



**KENYA OFF-GRID SOLAR ACCESS
PROJECT
(KOSAP)**

**UPDATED RESETTLEMENT POLICY
FRAMEWORK (RPF)**

Final

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ACRONYMS AND ABBREVIATIONS

RAP	Resettlement Action Plan
CPS	Country Partnership Strategy
CGRC	County Grievance Redress Committee
DPs	Displaced Persons
EAC	East African Community (EAC)
EIA	Environmental Impact Assessment
EMS	Energy Management System
EPRA	Energy & Petroleum Regulatory Authority ¹
GCRC	Gross Current Replacement Cost
GDP	Gross Domestic Product
GOK	Government of Kenya
ICT	Information and Communications Technology
IDA	International Development Association
IPP	Independent Power Producers
KPLC	Kenya Power and Lighting Company
KSHS	Kenya Shillings
LAC	Land Administration Committees
LACT	Land Acquisition Compensation Tribunal
LEP	Livelihoods Enhancement Programme
LLM	Live-line maintenance
LGRC	Locational Grievance Redress Committees
M&E	Monitoring and Evaluation
MOEP	Ministry of Energy
MTR	Mid-Term Review
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	Orphaned Vulnerable Children
PAD	Project Appraisal Document
PAP	Project Affected Persons
PCU	Project Coordination Unit
PMF	Petroleum Ministry of Finance

¹ EPRA was established as a successor of Energy Regulatory Commission (ERC) under the Energy Act, 2019

PIM	Project Implementation Manual
PIU	Project Implementation Unit
PLO	Project Liaison Officer
PPA	Purchase Power Agreement (PPA)
PPP	Public-Private-Partnership
PPT	Project Preparation Team
RAPs	Resettlement Action Plans
REA	Rural Electrification Authority
REREC ²	Rural Electrification and Renewable Energy Corporation
RPF	Resettlement Policy Framework
USD	United States Dollar
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
VRB	Valuation Registration Board
WB	World Bank
ESHSMF	Environmental, Social, Health and Safety Management Plan
ESIA	Environment and Social Impact Assessment

² Following the enactment of the Energy Act 2019, Rural Electrification Authority (REA) changed to Rural Electrification and Renewable Energy Corporation (REREC) and expanded mandate of spearheading Kenya's green energy drive, in addition to implementing rural electrification projects.

EXECUTIVE SUMMARY

Background

Providing equal opportunities to the entire country is key to achieving Vision 2030 - especially the national target of achieving universal access to electricity. This desire has led the Government of Kenya (GoK) to seek to close the energy access gap by providing electricity services to remote, low density and traditionally underserved areas of the country. Kenya Off-Grid Solar Access Project (KOSAP) has been proposed to directly promote these objectives by supporting use of solar technology to drive electrification of households (including host communities around the refugee camp), enterprises, community facilities and water pumps. The project will target 14 (Garissa, Isiolo, Kilifi, Kwale, Lamu, Mandera, Marsabit, Narok, Samburu, Taita Taveta, Tana River, Turkana, Wajir and West Pokot) out of the 47 counties in Kenya that have been defined as marginalized by the Commission on Revenue Allocation (CRA). The RPF has been updated to reflect the project's land acquisition and compensation aspects, in line with the Community Land Act 2016. The RPF also captures the aspect of in-kind compensation in form of priority social investment projects.

Project Objectives and components

The proposed Project Development Objective (PDO) is to increase access to energy services in underserved counties of Kenya. The KOSAP project has four components:

- **Component 1:** Mini-grids for Community Facilities, Enterprises, and Households.
- **Component 2:** Standalone Solar Systems and Cooking Solutions for Households.
 - ❖ *Sub-Component 2A:* Standalone Solar Systems for Households
 - ❖ *Sub-Component 2B:* Standalone Cooking Solutions for Households
- **Component 3:** Standalone Solar Systems and Solar Water Pumps for Community Facilities
 - ❖ *Sub-Component 3A:* Standalone Solar Systems for Community Facilities
 - ❖ *Sub-Component 3B:* Solar Water Pumping for Community Facilities:
- **Component 4:** Implementation Support and Capacity Building
 - ❖ *Sub-Component 4.1:* Consumer Education and Citizen Engagement
 - ❖ *Sub-component 4.2:* Implementation Support and Strategic Planning and Program Management Unit
 - ❖ *Sub-component 4.3:* Capacity Building of County Governments

Purpose and Scope of RPF

Though the KOSAP project is less likely to result in any physical and/or economic displacement, this RFP has been developed to guide the process/procedure of land acquisition where applicable. Most of these locations fall in counties where land has not been adjudicated and categorized as

unregistered community land. The Framework, therefore, provides a guidance for the acquisition of land for the KOSAP Project in these regions.

Methodology for RPF Preparation and Legal Framework

Baseline information from secondary literature was reviewed to enhance project understanding. Relevant regulations on land rights, ownership, transfer, and acquisition procedures were examined. The World Bank's safeguard policy on involuntary resettlement, OP 4.12, was reviewed for compliance on issues like resettlement impacts, livelihood effects, and land acquisition. The higher standard between national laws and Bank's requirements was adopted in the policy framework. Potentially affected households, facilities, and businesses were classified, along with possible social impacts to be addressed in the RPF preparation. Site-specific social assessment was conducted in relevant localities as needed.

Potential Project Impacts and Mitigations

The project components are likely to lead to various Environmental and Social (E&S) impacts including loss of property, vegetation, or land use, especially where permanent installations such as mini grids are established. This will interrupt the current use of property or land by affected persons. Other potential impacts include sparks/fire risk from live conductors, solid waste, electric shocks, electrocution, occupational safety and health hazards, public health risks, construction material sourcing (wooden poles), oil leaks from transformers, and construction noise. Provisions under the RPF and related safeguards instruments Environmental and Social Management Framework (ESMF), Social Assessment (SA), and Vulnerable and Marginalized Groups Framework (VMGF) are in place to manage the identified impacts.

Public Consultations and Participation

Consultation Forums were held in Nairobi, Narok, Taita Taveta, Kwale, Garissa, Tana River, Kilifi, West Pokot, Turkana counties between October 2016 to January 2017. Participants included affected communities (individuals, households, businesses and institutions), county agencies, representatives of Faith-Based Organizations (FBOs), Community-Based Organizations (CBOs), local Non-Governmental Organizations (NGOs) and local leadership. The objective was to consult with the stakeholders on the E&S aspects related to KOSAP project and inform the preparation of the E&S instruments. The Project Affected Persons (PAPs) were receptive to the project and indicated contentment with the information disclosure and consultation arrangements proposed throughout the project cycle as well as the risk mitigation measures proposed. A functional GRM will be set up for prompt resolution of any concerns.

Valuation Methods and Compensation

The names and addresses of affected persons, along with their claims and assets, will be compiled in a database. Individuals listed before the cut-off date will be eligible for compensation. These records will also be used for future monitoring. Valuation will be based on asset type, such as

crops, agricultural land, rural/communal land, houses, other structures, or income loss. The entity mandated to acquire land and compensate PAPs will conduct consultations with PAPs and perform detailed surveys and valuation of all anticipated losses before awarding compensation.

Eligibility for Compensation

Determination of the eligibility of the bonafide occupants of the assets/properties to be compensated shall be done through a transparent and legal process, considering 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 (table 6) of this RPF. This RPF applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

RPF Roles and Responsibilities

Kenya Power and Lighting Company (KPLC) and Renewable Energy and Rural Electrification Corporation (REREC) have overall responsibility for safeguards due diligence, including preparation of requisite E&S instruments, implementation and compliance monitoring. KPLC and REREC will establish Project Implementation Units (PIUs), that will lead project implementation through staff nominated into the PIUs or recruited and will be supported by the *Grievance Redress Committees* (GRCs) and *Monitoring and Evaluation Team*. Acquisition of land will be overseen by the National Land Commission (NLC) and the Ministry of Energy (the proponent).

Capacity for Implementation and Monitoring

In April 2008, KPLC created an Environmental Unit within its Safety, Health, and Environmental (SHE) Department. SHE is staffed by the E&S specialists, safety engineers, occupational health and safety (OHS) officers, valuers, and surveyors. KPLC and REREC will collaborate on implementing safeguards for the KOSAP project, following the provisions of the ESMF, VMGF and RPF. The E&S experts are capable of monitoring and mitigating potential E&S impacts, with oversight from MoEP KPLC's PIU head. The PIUs will ensure that compensation to PAPs is finalized before project implementation begins. In cases where infrastructure projects (in-kind compensation) are constructed concurrently with the mini-grids, the in-kind compensation shall be finalized and handed over to communities before mini grids are commissioned. The monitoring and evaluation activities will help measure the extent to which the main objectives of the RPF have been achieved. The PIUs will undertake the routine internal M&E of the implementation of the resettlement issues to ensure that all the responsible units follow the schedule, comply with the principles of the Resettlement Action Plan (RAP) and that all PAPs are promptly and justly compensated.

Budget and Funding

The project budget will include costs for mini grids and distribution lines, supervision, project management, stakeholder consultation, grievance management, monitoring and evaluation, metering, land compensation. . The specific cost for land compensation shall be determined once the technical designs and details have been developed and the sub-projects fully identified.

Disclosure

The updated RPF will be disclosed by MoEP, REREC and KPLC on their external websites after which the World Bank will disclose the same on its external website.

CHAPTER ONE: INTRODUCTION

1.1 Introduction

Electricity access remains limited to only half of Kenya population. The interconnected electricity system covers primarily the densely populated southern and central belt of the country, thus large areas, especially the Northern and Northeastern counties, has limited grid infrastructure. Accelerating the pace of electrification can contribute to eliminating extreme poverty and achieving shared prosperity.

Providing equal opportunities to the entire country is key to achieving Vision 2030 - especially the national target of achieving universal access to electricity. According to the Energy and Petroleum Regulatory Authority (EPRA), in the reporting year 2022/2023, 105,613 new customers were connected to electricity bringing the cumulative number of connected customers to 9,010,856³. This is an increase of 5.6% in the connectivity rate. Conversely, the unconnected population was 43% of the total, which is spread very unevenly across the country.

Project Objectives

The proposed Project Development Objective (PDO) is to increase access to energy services in underserved counties of Kenya.

KOSAP Components

KOSAP has 4 components as follows;

Component 1: Mini-grids for Community Facilities, Enterprises, and Households.

This component will support the electrification of areas where electricity supply through mini-grids. The component will be implemented in approximately 120 locations throughout the 14 target counties, typically in mini-grids supplying 100–700 prospective users, with an approximate total demand of 20-300 kilowatt (kW).

Component 2: Standalone Solar Systems and Cooking Solutions for Households.

❖ *Sub-Component 2A: Standalone Solar Systems for Households*

This sub-component will support off-grid electrification of households in the 14 target counties. The component will provide incentives for solar off-grid companies currently operating in the more densely populated areas of Kenya. These services, provided through portable solar home systems, are well-suited to some of the population in the underserved counties, as households do not always live in permanent structures.

³ In 2016 when the initial version of this RPF was compiled, the estimate of the national access rate to electricity was 56% (4.6 million customers).

❖ *Sub-Component 2B: Standalone Cooking Solutions for Households*

This subcomponent will support cleaner household cooking appliances and fuels will be promoted. Activities will begin by focusing on five underserved counties in the northwestern part of the country (West Pokot, Turkana, Isiolo, Samburu, and Marsabit).

Component 3: Standalone Solar Systems and Solar Water Pumps for Community Facilities

The community facilities considered in this component are the existing: (i) Health facilities (Levels 2 and 3) (ii); Educational facilities (Secondary schools and Technical training institutes); (iii) Administrative offices (for example, assistant County Commissioner offices).

❖ *Sub-Component 3A: Standalone Solar Systems for Community Facilities*

This component will support the provision of electricity services to existing community facilities in remote areas in underserved counties. A private sector contractor (contractor) will be competitively selected for each service territory to supply, install, and maintain SHS in community facilities in each lot. About 1,100 facilities could be reached through this subcomponent.

❖ *Sub-Component 3B: Solar Water Pumping for Community Facilities:*

This component will support financing solar powered pumping systems to increase sustainable access to water supply by equipping new boreholes and retrofitting existing diesel-powered boreholes associated with community facilities within the target counties. A private sector contractor will be competitively selected for each service territory to supply, install, and maintain stand-alone solar systems in community facilities.

Component 4: Implementation Support and Capacity Building

❖ *Sub-Component 4A: Consumer Education and Citizen Engagement*

This subcomponent will support the consumer education and citizen engagement activities for the program's key delivery areas.

❖ *Sub-component 4B: Implementation Support and Strategic Planning and Program Management Unit*

This subcomponent will support a program of activities designed to strengthen the capacity of the Recipient for Project management, implementation and coordination, monitoring and evaluation.

