



KENYA ELECTRICITY SYSTEM IMPROVEMENT PROJECT (KESIP)

RESETTLEMENT POLICY FRAMEWORK

APRIL 2019

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ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immuno-Deficiency Syndrome
ADR	Alternative Dispute Resolution
ARAPs	Abbreviated Resettlement Action Plans
CEC	County Executive Committee
CLB	Community Land Board
CoK	Constitution of Kenya
CPS	Country Partnership Strategy
DPs	Displaced Persons
EIA	Environmental Impact Assessment
EMPs	Environment Management Plans
ERC	Electricity Regulatory Company
ESIA	Environmental and Social Impact Assessment
GCRC	Gross Current Replacement Cost
GDC	Geothermal Development Corporation
GDP	Gross Domestic Product
GoK	Government of Kenya
GPOBA	Global Partnership on Output Based
GRM	Grievance Redress Mechanism
GRS	Grievance Redress System
HIV	Human Immunodeficiency Virus
IA	Implementing Agency
IDA	International Development Association
IFC	International Finance Corporation
ISO	international Organization of Standardization
IVA	Independent Verification Agent
KBS	Kenya Bureau of Statistics
KDHS	Kenya Demographic and Health Survey
KETRACO	Kenya Electricity Transmission Company
KESIP	Kenya Electricity System Improvement Project
KFS	Kenya Forest Services
KPLC	Kenya Power and Lighting Company
Kshs	Kenya Shillings
KWS	Kenya Wildlife Services
LA	Land Act 2012
LCPDP	Least Cost Power Development Planning
RC	Resettlement Committee
M&E	Monitoring and Evaluation
MoE	Ministry of Energy
NACC	National AIDS Control Council
NEMA	National Environment Management Authority
NES	National Electrification Strategy (NES)
NGO	Non-Governmental Organization
NLC	National Land Commission
NLP	National Land Policy

OP	Operational Policy
OVC	Orphans and Vulnerable Children
PAPs	Project Affected Persons
PDO	Project Development Objective
PIU	Project Implementing Unit
PPP	Public Private Partnership
RAPs	Resettlement Action Plans
REA	Rural Electrification Authority
RPF	Resettlement Policy Framework
SHE	Safety, Health and Environment
SPO	Senior Property Officer
TV	Television
UNAIDS	United Nations AIDS
USD	United States Dollar
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
VRB	Valuation Registration Board
WB	World Bank

BASIC INFORMATION

- 1. Country and Project Name: KENYA ELECTRICITY SYSTEM IMPROVEMENT PROJECT (KESIP)**
- 2. Project Development Objectives:** to increase the capacity of transmission system and to increase access to electricity in Kenya.
- 3. Expected Project Benefits:** Beneficiaries will be households and businesses that will be connected to the electricity network for the first time. 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, consequently their financial losses will reduce.
- 4. Identified Project Social Risks:** The project will experience social risks under the distribution component. The majority of low and medium voltage lines will mainly be constructed along the road reserve and existing rights of ways. These may not result in physical relocation but impacts to trees and crops are likely to occur. Anticipated impacts will include loss of property, restrictions to extent of use of land, loss of crops and/or trees which could be damaged during construction among others. Acquisition of land for substations will be on a willing-buyer-and-willing-seller basis.

Recipient: Government of Kenya – Ministry of Energy

Responsible Government/Country Agency for RPF Implementation: Kenya Power and Lighting Company Limited (KPLC).

Total Project Cost (USD million): Approx. US\$ 235,000,000 (for KPLC implemented components)

Name/Contacts who prepared RPF: Roseline Njeru, Kenya Power & Lighting Company Ltd.

Date RPF Prepared: April, 2019

EXECUTIVE SUMMARY

Background

1. The country's long-term development blue print, Vision 2030, aims at transforming Kenya into a globally competitive newly industrialized middle-income and prosperous country. The Second Medium Plan 2013-2017 identifies energy as one of the enablers for transformation into "a newly-industrializing, middle-income country providing a high quality of life to all its citizens in a clean and secure environment". Efficient, accessible and reliable infrastructure is identified as an enabler for achieving sustainable economic growth, development and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness.
2. The Government of Kenya (GoK) is seeking financial support from the World Bank (WB) for the Kenya Electricity System Improvement Project (KESIP). The proposed estimated timeframe for the project is from 2019 to 2024. The project aims to improve the power systems and electricity access and reliability, in line with the Kenya Growth and Development Strategy (Vision 2030).

KESIP objectives

3. The proposed project development objectives (PDOs) are to:
 - a) Increase capacity of transmission system; and
 - b) Increase access to electricity.

KESIP Components

4. ***Component 1: Access Expansion and Distribution Network Strengthening.*** The proposed project will aim to support mostly grid densification and intensification and some grid expansion to reach about 120,000 new connections benefiting about 450,000 people. The exact lines and substations to be supported under the component will be determined during project implementation. This component has three sub-components: (i) new medium and low voltage infrastructure to help address system bottlenecks for reducing losses, improving reliability, and creating capacity to support last mile electrification; (ii) connections of new consumers through Last Mile Electrification; and (iii) slum electrification to connect consumers living in informal settlements. This component will be implemented by KPLC.
5. ***Component 2: Transmission Network Expansion and Strengthening.*** This component is expected to introduce high voltage network to areas that have been serviced by long medium voltage lines to reduce technical losses and reinforce the existing medium voltage networks. The component will also increase transmission adequacy for interconnecting different regions of the country and improve reliability of power transmission and ensure compliance with N-1 contingency criteria. This component will be implemented by the Kenya Electricity Transmission Company (KETRACO).

6. **Component 3: Technical Assistance and Capacity Building:** This component will include sector studies, capacity building, and training activities to help sustain and enhance the policy, institutional and regulatory arrangements and reforms of the GoK as well as gender and citizen engagement. Some of the studies to be supported under the component will include a comprehensive feasibility study in accordance with the PPP law to determine technical, financial, legal, social and environmental feasibility of implementing the PPP pilot, including establishing the value for money for PPP. The initial phase of the study will start soon with support from an on-going IDA credit (Eastern Electricity Highway Project, P126579) while the second phase will be supported under the proposed Project. The feasibility study subcomponent will be implemented by Ketraco. Other studies include optimal power market design, system operation and dispatch guidelines for the Energy Regulatory Commission (ERC). Capacity building will also include training and activities to strengthen governance, management, technical and operation capacity of the sector agencies including the ERC, KenGen, Geothermal Development Company (GDC) and Rural Electrification Authority (REA). The component will also include consultancy support and incremental operating costs for KPLC and KETRACO project implementation units (PIUs) as well as supporting the incremental operational costs of the planning and coordination unit at Ministry of Energy and Petroleum (MoE).

NOTE: Specifically, KPLC is implementing component 1 which is the main subject of this RPF. The component entails medium and low voltage distribution lines (66kV, 11kV and 33kV), primary substations, service lines and installation of secondary substations and connection of households to electricity.

Projects development impacts

7. This project aims to support the expansion and strengthen the transmission and distribution capacity of KPLC to facilitate achievement of the government's electrification goals and improve service delivery outcomes. The project is aligned with the Kenya Country Partnership Strategy (CPS) FY2014-2018 whose overarching goal is sustainable reduction in poverty and shared prosperity. It will directly contribute to the creation of an enabling environment for competitiveness and sustainability through the development of power infrastructure needed for expansion of electricity access for households and supply of reliable and efficient power supply to businesses, all of which are vital for promoting and sustaining economic development and reducing poverty.

Project Beneficiaries

8. Project beneficiaries include households and businesses that will be connected to the electricity network for the first time and whose use of electricity will replace consumption of kerosene and other fuels for lighting. Further, it will enable productive activities, thus contributing to economic growth. A second group of beneficiaries will be the existing electricity consumers, including business customers of KPLC, for whom the quality and reliability of electricity service will improve. Businesses suffer loss of sales, damage to equipment, and additional cost of electricity supply from standby generators when grid electricity supply is unstable. The project will connect rural consumers with the national grid. The project will also provide access to electricity to people in the informal settlements. Access to electricity will contribute to improved social and economic well-being. The project will help KPLC maintain its commercial viability while meeting the GoK social objective of universal access to electricity.

Benefits/Positive impacts on both project affected persons (PAPs) and the community at large

9. Several positive impacts are anticipated from the proposed project, including:
- i. Access to electricity;
 - ii. Employment opportunities and wealth creation;
 - iii. Social inclusion;
 - iv. HIV/AIDS education and awareness;
 - v. Health benefits due to replacement of kerosene lamps for lighting;
 - vi. Better environment for education through better quality lighting at homes and better educational opportunities to schools connected to the grid;
 - vii. Improved standards of living;
 - viii. Improved security; and
 - ix. Improved communication.

Project activities with displacement potential

10. The main investments/subprojects envisaged under component 1 may have economic displacement and therefore OP 4.12 on involuntary resettlement has been triggered. The activities that may have displacement potential include those listed below.

- i. *Land acquisition for substation construction.* For this component, KPLC will buy land on a willing buyer and seller basis which implies that involuntary resettlement will not take place under this sub-component. However, other requirements like consultations and consensus with families selling land will be adhered to as required by the Land Act no. 6 of 2012 of Kenya law. The process of land acquisition is discussed in **section 3.8**. Minutes of meetings with family members during negotiations and consultations during the process will be availed to the World Bank when requested. In addition, the KPLC also leases land from government institutions such as Universities, Kenya Forest Services (KFS), among others and the discussions are documented and records kept, which can be shared on request.
- ii. *Wayleave acquisition needed for the distribution lines.* As is the practice of KPLC, it will mainly utilize the road reserves and so minimum resettlement is likely to occur including loss of crops and trees to give way for the construction of the lines.

NOTE: From the foregoing no resettlement is envisaged but damages to crops and trees are likely to occur so OP 4.12 is triggered, hence the need to prepare this RPF to guide project planning once the subprojects are known.

World Bank safeguards policies triggered by the project

11. The KESIP project has triggered the following environmental and social safeguard policies of the World Bank: (i) OP 4.01, Environmental Assessment; (ii) OP 4.04, Natural Habitats; (iii) OP4.36, Forests (iv) OP 4.11, Physical Cultural Resources; (v) OP 4.10, Indigenous People; and (vi) OP 4.12, Involuntary Resettlement.

Justification for use of Resettlement Policy Framework (RPF)

12. KESIP project consists of three different components with a series of sub-components, whose risks and impacts cannot be fully determined until the subproject locations and scope have been identified. Hence, the need for the KPLC to prepare a Resettlement Policy Framework (RPF) for component 1.

13. The purpose of the RPF is to clarify resettlement principles, organizational arrangements and design criteria to be applied to subprojects to be prepared during project implementation. Once the subprojects are defined and the necessary information is available, specific plans (resettlement action plan)/abbreviated resettlement action plan – RAP/ARAP) will be prepared proportionate to the potential risks and impacts.

14. This RPF therefore is prepared to guide and govern KESIP implementation once subprojects are selected for financing, and sets out the elements that will be common to all subprojects that may entail involuntary resettlement and/or impacts on livelihoods.

15. The RPF presents: (i) the relevant policy and legal framework pertaining to involuntary resettlement; (ii) anticipated potential project impacts and mitigation provisions; (iii) eligibility criteria for compensation; (iv) valuation methods for compensation of asset categories; (v) steps for RAP/ARAP preparation, implementation and monitoring; (vi) grievance redress mechanism (GRM); and (vii) disclosure requirements.

Legal framework

16. There are many legal frameworks that regulate land related issues 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 are the Constitution of Kenya, 2010; Land Act 2012; Community Land Act 2016, National Land Commission Act 2009; Valuer's Act Cap 532; Land Registration Act 2012; the Companies Act Cap 486; and the States Corporation Act Cap 446.

17. 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 because of the project. Where there is a discrepancy between the national laws and the World Bank's OP 4.12, the higher of the two standards will be followed as outlined in this Framework.

Potential project impacts and mitigations

18. According to component 1 of the project entailing distribution lines and substations, the anticipated social and economic impacts include those itemized below. The environmental impacts have been extensively addressed in the Environmental and Social Management Framework (ESMF) for KESIP-KPLC. The RPF recognizes any eligible impact, but focuses on those that are more likely to occur, including:

- Loss of land;
- Loss of housing;
- Loss of crops and trees;

- Impacts on livelihoods;
- Loss of businesses and customers;
- Loss of employment; and
- Loss of communal assets/services and cultural heritage.

NOTE: This list is however not exhaustive and during specific assessment a detailed description of project impacts will be presented in the specific RAPs and/or ARAPs as further detailed in Chapter 2.2 of this Framework.

19. Provisions are made under this RPF and the related safeguard instruments including the ESMF and Vulnerable and Marginalized Groups Frameworks (VMGF) to minimize all such impacts. Provisions are also made in this RPF to accommodate all potential and/or unforeseen situations and assistance needed in accordance with OP 4.12. Every precaution will be taken by KPLC to avoid physical resettlement.

20. The potential social economic impacts to be addressed within the context of preparing this RPF have been identified. However, site-specific assessment studies will be carried out within specific localities, as and when required. The framework for compensation/resettlement will then be applied incorporating specific: (i) institutional arrangements; (ii) resettlement/compensation eligibility criteria; (iii) implementation procedures; (iv) financial responsibilities; and (v) monitoring and evaluation (M&E) plan.

Category of project affected persons

21. Affected groups under subproject investments in this RPF will include affected households, affected individuals and vulnerable groups, as briefly described below.

22. Affected households: A household is affected if one or more of its members are affected by subprojects, 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, friends and tenants;
- Vulnerable individuals who may be too old or ill to work along with the others; and
- Relatives who depend on one another for their daily existence.

23. 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 because of the subproject investments.

24. Vulnerable groups and households: Vulnerable groups, individuals or part of a household may have different land needs from most households or needs unrelated to the amount of land available to them, for example:

- Poor female-headed households;
- Child-headed households;
- Extremely poor households;
- Older persons;
- Persons with disability;

- Persons living with HIV/AIDS;
- Marginalized and vulnerable persons (this refers to specific groups whose needs are addressed in the VMGF prepared by KPLC for KESIP); and
- Orphans and vulnerable children (OVC).

Eligibility for compensation

25. Determination of the eligibility of the bona fide occupants/owners 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 PAPs as described in the eligibility criteria and entitlement matrix section of this RPF. All those persons holding rights and/or enumerated before the cut-off date will be eligible for compensation. This RPF applies to all eligible persons regardless of the severity of impacts and whether they have legal title to land.

Valuation methods for compensation

26. Valuation is the process of determining the value of land, or an asset that PAPs possess or use. Valuation for assets will be required for: land including grazing areas, and any other livelihood uses; any structures and fixtures; and cultivated crops (both cash and food crops); and trees. Valuation for land and structures will be at full replacement cost as defined by OP 4.12, including all transaction costs. Compensation for trees and crops will be at full replacement cost as outlined in the OP 4.12 Source Book, or the Kenyan valuation methods, whichever is higher.

Project screening and preparation

27. Potential socio-economic impacts that will require mitigation measures, resettlement and compensation will be identified. The subprojects will be screened to establish 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 subproject or whether the subproject will result in the permanent or temporary loss of crops, fruits and household infrastructures such as granaries, outside toilets, kitchens, and other structures. This will be done as per the screening form in Annex 3.

Preparation of RAPs

28. Once the decision is made on the location of a given subproject, KPLC will do screening and attendant environmental assessment. Based on the outcomes of the screening exercise i.e. the extent and severity of impacts, the safeguards documents to be prepared to guide resettlement will either be ARAP or RAP, as the case will be. The steps to be undertaken in the preparation of each individual RAP/ARAP will include: an agreed consultation process and channels; a socioeconomic survey; an identification of PAPs; PAPs census and compilation of an asset inventory; description of eligibility criteria; and compensation process. Consultation with PAPs and other stakeholders will run throughout the RAP process, according to agreed procedures and processes.

Community sensitization

29. Communities within the project areas will be sensitized by KPLC on the project, the likely impacts, and the extent of their involvement to ensure project success. Measures to be instituted to address negative project impacts will be agreed with the PAPs.

Public consultations and participation

30. As per the requirements of the World Bank's OP 4.12, 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 for ensuring broad community support. During implementation, PAPs will be informed about their rights and options. An accessible grievance redress mechanism (GRM) will be set-up in consultation with the PAPs and other key stakeholders, and all grievances will be recorded and acted upon. Consultations on this RPF were conducted and information received is presented in the methodology section in chapter two.

31. The participation of local leaders in disseminating information and resolving disputes will be important even before RAP preparation and implementation starts. PAPs' representatives will participate in the preparation and monitoring of subprojects and at the end of RAP implementation to evaluate the success and challenges of the project.

Documentation

32. The names, identification documents, contact numbers, addresses and affected assets of each affected person will be compiled and kept in a database, including claims. Minutes of consultation meetings will also be recorded and kept. The records are also important especially for future monitoring activities. Documentation will include documents relevant to land transactions.

Procedure for delivery of compensation

33. Consultations with and public participation of 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, KPLC, the respective county and national government administrators 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 to sensitize them on the project and its implications. The various institutions involved will be informed by KPLC in a timely manner. Compensation payment will be made to the PAPs on the amount of compensation agreed and documented.

Grievance redress mechanism

34. Grievance procedures are required to ensure that PAPs can lodge complaints or concerns, at no cost, and with the assurance of a timely and satisfactory resolution of the issue, at the lowest level possible. The GRM suggested will be firmed up in consultation with the PAPs to ensure acceptability and ownership at the time of preparation of specific ARAP/RAP.

RPF implementation and monitoring

35. KPLC is responsible for implementing component 1. A dedicated project implementation unit (PIU) will be created in KPLC to ensure smooth implementation of the project. The PIU will have responsibilities for implementing and monitoring this RPF and subsequent ARAP/RAP. The PIU will be composed of KPLC staff members assigned from various departments to carry out the day-to-day activities of implementing the resettlement activities. This team will work in liaison with the resettlement committee for each subproject. KPLC will

use internal capacity, and if need be, will recruit expertise to undertake specific tasks.

36. Monitoring and evaluation (M&E) arrangement under the project will be the main mechanisms to alert KPLC of any delays and problems. These activities will help to 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 PIU. This will be done through the Safety, Health and Environment (SHE) department which is supposed to submit progress reports on the implementation of the safeguards (RPF and ARAP/RAP). The PIU will undertake routine internal M&E of the implementation of this RPF and the requirements of each provision to ensure that all the responsible units follow the schedule and comply with the principles of the resettlement plan. Objectively verifiable indicators shall be used to monitor the impacts of compensation and resettlement activities. 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. Some of the indicators include: number of PAPs resettled; amounts of compensations disbursed; number of grievances raised and resolved; number of consultation forums held; houses rebuilt; livelihood activities; PAPs' income/revenue/production, access/distance to basic services such as water, schools, health, markets; asset ownership; among others.

Monitoring and evaluation (M&E) team

37. The M&E team, which will be part of the PIU, will be responsible for monitoring the RAP/ARAP implementation process to ensure that stated targets are met and PAPs are duly compensated in line with the RAP/ARAP and RPF requirements.

Roles and responsibilities

38. The implementation of project activities will be the responsibility of KPLC PIU. The subproject resettlement committees in the targeted subproject areas will be involved in all resettlement, relocation and compensation efforts for subprojects where resettlement is indicated. There are other institutions who might be affected by the project and whose inputs/services might be required to ensure smooth implementation of RAP/ARAP and the subprojects at large. Key among them include:

1. Kenya Forest Service (KFS);
2. Kenya Wildlife Service (KWS);
3. National Environment Management Authority (NEMA);
4. County Governments;
5. Ministry of Agriculture (MoA);
6. Ministry of Lands;
7. Relevant agencies under the Ministry of Transport and Infrastructure; and
8. County commissioners representing national government at the county level.

NOTE: This list is however not exhaustive and may be expanded after the specific subproject areas of impacts and community's involvement during consultations on the ARAP/RAP.

39. The KPLC works closely with the mentioned agencies on as and when needed basis. It is

notable that KPLC seeks services from them like any other Kenyan would, including when wayleaves touch on their land. Their roles in KESIP are therefore not specific except to provide services and no prior MOU is needed by KPLC for the services. Further, levying of fees on generation, transmission and distribution among government agencies was addressed in a cabinet circular from the national treasury through which the National Government issued guidelines on levying of fees on generation, transmission and distribution. (This can be availed to the Bank on request).

Borrower capacity in implementing safeguards

40. In April 2008, KPLC formally established an environmental and social unit within its SHE Department. The environmental and social section takes the lead in the preparation and implementation of safeguards with expert support from other departments. The section has six environmentalists and three social safeguards specialists. Based on the preparation of environmental and social instruments since then, and implementation of EMPs, together with training by the World Bank on its safeguard policies, the SHE department has developed sufficient capacity to determine and monitor the mitigation of potential adverse environmental and social impacts. KPLC continues to undertake regular capacity building and sharing experiences on lessons learnt in resettlement planning and implementation. In this project, the SHE department will designate one environment and one social specialist to be part of the PIU to ensure environmental and social issues are taken care of during project preparation, implementation, monitoring and evaluation. In the event there will be need for external capacity to prepare the project specific safeguards, including RAP preparation and other social studies, the PIU will recruit external experts to complement its internal capacity. The services of such external consultants will be paid for by the project.

Budget and funding

41. At this stage, it is not possible to confirm the exact number of people who may be affected by the project. This is because the technical designs, routes and details have not yet been finalized and the land needs have not yet been fully defined. The RAP/ARAP implementation budget will be clearly articulated in the resettlement documents (ARAP/RAP). The budgets will cover resettlement activities including compensation cost for affected assets. It will be the responsibility of KPLC to avail the compensation funds and ensure timely delivery. The preliminary estimate budget for RPF implementation, including preparation and implementation of RAPs is about USD 1,500,000, as summarized in Table 10.1, page 68. Once subproject sites and actual impacts are known, the PIU team will undertake the actual budget planning and submit estimates to KPLC management. The RPF and RAP implementation budget will be reviewed periodically, e.g. on an annual basis, to ensure there is adequate budget for RPF/RAP implementation.

Disclosure

42. This RPF will be disclosed in compliance with relevant Kenyan regulations and World Bank's OP 4.12. The document will be disclosed at the Info shop of the World Bank's external website and KPLC websites. It will also be availed to PAPs in Kiswahili, especially those who cannot access the website. KPLC will also provide copies of the approved ARAP/RAPs for disclosure by the Bank and by KPLC, and at the local project level for access. Summaries of the ARAP/RAP will be developed and translated into Kiswahili and placed in accessible locations.

CHAPTER ONE: DESCRIPTION OF THE PROJECT

1.1 Background Information

1. Kenya's economy is more diversified than most countries in sub-Saharan Africa (SSA). About 55% of Kenya's Gross Domestic Product (GDP) comes from services, transport, finance, tourism, information and communications technology (ICT) and trade sectors that critically depend upon reliable power supply. According to Economic Survey 2017, Kenya's GDP is estimated to have expanded by 5.8% in 2016 compared to a revised growth of 5.7% in 2015.
2. The country's long-term development blue print, Vision 2030, aims to transform Kenya into a globally competitive newly industrialized middle-income and prosperous country. The Second Medium Plan 2013-2017 identified energy as one of the enablers for transformation into "a newly-industrializing, middle-income country providing a high quality of life to all its citizens in a clean and secure environment". Efficient, accessible and reliable infrastructure is identified as an enabler for achieving sustainable economic growth, development and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness.
3. The energy sector plays a critical role in the socio-economic development of a country. Kenya is committed to universal access to modern forms of energy by year 2030, as articulated in the Vision 2030. The goal of the Vision is to make Kenya a middle-income country enjoying a high quality of life by the year 2030. The objectives of the Vision have been adopted as GoK's national development objectives. Under this Vision, Kenya expects to achieve an annual economic growth rate of 10% and above. The medium-term plan (2018-22) of the Vision 2030 is centred on four pillars (Big4 Agenda) - universal healthcare, affordable housing, food security, and manufacturing, all of which are dependent on provision of adequate, affordable, and reliable electricity supply.
4. Energy is identified as a critical enabler of this Vision. Kenya National Electrification Strategy aims at attaining universal access to electricity by the year 2022. To attain this universal coverage, the government is implementing various projects, which are at various stages of completion.

1.2 Kenya Electricity System Improvement Project (KESIP)

5. The GoK is seeking financial support from the World Bank (WB) for the Kenya Electricity System Improvement Project (KESIP). The planned implementation period of the proposed project is 2019-2024. The project aims at improving the power systems and electricity access and reliability, in line with the Kenya Growth and Development Strategy of Vision 2030.
6. The proposed project is driven by the imperative to dramatically improve reliability of electricity supply to underpin economic activity and to sustain electrification. Electricity service interruptions in recent years have many contributing causes. These include inadequate generation capacity (especially during dry periods when hydropower availability is reduced), congestion in the transmission infrastructure that constrains power transfers from where there is surplus generation capacity to regions where there is a deficit, scheduled interruptions for line work and

unscheduled interruptions due to a weak network, inadequate preventive maintenance, vandalism, inadequate automation, etc. KESIP is designed to address distribution aspects to ensure reliable supply, e.g. scheduled and unscheduled interruptions, by building resiliency into the network so as to enable it to react to unexpected events by isolating problematic elements while the rest of the system is restored to normal operation, and by minimizing the impact of scheduled network maintenance on the fewest number of customers possible.

7. Under the Least Cost Power Development Planning (LCPDP) process and through feasibility studies, KPLC (the Client) has identified priority projects for implementation. The distribution strengthening component of KESIP will provide reliability, enhance security of supply to the existing demand hubs in the country; expand distribution capacity necessary to enhance electrification initiatives; and reduce technical losses in areas currently served by long medium voltage lines.

1.3 KESIP Objectives

8. The proposed project development objectives (PDOs) are to: a) increase capacity of transmission system; and b) increase access to electricity. The proposed Project aims to address system bottlenecks in the medium voltage (MV) network to reduce technical losses and create capacity to support last mile electrification. The proposed project will directly support connecting 92,000 new consumers in urban, peri-urban and rural areas and another 20,000 new consumers in slums and informal settlements. The proposed Project is also expected to support high-voltage transmission network and to support technical assistance and capacity building support to KPLC and KETRACO, MoE and other sector agencies.

