

APPENDIX A
TERMS OF REFERENCE
Environmental and Social Studies for Transmission Lines

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1. BACKGROUND

Under the Least Cost Power Development Planning process and through feasibility studies, Kenya Transmission Company - KETRACO (the Client) has identified priority projects for implementation. The transmission projects will provide reliability, enhance security of supply to the existing demand hubs in the country; expand transmission capacity necessary to enhance electrification initiatives and reduce technical losses in areas currently served by long medium voltage lines. The Client plans to conduct detailed design, environmental and social studies on seven selected priority projects for development.

2. OBJECTIVE OF CONSULTANCY SERVICES

The objective of the consultancy services is to prepare studies that meet the environmental and social safeguard policies of the World Bank¹ and the relevant laws and regulations of the Government of Kenya², for the construction and operation of six new transmission lines and associated substations, and the introduction of a second transformer at 6 existing substations that will be financed under the Kenya Electricity System Improvement Project (KESIP).

NOTE: The term “subproject” is used throughout these ToRs for the individual transmission lines and substations upgrades funded under the Project (KESIP).

For procurement and execution of the assignment, the transmission lines have been divided into three separate packages shown below. Firms may submit proposals for the packages they will be shortlisted for provided they demonstrate adequate cumulative capacity and they meet cumulative qualification and experience requirement for the number of packages they submit proposals for. **This TOR is for Package 3.**

2.1. Package 1

1. Approximately 140km 132kV Rumuruti-Maralal double circuit line and new substation at Maralal
2. Approximately 40km 132kV Kilgoris -Kehancha double circuit line and new 132/33kV substation at Kehancha
3. Installation of 1X23 MVA 132/33kV transformers at the existing Narok and Bomet substations.

¹ The World Bank has designated 10 Operational Policies as environmental and social Safeguard Policies. KESIP triggers the safeguard policies on Environmental Assessment (OP 4.01), Natural Habitats (OP 4.04), Indigenous Peoples (OP 4.10), Physical Cultural Resources (OP4.11), and Involuntary Resettlement (OP 4.12).

ESIAs and ESMPs will cover OP 4.01, OP 4.04 and OP 4.11 requirements; while RAPs will cover OP 4.12 requirements, and VGMPs will cover OP4.10 requirements.

The following Safeguards Policies are not triggered by KESIP: Pest Management (OP 4.09), Forests (OP 4.36), Safety of Dams (OP 4.37), Project in Disputed Areas (OP 7.50), and Projects on International Waterways (OP 7.60).

The World Bank Group Environment, Health and Safety (EHS) guidelines are referenced in footnote 1 of OP 4.01. They are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). They define acceptable pollution prevention and abatement measures and emission levels in World Bank financed projects. The General Environment Health and Safety (EHS) Guidelines and the Guidelines for Electric Power Transmission and Distribution are applicable to KESIP.

² The relevant Kenyan environmental legislation and regulations include EMCA Act, 1999 as amended in 2015 and the Constitution of Kenya, 2010.

2.2. Package 2

1. Approximately 111km 132kV Kabarnet-Rumuruti double circuit and associated substation extensions
2. Approximately 70km 132kV Menengai-Olkalou-Rumuruti double circuit line and new 132/33kV substation at Olkalou
3. Installation of a 1X110 MVA 220/132kV transformer at the existing Kitale substation

2.3. Package 3

1. Approximately 60km 220kV Malindi-Kilifi double circuit line and new 220/132kV substation at Kilifi
2. Approximately 80km 132kV Machakos-Mwala-Sarara double circuit line and new 132/33kV substation at Mwala and Sarara
3. Installation of 1X23 MVA 132/33kV transformers at existing Kyeni, Mwingi and Malindi substations.,

The location of the transmission lines is indicated in Figure 1.

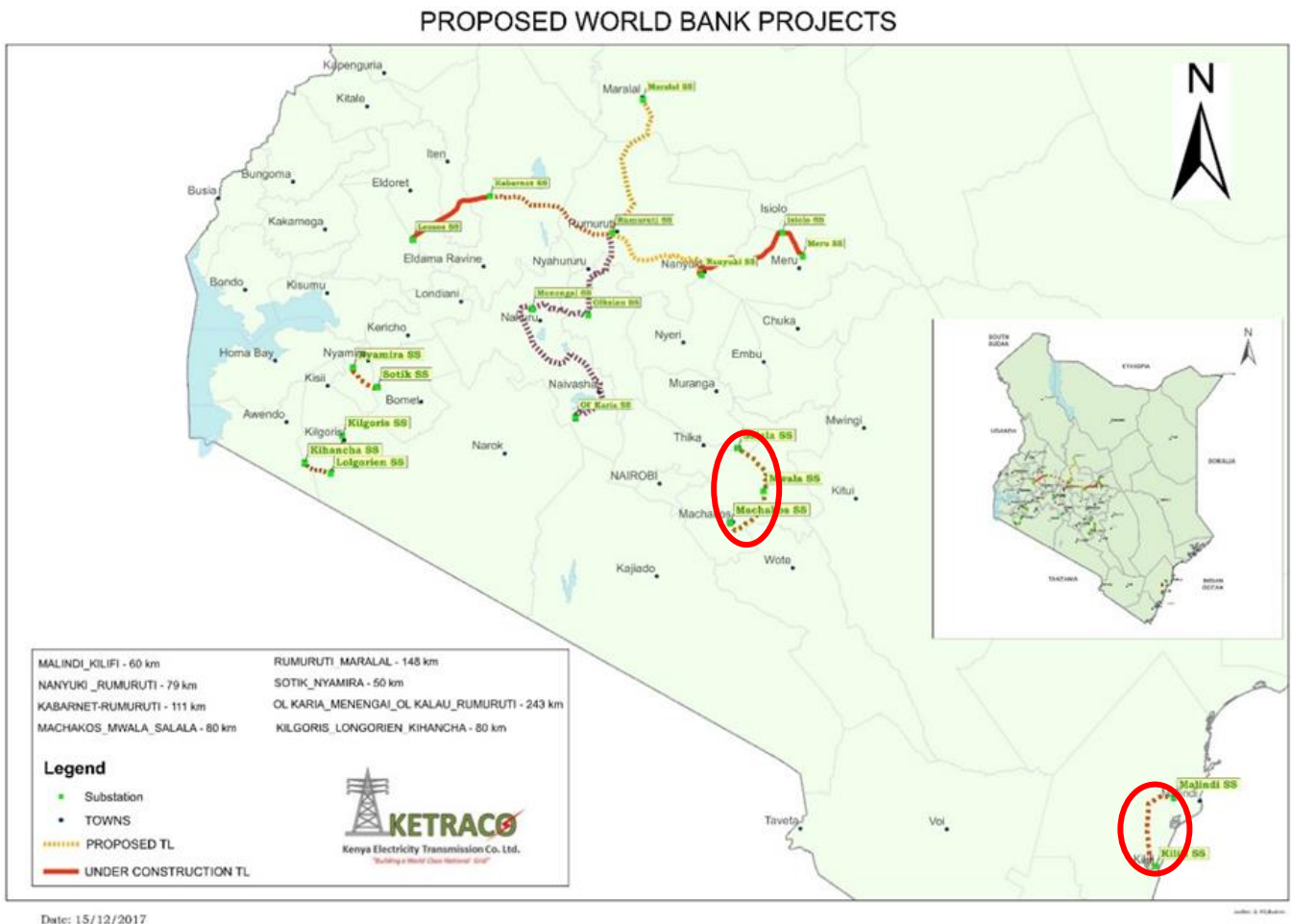


Figure 1. Approximate location of transmission lines

3. OVERALL SCOPE OF WORK

The proposed consultancy services include the preparation of the following three standalone documents, for each subproject:

1. Environmental Assessment consisting of: (i) an Environmental and Social Impact Assessment (ESIA), and (ii) an Environmental and Social Management Plan (ESMP)
2. Resettlement Action Plan (RAP)
3. Social Assessment in relation to Vulnerable and Marginalized Groups (VMG)

For each subproject, the consultant will ensure that these documents complement each other and cover environmental and social issues in a comprehensive and coherent manner.

4. SCOPE OF WORK FOR THE ENVIRONMENTAL ASSESSMENT

4.1. Guiding Principles

The World Bank's Operational Policies on Environmental Assessment (OP/BP 4.01), on Natural Habitats (OP/BP 4.04), and on Physical Cultural Resources (OP4.11) together with relevant Kenyan environmental legislation and regulations that includes EMCA Act, 2015 and the Constitution of Kenya, 2010, will be the guiding principle for this assignment.

The potential negative environmental and social impacts of KESIP subprojects are likely to include the loss of vegetation, electrocution of birds and other forms of wildlife, public health hazards such as noise, dust, emissions and ground contamination, occupational health and safety aspects, involuntary resettlement due to land acquisition and loss of livelihoods, and impacts on indigenous peoples' lands, territories, livelihoods and or culture. These must be fully identified and appropriate mitigation measures must be clearly defined and costed.

OP 4.01 Environmental Assessment

"The objective of OP 4.01 is to ensure that projects financed by the World Bank are environmentally and socially sustainable, and thus to improve decision-making." (paragraph 2)

"The Environmental Assessment (EA) takes into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples, and physical cultural resources); and transboundary and global environmental aspects. EA considers natural and social aspects in an integrated way. It also takes into account the variations in project and country conditions; the findings of country environmental studies; national environmental action plans; the country's overall policy framework, national legislation, and institutional capabilities related to the environment and social aspects; and obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements." (from paragraph 3)

"EA is initiated as early as possible in project processing and is integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project." (from paragraph 3)

OP 4.04 Natural Habitats

"The Bank does not support projects that, in the Bank's opinion, involve the significant conversion or degradation of critical natural habitats." (Paragraph 4).

“Wherever feasible, Bank-financed projects are sited on lands already converted (excluding any lands that in the Bank's opinion were converted in anticipation of the project). The Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs. If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to the Bank. Such mitigation measures include, as appropriate, minimizing habitat loss (e.g., strategic habitat retention and post-development restoration) and establishing and maintaining an ecologically similar protected area. The Bank accepts other forms of mitigation measures only when they are technically justified.”
(Paragraph 5).

OP 4.11 Physical Cultural Resources

“As an integral part of the EA process, the borrower develops a physical cultural resources management plan that includes measures for avoiding or mitigating any adverse impacts on physical cultural resources, provisions for managing chance finds, any necessary measures for strengthening institutional capacity, and a monitoring system to track the progress of these activities. The physical cultural resources management plan is consistent with the country's overall policy framework and national legislation and takes into account institutional capabilities with regard to physical cultural resources.”
(Paragraph 9)

4.2. Scoping of Environmental and Social Issues

As part of the Inception Phase, the Consultant will scope key environmental and social issues for each subproject to determine the key issues and questions that the ESIA and ESMP will assess, and the key issues that might affect the design of alternatives. This will include a preliminary analysis of potential key direct and indirect impacts of the subproject, as well as environmental and social conditions in the potentially affected areas. The Consultant will use this as a starting point for further refining the scope of the environmental and social studies through a consultative process.

The scoping study will include:

- a) a detailed methodology for the preparation of the ESIA and ESMP, with a timeframe for the ESIA/ESMP
- b) project report duly approved by NEMA to conduct a full study report
- c) ToRs for the full study report duly approved by NEMA
- d) a review of existing literature, including the feasibility study report
- e) proposed physical limits for the ESIA study area, appropriate to the issues
- f) key potential impacts and the types and levels of impacts to be assessed in the ESIA
- g) potential alternatives and re-routing for consideration in the ESIA
- h) review of information on the existing environment, recommendations for appropriate methods of survey/data collection to establish environmental conditions
- i) recommendations for appropriate methods for the prediction and assessment of impacts
- j) review of potential/need for know-how transfer to be included/incorporated into the ESIA/ESMP process
- k) a stakeholder engagement plan, including the identification and analysis of key

stakeholders, and a schedule of consultations during construction and operation that are gender and intergenerationally inclusive (in cooperation with the team doing the RAP and VGMP)

The output of the scoping study will be an inception report for each subproject that will detail a roadmap for the preparation of the subproject ESIA and ESMP.