❖ *Sub-component 4C: Capacity Building of County Governments*

Purpose and Scope of RPF

The RPF is intended to avoid or minimize any adverse impacts associated with physical and/or economic displacement, and to ensure arrangements are in place to mitigate any adverse impacts that may occur. KPLC and REREC hereby agrees to apply the principles, procedures, and standards incorporated in World Bank Operating Procedures (O.P 4.12) if obtaining any sites for

project use would cause economic and/or physical displacement. This RPF is intended to utilize the existing and relevant national legal and policy frameworks, incorporating any supplementary measures necessary to achieve consistency with the World Bank's principles and standards.

Methodology for RPF Preparation and Legal Framework

Baseline information from secondary literature was reviewed in the process of preparing the RPF to increase project understanding. A review of relevant regulations providing procedures for land acquisition by the state or a public body for public projects was also done. 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 2012; Land Registration Act 2012; Land Value (Amendment Act) 2019. These frameworks define land rights, ownership, procedures and requirements of transfer and acquisition of land between individuals and groups.

The World Bank's safeguard policy on involuntary resettlement, OP 4.12 was reviewed following the compliance requirements on involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources. Where there is a discrepancy between the national laws and the World Bank's policies, the higher of the two standards was followed in this policy framework.

Potentially affected households, facilities, and businesses were identified, along with possible social impacts to be addressed in the RPF preparation. Site-specific social assessment will be conducted in relevant localities as needed.

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

Potential Project Impacts and Mitigations

Potential negative impacts

The project components are likely to result into loss of use of property, vegetation, or land especially where permanent installations such as mini-grids are established. The effects will result in an interruption in the current use of property or land by the affected persons during, for instance, installation of mini-grids. Other potential impacts include:

- Risk of sparks/fire from live conductors
- Solid waste

- Electric shocks and electrocution of people
- Occupation safety and health hazards
- Public health risk
- Construction material sourcing-wooden poles
- Oil Leaks from transformers
- Noise during construction

There are provisions under this RPF and the related safeguards instruments ESMF SA and the VMGF to manage the identified impacts.

Eligibility for Compensation

Determination of the eligibility of the bonafide occupants of the assets/properties to be compensated shall be done through a transparent and legal process, considering all the existing laws of Kenya and policies of the World Bank. Compensation will be paid to all categories of Project Affected Persons (PAPs) as described in the eligibility criteria and entitlement matrix (table 6) of this RPF. All those persons enumerated before the cutoff date will be eligible for compensation. This RPF applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

Project Screening and Preparation

Sub-projects screening

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

Preparation of Resettlement Action Plans

RAPs will be prepared by the PIUs, in consultation with other parties responsible for resettlement, targeting components 1. Since component 3 focuses on existing facilities no land acquisition is anticipated and hence no RAPs are foreseen. These RAPs will detail the procedures and actions required to properly resettle and compensate affected people and communities, noting that minimal to no physical and/or economic displacement is anticipated. The RPF aims to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects or components during implementation. Once subprojects or components are defined and necessary information is available, this framework will be expanded into specific plans proportionate to

potential risks and impacts, with activities causing displacement not commencing until these plans are finalized and approved by the Bank.

Community sensitization

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

Public Consultations and Participation

As part of the preparation of the RPF, ESMF, SA, VMGF and the overall design, views about the project were obtained, and the rights, and entitlement of affected communities, as well as project benefits and opportunities disclosed. Participatory Stakeholder Forums were held with various segments within the affected communities, local leaders and other stakeholders per county in Narok, Taita Taveta, Kwale, Garissa, Tana River, Kilifi, West Pokot, Turkana between October 2016 to January 2017. A higher-level consultation was also held in Nairobi bringing together stakeholders from all National Government agencies at and counties where Components 1&3 were to be implemented. The objective was to consult with the stakeholders on the E&S aspects related to KOSAP project. The participants entailed government agencies in 14 counties, community members (youths, people with disability (PWD) and women, Vulnerable and Marginalized Groups (VMGs), FBOs, CBOs and local NGOs. A comprehensive list of the participants is included in the minutes of the stakeholder forum consultations appended to this report.

The engaged stakeholders were receptive to the project and expressed contentment with the information disclosure and consultation arrangements planned throughout the project phases as well as the risk mitigation measures proposed. A functional GRM will be set up for prompt resolution of any concerns.

Valuation Methods and Compensation

The names and addresses of affected persons, claims and assets, will be compiled and kept in a database and the records will also inform future monitoring activities.

Table: summary of the valuation methods to be used

Asset	Valuation criteria
<i>Crops</i>	<ul style="list-style-type: none"> ▪ The prevailing market rate incorporating the value of crops and labor invested in preparing new land. ▪ That is, the average of last three years' market value for the mature and harvested crop and the average wage in the community for the same period for labour.
<i>Trees</i>	<ul style="list-style-type: none"> ▪ Cash compensation based on type, age and productive value of affected trees plus 10% premium.

<i>Agricultural land</i>	<ul style="list-style-type: none"> ▪ Pre-project or pre-displacement, whichever is higher, prevailing 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.
<i>/ Communal Land</i>	<ul style="list-style-type: none"> ▪ 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.
<i>Houses and other structures</i>	<ul style="list-style-type: none"> ▪ The prevailing market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or ▪ To repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.
<i>Loss of Income</i>	<ul style="list-style-type: none"> ▪ Losses of income for businesses will be estimated from net daily/monthly profit of the business verified by an assessment of visible stocks and activities. ▪ In addition to the compensation, disturbance allowances of 15% of total compensation will be considered. ▪ The estimation of supplementary assistance for affected commercial structures or business units will generally be based on the estimated income obtained from the use of the business/commercial unit and the estimated period of disruption of business activities.

Procedure for Delivery of Compensation

- Consultation and public participation with the PAPs to ensure that all affected individuals and households are well informed and adequately involved in the entire process.
- Detailed survey of all anticipated physical and/or economic losses by REREC, MoE and/or KPLC either through their internal teams or through a consulting firm or relevant government agencies.
- During inventories of assets, the owners or persons authorized to represent them on their behalf will be required to countersign them to minimize the possibility of subsequent claims or disputes regarding claims.
- Compensation payment made by REREC and/or KPLC to the PAPs in conjunction with NLC.

RPF Roles and Responsibilities

The Ministry of Energy and Petroleum (MoEP) - Providing overall coordination of the Project components and leading in the implementation of Component 2, which will include overall responsibility for safeguards due diligence, and compliance monitoring.

KOSAP Project Coordinating Unit (PCU) hosted in MoEP – The PCU will be responsible for the overall coordination of the project implementation and oversight including the following: (i) defining, jointly with the respective county governments, the project a impacts based on technical

and policy development priorities; (ii) resolving, in consultation with the county governments, challenges requiring high level intervention facing the project; (iii) monitoring the implementation of the project in consultation of the counties; and (iv) consolidating information.

KOSAP Project Implementation Units (PIUs)-KPLC and REREC will establish PIUs, that will lead project implementation through staff nominated into the PIUs or recruited. The KPLC PIU will be led by Chief Engineer (Rural Electrification) and will include procurement specialist, project economist, project finance specialist, E&S specialists, and project engineers. The REREC PIU will be led by a project manager and will include a renewable energy officer, procurement officer, project engineers, and E&S specialists.

KPLC and REREC - Will jointly be responsible for the implementation of Components 1 and 3. including the overall responsibility for safeguards due diligence including preparation of requisite E&S instruments, implementation and compliance monitoring.

Grievance Redress Committee (GRC) - Receiving and logging complaints and resolving disputes. The GRC will resolve each grievance or dispute to ensure that redress actions are implemented by whoever is mandated to undertake such action. If affected persons are not satisfied with the GRC, they will be entitled to seek redress through the Courts of Law at their own cost, or through the World Bank Grievance Redress Service (GRS) and the World Bank Independent Inspection Panel.

Monitoring and Evaluation Team - Monitoring of the RAP implementation programme to ensure that stated targets are met and PAPs are duly compensated in line with the RAP requirements.

Capacity for Implementation

KPLC has adequate E&S specialists, safety engineers, occupational health and safety (OHS) officers, valuers, and surveyors. REREC and KPLC will collaborate on implementing E&S aspects guided by the ESMF, VMGF and RPF instruments, including site-specific Environmental and Social Impacts Assessment (ESIAs) and Environmental and Social Management Plans (ESMPs). The SHE department has sufficient capacity to monitor and mitigate potential adverse E&S impacts, with regular oversight from MoEP, and KPLC PIU Head. Compensation payments will be closely monitored to ensure they are made in a timely manner

Monitoring Aspects

Monitoring and evaluation (M&E) will alert KOSAP to any delays and problems, measuring the achievement of RPF objectives. MoEP, KPLC, and REREC will conduct routine internal M&E at national and sub-county levels to ensure compliance with the RAP. Annual evaluations will verify if all PAPs are fully compensated and maintain or improve their living standards, in line with the RPF provisions.

Budget and Funding

The project budget will include costs for mini grids and distribution lines, supervision, project management, stakeholder consultation, grievance management, monitoring and evaluation, metering, land compensation. The specific cost for land compensation shall be determined once the technical designs and details have been developed and the sub-projects fully identified.

Disclosure

The RPF has been updated to capture changes or advancements in the project governing frameworks and plans and the updated version disclosed by MoEP, REREC and KPLC on their external websites after which World Bank will disclose the same on its external website.

1.2 Project Development Objective

The desire to provide equal opportunities to the entire country has led the Government of Kenya to seek to close the access gap by providing electricity services to remote, low density and traditionally underserved areas of the country. The proposed K-OSAP directly promotes these objectives by supporting use of solar technology to drive electrification of households (including host communities around the refugee camp), enterprises, community facilities and water pumps.

The proposed project development objective (PDO) is to increase access to energy services in underserved counties in Kenya.

1.3 Scope of KOSAP

The project will target 14 out of the 47 counties in Kenya that have been defined as marginalized by the Commission on Revenue Allocation (CRA). The 14 underserved counties collectively represent 72% of the country's total land area and 20% of the total population. The population is highly dispersed at a density of 4 times lower than the national average. These counties are also characterized by infrastructural deficits, including lack of access to roads, electricity, water and social services most of which are soon going to be a thing of the past thanks to devolution. The 14 counties include; Garissa, Isiolo, Kilifi, Kwale, Lamu, Mandera, Marsabit, Narok, Samburu, Taita Taveta, Tana River, Turkana, Wajir and West Pokot. The total number of un-electrified households is roughly 1.2 million in these counties.

1.4 Key Principles and Definitions

This Resettlement Policy Framework (RPF) is based on the World Bank's Involuntary Resettlement Policy ESS 5, which aims to avoid or minimize resettlement, conceive resettlement as sustainable development, and assist displaced persons in restoring or improving their livelihoods. The framework provides a foundation for preparing Resettlement Action Plans (RAPs) for specific sub-projects to mitigate such impacts.

In the context of this RFP, displaced persons include those affected by the involuntary taking of land or restriction of access to resources, and compensation shall be determined by the replacement cost method to ensure fair compensation. Replacement cost is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs.

1.5 The Scope of the Framework

The purpose of this RPF is to establish principles, organizational arrangements, and design criteria for resettlement and compensation for those affected by KOSAP sub-projects, particularly the installation of mini-grid systems. The RPF aims to avoid, manage, and mitigate risks such as asset damage, work disruption, temporary livelihood impacts, and potential displacement. The framework covers the following elements.

- a) Description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement framework is required;
- b) Principles and objectives governing resettlement preparation and implementation;
- c) Description of the process for preparing and approving resettlement plans;
- d) Estimated population displacement and likely categories of displaced persons, to the extent feasible;
- e) Eligibility criteria for defining various categories of displaced persons;
- f) Legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- g) Methods of valuing affected assets;
- h) Organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- i) Description of the implementation process, linking resettlement implementation to civil works;
- j) Description of grievance redress mechanisms;
- k) Description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- l) Description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- m) Arrangements for monitoring by the implementing agency and, if required, by independent monitors.

1.6 Project Activities with Displacement Potential

The main investments/sub projects envisaged to have displacement potential (however, unlikely) mainly entail those under component 1, which will require the construction of mini grids.

It is important to note that during acquisition, NLC will prescribe a criteria and guidelines to be adhered to and may also reject a request to undertake an acquisition if it establishes it does not meet the requirements prescribed.

1.7 Categories of Land Tenure in the Targeted Counties

Land tenure in Kenya applicable to the project’s targeted Counties is classified as public, community (registered and unregistered) and private. Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas. Community land includes land declared as such under Article 63(2) of the Constitution or that which is converted into community land under any law. In relation to land or a lease, private land is that which has a person named in the register as the proprietor; and in relation to a charge of land or a lease, the person named in the register of the land or lease is the person in whose favor the charge is made.

1.8 Project Implementation and Institutional Arrangements

KPLC and REREC will establish PIUs reporting to MoEP and will lead project implementation and supervision through staff nominated into the PIUs. Within the PIU, E&S issues are spearheaded by E&S specialists.