1.4 KESIP Geographical Scope

9. Driven by the imperative to provide equal opportunities across the entire Kenyan territory as key to achieving Kenya's Vision 2030 and the national target of achieving universal access to electricity by 2020, the GoK now seeks to close the access gap by providing electricity services which are reliable and flexible to ensure access in poorly served areas of the country. The proposed KESIP directly promotes these objectives by supporting the strengthening and stabilizing of the transmission and distribution network through the introduction of more transmission and distribution lines and substations to drive electrification of industries, households, enterprises and community facilities. The proposed project will entail both transmission and distribution powerlines and substations, with a sub-component for slum electrification. The project will cover various geographical regions selected nationally including western Kenya covering North Rift, Central Rift and West Kenya; Nairobi covering Nairobi South, West and North; Mt. Kenya covering Mt. Kenya and Coast regions.

1.5 Project Components

10. The KPLC component of the proposed KESIP will comprise of three major sub-components as summarized below.

11. **Component 1: Access Expansion and Distribution Network Strengthening:** Kenya National Electrification Strategy (KNES) has identified that to achieve universal access by 2022, some 2.3 million connections will need to be made through grid densification (extending the existing distribution network by 2km). Another 580,000 connections will need to be made through grid intensification within 600m radius of existing distribution network and some 270,000 connections through grid expansion (within 25km radial distance around the periphery of the existing distribution system of KPLC). The proposed project will aim to support mostly grid densification and intensification and some grid expansion to reach about 112,000 new connections benefiting about 450,000 people. The exact lines and substations to be supported under the component will be determined during project implementation.

12. This component, which will be implemented by KPLC's PIU with the support of consultants, has three sub-components: (i) new medium and low voltage infrastructure to help address system bottlenecks for reducing losses, improving reliability, and creating capacity to support last mile electrification; (ii) connections of new consumers through last mile electrification; and, (iii) slum electrification to connect consumers living in informal settlements.

- a) ***Sub-component 1.1: Medium and low voltage infrastructure strengthening (Approximately US\$85-million):*** This sub-component will finance construction of new medium and low voltage infrastructure to address system bottlenecks, reduce technical losses, and create capacity to support last mile electrification the subcomponent will include substations (around 138 MVA 66/11 kV, 20MVA 33/11kV) and lines (around 118km of 66kV, 860 km km of 33kV and 11 kV and 75km of 11 kV). These substations and lines will extend the grid network to potential customers in seven distinct regions; Nairobi, Western Coast and Mt. Kenya to enable future customer connection under the Last Mile program. The subcomponent will be implemented by KPLC.
- b) ***Sub-component 1.2: Last Mile Electrification (Approximately US\$130 million):*** This sub-component will finance the design, materials and construction works required to electrify all households and businesses in rural and peri-urban areas located close to existing electricity networks. The component will support extending the distribution network as per the least cost plan identified through geospatial tool for the KNES to connect some 100,000 new consumers with 2,100 secondary transformers and 3,100 km MV and 5,200 km LV lines. KPLC has identified broad locations in seven geographical regions where the sub-component will be implemented. The final selection of sites within these locations will be made by KPLC and MoE during design of the low voltage networks based on population density and proximity to existing electricity networks, in order to maximize the number of connections in a given area.
- c) ***Sub-component 1.3: Slum Electrification (US\$20 million equivalent):*** This is a scale-up of the successful component financed under (now closed) Kenya Electricity Expansion Project (KEEP) with resources from IDA and the Global Partnership on Output Based Aid (GPOBA) providing connections to low-income households in various informal settlement schemes in urban and peri-urban areas. This sub-component will reimburse the costs of KPLC for last-mile connections that will include costs of low voltage network extension, installation of secondary distribution transformers, installation of service lines and prepaid meters to improve access to

electricity to the residents of high-density settlements. It is proposed that the cost of connection US\$1,000 will be reimbursed to KPLC under the Project based on the verification of the connections by an Independent Verification Agent (IVA). About 20,000 households in densely populated informal settlements are estimated to be connected to electricity under this subcomponent.

13. **Component 2: Transmission Network Expansion and Strengthening.** This component will be implemented by KETRACO. The component is expected to introduce high voltage network to areas that have been serviced by long medium voltage lines to reduce technical losses and reinforce the existing medium voltage networks. The component will also increase transmission adequacy for interconnecting different regions of the country and improve reliability of power transmission and ensure compliance with N-1 contingency criteria. KETRACO has identified 6 sub-projects involving 132 kV and 220 kV transmission lines and associated substations and construction of three new 400/220kV substations estimated at US\$298 million. The exact lines and substations that can be supported within the funding allocation for this category under the proposed Project will be determined later based on priority, readiness, and environmental and social screening and assessment.

14. The component is also expected to support an owner's engineer (firm), which will help KETRACO with preparation of design, bidding documents, bid evaluation, and project supervision during implementation phase. The funding requirement for the 6 transmission lines and three substations is around US\$298 million. With the funding allocation available (US\$120 million), only 2 or 3 lines and 1 or 2 substations can be supported under the Project. The environment and social screening and assessment following IDA guidelines is being conducted for all the lines and substations identified.

15. **Component 3: Technical Assistance and Capacity Building:** This component will be implemented by MOE in coordination with the sector agencies. The component will support a comprehensive feasibility study in accordance with the PPP law to determine technical, financial, legal, social and environmental feasibility of implementing the PPP pilot, including establishing the value for money for PPP. The feasibility study subcomponent will be implemented by Ketraco. The initial phase of the study will start soon with support from an on-going IDA credit (Eastern Electricity Highway Project, P126579) while the second phase will be supported under the proposed Project. ToRs and related Instruments that will be prepared as part of the feasibility study will be guided by the World Bank's OP 4.03 (Performance Standards for Private Sector Activities) as detailed in Ketraco's ESMF, RPF and VMGF. This study will be supervised by IFC on behalf of KETRACO and closely coordinated with Africa50 to ensure a consistent approach for all the 5 lines included in the pilot PPP. The PPP pilot will be financed by IFC and Africa50, both of whom are currently in discussions with Ketraco on the issue.

16. The component will also include sector studies, capacity building, and training activities to help sustain and enhance the policy, institutional and regulatory arrangements and reforms of the GoK as well as gender and citizen engagement. Some of the studies to be supported under the component will include optimal power market design, system operation and dispatch guidelines for the ERC. The capacity building will also include training and activities to strengthen governance, management, technical and operation capacity of the sector agencies

including the ERC, KenGen, GDC, and REA. The Support to KETRACO will enable the company to develop the basic building blocks for a state-of-the art transmission company able to attract commercial financing - a cost reflective wheeling tariff, a strong balance sheet through delineation of separation points of KPLC and KETRACO's transmission assets, capacity to manage the PPP program improved O&M practices and standardization of design specifications. The component will also include consultancy support and incremental operating costs for KPLC and KETRACO PIU. Finally, this component will also support the incremental operational costs of the planning and coordination unit at MOE.

17. Specifically, KPLC is implementing component 1 which is the main subject of this RPF. The component entails medium and low voltage distribution (11kV and 33kV) lines, primary substations, service lines and installation of secondary substations.

1.6 Projects Development Impacts

18. The proposed project aims to support expansion and strengthen distribution capacity of KPLC to facilitate achievement of the government's electrification goals and improve service deliver outcomes. The project is aligned with the Kenya Country Partnership Strategy (CPS) FY2014-2018 whose overarching goal is sustainable reduction in poverty and shared prosperity. It will directly contribute to the creation of an enabling environment for competitiveness and sustainability through development of power infrastructure needed for expansion of electricity access for households and supply of reliable and efficient power to businesses all of which are vital for promoting and sustaining economic growth and reducing poverty. By expanding the capacity of the transmission and distribution network and improving the quality of electricity supply to several counties of Kenya, the project will contribute to building consistency and equity, which is part of Kenya's devolution agenda.

1.7 Project Beneficiaries

19. Project beneficiaries include households and businesses that will be connected to the electricity network for the first time and whose use of electricity will replace consumption of kerosene and other fuels for lighting and will enable productive activities, thus contributing to economic growth.

20. A second group of beneficiaries will be the existing electricity consumers, including business customers of KPLC for whom the quality and reliability of electricity service will improve. Businesses suffer loss of sales, damage to equipment, and additional cost of electricity supply from standby generators when grid electricity supply is unstable.

21. The project will provide access to electricity to the remote rural consumers. By building capacity for KETRACO in public private partnerships (PPPs) and developing a cost reflective tariff initially for the PPP payments, and later for a gradual transition to full cost-recovery tariff, the project will help KETRACO on its path towards a state-of-the art transmission company able to leverage commercial financing for developing transmission infrastructure in Kenya.

1.8 Project Justification

22. The electrification component of the Project will help economic development and improvement in the quality of life, particularly in the poorer areas of Kenya including in the slum areas. The improvement will come directly from access to grid electricity to households. By providing access to grid electricity to community facilities, including schools and hospitals, the proposed Project will indirectly facilitate improved education and health benefits in the project areas. Based on empirical evidence, access to electricity to these social services contribute to improved teaching through use of computers and other electronic equipment in schools, extended study time for school children, improved health services in health clinics and hospitals. The proposed project will directly support electricity access to about 450,000 people, which will move the country closer to realizing its goals of achieving universal access in a decade, which is unprecedented in SSA countries.

1.9 Project Implementation Arrangements for KESIP

23. The MoE is responsible for the Energy Sector in Kenya and arranges for public funding through the National Treasury for the energy sector projects to meet the government priorities and objectives in the energy sector. The Ministry is also responsible for coordinating the actions of the implementing agencies to ensure they are geared to meeting the PDOs. The MoE will provide oversight to this RPF and RAP/ARAPs through progress reports submitted by KPLC KESIP Project Manager. MoE will be responsible for overall project oversight, coordination of activities between KETRACO and KPLC, consolidation of progress reports from the two agencies and report to the World Bank.

24. Generally, the KESIP will be implemented by three agencies - MoE, KPLC and KETRACO. In addition to providing overall oversight and coordination, the Ministry will implement Component 3 (technical assistance and capacity building). It will also be responsible for the overall monitoring of project progress.

25. KPLC will be responsible for Component 1 (access expansion and distribution network strengthening) and associated technical assistance activities. KETRACO will be responsible for Component 2 (transmission network expansion and strengthening).

26. The project implementation unit at KPLC's Infrastructure Development – which is currently implementing KEMP and KOSAP - will be responsible for the access expansion and distribution network strengthening component of KESIP. The PIU has personnel responsible for design, engineering, procurement, accounting, financial, legal, survey, wayleaves, property acquisition, environment, and socio economy, among others.

27. In respect to the RPF and associated RAPs/ARAPs, the Environment and Social Section of the Safety Health and Environment Department (SHE Department) will take the lead in preparing the documents in liaison with different experts in the PIU. KESIP. The SHE department has a total of six environmentalists and 3 social safeguards specialists. From this pool, one environment and one social specialist will be designated by the SHE Department to work with the KPLC PIU for implementation of Component 1. In the event that the in-house

capacity to prepare documents or to implement any aspect of the safeguard activities is limited and/or inadequate, the project will hire consultants, paid for by the project, to boost this internal capacity. Table 1.1 presents some of the roles and responsibilities of the PIU.

Table 1.1: Roles and responsibilities of the PIU members

General Manager, Infrastructure Development	-Supervise technical designs and operations -Approve technical works -Supervise technical staff -Bridge between the top management and project team
Manager Projects	-Project team leader -Manages project contracts -Liaise with World Bank and MoE
Project Engineer	-Overall supervision -Has overall responsibility for the project -Identification of subprojects -Approve project designs -Ensure timely preparation and implementation of the EIA, RAP and VMGP prior to start of civil works -Prepare project progress reports -Coordinate work during construction -Supervise contractors -Disseminate information to contractor
Engineers	In-charge of various engineering works and designs - civil, electrical and mechanical
Supply Chain officer	-Prepare RFP documents for consultancy works -Key member of the tender committee -Supervise procurement procedures -Issue contracts
Finance Officer/Accountant	-Projects accounting officer -Authorise payments -Supervise accounting systems -Process payments to consultants -Process payments to PAPs -Verify compensation details -Make the actual payments
Legal officer	-Supervise wayleave and land acquisition -Facilitate transfer of alternative land acquired for PAPs -Draft contracts for outsourced RAP services and monitor the contract implementation -Promote amicable settlement of any disputes that may arise during the resettlement process -Facilitate the transfer of substation land to KPLC -Register easements
Wayleaves officer	-Wayleaves acquisition -Valuation and Compensation -Resolving land related disputes -Negotiations over compensation
Land surveyor	-Draw mutations for land transfers -Ground trothing

Environmental and social experts	<ul style="list-style-type: none"> -Rerouting the line -Scaling of the trace for valuation -Supervise contracted surveyors -Preparation of EIAs -Acquisition of ESIA licenses -Prepare RFPs, ESMFs and TOR for EIA -Implementation and monitoring of Environmental Social Management Plans (ESMP)
Social safeguards specialist	<ul style="list-style-type: none"> -Supervise consultants -Responsible for all social safeguard activities of the project -Link between the PAPs and KPLC -Contact local administration (county and national government) and plan for sensitization meetings -Hold sensitization meetings and sensitize communities on the project -Handle the social, economic and cultural component of the project -Prepare RFPs, RPFs and TOR for RAP -Prepare RAP for the project -Supervise RAP Consultants -Responsible for supporting the project Engineer in ensuring timely implementation of the RAP -Carry out a socio-economic survey of the subproject areas -Oversee resettlement
Consultants/ contractors	<ul style="list-style-type: none"> -Provide professional services - survey work, construction, valuation, design, wayleave acquisition, ESIA, RAP, social assessments, among others

1.10 Decision Flow in Respect to the Project

28. Table 1.2 is an illustration of how decisions will be made on specific aspects of the project. It assigns responsibilities for action and oversight.

Table 1.2: Approval roles and responsibilities

Activities	Who is responsible?	Who approves?
Appointment of PIU	Project manager	CEO/Managing Director
Identification of subprojects	Project Engineer	General manager infrastructure development
Screening of subprojects	Project implementation team (safeguards team)	Project Manager
Determine, develop and approve instruments	Project implementation team (safeguards team)	Team leader (expert in environmental and social safeguards)
Approval of budget and funding	Project Manager	General manager infrastructure development
Approval of RAP implementation completion	Project Manager	General manager infrastructure development
Obtaining World Bank no-objection	Project Manager	General manager infrastructure development
Reporting to the World Bank	Project Manager	General manager infrastructure development

1.11 Monitoring and Evaluation (M&E) of Project Implementation

29. Within KPLC, the PIU in the Infrastructure Development Division will be responsible for monitoring, evaluating and preparing progress reports for the Project. The reports will also be submitted to the KPLC's General Manager, Infrastructure Development, to whom the Electrification Coordinator and Manager Infrastructure reports, who is ultimately accountable for the implementation and ensuring that progress reports are prepared for access expansion and distribution network strengthening sub-component. The PIU will ensure that the members in the implementation units are fully integrated into the management information processes of the project. The M&E system will track the performance indicators, scheduling and implementation data, and expenditure, as shall be agreed within the framework of the annual work plan and budget. The PIU will provide regular implementation reports.

1.12 Justification/Rationale for a Resettlement Policy Framework (RPF)

30. The World Bank's social safeguard policy OP 4.12 is triggered by KESIP because line routes/wayleaves and substations land will be required. However, their specific locations are yet to be identified. Therefore, KPLC being the implementing agency for component 1 has prepared this RPF to ensure compliance with OP 4.12 during implementation. The purpose of the RPF is to clarify resettlement principles, organizational arrangements and design criteria to be applied to subprojects to be prepared during project implementation. Once the subprojects are defined and the necessary information becomes available, specific plans (RAP/ARAP) will be prepared proportionate to the potential risks and impacts.

31. The RPF provides guidelines for the project before the subproject locations are known and forms the basis for preparing RAPs or ARAPs for individual subprojects once their locations, scope and socio-economic impacts are known. Potential adverse impacts related to OP 4.12 are likely to include loss of assets (land, structures, crops or grazing areas) along the wayleave corridors and may result in economic and/or physical displacement of people as well as temporal impacts in the form of restricted access to assets, especially during construction.

32. The actual locations of KESIP subprojects have not yet been identified (at the time of preparation of this RPF). The RPF sets out the procedures for the development of project specific ARAP/RAPs for those investments/subprojects 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 against potential impoverishment risks. These risks can be minimized by the following principles, in line with OP 4.12:

- i. Avoiding displacement of people;
- ii. Minimizing the number of PAPs, to the extent possible;
- iii. Compensating for losses incurred and displaced incomes and livelihoods; and
- iv. Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs' livelihoods and their wellbeing.

1.13 Purpose of the Resettlement Policy Framework

33. The purpose of this RPF is to establish the resettlement and compensation principles, which include the need to undertake social economic surveys, PAPs census, description of eligibility

criteria and entitlements for compensation under the project, cut-off date for inclusion in the RAP/ARAPs (to be prepared in accordance with this RPF), organizational arrangements for implementation of RAP/ARAP in line with the RPF and design criteria to be applied to meet the needs of the people who may be affected by the various subprojects.

34. This RPF provides guidelines for the project before exact project locations are known and forms the basis for preparing RAPs for individual subprojects once their locations and scope are determined and social and economic impacts are assessed in order to mitigate such effects.

1.14 Objectives of the RPF

35. The objectives of this RPF are to:
- i. Establish the resettlement and compensation principles and implementation arrangements for this project;
 - ii. Describe the legal and institutional framework underlying Kenyan approaches for resettlement and compensation;
 - iii. Define the eligibility criteria for identification of PAPs and entitlements;
 - iv. Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
 - v. Provide procedures for reporting grievances and resolving disputes.

1.15 Scope of the RPF

36. The RPF covers the following elements, consistent with the provisions described in OP 4.12, paras. 2 and 4:
- i. Description of the project and components for which land acquisition and resettlement are required;
 - ii. Principles and objectives governing resettlement preparation and implementation;
 - iii. Project anticipated impacts and related mitigation measures, a description of PAPs including making provision to accommodate all potential situations and any cases that may entail actual displacement and livelihood restoration assistance in accordance with OP 4.12;
 - iv. Description of the process for preparing RAPs and ARAPs, principles and procedures governing RAP preparation and implementation, including processes for carrying out socio-economic survey, PAPs census and asset inventory as well as a consultation process that will ensure meaningful participation and involvement of PAPs;
 - v. Estimated population displacement and likely categories of displaced persons, to the extent feasible;
 - vi. Eligibility criteria for defining various categories of PAPs, entitlements for different categories and eligibility criteria for compensation of the said categories;
 - vii. Legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
 - viii. Methods for asset inventory and valuation, listing of different assets lost that are eligible for compensation including having a participatory process;
 - ix. Organizational arrangements for implementing and managing RPF including responsibilities for screening subprojects and evaluating impacts and preparing RAPs;

- x. Description of the implementation process, linking resettlement implementation to civil works;
- xi. Description of GRM;
- xii. Description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- xiii. Description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation and monitoring;
- xiv. Arrangements for monitoring and reporting by the implementing agency and, if required, by independent monitors; and
- xv. Disclosure arrangements.

37. **Ancillary facilities:** based on past projects, distribution lines and substations do not require ancillary facilities like worker sites, borrow pits, waste disposal areas and staging areas. This is because when KPLC contractors cut down trees (which have been compensated for), the trees are left with the owners who use them in whichever way they please. However, the need for cutting trees will be minimal within the scope of the project because distribution lines are mostly located along the road sides which are already government owned, with minimum trees to cut. Other wastes may be in the form of cut conductors, but these are taken back to the KPLC or contractor's store for future use. On workers' camps, KPLC and its contractors employ casual labourers from the host communities, who go back to their homes at the end of each working day. The few skilled workers who may be from outside the project area normally live in rental houses in nearby trading centres. Thus, there is usually no need for workers' camps.

38. KPLC component 1 on distribution will not need extra access routes as the first priority is to use the road reserves and use of existing accesses is advised. Materials for the distribution lines are stored in KPLC stores and poles are sourced from NEMA approved suppliers. Material sourcing (ballast and sand) for the construction of substations will be from NEMA approved sites. The contractor will be expected to submit a copy of NEMA license/annual audit acknowledgement for the sites where they source the materials. The monitoring process will ensure that excavation sites are backfilled before final payments are made to the contractors.

CHAPTER 2: METHODOLOGY AND PROJECT IMPACTS

39. The preparation of this RPF entailed the activities described in this section that included literature review and public consultations and participation.

2.1 Methodology

Literature Review

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

- i. Project Appraisal Document (PAD) for KESIP;
- ii. ESMF for last mile connectivity project;
- iii. Constitution of Kenya, 2010;
- iv. Procedures for wayleaves and substation acquisition;
- v. Government of Kenya Valuers Act Cap 532;
- vi. World Bank Involuntary Resettlement Operational Policy 4.12;
- vii. Land Act 2012;
- viii. Land Registration Act 2012;
- ix. Land Adjudication Act 2012;
- x. The Company Act Cap 486; and
- xi. State Corporations Act Cap 446.

Public Consultations and Participation

41. As per OP 4.12 the client should put in place measures to ensure that PAPs are consulted and offered opportunities to participate in the RAP process.

42. A consultative forum/workshop was held on 12 September 2018, to deliberate with stakeholders on the environmental and social safeguards documents for KESIP. The forum was attended by a large and diverse group of participants and stakeholders from across the country representing different institutions, government agencies, NGOs, IP/VMG representatives, the private sector, the Office of the President 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 11 of this report.

43. 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 for ensuring broad community support. The objectives of the consultations were to disclose information on KESIP, share the draft safeguard documents to the relevant stakeholders and provide opportunity to the stakeholders to voice their opinions and concerns on different aspects of the project. Three safeguards instruments prepared for the KESIP were presented and discussed: (i) RPF; (ii) Vulnerable and Marginalized Group Framework (VMGF); and (iii) Environmental and Social Management Framework (ESMF) for KESIP. The feedback was overall positive and the participants 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.

44. The forum begun with an introduction and description of the KESIP 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 GRM. It was emphasised that more consultations will be held with communities that will be proposed as target beneficiaries, during the subproject selection process. Table 3.1 presents the issues raised in line with the RPF during the consultative forum.

Table 3.1: Issues raised during consultation

Concern Raised	Response
Public Consultation process	This was the first consultation done for the proposed KESIP pre-implementation safeguard documents i.e. ESMF, RPF and VMGF. Other consultations will follow based on specific subprojects including consultations during preparation of ARAP/RAP.
Involvement of stakeholder representatives	Stakeholder representatives present during the first meeting shall continuously be involved in subsequent meetings at community levels during project implementation.
Employment opportunities	The host community shall be given first priority during employment especially for unskilled and semi-skilled labour and contractors shall be made aware of the requirement as KPLC has always done.
Destruction of vegetation cover	In areas with dense vegetation cover, the project can always be redesigned to ensure the subprojects do not result into intense loss of vegetation cover.
Grievance redress	In cases of grievances there will be methods for redress involving communities. Thus, Kenya Power shall work with communities to ensure their grievances are addressed in a timely and satisfactory manner. KPLC shall try to avoid areas that have land disputes to the extent possible. Depending on the nature of disputes, consultations will be done so as to avoid discrimination and ensure no unnecessary delays to the project.
Resettlement and Compensation	The proposed project shall mainly involve construction of low voltage lines and substations thus the Company does not anticipate any form of resettlement to take place as the lines shall be constructed along road reserves and land for construction of substations shall be acquired on a willing-buyer-and-willing-seller basis. But for community land affected by the project, the process for acquiring community land or negotiation is described in the Community Land Act 2016 and KPLC will adhere to the process spelt out in the said Act. <u>PAPs in community lands or group ranches will be treated as rights-holders for eligibility purposes under OP 4.12</u>
Is Kenya Off-grid Solar Access Project (KOSAP) still on? Compensation for community land	KOSAP is an ongoing project though still in preliminary stages; implementation is yet to begin. Implementation of non-monetary compensation is a good idea especially in the event community assets are affected, to maximize project benefits to the entire community. The process for acquiring community land will be based on guidelines stipulated in the Community Land Act 2016.

Table 3.1: Issues raised during consultation

Concern Raised	Response
Compensation for artefacts	As a matter of policy KPLC endeavours to avoid such areas e.g. graves and will work with community members to identify these sites. In case other cultural property of national importance such as shrines are found, due process will be followed through contacting the Museums of Kenya (process is elaborated in the ESMF for KESIP pg. 48).
Integration of projects	The need for integration of power lines is a good idea and KPLC has embraced integration of lines in many parts of the country as it helps minimize on need for wayleave. This will continue subject to technical feasibility before implementation.

Way forward

45. The participants agreed on the following key follow-up actions.
- i. Once the sites are identified, the necessary environmental and social documents will be prepared guided by the three documents (ESMF, RPF, and VMGF).
 - ii. Other departments within KPLC concerned with the identification and selection of routes for the distribution lines will adhere to the principles outlined in the three frameworks. The different departments are property, wayleaves and project engineers. The safeguard documents will be sent to them by the representative of safeguards in the PIU.
 - iii. The PAPs will be consulted throughout the project phases once the project sites are identified.
 - iv. The project proponent, PAPs and other stakeholders should adhere to the GRM prepared for the specific subproject and utilize all the provided options in a systematic manner.

Note: See Annex 12 for the detailed minutes of the proceedings of the consultative meeting and the attendance list.

46. The consultations were attended by 53 people (38 participants and 15 KPLC staff). They included persons representing the VMGs and key government agencies as indicated Table 3.2.

Table 3.2: Organizations present during consultations

No.	Organizations/Agency
1	Energy Regulatory Commission
2	EWC- Endorois Welfare Council
3	Kenya Wildlife Service
4	Kenya Forest Service
5	PDNK-Pastoralist Development Network Kenya
6	Kenya Urban Roads Authority
7	Arid Land Institute
8	Kenya Electricity Generating Company
9	Kenya Electricity Transmission Company
10	MPIDO-Mainyoto Pastoralist Integrated Development Organization
11	KPLC- Safety Health Environment department
12	KPLC-Projects
13	KPLC Wayleaves

- 14 Nature Kenya
- 15 Vision 2030
- 16 Ministry of energy
- 17 Ministry of Interior
- 18 National Museums of Kenya
- 19 Communications Authority Kenya
- 20 Ilchamus Development and Human Right Organizations

47. Consultation was based on stakeholder analysis and was preceded by disclosure of adequate project information and environmental and social information to ensure that participants were fully informed. This process will continue throughout the selection of subprojects and as needed. Consultations will be conducted in a timely manner in the context of key project preparation steps, in an appropriate language (English and Kiswahili while translation will be used as necessary), and in accessible places. The results of the consultations will be adequately reflected in the project design through feedback/reports sent to the project engineer.

2.2 Project Impacts and Mitigation Measures

48. As noted earlier KESIP has components that will potentially result in economic impacts. With regard to social safeguards the project will trigger OP 4.12 and as a precaution the policy on indigenous people OP 4.10. According to the project description, the following are the anticipated social and environmental impacts, although this list is not exhaustive.

