho (Chemosit Substation). But to address shortages in Nyanza region another transmission line was extended from Kericho to Kisumu. But this is still not adequate for Migori, Kuria and Homa Bay. Therefore there is another substation being done in Migori County behind Sony Sugar factory gate in order to address issue of power outages being experienced in Migori. Out of that substation there will be lines to supply Gogo, Homa Bay, a special line to Migori town another line going to Kuria, Isebania and Ogembo. Transmission towers are also being erected in that area under KEEP (implemented by KPLC/KETRACO)</p> <p>In addition for other areas Kenya Power is aware that Homa Bay has the same problems. To address this there is a KETRACO line from Sondu Miriu substation to Homa Bay. A third alternate line will be constructed. The line is to run from Olkaria through Narok to join current Line from Kericho to Kisii. The Governor was welcomed to visit the Substation site behind Sony Sugar factory.</p>
<p>To increase accessibility high tariffs are charged. Are there cheaper ways to connect people to electricity?</p>	<p>Connection charges - One of the challenges to accessibility is charges. The Governor challenged Kenya Power to come up with new and innovative ways. This project will explore such new and innovative ways. There are also a number of projects Kenya Power is running that can have people being connected without necessary paying fully initial charges, and instead can pay through instalments.</p> <p>Clarification on tariffs: New connections – There are many avenues through which customers can be connected. Customers (within 600 metres from transformers) that can be connected for KES. 35,000. ERC is conducting studies on tariffs and will advise Kenya Power in due course. There are also various financing arrangements such as</p>

Comment/Question	Response / Remarks from Kenya Power
	<p><i>Stima Loan</i>, which is available through Kenya Power, Equity Bank, Jamii Bora. This can be paid via instalments.</p> <p>The Global Partnership on Output Based Aid (GPOBA) Project funded by World Bank to electrify slums is very affordable. The KES 1000 cost can be paid in instalments after connection. Participants were urged to notify Kenya Power of any slums in their areas and Kenya Power will arrange a study and see how to provide a solution to electrify these areas.</p> <p>If there is a line passing through a community it is possible to connect people around that area so participants were urged to mobilize people to be connected. At Kenya Power, marketing officers are also actively engaged all over the country meeting potential customers. Communities can organise themselves in groups and follow up connections. More information could be found on the Kenya Power website or by visiting any Kenya Power office and asking for a marketing officer who will assist concerning connectivity.</p>
<p>Off grid systems – along the lake there are strong winds and sunshine, can I be assisted to have a study done in my area on harnessing wind and solar energy?</p>	<p>It was agreed that wind power is a potential avenue because of strong winds along lake shore, and that potential can be explored. Wind and solar options will be explored especially in areas such as the islands on Lake Victoria that are off grid.</p>
<p>In my county I host a small sub-station Gogo, it generates about 1-2MW but it has potential to generate up to 50MW. Can we confirm if potential to increase power is there?</p>	<p>Gogo Substation – old substation currently generates just about 1.5 MW, it was agreed that there is potential to produce more energy. Nevertheless it may not be economical to develop a full substation at this point but the lines mentioned should be able to stabilize the power in Migori and adjoining areas. Concrete answers concerning increased generation could not be given because that was under KenGen’s mandate.</p>
<p>Ruben Sinange – Minister Energy & Environment, Nyamira County Nyamira suffers the same situation as Migori: What does Peri- Urban mean in very small towns? What is classified as peri-urban and how are you going to select Peri-Urban areas in smaller towns? Will they be left out and focus be only on big cities?</p>	<p>The definition of Peri-Urban does not discriminate whether the towns are major or smaller towns. It is if there is sufficient density to get many people on the grid, which qualifies an area for this Peri-Urban electrification. It was agreed that it is difficult to distinguish between Peri-Urban and Rural areas but Kenya Power will use existing County development plans to help with this.</p>
<p>Concerning Off grid electrification already some of us have been in contact</p>	<p>It was noted that some counties have taken it upon themselves to establish some Off-Grid sites. So there is</p>