Table 1: Project implementation and institutional arrangements

Institution	Role in KOSAP
KPLC and REREC	<p>Some of the key responsibilities include but not limited to :</p> <ul style="list-style-type: none"> ❖ Ensure compliance with the land acquisition and resettlement legislative frameworks. ❖ Define, jointly with the respective county governments, the project areas based on technical and policy development priorities. ❖ Define the area of the site, which may be occupied by the contractor for use as storage, on the site. ❖ Monitor progress of the project in terms of the safeguards and Environmental, Social, Health and Safety Management Plan (ESHSM) implementation. ❖ Hand over the site to the contractor for implementation of the project after the social and environmental mitigation measures have been completed. ❖ Ensure that the ESIA's are submitted to National Environment Management Authority (NEMA) and licenses obtained. ❖ Resolving in consultation with the county governments, communities and local leadership, challenges facing the project.

	<ul style="list-style-type: none"> ❖ Establish their respective Project Implementation Units (PIUs) to manage their specific components.
County Governments	<ul style="list-style-type: none"> ❖ The roles of the county government include giving relevant approvals needed, assisting in solving grievances that cannot be sorted at project level, monitoring progress of the ESHSMP project implementation among others. ❖ Collaborate with REREC and KPLC to define the project areas and resolve challenges requiring high level intervention facing the project
National Environment Management Authority (NEMA)	<ul style="list-style-type: none"> ❖ NEMA shall take the lead environmental regulatory role responsible for approval of ESIA reports, project audits and project ESMPs. ❖ NEMA shall be free to check progress of implementation of ESHSMP.
State Department of Energy (SDE)	<ul style="list-style-type: none"> ❖ Provide overall coordination of the Project and lead in the implementation of Component 2, which will include; ❖ Overall responsibility for safeguards due diligence, and compliance monitoring. ❖ Definition of areas to be electrified based on technical and policy development priorities; ❖ Consolidating information from geospatial, implementing agencies; ❖ Monitoring the implementation of project; and ❖ Evaluating the project.
National Land Commission (NLC)	<ul style="list-style-type: none"> ❖ Acquire land compulsorily on behalf of the proponent, including, conducting field inspections, valuations, public inquiries, awarding compensation, and vesting land to REREC and KPLC.
State Department for Land	<p>The State Department of Lands will undertake the following functions:-</p> <ul style="list-style-type: none"> ❖ Carry out the Registration of documents for the lands acquired for the sites. ❖ Land Administration services that include the change of user for the sites. ❖ Land Valuation services including the determination of stamp duty. ❖ Preparation and approval of the part development plans. ❖ Survey services of determining survey of the boundaries and deed plan preparation.
National Government Administrative Officers (NGAOs)	<ul style="list-style-type: none"> ❖ NGAOs shall take lead in ensuring security, support in conducting extensive public awareness and consultations with the affected people. ❖ Help ensure that relevant authorities promptly address local concerns raised by PAPs as regards resettlement, compensation etc. ❖ Resolve disputes that may arise relating to resettlement and compensation process. If it is unable to resolve/help refer such grievances to the independent grievance mechanism instituted.

	<ul style="list-style-type: none"> ❖ Ensure that the concerns of vulnerable persons such as the disabled, widowed women, PWD, orphaned children affected by the sub-project are addressed. ❖ Assist the PAPs in the process of compensation, including helping those who cannot write or read.
Contractor	<p>The contractor is to comply with all regulations and by-laws at the county level and other relevant regulations and laws, including:</p> <ul style="list-style-type: none"> ❖ Implementation of the contractor related aspects of the ESMMP and regularly (monthly) reporting. ❖ The contractor on his part will have to appoint an EHS officer and a Social Specialist to coordinate and report on the ESMMP implementation respectively. ❖ The contractor to engage a Community Liaison Officer (CLO) to act as a link between the community and the contractor and support the Social Specialist. ❖ The contractor will also have the obligation of managing the E&S risks related to his/her operations. ❖ Maintaining the required level of stakeholder engagement and communication, including providing project schedule information to the public, accepting and resolving public grievances, advertising and hiring local workers. ❖ Maintain a working Grievance Redress Mechanism (GRM). ❖ The contractor shall refer to ESIA recommendations and the ESMMP when preparing the contractors- ESMMP and the specific plans. ❖ The contractor shall take all possible precautions to prevent nuisance, inconvenience or injury to the neighboring properties and to the public generally and shall use proper precaution to ensure the safety of the community.
Contractor and Consultant E&S Officer	<ul style="list-style-type: none"> ❖ Preparation of the scope of work for third parties required for the development of the detailed management plans. ❖ Assistance in the selection and engagement of the third parties. ❖ Implementation of the monitoring activities, with procurement of material resources for tasks undertaken directly by the contractor or for outsourcing for specialist surveys. ❖ Preparation of annual work plan and resource scheduling. ❖ Liaison with the Owners' Engineer for the environmental supervision of the EPC Contractor and relation with communities during construction. ❖ Implementation of the RAP activities, which are under contractor's responsibilities. ❖ Coordination of the stakeholder engagement process, setting up and

	<p>management of the grievance redress mechanism.</p> <ul style="list-style-type: none"> ❖ Liaison with the governmental agencies involved in the ESMP monitoring including local authorities. ❖ Preparation of the periodic E&S performance reports disclosed to the Public and E&S Compliance report for the Lenders. ❖ Training sessions of the contractor’s officers on all the above so that internal capacity in E&S management is strengthened. ❖ The consultant ESHS officer will be required to monitor ESHS performance and generate various reports including production of minutes of monthly site visits and quarterly supervision reports detailing environmental, health, social and safety compliance on a quarterly basis. ❖ Reporting on the ESMP implementation progress and recommendations.
<p>Supervising Consultant (Resident Engineer)</p>	<ul style="list-style-type: none"> ❖ Create and interpret digital blueprints and structure plans including project timelines, budgets and staffing. ❖ Supervision of project sites for safety and efficiency and issuing of instructions to the contractor. ❖ Co-design project proposals, record incidents or errors and report regularly to the designer teams and/or client. ❖ Providing guidance to the construction, materials staff and study environmental effects of projects and installations. ❖ The consultant must appoint an ESHS officer who will be reporting on the ESHSMP implementation on Monthly basis. ❖ Supervise the timely implementation and completion of the in-kind compensation project.
<p>Project Implementation Unit</p>	<ul style="list-style-type: none"> ❖ Appoint a RAP implementation team comprising of Socio-Economist, Surveyor, Way Leave Officer, Environmentalist, Engineer, Land Valuer and Legal Officer, etc. ❖ Oversee the compensation process and monitor the registration of all rights and interests in land where land is acquired compulsorily. ❖ Hand-over in-kind compensation projects to communities before commissioning the mini-grids. ❖ In the cases for the distribution lines, prepare wayleaves agreements showing the specific affected plots, the proposed route and proposed compensation for the anticipated losses and/or damages to property along the way.

CHAPTER TWO: METHODOLOGY AND CATEGORIES OF PROJECT AFFECTED PERSONS

The preparation and updating of this Resettlement Policy Framework (RPF) entailed the following:

2.1 Literature Review

Baseline information from secondary literature was reviewed in the process of preparing and updating the RPF. Documents reviewed include:

- *Project Appraisal Document (PAD)*;
- *Constitution of Kenya, 2010*;
- *Land value amendment Act 2019*;
- *World Bank Involuntary Resettlement Operational Policy 4.12.*;
- *Land Act, 2019*;
- *Land Registration Act, 2012*;
- *Land Adjudication Act, 2015*;
- *Community Land Act, 2016*;
- *National Land Commission Act, 2012*;
- *KOSAP Land Acquisition Strategy*;
- *KOSAP Environmental and Social Impact Assessments (ESIAs)*.

2.2 Definition of Project Affected Persons (PAPs)

This RPF identifies PAPs as those negatively impacted by the project, potentially losing physical and non-physical assets such as homes, land, resources, income opportunities, and social networks. Impacts may be permanent or temporary, full or partial resulting from land expropriation or regulatory measures and can include restricted access to farming and fishing areas, protected forests, and grazing lands. The RPF applies to all displaced persons, regardless of the number affected or legal land title, with special attention to the needs of vulnerable groups like those below the poverty line, the landless, older persons, women, children, and marginalized groups.

2.3 Categories of Stakeholders

Stakeholders under KOSAP are categorized as Project Affected Persons and Other stakeholders.

- (i) Project affected persons (PAPs) are individuals, communities, households, institutions, and businesses whose assets may be lost and/or affected, including and other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities related to a given investment especially component 1 (installation of mini grids) and probably component 3 on

solar pumping for drinking water and irrigation. Two specific categories of PAPs identified as disadvantaged are discussed below.

a. Vulnerable, or disadvantaged groups (such as older persons, the sick; single mothers, children, PWDs, women; unemployed youth, and orphans; households headed by women that depend on sons, brothers, and others needing support and are especially vulnerable. The vulnerable groups are eligible for additional assistance under this RPF, as it is explained later in *Entitlement Matrix* Table 6.

b. Indigenous peoples (known in Kenya as Marginalized Groups (VMGs)). The framework adopts the World Bank's OP 4.10 s definition of VMGs, as distinct, vulnerable social and cultural groups with: self-identification as an indigenous group and recognition by others; collective attachment to distinct habitats or ancestral territories and their resources; separate customary cultural, economic, social, or political institutions; and an indigenous language different from the official language of the country or region.

(ii) Other Stakeholders. They include a diverse range of groups and individuals who have a vested interest in the project. Such as residents of the areas neighboring the project sites who may experience indirect effects, such as changes in local infrastructure or community dynamics, local governmental and non-governmental agencies, research institutions and media outlets.

2.4 Approximate Number of PAPs

Determination of the number of PAPs is not possible at the time this RPF was being compiled. However, the project anticipated beneficiaries are

- Component 1 (120 Mini-grids)- 54,589 Households; 800 enterprises and 180 public facilities with electricity. The project targets 304,589 Households and 1, 272, 525 people;
- Component 3a- 528 public facilities (348) through standalone solar and 180 through Mini-grids;
- Component 3b- Solar water pumps in 380 boreholes.

CHAPTER THREE: PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION

3.1 Introduction

The procedures will be carried out throughout preparation and implementation of the components and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a RAP is required, it will be prepared in accordance with guidance provided in this RPF. The RPF follows the guidance provided in the World Bank Operational Policy on Involuntary Resettlement (OP 4.12), as described in *Annex 8* as well as Constitution of Kenya, 2010 and Land Acts related to acquisition and resettlement. The RPF ensures that any possible adverse impacts of sub-project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks to PAPs.

3.2 RPF Principles under KOSAP

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

1. Involuntary resettlement and land acquisition will be avoided or minimized where feasible or compensated when unavoidable.
2. This RPF applies to all PAPs, regardless of the number affected, impact severity, or legal land title, treating informal tenure the same as formal titles.
3. Resettlement and compensation will be integrated into sustainable development programs, allowing PAPs to share project benefits.
4. PAPs will be meaningfully consulted and involved in planning and implementing resettlement activities.
5. PAPs will be assisted to improve or restore their livelihoods and living standards to pre-displacement levels or better.
6. Resettlement measures will ensure PAPs are informed of their options, included in consultations, and provided with prompt, effective compensation at full replacement cost.
7. PAPs will be identified early to prevent exploitation by non-residents and protect those affected.
8. Special attention will be given to VMGs, and other disadvantaged groups such as those below the poverty line, the landless, older persons, women, children, orphans, ethnic minorities, ensuring additional assistance to restore pre-project living standards.
9. Individual RAPs must be completed and implemented in a timely manner.

In summary, this framework aims to avoid or minimize involuntary resettlement, ensure fair compensation, involve PAPs in the process, and provide special assistance to vulnerable groups, with resettlement measures planned and implemented thoroughly.

3. Entitlement under RPF

3.1 Physical displacement

The project does not anticipate any physical displacement. However, if relocation becomes necessary due to the project's implementation under components 1, the Land Act mandates the Government of Kenya, through the NLC, to ensure prompt and fair compensation. The property's market value will be determined based on the conditions of the title, land tenure, and land use classification at the time of the acquisition notice. The RPF offers displaced individuals various resettlement options, including replacement housing, land, in-kind compensation or cash compensation based on the replacement cost. In accordance with OP 4.12, displaced persons will also receive full relocation costs in addition to the compensation amount, with special attention to the needs of the poor and vulnerable.

For those physically displaced with recognized rights, the project will provide replacement property of equal or better value and location or cash compensation at full replacement cost, which includes all expenses related to property replacement. The project will also compensate for non-land assets, such as dwellings and improvements. In-kind compensation, instead of cash, may be offered if mutually agreed upon by the involved parties, ensuring it meets or exceeds the value of the land. The Land Act 2012 stipulates that all displaced persons must receive fair compensation for relocation costs, disturbances, and legal fees. However, there may be a gap in ensuring these costs are covered unless the provisions of the RPF are followed, thus requiring the Implementing Agency to fully meet these costs in alignment with the RPF.

3.2 Economic displacement

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

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

In particular, the taking of land and related assets will take place only after full compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and relocation costs have been provided to economically or physically displaced persons. Where in-kind compensation in form of community infrastructure is constructed concurrently with the mini grids, the in-kind compensation project shall be completed and handed over to affected communities before the mini grid is commissioned.