4.3. Environmental and Social Impact Assessments

The consultant will prepare a separate Environmental and Social Impact Assessment (ESIA) for each subproject according to the following table of content (Adapted from World Bank OP 4.01, Annex B, *Content of an Environmental Assessment Report for a Category A Project*):

a. Executive summary

This section will summarize the description of the proposed facility and its environmental setting, and highlight key findings, recommended mitigation measures, and monitoring procedures.

b. Background

This Chapter will:

- explain the purpose of the ESIA and the timeline of its preparation
- summarize available literature on the subproject and its potential impacts; KETRACO will provide available literature to the Consultant, which will serve as a starting point
- also indicate for reference if a resettlement plan (RAP) or Vulnerable and Marginalized Group Plan (VMGP) will also be prepared

c. Project description

The Consultant will concisely describe:

- the proposed subproject (construction, operations and decommissioning), including the technology to be used and construction timeline
- the location of towers (transmission lines) or layout (substations)
- offsite facilities that may be required (access roads, quarries, worker camps, and raw material or product storage facilities)
- geographic location and areas of traverse (Counties), including large scale alignment sheets (provided by KETRACO)

d. Policy, legal, regulatory and institutional framework

This Chapter will discuss the policy, legal, and administrative frameworks within which the ESIA and ESMP are carried out. Most particularly, the Consultant will:

- (i) Review Government of Kenya requirements and procedures for the management of environmental and social issues, including labour, health and safety requirements.
- (ii) Describe the reporting requirements of the National Environmental Management Agency
- (iii) Review the requirements of the World Bank Safeguards Policies triggered under KESIP, including the World Bank Group General Environmental, Health and Safety (EHS) Guidelines and the Guidelines for Electric Power Transmission and Distribution
- (iv) Review the environmental, social and safety procedures of KETRACO
- (v) Analyse the gap between the triggered World Bank Safeguards Policies and Kenyans laws
- (vi) Explain the environmental requirements of any co-financiers.

- (vii) State the different compliance requirements that the Project must meet
- (viii) Identify relevant international environmental agreements, conventions and treaties to which Kenya is a party.

e. *Environmental and socioeconomic baseline*

The Consultant will collect, collate and present baseline information on the existing environmental and socioeconomic characteristics of, within and around the subproject sites/area of influence. The baseline will:

- (i) Present data directly relevant to decisions about subproject location, design, operation, or mitigation measures, including:
 - o *Physical environment* (such as topography, landforms, geology, soils, climate, air quality, and hydrology)
 - o *Biological environment* (including biodiversity, fauna, flora, animal migration, migratory flyways, endangered species, critical natural habitats, forests, protected and sensitive areas)
 - o *Socioeconomic and cultural environment* (such as demography, settlements, community structures, vulnerable and marginal groups, sources and distribution of income, employment and labour markets, land use, and cultural heritage).
- (ii) Identify any changes anticipated before the project commences.
- (iii) Take into account current and proposed development activities within the subproject area but not directly connected to the subproject.
- (iv) Collate available data from existing sources, and if necessary collect original data.
- (v) Include data directly provided and confirmed by relevant data sources, such as Kenya Wildlife Service (KWS), National Museum of Kenya (NMK), Kenya Forestry Service (KFS), utilities (oil, gas, ICT), and county authorities.
- (vi) Identify and estimate the extent, quality, accuracy and reliability of available data, key data gaps, and uncertainties associated with predictions, and specifies topics that do not require further attention.
- (vii) Organizes and presents data according to three levels of detail: (a) footprint/wayleave, (b) a buffer area of 1 km around the line and associated facilities, and (c) area of influence.
- (viii) Present summary data in geographic format using the transmission line alignment sheets.
- (ix) Confirm the accuracy of available data by “walking the line”.

f. *Environmental and social impacts*

The Consultant shall analyse and describe all significant deviations from the environmental and socioeconomic baseline that might be caused by the subproject, including environmental and social impacts, both positive and negative.

During the analysis, the consultant shall consider both biophysical and socioeconomic factors, such as (list is not exhaustive):

- o Population change and migration
- o Forms of social organization and cooperation
- o Gender-based violence
- o Population influx
- o Community health and health services
- o Physical and social infrastructure
- o Changes in economic activities
- o Relocation and resettlement

- Removal of structure/sites
- Development resources
- Improved access
- Accident rates
- Visual/aesthetic changes
- Vegetation clearance
- Mechanical disturbance
- Effects on flora and fauna, air quality, water quality and quantity.

More specifically, the consultant will:

- (i) Predict and assess the subproject's potential positive and negative environmental and social impacts (clearly articulated in respective sub-sections for environmental and social impacts) that might change the baseline conditions, in quantitative terms to the extent possible, during the construction, operation and decommissioning phases.
- (ii) Differentiate between short, medium and long-term impacts, estimate the magnitude of impacts, and identify generic both generic environmental and social impacts and site-specific impacts.
- (iii) Identify mitigation measures and any residual negative impacts that cannot be mitigated.
- (iv) Explore opportunities for environmental enhancement.

The identification of impacts for each subproject will be closely coordinated with the preparation of the subproject RAP and VGMP to ensure coherence and comprehensiveness.

g. Analysis of alternatives

The consultant will:

- (i) Systematically compare feasible alternatives to the proposed transmission lines and associated ancillary facilities, such as alignment, technology, design, and operation - including the "without project" situation -in terms of their potential environmental impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training, and monitoring requirements.
- (ii) For each of the alternatives, quantify the environmental impacts to the extent possible, and attaches economic values where feasible.
- (iii) States the basis for selecting the particular subproject design proposed and justifies recommended emission levels and approaches to pollution prevention and abatement.

h. Consultations and disclosures

The Consultant will carry out a minimum of two public consultations for each subproject, to collect the concerns, expectations, and opinions of affected, concerned and interested stakeholders for each subproject:

- during the preparation and finalization of the ToRs
- when the draft ESIA report is ready and publicly disclosed

Stakeholders to be consulted must include KWS, KFS, KCAA, the Department of Physical Planning, and local/impacted communities.

Disclosure of the ESIA report will be in a manner, form, and language that are understandable, and will be accessible, to enable full public participation.

The Consultant will carry out public participation and consultations on the positive

and negative impacts of the proposed subproject

The Consultant will:

- (i) Take into account the concerns, expectations and opinions of consulted stakeholders in the final ESIA report.
- (ii) The consultant will document the public consultations, including consultation dates, venues, list and signatures of attendees, photos of consultation sessions, a summary of both the positive and negative concerns of the stakeholders, and how these concerns, expectations and opinions are incorporated into the design of the subproject.

i. Appendices

- (i) List of EA report preparers--individuals and organizations.
- (ii) References. Documents all sources of written information, both published and unpublished, used in the ESIA.
- (iii) Records of public participation and consultations for obtaining the informed views of the affected and interested parties, as well as local nongovernmental organizations (NGOs), on the positive and negative impacts of the proposed subproject. The records will summarize concerns and opinions presented during the consultations. The record will also specify any means other than consultations (e.g., surveys) used to obtain the views of affected groups and local NGOs.
- (iv) Records of interagency consultation meetings with institutional stakeholders such as: Kenya Wildlife Service (KWS), National Museums of Kenya (NMK), Kenya Forestry Service (KFS), Kenya Civil Aviation Authority (KCAA; for civil aviation security), Department of Physical Planning, and local/impacted communities.
- (v) Tables presenting the relevant data referred to or summarized in the main text.
- (vi) List of associated reports (e.g., resettlement plan or indigenous peoples' development plan).

4.4. Environmental and Social Management Plan

Based on the respective ESIA (Section 4.2 above), the consultant will prepare a comprehensive Environmental and Social Management Plan (ESMP) for each subproject.

“A project's environmental management plan (EMP) consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and operation to eliminate adverse environmental and social impacts, offset them, or reduce them to acceptable levels. The plan also includes the actions needed to implement these measures..... To prepare a management plan, the borrower and its EA design team (a) identify the set of responses to potentially adverse impacts; (b) determine requirements for ensuring that those responses are made effectively and in a timely manner; and (c) describe the means for meeting those requirements....” (from OP 4.01, Annex C)

The ESMP will provide time frames and implementation mechanisms, reporting responsibilities, description and technical details of monitoring measures, assessment of the institutional needs, staffing requirements and cost outlay for implementation. The plan will show how management and mitigation methods are phased with subproject implementation. The plan will also include measures to prevent health hazards and to ensure safety in the working environment for the employees and the communities adjacent to the subproject sites and subproject affected people.

The ESMP will propose:

- individual mitigation and monitoring measures during both construction, operation, and decommissioning, assign institutional responsibilities, and estimate the resources required for its implementation.
- measures for preventing, minimizing, mitigating or compensating for the adverse environmental and social impacts and enhancing beneficial impacts, including costs of the measures and monitoring requirements.

Each ESMP will be prepared according to the following table of content (adapted from World Bank OP 4.01, Annex C, *Environmental management plan (EMP)*).

a. Mitigation Plan

The Consultant will identify feasible and cost-effective measures to avoid the potentially significant adverse environmental and social impacts identified in the subproject ESIA, or otherwise reduce them to acceptable levels. The Consultant will propose compensatory measures for residual impacts if mitigation measures are not technically feasible, cost-effective, or sufficient, and will explore opportunities for environmental enhancement. The plan distinguishes between the construction and operations phases.

The mitigation plan will:

- (i) Identify and summarize all anticipated significant adverse environmental impacts (including those involving indigenous people or involuntary resettlement) and define both generic and site specific environmental and social mitigation measures during construction and operation.
- (i) Provide technical details for each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate.
- (ii) Include measures to minimize migratory bird collisions with transmission lines.
- (iii) Include emergency/disaster preparedness plans.
- (iv) Describe with details other plans that will be required during the construction and operation phases (e.g. Contractor ESMP, Occupational Health and Safety plans and labour influx plan).
- (v) Estimate any potential environmental impacts of these measures.
- (vi) Provide linkage with any other mitigation plans (e.g., for involuntary resettlement, indigenous peoples, or cultural property) required for the subproject.
- (vii) Include additional data collection to fill identified data gaps.

b. Contractor clauses

The Chapter will cover worksite health and safety, the environmental management of construction sites; labour camps/out of area workers, HIV/AIDS and other Sexually Transmitted Diseases (STDs), child protection, gender equity and sexual harassment, labour rights and the employment of community members.

The Consultant will:

- (i) Define standardized environmental and social clauses that KETRACO will include in supply and installation bidding documents and contracts for the construction and supervision consultants, to ensure satisfactory environmental, social, health and safety performance of contractors. The clauses will cover four issues (see sample in Appendix 1)
 1. Environment, Health and Safety (EHS)
 2. Environmental and social monitoring by contractor

3. Environmental and social liabilities
4. Grievance mechanism for workers

c. Monitoring Plan

- (i) Defines monitoring objectives and indicators, and specifies the type of monitoring, with linkages to the impacts assessed in the EA report and the mitigation measures described in the ESMP.
- (ii) Provides: (a) a specific description, and technical details, of monitoring measures, including responsibilities (KETRACO, contractor, operator), the parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and a definition of thresholds that will signal the need for corrective actions; and (b) monitoring and reporting procedures to ensure early detection of conditions that necessitate particular mitigation measures, and to furnish information on the progress and results of mitigation.
- (iii) Includes compliance monitoring of the socioeconomic impact related to the concerns raised by individuals and communities affected by the subproject.

d. Institutional Arrangements

- (i) Describes institutional arrangements, responsibilities, and procedures within KETRACO and its contractors to carry out each of the mitigatory and monitoring measures (e.g., for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training).
- (ii) Describes the role of NEMA in monitoring the implementation of the ESMP and in certifying compliance.
- (iii) Includes training of contractors regarding the environmental and social clauses that apply to them.
- (iv) Estimates the resources required by KETRACO to implement and monitor the ESMP, such as level of effort (LOE), and equipment.
- (v) As necessary, proposes capacity building, additional technical support or organizational changes, to ensure the timely and effective implementation of the ESMP.

e. Grievance Redress Mechanism

- (i) Describes the GRM procedures for receiving, handling and resolving complaints from affected individuals and communities.

f. Implementation Schedule and Cost Estimates

- (i) implementation schedule for mitigation measures that must be carried out as part of the subproject, showing phasing and coordination with overall subproject implementation plans.
- (ii) the capital and recurrent cost estimates and sources of funds for implementing the ESMP.

g. Chance Find Procedures

- (i) Describe the 'Chance Find' procedures to ensure preventive and mitigation measures are formulated and implemented in the event physical cultural resources are encountered during subproject implementation.

h. Implementation Schedule and Cost Estimates

This Chapter will include

- (i) an implementation schedule for the mitigation measures in the ESMP that must be carried out as part of the subproject, showing phasing and coordination with

- overall subproject implementation
- (ii) the capital and recurrent cost estimates and sources of funds for implementing the ESMP.