2.2.1 Positive impacts

49. **Employment and wealth creation:** KESIP will have a positive impact with regard to both direct and indirect employment levels in the country through providing access to electricity that is expected to spur economic growth and job creation. During the construction period, the bulk of the jobs will be temporary. Nevertheless, it is expected that this may result in indirect benefits too, where some employment beneficiaries would use their income to invest in sustainable livelihood strategies. These job opportunities will be made available to the local communities in the targeted counties. Also, employment creation though temporary, will translate into incomes at the household levels, which will trigger spending and demand in the local economy. For projects being implemented in VMG areas, the VMGs and the larger local community where appropriate, shall be given priority during employment, especially for unskilled and semi-skilled labour. To this end, the contractors shall be made aware of this requirement as KPLC has always done, and they will be required to prepare an employment plan with clauses to this effect. These requirements will be included in the main contract which the contractor will sign with KPLC. KPLC will conduct regular monitoring to ensure compliance with the employment requirements.

50. **Local Material Supplies:** the project will utilize mainly local materials and import those which cannot be sourced locally. Therefore, it will generate new income revenues for the local populations through harvesting and transportation of sand, ballast and gravel. The new income revenues will create demand for other goods and services causing a trickledown effect to the entire economy.

51. **Social Inclusion:** The project aims at increasing access to electricity to the various communities and counties within the country. This is in line with the tenets of social inclusion which the WB. Further, social inclusion aims to empower poor and marginalized people to take advantage of burgeoning global opportunities. It ensures that people have a voice in decisions which affect their lives and that they enjoy equal access to markets, services and political, social and physical spaces.

52. **Awareness on HIV/AIDS:** KPLC's HIV/AIDS policy underscores the fact that HIV/AIDS has no cure and the only way to stop its spread is through attitudinal and behavioral changes, which can be secured effectively through education (awareness and information campaigns). One of the positive impacts of this project will be disseminating of HIV/AIDS information to communities and workers who otherwise would not have had the correct information on several levels. Direct beneficiaries of the project, i.e. those who will be connected to the grid will have the benefit of health education messages through radios and TV, since using electricity to power these gadgets is more reliable. Benefits are higher because the beneficiaries will be able to access HIV/AIDS information that is reliable, as they can use the television and radios at will. The beneficiaries will also benefit from experts' opinion on the pandemic such as listening to doctors and nutritionists regarding HIV/AIDS. In addition, KPLC will create awareness on HIV/AIDS to the communities during subproject consultations.

53. The other method of disseminating HIV/AIDS information during project implementation will be through the contractors. The contractors will be expected to disseminate information to the workers as part of their daily toolbox talks. This will reach more people as the project is being implemented in different counties. Finally, during the ESIA for other projects the SHE department disseminates HIV/AIDS information to the public during public consultation meetings. In addition, reference will be made to the ESMF pg. 106 on dealing with SEA/GBV.

54. **Health benefits of the project:** One of the objectives of this project is increasing access to electricity, therefore more people will be connected with reliable power. The use of alternative power poses health problems as reported by WB in 2008 on the Welfare of Rural Electrification. The report notes that kerosene lamps emit particles that cause air pollution as measured by the concentration of the smallest particles per cubic meter (PM10).

55. Burning a liter of kerosene emits PM51 micrograms per hour, which is just above the World Health Organization (WHO) 24-hour mean standard of PM10 of 50 micrograms per cubic meter. But these particles do not disperse, so burning a lamp for four hours can result in concentrations several times higher than the WHO standard. The health risks posed by this indoor air pollution mainly include acute lower respiratory infections, but also low birth weight, infant mortality and pulmonary tuberculosis. Additionally, available data suggest that insufficient illumination (low light) conditions can cause some degree of eye strain, and reading in these conditions over long periods of time may have the potential to increase the development of nearsightedness (myopia) in children and adults. This project will result in many families replacing kerosene lamps for lighting with electricity, thereby reducing disease burden at the family level and on the government.

56. **Benefits to education:** Access to electricity at the household level and schools will create

opportunities for children to study. For example, children from households with electricity have an advantage because they have more time for study and doing homework in the evening as opposed to children from households without electricity. This benefit will in the end translate to better results. Additionally, children in households with electricity can also access television, which gives them an advantage of benefiting from education programs being aired through such communication channels. Appropriate lighting through electricity will provide school-going children in homes an opportunity to study after household chores, especially girls who have to assist their mothers in preparing dinner, among other responsibilities.

57. **Improved standard of living:** The implementation of this project will result in connecting more customers to electricity. Access to electricity will change the standard of living of the people as they can use domestic appliances like iron boxes, fridges, television sets, washing machines, among others.

58. **Security:** There will be enhanced security in the targeted counties arising from well-lit social, commercial and individual premises through access to electricity. With the implementation of the project, the level of security will improve across the county due to the presence of more security floodlights, which help to deter opportunistic crimes and gender-based violence (GBV).

59. **Communication:** Access to electricity will lead to improved communication for the beneficiaries. This will be enabled by the fact that charging of mobile phones will be easier and cheaper. Also access to mass media like radio and television will provide opportunity for the households to access a wide range of information which is useful for decision making. Some of information beneficiaries receive include information on markets, farm inputs, livestock and crop management and local affairs, nutrition, diseases, investments and entertainment, among others.

2.2.2. Negative impacts

60. **Loss of land and related economic or livelihood opportunities:** This denotes loss of land for setting up the medium and low voltage lines, primary and secondary substations. The distribution lines will utilize the road reserves as much as possible to minimize loss of land and livelihoods. Once the routes and their locations are identified, screening will be done to assess whether there are people using the road reserves, specify the subproject impacts and establish the appropriate safeguard documents needed (RAP or ARAP) to define entitlements for compensation. For medium and low voltage lines, payment is made for damages occasioned but not for land or siting of poles. Compensation to users of the road reserve will be based on the type of loss or damages caused by the project, and will be at current replacement value as defined by the WB's OP 4.12, subject to valuation report. Once construction of the line is done, no one is allowed to live under the said lines for safety reasons. Some uses of the road reserve, such as line fiber optic cables, are allowed but the proponent of such a cable must apply to the road authority. In case the cables are laid after the distribution lines are constructed they must not interfere with the lines whatsoever. In such a case, the proponent of the cables will be required to liaise with KPLC to ensure that the cables do not interfere with the KPLC lines.

61. **Loss of housing:** this denotes loss of physical structure such as residential house, auxiliary

structures like kitchens, granaries, livestock structures and associated services/facilities, water supply, drainage system, and electricity. Impacts on the associated structures if damaged during construction are compensated for, however, the lines and substations cannot restrict already existing access roads.

62. **Loss of employment:** if an affected business closes, the employees will lose their jobs. Other people may lose employment if they are obliged to move.

63. **Loss of vegetation (crops and trees):** this denotes loss of crops and trees that may be cleared to pave way for the construction of the distribution lines.

NOTE: This list of impacts is general. Specific impacts will be identified during screening and assessment for specific subprojects.

2.2.3 Measures to minimize resettlement

64. Some of the envisaged measures to minimize involuntary resettlement, land acquisition and its attendant impacts as outlined in this RPF and that will be described in the specific RAPs for the subproject, include:

- i. Avoiding involuntary resettlement to the extent possible through subproject design such as selection of routes and formation of overhead lines;
- ii. Use of the road reserves as much as possible but caution should be taken to assess encroached road reserves;
- iii. Purchase of land for the primary substations on a willing-buyer-and-willing-seller basis;
- iv. PAPs will be consulted and given opportunities to participate in planning and implementing resettlement programs and provided with technically and economically feasible resettlement alternatives;
- v. Displaced persons will be provided prompt and effective compensation at full replacement cost for loss of assets attributable directly to the project; and
- vi. Displaced persons will be compensated for losses incurred and assisted in their efforts to restore their livelihoods especially in the event of physical relocation to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

2.3 Description of PAPs

65. This RPF describes and considers PAPs to be those who stand to lose because 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.

66. 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. Attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially the very poor, the elderly, women and children headed households, including marginalized groups, or other economically and/or physically displaced persons and those with chronic illness who may not be protected through Kenya's land legislation.

2.4 Categories of PAPs

67. 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 because of activities related to a given investment in the project area. The likely economically or physically displaced persons under the project investments are categorized into the following groups.

- i. 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 the project. These include members such as the head of household, male and female members, dependent relatives and tenants, etc.
- ii. Vulnerable individuals who could be members of an affected households or who are themselves heads of households. They include PAPs who are too old or too ill, child headed households and households that are headed by poor women, unemployed youth, and orphans. Such PAPs are particularly vulnerable and are eligible for additional assistance under this RPF.
- iii. Affected local community: a community is affected if project activities interfere with its collective socio-economic and/or social-cultural relationships or cohesion. For example, project activities could lead to loss of community land, cultural erosion, or social welfare and networks due to physical separation if not mitigated. PAPs in community lands or group ranches will be treated as rights-holders for eligibility purposes under OP 4.12 and impacts on community land will be compensated in accordance with the Community Land Act of 2016.

68. **Approximate number of PAPs:** the determination of the number of PAPs is not possible at this time because the exact locations, nature, scope and magnitude of the project have not been identified and no census has been carried out. At this stage, subproject descriptions (feasibility studies, technical designs) do not exist for any of the subproject investments to allow estimation of the number of the PAPs. The purpose of this RPF is therefore to establish the mechanisms, procedures and principles for compensation and livelihood restoration for potentially affected people and to 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 project specific RAP or ARAPs in accordance with this RPF.

2.5 Actual Physical Displacement

69. Actual or physical displacement is likely to occur if the PAP loses a percentage of land that would make his/her land economically unviable through need for wayleave acquisition. This is more likely to occur, however, in the transmission component (component 2 of this project) because the wayleave needed is of a higher width as opposed to distribution lines (for which separate framework documents have been prepared). Such persons will be assisted to restore their livelihoods as spelt out in OP 4.12. It is notable that the wayleave needed for 11 and 33 kV line is 10 metres.

CHAPTER 3: LEGAL AND INSTITUTIONAL FRAMEWORK

3.1 Overview

70. This chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of KESIP. It 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, the Constitution of Kenya (CoK), 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 as illustrated in Table 3. The chapter further compares the Kenyan legislation with the WB provisions on resettlement, with gaps highlighted and recommendations drawn to fill the gaps.

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, 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 provides for administrative action to override the individual's rights, but the victim has to be given written reason for the action taken that undermines the right.
The Land Act 2012	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 this Act in the project area.
National Land Commission (NLC) Act 2012	The Act establishes the NLC 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 Valuers 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 the Environment and Land Court, which has the status of the High Court that 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.

State Corporations Act Cap 446	Section 2 on Interpretations A company incorporated under the Companies Act (Cap. 486) which is not wholly owned or controlled by the Government or by a state corporation; KPLC falls under this category as it is a state corporation. Section 5(1) defines the powers generally of state corporations, which include KPLC, as follows: Subject to this Act, every state corporation shall have all the powers necessary or expedient for the performance of its functions.
The Companies Act Cap 486	The Kenya Power and Lighting Company Limited (KPLC) is established as a Limited Liability Company under the Companies Act, Cap 486, Laws of Kenya. Its mandate, as obtained from its Memorandum of Association, is the production, supply and sale of electricity.
The Energy Act No. 12 of 2006	This is the main law governing KPLC's operations and the energy sector as a whole. The ERC established under this Act regulates the activities of the Company to ensure compliance with the law and other legal requirements.
Community Land Act 2016	This law provides for recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes. All PAPs in community lands or group ranches will be treated as rights-holders for eligibility purposes under OP 4.12

3.2 The National Land Policy

71. The National Land Policy (NLP or Policy)¹ 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.² 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.”³ Under the current Constitution,⁴ the Land Act 2012 empowers the NLC (under the guidance of Minister for Lands) to exercise the power of compulsory acquisition on behalf of the State.⁵

¹*Sessional 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.

²Development 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.

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

⁴The Constitution of Kenya, 1963, was replaced in 2010.

⁵Land Act, § 6, 2012.

3.3 The Constitution of Kenya

72. The Constitution of Kenya, 2010,⁶ protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.⁷ 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.⁸

73. 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.⁹ 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.¹⁰

74. 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.¹¹ These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.¹²

3.4 Land Tenure System in Kenya

75. Land tenure in Kenya is classified as public, community or private.¹³ Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”¹⁴), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas.¹⁵ Public land

⁶The 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.

⁷Constitution of Kenya, art. 40.

⁸ Id.

⁹Constitution of Kenya. Id. at art. 40(5).

¹⁰ Constitution of Kenya. Id. at art. 40(6).

¹¹ Id. at art. 60.

¹² Id. at art. 60(2).

¹³Id. at art. 61.

¹⁴Id. at art. 63(d)(i).

¹⁵Id. at art. 62(g).

will be managed by the NLC.¹⁶ 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.”¹⁷ 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 Acts of parliament e.g. Land Act 2012, Land Registration Act, 2012, and Trust Land Act (cap 288) of the Laws of Kenya.

Customary and/or Ancestry Land Tenure

76. 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 including nomadic pastoralism which is not only a livelihood strategy but also socio-cultural in nature. However most customary tenure systems exhibit a number of similar characteristics as follows, which are recognizable despite absence of legal titles, and will be treated as rights holders under the project in accordance with OP 4.12:

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

Freehold Tenure

77. This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period, 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 example, for 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

78. 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-year leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

¹⁶*Id.* at arts. 62(3), 67(2)s (a).

¹⁷*Id.* at art. 63(d)(i) and (ii).

Public Tenure and the NLC

79. 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 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 NLC, to allocate or make grants of any estates, interests or rights in or over un-alienated government land. However, the Constitution grants those rights to the NLC which is governed by the NLC Act, 2012 that specifies the roles of NLC as:

- i. 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;
- ii. 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;
- iii. Acquire land for public purposes;
- iv. Solve land disputes and deal with historical land injustices;
- v. Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or
- vi. 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 instruments.

80. Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships and other urban centres and open water bodies. The Land Act (2012) does not contain any notion of trusteeship by government of the land to her people.

81. Notwithstanding the foregoing, 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 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.

3.5 Land Act, 2012

82. The Land Act¹⁸ is Kenya's framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements, etc.). The Act provides for sustainable administration and management of land and land-based resources including compulsory acquisition. The Act is based on the Constitution of Kenya 2010 that recognizes the rights of the landowner and the

¹⁸ Land Act, 2012.

necessity for fair and just compensation.¹⁹ Regarding KESIP, KPLC as a state corporation will purchase land for substations on a willing buyer willing seller basis in consultation with registered landowners. The process of wayleave acquisition is described in section 3.7 while that for the acquisition of substation is in section 3.8.

3.6 Community Land Act, 2016

83. This is an Act of Parliament that is designed to give effect to Article 63 (5) of the Constitution; to provide for the recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes. All matters relating to the community land like wayleaves or land for substations will be dealt with in accordance with this Act. However, as the Act has not been fully operationalized, the provisions of OP 4.12 concerning customary land or land with recognizable ownership, will be followed in the acquisition of community land for either substations or wayleave under KESIP. All PAPs in community lands or group ranches will be treated as rights-holders for eligibility purposes under OP 4.12.

3.7 The Provision of Wayleaves under the Land Act 2012

84. In majority of cases, KPLC distribution lines are constructed along the existing road reserves (right of way) which are already government owned and do not therefore require land acquisition. However, in the event of wayleave acquisition, KPLC follows the provisions of the Land Act 2012 for the acquisition of wayleaves. The Act provides for certain undertakings to be constructed, e.g. transmission lines, distribution lines, pipelines, canals, pathways, etc. through, over or under any lands. Section 144 of the Act provides for the following process of wayleave acquisition.

- (1) Unless the [National Land] Commission is proposing on its own motion to create a wayleave, an application for the creation of a wayleave shall be made by any State department, or the county government, or public authority or corporate body (in this case KPLC), to the Commission.
- (2) An application shall be made in the prescribed form and shall be accompanied by any prescribed information or other information that the Commission may, in writing, require the applicant to supply and the Commission shall not begin the process of creating a wayleave until all prescribed or required information has been submitted to it.
- (3) In order to enable a proposed wayleave to be created by the Commission of its own motion to comply with the provisions of this section, the Commission shall complete an application form as if it were applying to create a wayleave and references to “the applicant” in this sub-part in relation to an application to create a wayleave shall be taken to apply as well to the Commission.
- (4) The applicant shall serve a notice on:

¹⁹The Constitution of Kenya, 2010 recognizes prompt and just compensation when compulsory acquisition of land is made.

- a) all persons occupying land over which the proposed wayleave is to be created, including persons occupying land in accordance with customary pastoral rights;
 - b) the county government in whose area of jurisdiction land over which the proposed wayleave is to be created is located;
 - c) all persons in actual occupation of land in an urban and per-urban area over which the proposed wayleave is to be created; and
 - d) any other interested person.
- (5) Along the route of the proposed wayleave the agency is expected to bring the application clearly and in a comprehensible manner to the notice of all persons using land over which the proposed wayleave is likely to be created. Any agency that desires to use an existing wayleave normally will approach the custodian of the said wayleave, for example KPLC will approach roads agencies and request to use the wayleave. KPLC first choice for distribution lines is road reserve because it is provided for in the Energy Act, 2006 section 53.(1), which states that for the purpose of the conveyance, transmission, or supply of electrical energy, a licensee may erect, fix, install or lay any poles, wires, electric supply lines, power or other apparatus in, upon, under, over or across any public streets, road, railways, tramways, rivers, canals, harbors or Government property, in the manner and on the conditions as provided in this Act. There are restrictions for the wayleave as spelt out in section 55 of the Act. There are also safety clearances such as no one should live/put up a structure on the wayleave and safety clearances for the wayleave. The Kenya Electricity grid code 2008 clause 8.6.2.3 notes that as a general rule, species with a mature height greater than 3.5 metres should not be planted or nurtured under distribution powerlines.

85. On compensation, the Act under section 148 provides that compensation shall be payable to any person for the use of land, of which the person is in lawful or actual occupation, as a communal right of way and, with respect to a wayleave, in addition to any compensation for the use of land, for any damage suffered in respect of trees, crops and buildings as shall, in cases of private land, be based on the value of the land as determined by a qualified valuer. It provides for the following.

86. Compensation in respect of public right of way:

- (1) Subject to the provisions of this section, compensation shall be payable to any person for the use of land, of which the person is in lawful or actual occupation, as a communal right of way and, with respect to a wayleave, in addition to any compensation for the use of land for any damage suffered in respect of trees crops and buildings as shall, in cases of private land, be based on the value of the land as determined by a qualified valuer. Basically, no person is supposed to put up a structure on the wayleave and the custodian of the wayleave is supposed to ensure no encroachment on the wayleave.
- (2) Compensation relating to a wayleave or communal right of way shall not be paid to a public body unless there is a demonstrable interference of the use of

the land by that public body. Payment for wayleave for distribution lines is only for damages to property but not for land.

- (3) Damage caused as a result of the creation of a wayleave shall include any preliminary work undertaken in connection with surveying or determining the route of that wayleave, and whether the trees, crops or buildings so damaged were included in the route of the wayleave as delineated in the order of the Cabinet Secretary.
- (4) The duty to pay compensation payable under this section shall lie with the State Department, county government, public authority or corporate body that applied for the public right of way and that duty shall be complied with promptly.

3.8 Land Acquisition Process

87. **Inspection of Land for the distribution lines:** In accordance with the Land Act 2012 and State Corporation Act, KPLC will determine the route of the lines that is most beneficial to potential consumers, identify the land owners (if the line is not on the roadside) through searches at the Land Registrar's office in case of private land with title, and through the local administration or elder system in case of unregistered ancestral or community land and through the Ranch Management Committee in case of group ranch land. Once the land ownership is established, KPLC will notify the landowners/rights holders on how the lines will affect their assets and seek their consent in order to compensate for any losses incurred. They will then be invited to negotiate on fair compensation based on WB principles, which includes allowing them to have their independent valuers. Consultations with the affected persons will take place throughout the process.

88. **Valuation of the land:** The Company valuer shall undertake valuation of the land use to determine the replacement cost method, but the PAPs are also free to involve their private valuers, provided that the set valuation principles and procedures are followed.

89. **Matters to be considered in determining compensation:** Market value of the property will be determined at the date of the publication of the acquisition notice.²⁰ 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, grazing and the actual use of the land.

90. **Payment of Compensation and Transfer of Possession and Ownership to KPLC:** A notice of award and offer of compensation package shall be served to each affected person by the Company under Section 148 of the Land Act 2012. All costs related to compensation and resettlement of PAPs will be financed by the Company. Under the Land Act 2012, Part X-Easements & Analogous Rights, the law permits a registration of a Right(s) of use with the owner's consent. The provisions relating to transfers and leases are well anchored in Act No. 6 of 2012 (the Land Act). Section 43(1) of the Act defines a transfer to include a conveyance, an

²⁰*Id.* at article 112 and article 111.

assignment, a transfer of land, a transfer of lease or other instruments used in the disposition of an interest in land by way of transfer. Subsection (3) provides that the transfer shall be completed by the registration of the transferee as proprietor of land, lease or charge.

Current Procedure of acquiring land for a substation by KPLC

91. The KPLC expresses interest in acquiring land for a substation in a given area through the Manager, Property and Administration (P&A), having received a request from the project PIU indicating the point in the project area at which the substation is required. The PIU technical experts also inform the Manager P&A of any special features to be considered and furnish the Manager P&A with the KPLC management committee approvals for the acquisition of land for the substations. The Manager, P&A forwards the requests to Senior Property Officer who identifies the methodology of site acquisition.

92. KPLC's land acquisition procedure will be enhanced to include additional due diligence needed to implement OP 4.12, as part of the methodology for the preparation and documentation of each RAP, including:

- i. Identification of sites and options ensuring that there is no threat/requirement of expropriation;
- ii. Identification of all tenure rights and claims including those of customary and informal users; and impacts on any subsistence occupants without legal claims, affecting the land in question, are systematically and impartially identified and compensation measures proposed;
- iii. Potentially affected individuals, groups and communities are meaningfully consulted, informed of their rights and provided reliable information concerning environmental, economic, social and food security impacts of the works;
- iv. Community stakeholders (especially if vulnerable) are enabled to negotiate fair value and appropriate conditions for the transfer, and that any requirements relating to particular groups (such as IP/VMG) are fulfilled;
- v. Appropriate compensation, benefit sharing, and grievance redress mechanisms are put in place to address any impacts on third parties;
- vi. Terms and conditions of the transfer are transparent; and
- vii. Mechanisms are put in place to monitor compliance with terms and conditions

93. KPLC has three methods of acquiring land, including (i) utilizing existing KPLC parcels if these are available at the point at which the substation is required; (ii) allocation from another government agency if it has adequate land at the point at which the substation is required; and (iii) purchasing on a willing-buyer-willing seller basis. In the event that the company decides to utilize the existing sites, proper due diligence and site visit is undertaken by a KPLC technical team comprising the relevant engineers and the PIU team that includes the social and environmental experts. The purpose of the site visit is to ascertain suitability of the site from the technical, environmental and social points of view. If the PIU confirms site suitability, the site will be handed over to the project. If the method of acquisition is allocation by another government agency, the Manager P&A sends out a letter to the respective government body/organization requesting for land. If this is positive, a joint site visit is done by the KPLC technical, social and environmental staff together with the relevant personnel from the other

agency to ascertain the suitability.

94. In the event of purchase, the management approvals are forwarded to supply chain for tendering with a view to attracting potential willing sellers. The KPLC General Manager HR & Administration nominates representatives from affected departments and the PIU to be part of the committee to open and evaluate the tenders. Upon receipt of favourable offers, the approved evaluation committee carries out joint technical inspections to ascertain the suitability of potential sites.

95. The following aspects are considered to ascertain suitability:

- i. **Size** – potential sites need to be sufficient for the average size of a substation and associated incoming and outgoing powerlines;
- ii. **Topography** – consideration is given to the topography of potential sites whereby flat or gently sloping topography is preferred. An ideal gradient for the natural ground is 1:100. A gentle slope facilitates surface drainage and movement of vehicles and people on-site during construction. A steep slope requires costly levelling (cut and fill) for the construction of the substation. In addition, a steep slope inhibits movement, makes vehicle access problematic and increases the potential for environmental impacts during construction as well as operation, e.g. steeper slopes have higher surface water flow rates and therefore higher erosive potential;
- iii. **Hydrology** – consideration is given to the proximity of potential sites to adjacent water courses and wetlands where there may be potential impacts in terms of erosion and siltation of water courses, as well as implications associated with storm-water control at the substation;
- iv. **Geology and soils** – consideration is given to the soil type present within the potential site whereby stable soil and founding conditions are preferable. Less stable soils, i.e. shallow, dispersive soils and soils with poor drainage present an erosion hazard if not managed correctly, and also require the instalment of additional, costly foundation infrastructure;
- v. **Flora and fauna** – potential sites need to be assessed in terms of their ecological value at both macro and micro-scales, i.e. within the site and the environment surrounding the site. Both a faunal and floral investigation may be required, with particular emphasis on ensuring the protection of endemic and red data species and their habitat, should they be present. An identified site that has a high ecological value may be excluded from the list of potential sites;
- vi. **Visibility** – highly visible sites i.e. on a ridge/elevated terrain are considered less favourable in that they have a high visual impact on the surrounding landscape. Sites that are hidden or out of site, e.g. behind a hill, may be considered more suitable;

- vii. **Access** – it is preferable that potential sites are located in close proximity to existing roads so as to avoid the need for construction of new access roads of considerable length. Access is also important particularly as it relates to the transportation of the substation transformer to the site, which weighs approximately 38 tons and requires the use of low-bed vehicles. As such, long access routes with sharp bends are to be avoided and the site should not be located in an area that has excessively steep inclines or declines that could hinder access, particularly during periods of heavy rainfall;
- viii. **Distance to site** – it is important that the site be located strategically within the receiving area’s electrical load centre;
- ix. **Adjacent land uses** – adjacent land use has implications for access and required clearances for the power lines extending into the substation, i.e. it is important that the land surrounding the substation is relatively clear of obstructions which might otherwise inhibit/obstruct the path of the power lines in and out of the substation. Current and future development planning of adjacent land use should therefore also be considered; and
- x. **Public acceptability** – public acceptance criteria relate to such issues as the possible adverse impact on public health, quality of life, and local land and property values. The most suitable site will then be subjected to rigorous due diligence at lands registries to verify the true ownership of the land. This will also include engaging a private valuation consultant to carry out a valuation to ascertain the market value and to guide in negotiation. After receiving approvals, the Senior Property Officer (SPO) will forward the approvals to the Legal Department for preparation of a sale agreement for execution.