Comment/Question	Response / Remarks from Kenya Power
with investors and have made some preparations. How can we coordinate with you on this? Kenya Power has mentioned it will be a public private partnership, How can we move forward on this?	need to coordinate with these efforts to avoid duplication. It was agreed that there is need to share what plans Kenya Power and the Counties have. Kenya Power is also aware that a number of counties have taken initiative to establish public-private partnerships to supplement public funding. Whatever generation stations the counties have established through such public-private partnerships ideally should be able to feed into main grid.
Is Peri-Urban electrification different from the Global Partnership on Output Based Aid (GPOBA) Project or is it an extension? How will connection charges be different with Peri-Urban?	The difference is that Peri-Urban is the next level up from GPOBA, it is not as a result of haphazard development. Peri-Urban areas are more organised better planned with infrastructure. Facilities can be run in a more organised and structured manner.
Rural areas want to be connected but population is not in high density, and the connection charges are too high. How can we help them? Is there any Funding?	<p>There are other ongoing projects that are intended to improve supply. They are being funded by other donors such as the African Development Bank and other donors in addition to initiatives taken by KPLC under Boresha Stima Projects.</p> <p>If there is a line passing through a community it is possible to connect people around that area so participants were urged to mobilize people to be connected. However at Kenya Power, marketing officers are actively engaged all over the country meeting and sourcing potential customers. Communities can organise themselves in groups and follow up connections.</p> <p>More information can be found on the Kenya Power website by visiting any Kenya Power office and asking for a marketing officer who will assist concerning connectivity.</p>
I would like to appreciate Kenya Power work specifically Boresha which has reached Homa-Bay. Will KEMP be a continuation of Boresha since it is aimed at improving reliability?	No. As noted earlier it is an electrification program with Peri-Urban and Off-Grid components. Boresha Stima Projects were being done was to upgrade the existing infrastructure.
<p>Anne Kariuki – Kenya Association of Manufactures (KAM)</p> <p>You mentioned households in the presentations. Is there any focus on industries to enable them to move to Peri-Urban and off grid areas?</p>	Concerning industries Kenya Power is also putting up new substations to boost supply in Peri-Urban areas to encourage investors and this has been funded under a separate cover. KETRACO is also doing a number of upgrades. In total there are 70 new substations that are being implemented.
When you say increasing connectivity what exactly does it entail? For example is it 100 metres to the nearest	Distribution distance to connect households is 600m from the transformer. The rate is currently KES 35,000. This is being reviewed and could become lower. The

Comment/Question	Response / Remarks from Kenya Power
transformer or pole?	<p>Last Mile Connectivity Project will enable those within 600 Metres to be connected immediately and money can be recovered over time.</p> <p>As part of improving electricity access; Peri-Urban component funded by World Bank goes beyond Last Mile Connectivity.</p>
<p>Eunice Karoki – Minister of Environment, Kiambu County For the Peri-Urban component will you consult counties and our development plans since we have already planned and identified Peri-Urban areas and industries?</p>	<p>New Kenya Power County Managers were being established. So each of the Counties can provide information on their plans so we can streamline with ours and improve coordination</p>
<p>Data – it is challenging as we cannot access data on power from Kenya Power, this hampers development plans.</p>	<p>Kenya power does not work in a vacuum, the company works hand in hand with development partners. Kenya Power is interested in knowing what the County’s plans are in order to enable collaboration. County Managers will work closely with Counties to know their plans. Kenya Power is generous with sharing data. Most Kenya Power maps at the moment are in hard copy hence the challenge in accessing them could come from there. This will become easier once the company concludes on a GIS project that will digitize data. The company is willing to share technical data. The data that might be sensitive; is that which infringes on rights of a third party.</p>
Will land acquisition be compulsory?	No
<p>Ondieki Evans - Minister Environment and Energy, Nairobi County During presentation on ESMF I did not see a proper framework on how hazardous waste will be handled.</p>	<p>The ESMF for the Off-Grid component contains a section on electronic waste, this on Chapter 7, pages 88 - 91. Concerning the ESMF for the Peri-Urban component not much electronic waste is expected for this component. However in the event of any this has been taken care of in the ESMF for the Peri-Urban Component under Chapter 7, from page 69.</p>
<p>Resettlement Frameworks – I did not see a lot of input on gender. In the case of compensation it is the men who will want to pick the money and the women left out</p>	<p>Gender considerations will be taken especially during consultations in identifying impacts to allow all parties affected including women understand the compensations and voice their concerns. Issues of payment that involves family property disputes will be handled as they arise. The county administrators from the county and national government will be engaged in dealing with such disputes.</p>
<p>Input on other marginalized groups – widows, orphans, single mothers etc. not seen in the VMGF. How they will be</p>	<p>Within Vulnerable and marginalized groups there could be certain groups who are also vulnerable such as; the aged, orphaned children, female headed households,</p>