5. SCOPE OF WORK FOR THE RESETTLEMENT ACTION PLAN (RAP)

The RAP will entail a survey on the amount of land that will be affected by each of the proposed line, the actual number of structures, crops and trees that will be affected by the proposed line, the actual number of Project Affected Persons (PAPs) and the actual number of households that will be economically or physically displaced by each proposed subproject. The Consultant will also carry out estimated valuation for each category of land to be affected (agricultural, grazing, commercial, etc.), estimated valuation of each category of structures to be affected, and, estimated valuation of each category of crops and trees likely to be affected. Finally, the Consultant will prepare an Entitlements matrix, propose the eligibility criteria and a cut-off date.

The Consultant will work close to and under the supervisor of KETRACO.

5.1. Objectives of the RAP Consultancy

The purpose of the consultancy is to prepare a Resettlement Action Plan (RAP) for each of the subprojects in line with the relevant laws, regulations, and procedures of the Government of Kenya (GoK) and the World Bank's Operational Policy on Involuntary Resettlement (OP 4.12). The objectives of OP 4.12 are:

- (i) To prevent or minimize involuntary displacement whenever possible;
- (ii) To design and implement resettlement as a sustainable development program;
- (iii) To pay for lost assets at replacement cost;
- (iv) To restore peoples' capacity to earn a living and their community ties;
- (v) Components necessary to realize project objectives are covered regardless of the source of financing;
- (vi) Resettlement costs are considered part of project costs.

5.2. Scope of the RAP Consultancy

In line with the objectives of OP 4.12 (See Appendix 3 at the end of this ToR) and its related Annex (See Appendix 4), the RAP consultancy will include baseline socio economic data on the subproject affected persons (PAPs), actual census of the PAPs, nature of impacts on PAPs, categorization of PAPs based on impacts on them, eligibility criteria for compensation, valuation of structures, crops/trees (where applicable) and total land affected, Entitlement Matrix, grievance redress mechanism (GRM) and a report detailing all these variables as well as a determination of the cut-off date.

Note: Should the consultant encounter groups that meet the criteria of OP 4.10 during the RAP preparation process, the OP 4.10 will apply in addition to OP 4.12.

5.3. Specific Tasks under the RAP consultancy

a. Background

Description of the subproject, the subproject affected areas/location, and why resettlement is needed.

b. Potential Impacts

Identify the following:

- (i) The subproject's components or activities that require resettlement or restriction of access;
- (ii) The zone of impact of the components or activities;
- (iii) Alternatives considered to avoid or minimize resettlement or restriction of access; and,
- (iv) Mechanisms established to minimize resettlement, displacement, and restricted access, to the extent possible, during subproject implementation.

c. Objectives

A description of the main objectives of the RAP in relation to KETSIP.

d. Project Description

Provide the subproject description and location

e. Applicable Policy, Legal and Institutional Frameworks

Carry out an Analysis of the Applicable Policy, Legal and Institutional Frameworks that are applicable in Kenya, including:

- o Identify and analyse relevant national and international policies, legislation and regulations applicable to resettlement;
- o Analyse the differences between the Kenyan laws and the World Bank's OP 4.12 in relation to resettlement;
- o Analyse the Kenyan institutional frameworks for resettlement;
- o Analyse the country's property assessment/valuation methods.
- o Explore, in consultations with subproject affected communities, possibilities for voluntary land donations and the process to be followed for such donations, in case a subproject was to be located on community land.
- o Describe, in consultations with subproject affected communities, the nature/type of compensation for community owned land and the process to be followed to ensure the entire community benefits from such compensation

f. Socioeconomic studies and cultural assessment/baseline survey

The Consultant will undertake a detailed socioeconomic and cultural assessment/baseline survey of the potentially affected population. The survey should be undertaken with the involvement of the PAPs and should include:

- o A description of the pre-project situation of the subproject affected persons (PAPs);
- o Detailed household survey;
- o Size and characteristics of affected population, social and economic patterns; property held and legal basis of ownership;
- o A detailed description of the income streams of the PAPs that define their livelihood strategies.

g. In depth census of the PAPs

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

- o All PAPs who may be physically displaced by the subproject, also referred to as project displaced persons (PDPs), including their details e.g. names, original National Identity card number, phone and physical contacts (street/estate, village, sub-location, location, District and County) and photograph;

- Vulnerable PAPs by gender and age, who may need special targeting for livelihood restoration or other forms of assistance including their details as well as explanation or description of their vulnerability and the kind of support that might be accorded to them.
- Standard characteristics of displaced households, including a description of production systems, labour, and household organization; and baseline information on livelihoods (including, as relevant, production levels/income streams and income derived from both formal and informal economic activities) and standards of living, including education levels and health status of the displaced population

The detailed census will include the following information as appropriate:

1. Where physical displacement/relocation is anticipated:
 - Number of owner households to be affected;
 - Number of renter households to be affected;
 - Number of informal occupant households to be affected.
2. Where land acquisition is anticipated
 - Number of affected households with titles;
 - Number of affected households without titles;
 - Number of affected households losing more than 50% of their land;
 - Number of affected households less than 30% of their land.
3. Where non-land economic displacement is anticipated
 - Number of households to be affected;
 - Number of individuals to be affected by non-land economic displacement;
 - Types/nature of economic displacement.

In all three cases above, and as appropriate

- Total number of VMG households affected by the proposed subproject
- Total Estimated population of the VMGs present in the subproject area.

h. Census and valuation of PAPs Assets

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

- (i) Census and valuation of land
 - For each PAP, whose land is affected, provide (i) actual acreage of land to be taken by the transmission line way leave; (ii) total acreage of the PAP's land; (iii) a description of the nature of impact on the land and structures, i.e. whether whole or partial; (iv) details of the land affected in terms of type of tenure and land use patterns
 - For each PAP, whose land is affected: (i) conduct valuation of the affected strip and compute compensation values; (ii) provide type and methodology of compensation; (iii) preferred method of valuation with justification; and,
 - For each PAP, whose land is affected, provide the following information on the status of land ownership documents (i) information on whether the current land occupant is the registered land owner (ii) placed caveats (if any); (iii) disputes involving the land parcel if any, and their status (i.e. whether they are in court or not)
 - Provide actual values of the percentage parts of the parcels affected basing the values on 30 – 70% of the total market value of land where 30% is for the parcels with very minimal effect while up to 70% being for the parcels that are severely or totally affected.

Note: (i) The valuation estimates should be based on locational registration areas. (ii)

eligibility of affected land must be confirmed by legal documents of ownership (squatters may be compensated for assets, not for land).

- (ii) Census and valuation of structures
 - o A detailed census and valuation of all affected structures, by type and nature, e.g. residential, institutional, communal or business structures, and whether made of permanent, semi-permanent or temporary materials, and the plinth area.
- (iii) Census and valuation of crops and trees
 - o A detailed census and valuation of affected crops and trees by type and level of maturity.

Note: (i) For each affected asset provide details of the true owner, including names, gender and ID as a caption of the picture of the affected assets; (ii) For each of the affected assets, provide type and methodology of compensation preferred with justification.

- (iv) Prepare the PAPs Categorization/Classification and Compensation Entitlements due to each category of PAPs.
 - o Classification should be in the form of, e.g. Land, structures, Crops and Trees affected; Permanently displaced Persons (PDPs) and PDPs with structures.
 - o Provide a description of the eligibility criteria for each entitlement.
 - o Prepare a livelihoods restoration plan (where appropriate) for each category of vulnerable PAPs.
- (v) Provide a cutoff date to prevent “rent seeking”.
- (vi) Propose the institutional arrangements for the implementation of the RAP. This should clearly identify all stakeholder institutions at all levels that are responsible for RAP implementation as well as assign implementation roles and responsibilities to each.
- (vii) Prepare a Grievance Redress Mechanisms (GRM), developed in consultation with the PAPs and other subproject stakeholders.
- (viii) Propose a capacity building strategy that will ensure effective and smooth implementation of the RAP
- (ix) Prepare a detailed budget estimate for the whole resettlement action plan inclusive of costs of structures, land, livelihoods restoration, capacity building and monitoring of the subproject.
- (x) Prepare the RAP Implementation timetable (linked to the technical works of the underlying subproject)
- (xi) Propose a follow-up or monitoring system
- (xii) Clearly document the consultation that occurred during RAP preparation including:
 - o a summary of the views expressed by PAPs and other stakeholders;
 - o how the views were taken into account in the RAP;
 - o the alternatives presented to PAPs and their views on the same.
- (xiii) Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the engagement of other stakeholders.

i. Resettlement Measures

These include:

- (i) An Entitlement Matrix prepared in line with both the GoK laws and regulations, and the WB’s OP 4.12. The entitlement Matrix should clearly present the

categorization/classification of affected assets and eligibility and compensation entitlements, that will assist each category of eligible PAPs to achieve the RAP objectives. Classification should be in the form of, e.g., land only affected; structure only affected; land and structure affected, crops only affected and trees only affected. Permanently displaced persons (PDPs); etc. For PAPs whose livelihoods are land-based, preference should be given to land-based resettlement strategies. Such strategies may include resettlement on public land, or on private land acquired or purchased for resettlement. A sample entitlements matrix is in Appendix 1. Note that:

- Whenever replacement land is offered, PAPs are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, or the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, then non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.
 - Payment of cash compensation for lost assets may be appropriate where: (a) livelihoods are land-based, but the land taken for the subproject is a small fraction of the affected asset and the residual is economically viable; or, (b) active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing; or, (c) livelihoods are not land-based. In any of these cases, cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.
- (ii) Should the study affirm that there will be involuntary taking of land resulting in: (a) relocation or loss of shelter; (b) loss of assets or access to assets; or (c) loss of income sources or means of livelihood, whether or not the affected persons must move to another location, then in line with the World Bank's policy on involuntary resettlement, OP 4.12, the RAP Consultant will:
- Ensure that the displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.
 - Ensure that appropriate and accessible grievance mechanisms are established for these groups in consultation with them.
 - Propose measures to ensure that, in new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities.
 - Propose measures to ensure that alternatives or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).
- (iii) Propose measures to ensure that patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of PAPs and any host communities are preserved and PAPs preferences with respect to relocating in pre-existing communities and groups are honoured.

- (iv) For each of the affected assets, provide type and methodology of compensation preferred, with justification.
 - (v) Measures or programs for livelihood restoration, including any special measures to be accorded to, in particular, the vulnerable PAPs;
 - (vi) Provide a cutoff date (to prevent “rent seeking”);
 - (vii) Prepare a Grievance Redress Mechanisms (GRM), developed in consultation with the PAPs and other subproject stakeholders.
 - (viii) Prepare a detailed budget estimate for the whole resettlement action plan inclusive of costs of land, structures, crops/trees, livelihoods restoration, capacity building and monitoring of the subproject.
 - (ix) Prepare the RAP Implementation timetable (linked to the underlying subproject construction activities
 - (x) Propose a follow-up or monitoring system
 - (xi) Propose the RAP evaluation system
 - (xii) Clearly document the consultation that occurred during RAP preparation including:
 - o a summary of the views expressed
 - o how the views were taken into account in the RAP
 - o the alternatives presented to PAPs and their views on the same
 - (xiii) Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the engagement of other stakeholders.
 - (xiv) Measures and procedures for grievance redress and for consultations with PAPs;
 - (xv) Measures for disclosure of RAP information.
- j. Institutional framework governing RAP implementation***
- (i) Propose the institutional arrangements – agencies, offices, CSOs - that are likely to have a role in the implementation of the RAP. This should clearly identify all stakeholder institutions at all levels that will be responsible for RAP implementation and assign implementation roles and responsibilities to each;
 - (ii) Analyse the capacity of each institution to effectively implement their assigned roles (, and, as appropriate, propose a capacity building strategy ensuring effective and smooth implementation of the RAP by each responsible institution

k. Eligibility and entitlements

The Consultant will provide a definition of displaced persons or PAPS and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

l. Valuation of and compensation for losses

The Consultant will provide:

- (i) The methodology to be used for valuing losses, or damages, for the purpose of determining their current replacement costs; and,
- (ii) A description of the proposed types and levels of compensation consistent with Kenyan laws and the World Bank’s OP 4.12, as well as measures, for ensuring that these are based on acceptable values (e.g. market rates).