CHAPTER FOUR: LEGAL AND REGULATORY FRAMEWORK

4.1 Introduction

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

The Kenyan law provides for three categories of land holding rights. Freehold tenure in Kenya grants absolute ownership of land, governed by the Land Registration Act, 2012, with generally no restrictions on use except in specific conditional cases. Leasehold tenure provides land use for a definite term, subject to fees and conditions, with government leases typically lasting up to 99 years for agricultural and urban plots. Public tenure involves land owned by the government for future use or public purposes, administered under the Land Act 2012 and the National Land Commission Act, 2012. The common law doctrine ensures that public resources like rivers, forests, and parks are held in trust by the state for public interest, preventing their detrimental alienation or misuse. According to the Community Land Act 2026, community land is (a) land declared as such under Article 63(2) of the Constitution; (b) land converted into community land under any law. Community land can be registered or unregistered. Community land in Kenya shall vest in the Community and maybe held under any of the following tenure system— (a) customary; (b) freehold; (c) leasehold; and (d) such other tenure system recognized under the Community Land Act 2016 or other written law. Subject to the provisions of the Community Land Act 2016 or any other written law, the State may regulate the use of community land in accordance with Article 66 of the Constitution. County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held. The respective county government shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land. Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition. Any such monies shall be deposited in a special interest earning account by the county government.

Table 2: Summary of relevant legal statutes applicable to KOSAP Component 1 and 3.

Legal Framework	Overall Objective	Functional Relationship to Resettlement
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40.	<ul style="list-style-type: none"> ❖ Part 1 of Chapter 5, articles 60 – 68, describes the principles of land policy. Land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas. ❖ Protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law: Article 40(3). ❖ Designates the NLC as the institution empowered to compulsorily acquire land ❖ 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). ❖ Section 75 of the constitution states that no property of any description shall be compulsorily taken possession of, and no interest in right over property of any description shall be compulsorily acquired, except where Property acquisition is justified when necessary for public benefit (defense, safety, order, morality, health, planning, or development), provided it offers reasonable justification for affected individuals and includes prompt full compensation as mandated by applicable law. ❖ Established the Environment and Land Court to handle all land and environmental matters with the status of a High Court, encouraging alternative dispute resolution mechanisms, and allowing individuals to petition for redress on compulsory land acquisition, compensation amounts, and damages, with fees potentially waived for financial hardship.
The Land Act 2019	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands.	<ul style="list-style-type: none"> ❖ It 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 public. ❖ The projects requiring resettlement are under the provision of this Act ❖ The Land Act 2012, Part III, section 27 recognizes the capacity of a child as being capable of holding title to land through a trustee and such a child shall be in the same position as an adult with regard to child's liability and obligation to the land. ❖ The Act provides just compensation for land compulsorily acquired for persons whose interest in the land has been

		determined.
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.	❖ Adjudicated or any other leasehold ownership interest on the land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	An ACT of Parliament to make further provision as to the functions and powers of the National Land Commission, qualifications and procedures for appointments to the Commission; to give effect to the objects and principles of devolved government in land management and administration, and for connected purposes	<ul style="list-style-type: none"> ❖ The Act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes. ❖ The Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.
The Land Adjudication Act 2015	Provides for the ascertainment and records in the rights and interest of the community land.	❖ 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.
Land Value (Amendment) Act 2019	This Act aims at standardizing the value of land in Kenya for the primary purpose of enhancing	<ul style="list-style-type: none"> ❖ The Act establishes valuer's registration board, which has the responsibility of regulating the activities and conduct of registered Valuers in accordance with the provision of the act ❖ It introduces Section 107A into the Land Act, which provides the criteria for the valuation of freehold and

	efficiency and expediting the compulsory land acquisition process for public projects.	community land. ❖ Section 5 introduces the forms in which compensation can be made.
Environment and Land Court Act, 2011	❖ This Act establishes Environment and Land Court, a court with status of high court which shall facilitate the just, expeditious, proportionate and accessible resolution of disputes related to land and environment, including compulsory land acquisition, land tenure, titles, boundaries, compensation, valuations, rates, land use and environmental planning	
Community Land Act 2016	An ACT of Parliament 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	<ul style="list-style-type: none"> ❖ It provides for the role of county governments. County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held. ❖ Also provides for the registration process for any community claiming an interest in or right over community land ❖ Procedure for recognition and adjudication of community land and confirmation of validity of customary rights of occupancy.

4.2 Comparison of Kenyan Laws and World Bank Requirements

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

Table 5 outlines World Bank policies on involuntary resettlement and compares them to Kenyan legislation on the same. Whenever the Kenya regulations on land acquisition are less stringent than that of OP. 4.12 the bank procedures will apply.

Table 3: Comparative Analysis of WB ESS 5 and GoK requirements and measures to address gaps

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
GENERAL REQUIREMENTS			
<ol style="list-style-type: none"> 1. Avoid forced eviction and involuntary resettlement; if unavoidable, minimize by exploring project design alternatives. 2. Mitigate unavoidable adverse social and economic impacts from land acquisition or land use restrictions. 3. Improve living conditions of physically displaced poor or vulnerable persons by providing adequate housing, services, facilities, and security of tenure. 4. Execute resettlement activities as sustainable development programs with sufficient investment resources for displaced persons to benefit directly from the project. 5. Ensure resettlement activities include appropriate information disclosure, meaningful consultation, and informed participation of affected individuals. 	<ol style="list-style-type: none"> 1. According to Kenyan Legislation, involuntary resettlement may occur because of projects implemented in public interest. 2. The Land Act 2012 outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures. 3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation. 	<ol style="list-style-type: none"> 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 inevitable. 2. Same as the World Bank. 3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It does not talk about improving livelihood or restoring them to pre-project status. 	<ol style="list-style-type: none"> 1. For each of the subproject, ensure that resettlement issues be considered at the design stage of the project in order to avoid/ minimize resettlement. 2. Implement World Bank's OP 4.12 provisions. 3. Displaced persons should be assisted in improving/restoring their livelihood to pre-project status.

PROCESS			
<p>Grievance:</p> <p>1. For physical resettlement, appropriate and accessible grievance mechanism will be established</p>	<p>1. Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court.</p> <p>2. Way Leaves Act Cap 292. The Act explains the process of resolving conflicts that arise in determining the compensation value.</p>	<p>1. Kenyan legislation meets OP 4.12 requirements.</p>	<p>N/A</p>
<p>Eligibility Criteria</p> <p><i>Defined as:</i></p> <p>1. those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);</p> <p>2. those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets - provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and 19 (c) those who</p>	<p>1. The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights</p> <p>2. Land Act 2012 also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood.</p> <p>3. The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants</p>	<p>1. 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>2. 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>3. Same as World Bank.</p>	<p>Eligibility Criteria</p> <p><i>Defined as:</i></p> <p>1. those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);</p> <p>2. 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—</p> <p>3. Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid (see Section 4).</p>

<p>have no recognizable legal right or claim to the land they are occupying</p> <p>3. <i>To determine eligibility:</i> Carryout resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>of land. However, this does not include those who illegally acquired land</p> <p>4. Land Act 2012 provides for census through NLC inspection and valuation process</p>		<p>4. Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
<p>Measures:</p> <p>Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based.</p> <p>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.</p> <p>World Bank OP 4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing,</p>	<p>Legislation provides for land for land compensation, but the Land Act 2012 does not state whether preference should be granted to land-to-land compensation.</p> <p>Land Act 2012 appears to prefer mode of compensation by the Government to the affected population.</p> <p>Land Act provides for prompt, just and full compensation before the acquisition of land has not been put in place.</p> <p>Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written claim not included in just compensation</p> <p>The Act is does not out rightly stipulate assistance for relocation, but we can</p>	<p>Land for Land provided for in the Land Act but act not specific on when it should apply except when the affected person chooses to receive land to land award.</p> <p>Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya</p> <p>Just compensation as stipulated in the Land Act not yet specifically defined.</p> <p>Land Act very clear on attorney fees that it is not included. ESS 5 includes those cost as part of full replacement</p> <p>OP 4.12 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 alternative options are considered in preference to providing cash compensation (as outlined in the Entitlement Matrix).</p> <p>Use World Bank OP 4.12 procedures in determining form of compensation</p> <p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Implement World Bank policy on Attorney's fees.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

<p>housing sites and/or agricultural sites to at least equivalent standards as the previous site.</p> <p>Replacement cost does not consider depreciation. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required.</p>	<p>interpret that relocation cost will be included in just compensation.</p>		
<p>Valuation: 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 houses and other structures, it is the market</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive fair and just compensation from NLC, as determined by National Land Commission..</p> <p>Land Act 2012 talks of fair and just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just and fair compensation.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP 4.12,</p> <p>Interpretation of ‘just and fair compensation has not been defined.</p>	<p>Apply the World Bank OP 4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p> <p>Apply World Bank OP 4.12 on valuation and compensation measures.</p>

<p>cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.</p>			
<p>Monitor: Adequate monitoring and evaluation of activities to be undertaken.</p>	<p>According to Land Act 2012 can be undertaken County Land Boards.</p>	<p>Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation.</p>	<p>Implement as prescribed in the World Bank's OP 4.12 and Kenyan Law.</p>

CHAPTER FIVE: ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

5.1 Category of Stakeholders

As elaborated in section 2.3 of this document, stakeholders under KOSAP are grouped into two. (i) PAPs (including Vulnerable or disadvantaged groups, and VMGs) and (ii) other stakeholders.

5.2 Eligibility Type for Compensation

Though the list can be amended after the socio-economic study and census undertaken for individual investments where other types of impacts could be identified. The following are some of the categories of impacts eligible for compensation:

- a)* Loss of land;
- b)* Loss/ damage to assets on land;
- c)* Damage to crops and trees (bio assets);
- d)* Loss of livelihoods (e.g., income);
- e)* Loss / damage / restriction from access to community / cultural assets and facilities (water pans, community centres, areas of cultural importance);
- f)* Loss / damage / restriction from access to public utilities (water network, sewer, roads).

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. The date will have to be communicated widely and timely to the potential PAPs (education/ awareness, and sanction). The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out for the preparation of investment specific RAPs during the census exercise. The entitlement cut-off date will be set when the assessment of persons and their property begins, preventing opportunistic invasions. County Administration will work with community leaders to identify land users and inform them of the cut-off date's significance. Table 6 below summarizes the entitlements for each group of affected persons.

Table 4: Entitlement Matrix

Land and Assets	Type of Impact	Person (s) Affected	Compensation / Entitlement/Benefits
Agricultural land	Less than 20% of land holding affected	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value, taking into account market values for land.
	Land remains economically viable	Community land (Registered and Unregistered)	Cash compensation for affected land equivalent to replacement value taking into account market value.
	Greater than 20% of land holding lost	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.
	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. The county government will be approached to allocate land for this project.
			Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location, which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.

			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 status + livelihood rehabilitation assistance).
Land users	Impact on livelihood	Land less, encroachers	Compensation to restore livelihood and ensure they will not be worse off because of the investments’ activities.
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business or estimates where such records do not exist).
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business or estimates where such records do not exist).
	Assets used for business severely affected	Title holder/business owner	Land for land replacement or compensation in cash according to PAP’s choice. Land for land

	If partially affected, the remaining assets become insufficient for business purposes		<p>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.</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>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates).</p>
		Business person is lease holder	<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). Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.</p>
Residential Land	<p>Land used for residence partially affected, limited loss</p> <p>Remaining land viable for present use</p>	Title holder	Cash compensation for affected land.

	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws</p>	Title holder	<p>Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost.</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 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>
Loss of unregistered community land		Community members	Compensation in-kind as prioritized by the community.

Loss of land in unregistered group ranches		Group ranch members	Compensation in-kind as prioritized by the community.
Loss of land in registered group ranches		Group ranch members	Compensation in-kind as prioritized by the community.
Loss of land owned by the National Police, county governments and the Ministry of Interior		Government agencies	No compensation for public land allocated to another government body.
Loss of land owned by the Kenya Forest Service (KFS) and Kenya Wildlife Service (KWS)		Government agencies	No compensation for public land allocated to another government body. However, payment of conservation fees to KWS and KFS as stipulated under their respective regulations is foreseen.
Buildings and structures	Structures are partially affected	Owner	Cash compensation for affected building and other fixed assets. Additional compensation of 15% of the value of the structure as disturbance allowance. Cash assistance to cover costs of restoration of the remaining structure. Additional compensation of 15% disturbance allowance.
	Remaining structures viable for continued use		
		Rental/ lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months rental costs.
	Entire structures are affected or partially affected	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available

			location which is acceptable to the PAP. Additional compensation of 15% disturbance allowance.
	Remaining structures not suitable for continued use		<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	<p>Cash compensation for affected assets (verifiable improvements to the property by the tenant).</p> <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</p>

			<p>of residence through involvement of the project.</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available).</p> <p>Rehabilitation assistance if required assistance with job placement, skills training).</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.</p>
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium.
Trees, Crops and Structures		Community members on unregistered community land; community members utilizing public land; members of registered and unregistered	During detailed design for power distribution lines and construction of the mini grid and community project, any crops, structures, trees, and community facilities shall be avoided to the extent possible. However, loss or damage to the above will be

		group ranches and government entities.	compensated/restored at full replacement cost, ⁴ in line with the provisions of the RPF.
Loss of use on public land (e.g., grazing, farming etc.).		Communities utilizing public land.	Communities do not own public land; however, they utilize public land with consent from the relevant agencies. The project will implement the infrastructure project prioritized by the community as compensation for the loss of public land use.
Loss of use on unregistered community land, unregistered group ranches and registered group ranches (e.g., grazing, farming etc.).		Communities utilizing unregistered community land, unregistered group ranches, and registered group ranches.	Compensation in-kind as prioritized by the community.
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,	Communities engaging in non-farming livelihoods such as	Livelihood restoration programs: Undertake to help the affected communities restore their livelihood.