Comment/Question	Response / Remarks from Kenya Power
protected?	disabled and persons living with HIV/AIDs. During preparation of actual VMGP these groups will be accorded special attention to ensure they do not miss out on the benefits of the project and that they are not negatively impacted by the project.
Vulnerable groups in urban areas – there are truly marginalised groups in slums, need to capture uniqueness of urban areas in terms of marginalized groups.	The KEMP project component of electrifying Peri-Urban areas does not envisage any resettlement because only low voltage lines will be put in place. Therefore, no adverse impacts will occur in urban areas to disadvantage vulnerable groups further
Energy from renewable resources – why should electricity from a free resource be so expensive? You need to explain to the public why this is.	Kenya Power is getting raw energy, harnessing and distributing it involves costs. This is from initial capital outlay and also systems and infrastructure that are put in place to distribute energy and make it consumable. In addition to maintenance of infrastructure That is why the renewable energy comes at a cost. Biggest component that has been escalating costs is the thermal component. But diversification is being carried out include forms renewable energy and this should help reduce costs.
Suggestion - can World Bank extend this concept such that issue revolves around empowering all people? (not just in terms of those falling under definitions of Peri-Urban, VMGs. Green energy – we need an to move towards implementation	Comments noted
Daniel Theuri – Que Energy Ltd There are technologies on solar thermal that can be used. There are new technologies where opportunities for dual systems that Kenya Power should look into.	Comments well taken and will be considered
1 st Presentation - environmental compliance, who is responsible for enforcing this?	Environment and Social Unit in partnership with implementing departments within Kenya Power, in other incidences REA will be involved especially in the off-grid areas in liaison with NEMA.
2 nd presentation - emphasis on community; what about the investor? Need to come up with mechanism to cover other stakeholders like investors.	Tenders will be floated and competitive bidding will be done to select contractors based on set evaluation criteria.
World Bank policy on International Waterways – Does this cover trans boundary rivers?	World Bank Operational Policy on international waterways will not be triggered in KEMP
Information sharing and Data - come up with a protocol for formal sharing of information. Establishing a Liaison person at Ministry of Energy is a suggestion	Data is available following studies done by the Government in partnership with UNEP, NASA and such data is available from the ministry of Energy
Gibwa Kajubi– World Bank	

Comment/Question	Response / Remarks from Kenya Power
To plenary - what did people think of the social frameworks, the RPF and VMG? What is the feeling of the participants on this	No remarks from participants
Simiyu Mabuya– DCG (Contractor) As a contractor in off grid and hybrid generations – what will be the expectation from the contractor?	Tenders will be floated and competitive bidding will be done to select contractors based on set evaluation criteria.
Concerning Information 2 years ago Ministry of Energy and Petroleum commissioned a feasibility study on renewable energy. So are we going by the same study?	Yes in addition to other studies done in collaboration with UNEP and NASA, in some specific incidences further site specific studies will be conducted.
On marginalized groups what about the youth and accessing contracts from these projects?	Marginalized groups (youth) and KPLC contracts: due to type of financing for this type of project there are specific guidelines that ensure competitive bidding and open process. Contractors covering all groups such as youth women are welcome so long as skills exist amongst them. In maintenance and as the systems continue to run contractors will participate actively, and in the supply of spare parts. In the main works there are strict guidelines which will be specified in the tender documents.
Magdelene Kariuki – Manager, Action Aid International Quality of compensation and resettlement – will quality of resource being compensated be retained?	Quality of compensation is well explained in the RPF document pages 32, 33 and chapter 8 on valuation and compensation.
Community land – is there an audit process that will be put in place to mitigate disfranchisement of women and address gender?	Community property is handled differently. The parties concerned are called for a meeting so that there is consensus. If it is land that is held in trust discussions are held first with the trustees and then the members. Deliberate effort will be put to ensure women participate including holding consultative meetings with women only so assess to assess specific impacts and appropriate mitigations
Peter Kihoria – Ministry of Agriculture, Livestock and Fisheries, Kajiado County I work a lot with pastoralist groups in Kajiado concerning social inclusion amongst vulnerable marginalized groups. In pastoral communities you have to coerce women to give their opinions, the usually will not give their comments. Men will not be concerned about water and firewood. When the land is compensated for land women are able to continue to using it. However when its financial compensation women lose out on livelihood as the men take the money.	Consultations will be done on how to loop the women in and have appropriate mitigations. In case of issues involving payments of family property national government (the administration) will be engaged i.e. chiefs to advice. In communities where women are shy to speak in meetings, they will be consulted differently so that mitigation measures will be sensitive to their needs.