5.4. Methodology for RAP Preparation

The consultant shall propose a detailed methodology that clearly articulates the participatory and consultative methodologies to be used in the preparation of the RAP, including survey/census instruments. These will include but not be limited to:

- Literature review, including among others, the review of the feasibility study reports; the Kenyan policies, legislations and regulations governing resettlement, and the World Bank's OP 4.12
- Free prior and informed consultations with the PAPs;
- Focused Group Discussions that are gender and intergenerationally inclusive;
- Proof of the consultation process with potentially displaced PAPs, (including consultation dates, venues, list and signatures of attendees and photos of consultation sessions).

6. SCOPE OF WORK FOR THE SOCIAL ASSESSMENT

6.1. Background and Objectives of OP 4.10

The project has triggered the World Bank's Operational Policy (OP 4.10) on Indigenous Peoples. This policy is triggered when it is known that Vulnerable and Marginal Groups (VMGs) are present or are likely to be present in the project area. The term VMG refers exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees:

- Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
- Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
- Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

In Kenya, the groups of people who meet the above criteria are referred to as Vulnerable and Marginalized Groups (VMGs), and include the hunter/gatherer and pastoralist communities in accordance with the World Bank's OP 4.10 and Article 260 of the Constitution of Kenya, 2010.

The objective of OP 4.10¹ is to ensure that:

- The development process fully respects the dignity, human rights, economies, cultures and natural resource-based livelihoods of Indigenous Peoples/VMGs.
- To avoid adverse impacts of projects, or, when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate, and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultations with affected communities throughout the project's life-cycle

6.2. Objectives of the Social Assessment

In line with the objectives of OP 4.10, the Consultant will prepare site specific Social Assessments (SA) to evaluate the subproject's potential positive and adverse effects on the VMGs, in the area of each subproject – where VMGs are present – and to examine subproject alternatives where adverse effects may be significant. The findings of the SA will inform subproject design and the preparation of Vulnerable and marginalized Groups Plans (VMGPs).

The SA will be conducted through free, prior and informed consultations (See Note at the end of this ToR) with the affected VMGs – leading to their broad support for KESIP. The specific tasks of the SA will include:

1. Identifying the subproject's potential positive and adverse effects on VMGs. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected VMGs, given their distinct circumstances and close ties to land and natural resources, as well as their lack of

- access to opportunities relative to other social groups in the communities, in which they live.
2. Gathering and analysing baseline information including social, cultural, economic and legal contexts of the subproject in relation to VMGs:
 - (i) Social: Are VMGs integrated into the larger society? Are they separate? If separate, is it voluntary or involuntary isolation? How are they vulnerable or marginalized? Do they have access to social services?)
 - (ii) Cultural: Do VMGs maintain own cultural practices? Is there any conflict with the Government about cultural heritage/practices? Is their culture/language at risk of dying out due to assimilation? Is assimilation acceptable to them?) Do VMGs in the T-Line have any tangible and/or intangible cultural heritage (structures, historical sites, sacred sites, artefacts, music, story-telling, poetry) that may be affected (positively or negatively by the subproject?)
 - (iii) Economic: population/demographic statics of the VMGs in each site; education levels of the VMGs; the VMGs livelihood strategies? Whether their livelihoods are dependent on land and or other natural resources, and if so, which ones? Whether their livelihoods are changing, and if so, how? Are they moving from rural areas to urban areas? Are they economically vulnerable? What are the practical implications of their vulnerability? Formal and informal employment sectors for the VMGs; Opportunities for improved sustainable livelihoods?)
 - (iv) Legal: What are the international agreements that Kenya has signed and ratified that relate to VMGs? What does the Constitution of Kenya, 2010, say about VMGs? What are the national laws and regulations that are applicable to VMGs, e.g. do they have any special rights or protections in law? Are the natural resources on which they depend as well as their language and cultures recognized and protected by law?
 - (v) Institutional: What kind of institutions do the IPs have that are distinct from those of the government? Do they have rights to govern certain institutions, such as a local council, school, hospital, economic development entity? Do they have special control of natural resources, such as forests, fisheries, water or land areas? How is the government/VMGs relations?
 - (vi) Labour Influx: Assess the positive and adverse impacts of labour influx on VMGs and the general community affected by each T-Line and for the proposed sub-station extensions
 3. Based on item 2 above, identify key subproject stakeholders and analyse their roles in the subproject implementation.
 4. Based on 1-3 above, make recommendations to inform the subproject design and implementation, including mitigation measures for adverse impacts
 5. Make recommendations to inform the preparation of Vulnerable and marginalized Groups Plans, including the following as appropriate:
 - a) Site specific culturally appropriate development measures, and,
 - b) Measures to avoid, minimize, mitigate, or compensate the adverse effects, and to ensure that the VMGs receive culturally appropriate benefits under the subproject.
 6. Clearly document the consultation process with VMGs during the SA, including positive and negative views as well as the outcomes from the consultations leading to their broad support for the subproject
 7. In consultation with the VMGs, elaborating a culturally appropriate process for free, prior and informed consultations with them at each stage of the subproject preparation and implementation. (See Note below).

8. Arrangements for the disclosure of the SA.

Note: Meaningful, free, prior and informed consultations with VMGs during the social assessment and at every stage of subproject preparation and implementation should be:

- In an appropriate language
- Culturally appropriate
- Gender and inter-generationally inclusive
- Conducted in good faith
- Voluntary, free of interference and non-manipulative
- Involve advance information to VMGs about the activity at hand and provide sufficient time for them to make informed decisions.

6.3. Methodology for undertaking the SA

The consultant shall propose a detailed methodology that clearly articulates the participatory and consultative methodologies – in line with the free, prior and informed consultations process requirements – to be used in undertaking the SA, including study instruments. These will include but not be limited to:

- Literature review, including among others, the review of the World Bank's Operational Policy (OP 4.10) on indigenous Peoples/VMGs and its related Annex, Annex A (see Appendices 5 and 6); the Kenyan policies, legislation and regulations on marginalised and minority groups, in particular, the Constitution of Kenya, 2010;
- Focused Group Discussions that are gender and intergenerationally inclusive;
- Proof of the consultation process with VMGs, (including consultation dates, venues, list and signatures of attendees and photos of consultation sessions).

7. VULNERABLE AND MARGINALISED GROUPS PLAN (VMGP)

The objective of OP 4.10 is to contribute to the World Bank’s mission of poverty reduction and sustainable development by ensuring that:

- The development process fully respects the dignity, human rights, economies, cultures and natural resource-based livelihoods of **Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities**.
- To avoid adverse impacts of projects, or, when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultations with affected communities throughout the project’s life-cycle.

Note: The VMGP will be based on the outcomes of the SA, and will therefore be prepared after the conclusion of the SA for each subproject where VMGs are present.

7.1. Purpose of the Vulnerable and Marginalised Groups Plan (VMGP)

To enable KETRACO to comply with the objectives of OP 4.10, the consultant will prepare a Vulnerable and Marginalised Groups Plan (VMGP) for each subproject where VMGs are present, in accordance with the findings and recommendations of the Social Assessment. The purpose of the VMGP is to ensure that VMGs receive social and economic benefits under the subproject that are culturally appropriate, and that measures are put in place to avoid, minimize, mitigate, or compensate any adverse effects on the VMGs that may have been found by the SA.

The specific tasks in the preparation of VMGPs will include a summary of the findings of the SA, including:

1. Summary of the legal and institutional framework applicable to VMGs;
2. Summary of the baseline information on VMGs;
3. Summary results of the free, prior and informed consultation and broad community support during the SA and a framework for such consultations during subproject implementation;
4. A time bound and achievable Action Plan of measures for to ensuring culturally-appropriate social and economic benefits for VMGs, and/or for avoiding, minimizing, mitigating or compensating them for adverse effects. The Plan should be proportional to the specific context of KESIP, its benefits, social impacts and risks, and the circumstances of affected VMGs as identified by the SA;
5. An accessible and robust grievance redress mechanism (GRM) to be applied during the subproject implementation. The GRM should take into account the availability of customary dispute settlement mechanisms among the VMGs as well as the Kenyan judicial recourses for dispute resolution;
6. Cost estimates for the action plans) and a financing plan;
7. Arrangements for the disclosure of the VMGP;
8. An appropriate plan for monitoring, evaluating, and reporting on the implementation of the VMGP. The monitoring and evaluation plan should include arrangements for the free, prior, and informed consultation with the VMGs at every stage of the VMGP implementation

7.2. Methodology for preparing the VMGP

The VMGP will be prepared through meaningful consultation with VMGs in line with the free prior and consultation process requirements. In this regard, the consultant will ensure that the VMGs are actively and meaningfully involved in the identification of sustainable social and economic development measures that are culturally appropriate to them and/or for avoiding, minimizing, mitigating or compensating them for adverse effects (where applicable). In this regard, the consultant shall propose a detailed methodology that clearly articulates the participatory and consultative methodologies – in line with the free, prior and informed – to be used in the preparation of the VMGP. These will include but not be limited to:

- Literature review, including among others, the review of the World Bank’s Operational Policy (OP 4.10) on indigenous Peoples/VMGs and its related Annex, Annex B (see Appendix 8, OP 4.10, Annex B); the Kenyan policies, legislations and regulations on treatment of marginalised and minority groups, in particular, the Constitution of Kenya, 2010;
- Focused Group Discussions that are gender and intergenerationally inclusive;

Proof of the consultation process with VMGs, (including consultation dates, venues, list and signatures of attendees and photos of consultation sessions) as well as a clear documentation a presentation of any positive and negative views that may have been expressed and how these have been taken into consideration in the VMGP.

8. CONSULTANT’S QUALIFICATIONS

The firm or the joint venture applicants shall have:

- worked directly on at least three transmission line projects of similar scope and nature, including at least one line in East Africa
- conducted an ESIA, RAP, SA and VMGP preparation for a power line, linear project or large scale infrastructure project that met the requirements of an International Financial Institution, such as the World Bank, IFC or an Equator bank, AfDB, or EIB.
- Firms that have adequate experience in either Environmental safeguards or Social safeguards but do not meet overall criteria in both may participate in form of joint ventures to enhance their qualifications. Application of such firms shall be supported by a letter of intent to enter into a joint venture agreement or by an existing agreement.

The Applicants shall provide sufficient and qualified personnel to prepare the environmental and social studies for all subprojects within 16 weeks from signature of the contract (12 weeks for the RAP, SA and VMGP).

KETRACO estimates that the level of effort required will not exceed 48 man-months for each package, including the final reports. The Consultant will propose a minimum level of effort (LOE) for each of the key staff.

The key staff listed below are intended as a general guide per package. Firms may propose other key personnel it deems necessary for successful completion of this assignment. If all the required skills are not available within the consulting firm, the firms are encouraged to make joint ventures with other firms.

Table 8.1 Estimated Level of effort for key personnel

	Position	No	Expert-Months	Total Expert Months
1	Environmental and Social Coordinator	1	2	2
ESIA and ESMP				
2	Team leader	1	4	4
3	Environmental Expert	2	3	6
4	Ecologist	1	1	1
5	Socioeconomist	1	2	2
6	GIS Expert/Surveyor	1	1	1
7	Archaeologist	1	1	1
Resettlement and VMGP Studies				
8	RAP, SA and VMGP - Team Leader	1	4	4
9	Sociologist/Resettlement Expert	2	3	6
10	Land Valuer/valuation Expert	4	3	12
11	Land Surveyor	1	3	3
12	SA and VMGP Expert	2	3	6
	TOTAL PER PACKAGE			48

The Applicants will submit a list of staff proposed for the assignment; with their CV’s for the following positions:

8.1. Environmental and Social Coordinator

The Environmental and Social Coordinator will oversee the preparation of the studies and will

ensure close coordination between the environmental and social teams working on each subproject.

The Coordinator will have the following minimum qualifications:

- M.Sc. Degree in Environmental Sciences or B.Sc. in Environmental Engineering from a recognized University and NEMA registration
- at least 15 years of professional experience with ESIA or RAPs
- at least 5 years' experience in inter-disciplinary team management and coordination
- experience of at least two transmission line projects of similar scope and nature
- participation in an ESIA/ESMP, RAP and VMGP preparation for a power line that met the requirements of an International Financial Institution, such as the World Bank, IFC or an Equator bank, AfDB, or EIB.
- Registration and/or membership of professional field and valid annual operating licence will be an added advantage

The Coordinator will be stationed in Nairobi, Kenya, for the duration of the assignment and will be required to travel to and spend considerable time the field coordinating the consultancy activities for each subproject.