⁴ A cost basis that will yield compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement).

	fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	hunters and gatherers, fisher folk, beekeeper.	
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished; trees removed). Add 15% disturbance allowance.

CHAPTER SIX: METHODS OF ASSETS VALUATION

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

1. Land and asset on land;
2. Crops and trees (bio assets);
3. Other livelihood sources (e.g., income);
4. Community / cultural assets and facilities (water pans, community centres, areas of cultural importance);
5. Public utilities (water network, sewer, roads).

Replacement cost for land and properties affected by investments will be based on the pre-project or pre-displacement market value of similar land or structures, including preparation, registration, and transfer costs. For agricultural land, this includes preparing the land and any related taxes. For structures, it includes the cost of building materials, labor, contractors' fees, and transportation. Resettlement and economic rehabilitation assistance will also be provided, with valuations conducted by registered Valuers using market prices. While individuals can choose their compensation type, in-kind compensation is preferred to mitigate inflation, security issues, and ensure income restoration, supplemented by training on investment of compensation cash.

6.1 Valuation Process of Assets

6.1.1 Field preparation of asset inventory

The REREC and KPLC teams will work closely with NLC, MoE and Locational Grievance Redress Committees (LGRCs), RAP Implementation Committees (RIC), which will be established in a given sub project. Each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the approach described above. The values of each asset will then be recorded in a register and shown to the affected person for agreement.

The register will be signed, and a copy given on the spot to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism. The information collected, including census, will have been compiled in electronic and hard copy form, with a separate file for each affected household, including *Census results; Asset inventory and valuation; Photographs; and Any other relevant information including current livelihood strategies of households.*

The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets or where unregistered community land is affected. Table 7 below describes the forms of compensation.

Table 5: Forms of Compensation

Form of compensation	Description
Cash Payments	<ul style="list-style-type: none"> Compensation will be calculated in Kenya Shillings, based on the replacement cost. Rates will be adjusted for inflation. The issue of security, especially for people who will be receiving cash compensation payments will be addressed by the local administration.
Land to land	<ul style="list-style-type: none"> Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
In-kind Compensation	<ul style="list-style-type: none"> In-kind compensation in form of prioritized community infrastructure projects will be preferred and encouraged, particularly for unregistered community land. When in-kind compensation is decided on, its value should be equal to or higher than the value of land taken by the project and accessible to, all PAPs. Memorandum of understanding between communities and the projects will be effected, stipulating the specific in-kind compensation project, roles, and responsibilities for construction, commissioning, and maintenance of the in-kind compensation projects.
Resettlement and Economic Rehabilitation Assistance	<ul style="list-style-type: none"> As applicable, assistance may include livelihood restoration measures, moving allowance, transportation and labor.

6.2 Methods for Valuing Assets in Kenya

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

6.2.1 Investment method

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

6.2.2 Direct comparison method

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

6.2.3 Replacement cost approach

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

6.2.4 Gross current replacement cost

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

6.2.5 Considerations for community land

Valuation for community land will vary across different communities and will highly relate to the customs, practices, physical attributes, livelihoods and economic activities. It will comprise legal, economic, social, cultural and environmental dimensions that take varied forms depending on purpose, community/ies context and timing. The variables that contribute to the value will not just be influenced by the host community but also the neighboring communities and their social economic activities. This process will be guided by the national laws and the World Bank policies

6.2.6 Compensation for buildings and structures

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

- (i) *Measurements of structures and detail of materials used;*
- (ii) *Average replacement costs of different types of household buildings and structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g., poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).*
- (iii) *Prices of these items collected in different local markets;*

- (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, Add 15% disturbance allowance;*
- (vi) Any associated taxes, registration fees.*

6.3 Compensation Methods

6.3.1 Calculation of crops and trees compensation rate

Compensation for crops will be paid at market rates, covering the value of crops and labor for preparing new land. Market value is based on the average of the last three years' prices, and labor costs for land preparation are compensated at community average wages. Each staple crop's value will be the highest market price over three years, validated by current prices from the County Agricultural office. Labor costs for land preparation include clearing, ploughing, sowing, weeding, and harvesting, compensated uniformly at prevailing market rates.

Most vegetable garden, form part of the residential space of most homes-though miniature in size, they make critical component of most family's food and nutritional supplement through provision of vegetables. Until a replacement garden starts to bear, the family displaced (economically or physically), will have to purchase vegetables in the market for daily use. The replacement cost, 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.

Support will be provided to prepare replacement land if needed at critical agricultural times, ensuring readiness by sowing dates. Farmers will receive cash compensation for sowing, weeding, and harvesting. Compensation for banana trees, which have shorter productive lives, will be based on full market rates for two years. Longer-lifespan fruit trees, like mango trees, will be compensated at combined replacement/market value. Wild productive trees on individual land will be compensated, while community trees in the bush will be compensated under community compensation, with rates based on the Ministry of Agriculture and Kenya Forest Service, ensuring market rates are used if higher.

6.3.2 Compensation for community assets

Community assets include community-owned assets such as water points, wells, marketplaces and community/ public facilities (e.g., schools, wells, clinics police posts). Community assets will be identified through the census and enumerated. In the event that community assets are affected, new facilities will be provided as per the needs of the PAPs However, if community trees are affected, the community will be compensated through provision of new seedlings equivalent to the value of lost trees. Some community assets such burial grounds in rare case may need to be moved, therefore the cost of moving graves and related structures should be considered.

6.3.3 Compensation for sacred sites

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

Under this RPF to the largest extent possible, the sacred sites and use of land that is defined to be cultural and/or sacred property under OP 4.12 will be avoided. Sacred sites will include but not restricted only to; museums, altars, initiation centers, ritual sites, ancestral tombs, trees, stones, and cemeteries, which are considered sacred by the project, affected persons. It will also include other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. However, if the impact on some cultural sites is unavoidable, utmost care will be taken to ensure that all related activities affecting such sites and compensation is culturally appropriate and acceptable to the involved community and that all the processes are done in a consultative manner and with full participation of the affected communities.

6.3.4 Compensation for loss of enterprises

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

6.3.5 Compensation for beehives

Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives are disturbed by the project activities, or access to hives is denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season's production costs of honey for each hive that is moved, and any reasonable costs associated with moving the hive.

6.3.6 Compensation for livelihood that are not necessarily land based

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

CHAPTER SEVEN: PREPARING AND APPROVING RESETTLEMENT AND COMPENSATION PLANS

This chapter describes how a determination will be made (screening) on whether investments under the project will lead to physical and/or economic displacement. If screening establishes that displacement will occur, then the section highlights the steps, process and methodologies for preparing Abbreviated or full RAPs. The RAPs for each investment will be prepared in accordance with this RPF, either as a stand-alone or annexes to the ESIA (if Abbreviated RAP).

7.1 The Screening and Resettlement Processes and planning process

7.1.1 Screening

This section outlines the screening process to determine if investments under components 1 and 3 will cause physical or economic displacements. Screening will use maps, engineering drawings, and satellite images to identify impacts on homes, farms, and other community assets. If resettlement-related impacts are identified, consultations and the preparation of a RAP will be initiated. Steps for each RAP include identifying PAPs, conducting socioeconomic surveys, and analyzing alternative sites.

7.1.2 Resettlement Processes and Planning

Once a sub-project location is decided and a census is conducted, the implementing agency begins the RAP preparation, including socioeconomic surveys to determine the scope and nature of resettlement impacts. The socioeconomic assessment will gather data on affected communities, including demographics, livelihoods, and socio-cultural characteristics.

7.2 Preparation of a Project specific RAP

Consultation and Participatory Approaches- A participatory approach will be used to involve PAPs throughout the compensation process. Consultations will start during the planning stages and continue through the RAP preparation process.

Notification -Eligible PAPs will be informed about the project and the RAP process. A cut-off date for determining PAP eligibility will be established at the start of the census or socioeconomic survey. The RAP team will notify all PAPs about this date and its significance through various means.

Notification to NLC- After the census, the implementing agency will request NLC's approval for land acquisition. NLC will inspect the land and approve its acquisition, followed by a public notification.

Documentation and Verification- NLC, along with registered valuers and resettlement committees, will meet with PAPs to discuss the compensation and valuation process. Documentation will include personal information, land holdings, and asset inventories for monitoring impacts.

Compensation and Valuation -Compensation options will be explained to PAPs, including in-kind and cash compensation. The NLC will prepare a contract listing all property and assets to be acquired, and compensation will be decided in consultation with PAPs. Compensation costs will be met by the Government of Kenya.

Payments- The Government of Kenya will fund the RAP implementation through the Ministry of Energy and Petroleum. The NLC will handle land acquisition and awarding compensation to PAPs.

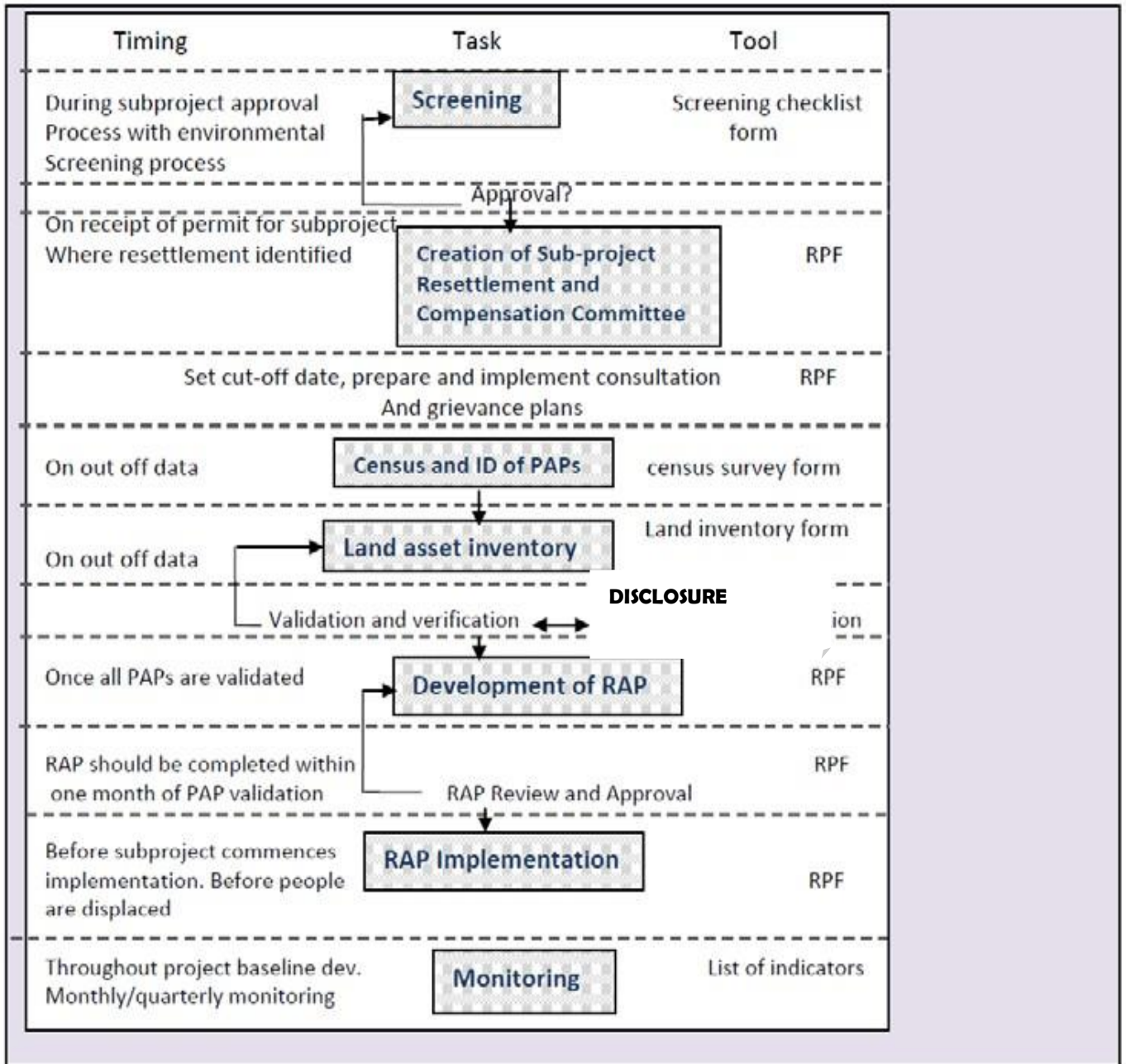
Grievance Mechanism -A grievance mechanism will be established to address disputes, with preference for Alternative Dispute Resolution (ADR) methods. PAPs will be informed about how to register grievances and the dispute resolution process.