Comment/Question	Response / Remarks from Kenya Power
<p>What is the plan for capacity building for women to utilize electricity for their development and enhance their livelihoods that is, reap benefits of projects?</p>	<p>Women will be sensitized on various ways they can use electricity for economic benefits.</p>
<p>Dr. Pacifica Ogola – Kengen The KEMP project is more of a national project and there is a lot of diversity in social and environmental issues. There isn't a one size fits all, so need to recognize diversity. You need to take lessons learnt from previous projects as well.</p> <p>Caution on social impacts – resettlement was downplayed, presentation mentioned that there would be not mass movements, so what does actually mass mean? It is not just about the numbers.</p> <p>When you go to a place where land adjudication has not been done then other challenges will present. Also need to consider impacts if developing on a world heritage sites. In addition consider the long term sustainability of the Off-Grid component</p>	<p>Comments well taken and issues will be addressed as and when necessary. The ESMF, VMGF and RPF are guidelines and commitments from the proponent that environmental and social issues will be handled. This is because exact locations of the projects are not yet identified. Once site identification is done the specific Environmental Impact Assessment, vulnerable and Marginalized Groups Plans and Resettlement Action plans will be prepared as required.</p>
<p>Asman Owiti - Chief Kasarani Kindly what is KPLC doing on the mitigation issue barring people on encroaching on way leaves since the same is issued by County Governments through issuance of TOL (Temporary Occupation Licence) to people? How will this conflict be resolved between KPLC and County Governments?</p>	<p>Kenya Power will work with the County Governments to ensure Way Leaves are respected and encroachment is not allowed.</p>
<p>Bernard Osawa –WinPower Ltd What is the criterion for selection of PPP partners/ Investors for Off- Grid sites?</p>	<p>Competitive bidding based on set evaluation criteria after tenders are floated. Process will be public and transparent.</p>
<p>What ESMF, RPP and VMGF standards will apply in this case?</p>	<p>The investors should observe the guidelines provided in the safeguard documents</p>
<p>John N Ikinya- Chief, Kirigiti Location-Kiambu Sub County Early last year, there was plan to construct a substation at Thathi-Ini village within my location to address constant power outages, considering the growing and ever increasing population in Kiambu town. However the land</p>	<p>There were challenges in getting a site for the sub-station and this has caused delays.</p>

Comment/Question	Response / Remarks from Kenya Power
<p>turned out to be registered under private individual though an okay had been given by County Government. Now, what option is there to implement the same project in this area? Probably can you consider purchasing a private land for the same purpose?</p>	
<p>Criterion for selection of Peri-Urban centers to be included in the project. This should be reflected in the methodology for ESMF.</p>	<p>Peri-Urban areas will be determined based on population density</p>
<p>The selection/ Sampling criterion should ensure geographical equity</p>	<p>KEMP is a nationwide project</p>
<p>Engineer Philemon Kachila - County Chief officer, Infrastructure, Taita Taveta County Taita taveta has enormous potential for off-grid installations such as:</p> <ul style="list-style-type: none"> i) Large tracks of government controlled ranches that have potential for both solar and wind farms. ii) Enormous sisal estates and factories that have potential for biomass/biomass installations. iii) Rivers flowing from the highlands to the lowlands which have high altitude ranges. These have potential for micro HEP <p>The market for power is readily available from hotels spread in the Tsavo East and West National Parks and planned livestock abattoirs.</p> <p>On behalf of the county executive we would like to partner with KP/WB to carry out feasibility studies to map out the exact potential (resources) with a bid to invite investors.</p> <p>We would like to partner with KP/WB in selection of projects within the county. Kindly let us know whether we can be considered as partners in this KEMP.</p>	<p>Comments well taken and will be considered</p>
<p>Kenya Forest Service The purpose of the ESMF is to ensure full integration of environmental and social concerns in the KEMP planning process: At what stage will Kenya power integrate environmental and social concerns during project implementation?</p>	<p>Environmental and Social considerations are being integrated as early as possible from the planning phase, through implementation to decommissioning phases.</p>