8.2. ESIA and ESMP

8.2.1. *ESIA/ESMP Team Leader*

Each ESIA/ESMP Team Leader will have the following minimum qualifications:

- M.Sc. Degree in Environmental Sciences or a B.Sc. Environmental Engineering from a recognized University
- NEMA registration
- Minimum overall experience of 10 years, with at least 5 years' international experience on similar projects in sub-Saharan Africa
- Participation in an ESIA for a power line that met the requirements of an International Financial Institution, such as the World Bank, IFC or an Equator bank, AfDB, or EIB
- Registration and/or membership of professional field and valid annual operating licence will be an added advantage

Each ESIA Team Leader will be stationed in Nairobi, Kenya, for the duration of the assignment and will be required to travel to the transmission line site

8.2.2. *Environmental Expert*

Each Environmental Expert will have the following minimum qualifications:

- B.Sc. Degree in Environmental Studies/Planning and Management/Science/ or Natural Resource Management
- 5 years' experience in ESIA studies
- Experience of at least two projects of similar scope and nature
- Registration and/or membership of professional field and valid annual operating licence will be an added advantage

8.2.3. *Ecologist*

Each Ecologist will work on three transmission lines. Each will have the following minimum qualifications:

- Degree in ecology or any other relevant degree from a recognized University
- 5 years' experience assignment of similar nature
- Experience of at least two projects of similar scope and nature

8.2.4. Socioeconomist

Each Socioeconomist will work on three transmission lines. Each will have the following minimum qualifications:

- MSc /MA Degree in Sociology/Community Development or any social science discipline
- 5 years' experience in census surveys
- Experience of at least two projects of similar scope and nature

8.2.5. GIS Expert/Surveyor

Each GIS Expert will work on three transmission lines. Each will have the following minimum qualifications:

- B.SC Degree Survey
- At least 5 years' experience in survey works / mapping exercises.
- Registration and/or membership of professional field and valid annual operating licence will be an added advantage

8.2.6. Archaeologist

The Consultant will deploy one archaeologist, with the following minimum qualifications:

- Masters degree in Archaeology or any other relevant degree from a recognized University
- 5 years' experience assignment of similar nature
- Experience of at least two projects of similar scope and nature

8.3. Resettlement and VMGP Studies

8.3.1. RAP, SA and VMGP Team Leader

Each RAP, SA and VMGP Team Leader shall possess the following qualifications:

- A masters' degree in sociology/anthropology/social sciences or any related field from a recognized university
- 10 years 'experience in similar assignment with specific focus on RAP and SA preparation
- 10 years in inter-disciplinary team management
- participation in an RAP, SA and VMGP preparation for a power line that met the requirements of an International Financial Institution, such as the World Bank, IFC or an Equator bank, AfDB, or EIB
- Experience of at least three projects of similar scope and nature
- Experience in the World Bank's social safeguard policies is an added advantage

Each Team Leader will spend considerable time in the field ensuring quality implementation of activities of the RAP process, and will spend part time in Nairobi, writing reports or meeting/consulting with Nairobi based stakeholders and institutions.

8.3.2. Sociologist and Resettlement Specialist

Each Sociologist/Anthropologist and Resettlement Specialist shall the following qualifications:

- A degree in Sociology/Anthropology/Community/Rural Development or any social science discipline from a recognized university
- Five years' experience in socio-economic surveys
- Experience of at least three projects of similar scope and nature
- Experience in the World Bank's social safeguard policies is an added advantage
- The Social and Resettlement Specialist will be required to spend at least 75% of their time in the subproject sites to ensure the right level of supervision for the various succeeding social aspects of the various studies – ESIA, RAP, Social Assessment and VMGP.

8.3.3. Land Valuer / Valuation Expert

The Consultant will employ one Valuation Expert to carry out valuation of structures and land. The Valuation Expert must be a registered and licensed Valuer with the following minimum qualifications:

- Degree in land economics/valuation/real Estate, from a recognized University
- Certificate of registration/professional certificate
- Valid annual operating license
- 10 years' experience in valuation
- 5 years experience in valuation for wayleave compensation
- Experience in the World Bank's OP 4.12 is an added advantage

The valuation expert will be stationed in Nairobi, Kenya and is expected to spend considerable time in the field.

8.3.4. Land Surveyor/Survey expert

The Consultant will employ one Survey Expert who will work closely with the RAP team to guide on the extent of the wayleave corridor and determine the assets within the corridor for valuation purposes. The surveyor will have the following minimum qualifications.

- Degree in survey from a recognized university
- Valid annual practicing license
- Membership in relevant professional bodies
- 5 years' experience in survey related to wayleave acquisition
- Experience in the World Bank's OP 4.12 is an added advantage

8.3.5. SA and VMGP Experts

Each SA and VGMP Expert will work on three lines. They will have the following qualifications:

- A masters' degree in Sociology, Anthropology or other social sciences from a recognized university
- Proof of leadership in carrying out a SA and preparation of at least 5 VMGPs/Community Development Plans

9. SERVICES, FACILITIES AND TOOLS

The KETRACO shall avail staff who shall work closely with the Consultant and represent the

KETRACO. This staff would represent the KETRACO in different tasks:

- Assist in providing existing project information and data when required
- Review and approve detailed designs and any submissions by the Consultant that require approval
- Follow-up on the site works, monitoring environmental implementation plans, participate in installation, commissioning and witnessing tests including factory acceptance tests.

These staff shall, however, be under the control of and be paid by KETRACO. They shall not be held responsible for any failure on the Consultant to deliver the project with the desired quality.

The Consultant shall make its own arrangements for office space and equipment facilities (fax, phone, e-mail, internet, computers, copying, editing, etc.) including transport and personnel accommodation in Kenya.

The Consultant at his/her own expense shall provide all equipment, tools and software needed to undertake the assignment.

All equipment, tools and software that may be procured using project funds will be handed over to KETRACO after completion of the project.

KETRACO will only provide Visa support letter to international Consultant staff, their spouses and members of their families who are dependent on them.

10.DELIVERABLES AND REPORTING

10.1. General

KETRACO considers of utmost importance the timely elaboration and submission of pertinent reports during the study period. All reports will receive comments from the proponent, or the financing institution that the Consultant should incorporate in the final reports. All reports submitted by the Consultant to KETRACO must be **in the English language, in two hard and soft copies**. KETRACO may also require the Consultant to prepare additional reports.

For the EA, KETRACO will make available to the consultants, the relevant feasibility studies and detailed alignment sheets maps with cadastral information regarding potential PAPs. For the RAP, KETRACO will avail to the Consultant the Constitution of Kenya, 2010, the Land Act, 2012, the National Land Policy, 2009, the Kenya Forest Act, and other appropriate Kenyan laws and laws and regulations applicable to VMGs. In addition, KETRACO will provide the Consultant with the World Bank policies on Involuntary Resettlement (OP 4.12), and on Indigenous Peoples/VMGs (OP 4.10) and their related Annexes. (These have been included in these ToRs as Appendices).

10.2. Schedule of the Study Report

The ESIA and ESMP for all subprojects are expected to be completed within sixteen (16) weeks.

10.2.1. Environmental studies (for each subproject)

- **An Inception** report three (3) weeks after the signing of the contract. The inception report will include:

- the methodology, timeframes and overview of key issues expected in the final report.
- a preliminary analysis of potential key direct and indirect impacts of the subproject
- the identification of issues requiring guidance or input from KETRACO
- an annotated table of content for the ESIA and ESMP

KETRACO will comment on the report in writing within 7 days.

- **The Preliminary Report** shall be submitted by the Consultant to KETRACO within/on the 8th week of commencement of the study in both hard copy and soft copy. It should contain the framework of the expected final report, including the methodology and the key findings, and indicate the steps required for completion.

NOTE: The preliminary report is a NEMA requirement.

KETRACO will comment on the report in writing within 7 days.

- **The Draft Report** shall be submitted by the Consultant to KETRACO within/on the 13th week of commencement of the study in both hard copy and soft copy. It should contain the framework of the expected final report, including the methodology and the key findings and fully addresses the comments raised in the first draft

KETRACO will comment on the reports in writing within 14 days.

- **The Final Report** shall be submitted by the Consultant to KETRACO on the 16th week of the study. The final report should take into consideration all comments raised by KETRACO and take into account the results of consultations.

Summary timeline for ESIA and ESMP deliverables

1. Inception report	14 days
2. Preliminary report	35 days
3. Draft report	35 days
4. Final report	21 days
TOTAL	105 days

NOTE. Reports submission to NEMA

The Consultant will prepare and submit to NEMA all necessary documents in accordance with the Environmental Management and Coordination (Impact Assessment and Audit) Regulation 2003. The documents may include

- Project Report
- Terms of Reference
- Study Report
- Response to queries by NEMA

10.2.2. Social studies

No	Output	Timeframe
1.	An Inception Report that presents a clear description of the understanding of the assignment, methodology to be used in undertaking the assignment, and, a detailed work plan for undertaking the assignment	2 weeks after contract signing
2.	A Draft RAP report A Draft SA VMGF report that clearly outlines:	10 weeks after contract signing

	<ul style="list-style-type: none"> a. The steps followed by the consultant in the preparation of the VMGP; b. Detailed information on each of the items in section III above; c. A summary of the key outcomes of consultations with VMGs; 	
3.	<ul style="list-style-type: none"> a) A final RAP report that has incorporated comments from the client b) SA and VMGP report that has incorporated comments from the Client. 	13 weeks after contract signing
4.	<p>Annexes will be included as appropriate, including but not limited to the following:</p> <p>For RAP</p> <ul style="list-style-type: none"> i) Minutes of consultation meetings ii) Detailed outcome of the consultation process iii) Photo gallery for the consultation process iv) Land values per location along the transmission lines v) GPS coordinated of each land parcel and structure within the wayleave corridor <p>For SA and VMGP</p> <ul style="list-style-type: none"> i. Detailed outcomes of the consultation process with VMGs along the relevant T-Lines or their representative organisations; ii. Photo gallery of the consultation process with VMGs or their representative organisations; iii. List of participants consulted for the preparation of the VMGP (with signatures); iv. VMG/Stakeholders Consultation Plan v. Social screening form; vi. Social Assessment ToR; vii. ToR for preparation of VMGPs (inclusive of the content of VMGP) 	

APPENDIX 1. SAMPLE ENVIRONMENTAL AND SOCIAL CLAUSES FOR CONTRACTORS

Most environmental and social impacts of subprojects will result from activities directly under the control of contractors and will be mitigated directly by the same contractors. For the majority of subprojects, the ESMP will consist solely of measures implemented by subcontractors. As a consequence, ensuring that contractors effectively mitigate construction related impacts is the core of KETRACO's mitigation strategy for the Project. This will be done by ensuring that the environmental and social management of construction activities are mandatory parts of construction works contracts.

KETRACO will incorporate standardized environmental and social clauses in tender documentation and contract documents, so that potential bidders are aware of environmental and social performance requirements expected from them, are able to reflect that in their bids, and required to implement the clauses for the duration of the contract. KETRACO will enforce compliance by contractors with these clauses.

The clauses cover four issues:

1. Environment, Health and Safety (EHS)
2. Environmental and social monitoring by contractor
3. Environmental and social liabilities of contractors
4. Grievance mechanism for workers

These clauses will also be referred to in all subproject ESMPs. Subproject ESMPs will also specify any training required for contractors to understand and satisfactorily meet the Project's environmental and social requirements.

1. Environment, Health and Safety

The purpose of the environment, health and safety (EHS) clauses for contractors is to define minimum standards of construction practice acceptable to KETRACO. The clauses will be concluded in the bidding documents and contracts.

EHS Supervisor

In addition of Contractor's general arrangement to carry out the project works, the Contractor must hire at least one environment, health and safety supervisor for each subproject before the commencement of work. The Contractor/Subcontractor shall abide by the rules of regulation of the Occupational Health and Safety as stipulated in the OSHA 2007. The contractor shall also abide by the clauses of health and safety in General Conditions and Particular Conditions of Contract of the bid document.