Consultation -Investments will ensure informed participation of affected persons and communities in decision-making processes related to resettlement.

7.3 Approval of Resettlement Action Plans

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

Figure 1: Rap Screening and Approval Process



7.4 RAP Implementation Arrangements

Entity	Role
Ministry of Energy	<ul style="list-style-type: none"> • Select sites for mini-grid construction based on a criteria that avoids/minimizes physical and/or economic displacement. • Coordinate RAP implementation and provide budget for RAP implementation.
National Land Commission	<ul style="list-style-type: none"> • Implement the statutory process for compulsorily land acquisition, including site gazettement and inspections, inquiries, valuation, and award of compensation.
Kenya Power/REREC	<ul style="list-style-type: none"> • Monitor all land acquisition and compensation aspects (including RAP closure), complemented by a third-party monitor. • Provide budgets for stakeholder engagement, grievance management, and monitoring, including the facilitation of the Land Acquisition and Compensation Implementation Committee, and the Grievance Redress Committee. • Acquire wayleaves along the approved power distribution network corridors. The grant of access and wayleaves by the land proprietors is an important exercise that provides the safety to the development of the distribution network.
Mini-grid Contractor	<ul style="list-style-type: none"> • Implement in-kind compensation concurrently with the solar mini-grid project.
Supervising Consultant	<ul style="list-style-type: none"> • Monitor and report on implementation of in-kind compensation, and overall project compliance with social safeguards.
Grievance Redress Committees	<ul style="list-style-type: none"> • Formed at the locational, county, and national levels, and responsible for resolving complaints, including A-RAP related grievances.
RAP Implementation Committee	<ul style="list-style-type: none"> • Coordinate RAP engagements at the community level, monitoring A-RAP implementation and closure. RAP Committees. (See annex 21 for the composition of the committee).
Affected Community	<ul style="list-style-type: none"> • Responsible for the operation and maintenance (O&M) of in-kind compensation project. An agreement stipulating the O&M roles and responsibilities of the community will be effected.

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

8.1 An overview

Before implementing any project investment, PAPs must be fully compensated according to the RPF and RAPs principles. Compensation and relocation assistance must be provided before displacement, with resettlement sites prepared as needed. The implementation schedule for RAP activities will be agreed upon by NLC, the implementing agency, MoEP, RAP Committees, and PAPs, ensuring alignment with the law and linking resettlement activities to civil works. No individual or household will be displaced before receiving compensation and resettlement provisions. Measures for managing grievances related to eligibility, valuation, and RAP implementation are outlined in this chapter.

8.2 Implementation Schedule

Once investment/sub-projects are identified and screened, each will have its own implementation schedule within the Resettlement Action Plan (RAP), covering initial baseline and preparation, relocation, and post-relocation activities. This includes setting target dates for benefits realization. Monitoring and evaluation arrangements will be devised during RAP preparation. Workshops will coordinate tasks among stakeholders, focusing on legal compensation frameworks, institutional arrangements, stakeholder responsibilities, and task-based work plans aligned with the RAP.

8.3 Grievances Redress Mechanism

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

The grievance procedure will be simple and will be administered, as far as possible, at the project level by the independent grievance redress committee (GRC) at the locational, county and national level. Cascading down there will be the Locational Grievance Redress Committee (LGRC) based in each administrative location. It will be established by through PAPs consultative meetings chaired by the representative of the implementing agency. LGRC will act as the voice of the PAPs and will work under guidance and coordination of the County Grievance Redress Committee (CGRC) in handling PAPs grievances. Some of the grievances can be resolved at this level. If not, the LRCC will assist the PAPs to address their grievances to the CGRC.

The outlined in this RPF will not replace existing legal dispute and grievance redress in the country especially in respect to what will be set up by the NLC, which PAPs will be persuaded to use as an option of last resort if they feel dissatisfied. The current Kenyan constitution section 159, Land and Environmental Court Act 2011, National Land Commission Act 2012 and Land Act 2012 advocates for alternative dispute resolution mechanisms before seeking formal legal redress in disputes relating to land and resettlement. In practice, this can be the village head and other local or traditional dispute resolution mechanisms.

During the initial stages of the valuation process, the affected persons will be given copies of grievance procedures as a guide on how to handle the grievances. This will include who to contact (a phone number, address and location, time) as well as type of grievances to be reported.

Should a PAP refuse the compensation suggested, the individual PAP has the right to take his/her case to the civil court for litigation. The Land Act 2012 and National Land Commission Act 2012 obligate the NLC to support grievances and disputes related to resettlement or land amicably in conjunction with KPLC/REREC. KPLC/REREC will be expected to put in place mechanisms and structures that arbitrate or negotiate with PAPs or landowners whenever there are any grievances concerning their compensation.

8.3.1 Detailed procedures for grievance management

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

1. The affected person will file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing to the LGRC. The grievance note should be signed and dated by the aggrieved person. A selected member of the LGRC will act as

the sub–Project Liaison Officer (PLO) who will be the direct liaison with PAPs.

- 2.** The PLO will be working in collaboration with the other LGRC members. Where the affected person is unable to write, the PLO will write the note on the aggrieved person’s behalf. Any informal grievances will also be documented by the sub–Project Liaison officer. The note should be embossed with the aggrieved person’s signature or thumbprint. A sample grievance form is provided in Annex 5. A copy of this completed form should be submitted by the sub–Project Liaison Officer to LGRC.
- 3.** The Project Liaison Officer and LGRC will consult to determine the validity of claims. If valid, the Committee will notify the complainant that she/he will be assisted, and a response will be given in the due time.
 - a.** The LGRC will meet and respond within 14 days during which time any meetings and discussions to be held with the aggrieved person will be conducted. If the grievance relates to valuation of assets, a second or third valuation will be undertaken, at the approval of CGRC until both parties accept it. Separate independent valuers than the person who carried out the initial valuation should undertake these. The more valuations required to achieve an agreement by both parties, the longer the process will take. In this case, the Project Liaison Officer must notify the aggrieved person that his/her complaint is being considered.
 - b.** Traditional local mechanisms will be used and will include local leaders and the affected persons trying to find a solution with the concerned parties. These will ensure transparency, fairness, consensus building across cases, eliminate nuisance claims and satisfy legitimate claimants at low cost.
- 4.** If the Committees reject the complainant’s claim, the Sub Project Liaison Officer will assist the aggrieved person to take the matter to the CGRC. The CGRC will look at the complaint raised by the PAPs and provide direction, explanation and a response. Sometimes, it will necessitate the aggrieved person to present himself or herself to CGRC for explanation. All efforts will be made to try to reach some consensus with the complainant.
- 5.** If the aggrieved person does not receive a response or is not satisfied with the outcome by the CGRC within the agreed time, they may lodge their grievance to the County Land Office, also mandated to help resolve such matters and NLC, which will be the main formal body for grievance mechanisms.
- 6.** Where matters cannot be resolved through local routes, the grievance will be referred to courts. The CGRC will aid at all stages to the aggrieved person to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible.
- 7.** All the processes will be documented, including the names, the type of grievances, what was

done to resolves it, if it was resolved (if not what was the next step taken). The Project Liaison officer will ensure that each complaint has an individual reference number and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- a. Date the complaint was reported;*
- b. Date the grievance log was uploaded onto the Sub project database;*
- c. Date information on proposed corrective action sent to complainant;*
- d. The date the complaint was closed; and*
- e. Date response was sent to complainant.*

CHAPTER NINE: RPF IMPLEMENTATION BUDGET

9.1 Introduction

The cost of resettlement and compensation for each investment will be determined during socio-economic studies for individual Resettlement Action Plans (RAPs). The Government of Kenya will finance all compensation costs as they are responsible for livelihood impacts. Exact numbers of affected individuals cannot be estimated until technical designs are finalized. Detailed budgets will be prepared once impacts, incomes, and demographic data are known from site-specific studies. Each RAP will include a detailed budget template for accurate resettlement and compensation costs, with land acquisition expenses specified in site-specific RAPs.

Table 6: Illustrative budget template for the RAP

Asset acquisition	Amount number	or Total cost	estimated	Agency responsible
1. Compensation				
• <i>Loss of land and assets on land</i>				
• <i>Loss/damage to business structures</i>				
• <i>Loss/damage to community facilities</i>				
• <i>Damage to utilities (water, electricity)</i>				
• <i>Loss/damage to crops, trees</i>				
2. Stakeholder Engagement				
3. Grievance management				
4. Capacity Building				
5. Monitoring RAP implementation				
6. RAP completion Audit				
Contingency (10%)				

9.2 RPF Implementation Budget

The RPF implementation budget refers to all costs that will be incurred to implement the requirements or recommendations of this safeguard instrument. The RPF requirements ensure that implementation of the projects integrates social issues for the sustainability of the project as well as the sub-projects. Among other things, the RPF recommends the following key issues:,

compensation for losses/damages, stakeholders engagement, grievance management, capacity building, monitoring RAP implementation, auditing RAP completion etc.

The staff who will be involved in the implementation of the project should be trained to enhance their skills on social land acquisition issues. Building the capacity of staff from implementing division/departments/ sections such as Projects and SHE will enable them to screen, review and monitor social issues associated with KOSAP Components to ensure compliance with requirements of the national policies and Acts as well as World Bank Safeguard Policies. The estimated budget for would be KES 31,000,000.00 as per the table below:

Table 7: Estimated cost level for RPF implementation

No	RPF proposed actions	Concerned institutions	Level of cost (KES)
1	Stakeholder engagement; awareness creation, and RPF disclosure to affected persons	MoEP, REREC and KPLC	3,000,000
2	Consultations on land acquisition	MoEP, REREC and KPLC	10,000,000
3	RAP preparation	MoEP	15,000,000
4	Operationalizing the LGRC	REREC and KPLC	1,500,000
5	Trainings/capacity building for national and county levels project staff	MoEP, REREC and KPLC	1,500,000
TOTAL COST			31,000,000

CHAPTER TEN: PUBLIC PARTICIPATION AND CONSULTATION

10.1 Introduction

Public consultations and participation are crucial for involving potential Project Affected Persons (PAPs) in project design and implementation, thus minimizing conflicts. In Kenya, where land administration is deeply rooted in tradition and culture, consultations with rural communities are essential, particularly regarding resettlement and compensation concerns. Consultations will occur at project inception and continue throughout, including stages such as socio-economic studies, resettlement planning, environmental assessments, and compensation contract preparation. Engagement methods will include public meetings, involving local chiefs/elders, to ensure inclusivity, considering the low literacy levels among rural communities. Traditional and local leaders will play a vital role, especially in cases of involuntary resettlement, ensuring cooperation and effective feedback.

Active involvement of PAPs and host communities during RAP preparation is crucial for cooperation, feedback, and choosing resettlement alternatives. Special attention will be given to vulnerable groups like the landless, Persons with Disabilities (PWD), and women. Conflicts between hosts and resettled persons will be mitigated through informed and consulted planning, including host communities in resettlement exercises, and promptly compensating hosts for resources provided to resettled persons. Improvements in host communities' conditions and services, such as education and health, aim to prevent conflicts and facilitate integration. Local leadership will be encouraged to take responsibility for environmental management and infrastructure maintenance, with grievance committees playing vital roles in communication and complaint management with affected communities.

10.2 Data Collecting Phase

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

10.3 Implementation Operation

During implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount and size of land offered for compensation

will be presented to each eligible PAPs for consideration and endorsement before cash payment or land compensation can be effected.

10.4 Monitoring and Evaluation Phase

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

The public consultations are to be carried out on the different platforms that is national, county and sub county levels on different dates timely communicated to PAP representative. RAP monitoring and evaluation shall assess the following tenets:

- RAP management;
- Land acquisition;
- Land reinstatement and land exit;
- Restrictions on land use;
- Livelihood restoration;
- Vulnerability (people and groups);
- Gender integration;
- Cultural heritage;
- Benefit sharing;
- Cumulative impacts;
- Stakeholder engagement;
- Grievance redress.

CHAPTER ELEVEN: MONITORING AND EVALUATION

11.1 Overview

The monitoring arrangements will align with the overall KOSAP monitoring plan. All RAPs will establish socio-economic goals to evaluate their success, including maintaining or improving pre-project living standards for affected individuals, ensuring local community support for the project, minimizing conflicts, and achieving PAP satisfaction with the resettlement process. To assess these goals, RAPs will specify monitoring parameters, set milestones, and allocate resources for conducting monitoring activities. The objective of the monitoring will be to determine:

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

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

11.3 RAP Monitoring Methodology

Baseline data will be collected from different sources, including the census and socio-economic study undertaken for the preparation of individual RAPs. In addition, the information collected by the RAP Committees will be used. Finally, questionnaire (in the case of independent monitoring), and focus groups discussions will be used to collect data and information.