Comment/Question	Response / Remarks from Kenya Power
(route alignment survey and project design vis-à-vis environmental and social integration)	
<p>The purpose of the RPF and VMGF is to ensure public participation and full compensation to the affected farmers through consensus. The services of Kenya Forest Service can be outsourced at gazette rates for forest resource assessment in order to minimize conflicts with land owners and avoid litigation in law courts which are expensive and time consuming</p> <p>(Use of experts and professional bodies can help alienate challenges and compensation and resettlement plans)</p>	Comments well taken and will be considered
<p>Peter Munyao – Kenya Civil Aviation Authority (KCAA)</p> <p>Kenya power to continue working with Kenya Civil Aviation Authority in order to ensure aerodromes, airports, airstrips and heliports are safeguarded from power lines and associated facilities. Currently there is massive development of energy in which KCAA is participating in:</p> <ul style="list-style-type: none"> -power lines -wind turbines -solar panel areas (new) among other infrastructures challenging aviation. <p>It is important to note they are current and planned infrastructure</p>	Comments well taken and will be considered
<p>S. C Muraguri – Chief Mukuru-Kaiyaba</p> <p>What programs do you have for the slums of Nairobi?</p> <p>Do you know cartels (power men) are selling electricity at KES 500 per cubicle per month? Do you know Mukuru Kaiyaba with 19,621 cubicles gives KES 9,810,500 to cartels?</p> <p>Why can't Kenya power use chiefs, DCs and DOs (National Government) to give power metres to cubicle owners directly than through cartels?</p>	GPOBA projects is under implementation to ensure that consumers pay for what they use and minimize on revenue loss and safety challenges in the slum areas.

KEMP STAKEHOLDERS FORUM IN PICTURES



KEMP Consultative meeting in progress



John Guda- Manager SHE – KPLC, addressing the consultative forum



ENG. Michael Adhiambo (KPLC) responding to questions



Migori Governor, Okoth Obado making his contribution



Minister of Energy, Water and Environment Homa Bay county making his contribution



A participant asking a question

LIST OF PARTICIPANTS – KEMP STAKEHOLDERS CONSULTATION FORUM ORGANISED BY KENYA POWER

DATE: 06.01.2015

VENUE: SAFARI PARK HOTEL

NO.	NAME	ORGANIZATION	TITLE	COUNTY
1.	Mwende Njiraini	Communications Authority of Kenya - Headquarters		Nairobi
2.	Bernard O. Mboda	Kenya Wildlife Service - Headquarters		Nairobi
3.	Mohamed Siyaid Adan	Afrimark S. Ltd.		Nairobi
4.	Alice Njoki Kago	Office of the President	Chief – Kilimabogo Location	Kiambu
5.	Daniel Theuri	Que Energy Ltd.		Nairobi
6.	Robert N. Kamau	NgongJua Kali		Kajiado
7.	Moses Mpesha	Office of the President	Chief - Oloolua	Kajiado
8.	Peninah Karomo	Rural Electrification Authority Headquarters		Nairobi
9.	Mayabi Baxton	Office of the President		
10.	Agnes Wachira	Energy Regulatory Commission Headquarters		
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15.	Nassur Mohamed	Ministry of Interior		
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65.	Paul Kapaito	Office of the President	Chief	Kajiado
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69.	Peter M Kamau	Office of the President	Chief	Kiambu
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71.	Asman Owiti	Office of the President	Chief	Nairobi
72.	Humphrey Kamau	Office of the President	Chief	Nairobi
73.	Richard Mavisi	MEST		
74.	George Ogago	Office of the President	Ass. Chief	Nairobi
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91.	Elizabeth Omondi	Office of the President		
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113.	Kyran O'Sullivan	World Bank	Head Energy Specialist	Nairobi

ANNEX 10: LIST OF PARTICIPANTS WHO ATTENDED CONSULTATION RPF



**LIST OF PARTICIPANTS AT THE STAKEHOLDER CONSULTATION
MEETING HELD ON 6TH JANUARY 2015 AT SAFARI PARK HOTEL**

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