Role of environment, health and safety supervisor

Primary role is to monitor the movement of people, workers and equipment, give timely warnings of any risk or non-compliance with safe work procedures and, where necessary, stop work if a risk situation escalates or cannot be minimized as well as look the potential environmental issues (air pollution, noise level, water quality, waste management etc.).

The tasks of environment and safety supervisor include the following:

- Ensure first aid facilities and personal protective equipment (PPE) for workers at the sites
- Provide orientation to workers before start of the subproject activities
- Warn the workers of any imminent or deteriorating risk situation that could result in an accident, and instruct when it is safe to proceed
- Ensure restrain from undertaking any other tasks that may distract the workers focus on the work, mainly, work on or near live overhead conductors, work on transmission and communication towers
- Stop the work, if necessary safety would not be ensured
- Pause the work while the safety observer changes position
- Ensure special safety during elevated work platform work or crane operations on or near live conductors
- Ensure proper collection and disposal of solid wastes within the construction site
- Ensure proper infrastructure facilities, water supply and sanitation facilities for all workers

The contractor will prepare a monitoring report on environment and safety for each subproject at every month during the construction/rehabilitation of transmission line or substation.

Contractor Environmental and Social Management Plan

Prior to starting construction, the contractor must prepare and submit a Contractor Environmental and Social Management Plan (CESMP) to the supervision engineer (representing KETRACO) for acceptance.

The CESMP should provide a detailed explanation of how the contractor will comply with the project's safeguard documents, such as the ESMP, and demonstrate that sufficient funds are budgeted for that purpose.

The CESMP must include specific mitigation measures based on the ESMP, the final design, the proposed work method statements, the nature of the project site, etc. It is recommended that it include specific management plans for: (i) work activities; (ii) traffic management; (iii) occupational health and safety; (iv) environmental management; (v) social management; and (vi) labour influx.

Gender based Violence

The contractor must address the risk of gender-based violence, through:

- (i) mandatory and repeated training and awareness raising for the workforce about refraining from unacceptable conduct toward local community members, specifically women;
- (ii) informing workers about national laws that make sexual harassment and gender-based violence a punishable offence which is prosecuted;
- (iii) introducing a Worker Code of Conduct as part of the employment contract, and including sanctions for non-compliance (e.g., termination)
- (iv) adopting a policy to cooperate with law enforcement agencies in investigating complaints about gender-based violence.

Child Labour

Contractors must not employ workers below the age of 18.

Labour influx

Where contractors and labour come from outside the local area, contractors will need to maintain labour relation relations with local communities through labour codes of conduct.

Roads

In order to carry out the construction works, it may be necessary to close or divert certain specified roads, either permanently or temporarily during the construction period. The contractor should arrange diversions for providing alternative route for transport and/or pedestrians.

After breaking up, closing or otherwise interfering with any street or footpath to which the public has access, the Contractor shall make such arrangements as may be reasonably necessary so as to cause as little interference with the traffic in that street or footpath during construction of the construction works as shall be reasonably practicable.

Wherever the construction works interfere with existing public or private roads or other ways over which there is a public or private RoW for any traffic, the Contractor shall construct diversion ways wherever possible.

Movement of Trucks and Construction Machinery

The Contractor moving solid or liquid construction materials and waste shall take strict measures to minimize littering of roads by ensuring that vehicles are licensed and loaded in such a manner as to prevent falling off or spilling of construction materials and by sheeting the sides and tops of all vehicles carrying mud, sand, other materials and debris. Construction materials should be brought from registered sources in the area and debris should be transferred to assigned places in the landfill with documented confirmation.

Traffic Safety Measures

The Contractor shall provide, erect and maintain such traffic signs, road markings, barriers and traffic control signals and such other measures as may be necessary for ensuring traffic safety around the construction site.

The Contractor shall not commence any work that affects the public motor roads and highways until all traffic safety measures necessitated by the work are fully operational.

Access across the Construction Site and to Frontages

In carrying out the construction works, the Contractor shall take all reasonable precautions to prevent or reduce any disturbance or inconvenience to the owners, tenants or occupiers of the adjacent properties, and to the public generally. The Contractor shall maintain any existing RoW across the whole or part of the construction site and public and private access to adjoining frontages in a safe condition and to a standard not less than that pertaining at the commencement of the contract. If required, the Contractor shall provide acceptable alternative means of passage or access to the satisfaction of the persons affected.

Noise and Dust Control

The Contractor shall take all practicable measures to minimize nuisance from noise, vibration and dust caused by heavy vehicles and construction machinery.

This includes:

- respecting normal working hours in or close to residential areas
- maintaining equipment in a good working order to minimize extraneous noise from mechanical vibration, creaking and squeaking, as well as emissions or fumes from the machinery
- shutting down equipment when it is not directly in use
- using operational noise mufflers
- Provide a water tanker, and spray water when required to minimize the impact of dust
- limiting the speed of vehicles used for construction

Waste Disposal

The Contractor must agree with the municipality about arrangements for construction waste disposal. The municipality shall designate a dumping site or landfill for the disposal of solid waste.

The contractor will take measures to avoid soil and groundwater contamination by liquid waste.

Protection of the Existing Installations

The Contractor shall properly safeguard all buildings, structures, works, services or installations from harm, disturbance or deterioration during the construction period. The Contractor shall take all necessary measures required for the support and protection of all buildings, structures, pipes, cables, sewers and other apparatus during the concession period, and to repair any damage occurs in coordination with Municipality and concerned authorities.

Protection of Trees and Other Vegetation

The Contractor shall avoid loss of trees and damage to other vegetation wherever possible. Adverse effects on green cover within or in the vicinity of the construction site shall be minimized. The contractor will restore vegetative cover, where feasible.

Physical Cultural Resources

The contractor will train construction crews and supervisors to spot potential archaeological finds. In the event of a potential find, the contractor will inform KETRACO who will in turn liaise with the archaeological department at the Ministry of Culture, or a local university for quick assessment and action.

Clearance of Construction Site on Completion

The Contractor shall clear up all working areas both within and outside the construction site and accesses as work proceeds and when no longer required for the carrying out of the Construction works. All surplus soil and materials, sheds, offices and temporary fencing shall be removed, post holes filled and the surface of the ground restored as near as practicable to its original condition.

Worker Health and Safety

To avoid work related accidents and injuries, the contractor will:

- Provide occupational health and safety training to all employees involved in works
- Provide protective masks, helmet, overall and safety shoes, safety goggles, as appropriate
- Provide workers in high noise areas with earplugs or earmuffs
- Ensure availability of first aid box
- Provide employees with access to toilets and potable drinking water
- Train workers regarding the handling of hazardous materials
- Store hazardous materials as per the statutory provisions.

Site Construction Safety and Insurance

Further to enforcing the compliance of environmental management, contractors are responsible on providing insurance for construction labour, staff attending to the construction site, citizens for each subproject, the insurance requirements and clauses are stated in the bidding documents complying to the labour law.

2. Environmental and Social Monitoring by Contractors

KETRACO will require that contractors monitor, keep records and report on the following environmental and social issues for their subproject. The following list should be used in a manner proportional to the size, risk and impacts of each subproject.

- (i) Safety: hours worked, recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).
- (ii) Environmental incidents and near misses: environmental incidents and high potential near misses and how they have been addressed, what is outstanding, and lessons learned.
- (iii) Major works: those undertaken and completed, progress against project schedule, and key work fronts (work areas).
- (iv) E&S requirements: noncompliance incidents with permits and national law (legal noncompliance), project commitments, or other E&S requirements.
- (v) E&S inspections and audits: by contractor, engineer, or others, including authorities—to include date, inspector or auditor name, sites visited and records reviewed, major findings, and actions taken.
- (vi) Workers: number of workers, indication of origin (expatriate, local, nonlocal nationals), gender, age with evidence that no child labour is involved, and skill level (unskilled, skilled, supervisory, professional, management).
- (vii) Training on E&S issues: including dates, number of trainees, and topics.
- (viii) Footprint management: details of any work outside boundaries or major off-site impacts caused by ongoing construction—to include date, location, impacts, and actions taken.
- (ix) External stakeholder engagement: highlights, including formal and informal meetings, and information disclosure and dissemination—to include a breakdown of women and men consulted and themes coming from various stakeholder groups,

- including vulnerable groups (e.g., disabled, elderly, children, etc.).
- (x) Details of any security risks: details of risks the contractor may be exposed to while performing its work—the threats may come from third parties external to the project.
 - (xi) Worker grievances: details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.
 - (xii) External stakeholder grievances: grievance and date submitted, action(s) taken and date(s), resolution (if any) and date, and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report. Grievance data should be gender-disaggregated.
 - (xiii) Major changes to contractor’s environmental and social practices.
 - (xiv) Deficiency and performance management: actions taken in response to previous notices of deficiency or observations regarding E&S performance and/or plans for actions to be taken—these should continue to be reported until KETRACO determines the issue is resolved satisfactorily.

3. Environmental and Social Liabilities of Contractors

Contractors will be legally and financially accountable for any environmental or social damage or prejudice caused by their staff, and thus are expected to put in place controls and procedures to manage their environmental and social performance. A breakdown for the cost of noncompliance for each mitigation measure will be enclosed in bidding documents. These will include:

- Mitigation measures to be included in the contract will be specified in the subproject ESMP
- Deductions for environmental noncompliance will be added as a clause in the Bill of Quantities (BOQ) section
- Environmental penalties shall be calculated and deducted in each submitted invoice
- Any impact that is not properly mitigated will be the object of an environmental/social notice by KETRACO
- For minor infringements and social complaints, an incident which causes temporary but reversible damage, the contractor will be given a notice to remedy the problem and restore the environment. No further actions will be taken if the Project engineer confirms that restoration is done satisfactorily.
- For social notices, the Project engineer will alert the contractor to remedy the social impact and follow the issue until solved. If the contractor does not comply with the remediation request, work will be stopped and considered under no excused delay
- If the contractor hasn’t remedied the environmental impact during the allotted time, the Project engineer will stop the work and give the contractor a notification indicating a financial penalty according to the non-complied mitigation measure that was specified in the bidding document.

4. Grievance Mechanism for Workers

Contractors will put in place a Grievance Mechanism for their workers that is proportionate to their workforce, according to the following principles³:

- **Provision of information.** All workers should be informed about the grievance mechanism at the time they are hired, and details about how it operates should be easily available, for example, included in worker documentation or on notice boards.
- **Transparency of the process.** Workers must know to whom they can turn in the event of a grievance and the support and sources of advice that are available to them. All line and senior managers must be familiar with their organization's grievance procedure.
- **Keeping it up to date.** The process should be regularly reviewed and kept up to date, for example, by referencing any new statutory guidelines, changes in contracts or representation.
- **Confidentiality.** The process should ensure that a complaint is dealt with confidentially. While procedures may specify that complaints should first be made to the workers' line manager, there should also be the option of raising a grievance first with an alternative manager, for example, a human resource (personnel) manager.
- **Non-retribution.** Procedures should guarantee that any worker raising a complaint will not be subject to any reprisal.
- **Reasonable timescales.** Procedures should allow for time to investigate grievances fully, but should aim for swift resolutions. The longer a grievance is allowed to continue, the harder it can be for both sides to get back to normal afterwards. Time limits should be set for each stage of the process, for example, a maximum time between a grievance being raised and the setting up of a meeting to investigate it.
- **Right of appeal.** A worker should have the right to appeal to KETRACO or national courts if he or she is not happy with the initial finding.
- **Right to be accompanied.** In any meetings or hearings, the worker should have the right to be accompanied by a colleague, friend or union representative.
- **Keeping records.** Written records should be kept at all stages. The initial complaint should be in writing if possible, along with the response, notes of any meetings and the findings and the reasons for the findings.
- **Relationship with collective agreements.** Grievance procedures should be consistent with any collective agreements.
- **Relationship with regulation.** *Grievance processes should be compliant with the national employment code.*

³ Based on Annex D of the Guidance Note for IFC's Performance Standard 2.