11.2 Responsibility for Monitoring

RAP monitoring will be done at two levels: during the regular monitoring of the project by the implementing entities (MoEP, KPLC, REREC, RAP Committees) and by the World Bank every six months.

11.4 Indicators to Determine Status of Affected People

A number of indicators will be used in order to determine the status of all affected people as shown in the table below. Monitoring indicators will depend on nature of the project.

Table 8: Project monitoring indicators

Subject	Indicator	Variable
Land	Acquisition of land	<ul style="list-style-type: none">• Area of cultivation land acquired for developments• Area of communal land acquired for developments• Area of private land acquired

		<ul style="list-style-type: none"> • AREA of government land acquired
Buildings/ structures	Acquisition of buildings	<ul style="list-style-type: none"> • Number, type and size of private buildings acquired • Number, type and size of community buildings acquired • Number, type and size of government buildings acquired
	Acquisition of other structures	<ul style="list-style-type: none"> • Number, type and size of other private structures acquired • Number, type and size of other community structures acquired
Trees and crops	Acquisition of trees	<ul style="list-style-type: none"> • Number and type of trees cut
	Destruction of crops	<ul style="list-style-type: none"> • Crops destroyed by area, type and ownership
Compensation, re-establishment and rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> • Number of homesteads affected (buildings, land, trees, crops) • Number of owners compensated by type of loss • Amount compensated by type and owner • Number of replacement houses constructed • Size, construction, durability and environmental suitability of replacement houses • Possession of latrines • Water supply access • Number of replacement businesses constructed
	Re-establishment of community resources	<ul style="list-style-type: none"> • Number of community buildings replaced • Number of seedlings supplied by type • Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> • Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)
Social/ Demographic	Changes to homestead structure	<ul style="list-style-type: none"> • Household size (average number of households) • Status of “vulnerable” homesteads • Residential status of homestead members • Movement in and out of the homestead (place and residence of homestead members)
	Access to social facilities	<ul style="list-style-type: none"> • Distance/travel time to nearest market centre, church, shop
	Changes to health status	<ul style="list-style-type: none"> • Nutritional status of resettled homestead members • Number of people with disease, by type (STDs, diarrhea, malaria, malnutrition conditions) • Mortality rates-Deaths registered per household • Access to health care services (distance to nearest facility, cost of services, quality of services) • Utilization of health care services

	<ul style="list-style-type: none"> • Disease prevention strategies • Extent of educational programmes • Latrine provision at schools • Access to clean water sources
Changes to educational status	<ul style="list-style-type: none"> • Literacy and educational attainment of homestead members • Access to education facilities • School attendance rates (age, gender) • Number, type of educational establishments
Changes to status of women	<ul style="list-style-type: none"> • Participation in training programmes • Use of credit facilities • Landholding status • Participation in KPLC and REREC-related activities and enterprises
Homestead earning capacity	<ul style="list-style-type: none"> • Ownership of capital assets • Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) • Landholding status (tenure) • Changes to livestock ownership: pre- and post-disturbance • Value of livestock sales, and imputed value of barter transactions • Employment status of economically active members • Skills of homestead members • Earnings/income by source • Changes to income-earning activities (agriculture) – pre- and post-disturbance • Changes to income-earning activities (off-farm)– pre- and post-disturbance • Amount and balance of income and expenditure • realization of homestead income restoration plans (components implemented, net income achieved) • Possession of bank and savings accounts • Access to income-generating natural resource base (wood, grass, sand, stones)
Changes in social organization	<ul style="list-style-type: none"> • Organizational membership of homestead members • Leadership positions held by homestead members
Population influx	<ul style="list-style-type: none"> • Growth in number and size of settlements, formal and informal

		<ul style="list-style-type: none"> • Growth in market areas
Consultation	Consultation programme operation	<ul style="list-style-type: none"> • Number of local committees established • Number and dates of local committee meetings • Type of issues raised at local committees' meetings • Involvement of local committees in KPLC development planning • Number of participating NGOs
	Information dissemination	<ul style="list-style-type: none"> • Meetings held • Minutes of meetings • Modes of communication used
	Grievances resolved	<ul style="list-style-type: none"> • Number of grievances registered, by type • Number of grievances resolved • Number of cases referred to court
Training	Operation of training programme	<ul style="list-style-type: none"> • Number of local committee members trained • Number of affected population trained in Project-related training courses
Management	Staffing	<ul style="list-style-type: none"> • Number of implementing agencies by function • Number of GoK ministry officials involved by function
	Procedures in operation	<ul style="list-style-type: none"> • Census and asset verification/quantification procedures in place • Effectiveness of compensation delivery system • Number of land transfers effected • Co-ordination between local community structures, KPLC and GoK officials

Most of the information for these indicators will be collected through survey, interviews and focus group discussions (FGD) with the affected communities. The data for these indicators will be collected every six months during the RAP implementation by the implementing agency, and World Bank.

The pre-project census information will provide most, if not all of the required information to set a baseline against which performance can be tracked. In addition to the existing baseline data, the following steps will be taken to ensure the proper monitoring of the RAPs:

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

11.5 Regular Monitoring of RPF/RAP Implementation

Basic information related to compensation will be compiled and sent to the implementing agency as part of the regular monitoring. Some of the information which will be collected at the SCRCC level will include (time to gauge the performance of the):-

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

REREC, KPLC will review the statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. Financial records will be maintained by NLC, REREC, and KPLC to permit calculation of the final cost of resettlement and compensation per individual or household and they will be included in the monitoring report. The statistics will also be provided to the external independent consultant/agency that will be contracted on an annual basis to monitor the implementation of the RAPs.

11.6 Completion audit

A comprehensive completion audit will be conducted after the implementation of a Resettlement Action Plan (RAP) to evaluate whether the resettlement objectives have been met. The assessment will review the socio-economic conditions of the affected individuals, households, and communities to ensure they have either maintained or improved their pre-project living standards. It will also assess the effectiveness of the compensation, relocation processes, and the resolution of grievances. The audit will include consultations with PAPs to gauge their satisfaction with the resettlement outcomes and identify any outstanding issues that require further attention. The results will in overall help determine the success of the resettlement efforts and provide insights for future projects.

ANNEXES

ANNEX 1: GLOSSARY OF TERMS

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

ANNEX 4: COMMUNITY ASSET AND INFRASTRUCTURE

ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM

ANNEX 6: TORS FOR DEVELOPING A RAP

ANNEX 7: OUTLINE FOR THE RAP

ANNEX 8: INVOLUNTARY RESETTLEMENT OP.4.12

ANNEX 9; ANALYSIS FOR THE RESPONSE /COMMENTS AND REMARKS

ANNEX 10: MINUTES FOR PUBLIC CONSULTATION HELD IN NAIROBI

ANNEX 11: MINUTES OF PUBLIC CONSULTATION FOR NAROK COUNTY

ANNEX 12: MINUTES OF PUBLIC CONSULTATION FOR TAITA TAVETA COUNTY

ANNEX 13: MINUTES OF PUBLIC CONSULTATION FOR GARISSA COUNTY

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ANNEX 17: MINUTES OF PUBLIC CONSULTATION FOR TURKANA COUNTY

ANNEX 18: MINUTES OF PUBLIC CONSULTATION FOR WEST POKOT

ANNEX 19: FORMAL PROCESSES INVOLVED IN COMPULSORY ACQUISITION OF LAND

ANNEX 20 : FORMAL PROCESSES INVOLVED IN COMPULSORY ACQUISITION OF LAND

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

- **Step 1:** An acquiring authority makes a formal request to the NLC indicating the purpose of the land to be acquired. The request should prove that the land is needed for public purpose. It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act, 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defense, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit; and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.
- **Step 2:** The Commission will consider the request in view of the guidelines. If the Commission is convinced that the land is required for public purpose, the Commission will write to the Acquiring Agency to that effect and directs them to acquire the land. The respective Cabinet Secretary or Government agency or the County Executive Committee Member (CECM) must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The NLC will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. However, at the same time, the NLC may reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

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

Step 3: The Commission will then give “Notice of Intention” to acquire the land in the “Kenya Gazette or County gazette” side by side with the “Notice of Inquiry”. The public announcements will be made widely in standard mass communication avenues such as newspapers. It will then serve a copy of the notice to every person interested in the land

and deposit the same copy to the Registrar. The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body.

The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” must mention places and fixed dates when persons interested in the subject land are to submit their claims to the NLC or their appointee. The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

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

- **Step 4:** Part III of the Land Act 2012, section 113 (2a) states that “the Commission shall determine the value of conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the persons interested in the land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae stipulated that it would develop. Nonetheless, just compensation could also be interpreted as market rated. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.
- **Step 5:** The award will then be issued in the prescribed form indicating the amount of compensation awarded while the statement form gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, NLC or acquiring authority will issue a first offer cheque, which may be interpreted as the first tranche in settlement. During receipt, the landowner will sign an acceptance letter when receiving the first tranche.

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

- (i) It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.
- (ii) It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.

- (iii) Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.
- (iv) Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.
- (v) Reasonable expenses, if because of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant's life).
- (vi) Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the Commissioner takes possession of the land.

Matters not to be considered in determining compensation:

- a) The degree of urgency, which has led to the acquisition.
 - b) Any disinclination of the person's interest to part with the land.
 - c) Damages sustained by the claimant, which will not represent a good cause of action.
 - d) Damages which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future land use.
 - e) Increased land value accrued by its future use.
 - f) Any development at the time of acquisition notice unless these improvements were necessary for maintaining the land.
- **Step 6:** After receipt of first tranche a "Notice of Taking Possession and Vesting" will be issued by NLC or acquiring authority on the exact date of taking possession. The notice will instruct the landowner to take his/her title for amendment or cancellation. It is copied to the Government Land Registrar to make necessary changes to the affected deed. On the other hand, if the owner rejects the award, the NLC or acquiring authority deposits the money in special account pending the former's appeal. Compensation will be based on 'just compensation'.

Under the Land Act 2012 section 117, the State may award a grant of land in lieu of money compensation ("land for land"), upon agreement, and provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable. The law stipulates that any dispossessed person shall be awarded the market value of the land. The new law is silent on relocation support or disturbance allowance support. Compensation may also be done in-kind, through the infrastructure project but only after community engagement.

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

written claims.

- **Step 7:** A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that “first offer compensation shall be paid promptly” to all persons interested in land before a notice of acquisition is issued. Section 119 provides a supplementary condition and states that if the size of land is greater than the size of land in respect of which the award has been made, then NLC shall compensate for excess size “as soon as practicable.” Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.

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

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

- **Step 8:** Once first offer payment has been awarded, the NLC serves notice to all persons with interest in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.

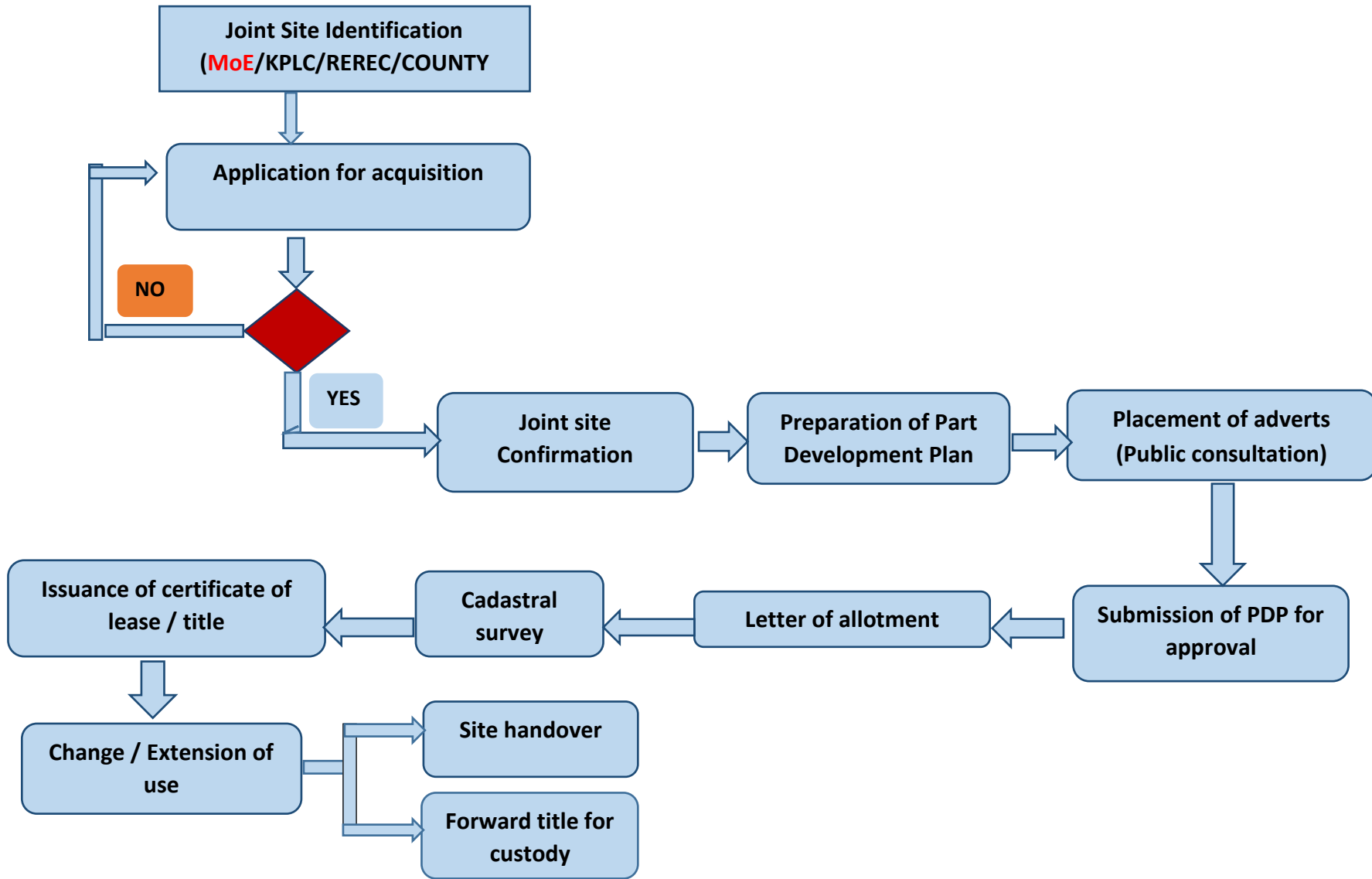
Section 117 of Land Act 2012 allows for in-kind compensation as follows: *“Notwithstanding anything contained in the Lands Act, where the land is acquired for the Government or County government, NLC may agree with the person whom he has determined to be the proprietor of the land that person, instead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