96. The SPO shall forward a duplicate of duly executed sale agreement together with Accounting Officer approval to Finance Manager for preparation of 10% down payment. The final payment is made upon receipt of the title deed in the company’s name. During negotiations the identified owner is allowed to invite all persons who have interests on the land. In addition, spousal consent is mandatory and is operationalized through the sale agreement. Minutes of the negotiations are also written and kept for future reference.

3.9 Children and Orphans – Provision of Land Possession

97. The Land Act 2012, Part III, section 27²¹ 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.

3.10 The Valuers Act

98. Valuation of land is a critical aspect of compulsory acquisition practice. Compensation awards will be made by the Company based on land valuation determined by registered valuers.

²¹“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”.

The Valuers Act²² 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 particulars that the Board may find necessary. As of March 2011, there were 285 registered valuers in Kenya.²³ In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Kshs 10,000) and/or imprisonment for three years. The Valuers Act does not provide for a description of the valuation procedures and methods.

99. 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% and residue at 0.5%²⁴ and are paid by those who requested the valuation. Subproject RAPs will make use of the services of registered valuers who are approved by the Valuers Registration Board. The amounts of compensation for land will be for replacement cost for the land to be lost.

3.11 Comparison of Kenyan Laws and World Bank Requirements

100. The legal framework on land acquisition and resettlement vary to a given extent when compared to the WB’s OP 4.12, which is widely accepted as reflecting international standards on involuntary resettlement. Table 3.2 outlines OP 4.12 requirements 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.

²²The Valuers Act, Chapter 532, http://www.kenyalaw.org/kenyalaw/klr_app/frames.php, accessed May 25, 2011.

²³Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

²⁴*Legal Notice 32.*

Table 3.2: 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. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest.	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.	1.For each of the subprojects, ensure that resettlement issues are considered at the design stage of the project in order to avoid/ minimize resettlement for this component is use of the road reserve to the extent possible during selection of the routes
1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.	2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures.	2. Same as the World Bank	2. No gap on consultations
2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties.	3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.	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 is does not talk about improving livelihood or restoring them to pre-project status.	3. Implement World Bank OP 4.12 policy - displaced should be assisted in restoring their livelihood to pre-project status. Or improving it.
3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels.			

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
PROCESS REQUIREMENTS			
<p>Consultation: Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p>	<p>The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.</p>	<p>Same as World Bank</p>	<p>Implement consultation procedures as outlined in both Kenyan legislation and World Bank.</p>
<p>Grievance: For physical resettlement, appropriate and accessible grievance mechanism will be established.</p>	<p>Land Act 2012 clearly outlines the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court.</p>	<p>Kenyan legislation meets OP4.12 requirements.</p>	<p>N/A</p>
<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); (b) those who do not have formal</p>	<p>a) 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</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>Ensure ALL users (including illegal squatters, labourers, rights of access) of affected lands are included in the census survey and are paid for loss of assets other than land. Where PAPs are physically displaced and new land must be provided in</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>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 (c) those who have no recognizable legal right or claim to the land they are occupying.</p>	<p>are those holding land tenure rights.</p> <p>b) 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 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>compensation or as part of resettlement assistance to restore livelihoods, the impact will be identified during screening and preparation and provisions for land substitution, or compensation at full replacement cost, will be included in the RAP.</p> <p>According to the OP 4.12 squatters are paid for structures lost and impacts to livelihoods, and are entitled to resettlement assistance which may include land and housing if they are physically displaced from primary residence.</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>The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land.</p> <p>However, this does not include those who illegally acquired land.</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</p>	<p>Legislation provides for land for land compensation, but the Land Act 2012 does not state whether</p>	<p>Land for Land provided for in the Land Act but act not specific on when it should apply except when the</p>	<p>Ensure that all alternative options are considered in preference to providing cash compensation (as outlined in the</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
whose livelihoods are land-based.	preference should be granted to land for land compensation.	affected person chooses to receive land to land award.	Entitlement Matrix).
Cash based compensation should only be made where (a) land taken for the project is a small fraction of the 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.	Land Act 2012 appears to prefer mode of compensation by the Government to the affected population. Land Act 2012 call for just compensation.	Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya.	Use World Bank OP4.12 procedures in determining form of compensation
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	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. Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written	Just compensation as stipulated in the Land Act not yet specifically defined. Land Act very clear on attorney fees that it is not included. OP 4.12 includes those cost as part of full replacement.	Implement prompt and effective compensation at full replacement cost for the losses of the assets. Implement World Bank policy on Attorney's fees.

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>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>claim not included in just compensation.</p> <p>The Act is does not out rightly stipulate assistance for relocation, but we can interpret that relocation cost will be included in just compensation.</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>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</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>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<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>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>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>a consistent manner. <u>This will entail a consideration of the actual use of the land</u></p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</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</p>	<p>The Land Act 2012 stipulates just and fair compensation.</p>	<p>Interpretation of just and fair compensation not clear.</p>	<p>Apply World Bank OP4.12 on valuation and compensation procedures.</p> <p>All of the above as described in column 1</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
and transfer taxes.			
Monitor Adequate monitoring and evaluation of activities to be undertaken.	According to Land Act can be undertaken County Land Boards.	Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation.	Implement as prescribed in the World Bank OP4.12 and Kenyan Law.
Resettlement Assistance. Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.	Cost incurred should be paid by the agency acquiring land including disturbance allowance and transitional costs.	Kenyan law not explicit on resettlement assistance.	Implement as prescribed by the OP 4.12

Land Acquisition Under KESIP

101. For KESIP, the land acquisition process will follow the KPLC due process described above but KPLC will ensure that it is augmented with the provisions of OP 4.12 which requires that affected persons are compensated at full replacement cost of all impacted assets – including all transaction costs such as labor, transportation and any taxes and other levies – that are necessary to replace lost asset - and without consideration of depreciation. The PAPs (including non-rights

holders occupying the land prior to the defined cut-off date) will, in addition, be entitled to resettlement assistance as appropriate – calculated in Kenya shillings at 15% of the full replacement cost – as well as livelihood restoration and additional support to any vulnerable members among them.

CHAPTER FOUR: PRINCIPLES AND PROCEDURES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION

4.1 Overview on Involuntary Resettlement

102. 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: (i) landlessness; (ii) joblessness; (iii) homelessness; (iv) marginalization; (v) increased morbidity and mortality; (vi) food insecurity; (vii) educational loss; (viii) loss of access to common property; and (ix) social displacement.

4.2 RPF Principles under KESIP

103. Below is a list of the principles that will guide KPLC in relation to complying with OP 4.12.

- i. Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.
- ii. 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. Recognized and customary tenure is to be treated in the same manner as formal, legal titles.
- iii. 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.
- iv. PAPs will be meaningfully consulted and will participate in planning and implementing the resettlement activities.
- v. 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.
- vi. Measures to address resettlement shall ensure that PAPs are informed about their options and rights pertaining to resettlement, are included in the consultation process on a gender and intergenerational basis and given the opportunity to participate in the selection of technically and economically feasible alternatives.
- vii. PAPs will be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.
- viii. 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 benefits.
- ix. Attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the poor elderly, poor women, especially those that head their households, and child-headed households, poor orphans, marginalized groups and 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.
- x. The implementation of individual RAPs will be completed prior to the initiation of construction of the respective subprojects.

104. 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.

4.3 Entitlements under the RPF

4.3.1 Physical displacement

105. No physical displacement is envisaged under this project since the subprojects are of a linear nature and will utilize the road reserve. In the unlikely event that the lines pass through private property and PAPs must move to another location, KPLC 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 relocation costs above the compensation amount. Attention will be paid to the needs of the poor and the vulnerable, who will be assisted as is appropriate during the RAP implementation to adapt to new environments, if need be.

106. 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. PAPs who suffer physical relocation, especially outside their current land and are vulnerable, receive compensation for the structures lost and extra assistance to reestablish homesteads and restore livelihoods.

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

4.3.2 Economic displacement

108. The Land Act 2012, Part VIII, section 111 and 125, refers of just, full and prompt payment 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 WB procedures that provide for the same will be followed in addition to the Kenya regulations. If land

acquisition for a given subproject causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the project will meet the following requirements:

- i. Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;
- ii. In case 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;
- iii. 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;
- iv. 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;
- v. Provide additional targeted assistance to identified vulnerable groups among the PAPs 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; and
- vi. Provide transitional support (including compensation for lost income) 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.

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

CHAPTER 5: PREPARING AND APPROVING RESETTLEMENT ACTION PLANS

5.1 Overview

110. This chapter describes how a determination will be made (screening) on whether investments under KESIP will lead to physical or economic displacements. If through the screening process, it is determined that displacement will occur, the section highlights the steps, processes and methodologies for preparing RAPs. The RAPs for each investment will be prepared in accordance with this RPF. For subproject's that will be implemented in VMGs areas, KPLC will prepare VMGPs in consultation with the VMGs, based on the VMGF that has been prepared for this project, to ensure that VMGs are able to access project benefits in culturally appropriate ways. Such VMGPs will be in addition to the provisions of the RAP which will be prepared by for KESIP based on this RPF.

5.2 The Screening and Resettlement Planning Processes

Screening

111. Screening will be based on the defined area of impact, primary engineering drawings, maps, site visits and, if available, satellite images of the subproject area showing homes, farms, workplaces, schools, health facilities, places of worship and other individual and community assets. The first step is to avoid resettlement as advocated for by OP 4.12 and this will be achieved through use of road reserve for the distribution lines to the extent possible. At the point of route selection, routes that have dense settlements or likely to cause serious environmental and social impacts are avoided. Next is to subject the preliminary routes to screening. If resettlement-related impacts are unavoidable but can be addressed, the next step will be to initiate consultations and the preparation of a RAP to mitigate such impacts. If presence of VMGs is identified the VGMF will be applied.

The Environmental and Social Screening Process and criteria

112. The Environmental Management Coordination Amendment Act (EMCA), 2015 and the Environmental (Impact Assessment and Audit) Regulations (June 2003) prescribe the conduct for Environmental Impact Assessment (EIA) for development projects. Social and environmental sustainability are fundamental to the achievement of development outcomes and must be systematically mainstreamed into all development projects. This section will describe the procedures to be used by KPLC EIA team to determine if a subproject might cause environmental and social impacts. A screening form will be used to assess the level of environmental and social risks of proposed subprojects and recommend the appropriate safeguard tools to be prepared to manage them.

113. The first step of screening is for KPLC environmental and social specialists with other relevant experts to assess if the subproject requires further attention regarding environmental and social issues. Specifically, screening will determine:

- i. The potential adverse environmental and social impacts of the proposed project;
- ii. The appropriate environmental categorization as per OP 4.01 environmental assessment and national ESIA regulations; and

- iii. Based on the assigned level of environmental and social risks, recommend to KPLC Management the appropriate safeguards tools (ESIA/ARAP/RAP) required to achieve sustainability and compliance.

Subproject Risk Levels

114. **Level 1 – Low Risk:** Subprojects that do not have a physical footprint, equivalent to Category C in OP 4.01. These subprojects will not require safeguard instruments preparation, however, environmental and social clauses in the contract will be recommended.

115. **Level 2 – Medium Risk:** Subprojects that trigger environmental or social impacts that are site specific, temporal and reversible in nature. In addition to the environmental and social clauses in the contract, these subprojects will require an environmental and social assessment that will collate findings into a detailed project report and ESMP. The Environmental and social specialists in the SHE department of KPLC will prepare/or support the preparation of the safeguards documents required for this category of subprojects. These will be reviewed and cleared by both NEMA and the WB. These subprojects might also require ARAP where involuntary resettlement is anticipated with PAPs less than 200, or else a full RAP will be required.

116. **Level 3 – High Risk:** Subprojects that have significant environmental and social impacts. These subprojects will require a full ESIA study and detailed ESMP. They may also require an ARAP or a RAP depending on the number of PAPs and resettlement impact anticipated. Where more than 200 PAPs are affected, a full RAP study will be required. KPLC will engage an independent Firm of Experts to undertake Full ESIA for this category of projects. Both the ESIA and RAPs will be cleared, and a no-objection given by the WB before submission to NEMA for review and licensing.

NOTE: The ARAP/RAP will be conducted in line with this RPF.

117. Screening will be done after preliminary routes have been identified (see [para 119](#)) and will be done by a team of environmentalists and social safeguards specialists who have been trained by the World Bank on the Bank's social and environmental policies. They will do this in liaison with relevant departments of KPLC using a screening form appended to this RPF (Annex 3). The team will seek additional expert support as necessary. The screening results will be documented in a screening report by the SHE department (environmental and social section) and submitted to the KPLC PIU and the WB. Once the screening reports for the subproject indicates that more than 200 people are affected or that physical relocation will take place and avoidance is impossible (ref 5.2) then a RAP will be prepared. Further, an ARAP will be needed if no physical relocation will be involved and less than 200 people will be affected (OP 4.12 Annex A).

118. Once the screening for potential subprojects is completed, the reports will be submitted to the Manager, SHE department, who will then decide on the list to be submitted to the Bank for consideration. Based on the screening results, the WB ultimately decides on the subprojects it wishes to support in consultation with KPLC.

119. At the KESIP level, KPLC will also contribute to the achievement of the government's strategy for universal access to electricity throughout the country by 2022. At the National level, the Government is committed to providing equal opportunities to the entire country as a key factor in achieving vision 2030, in particular, the national target of achieving universal access to electricity by 2022. This desire has led the GoK to seek to close the electricity access gap by providing electricity services to remote, low density and traditionally underserved areas of the country – 14 arid and semi-arid (ASAL) counties - which are overwhelmingly occupied by VMGs. In order to better serve the VMGs in these areas which have not been reached by the national grid, the government, through financing support of the WB and other development partners, has prepared the Kenya Off grid Solar Access Project (K-OSAP) which directly promotes these objectives by supporting use of solar technology to drive electrification of VMG households (including host communities around the refugee camp), enterprises, community facilities and water pumps.

120. For KESIP, however, if VMGs are present within a subproject area, then the project will supplement the K-OSAP efforts by ensuring that the screening process does not exclude areas in which the VMGs live. Also, should a subproject be located in a VMG area, then the members will be consulted separately from others in their culturally accepted manner as outlined in section 1.7 of the VMGF. Further, efforts will be made to engage with people with disabilities, older persons and women in their own groups to ensure that they are sufficiently informed.

5.3 RAP Preparation

121. For the subprojects on the KPLC/WB approved list that require an ARAP/RAP, the KPLC (the SHE department) will initiate the RAP preparation process as described below. The steps to be undertaken for each individual RAP include: a socioeconomic survey; identification of PAPs; PAPs census and asset inventory of the affected assets; description of eligibility criteria; agreement with PAPs on an acceptable consultation process, communication channels and compensation process. Consultation with PAPs and other stakeholders will run throughout the RAP process. Each RAP, once prepared, will contain the analysis of alternative sites undertaken during the land/route screening process.

122. Identification of PAPs and subproject impacts: Different methods and steps will be employed to identify affected populations and impacts as follows:

- i. Use of thematic maps that identify such features as population settlements, infrastructure, soil composition, natural vegetation areas, water resources, and land use patterns;
- ii. A census that enumerates the PAPs who should be registered per their location and category;
- iii. An inventory and valuation of assets to be affected at the household, enterprise, and community levels; and
- iv. A socio-economic survey will be completed to determine scope and nature of resettlement impacts including the number of PAPs, the type and number of the assets, assessment of income streams and livelihood activities, the structure, organization, and economic interdependencies within the larger community affected by the project.

123. It is notable that the following will be key to the preparation of the RAPs: (i) the individual RAPs will describe these methods and steps in detail; (ii) consultation with affected populations regarding mitigation of effects and development opportunities will run throughout the process of RAP preparation; and (iii) apart 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 engage the stakeholders. 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 socio-economic 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; agencies in the area (e.g. local organizations or NGOs; other government agencies; land valuers, etc.) – 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 either through their established communication channels, such as their administrative leaders including the chief, assistant chief, public meetings, public notices in accessible public places such as chief's camps/office, ward offices, sub-county notice boards, places of worship, market centers, etc., and by verbal notification delivered in the presence of all the relevant stakeholders, and whichever method will be appropriate will be used.
- iii. Documentation and verification of land and other assets: KPLC will arrange meetings with PAPs to discuss the compensation and valuation process. For each individual or household affected by a given investment/subproject, the RAP preparation team will collect necessary personal information of the PAPs and their household members; their total land holdings; inventory of assets affected; and demographic and socio-economic information for monitoring impacts.
- iv. Compensation and valuation. All types of compensation will be clearly explained to the individuals and households involved by KPLC teams. This will refer especially to the basis for valuing the land and other assets, which will be done in the presence of the PAPs and/or their representatives. Once such valuation is established, KPLC will produce a Contract or Agreement that lists all properties and assets that will be affected by the project and the types of compensation. These options include in-kind (e.g. replacement housing and land) and cash compensation as the case may be or as is appropriate. All compensation payments are witnessed at least by the administrative officers, such as the chief or assistant chief. Where cash compensation is preferred,

payment will be by cheque, which will require the PAP to open a bank account. Compensation costs will be met by the KPLC. Guidance is given to the PAPs on use of compensation payments especially noting that the payment is for replacement of assets lost, therefore the money is for replacing the assets in question.

- v. From this point, the provisions of this RPF will be utilized in preparing the RAP. The costs associated with resettlement or relocation will be included in the RAP budgets for all investments, where applicable.
- vi. Payments: KPLC will make an award to the PAPs for the affected properties and assets.
- vii. Grievance mechanism: Establishment of GRM will be one of the key requirements of the RAP process for every investment. One of the key roles of the proposed Resettlement Committees (RCs), under individual subprojects, will be to address disputes. Grassroots based disputes will be dealt with by the RCs, further explained under the section on Implementation Arrangements. All PAPs will be informed how to register grievances or complaints, the dispute resolution process, and specifically about how the disputes will be resolved in an impartial and timely manner. This RPF has a chapter on GRM which will guide the formation of GRM specific to the subproject.
- viii. Consultation: All the investments will provide for informed participation of PAPs and communities in decision-making processes related to resettlement.

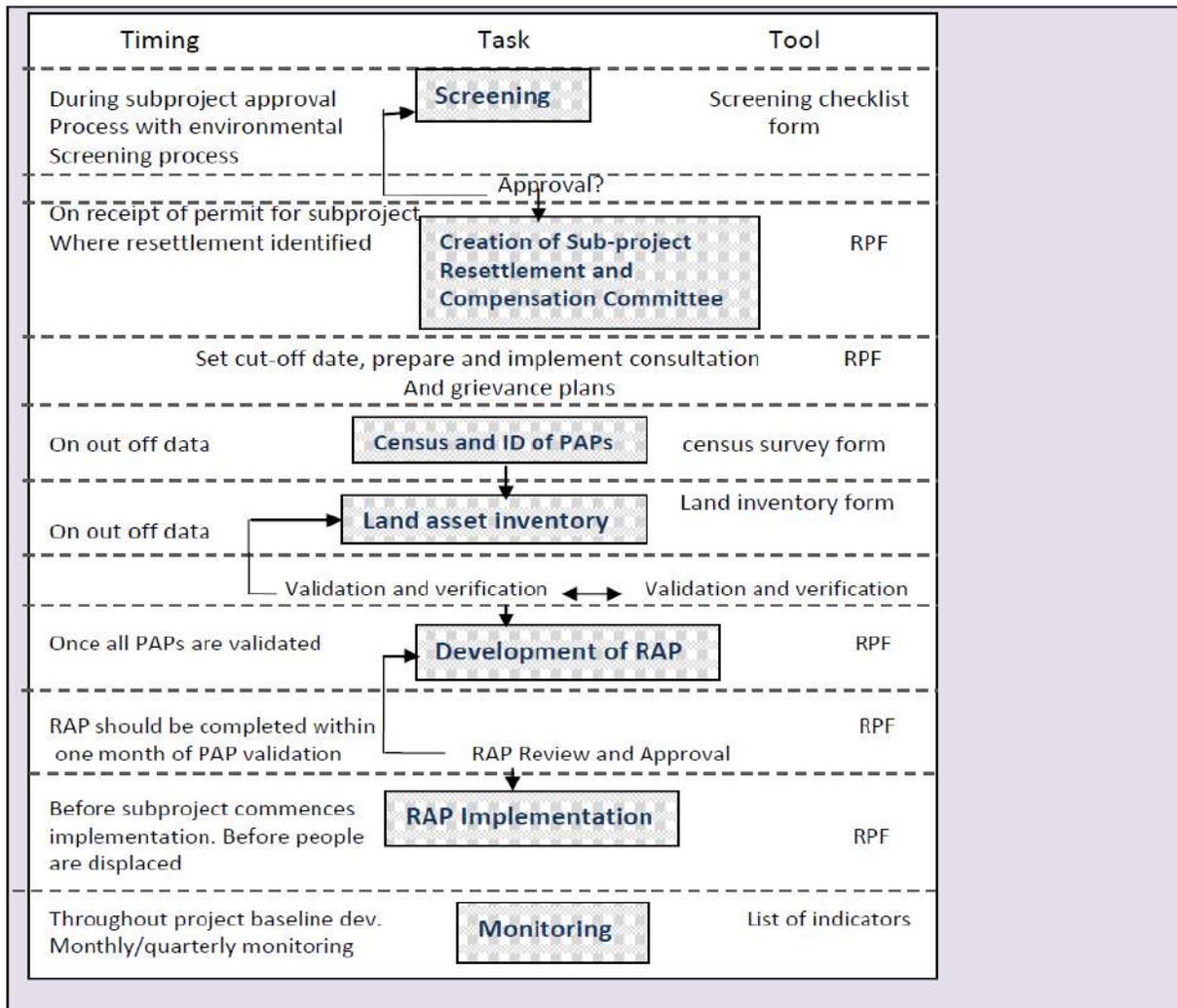
5.3.2 Approval of Resettlement Action Plans

124. The PIU in KPLC and WB will review all the RAPs. For quality assurance, it is required that RAPs prepared for specific investments be submitted to the WB 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 review among the KPLC teams/PIU and also through advice from the Bank.

125. Once the individual RAPs are approved, they will be disclosed on the KPLC website and the Bank's external website. In addition, each RAP will be available in the subproject areas (e.g. at the local Chief's office) and other places that may be suggested by the PAPs during RAP preparation.

126. Figure 1 presents a summary of the RAP screening and approval processes. The structure may be adjusted to accommodate local conditions, as necessary.

Figure 1. Sample RAP screening and approval process



CHAPTER 6: ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

6.1 Overview

127. 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, the chapter describes the entitlements for each type and category of impact, and sets out the detailed requirements for determining the value of affected assets and outlines the process by which valuation will be undertaken. It also explains entitlement and compensation measures.

6.2 Categories of PAPs

128. Affected groups under subproject investments in this RPF will include affected households, affected individuals and vulnerable groups and households as briefly described below.

Affected household: a household is affected if one or more of its members are affected by subprojects, either by loss of property and land or limited access, or otherwise his/her livelihood could be affected in any way by project activities. These include:

- Any members in the households, men, women, children, dependent relatives, friends, tenants;
- Vulnerable individuals who may be too old or ill to work along with the others; and
- 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 subproject investments.

Vulnerable individuals and households: vulnerable individuals, households 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;
- The very poor;
- Non-farming residents;
- The older people;
- People with disability;
- Child headed households;
- Persons living with HIV/AIDS;
- Marginalized and vulnerable persons; and
- OVC.

129. The following is a brief description of some of the vulnerable groups identified during the preparation of this RPF.

- i. ***Orphans and vulnerable children***: Due to the impacts of the HIV/AIDS in Kenya and the past conflicts around the country, there are a considerable number of orphaned

children, who have lost at least one parent (some estimates put it at 20% of all children or 1.7²⁵ million). These children today fall into three categories of care, namely: (i) those being 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 because they are considered too young to be heard.

- ii. ***HIV/AIDS affected persons:*** Relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from the government, international organizations and the NGO community. The HIV prevalence is estimated at 5.6% (KDHS, 2014).
- iii. ***Widows and 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. They should also be protected from disinheritance. Their compensation must take into account all these factors.
- iv. ***Older persons:*** These 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 neighbors. 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 support. Further, their mobility may be limited, hence, the need to affirmatively seek them out and consult them on the project.
- v. ***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 to 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.

130. 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 specific considerations will be made when subproject sites are identified and PAPs listed. In addition, the list above is not exhaustive. A socio-economic survey to be done for preparation of subproject specific RAPs needs to be exhaustive in the categorization of affected people and their sources of livelihoods.

²⁵According Kenya Bureau of Statistics (KBS) there over 1.7 million orphans, of this, UNAIDS reports 1.1 HIV/AIDS affected orphaned.

6.3 Eligibility Type for Compensation

131. The following are some of the category of impacts that are eligible for compensation. The list, though, will be refined when the socio-economic study is conducted, and census is undertaken for individual investments:

- i. Land;
- ii. housing and other structures on land;
- iii. Crops and trees;
- iv. Livelihoods;
- v. Grazing land;
- vi. Businesses; and
- vii. Community assets.

132. *Eligibility criteria:* classification of PAPs will be in accordance with OP 4.12 and will include: (i) PAPs with formal legal rights to land or other affected assets, including customary and traditional rights recognized under the laws of Kenya; (ii) 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 Kenya or become recognized through a process identified in the resettlement plan; and, (iii) those who have no recognizable legal right or claim to the land they are occupying. These include squatters on titled land and public land including road/railway reserves etc., squatters on community land held in trust²⁶ by County Governments but who have no recognizable claim to such land, as well as any squatters on group ranches.

133. Each PAPs category will be eligible for compensation under the project in accordance with the provisions of the World Bank's OP 4.12. In this regard, PAPs in categories (i) and (ii) will be offered compensation for land and other assets including structures, crops and trees. For compensation for land, especially where VMGs claim communal ownership to land and such land has not been registered as required by the Community Land Act 2016, the affected VMGs will be sensitized on the provisions and requirements of the Act concerning cash compensation for their land. The Act requires that cash compensation for unregistered community land is held for them by the County Government in an interest earning account, and released to them upon the registration of their land. After sensitization, the community will be provided with the option to decide on the mode of compensation, whether land for land, in-kind compensation in the form of community projects that are acceptable to all affected PAPs including VMGs, or cash compensation. All affected VMGs and other PAPs will be compensated for their lost assets, especially land, prior to start of construction activities. Compensation will be at full replacement cost as defined by OP 4.12 and will include all transaction costs.