**APPENDIX 2. SAMPLE RAP ENTITLEMENT MATRIX
(KETRACO to review and align with the applicable Kenyan laws for
wayleave acquisition**

Type of Loss	Application	Definition of APs	Compensation Entitlements
Land			
Permanent loss of agricultural and non-agricultural land (e.g. tower siting, enhancement of access roads)	PAPs permanently losing agricultural land regardless of impact severity	Registered owners	<p>For agricultural lands - Cash compensation at full replacement cost or replacement land of same value of land lost and at location acceptable to PAPs where feasible. If any remaining part of the land owned by the registered owners is no longer appropriate for use, such remaining part will be purchased subject to the agreement with the owner.</p> <p>For non-agricultural lands - Cash compensation at full replacement cost at market value without deduction of depreciation value and transaction fees.</p>
		Legalizable Owner (e.g. ancestral claims)	<p>For agricultural lands - These PAPs will be legalized and provided with cash compensation at full replacement cost of land.</p> <p>This compensation entitlement will also apply to the legalizable owners using unregistered land plots far from their residence, without registration of such</p>

Type of Loss	Application	Definition of APs	Compensation Entitlements
			land. For non-agricultural lands - these PAPs will receive the cash compensation as legalized owners after their title will be legalized and registered at the public register.
		Renters/Leasee	Non eligible for land compensation; only for other losses indicated in the Entitlement Matrix.
		Non-legalizable owners (squatters/encroachers)	Non-legalizable PAPs losing agricultural land plot, which is the only land plot used and provides main source of income for AH, will be compensated with one time allowance in cash equal to 1 year of minimum subsistence income (300 GEL X 12 = 3.600 GEL). This is in addition to compensation for other losses as indicated in the Entitlement Matrix.
Restrictions on use land (e.g. easement for TL's right of way)	PAP not losing their land falling within RoW, but land use restrictions imposed (prohibition of constructing structures)	Registered owners	Easement agreement will include a lump sum easement fee payable to the owner. Such fee to be established by an independent valuation experts (See Section 4. Methods for Valuating Affected Assets)

Type of Loss	Application	Definition of APs	Compensation Entitlements
		Legalizable Owner	These PAPs will be legalized and the owner will receive easement fee as a lump sum in the amount to be determined by an independent valuation experts
		Renter/Leaseholder	Not eligible for easement fee for land-use restriction. Only eligible for other entitlements as per this Entitlement Matrix.
		Non-localizable users	Not eligible for easement fee for land-use restriction .Only eligible for other entitlements as per this Entitlement Matrix.
Buildings and Structures			
Residential buildings	Entire RoW, where deployment of residential structures is prohibited	Registered owners and family living in the house	In addition of compensation for loss of land, it will receive compensation and replacement value for the house and will be provided with resettlement assistance to ensure that the family relocates in a new house with access to services and security of tenure.
		Legalizable Owner and family living in the house	These PAPs will be legalized and addition of compensation for loss of land, it will receive compensation and replacement value for the house and will be provided with resettlement assistance

Type of Loss	Application	Definition of APs	Compensation Entitlements
			to ensure that the family relocates in a new house with access to services and security of tenure
		Renter/Leaseholder and family	Non-eligible for compensation for the house. The PAP will be informed well in advance to move and receive the equivalent of three month rent and support to transport belongings to new location.
		Non-legalizable users and family	Non-eligible for compensation for land, but will receive compensation at full replacement cost for the house and will receive additional assistance to ensure that adequate housing with security of tenure and access to services is provided.
Non-residential structures (barns, irrigation, fences, etc)	Entire RoW, where deployment of some non-residential structures is prohibited	Registered owners	Compensation at full replacement cost for lost structures, in addition of compensation for loss of land.
		Legalizable Owner	These PAPs will be legalized and receive compensation at full replacement cost for lost structures, in addition of compensation for loss of land.
		Renter/Leaseholder	Non-eligible.
		Non-legalizable users	Eligible for compensation at full

Type of Loss	Application	Definition of APs	Compensation Entitlements
			replacement cost of all structures built by the non-legalizable user
Loss of Community Infrastructure/Common Property Resources			
Loss of common property and/or resources	Community/Public Assets	Community/Government	Reconstruction of the lost structure or replacement of agricultural lands in consultation with community and restoration of their functions
Loss of Income and Livelihood			
Crops	Standing crops affected or loss of planned crop incomes**	All PAPs regardless of legal status (including registered owners, legalizable, non-legalizable users, and renters)	When possible, people will be given enough time to harvest existing crops. Crop compensation in cash at gross market value of actual or expected harvest. Compensation for this item will be provided even in case if the crops were harvested. This compensation is in addition for compensation for permanent acquisition of land or easement fee.
Trees	Trees affected	All PAPs regardless of legal status (including registered owners, legalizable, non-legalizable users, and renters)	Cash compensation at market rate on the basis of type, age market price of product and the productive life of the trees. This compensation is in addition for compensation for permanent acquisition of land or easement

Type of Loss	Application	Definition of APs	Compensation Entitlements
			fee.
Business/Employment loss	Business/employment loss	Business owner	(i). (permanent impact) cash indemnity of 1 year net income; (ii) (temporary impact) cash indemnity of net income for months of business stoppage. Assessment to be based on tax declaration or, in its absence, minimum subsistence income.
		Workers/employees:	Indemnity for lost wages equal to 3 months of minimum subsistence income and job trainings.
Allowances			
Severe Impacts	>10%loss of productive lands	Severely affected APs losing permanently (siting of towers) more than 10% of affected agricultural land (including registered owners, legalizable and non-legalizable users. Renters are not eligible)	Additional allowance equivalent to market value of two-year yield from affected land Other income: 1 additional compensation for 3 months of minimum subsistence income e.g. KES 3000 per month x 3 months=KES 9000 per AH)
Transportation for physical relocation of houses	Transport/transition costs	All PAPs to be physically relocated (including registered owners, legalizable, non-legalizable users, and renters)	Provision of allowance covering transport expenses and livelihood expenses for the transitional period for 3 months equal to 3 months of minimum subsistence income. E.g KES 2000 as vehicle hire charge +

Type of Loss	Application	Definition of APs	Compensation Entitlements
			KES 3000 per month x 3 months=KES 9000 per AH) as minimum subsistence income x 3 months = KES 11,000 AH
Vulnerable People Allowances	Vulnerable People Allowances	AFs below poverty line, single mother headed household, disabled or elderly	Allowance equivalent to 3 months of minimum subsistence income* and employment priority in project-related jobs KES 3000 as minimum subsistence income per month for 3months= KES 9000 per AH)
<p>NB: All compensation for loss of use of land, structures and crops should comply with the provisions of Part X (Creation of easements and analogous rights) in particular sections 143, 144, 146 & 148, of the Land Act 2012.</p> <p>Any compensation relating to community land should comply with the Community Land Act, 2016</p> <p>Compensation relating to a wayleave or communal ROW shall not be paid to a public body unless there is demonstrable interference of the use of land by that public</p>			

Type of Loss	Application	Definition of APs	Compensation Entitlements
body: Section 148 (2).			
Temporary use of land			
Temporary use of land during construction	Lease of land for project purposes (e.g. camps, storage)	All PAPs	Civil works Contractor will lease land required temporarily during construction on voluntary basis where land user will have the right to say no (e.g., willing leaser-willing lessee basis). The maximum period for temporary use is defined as 2 years. Lease rates to be paid should not be less than lease at current market rates, plus compensation for any loss of crops or trees at gross value of 2 year's harvest of crops on the affected lands. It is also required that lands (or other assets) be fully cleared and restored following use
Construction impacts not related to land acquisition⁴			
Damages to houses, buildings, and structures affected during construction.	In relation to impacts that are not related to land acquisition such as potential damages of vibrations or discomfort caused by road traffic.	All PAPs regardless of legal status	Construction contractor will conduct assessment of damages, compare with existing baseline information and corresponding remedial actions (e.g. reparations, etc) proposed to the affected party. If damages can't be

⁴Requirements to be included in the Construction Contractor contract.

Type of Loss	Application	Definition of APs	Compensation Entitlements
			<p>mitigated or fixed the affected houses and other buildings will managed in accordance to the principles of the RPF and it will be compensated in full for the whole building irrespective of the specific degree of impact. Compensation will be provided in cash at replacement cost free of deductions for depreciation, transaction costs or salvaged materials. All relevant PAPs are entitled to this provision by default irrespective of the registration status of the affected item. Salvaged materials after demolition of the building are deemed to be owned by the AH.</p>

APPENDIX 3. OP 4.12 – INVOLUNTARY RESETTLEMENT

OP 4.12 December, 2001

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

Note: OP/BP 4.12, *Involuntary Resettlement*, were revised on April 2013 to take into account the recommendations in “*Investment Lending Reform: Modernizing and Consolidating Operational Policies and Procedures*” (R2012-0204 [IDA/R2012-0248]), which were approved by the Executive Directors on October 25, 2012. As a result of these recommendations: (a) OP/BP 10.00, *Investment Project Financing*, have been revised, among other things, to incorporate OP/BP 13.05, *Supervision* and OP/BP 13.55, *Implementation Completion Reporting*, (which have consequently been retired); and (b) OP/BP 8.60, *Development Policy Lending*, and OP 9.00, *Program-for-Results Financing*, have also been revised. OP/BP 4.12 have consequently been updated to reflect these changes, to clarify the extent of applicability of OP/BP 4.12 to Development Policy Lending and Program-for Results-Financing, and to reflect the updated title of the Bank’s policy on access to information.

Questions on this OP/BP may be addressed to the Safeguard Policies Helpdesk in OPCS (safeguards@worldbank.org).

Revised April 2013

1. Bank¹ experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

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

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.²

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.⁴

Impacts Covered

3 . This policy covers direct economic and social impacts⁵ that both result from Bank-assisted investment projects,⁶ and are caused by

(a) the involuntary⁷ taking of land⁸ resulting in

(i) relocation or loss of shelter;

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

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

(b) the involuntary restriction of access⁹ to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

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

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

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

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

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12, para. 7](#)).¹⁰

Required Measures

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

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

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

(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
(iii) provided prompt and effective compensation at full replacement cost¹¹ for losses of assets¹² attributable directly to the project.

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

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

(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.¹³

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

(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;¹⁴ and

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

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

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

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

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

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

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

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

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

9. Bank experience has shown that resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups.

When it is not feasible to avoid such displacement, preference is given to land-based resettlement

strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A](#), para. 11).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30).¹⁶

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area,¹⁷ or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction¹⁸ of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

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

- (a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.
- (b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).
- (c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

Eligibility for Benefits¹⁹

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

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

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

(b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A](#), para. 7(f)); and²⁰

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

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance²¹ in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.²² Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

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

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

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified (see [Annex A](#); and

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

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for

achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs.²³ The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

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

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

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.²⁴

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

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

Resettlement Instruments

Resettlement Plan (RAP)

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A](#), para. 2-21) for projects referred to in para. 17(a) above.²⁵ However, where impacts on the entire displaced population are minor,²⁶ or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A](#), para. 22). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

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

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

28. For other Bank-assisted project with multiple subprojects²⁷ that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A](#), paras. 23-25). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

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

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their

consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

Process Framework

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

Assistance to the Borrower

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

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

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

"Bank" includes IBRD and IDA; "loans" includes IDA credits and IDA grants, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) PPFs advances and Institutional Development Fund (IDF) grants, if they include investment activities; (b) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (c) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs supported by Development Policy Lending (for which the environmental provisions are set out in [OP/BP 8.60, *Development Policy Lending*](#)), or by Program-for-Results Financing (for which environmental provisions are set out in [OP/BP 9.00, *Program-for-Results Financing*](#)). "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.

In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include [OP 4.01](#), *Environmental Assessment*, [OP 4.04](#), *Natural Habitats*, [OP 4.10](#), *Indigenous Peoples*, and [OP 4.11](#), *Physical Cultural Resources*. The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.

Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.

Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.

This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see [OP 8.00](#), *Rapid Response to Crises and Emergencies*).

For the purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice.

"Land" includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.

For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

The *Involuntary Resettlement Sourcebook* provides good practice guidance to staff on the policy. "Replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see [Annex A](#), footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.

If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.

The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements.

See [OP 4.10](#), *Indigenous Peoples*.

Where the borrower has offered to pay compensation to an affected person in accordance with an approved resettlement plan, but the offer has been rejected, the taking of land and related assets may only proceed if the borrower has deposited funds equal to the offered amount plus 10 percent in a secure form of escrow or other interest-bearing deposit acceptable to the Bank, and has provided a means satisfactory to the Bank for resolving the dispute concerning said offer of compensation in a timely and equitable manner.

See [OP 4.04](#), *Natural Habitats*.

As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.

Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).

Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.

Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.

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

For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under [OP 4.01](#), *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts.