In cases where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire, and on the expiration of that time the Commission shall, notwithstanding

that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

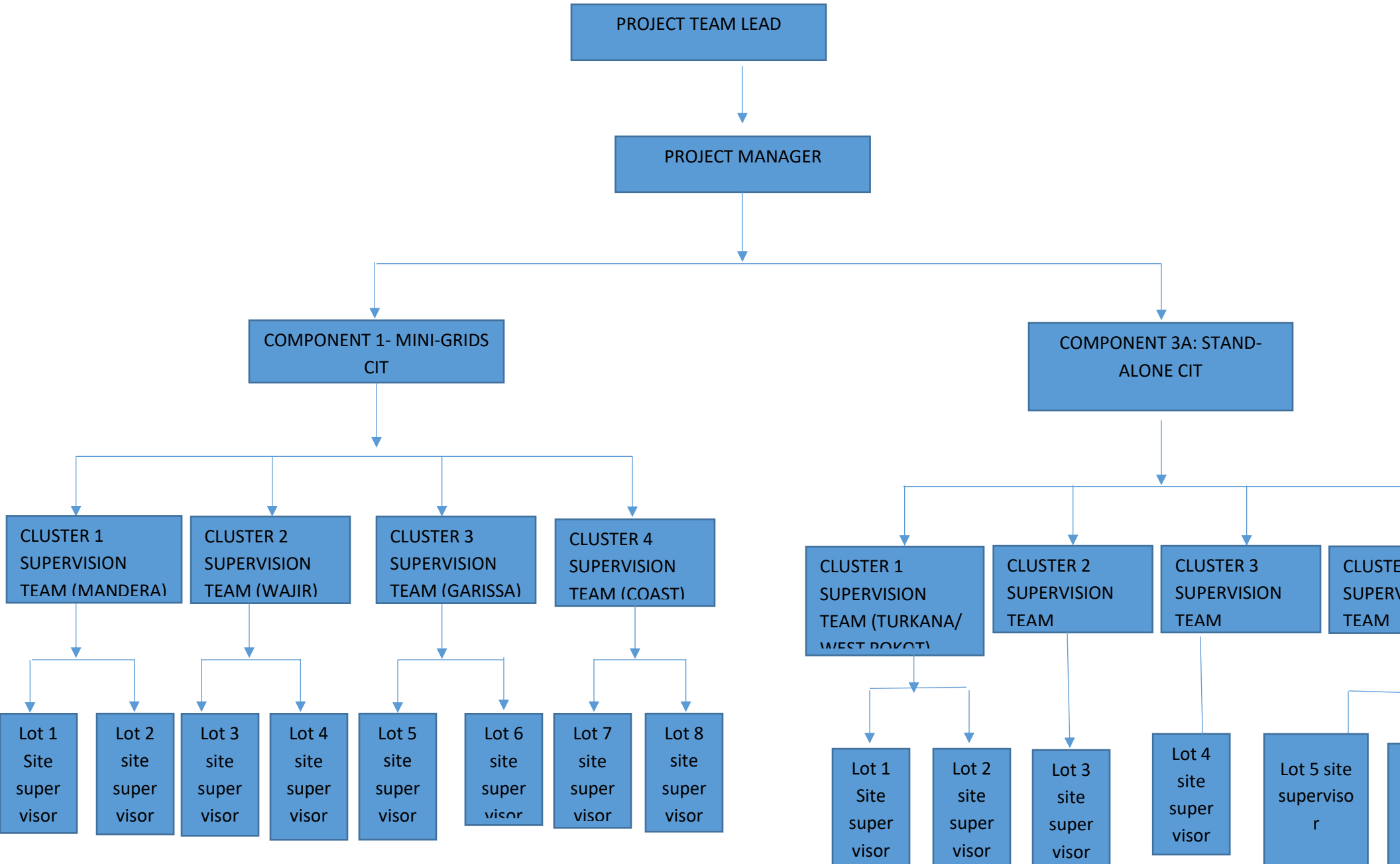
On receipt of the documents of title, the Registrar shall cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

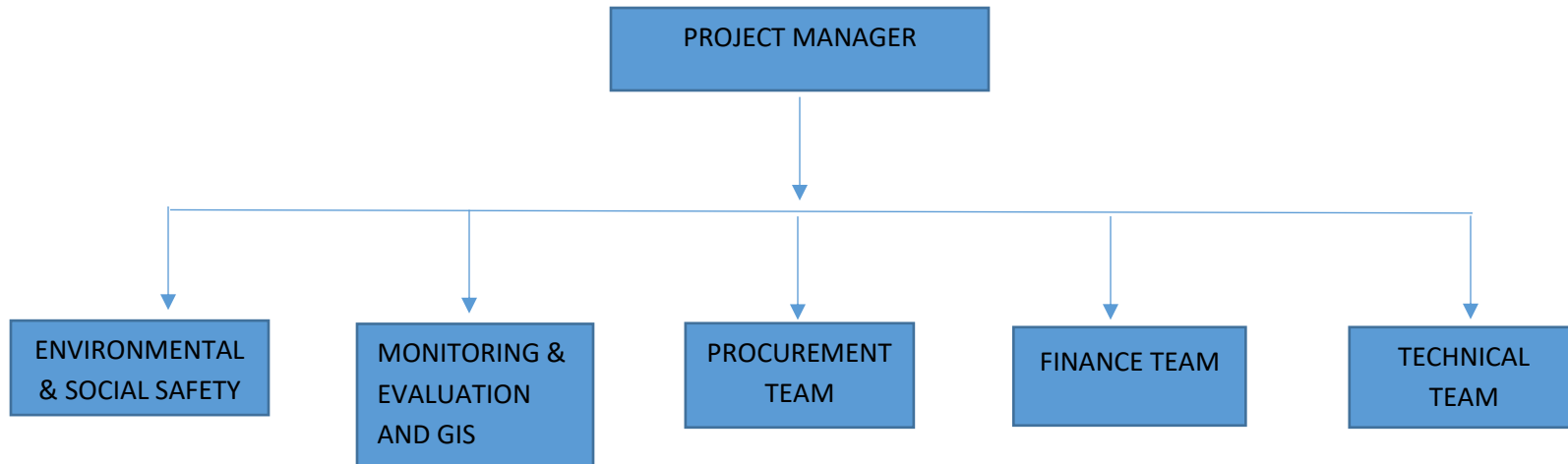
Figure 2: Procedures for allocation of Public Land to another public



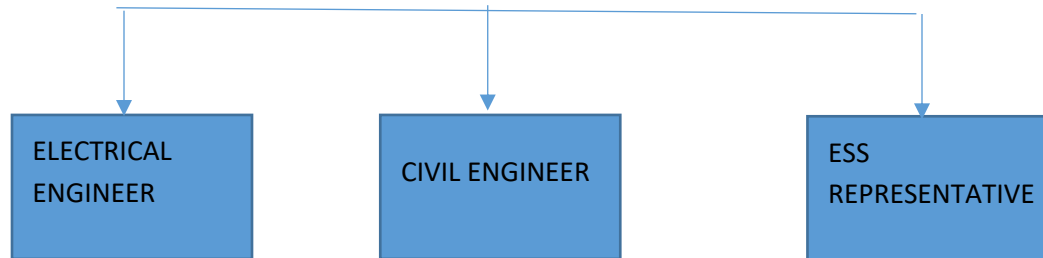
APPENDIX 21: KPLC AND REREC PROJECT IMPLEMENTATION UNIT

KPLC PROJECT IMPLEMENTATION UNIT





CLUSTER SUPERVISION TEAM



Members of the RAP COMMITTEES & THEIR ROLES

Membership (representative)	Roles in the RAP Implementation Committee (RIC)
Implementing Agency - IA	<ul style="list-style-type: none"> • Representative of the implementing agency as the acquiring institution
National Government and County Administration	<ul style="list-style-type: none"> • To provide the needed community mobilization, and support to the sub-project and to the process of resettlement
County Land Survey Officer	<ul style="list-style-type: none"> • To survey all affected lands and produce acquisition maps
County Gender & Social Development Officer	<ul style="list-style-type: none"> • To be responsible for livelihood restoration programs
County Lands Registrar	<ul style="list-style-type: none"> • To verify and validate all affected lands
Location Grievance Redress Committee	<ul style="list-style-type: none"> • Two PAP representative from the local resettlement committee to act as voice for the PAPs
NGOs and CBOs	<ul style="list-style-type: none"> • Those locally active in relevant fields to ensure effectiveness, fairness, just compensation, and transparent process in the whole acquisition process
Representative of Vulnerable or disadvantaged groups. E.g. PWDs, youth, women, older persons.	<ul style="list-style-type: none"> • To represent the views and concerns of the vulnerable or disadvantaged groups.
Representative minority VMGs. E.g. Where minority VMGs are present.	<ul style="list-style-type: none"> • To represent the views and concerns of minority VMGs.

The RIC will have the following specific responsibilities:

- Ensuring effective flow of information between NLC and PAPs and the implementing agency and the PAPs.
- Coordinate activities between the various organizations involved in relocation; facilitate grievance and conflict resolution; and provide support and assistance to vulnerable groups.

- Conducting extensive public awareness and consultations with the affected people so that they can air their concerns, interests and grievances.
- Resolving disputes that may arise relating to resettlement process. If it is unable to resolve any such problems, channel them through the appropriate formal grievance procedures laid out in this RAP.
- Assist with the livelihood restoration activities.

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

Table 9: Members of the LGRC and roles

Membership (representative)	Roles in the LGRC
Locational Chief	<ul style="list-style-type: none"> • To be the Government administrative representative at the locational unit and who deals with community disputes
Assistant Chiefs	<ul style="list-style-type: none"> • To support the locational Chief and Government in managing local community disputes in village units
Female PAP	<ul style="list-style-type: none"> • To be elected by women PAPs to represent women- and children-related issues as regards resettlement and compensations
Youth	<ul style="list-style-type: none"> • Youth representative elected by youths, will represent youth related concerns in the LRCCs
Male	<ul style="list-style-type: none"> • Male representatives elected by the members of the PAPs
Vulnerable/disadvantaged persons/minority VMGs	<ul style="list-style-type: none"> • Vulnerable persons representative will deal and represent vulnerable persons issues in the LGRC
Business representative	<ul style="list-style-type: none"> • Will represent business people concerns in LGRC
CBO representatives	<ul style="list-style-type: none"> • To ensure effectiveness, fairness, just compensation, and transparent process in the whole acquisition process

Membership of LGRCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will be automatic members of the team by virtue of their positions. Each of LGRC will elect their own chairperson and a secretary among themselves.

The roles of LGRC will include among others the following:

- Conducting extensive public awareness and consultations with the affected people.
- Help ensure that relevant authorities promptly address local concerns raised by PAPs as regards resettlement and compensation etc.
- Assist REREC and KPLC team working on RAP preparation and validation of it
- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve/help refer such grievances to the independent Grievance mechanism instituted. This shall be independent of the compensation committee whose members are elected by the PAPs after sensitization on the roles of such a mechanism.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women, orphaned children affected by the sub project are addressed.
- Assist the PAPs in the process of compensation, including helping those who cannot write or read.
- Help the vulnerable during the compensation and restoration for their livelihoods
- Ensure that all the PAPs in their locality are informed about the content of the RAP.

KPLC PROJECT IMPLEMENTATION UNIT