134. Under KESIP, resettlement assistance will be provided to PAPs in all categories who will lose primary residence and livelihoods including land/housing as needed to restore livelihood and address vulnerability. In this regard, all PAPs irrespective of their status or whether they have formal titles, legal rights or not, are eligible for resettlement assistance under the project 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 assets in the area is carried out for the

²⁶This is in accordance with the community Land Act, 2016, article 27 of and the Community land regulations of 2017 Laws of Kenya where the rights are recognised.

preparation of investment specific RAPs and the cut-off date is communicated to communities.

6.4 Cut-off Date

131. The entitlement cut-off date refers to the time when the assessment of persons and their property in particular subproject 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 project area.

135. Where there are clearly no identified owners or users of land or assets, the respective county and national 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 notifications in writing and by verbal notification delivered by the community leaders or their representatives, and through the locally used communication channels.

6.5 Compensation for Lost Assets

136. The OP 4.12 defines “Compensation” as referring to the current cost of replacing the expropriated land (including trees and crops) and housing and other structures. Compensation for all assets will be at full replacement cost and will include transaction costs. Compensation costs will also include the cost of acquiring resettlement sites. Compensation applies to vendors, enterprises, and other commercial operations, as well as residential units (households). KPLC will apply this definition to augment the applicable Kenyan laws in the valuation of assets under KESIP so as to determine the full replacement cost for affected assets.

137. Compensation for all assets, whether in kind or cash will be required for the following:

- i. Land: where necessary, a PAP or PAPs may be offered the option of land for land or in-kind compensation equivalent to the full replacement cost of the expropriated land;
- ii. Residential buildings, and other structures and fixtures including those that are income sources to the affected person will be compensated at full replacement cost;
- iii. Cultivated crops (both cash and food crops) and trees will be compensated at full replacement cost as outlined in the OP 4.12 Source Book;
- iv. Livelihood restoration will be provided for loss of businesses, employment or other livelihood opportunities, in addition to resettlement assistance to cushion such PAPs and other vulnerable PAPs including squatters, from transitional hardships.

138. KESIP will pay all PAPs full replacement cost for the affected assets. For agricultural land, the replacement value 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 any transaction costs that may be involved, e.g. the costs of registration and/or transfer taxes.

139. For houses and other structures, it is the market value for replacing the structure, including the current cost of 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, the cost of any labor and contractors' fees, and other transaction costs that may be necessary for registration and/or transfer taxes.

140. Vegetation damage will be compensated at full replacement cost as outlined in the OP 4.12 Source Book.

141. In addition, resettlement and livelihood restoration assistance will be provided to economically displaced and vulnerable PAPs as appropriate, including squatters, as will be outlined in the Entitlement Matrix.

142. Although the type of compensation will be the individual's or community's choice, compensation in-kind may be preferred as cash payments raise issues regarding inflation and security and sometimes cash payments may not be applicable. Also, where a communally held asset such as land is involved, KPLC will sensitize the affected community on the benefits and advantages of land for land or in-kind compensation in the form of community projects of their choice.

143. *Resettlement in distribution lines:* As already noted, in distribution lines payment is done for damages only, and use of road reserve ensures avoidance of resettlement. In the rare cases of physical displacement, the current practice for resettlement in distribution lines involves PAPs moving within the same piece of land or few people being relocated away from their land. Such PAPs will be prioritized for compensation. They will be offered the option of land-for-land compensation (if found to be necessary) or cash (payment by cheque) could be done. In the case of communally held unregistered land, in-kind compensation will also be an option, in addition to land for land and cash compensation. Land for land and in-kind compensation will be particularly appropriate where physical displacement or greater impacts on livelihoods (such as loss of 10% or more of cultivated land) are involved.

144. The type of compensation preferred will be an individual or a community's choice although every effort will be made to instil the importance and preference of accepting in-kind compensation if the loss amounts to a significant loss of subsistence assets. Table 6.1 describes the forms of compensation that will be available under component 1 of KESIP.

Table 6.1: Types of Compensation	
Cash payments	Compensation will be calculated in Kenya Shillings, based on full replacement cost in accordance with OP 4.12. Rates will be adjusted for inflation.
In-kind compensation	Compensation may include items such as land, houses, and other structures, and community facilities in case of unregistered community land
Resettlement and economic rehabilitation assistance	Assistance may include livelihood restoration measures, moving allowance, transportation and labor.

145. 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; thus, market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. All cash payments will be made by cheque to avoid security concerns, and if needed PAPs will be assisted in opening Bank accounts. Special attention will be paid to women, and orphan headed households and other vulnerable households such as those headed by elderly illiterate men, women or orphans to ensure that such cash compensations do not disadvantage them. Measures, such as joint accounts, will be enforced as appropriate.

6.6 Methods for Valuing Assets in Kenya

6.6.1 Valuation Methods

146. 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. For 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 current market value of the asset being valued. As noted earlier, and in compliance 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, plus all transaction cost. No depreciation or salvage value will be included in the full replacement approach.

147. The Land Act, 2012, was amended via a Bill that was published in the Kenya Gazette Supplement No. 9 of 2018, and passed by the National Assembly, with amendments, on 8th August 2018) to, among others, establish the criteria for assessing the value of compulsorily acquired land. The Bill that is cited as *The Land Value Index Laws (Amendment) Act, 2018*.

148. Section 107A (1) of the Land Value Index Laws (Amendment) Act, 2018 assigns joint responsibility of developing the Land Value Index to the national and county governments, but at the time of preparing the VMGF, this was yet to be done. If at the time of KESIP implementation the national and county governments would have established the Land Value Index, then this will be complemented by the World Bank's OP 4.12 requirements for calculating full replacement cost. However, if the Land Value Index will not have been established, then the valuation law in force at the time of KESIP implementation will be augmented by the provisions of OP 4.12 to arrive at the full replacement values of land and other assets. OP 4.12 makes the following provisions and recommendations for valuation of various assets, including land, structures, crops and trees.

149. Valuation of assets under KESIP will be undertaken in line with the Kenyan laws provided they are in conformity with the full replacement cost requirements of OP 4.12 as outlined below. In this regard, whichever is the higher of the two will apply.

150. For land and structures, OP 4.12 states: "With regard to land and structures, "replacement cost" is defined as follows: *For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the*

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

151. For crops, the OP 4.12²⁷ recommends that: “*when arrangements cannot be made to allow for harvest, the market value for lost cash crops is paid. In some countries the value of the harvest is determined by the average market value of crops for the previous three years. Whatever the multiplier, if food supplies are sold in the area, enough cash compensation is paid to purchase equivalent supplies, taking into account the possibility of price increases caused by heightened demand from displaced person (DPs). In areas of predominantly subsistence production, good practice recommends that in-kind compensation be made for subsistence crops*”.

152. Similarly, for trees, the OP 4.12 Source Book recommends that: “*Where markets exist, the value of a tree of a specified age and use can be used to determine compensation rates. Where markets do not exist, surrogate values must be determined. For timber trees, the value of a tree equals that of the lumber. For fruit or fodder trees, the value is equal to the cumulative value of the fruit crop for its productive life (and any timber value). If replacement trees are provided, good practice indicates that compensation be based on the value of the harvests lost until the replacement trees come into full production (typically, 7–10 years). In the case of immature trees, a less costly alternative may be to directly supply seedlings as a replacement and provide compensation for the resulting delay in reaching fruit-bearing capacity*”.

153. A registered valuer with the Valuers Registration Board (VRB) will undertake the valuation exercise, the OP 4.12 criteria requirements outlined above - to establish the replacement costs and this will be done as part of the preparation of each investment specific RAP.

Replacement Cost Approach

154. Replacement cost approach applies where market sale and rental information is not available. In such cases, the value can be arrived at by using the replacement cost approach, i.e. the costs of replacing assets are 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 such as taxes that may be levied,

²⁷ This refers to the OP 4.12 Source Book

and labour.

Schedule of rates from National Construction Authority

155. The National Construction Authority (NCA) has a schedule of rates for preparing estimates for construction projects, which KPLC teams can use to assess costs for construction materials and labor. When applied to calculate replacement cost, current rates 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.

6.8 Calculation of Compensation by Assets

156. The following methods of calculation will be adopted for the preparation of the standardized asset valuation tables and/or the application of specific case-by-case valuations in the case of subprojects that have significant impacts. In all the cases described below, the Full Replacement Cost as defined by OP 4.12 will apply, unless the Kenyan valuation method results in a higher value than the requirements of OP 4.12. In all cases therefore, the higher value will apply.

157. ***Compensation for land in urban areas:*** The compensation will be based on replacement cost as defined by OP 4.12, which will be the market price plus the cost of buying a new plot of land and all related transaction costs, including fees and taxes involved.

158. ***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 area. Any associated costs of purchasing the land, i.e., taxes, survey 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 labor, equipment and materials. In cases where the land lost is only a small fraction of total land owned by the PAP, but renders the remaining land 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 improvements at current prevailing market rates for labor, equipment and materials.

159. Compensation for land is aimed at providing farmers and land owners whose land is acquired and used for project purposes, with compensation for land, labor and crop loss. The farmer's labor 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 labor invested as well as the market price of the crop lost.

160. ***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 meters or any other internationally accepted unit of measurement. In such an event, however, 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 the land lost.

161. The labour costs for preparing replacement land will be calculated based on what it would cost a farmer to create a replacement land. This value is determined by adding the costs of clearing, ploughing, sowing, weeding and harvesting the crop. The labour costs will be paid in Kenya Shillings as part of the full replacement cost.

162. **Calculation of crops compensation rate:** The compensation of the crops will be paid at market rate as outlined in the OP 4.12 Source Book. 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 the 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.

163. **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. KPLC will use the recommended prices by the County Agricultural office or current market price as defined by OP 4.12 Source BOOK, whichever is higher.

6.6.2 Valuation Process: Field Preparation of Asset Inventory

164. The first step will be to carry out an asset valuation survey as part of the RAP preparation. KPLC will form teams comprising of social safeguards specialists, registered valuers, lawyers, accountants, among other relevant professionals, who will undertake the assets valuation as part of the RAP preparation process. (External expertise will be sought as appropriate). The teams will work closely with the resettlement committees, which will be established for the implementation of the RAP in a given project. Each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the full replacement cost approach described above. The method will be explained to the PAPs and in the event they disagree, they will have the option of having the valuation undertaken by a government valuer, or they could opt for independent valuers to work alongside either the Ketraco or Government valuers. The values of each asset will then be recorded in a register and will be shared with the PAPs. The information collected, including census, will have been compiled in electronic and hard copy forms for each affected household, including:

- Census results;
- Asset inventory and valuation;
- Information on how the valuation was calculated and on how PAPs can request a review if not in agreement. In the event a PAP disagrees with the valuation then

he/she can hire another valuer and the two reports are discussed. In the event there is no way forward, they will turn to a government valuer for arbitration; and

- Any other relevant information.

165. **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 in-kind compensation. Cash compensation would be available as preferred option for structures lost, that are not the main house or a house in which someone is living. The current 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:

- i. Measurements of structures and detail of materials used;
- ii. Current 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 will be collected in different local markets to ensure they are competitive;
- iii. ;
- iv. Costs for transportation and delivery of these items to acquired/replacement land or building site;
- v. Estimates of construction of new buildings including labor required; and
- vi. Any associated taxes and registration fees.

166. **Compensation for community assets:** Community assets include community-owned assets such as water points, wells, marketplaces and community/public facilities (e.g., schools, wells, health facilities, halls, police posts). Community assets will be identified through the census and enumerated. In the event that community assets are affected, in-kind compensation, i.e. similar facilities, will be provided at the equivalent of full replacement even if there are existing facilities at the new location (to ensure there is no competition for resources with the host community. However, if community trees are affected, the community will be compensated through payment for the damaged trees at full replacement cost. For community land, implementation of non-monetary compensation – equivalent to the full replacement cost - is preferred especially in the event community assets are affected in order to maximize project benefits to the entire community.

167. **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.

168. Under this RPF to the largest extent possible, 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 identified during the screening process and avoided. Sacred sites could include but not be restricted only to museums, altars, initiation centres, ritual sites, ancestral tombs, trees, stones, and cemeteries, worship and sacrificial sites, which are considered sacred by the PAPs. They could also include other such

sites or places/features that are accepted by local laws (including customary) practice, tradition and culture as sacred. Impacts on cultural sites will be avoided as much as possible or mitigated through design. KPLC will compensate for any residual impacts in consultation and agreement with the affected community. KPLC will take utmost care to ensure that such compensation and all related activities affecting such sites are culturally appropriate and acceptable to the community and that all the processes are done in a consultative manner with the full participation of the affected communities.

169. **Compensation for loss of enterprises:** Business structures in project areas will be replaced in an appropriate location or compensated at full replacement cost as outlined above. In addition, resettlement assistance will be provided to cater for lost income, profits and production during the transition period (time lag between losing the business and re-establishment).

170. **Compensation for vegetable gardens and beehives:** Most vegetable gardens form part of the residential space of most homes. Although miniature in size, they are a critical component of most family's food and nutritional supplement through provision of vegetables. Until a replacement garden starts to bear, the displaced family (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.

171. 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 the costs associated with moving the hive.

172. **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 contributes to the export economy, petty market income in some areas, and shade (in the case of mango trees). All horticultural, floricultural and fruit trees will be compensated in line with the OP 4.12 source book guidance.

173. **Livelihood Restoration:** In line with the requirement of OP 4.12, livelihoods restoration will be accorded by the project where appropriate, especially to vulnerable PAPs and squatters who will be identified during the RAP preparation process. The policy indicates that to restore people's income earning opportunities after land acquisition and resettlement, the displaced persons are provided with resettlement assistance in addition to compensation measures. Such assistance would include activities such as land preparation, credit facilities, training or job opportunities. This is in line with the requirement to undertake resettlement as a sustainable development initiative, i.e. an initiative that leads to an improved standard of living for PAPs. The following are recommendations/options for improved and sustainable livelihoods.

174. *Land-based livelihoods resettlement site or new land purchased:* this should be equivalent to replace the pre-resettlement services, e.g. grazing land, water resources, physical preparation of the land, agricultural inputs, cash loans and access to markets. This is imperative where physical relocation away from current land by the PAP has taken place. In addition, transitional assistance will be provided to cushion PAPs from transitional hardships.

175. *Wage-based livelihoods:* Wage earners that are displaced/affected by resettlement will benefit from skills training, temporary job opportunities provided by the project during construction, small scale credit to finance start up enterprises.

176. *Enterprise-based livelihoods:* Established entrepreneurs and artisans will benefit from training to expand their business and generate local employment. Transitional assistance will be accorded to them to support them during the transition period.

177. Where transitional assistance will be offered, the level of assistance will be agreed with the PAPs based on the proportion of impact and the duration of required to restore the affected livelihood strategy since some will take longer than others to restore.

CHAPTER 7: IMPLEMENTATION ARRANGEMENTS

7.1 Overview

178. This chapter highlights institutional arrangements for the implementation of the project and gives guidelines for implementation of RAPs. Further measures to strengthen the KPLC teams to effectively implement the project and safeguards are also described.

7.2 Institutional Roles for the RPF, Preparation of RAPs and Implementation under KESIP

179. The implementing agency is KPLC.

180. *World Bank*: This is the main financing partner of KESIP. The responsibilities of the Bank include, but are not limited to:

- i. Review and approval of various documents including this RPF, screening reports and RAPs; and
- ii. Monitoring of project implementation.

181. *KPLC*: The Company, being the implementing agency for component 1, bears much of the responsibilities of the project and for the overall project preparation and implementation. Some of KPLC's broad tasks include:

- i. Project preparation;
- ii. Identification of subprojects;
- iii. Appraisal and approval of subprojects' technical designs;
- iv. Preparation and implementation of safeguard documents (RPF and RAPs);
- v. Screening of proposed subprojects;
- vi. Acquisition of substation land and wayleaves;
- vii. Ensuring adequate and capable project management resources;
- viii. Signing and supervising the implementation of contracts;
- ix. Liaising closely with KETRACO, which is implementing component 2;
- x. Supervising construction of subprojects; and
- xi. Reporting to MoE and the World Bank;

KPLC PIU

182. A PIU already exists at KPLC, currently implementing Bank-financed KEMP and KOSAP projects. The SHE department has six environmental specialists and three social safeguards specialists in addition to wayleave acquisition specialists. The department will assign additional dedicated team to the PIU who will be charged with the responsibility for KESIP implementation. This team will include an environmental specialist and a social safeguards specialist who will be free to draw from the main SHE department for additional support as and when required. Overall, the PIU will be composed of KPLC staff members assigned from various departments to carry out the day-to-day activities of the project. These will include:

- Project Coordinator for KESIP;
- Project Engineer;
- Financial management;

- Technical management;
- Environmental specialist;
- A Social safeguards specialist;
- Procurement management;
- Legal issues management;
- Property officer to deal with land acquisition;
- Surveyor; and
- Wayleaves acquisition management.

183. Additionally, the PIU will be supported by consultants procured by the project (on need basis) to augment the internal capacity, for effective and successful implementation of the project.

184. The PIU is a committee that works to oversee and ensure the project is implemented on a timely manner. Each officer ensures that the project is running on course in the issues he/she is representing at the PIU. The PIU coordinator submits progress reports and any other information needed on the project to the MoE and the WB.

185. The environmental and social section of the SHE department screens all subprojects and determines if there is a need to prepare an ARAP or RAP. For this KESIP component, the KPLC will select routes for the medium and low voltage lines in a manner to minimize resettlement especially by use of road reserves to the extent possible. Once this is determined, the PIU will either mobilize internal capacity for the preparation of the ARAP/RAPs. The project does not envisage large scale resettlement based on the need to select routes with minimum impacts and so the internal capacity will handle the work of preparing ARAP/RAP. In case a consultant to undertake RAP is needed then recruitment will be done through the PIU. The budget for the preparation of the ARAP/RAP will be met by KPLC.

186. Once the RAP is prepared, the World Bank will review the documentation for consistency of such documents with the RPF. As part of this review, it will verify that the needed information and documentation has been accomplished.

187. Subproject resettlement committees: In the event it will be necessary to prepare ARAP/RAP for a subproject, PAPs are supposed to form a resettlement committee for each subproject.

188. The subproject resettlement committee (RC) will be constituted by the PAPs and will act as the voice of the PAPs. The RCs, to be formed early in the project preparation, will have the following membership:

- i. The locational chief, who is the Government administrative representative at the locational unit;
- ii. Assistant chiefs, who support the locational Chief and Government in delivery of services and management of disputes at the sublocation level;
- iii. A female PAP, elected by women PAPs, will represent women and children related issues as regards resettlement and compensations;
- iv. Youth representative, elected by youths, will represent youth related concerns;

- v. Male representative elected by the PAPs;
- vi. Vulnerable persons representative (including persons with disability, older persons, widows and OVC).

189. Members of the RC will be elected by each category of PAPs except the locational chiefs and assistant chiefs who will be automatic ex-officio members of the committee by virtue of their positions. Each RC will elect its own chairperson and a secretary among the membership. The roles of RC will include the following:

- i. Help ensure that local concerns raised by PAPs as regards resettlement and compensation, among others, are promptly communicated to KPLC for redress;
- ii. Assist KPLC team working on RAP preparation and validation especially in identifying PAPs;
- iii. Ensure that the concerns of vulnerable persons such as persons with disability, widows and OVC affected by the subproject are addressed;
- iv. Assist the PAPs in the process of compensation, including helping those who cannot read or write;
- v. Resolve manageable disputes that may arise among the PAPs relating to resettlement and compensation process. If it is unable to resolve, refer such grievances to the KPLC grievance redress system;
- vi. Keep an eye on the vulnerable during the process of resettlement to ensure the process does not disadvantage them further;
- vii. Ensure that all the PAPs in their locality are informed about the content of the RAP and keep copies of summary documents in both Kiswahili and English;
- viii. Assist KPLC in designing strategies for restoration and development of livelihood strategies;
- ix. Assist KPLC in monitoring implementation of the RAP; and
- x. Mobilise the PAPs and ensure information reaches them for ease of carrying out consultations.

7.3 Other Key Institutions

190. There are other institutions that might be affected by the project and whose input might be required to ensure smooth implementation of the RAP and the project at large. Key among them include those listed in Table 7.1

Table 7.1 Key institutions/agencies in implementation of KESIP

Agency	Service needed
Kenya Forest Service (KFS)	KPLC consults with KFS regarding rates for trees
Kenya Wildlife Service (KWS)	Consulted during undertaking of EIA and where the project may pass through or next to the parks
National Environment Management Authority (NEMA)	Approval of ESIA RAP reports are also submitted to NEMA
County Government	The counties are key stakeholders during consultations or where projects pass within the land in their jurisdiction

Ministry of Agriculture	Consulted in regard to providing rates for compensation for crop damages
Ministry of Lands	Consulted while valuing land Land searches for substation before purchase Registration of land
National Land Commission KENHA, KURA and KERRA	Asset valuation and compensation of PAPs Seeking wayleaves for the lines
Ministry of interior and national coordination	During public consultations to mobilize the public at the subproject level

NOTE: This list is not exhaustive and may be expanded depending on the subproject location and area of influence, and during consultations for the ARAP/RAP.

191. KPLC works closely with the agencies and ministries listed above on need basis. KPLC seeks services from them like any other Kenyan would including when wayleaves touch on their land. No MOU is needed between KPLC and the said agencies for services, since the National Government has issued guidelines on levying of fees on generation, transmission and distribution lines through a cabinet circular from the National Treasury.

7.4 Measures to Strengthen Capacity at KPLC to Implement RPF and RAPs

192. As already noted, the KPLC will dedicate teams to be responsible for implementing the RPF and RAPs. The KPLC PIU and SHE department staff has been trained by the WB on its policies, including OP 4.12. However, if need be, the teams that will be deployed to KESIP will call upon the Bank – if there is need to do so during implementation - to of additional or short refresher courses on the following:

- Land acquisition, restrictions on land use, and involuntary resettlement;
- Vulnerable and marginalized people frameworks and plans;
- Social assessment; and
- Project M&E.

CHAPTER 8: IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

8.1 Overview

193. Before any project investment is implemented, PAPs will need to be fully compensated 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. Acquisition 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.

194. The schedule for the implementation of activities related to specific RAPs will be prepared based on the principles of this RPF. These will include the estimated target dates for start and completion of civil works; the dates of the possession of land and properties used by PAPs; dates for full compensation; dates of transfer of rights to KPLC; and date for registration of wayleave. The consultation process will ensure that RAPs contain acceptable measures agreed upon among all stakeholders that link resettlement activity to civil works under each specific investment in compliance with this policy.

195. The timing mechanisms of these measures will ensure that no individual or affected household would be displaced (economically or physically) due to civil works before compensation is paid and resettlement sites, if any, are equipped with adequate facilities prepared for and provided to the individuals or households affected.

8.2 Implementation Schedule

196. Each investment/subproject once identified and screened, if required, will prepare an individual implementation schedule, which will be included in the RAP investment. Therefore, all RAPs will include an implementation schedule for each activity covering pre-project construction activities such as payment of compensation and post-relocation. The plan will include an indicative target date when the expected benefit/compensation will be delivered. 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. Arrangements for monitoring of implementation of the resettlement and evaluating its impacts will be developed during the preparation of individual RAP implementation schedules. The principles for preparation of M&E are discussed in Chapter 12 on M&E.

197. Planning and coordination of the tasks of the various actors involved in the RAP implementation will be key to successful implementation. To achieve this, meetings will be organized with the PIU departments and other relevant government agencies, at individual subproject level and at the commencement of every project investment identified to have adverse social impacts. The meetings will focus on: (i) key elements of this RPF; (ii) compensation; (iii) describing institutional arrangements and mechanisms for payment of compensation; (iv)

defining tasks and responsibilities of each stakeholder; and (v) establishing a work plan in accordance to individual tasks as outlined in the RAP.

CHAPTER 9: GRIEVANCES REDRESS MECHANISM

9.1 Introduction

198. A grievance redress mechanism (GRM) is a set of structures, procedures and processes by which complaints, grievances, queries or clarifications about the project are reported and responded to. Further, problems that arise out of planning and implementation are resolved, and grievances are addressed efficiently and effectively. It's a formalized way to receive, assess, and resolve stakeholder complaints in order to improve project outcomes. The GRM provides government counterparts and project teams insights into whether social, environmental and other risks and impact mitigation measures are working, and when and what kind of remedial actions are necessary.

199. In the process of project planning and implementation, resettlement grievances are likely to arise ranging from inadequate engagement of the PAPs, inadequate compensation rates for assets, inequitable distribution of benefits, broken promises/unmet expectations of benefits, environmental pollution occasioned by the project, disruption to amenities and lifestyle, loss of livelihood, eligibility criteria, disputes among the PAPs, and violation of human rights, among others. In the event grievances are not addressed in time, they may escalate in magnitude and disrupt project timelines. Therefore, it is important to put in place procedures for the PAPs to report grievances with an assurance that they will be addressed adequately and in time.

200. A grievance can generally be defined as an issue, concern, problem, complaint or claim (perceived or actual) raised by an individual or a group within the community affected by the project that they are seeking redress for, hence the need for a GRM. This mechanism not only serves as the project's instrument for addressing grievances but also as a channel for communities to submit questions, request for information, and give suggestions and compliments.

9.2 Grievance Redress Mechanisms Planning

201. Grievance procedures are required to ensure that PAPs can lodge complaints or concerns, affordably and with the assurance of a timely and satisfactory resolution of the issue. In preparing the GRM, the following guidelines should be adhered to:

- The preparation of the GRM will be in consultation with the stakeholders for each subproject;
- Identify the target groups for the GRM;
- Identify appropriate channels for communicating the GRM to different target groups; and
- The GRM should be applicable to all subprojects, i.e. each subproject should have a GRM.

202. It is notable that the project-based grievance procedure does not replace existing legal processes. Based on consensus, the project GRM will seek to resolve issues quickly to expedite the resolution, without forcing the community to resort to expensive and time-consuming legal actions. The proposed GRM recognizes that the complainants have recourse to the courts of law

in the country any time they feel aggrieved. However, given the fact that legal process can be daunting, expensive and at confusing especially for the poor and vulnerable, the project GRM that is prepared in consultation with the PAPs should endeavour at all times to be the first point of call for grievances. If the grievance procedure fails to provide a result that is acceptable to the complainant, then he/she/they are free to seek legal redress.

9.3 Grievance Redress Mechanism Design

203. The following issues will be critical to the design of the GRM:

- GRM should be proportionate to the subproject;
- The GRM should be prepared in a participatory manner, which is socially and culturally acceptable to the target groups;
- The GRM should be fair, objective, without coercion or influence, simple, accessible, responsive, efficient and time bound;
- The GRM should have the ability to resolve issues through dialogue, joint fact finding and negotiation with affected parties;
- The GRM should have reasonable timeframes for resolving complaints/issues raised;
- The GRM should be reviewed regularly to take into account the needs of the stakeholders/issues raised; and
- The GRM should be documented.

NOTE: Where screening indicates that part of the affected persons are indigenous persons/vulnerable and marginalized persons, then this special category of affected persons will be consulted in line with the VMGF that KPLC has prepared for KESIP, and culturally appropriate grievance processes agreed with them will be followed.

9.4 Operationalization of the GRM

204. A multi-tier GRM is proposed for the resolution of complaints that may arise in the course of KESIP implementation. In proportion to the magnitude of impacts that are anticipated under component 1 of the project, it is foreseen that most grievances that may arise can be resolved at the community level. For this reason, the following GRM is proposed.

- i. A two-tier community level mechanism. The first – the subproject grievance committee – is composed of men, women, youth and people with disabilities selected by the PAPs to deal with minor disputes such as feelings of exclusion from project activities, inadequate distribution of project benefits or inadequate consultations; and the other – community level arbitration/mediation committee – is composed of Council of Elders (also known as Village Elders) which comprise respectable men and women and which is linked to the national government (Office of the Assistant Chief). This tier combines the cultural and administrative methods of local level grievance redress. The tier will deal with the weighty issues of resolving especially disputes related to land boundaries, family disputes about how to divide compensation funds among family

members or land ownership disputes. The Council of elders will also act as the second court of appeal.

- ii. The third level grievance redress will be the KPLC level. At KPLC level, the PIU will be responsible for grievance redress. KPLC will seek to resolve complaints through its internal processes or seek arbitration/mediated resolution before informing the complainant to seek judicial resolution if they are still not satisfied. At the KPLC level, grievances will be received through email, letters, verbal, suggestion box or from either of the two-community level systems. Once grievances are received, a GRM Focal Point appointed by the PIU will log them into the grievance log in the office. Some grievances may be resolved immediately, especially those that need KPLC’s project staff to provide information to the complainant. If not, they will be escalated to KPLC’s PIU. KPLC will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within two months. The PIU will hold a meeting with the aggrieved party and possibly resolve the grievance. However, if the PIU is unable to resolve it, then depending on the nature of the grievance, the PIU will either escalate the grievance to the National Lands Commission) or the Company Secretary for arbitration.

- iii. Disputes between KPLC and a complainant or a group of complainants will be arbitrated by the MoE. If all the proposed systems fail to satisfy the complainant, they will be free to seek judicial redress, either at the land and Environment Court of other judicial avenues.

205. Table 9.1 presents the various institutional levels of the proposed GRM and their roles.

Table 9.1: Potential institutions involved in GRM and their roles

Institutions	Roles and responsibilities
<i>Project level GRM</i>	
Subproject Grievance Committee to be composed of an agreed numbers of PAPs, including representation by men, women, youth and vulnerable PAPs	<ul style="list-style-type: none"> • Receive the grievances • Record the grievances • Resolve the grievances • Redirect the complaints as appropriate if, depending on the nature of complaints the same cannot be resolved at this level
Village elders (also known in some communities as Council of Elders)	<ul style="list-style-type: none"> • Resolve culturally related issues, boundary disputes especially where there is no adjudication • Deal with payment related complaints among family members as well as land boundary disputes
KPLC Focal Point – social safeguards specialists	<ul style="list-style-type: none"> • Receive grievances from complainants, resettlement committee members/chief • Evaluate the grievance and direct to appropriate officers in the PIU for resolution • Keep the grievance log • Monitor GRM implementation in accordance with the set timelines

KPLC PIU	<ul style="list-style-type: none"> • Deal with eligibility complaints • Solve payment issues
MoE Alternative dispute resolution mechanism	Arbitrate grievances between KPLC and aggrieved parties Independent arbitrators whose membership will be agreed upon between KPLC and the complainant with responsibility for resolving disputes between KPLC and the complainant if these cannot be resolved by the first five levels
<i>Legal/judicial GRM</i> Land and Environment Court	All the grievances not resolved by the project level GRM or where the aggrieved persons are dissatisfied with the resolution, will be channelled to the existing structures in Kenya for handling grievances, such as the Kenyan Environmental and Land Courts of Law, which are mandated to solve the following disputes: <ul style="list-style-type: none"> • Relating to environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources; • Relating to compulsory acquisition of land; • Relating to land administration and management; • Relating to public, private and community land and contracts, choices in action or other instruments granting any enforceable interests in land; and • Any other dispute relating to environment and land.

9.5 Development of Subproject GRM

Introduction of the GRM

206. During the preparation of ARAP/RAP the need to prepare GRM will be introduced to the project stakeholders, especially the PAPs and host communities if applicable, for their active participation in the process.

- The purpose of the GRM will be communicated to the PAPs and also the type of grievances to be addressed, following which they will be invited to participate in the preparation of a mechanism that they can believe in and respect.
- Preparation of subproject GRM will be guided by the existing structures at the community level for solving disputes as well as the KPLC PIU and the MoE mechanism.
- The agreed GRM will be publicized and advertised via public meetings, through local administration offices, subproject RCs and at the KPLC local office so as to be accessible. It is important to note that every subproject will have its own GRM.
- Eligibility to register complaints, include:
 - i. A person directly affected by the project including the impact due to land acquisition and impacts to other assets;
 - ii. Residents interested in and/or affected by the project living in the affected areas; and
 - iii. Any individual or group with an interest in the project and its outcomes.

Receiving and registering grievance

207. Without regard to their identity²⁸, a complainant can forward grievances through:
- Any member of the subproject RC;
 - Direct face-to-face meetings with the RC or project team;
 - Phone calls (on a dedicated line to be acquired by the project)
 - In writing; and
 - Email (through a dedicated address).
208. The KPLC officers who receive complaints verbally shall put them in writing for follow-up, logging and reference. Recognizing that many complaints may be resolved ‘on the spot’ by the RC, it is important to encourage these informal resolutions to be documented to encourage responsiveness and ensure that repeated or low-level grievances are being noted in the system (a sample of the grievance form is annexed to this Framework).
209. Handling of the grievances will entail the following:
- All grievances received will be documented and records kept;
 - The records should indicate the grievance received, name and contact of complainant, description of grievance, date of receipt and acknowledgement, grievance resolution date, description of actions taken (investigation, corrective measures), and date of resolution and closure/provision of feedback to the complainant, and grievance not resolved;
 - The grievance log should capture all complaints, including anonymous complaints.

Reviewing and investigating grievances

210. The ideal situation is that grievances will be first directed and resolved by the resettlement committee of each subproject. The grievances shall be screened to determine whether they are eligible for redress through the GRM. Ineligible complaints include those that are not project related or those that the community procedures are more appropriate to address. Eligibility should be a procedural step to ensure that the issue being raised is relevant to the project. It is often better to ensure a relatively low barrier to entry with quick turnaround rather than to prevent users having their issues considered.
211. Grievances that cannot be resolved by the RC will be channeled to KPLC social safeguard specialist who will assess and direct it to the relevant officers in PIU for redress. The PIU should also work closely with institutions involved in ADR to avail mediators that could be used to resolve disputes at the community level.

²⁸ Anonymous complaints will be accepted and addressed despite the difficulties involved since it may not be easy to determine if the complainant is satisfied with the outcomes

Action and Feedback

212. This is the development of resolution options taking into consideration the community preferences, project policy, past experience, current issues and potential outcomes. The officers who receive grievances for redress will keep in touch with the complainant until the grievance is resolved. If a grievance cannot be resolved by the assigned officers, the next level is to bring it to the attention of the PIU. The PIU has the liberty of reaching out to the top management of KPLC to intervene in grievance redress. If the grievance cannot be solved by KPLC top management then an intervention from the MoE can be sought.

213. The aggrieved should also be advised of the closeout of the issue and what has been done to achieve it. This feedback provides an opportunity for the PIU to demonstrate that it has addressed the issue as well as confirming that the complainant considers the responses satisfactory and the matter closed.

Closure of Grievance

214. All grievance records and supporting documents will be filed and recorded in the database. Upon completion of the agreed upon corrective actions, documentary evidence of resolution, which is signed and dated by the responsible officer shall also be provided to the complainant and kept in the project level grievance log.

Note: the PAPs will be encouraged to use the GRM as much as possible as opposed to going to courts for redress; that notwithstanding, the PAPs will be informed of their right to use the courts of law for grievance redress.

9.3 Grievance Monitoring, Reporting and Evaluation

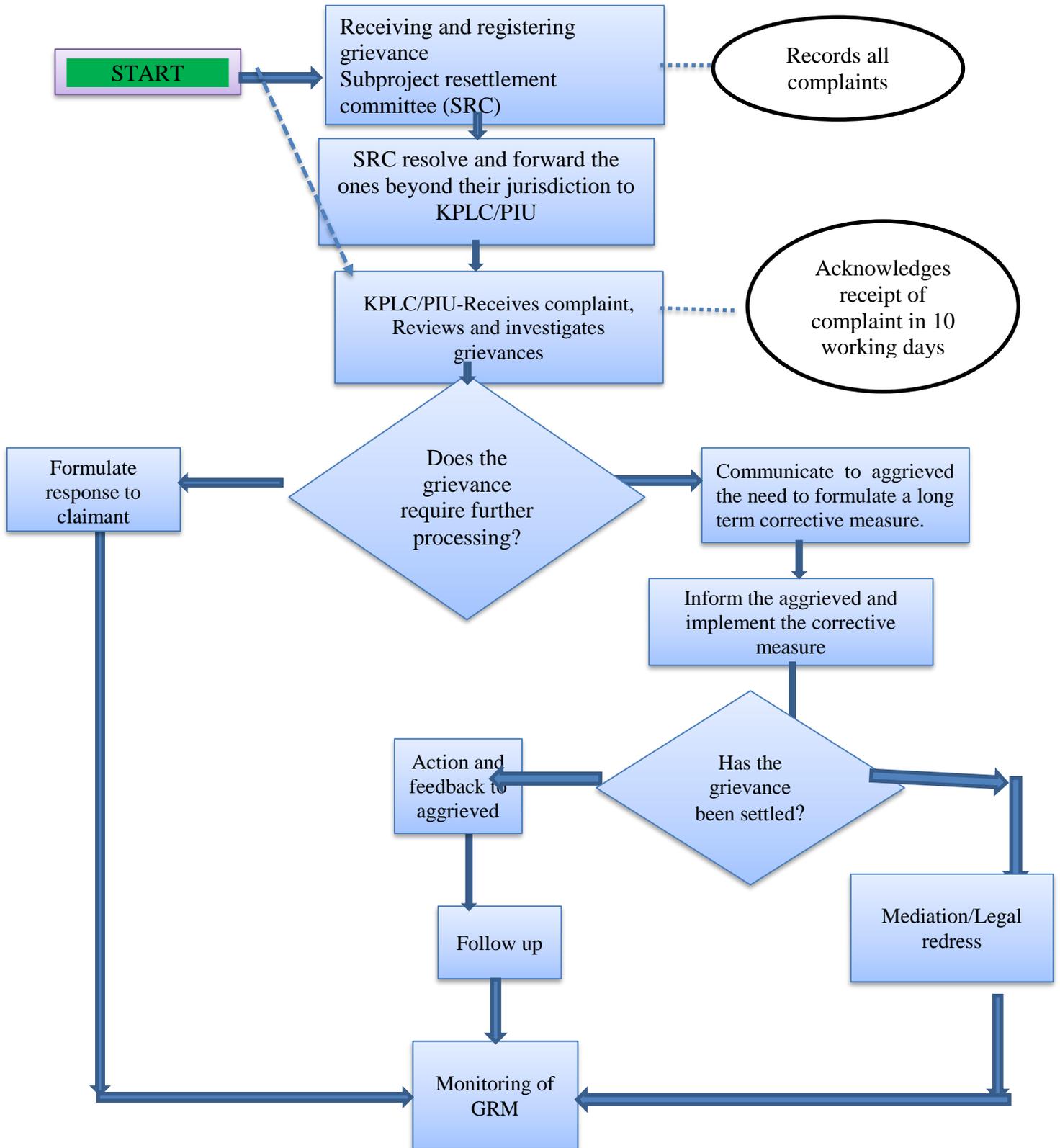
215. Monitoring and reporting are the tools for measuring the effectiveness of the GRM, efficient use of project resources and for determining trends and recurring problems to facilitate proactive resolution.

216. The social safeguards specialist for this project will be the GRM Focal Point for the RPF/RAP implementation and will be responsible for tracking the complaints on a monthly basis and keeping the grievance/complaints log. He/she will also provide the PIU with a quarterly report detailing the number and status of grievances. He/she should also establish the pattern of complaints to prompt more inclusive approach/resolution from the PIU in order to reduce complaints and any outstanding issues.

9.4 The Grievance Redress Process Review

217. If a complaint pattern emerges, the KPLC PIU and the RC will discuss possible remedial measures. Advice will be sought from partner institutions on the need for revisions of procedures, if need be. Once they agree on necessary and appropriate changes, then a written description of the revised procedures will be made, and the changes communicated to the PAPs in a consultative meeting. Figure 3 presents the grievance redress process.

Figure 3: The Grievance Redress Mechanism Process Flow Diagram



World Bank Redress Service

218. The Bank has a Grievance Redress Service (GRS) whose objective is to make the Bank more accessible for project affected communities and to help ensure faster and better resolution of project-related complaints. The GRS is open to all those who believe they have been affected or harmed by a Bank-financed project and who feel their issues have not been resolved by the implementing agency's PIU. During consultations, the KPLC will create awareness on the existence of the WB GRS to the PAPs. The RAP should discuss the GRS procedures in detail and should clarify that the system:

- i. Is available to the PAPs but it does not deal with matters already considered by the GRS unless the complainants have new evidence previously not available to them;
- ii. Does not deal with Bank financed projects that have already been closed; and
- iii. Does not award damages nor provide direct compensation.

9.7 World Bank Inspection Panel

219. The Inspection Panel is the World Bank's independent complaints mechanism. Its mandate is to ensure that the voices of people who may be adversely affected by Bank-financed projects are heard, and to promote accountability at the Bank. The Inspection Panel independently, impartially and objectively evaluates the process followed by the Bank. The Panel does not investigate unless it receives a formal, written Request for Inspection. The Panel has the power to review Bank-funded projects and determine whether Bank Management is following the operational policies and procedures put in place in order to provide social and economic benefits, and avoid harm to people or to the environment. The individual RAPs should also document the process of filing complaints to the Panel for the benefit of the PAPs.

9.8 Estimated Cost of GRM

220. Table 9.1 presents an estimated budget for preparing and implementing GRM for the project.

Table 9.1: Estimated cost of grievance redress mechanism

S/NO	Activity	Budget Estimates (USD)
1.	Development and publicizing the grievance management procedures	10,000
2.	Receiving and registering the grievances	3,000
3.	Documenting the grievances	4,000
4.	Reviewing and investigating grievances	15,000
5.	Action and Feedback	10,000
6.	Closure	10,000
7.	Monitoring, reporting and evaluating the GRM	15,000
	Total Cost	67,000

CHAPTER TEN: RPF IMPLEMENTATION BUDGET

10.1 Overview

221. The actual cost of resettlement and compensation for each investment will be determined during the socio-economic study and census and during preparation of the individual RAPs for each subproject.

10.2 Estimated Budget

222. 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. The budget presented in Table 10.1 is an estimate for RPF implementation including preparation and implementation of the RAPs under the project, including activities such as screening, preparation of RAPs, implementation of GRM and cost of redress. The actual budget will be provided by KPLC when subproject sites and impacts are known. The current budget estimate is indicative only, and an annual review will be done and submitted to the Bank. The reviewed budget will include amounts spent and records available if needed.

S/NO	RPF proposed actions)	Concerned institutions	Level of cost (USD)
1.	Training and capacity Building	SHE, Procurement, infrastructure and finance	*****
2.	Screening and reviewing	SHE	*****
3.	RAP development and Implementation	SHE/ Consultants	400,000
4.	Monitoring activities	SHE, PIU	100,000
5.	GRM preparation, implementation and Monitoring	SHE	67,000
6.	RAP implementation	KPLC	933,000
7.	Total Costs		1,500,000

*****budgeted for in ESMF in chapter 15 page 121

CHAPTER ELEVEN: MECHANISMS FOR CONSULTATIONS AND PARTICIPATION IN PLANNING, IMPLEMENTATION AND MONITORING

11.1 Overview

223. 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 traditional and cultural practices that make public consultations with the rural communities indispensable. In recognition of this, attention will be paid to public consultations with project-affected individuals/households/communities on resettlement and compensation concerns.

224. Public consultation will also occur during the preparation of the: (i) socio-economic study and census; (ii) asset inventory and valuation; (iii) compensation contract; (iv) RAP implementation and monitoring; and whenever necessary. It is not possible to estimate the number of consultation meetings to be held by the project team during planning and implementation.

11.2 Consultations during RPF Preparation

225. Public consultations will take place at the inception of the planning stages of this project. Basically, consultations between the MoE, the World Bank and KPLC are already ongoing. The public participation requirements encompass the provision of full opportunity for stakeholders' involvement in the project. Therefore, as a matter of strategy, public consultations will be an ongoing activity throughout the entire project cycle.

226. A preliminary stakeholder forum was held by KPLC with representatives drawn from the general project areas and other government agencies. The main objective was to explain the project early enough and solicit general support and acceptability of the project. During the forum, KPLC explained the anticipated positive and negative impacts of the proposed project, the safeguard documents needed, GRM and was able to get opinions on different issues in relation to the documents.

11.3 Guidelines to Ensure Effective Public Participation

227. To ensure meaningful public participation throughout the project period, the following measures will be adhered to:

- i. Information on all public participation forums will be communicated one week prior to the meetings to allow all interested parties to attend;
- ii. The method/communication strategy for dissemination of the date and venue of meetings, receiving information from and giving feedback to PAPs and other stakeholders, should be agreed upon with the PAPs and stakeholders. The communication strategy chosen should be one that reaches the PAPs in the shortest time possible and has wide coverage;

- iii. During consultations, special attention will to be paid to gender, needs of special groups (for instance, the vulnerable groups and youth) and special meetings held with these groups as necessary;
- iv. All public participation forums will be documented, and evidence of such forums produced and stored, including lists of attendance and photographs (as appropriate); and
- v. The forums for public participation will need to ensure all people are aware about the project and its implications.

11.4 Methods and Timing for Public Participation

228. Public participation and consultations will take place through different methods. The methods chosen should pay attention to the audience and the issue at hand. The methods include: public meetings for explanation of project ideas and requirements, while specialized meetings with PAPs will be held for the preparation of RAPs as well as with key institutions that may be impacted by the project.

229. It is important to note that the best guarantor for public interest are the traditional and other local leaders who are responsible for their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole. Community mobilization should ideally utilize the existing local structures to broaden participation.

230. The involvement of 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 acceptable resettlement alternatives. Attention will be given to different groups such as the aged, youth, persons with disability and poor women to ensure that they are represented adequately in such arrangements.

231. Conflicts between hosts and resettled persons may develop as increased demands are placed on land, water, forests, services, etc. To mitigate the resettlement's impacts on host populations, they will be informed and consulted and included in the planning meetings for the resettlement exercise and impact mitigation plans for the expansion of services. Any payments due to the hosts for land or other assets provided to resettled persons will be promptly made.

232. The RC is expected to play an important role in the consultation process. It will be in close contact with the affected communities and in continuous communication with them about the project/subprojects, the impacts, resettlement and compensation processes, and GRM, among other things.

Data collecting phase

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

Implementation operation

234. During the implementation, PAPs will be regularly consulted to get their views on whether the RAP is being implemented as earlier agreed. In the event that they raise any issues concerning implementation, the issues will be resolved using the GRM.

11.5 Monitoring and Evaluation Phase

235. The PAPs and their representatives will participate in the project M&E forums to give their input into evaluation of the impacts and project progress. They will also suggest corrective measures, which may be used to improve implementation of supported subprojects. 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.

236. The proposed monitoring indicators for RAP implementation include:

- i. Number of consultations/forums/meetings held;
- ii. Number of PAPs resettled;
- iii. Number of grievances recorded and resolved;
- iv. Pattern of grievances and efficiency of the GRM;
- v. Amounts of compensation payment disbursed;
- vi. Community replaced housing and related infrastructure compensation completed;
- vii. Number of progress reports submitted; and
- viii. Resettlement assistance given to displaced persons.

CHAPTER TWELVE: ARRANGEMENTS FOR MONITORING AND EVALUATION

12.1 Overview

237. Efficient preparation and implementation of resettlement activities depend on dedication and capacities of all institutions responsible for preparation and implementation. The objective of monitoring will be to determine:

- i. If affected people are satisfied with the actual resettlement process;
- ii. If affected people have been paid in full and before implementation of any project activities;
- iii. If affected individuals, households and communities have been able to maintain their pre-project standard of living, and even improved on it;
- iv. If the vulnerable PAPs have been offered the appropriate assistance as provided for in the RAP; and
- v. If livelihood restoration has been achieved.

238. The census and/or the socio-economic survey studies, which are the basis for the preparation of investment specific RAPs, will be used as the baseline for M&E of the individual RAPs. All RAPs will set major socio-economic indicators 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/or even improve on it; (ii) the local communities remaining supportive of the project; (iii) the absence or prevalence of conflicts; and (iv) PAPs 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.

12.2 Conducting Monitoring

239. RAP monitoring will be done at two levels: (i) during the regular monitoring of the project by KPLC; and (ii) by the WB. The environmental and social safeguards representatives at the PIU will be responsible for resettlement issues in respect to preparation of the resettlement process, coordinate the activities of resettlement between agencies, monitor the process and ensure the implementation schedules are on course. The RCs and PAPs will also be involved in implementation and progress monitoring.

12.3 Methodology Used for RAP Monitoring

240. Baseline data will be collected from different sources, including the census and socio-economic studies undertaken for the preparation of individual RAPs. In addition, the information collected by the RC will be used. Further, focus group discussions and questionnaires will be used to collect data.

12.4 Indicators to Determine Status of RPF and RAPs

241. Indicators will be developed and used to determine the status of all affected people. The effects of the project are tracked against the baseline conditions of the population before resettlement. This baseline is established through the census, asset inventories, land use assessments, socio-economic studies of the population affected by the project, among others. The indicators to be monitored are those that were set during the census and socio-economic studies in the RAP report. A sample of Indicators for implementation of monitoring is given below but the list could be expanded in line with the project requirements:

- Number of public and consultations carried out;
- Number of completed RAPs;
- Area of land acquired in relation to needed land for the purposes of the Project;
- Number of completed compensation payments in line with impacts;
- Number of replacement properties given;
- Number of PAPs;
- Number of consultations done;
- Number and amount of payment for loss of income;
- Number and type of assistance provided to vulnerable groups of PAPs; and
- Number and type of grievances submitted and resolved.

242. Most of the information for these indicators will be collected through surveys, interviews and focus group discussions with the affected communities; and during RAP implementation. The pre-project census information will provide most, if not all the required information to set a baseline against which performance can be tracked.

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

- i. Everyone will have a compensation dossier recording his/her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received;
- ii. The PIU will maintain a complete database on every individual impacted by the subproject land use requirements; and
- iii. Regular resettlement status reports submitted by the PIU will be reviewed by the KPLC management.

12.5 Regular Monitoring of RPF/RAP Implementation

244. The RC will assist in compiling basic information related to compensation and send the reports to the PIU as part of the regular monitoring. Some of the information which will be collected at the RC level will include:

- i. Length of time from compensation award to payment of compensation to PAPs;
- ii. Timing of compensation in relation to commencement of physical works;
- iii. Communal assets affected and their compensation, if any;
- iv. Number of people raising grievances in relation to project investment;
- v. Number of unresolved grievances;

- vi. Number and type of assistance given to vulnerable people; and
- vii. Number of livelihoods restored and types of the livelihood restoration.

245. KPLC will review the statistics to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to.

246. Financial records will be maintained by KPLC PIU showing the final cost of resettlement and compensation. This information will be included in the monitoring report. The statistics will also be shared with the WB in case of external monitoring.

CHAPTER THIRTEEN: DISCLOSURE ARRANGEMENTS

13.1 Overview

247. This RPF and the RAPs for each of the subprojects are public documents which are meant to guide project implementation. These documents will be disclosed to project stakeholders. The objectives of RAP/RPF disclosure are to aid meaningful public consultation and ensure transparency of WB operations to its shareholders and constituents. The aim of disclosure is to:

- i. Provide people an opportunity to learn about and have input into the design of projects/subprojects that affect their lives, well-being and environment; and
- ii. Promote dialogue among stakeholders - the governments, communities, NGOs and implementing agencies.

13.2 Process of Disclosure of RPF and RAP

248. The RPF will be disclosed at different levels, in Kiswahili and English once it has been approved by the WB:

- i. KPLC availed the draft RPF to different stakeholders for perusal and input. This was prior to the public consultations for the RPF and clearance by the WB. The documents were in English;
- ii. Once the final RPF is approved it will be disclosed at the WB's external website and the KPLC website;
- iii. Draft RAPs will be disclosed in the same manner as the draft RPF. Further, a draft copy of each subproject RAP will also be placed at the chief's office at each location to allow the communities access and review before an open forum for discussing the document. A summary of the RAP will be produced in English and translated into Kiswahili; and
- iv. Final RAP documents will be availed at the chief's office and disclosed at the KPLC website and the World Bank's external website.

ANNEXES

ANNEX 1: GLOSSARY OF TERMS

DEFINITIONS

Unless the context dictates otherwise, the following terms will have the following meanings and interpretation.

“Replacement cost for houses and other structures” means the current market value for 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 labor and contractors’ fees; and (c) any taxes or registration costs.

“Resettlement Assistance” support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances, land, moving expenses and other assets and employment as necessary to cushion the PAP from transitional hardships.

“The Resettlement Policy Framework (RPF)” is an instrument to be used throughout KESIP. The RPF sets out the resettlement objectives and principles, organizational 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 KESIP 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” means 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 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 categorized 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 ENTITLEMENT MATRIX

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Land holding affected Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value, considering market values for land.
		Community land	Cash compensation for affected land equivalent to replacement value considering market value Community lands compensation will require agreement of all affected individuals/HH. All holders of community lands (including lands held in trust and in Group Ranches will be recognized as rights holders for purposes of OP 4.12.
		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 if the person cannot farm anymore
	Land does not become economically viable.	Farmer/ Title holder	Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost. Community land – land for land replacement where feasible or compensation in cash Land for land replacement/cash 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. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance) Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
		Tenant/Lease holder	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. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
Land users	Impact on livelihood	Land less, encroachers	Compensation for lost incomes during the period of transition to restore livelihood and ensure they will not be worse off as a result of the investments' activities.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Commercial Land	Land used for business partially affected	Title holder/ business owner	Cash compensation for affected land Compensation cost for lost incomes based on monthly records/tax records for previous year (or tax records from comparable business, or estimates where such records do not exist) to cater for period of transition.
	Limited loss	Business owner is lease holder	Compensation for lost incomes during the period of transition to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
	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	Title holder	Cash compensation for affected land
	Remaining land viable for present use.	Rental/lease holder	Cash compensation equivalent to the estimated net loss to the owner.
	Land and assets used for residence severely affected	Title holder	Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	<p>Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws</p>		<p>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.</p> <p>When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance)</p>
	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws</p>	Rental/lease holder	<p>Refund of any lease/ rental fees paid for time/ use after date of removal</p> <p>Cash compensation equivalent to 3 months of lease/ rental fee</p> <p>Assistance in rental/ lease of alternative land/ property</p> <p>Relocation assistance (costs of shifting + allowance)</p>
Buildings and structures	<p>Structures are partially affected</p> <p>Remaining structures viable for continued use</p>	<p>Owner</p> <p>Rental/lease holder</p>	<p>Cash compensation for affected building and other fixed assets</p> <p>Cash assistance to cover costs of restoration of the remaining structure</p> <p>Cash compensation for affected assets (verifiable improvements to the property by the tenant).</p> <p>Disturbance compensation equivalent to two months rental costs</p>
	<p>Entire structures are affected or partially affected</p> <p>Remaining structures not suitable for continued use</p>	Owner	<p>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.</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant)

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			<p>Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)</p> <p>Assistance to help find alternative rental arrangements</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Squatter/informal dweller	<p>Cash compensation for affected structure without depreciation</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through LRC</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</p>
		Street vendor (informal without title or lease to the stall or shop)	<p>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.</p> <p>Relocation assistance (costs of shifting)</p> <p>Assistance to obtain alternative site to re- establish the business if possible.</p>
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	<p>Where possible allow for harvesting.</p> <p>Cash compensation equivalent to average of last 3 years market value for cash crops lost.</p>
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<p><i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques,</p> <p><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.</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			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.	To restore peoples income earning opportunities after land acquisition and resettlement, OP 4.12 specifies that displaced persons are provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training or job opportunities.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed)

ANNEX 3: 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)*

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			Comments
	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 subproject	
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?	
Structures observed? Activities observed? People on site? Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?	
What is the possibility of voluntarily selling the land to the proponent? What is the likelihood of land purchase for the subproject?	
How will the proponent go about land purchase?	
what are the current land uses	
Who will monitor actual payments?	

Refer to the Resettlement Policy Framework.

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

Documentation on WB/WS on para 63.

Recommendations:

Requires a RAP to be submitted on date: _____

Does not require further studies

Reviewer: _____

Name: _____

Signature: _____

Date: _____

ANNEX 4: 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 (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.														

Women headed households, orphaned families, persons with HIV & AIDs, physically challenged.

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 leaders, 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: _____

<i>Surv ey no.</i>	<i>Name of Head of House hold</i>	<i>No. of Person s in househ old</i>	<i>Tota l land holdi ng of Hhol d (m2)</i>	<i>Land to be acqui red (m2)</i>	<i>La nd Us Ty pe * (m2)</i>	<i>Lo ss of tot al</i>	<i>Loss of assets</i>	<i>Loss of crops</i>	<i>Loss of other assets</i>	<i>Other losses</i>						
							<i>Structu res Perma nent (m2)</i>	<i>Struct ures tempor ary (m2)</i>	<i>Area of residen tial land lost (m2)</i>	<i>Fruit trees lost type and num ber</i>	<i>Agricult ural lost (m2)</i>	<i>Other (spec ify)</i>	<i>e.g. graveya rds, wells, etc. (type and no.)</i>	<i>Reside nce (rente d)</i>	<i>Busin ess lost</i>	<i>Inco me loss</i>

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

1. _____
2. _____
3. _____
4. _____

Entitlements of Project Affected People-will be completed after evaluation of information gathered in census and agreement with PAPs.

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)			Total (Ksh) **entitlements can be in cash or kind
		Quantity (m2)	Unit price (Ksh)	Entitlement (Ksh)	Quantity (m2)	Unit price (Ksh)	Entitlement (Ksh)	Quantity (m2)	Unit price (Ksh)	Entitlement (Ksh)	Quantity (m2)	Unit price (Ksh)	Entitlement (Ksh)	

ANNEX 5: INDIVIDUAL ASSETS/COMMUNITY 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	M
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. Wall ¹		c. Roofs	
1.	Earthen	1	Earthen	1.	Earthen
2.	Cement-plastered earthen walls	2	Cement-plastered earthen 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 6: SAMPLE GRIEVANCE REDRESS FORM

Grievance Form				
Grievance Number		Copies to forward to:		
Name of the Recorder		(Original)-Receiver Party		
Location		(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) Lands b) Pasturelands c) House d) Commercial site e) damage or loss of access to natural resources for building materials charcoal and fuel, medicinal plants	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	10. Other (Specify)

			<i>explosions</i> <i>d) Misconduct of</i> <i>the</i> <i>project</i> <i>personal/worker</i> <i>e) Complaint</i> <i>follow up</i> <i>f) Other</i>	
--	--	--	--	--

ANNEX 7: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP)

Scope of Work for the Preparation of the Resettlement Action Plan

The RAP for a World Bank financed project must comply with the Kenya's national legislative and regulatory frameworks compensation, as well as the World Bank's Policy on Involuntary Resettlement, OP 4.12. The RAP preparation will entail a survey of the amount of land that will be affected by each component of the project; the actual number (census) of structures, crops and trees that will be affected by each component of the project, the actual number (census) of Project Affected Persons (PAPs) and the actual number of households that will be economically or physically displaced by each project component (whether or not people have to physically move). The RAP will indicate the estimated valuation of each category of land to be affected (agricultural, grazing, commercial, residential, etc.), estimated valuation of each category of structures to be affected, and, estimated valuation of each category of crops and/or trees likely to be affected. Finally, the RAP will apply the Entitlements matrix, proposed in the RPF to the PAPs and assets identified by the census.²⁹.

In line with the objectives of the World Bank's policy on involuntary resettlement (OP 4.12) and its related Annexes, in particular, Annex A, the RAP consultancy will include baseline socio economic data on the subproject affected persons (PAPs), actual census of the PAPs, nature of impacts on PAPs, categorization of PAPs based on impacts on them, eligibility criteria for compensation in accordance with the RPF (including resettlement assistance, and livelihood restoration), valuation of structures, crops/trees (where applicable) and total land affected, Entitlement Matrix, grievance redress mechanism (GRM) and a report detailing all these variables as well as a determination of the cut-off date.

Note: If, in the course of RAP preparation, groups that meet the OP 4.10 are encountered, the OP 4.10 will apply in addition to OP 4.12.

Objective of the RAP Study

The purpose of the RAP assignment is to prepare a Resettlement Action Plan (RAP) for the proposed subprojects in line with the relevant laws, regulations, and procedures of the Government of Kenya (GoK) which include the National Land Policy 2009, the Land Act, 2012, the Community Land Act etc. as well as the World Bank's Operational Policy on Involuntary Resettlement (OP 4.12). The objectives of OP 4.12 are:

- i. To design and implement resettlement as a sustainable development program;
- ii. To pay for lost assets at replacement cost; compensate in kind or monetarily; and
- iii. To restore peoples' capacity to earn a living and their community ties.

Resettlement costs are considered part of project costs and must be funded by KPLC in a timely manner.

-
1. Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.

The objective of the RAP is to produce a plan specifying the procedures to be followed and the actions to be taken to properly resettle and compensate affected people and communities as a result of the proposed subproject.

The RAP must also identify the full range of people affected by the project and justify their physical and/or economic displacement after consideration of all alternatives that would minimize or avoid displacement. The RAP should address the impacts of the proposed subproject on people and communities in the proposed subproject site and/or route.

Specific Tasks in RAP Preparation

The RAP must be prepared in a participatory manner, in consultation with key stakeholders in each of the areas where the infrastructure will pass and with the active participation of affected people and communities. It will identify strategies and other measures that target the specific needs of affected people and vulnerable PAPs, to assist them to improve or at least restore their livelihoods, incomes and living standards. The specific Tasks in RAP preparation include:

Tasks 1. Description of the subproject

To undertake a description of the project, the project affected areas/locations, and why resettlement is needed. Identify the potential involuntary relocation impacts of the project including the:

- a) Project components or activities that give rise to resettlement or restriction of access
- b) Zone of impact of such component or activities
- c) Alternatives considered to avoid or minimize resettlement or restriction of access;
- d) Mechanisms established to minimize resettlement, to the extent possible, during project implementation; and,
- a) Provision of appropriate maps (in various scales) to describe the project area and location maps.

Tasks 2 Review policy, legislation, regulatory and institutional frameworks

To review all the relevant policies, legislation, regulatory and institutional frameworks related to land acquisition and resettlement, and ensure all appropriate regulations are articulated including the analysis of the following:

- a) The scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment.
- b) The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project.
- c) Relevant law (including customary and tradition law) governing land tenure, statutory mechanism for land acquisition, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law related to displacement, and environmental laws and social welfare legislation that are related to resettlement
- d) Identify the institutions responsible for land acquisition and resettlement, and review laws and regulation relating to such agencies,
- e) Indicate the provisions of the World Bank OP 4.12 on involuntary resettlement, present the similarities, differences and gaps, and provide mechanisms to address the gaps, confirming which set of standards is to set precedence in this RAP
- f) Any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims

- to legal rights to land including claims that derive from customary law and traditional usage and
- g) Commonalities between GoK, and the World Bank's guidelines, basis for effecting payment outside Kenyan legal system.

Tasks 3 Socio-economic survey studies

To carry out a socio-economic survey and cultural assessment to ensure that the relevant data pertaining to the following is presented:

- a) Adopt guiding methodology for socio-economic survey for the project affected people. The results of the socio-economic survey to include:
 - i. Social characteristics of the potential PAPs including a description of production systems, labour, gender relations, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from occupational (both formal and informal economic activities), expenditure, livelihood patterns and standards of living (including health status) of displaced population.
 - ii. The magnitude of the expected loss (total or partial) of assets, and the extent of displacement, physical or economic;
 - iii. Social infrastructure and services
 - iv. Address and integrate a profile on vulnerability clearly stipulating the levels of vulnerability of different categories of PAPs through an appropriate set of indicators and classification tool. Gender analysis should be integrated in this component. Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement
 - v. Attitude to the project
 - vi. Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, non-governmental organizations NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities;
 - vii. Develop a profile of PAP's by the way of providing special identification numbers corresponding to photo book and their structures/properties/crops to be affected.
 - viii. Mapping of project area and location of the PAPs. The maps should appropriate scales and should be easy to interpret.

Task 4: Census of PAPs and their Assets

Apply a methodology that will ensure that all potential affected persons of the project are enumerated, as well as all potential involuntary resettlement impacts are documented by undertaking a census of all PAPs and determining the scope and magnitude of likely resettlement effects, impacts and losses. Ensure that the PAPs census survey covers all people living on the project affected area.

In depth census of the PAPs

The Consultant will carry out an in-depth census of the PAPs, with their involvement. The census should clearly identify:

- i. All PAPs who may be physically displaced by the subproject, also referred to as project

- displaced persons (PDPs), including their details e.g. names, original National Identity card number, phone and physical contacts (street/estate, village, sub-location, location, District and County) and photograph;
- ii. Vulnerable PAPs by gender and age, who may need special targeting for livelihood restoration or other forms of assistance including their details as well as explanation or description of their vulnerability and the kind of support that might be accorded to them; and
 - iii. Standard characteristics of displaced households, including a description of production systems, labour, and household organization; and baseline information on livelihoods (including, as relevant, production levels/income streams and income derived from both formal and informal economic activities) and standards of living, including education levels and health status of the displaced population.

The detailed census will include the following information as appropriate:

Where physical displacement/relocation is anticipated:

1. Number of owner households to be affected;
 - a. Number of renter households to be affected;
 - b. Number of informal occupant households to be affected.
- ii. Where land acquisition is anticipated
 - a. Number of affected households with titles;
 - b. Number of affected households without titles;
 - c. Number of affected households losing more than 20% of their land; what for? the cut off is 20%
 - d. Number of affected households less than 20% of their land.
- iii. Where non-land economic displacement is anticipated
 - a. Number of households to be affected;
 - b. Number of individuals to be affected by non-land economic displacement; including tenants, workers, occupants/users other than owners
 - c. Types/nature of economic displacement.
- iv. In all three cases above, and as appropriate
 - a. Total number of VMG households affected by the proposed subproject
 - b. Total Estimated population of the VMGs present in the subproject area.

Prepare the PAPs Categorization/Classification and Compensation Entitlements due to each category of PAPs.

- i. Classification should be in the form of, e.g. Land, structures, Crops and Trees affected; Permanently displaced Persons (PDPs) and PDPs with structures etc.
- ii. Prepare a livelihoods restoration plan (where appropriate) for each category of vulnerable PAPs.
- iii. Provide a cut-off date to prevent “rent seeking”.

In-depth census of the PAPs’ Assets:

Census and valuation of PAPs Assets

The Consultant will carry out a detailed census of PAPs assets including farmland and commercial land, structures, crops, and trees.

Census and valuation of land

- i. For each PAP, whose land is affected, provide (i) actual acreage of land to be taken by the transmission line wayleave; (ii) total acreage of the PAP's land; (iii) a description of the nature of impact on the land and structures, i.e. whether whole or partial; (iv) details of the land affected in terms of type of tenure and land use patterns
- ii. For each PAP, whose land is affected: (i) conduct valuation of the affected strip and compute compensation values; (ii) provide type and methodology of compensation; (iii) preferred method of valuation with justification
- iii. For each PAP, whose land is affected, provide the following information on the status of land ownership documents (i) information on whether the current land occupant is the registered land owner (ii) placed caveats (if any); (iii) disputes involving the land parcel (if any), and their status (i.e. whether they are in court or not);
- iv. Provide actual values of the percentage parts of the parcels affected basing the values on <20% or >20% of the total market value of the total productive area taken where <20% is for the parcels with very minimal effect while >20% is for the parcels that are severely or totally affected including viability of the land.

Note: The valuation estimates should be based on locational registration areas and eligibility of affected land must be confirmed by either by recognizable rights and legal documents of ownership. (squatters may be compensated for assets, and are entitled to in-kind substitution as part of resettlement assistance package. ot for land).

Census and valuation of structures

A detailed census and valuation of all affected structures, by type and nature, e.g. residential, institutional, communal or business structures, and whether made of permanent, semi-permanent or temporary materials, and the plinth area.

Census and valuation of crops and trees

A detailed census and valuation of affected crops and trees by type and level of maturity.

Note: (i) For each affected asset provide details of the true owner, including names, gender and ID as a caption of the picture of the affected assets; (ii) For each of the affected assets, provide type and methodology of compensation preferred, with justification. While undertaking inventory of losses, ensure that the result entail and describe the following:

- i. Mapping the affected properties (structures, crops, trees, fences). The affected buildings, fences and trees should be plotted within the site or along the route/corridor and photographs of the same taken at least at 2 elevations (front and side/rear). The descriptions of the land development being affected should have a unique number that corresponds with the photos and also have waypoint coordinates (GPS coordinates);
- ii. The assignment shall also include placing of permanent survey markings. The survey marks shall be clear and shall be made visible
- iii. Land tenure and transfer systems, scope of land acquisition, distribution of land acquisition in administrative units, nature of land to be acquired for the project, including an analysis of the development status of land owned by individual PAP households, analysis of likely extent of damage to assets, crops and trees, analysis of potential displacement of livelihoods; inventory of common property, natural resources from which people derive their livelihoods and sustenance; properties/sites of cultural importance (e.g. graves, grave yards, worship areas); non-titled based usufruct systems

- (including fishing, grazing, or use of forest areas) governed by locally recognized land allocation mechanisms, and any issues raised by different tenure systems in the project;
- iv. Analysis of potential displacement of communal assets including public infrastructure and social services that will be affected; and
 - v. Develop in close cooperation with project proponent and the PAPs, livelihood strategies, which are feasible to be implemented by the proponent. Determine and identify impacts and those that can be addressed through ESMF are referred as appropriate. the induced impacts as a result of the project.

Tasks 6. Valuation of and compensation of losses

To describe the methodology to be used in valuing losses to determine their current replacement cost; and a description of the proposed types and levels of compensation under Kenyan law and the World Bank's OP 4.12, and such supplementary measures as are necessary to achieve current replacement cost for lost assets. When reviewing the systems for compensation, the following should be included:

- i. Identification and preparation of an inventory of impacted properties and livelihoods for each household whether land owner licensee, tenant, or illegal occupant (female headed, male headed, number of males and females per household, physical and mentally challenged, child headed households) other vulnerable PAPs
- ii. Established compensation criteria and strategies in line with the RPF.
- iii. Definition of the methodology to be used in valuing losses, to determine their replacement cost; and cost and description of the proposed types and levels of compensation under the GoK regulations and such supplementary measures as are necessary to achieve replacement cost for lost items.
- iv. Valuation of all land affected and assets including structures, properties, trees, crops and livelihoods affected by the project (disaggregated data) in order to provide the basis for compensation/resettlements to be acquired and livelihoods lost.
- v. Specify procedures for compensation payment-paying attention to gender aspects, power and control
- vi. Ensure provision for assistance to vulnerable groups-specify who are vulnerable, weighing and ranking of PAPs depending on vulnerability and the type of assistance
- vii. Develop effective and sustainable livelihood restoration measures of PAPs especially the informal traders.

Tasks 7. Determine eligibility

The Consultant will provide a definition of displaced persons or PAPS and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates. The consultant will follow the criteria in this RPF in the valuation of assets.

Provide the definition of displaced persons, criteria for determining their eligibility for compensation and other resettlement assistance, in line with the measures articulated in Task 8 below.

Tasks 8. Propose resettlement measures and entitlement matrix

Provide a description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons in accordance with the RPF including the vulnerable populations. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preference of the displaced

persons, and prepared in consultation with them. The issues to consider while describing the resettlement measures include, but not limited to the following:

- i. An Entitlement Matrix prepared in line with both the GoK laws and regulations, and the WB's OP 4.12. The entitlement Matrix should clearly present the categorization/classification of affected assets and eligibility and compensation entitlements, that will assist each category of eligible PAPs to achieve the RAP objectives. Classification should be in the form of, e.g., land only affected; structure only affected; land and structure affected, crops only affected and trees only affected. Permanently displaced persons (PDPs); etc. For PAPs whose livelihoods are land-based, preference should be given to land-based resettlement strategies. Such strategies may include resettlement on public land, or on private land acquired or purchased for resettlement.
- ii. Note that:
 - a. Whenever replacement land is offered, PAPs 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, or 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, then 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.
 - b. Payment of cash compensation for lost assets may be appropriate where: (a) livelihoods are land-based, but the land taken for the subproject is a small fraction of the affected asset (<20%), and the residual is economically viable; or, (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. In any of these cases, cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.
- iii. Should the study affirm that there will be involuntary taking of land (whole or partial, permanent or temporary) 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, then in line with the World Bank's policy on involuntary resettlement, OP 4.12, the RAP Consultant will:
 - Ensure that the 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.
 - Ensure that appropriate and accessible grievance mechanisms are established for these groups in consultation with them.
 - Propose measures to ensure that, 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.
 - Propose measures to ensure that alternatives or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

Include measures to ensure that 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 PAPs and any host communities are preserved and PAPs preferences with respect to relocating in pre-existing communities and groups are honoured.

- iv. For each of the affected assets, provide type and methodology of compensation preferred, with justification.
- v. Measures or programs for livelihood restoration, including any special measures to be accorded to, in particular, the vulnerable PAPs;
- vi. Provide a cut-off date (to prevent “rent seeking”);
- vii. Prepare a Grievance Redress Mechanisms (GRM), developed in consultation with the PAPs and other subproject stakeholders.
- viii. Prepare a detailed budget estimate for the whole resettlement action plan inclusive of costs of land, structures, crops/trees, livelihoods restoration, capacity building and monitoring of the subproject.
- ix. Prepare the RAP Implementation timetable (linked to the underlying subproject construction activities)
- x. Propose a follow-up or monitoring system
- xi. Propose the RAP evaluation system
- xii. Clearly document the consultation that occurred during RAP preparation including:
 - a summary of the views expressed
 - how the views were taken into account in the RAP
 - the alternatives presented to PAPs and their views on the same
- xiii. Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the engagement of other stakeholders.
- xiv. Measures and procedures for grievance redress and for consultations with PAPs;
- xv. Measures for disclosure of RAP information.

Tasks 9. Grievance redress procedures

To propose an appropriate grievance redress mechanism at project level in line with the one proposed in this RPF to ensure affordable and accessible procedure for third-party settlement of disputes arising from resettlement during the relocation period and after resettlement/relocation has taken place. This should also include a review of the already established PAPs committee to ensure representation of the women, men and youth as well clarification of their duties and management procedures. The grievance redress mechanism should take into account the provisions of the National Land Commission, the role of the Commission for Administration of Justice (CAJ - the Ombudsman), and availability of judicial recourse; and community and traditional dispute settlement mechanisms. This will include provision of relevant guidance on the scope and qualities deemed necessary for an effective grievance mechanism and communication strategy including development of information package for PAPs.

Note: Please note that a grievance redress mechanism shall also be established at RAP preparation process and communication strategy developed and implemented for the same.

Tasks 10. Institutional arrangements for RAP Implementation

In addition to the organizational framework in this RPF for implementing the RAP, additional identification of agencies responsible for delivery of resettlement measures/activities and provision of services is allowed in line with the subproject. Explore the arrangements to ensure

appropriate coordination between agencies and jurisdictions involved in implementation; and any measures [including technical assistance] needed to strengthen the implementing agencies capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or PAPs themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

Review and update governance, representativeness and stockholder engagement during RAP preparation and implementation is also expected at this stage.

Analyse the capacity of each institution to effectively implement their assigned roles, and, as appropriate, propose a capacity building strategy that would ensure effective and smooth implementation of the RAP by each responsible institution.

Tasks 11. Measures for monitoring and evaluation

Measure for monitoring should be as set out in this RPF. To describe the arrangements for internal monitoring of resettlement activities by the implementing agency, supplemented by independent external monitoring as considered appropriate by the lender; to ensure complete and objective information; performance monitoring indicators to measure inputs, output, and outcomes for resettlement activities and means of verification of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Tasks 12. Prepare an implementation schedule

To prepare the implementation schedule that is linked to the technical works of the project and ensure that all resettlement from the review of the PAP through implementation including timelines for the achievement of expected benefits to potential PAPs and termination of the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

Tasks 13. Resettlement cost estimate and RAP budget

Prepare the cost of the resettlement process and the total budget for the RAP in table format showing item cost estimate for all resettlement activities (costs of structures, land, livelihoods restoration, capacity building and monitoring of the subproject), including allowances for inflation, population, and other contingencies; timetable for expenditure; sources of funds and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies. Any responsibilities of third parties, financial or otherwise need to be contracted or formalized through an MOU

Tasks 14. Public participation and community consultation

This component should include:

- i. A description of the strategy for the interactive consultation with and participation of stakeholders and PAPs in the design, implementation of the resettlement activities and modalities for disclosure
- ii. Provide a stakeholder analysis and matrix stipulating the level of power and interest and how to involve them (during RAP preparation and implementation) in the RAP project cycle;
- iii. A summary of the views expressed and how these views were considered in preparing the resettlement plan.

- iv. A review of the resettlement alternatives presented, and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals, families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship and graves)
- v. Institutionalized arrangements by which the displaced people can communicate their concerns to projects authorities throughout the planning and implementation, and measures to ensure that such vulnerable groups as the poor, the landless and women are adequately represented.
- vi. Development of effective channels of outreach to those most vulnerable by use of community-based organization and official representative channels and authorities;
- vii. Coordinate with the client and undertake RAP disclosure to the PAPs.
- viii. Clearly document the consultation that occurred during RAP preparation including:
- ix. a summary of the views expressed by PAPs and other stakeholders;
 - how the views were taken into account in the RAP;
 - the alternatives presented to PAPs and their views on the same.
- x. Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the continued engagement of other stakeholders. This will be in line with the nature and scale of the subproject.

ANNEX 8: FORMAT AND OUTLINE OF RESETTLEMENT ACTION PLAN

The project proponent or their consultants should revise the RAP to conform to the format prescribed by the World Bank OP4.12 as follows: The items highlighted should be covered by reference to the RPF and/or complemented only with the necessary local specific information

1. Executive Summary
2. Introduction
3. Project Description
4. Minimizing Resettlement
5. Legal Framework
6. Participation and Consultation
7. Census and Socioeconomic Surveys
8. Vulnerable Groups of Persons
9. Eligibility Criteria
10. Project Impacts and Entitlement Matrix
11. Valuation Criteria
12. Livelihoods Restoration
13. Resettlement Sites
14. Host Communities
15. Grievance Redress Mechanism
16. Organization and Institutional Arrangements
17. Monitoring and Evaluation
18. Implementation Schedule
19. Cost and Budgets
20. Reference
21. Annexes

ANNEX 9: AN ILLUSTRATIVE BUDGET TEMPLATE FOR THE RAP

Asset acquisition	Amount number	or	Total cost	estimated	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					
GRM process support					
Vulnerable PAPS Support					
NGO support					
Monitoring					
Contingency					

ANNEX 10: SAMPLE OF EASEMENT FORM

DATED THIS DAY OF 2008

.....(Grantor)

AND

THE KENYA POWER AND LINGHTING COMPANY LIMITED

GRANT OF EASEMENT OVER LAND REFERENCE NUMBER

..... (Locality)

DRAWN BY:

.....

GRANT OF EASEMENT - guided by the land Act 2012; the rights and responsibilities of the parties involved are spelt out.

THIS GRANT OF EASEMENT is made the Day of Two Thousand and Eight **BETWEEN** of Post Office Box Numberin the Republic of Kenya (hereinafter called “Grantor “which expression shall except where the context otherwise provides include his/her assigns, personnel and legal representatives) of the one part **AND THE KENYA POWER AND LIGHTING COMPANY LIMITED** a limited liability company incorporated in the said Republic of Post Office Box Number 30099 Nairobi (hereinafter called “the Grantee “) of the other part.

WHEREAS:

The Grantor is registered as the proprietor as Lessee from the Government of the Republic of Kenya for the term of Years from the first day of Subjects however, to revisable annual rent of Kenya Shillings (Kshs) of all that piece of land situatedinDistrict of the Republic of Kenya containing by measurement(.....) hectares or thereabouts know as Land Reference Number (Original No.....) which said piece of land being the premises comprised in the Certificate of Title registered at the Land Titles Registry at as Number I.R. Is with the dimensions abbutals and boundaries thereof **AND** more particularly delineated on Land Survey Plan Number (Deed **Plan**) deposited in the survey records office at Nairobi OR The grantor is the absolute proprietor of all the that piece of land know as Plot No. Ksm/ containing by measurementhectares/acres or thereabouts.

AND WHEREAS the Grantor has agreed to grant and the Grantee has agreed to take an easement of the premises as described above (hereinafter called “the wayleave trace “) being a portion or portion of the said piece of land for the consideration of the amount hereinafter reserved and of the covenants hereinafter contained.

NOW THIS GRANT OF EASEMENT WITMESSETH as follows: -

In consideration of the Sum of Kenya Shillings (Kshs to be paid by the Grantee to the Grantor on or before the execution of this Agreement (the receipt of which sum the Grantor doth hereby.

DEMISED REMISES

ALL THAT area comprising Or thereabouts as the same is more particularly delineated on the plan annexed hereto (“the plan “) registered in the Registry of Documents/District Lands Office at In volume Folio File And bordered in red on the Day of

REGISTERED THIS Day of 2008

.....
LAND REGISTRAR

ANNEX 11: SAMPLE WAYLEAVE AGREEMENT & LETTER OF NOTICE/OFFER



The Kenya Power & Lighting Co. Ltd
Central Office – P.O. Box 30099 Nairobi, Kenya
Telephone – 254-02-243366– Telegrams “ELECTRIC”
Telex No. 22253 Fax No. 254-02-337351
Stima Plaza, Kilobot Road

Date:

NAME:.....

ADDRESS:.....

LAND REGISTRATION.....

Dear Sir/Madam,

NOTICE

RE: PROPOSEDKV POWERLINE

We wish to inform you that the implementation of the above project is now at an advanced stage and that the actual route of the facility has been established.

This is to advise you that we intend to commence construction of the above powerline which will cross your parcel of land Registration as indicated on the enclosed wayleaves agreement forms any time after the expiry of 60 days from the date of this letter. This notice is served in accordance with the provision of the Energy Act, 2006 Section 46.

We shall be grateful if you could execute the documents on the spaces provided (as shown in pencil) and thereafter return the same to us for stamping and registration formalities. A copy of the agreement form will be sent to you after registration for your records. Please be advised that land loss and any property damaged as a result of the above works shall be compensated for accordingly.

Kindly oblige, as the implementation of the scheme is rather urgent. Your co-operation and assistance on this matter shall be highly appreciated.

Landowner name.....ID No.Sign

Signed for and on behalf of Kenya Power & Lighting Co. Ltd.
Name SignDesignation

ANNEX 12: MINUTES OF THE STAKEHOLDER CONSULTATIONS.



**KENYA ELECTRICITY SYSTEM IMPROVEMENT PROJECT (KESIP)
MINUTES OF STAKEHOLDERS CONSULTATIVE MEETING FOR SAFEGUARD
DOCUMENTS (ESMF, RPF & VMGF) FOR KENYA ELECTRICITY SYSTEM
IMPROVEMENT PROJECT (KESIP)**



VENUE: STIMA MEMBERS CLUB, NAIROBI

DATE: 12TH SEPTEMBER 2018

MINUTES OF STAKEHOLDERS CONSULTATIVE MEETING FOR SAFEGUARD DOCUMENTS FOR KENYA ELECTRICITY SYSTEM IMPROVEMENT PROJECT (KESIP) HELD ON 12th SEPTEMBER 2018 AT STIMA MEMBERS CLUB, NAIROBI

Summary

The stakeholder consultative meeting was held to disclose and discuss the three environmental and social safeguards frameworks for KESIP. Participants were drawn from government agencies, civil society, Community based organizations (CBOs), Vulnerable and Marginalized Groups (VMGs) and Indigenous People (IPs) representatives. The frameworks will outline how the potential environmental and Social impacts associated with the project will be addressed to ensure project sustainability.

The main issues addressed included: **i)** The components of the project which included power distribution lines, Power Distribution Substations, Customer connectivity, Slum electrification and technical support and capacity building. **ii)** The objectives of the project **iii)** Disclosure and discussion of the environmental and Social Safeguard frameworks (ESMF, RPF and VMGF).

KPLC clarified that the project was guided by principles of the safeguard documents presented and various World Bank Operational Policies triggered. It was also clarified that the Transmission component for the project shall not be implemented by Kenya Power. The participants were informed that the company does not anticipate any kind of resettlement during construction phase of the project as the distribution lines would be constructed along road reserves while land acquisition for proposed substations would be on willing buyer will seller basis. Stakeholder involvement throughout the project phase would be transparent and inclusive for all communities affected.

During the presentation of the environmental and Social Safeguard frameworks, Kenya Power welcomed comments and suggestions from the stakeholders in relation to the proposed project and assured all in attendance that their proposals would be taken into consideration.

Stakeholders attending the meeting were in support of the project goals, objectives and mitigation measures proposed for potential environmental and social impacts of the project. Specific questions raised during the meeting are part of the minutes

AGENDA OF THE MEETING

1. Preliminaries
2. Overview of KESIP
3. Plenary Session
4. Vulnerable and Marginalized Groups Framework Presentation
5. Plenary Session
6. Environmental and Social Management Framework Presentation
7. Plenary Session
8. Resettlement Policy Framework Presentation
9. Plenary Session
10. A.O.B

MIN 1: 12/09/2018- Preliminaries

The meeting started at 0910hrs with welcoming remarks from Mr. Mwangangi who then asked one of the stakeholders to pray before commencement of the meeting. Mr. Mwangangi then

laid down ground rules for the meeting to ensure that it was successful. The members were asked to introduce themselves and feel free to ask questions and give suggestions after presentations from Kenya Power team. Mr. Mwangangi also informed members that the meeting would involve presentations of Environmental and Social safeguard documents for KESIP and deliberations on the same and emphasized that the stakeholder suggestions would be put into considerations when improving the documents presented.

The Acting Manager; Network Management and Infrastructure Development-Eng. David Mwaniki gave the opening remarks for the meeting and welcomed all stakeholders and appreciated them for turning up on time and attending the meeting in large numbers. He informed the stakeholders that every development activity has an impact on our surrounding environments and thus environmental and social issues have to be discussed prior to project implementation. He also informed stakeholders that Kenya Power has the best interest of customers at heart and aims at supplying quality power to consumers. Eng. Mwaniki informed stakeholders that Kenya Power cannot achieve its mandate without collaborating with them, thus the meeting. He urged Kenya Power team of experts to emulate what has been done for KESIP when undertaking other projects.

MIN 2: 12/09/2018- Overview of KESIP

Eng. Njoroge informed stakeholders that World Bank had issued 250 Million USD for implementation of the project. 150 Million USD of the amount issued shall be used for implementation of the Last Mile component of the project while 100 Million USD shall be used for system reinforcement. He made it clear that the proposed project shall not have major environmental impacts as it will mainly involve construction of Low voltage lines which shall be done along road reserves.

Eng. Njoroge also informed the stakeholders that the project was on preliminary stages and the definite areas where the projects would be implemented had not yet been identified. Mr. Koech clarified to the stakeholders that KESIP aims at improving power supply in Kenya and supplying power to all potential consumers. World Bank as a financier, in its requirements shall take into account environmental and social concerns during implementation of the project. Thus, the meeting was held to create awareness about the project as well as seek stakeholder views. The views sort shall be addressed to ensure that the project is environmentally and socially sustainable.

MIN 3: 12/09/2018- Plenary Session

King Wario: We have both pre-paid and postpaid services, which one are we discussing today?

Fatuma Kitule: Do other Last Mile projects draw funding from the project we are discussing?

Mr. Otta: Will the public also be involved after identification of specific project sites?

The questions were responded to by Mr. Abaya, Eng. Mwaniki and Eng. Njoroge as follows:

Issues Raised	Response
Agenda of the meeting	To disclose the three Environmental and Social Safeguard Frameworks and seek the participants’ views and comments on how to improve them to ensure KESIP is implemented in an environmentally and Socially sustainable manner.
Funding of other Last mile projects	Other four Last mile projects are independent of KESIP but have the same concept of increasing customer connectivity, system reinforcement and reduction of technical losses in the electrical infrastructure system.

Identification of specific project sites The company was yet to identify the actual sites where the project would be implemented, and the Communities shall further be involved in the implementation process and Kenya Power will also avail more information about the project with time.

MIN 4: 12/09/2018- Vulnerable and Marginalized Groups Framework (VMGF) Presentation

Mr. Abaya informed members that VMGF is a requirement by World Bank as stipulated under Operational Policy 4.10 and is prepared to take care of the interests and rights of vulnerable and marginalized persons who might be affected during project implementation. The document highlights how Kenya Power shall interact with vulnerable and marginalized communities during implementation of the project to preserve their dignity and ensure equal representation during consultative processes.

Mr. Abaya also informed stakeholders that the document provides the need for incorporating vulnerable and marginalized people's views during implementation process of the project as well as while addressing grievances. He emphasized that the main idea of focusing on the vulnerable and marginalized persons is to enhance project benefits to them and avoid potential diverse impacts and increased marginalization.

In addition, he informed members that the document was prepared as specific project sites had not been identified, thus it will act as a guide for Kenya Power in the event that such communities are found within the project area or are among those affected. Specific Vulnerable and Marginalized Plans will then be developed as and when required.

The presentation of VMGF included purpose of VMGF; screening process of VMGF; social assessment of vulnerable and marginalized groups; policies and legal frameworks; methodology and consultations in preparation of VMGF; potential negative and positive impacts of KESIP on vulnerable and marginalized persons; free, prior and informed consultations; vulnerable and marginalized groups plans; strategy for participation and consultation of the groups; grievance redress mechanisms; monitoring and reporting arrangements for VMGs.

MIN 5: 12/09/2018- Plenary Session

After presentation of the Vulnerable and Marginalized Framework, stakeholders raised concerns, asked questions and gave suggestions that were responded to as highlighted below.

King Wario, Mr. Dida Said and Mr. Rop: The tribe I represent is not included in the list of marginalized groups in the document but since we are present in the meeting it is in order that we are incorporated in the list. Other vulnerable and marginalized communities not listed should also be concluded and the project seems to affect IPs and VMGP how will we be involved in the project?

Mr. Chepsoi: Pastoralist communities have concerns with land ownerships as most of them are communally owned, an issue that can hinder compensation processes during project implementation.

Mr. Chepsoi: Who is the owner of Prior Informed Consent, KPLC or Affected communities?

Eunice Lepariyo and Mr. Chepsoi: Vulnerable and marginalized communities also have technical expertise in carrying out work during construction of lines thus they should be prioritized for employment opportunities during construction phase of the project.

Eunice Lepariyo: there is a lot of insecurity in areas occupied by vulnerable and marginalized groups, which mechanisms are you going to employ to ensure they equally benefit from the project?

Nanta Mpaajei: What criteria will be used in identification of specific area for project implementation without marginalization?

Nanta Mpaajei: will there be involvement of stakeholders during implementation phase to avoid conflicts?

Nanta Mpaajei: What forms of compensation are you going to implement especially among people with communally owned land?

Nanta Mpaajei: When project passes through a communally owned land, is there a way of considering people who cannot afford the 15,000 connection fee?

Mr. Salau Rogei: it is high time Kenya Power considers benefit sharing with vulnerable and marginalized communities to prevent continued exposure to poverty even when projects are implemented on their communally owned land.

Mr. Solola: What mitigations do you have in place to ensure safety of electricity supplied to vulnerable and marginalized communities?

Please explain the additional taxes that appear on the electricity token purchase receipt.

Representatives of stakeholders currently in the meeting are in most cases excluded from further meetings during project implementation thus making it difficult for them to continue disseminating information about the project to the communities.

Mr. Mohamed: some projects are launched by Kenya Power but fail to be implemented in areas where they are launched thus making us feel marginalized such as the case of KOSAP.

The questions and concerns raised during the plenary session were answered as follows:

Concern Raised	Response
Public Consultation process	This is the very first consultation done for the proposed KESIP and a series shall follow during implementation process based on arrangements with affected communities
Involvement of stakeholder representatives	Stakeholder representatives present during the first meeting shall continuously be involved in subsequent meetings at community levels during project implementation.
Employment opportunities	The host community shall be given first priority during employment especially for semi-skilled labor and contractors shall be made aware of the requirement as Kenya Power has always done.
Inclusion of Vulnerable and Marginalized communities	As per the constitution of Kenya, only 14 counties are recognized to have vulnerable and marginalized communities, but Kenya Power is moving beyond the constitutionally recognized communities and that is why communities not listed in the constitution of Kenya are also invited to the meeting. Some of the communities present today, although not in the list of vulnerable and Marginalized groups they do come from the mentioned counties hence they are covered and that is why KPLC welcomed them to the meeting
Destruction of vegetation cover	In areas with dense vegetation cover, the project can always be redesigned to ensure Kenya Power projects do not result into intense loss of vegetation cover
Grievance redress	In cases of grievances there will be methods for redress while involving communities. Thus Kenya Power shall highly work with communities to ensure their grievances are addressed in timely and satisfactory manner.

Concern Raised	Response
Prior Informed Consent	The company shall try to avoid areas that face land injustices until such a time that they are resolved Prior Informed Consent shall be consultative between Kenya Power and Affected Communities. It will be an open and transparent process
Resettlement and Compensation	The proposed project shall mainly involve construction of low voltage lines and substations thus the company does not anticipate any form of resettlement to take place as the lines shall be constructed along road reserves and land for construction of substations shall be acquired on a willing buyer willing seller basis. Do not associate land ownership and power connection. But for community lands affected by Kenya Power projects, the entire community shall be involved in negotiation process
Is Kenya Off-grid Solar Access Project (KOSAP) still on?	KOSAP is an ongoing project though still in preliminary stages.

MIN 6: 12/09/2018-Environmental and Social Management Framework (ESMF) Presentation

Mr. Koech while presenting ESMF document, highlighted the environmental and social impacts of the project to stakeholders. He went on and informed members that there shall be extensive stakeholder engagement at various stages of project implementation where informed consent shall be sought for access and wayleave acquisition among others. Mr. Koech also informed members that important bird areas shall be identified and appropriate measures will be put in place to prevent negative impacts of the project on migratory bird routes.

The ESMF document presentation included background information of the proposed project, Purpose and objectives of ESMF, World Bank operational policies that will be triggered by the project, potential environmental and social impacts, mitigation measures, public consultation and participation and grievance redress mechanism.

Major social and environmental impacts are not anticipated during implementation of the project as it shall not have direct impacts on stakeholders' means of livelihood and property.

MIN 7: 12/09/2018- Plenary Session

The session involved questions, suggestions, clarifications and response to raised concerns from stakeholders. Stakeholders and Kenya Power team of experts engaged extensively in a discussion on ESMF document presented. Questions and suggestions raised during the session are highlighted below while responses are presented on a table below.

Mr. Mchombo: insufficient public awareness has been done by Kenya Power in off grid areas thus consumers are not aware of requirements of electricity safety and safe connections

Mr. Kiptum from Nature Kenya: Kenya Power to adopt international best practices to mitigate impacts of transmission lines on birds.

Kenya Power to do sensitivity mapping during project implementation to ensure that important bird areas are protected.

Kenya Power in compensating trees that are cut during project implementation should ensure planting of similar tree species.

Representative of Kifundi Community: Kenya Power to help the Kifundi Community with fishing equipment as their main economic activity is fishing.

Mr. Faten Hassan: Compensation process should be transparent to allow affected communities understand the how valuation is done and the amount of money paid for lost property.

Kenya Power to be transparent on implementation process of projects as some projects were launched in vulnerable and marginalized communities' areas but were never implemented.

Mr. Juma from National Museums of Kenya: Does Kenya Power compensate underground artifacts, heritage sites and burial sites?

There is need for Kenya Power to carry out heritage impact assessment

Kenya Power is concerned about accessibility of power but what about affordability?

Kenya Power should consider non-monetary compensations that benefit an entire community.

Ruth Kariuki from Communication Authority of Kenya (CAK): It would be good for Kenya Power to liaise with Communications Authority of Kenya while identifying proposed project sites to enable CAK construct masts in areas with electricity accessibility thus minimizing continued use of generators.

Mr. Muthusi from KURA: World Bank is transitioning from safeguards to standards, yet the document presented still make reference to safeguards. What is the position?

Mr. Moindi of KETRACO: Kenya Power projects to be designed in such a way that they are integrated to minimize impacts of construction of distribution lines on environment.

Expand the component of capacity building to other stakeholders.

Dorothy Kahiu from Ministry of Energy: there is a SEA process going on to map sensitive bird areas thus Kenya Power should acquire information from the report.

What is the relationship between KOSAP and KESIP?

Mr. Ali Mohamed and Mr. Dadi Said: There are many incidences of houses and electrical equipment loss due to electrical faults.

Qsn: we need to have policies on how to compensate people occupying community lands in a satisfactory manner

Mr. Ronoh from ERC: Kenya Power should always submit commencement and completion certificates for projects undertaken to ERC

It is advisable that Kenya Power used licensed or registered electricians and electrical contractors while undertaking their projects

It is also important that Kenya Power supervise implementation of their projects to ensure that they are undertaken as stipulated.

Mr. Koech and Mr. Thiaine responded to questions, suggestions and concerns raised.

Issues raised

Electrical Safety and Accident Reporting and Awareness creation

SEA on important bird areas

Compensation of community land

Response

Danger signs placed on electric poles are meant to warn the public on danger of electricity as it is transmitted through the conductors and supporting infrastructure including poles, stay wires, earthings and the wayleave trace for the power line.

In mitigating electrical accidents, Kenya Power carryout safety awareness in regions through roadshows, media adverts, public barazas and school visits

In case of electrical accidents, first report to Kenya Power offices via a designated phone number 9551/0703070707 and give your details as required, then a safety engineer shall be sent to your location to investigate the accident to determine the cause of accident

Suggestions for Kenya Power to make reference to the ongoing SEA is good and shall be beneficial to the company while carrying out projects

Implementation of non-monetary compensation is also a good idea especially in the event community assets are affected in order

Issues raised	Response
Compensations for artifacts	maximize project benefit to the entire community. This was suggested during consultations that in case a community asset like land is acquired compensation should be in kind probably a trade-off e.g water dam instead of cash. In dealing with community land the Community Land Act, 2016 shall be adhered to. <u>All PAPs in community lands or Group Ranches will be treated as rights-holders for eligibility purposes under OP4.12.</u>
Integration of projects	As a matter of policy KPLC endeavours to avoid such areas e.g. graves and work with community members in identification of such sites. Other cultural property of national importance in case of chance find due process is followed through contacting the National Museums of Kenya
KOSAP and KESIP	The need for integration of power lines is a good idea and Kenya Power has embraced integration of lines in many parts of the country as it helps minimize on need for wayleave. This will continue and is always subject to technical feasibility before implementation. KOSAP is meant for off-grid areas, especially those not connected to national grid while KESIP is meant to connect the last customer and increase connectivity within National grid as well as improvement and stabilization of the power network

MIN 8: 12/09/2018-Resettlement Policy Framework (RPF) Presentation

It is a requirement by the World Bank operational policy 4.12 on Involuntary Resettlement to try and avoid resettlement. Consequently, Kenya Power prioritizes implementation of projects in unoccupied or less dense areas to minimize chances of involuntary resettlement. However, the framework has been prepared as a precaution in the event that any resettlement was to occur during project implementation. On the other hand the kind of reports that accompany resettlement would vary based on the potential damages and number of people affected.

In an instance that only property is affected but not persons, a resettlement action plan is not prepared. When a few people -less than 200- are involuntarily displaced as a result of the project, then an abbreviated Resettlement Action Plan is prepared. While carrying out resettlement, public consultation is done where project affected persons are invited to a meeting at a convenient place and continuous consultations are carried out.

As already alluded to, KESIP will involve construction of Distribution Lines which will use the road reserve and therefore resettlement is not envisaged. Land for substation shall be purchased on a willing buyer willing seller basis.

The presentation included the purpose of the RPF, objectives of the RPF, methodology for RPF preparation; potential impacts; eligibility for compensation; valuation methods for compensation; resettlement action plans (RAP); stakeholder consultation and participation; RPF implementation; RPF implementation and monitoring; implementation budget and the grievance redress mechanism

MIN 9: 12/09/2018- Plenary Session

Mr. Ali Mohammed: we occasionally experience delays while purchasing electricity tokens and Kenya Power contact lines are also unreliable.

Question: During power connection, when I apply and pay for connection does other customers have to be connected first before I am connected in a case where we are many people without power connection occupying the same area?

Mr. Mohammed: There is an electricity supply project in Tana River that stalled after we were asked to purchase meter boxes and stay wires and await connection
The concerns raised were addressed by Mr. Mwangangi as follows:

Issue Raised	Response
Delays	Delays only occur when there is technical hitch on the system however Kenya Power system for token purchase is instant and no delays are experience since its improvement
Power connection	Connection is done to customers who apply for the service and pays for the connection cost as provided in the quotation.
Stalled Projects	The stakeholders were requested to provide more details on the stalled projects including the locations, and their contact numbers after which Kenya Power would investigate the cause and where possible progress the projects.

MIN 10: 12/09/2018: Way forward

- The participants were assured that their comments from would be incorporated to improve the three documents i.e. ESMF, RPF and VMGF.
- Once the sites are identified the necessary environmental and social documents will be prepared guided by the three documents (ESMF, RPF, and VMGF)
- Other departments within KPLC concerned with identification and selection routes for the distribution lines should adhere to the principles outlined in the three frameworks.
- Specific project affected persons would be consulted throughout the project phases once the project sites are identified.
- The project proponent, Project Affected Persons and other stakeholders should adhere to the Grievance Redress Mechanism (GRM) prepared for the specific project and utilize all the provided options in the GRM in a systematic manner.

MIN 11: 12/09/2018 - AOB and Closing Remarks

Mr. Mwangangi informed stakeholders that World Bank was aware of meeting although they were not able to attend due to other engagements.

Mr. Mwangangi also informed members that the documents presented to stakeholders shall be updated to incorporate their views, comments and minutes and will be posted on Kenya Power and World Bank websites.

King Wario from Myoyoya community appreciated Kenya Power for inviting the Vulnerable and Marginalized communities to the meeting and requested that next time the company should consider having the meeting for two days to allow for more understanding and comprehension of the concept.

He also informed Kenya Power that representatives of vulnerable and marginalized stakeholders have accepted the project and shall inform the communities of the same.

Eng. Njoroge also appreciated stakeholders for attending the meeting and openly expressing their views on the project. He assured them that their views shall be taken into consideration and the company shall ensure that the project is implemented satisfactorily.

Adjournment

There being no other business the meeting was adjourned at 1620hours with a word of prayer from one of the stakeholders.

Photo Gallery



RPF presentation by Socio economist



ESMF presentation by Environmental & Social Specialist



GM Network Mgt & Infrastructure addressing Stakeholders



Stakeholders keenly following proceedings during stakeholder consultation forum



Chief Engineer Projects addressing participants



List of Attendance



Kenya Power

STAKEHOLDER CONSULTATION MEETING FOR SAFEGUARD DOCUMENTS FOR KENYA ELECTRICITY SYSTEM IMPROVEMENT PROJECT (KESIP) ON 12TH SEPTEMBER 2018 AT STIMA CLUB

LIST OF ATTENDANCE

NO.	NAME	ORGANIZATION	ID.NO.	EMAIL	CELL PHONE NO.	SIGNATURE
1	STEPHEN DADI SAID	KIKI FI	4631596	stephendadi81@uphor.com	0721758574	
2	MARGRET HAFORA KOKAYE	MALINDI	26489906		0714044790	
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4	SAUMU MWABILI SAMUM	KWALE	93252229		0702656932	
5	AMANI SAID SALOLE	KWALE	21381919		0706185559	
6	ALI MOKHAMEZ	Lamu	8824270		0712497989	
7	SABIDI YUSUF ALI	LAMU	10390755		0703432130	
8	Mohamed Dawa FARREHA	MBA RIVER	8097462		0714485872	
9	FATUMA KITOLE	T/KIVUA	2110264	fatumakitole@gmail.com	071181166	
10	UMMATH FODHO SOLOLO	T/RIVER	12730934	ismwifodho@gmail.com	0716064023	



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LIST OF ATTENDANCE

NO.	NAME	ORGANIZATION	ID.NO.	EMAIL	CELL PHONE NO.	SIGNATURE
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14	JUMK B. KURAWA	T/RIVER	5220237	fatenhassan@gmail.com	0720733559	
15	BENSON .K. KROD	WEST POKOT	3327621	Kropbk@yahoo.com	0722704262	
16	EMILY SANGA	W/POKOT	11714419		0710509247	
17	MATHAMUS WARIO	T/RIVER	1811366		0727933810	
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NO.	NAME	ORGANIZATION	ID.NO.	EMAIL	CELL PHONE NO.	SIGNATURE
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21	PAUL WAKESA	Vision 2030	30149194	Paul@visionkenya.org	0708293133	
22	Jonathan Rowoh	ERC	20030186	Jonathan@erc.or.ke	0727231171	
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24	DAVID MOINDI	KEFRACO	11555665	dmoindi@kefraco.co.ke	0720936524	
25	Nata Npaayi	AH	2860830	nantunpaayi@gmail.com	072225870	
26	Basil Muri'ga	KFS	7936844	basilmuri'ga@gmail.com	0733672158	
27	Idi Masau	Vision 2030	22300688	idimasaui@gmail.com	0786575796	
28	Julias Juma Ogoga	National Museum of Kenya	13646781	jogoga@museum.or.ke	0727260904	

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NO.	NAME	ORGANIZATION	ID.NO.	EMAIL	CELL PHONE NO.	SIGNATURE
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33	PAUL CHEPSOI	ENC	23416524	palkips@yahoo.com	0722915809	
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35	ERICK KUTIKUPUR	MINISTRY OF ENERGY	21788503	erick.kutikuri@kenya.gov.ke	0723845230	
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9	SIMON MWANGANGI	KPLC-SHE	14423210	simonwangi@kplc.co.ke	072255846	
10	Ruth Ak-Kemari	COMMUNICATION AUTHORITY				



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NO.	NAME	ORGANIZATION	ID.NO.	EMAIL	CELL PHONE NO.	SIGNATURE
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14	Robert K. Njoroge	KPLC	2252842 32256064	rnjoroge@kplc.co.ke	0721351332	
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16	James Gitau	KPLC				
17	JOY					