See [The World Bank Policy on Access to Information, para. 34](#) (Washington, D.C.: World Bank, 2002).

An exception to this requirement may be made in highly unusual circumstances (such as emergency operations) with the approval of Bank Management (see [BP 4.12](#), para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.

Impacts are considered "minor" if the affected people are not physically displaced and less than 10 percent of their productive assets are lost.

For the purpose of this paragraph, the term "subprojects" includes components and subcomponents.

APPENDIX 4. OP 4.12, ANNEX A - INVOLUNTARY RESETTLEMENT INSTRUMENTS

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject. OP 4.12 - Annex A December, 2001

This Operational Policy statement was updated in February 2011 to clarify the use of Use of Escrow Accounts in order to Help Reduce Delays in Implementation of Resettlement, and Clarification of Funding of Grievance Mechanisms.

Questions on this policy may be addressed to [OPCS Quality Assurance and Compliance \(OPCQC\)](#).

Revised February 2011

1. This annex describes the elements of a **resettlement plan**, an **abbreviated resettlement plan**, a **resettlement policy framework**, and a **resettlement process framework**, as discussed in [OP 4.12, paras. 17-31](#).

Resettlement Plan

2. The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan.

3. **Description of the project.** General description of the project and identification of the project area.

4. **Potential impacts.** Identification of

(a) the project component or activities that give rise to resettlement;

(b) the zone of impact of such component or activities;

(c) the alternatives considered to avoid or minimize resettlement; and

(d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

5. **Objectives.** The main objectives of the resettlement program.

6. **Socioeconomic studies.** The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including

(a) the results of a census survey covering

(i) current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;

(ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;

(iii) the magnitude of the expected loss--total or partial--of assets, and the extent of displacement, physical or economic;

(iv) information on vulnerable groups or persons as provided for in [OP 4.12, para. 8](#), for whom special provisions may have to be made; and

(v) provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

(b) Other studies describing the following

- (i) land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area;
- (ii) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project;
- (iii) public infrastructure and social services that will be affected; and
- (iv) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

7. **Legal framework.** The findings of an analysis of the legal framework, covering

- (a) the scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- (b) the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project;
- (c) relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights; customary personal law related to displacement; and environmental laws and social welfare legislation;
- (d) laws and regulations relating to the agencies responsible for implementing resettlement activities;
- (e) gaps, if any, between local laws covering eminent domain and resettlement and the Bank's resettlement policy, and the mechanisms to bridge such gaps; and
- (f) any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage (see [OP 4.12, para.15 b](#)).

8. **Institutional Framework.** The findings of an analysis of the institutional framework covering

- (a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- (b) an assessment of the institutional capacity of such agencies and NGOs; and
- (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

9. **Eligibility.** Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

10. **Valuation of and compensation for losses.** The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.¹

11. **Resettlement measures.** A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of

the policy (see [OP 4.12, para. 6](#)). In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

12. *Site selection, site preparation, and relocation.* Alternative relocation sites considered and explanation of those selected, covering

(a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;

(b) any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;

(c) procedures for physical relocation under the project, including timetables for site preparation and transfer; and

(d) legal arrangements for regularizing tenure and transferring titles to resettlers.

13. *Housing, infrastructure, and social services.* Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services);² plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

14. *Environmental protection and management.* A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement³ and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

15. *Community participation.* Involvement of resettlers and host communities,⁴

(a) a description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of the resettlement activities;

(b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;

(c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals' families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries);⁵ and

(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

16. *Integration with host populations.* Measures to mitigate the impact of resettlement on any host communities, including

(a) consultations with host communities and local governments;

- (b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers;
- (c) arrangements for addressing any conflict that may arise between resettlers and host communities; and
- (d) any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

17. **Grievance procedures.** Affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

18. **Organizational responsibilities.** The organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

19. **Implementation schedule.** An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

20. **Costs and budget.** Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.⁶

21. **Monitoring and evaluation.** Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Abbreviated Resettlement Plan

22. An abbreviated plan covers the following minimum elements:⁷

- (a) a census survey of displaced persons and valuation of assets;
- (b) description of compensation and other resettlement assistance to be provided;
- (c) consultations with displaced people about acceptable alternatives;
- (d) institutional responsibility for implementation and procedures for grievance redress;
- (e) arrangements for monitoring and implementation; and
- (f) a timetable and budget.

Resettlement Policy Framework

23. The purpose of the policy framework is to **clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation** (see [OP 4.12, paras. 26-28](#)). Subproject resettlement plans consistent with the policy framework subsequently are submitted to the Bank for approval after specific planning information becomes available (see [OP 4.12, para. 29](#)).

24. The resettlement policy framework covers the following elements, consistent with the provisions described in [OP 4.12, paras. 2 and 4](#):

- (a) a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement plan as described in paras. 2-21 or an abbreviated plan as described in para. 22 cannot be prepared by project appraisal;
- (b) principles and objectives governing resettlement preparation and implementation;
- (c) a 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) a 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) a description of the implementation process, linking resettlement implementation to civil works;
- (j) a description of grievance redress mechanisms;
- (k) a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- (l) a 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.

25. When a resettlement policy framework is the only document that needs to be submitted as a condition of the loan, the resettlement plan to be submitted as a condition of subproject financing need not include the policy principles, entitlements, and eligibility criteria, organizational arrangements, arrangements for monitoring and evaluation, the framework for participation, and mechanisms for grievance redress set forth in the resettlement policy framework. The subproject-specific resettlement plan needs to include baseline census and socioeconomic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimate.

Process Framework

26. A process framework is prepared when **Bank-supported projects may cause restrictions in access to natural resources in legally designated parks and protected areas**. The purpose of the process framework is to establish a process by which members of **potentially affected**

communities participate in design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities (see [OP 4.12, paras. 7 and 31](#)).

27. **Specifically, the process framework describes participatory processes** by which the following activities will be accomplished

(a) ***Project components will be prepared and implemented.*** The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. ***It should also describe the process by which potentially displaced persons participate in project design.***

(b) ***Criteria for eligibility of affected persons will be determined.*** The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.

(c) ***Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified.*** The document should *describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.*

(d) ***Potential conflicts or grievances within or between affected communities will be resolved.*** The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.

Additionally, the process framework should describe arrangements relating to the following

(e) ***Administrative and legal procedures.*** The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).

(f) ***Monitoring arrangements.*** The document should review arrangements for participatory monitoring of project activities as they relate to (beneficial and adverse) impacts on persons within the project impact area, and for monitoring the effectiveness of measures taken to improve (or at minimum restore) incomes and living standards.

With regard to land and structures, "replacement cost" is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are

not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in [OP 4.12, para. 6](#).

Provision of health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease.

Negative impacts that should be anticipated and mitigated include, for rural resettlement, deforestation, overgrazing, soil erosion, sanitation, and pollution; for urban resettlement, projects should address such density-related issues as transportation capacity and access to potable water, sanitation systems, and health facilities.

Experience has shown that local NGOs often provide valuable assistance and ensure viable community participation.

APPENDIX 5. OP 4.11, PHYSICAL CULTURAL RESOURCES

The costs of establishing the grievance procedures for the project shall be included in the project costs.

In case some of the displaced persons lose more than 10% of their productive assets or require physical relocation, the plan also covers a socioeconomic survey and income restoration measures.

APPENDIX 6. OP 4.10 INDIGENOUS PEOPLES

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 4.10
July, 2005

OP and [BP 4.10](#) together replace OD 4.20, *Indigenous Peoples*, dated September 1991. These OP and BP apply to all projects for which a Project Concept Review takes place on or after July 1, 2005. Questions may be addressed to the Director, [Social Development Department](#).

1. This policy¹ contributes to the Bank's² mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Indigenous Peoples,³ the Bank requires the borrower to engage in a process of free, prior, and informed consultation.⁴ The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples.⁵ Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive.

2. The Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease. Gender and intergenerational issues among Indigenous Peoples also are complex. As social groups with identities that are often distinct from dominant groups in their national societies, Indigenous Peoples are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limits their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development. At the same time, the Bank recognizes that Indigenous Peoples play a vital role in sustainable development and that their rights are increasingly being addressed under both domestic and international law.

3. *Identification.* Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of "Indigenous Peoples," this policy does not define the term; Indigenous Peoples may be referred to in different countries by such terms as "indigenous ethnic minorities," "aboriginals," "hill tribes," "minority nationalities," "scheduled tribes," or "tribal groups."

4. For purposes of this policy, the term "Indigenous Peoples" is used in a generic sense to refer

to a distinct, vulnerable, social and cultural group⁶ possessing the following characteristics in varying degrees:

- (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories⁷
- (c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- (d) an indigenous language, often different from the official language of the country or region.

A group that has lost "collective attachment to geographically distinct habitats or ancestral territories in the project area"; (paragraph 4 (b)) because of forced severance remains eligible for coverage under this policy.⁸ Ascertaining whether a particular group is considered as "Indigenous Peoples" for the purpose of this policy may require a technical judgment (see paragraph 8).

5. *Use of Country Systems.* The Bank may decide to use a country's systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems.⁹

Project Preparation

6. A project proposed for Bank financing that affects Indigenous Peoples requires:

- (a) screening by the Bank to identify whether Indigenous Peoples are present in, or have collective attachment to, the project area (see paragraph 8);
- (b) a social assessment by the borrower (see paragraph 9 and [Annex A](#));
- (c) a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project (see paragraphs 10 and 11);
- (d) the preparation of an Indigenous Peoples Plan (see paragraph 12 and [Annex B](#)) or an Indigenous Peoples Planning Framework (see paragraph 13 and [Annex C](#)); and
- (e) disclosure of the draft Indigenous Peoples Plan or draft Indigenous Peoples Planning Framework (see paragraph 15).

7. The level of detail necessary to meet the requirements specified in paragraph 6 (b), (c), and (d) is proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether adverse

or positive.

Screening

8. Early in project preparation, the Bank undertakes a screening to determine whether Indigenous Peoples (see paragraph 4) are present in, or have collective attachment to, the project area.¹⁰ In conducting this screening, the Bank seeks the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area. The Bank also consults the Indigenous Peoples concerned and the borrower. The Bank may follow the borrower's framework for identification of Indigenous Peoples during project screening, when that framework is consistent with this policy.

Social Assessment

9. *Analysis.* If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether such effects are positive or adverse (see [Annex A](#) for details). To carry out the social assessment, the borrower engages social scientists whose qualifications, experience, and terms of reference are acceptable to the Bank.

10. *Consultation and Participation.* Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:

(a) establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities;

(b) uses consultation methods¹¹ appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and

(c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.

11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents:

- (a) the findings of the social assessment;
- (b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities;
- (c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits;
- (d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and
- (e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs.

The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.

Indigenous Peoples Plan/Planning Framework

12. *Indigenous Peoples Plan.* On the basis of the social assessment and in consultation with the affected Indigenous Peoples' communities, the borrower prepares an Indigenous Peoples Plan (IPP) that sets out the measures through which the borrower will ensure that (a) Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on Indigenous Peoples are identified, those adverse effects are avoided, minimized, mitigated, or compensated for (see [Annex B](#) for details). The IPP is prepared in a flexible and pragmatic manner,¹² and its level of detail varies depending on the specific project and the nature of effects to be addressed. The borrower integrates the IPP into the project design. When Indigenous Peoples are the sole or the overwhelming majority of direct project beneficiaries, the elements of an IPP should be included in the overall project design, and a separate IPP is not required. In such cases, the Project Appraisal Document (PAD) includes a brief summary of how the project complies with the policy, in particular the IPP requirements.

13. *Indigenous Peoples Planning Framework.* Some projects involve the preparation and implementation of annual investment programs or multiple subprojects.¹³ In such cases, and when the Bank's screening indicates that Indigenous Peoples are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or subprojects are identified, the borrower prepares an Indigenous Peoples Planning Framework (IPPF). The IPPF provides for the screening and review of these programs or subprojects in a manner consistent with this policy (see [Annex C](#) for details). The borrower integrates the IPPF into the project design.

14. *Preparation of Program and Subproject IPPs.* If the screening of an individual program or subproject identified in the IPPF indicates that Indigenous Peoples are present in, or have collective

attachment to, the area of the program or subproject, the borrower ensures that, before the individual program or subproject is implemented, a social assessment is carried out and an IPP is prepared in accordance with the requirements of this policy. The borrower provides each IPP to the Bank for review before the respective program or subproject is considered eligible for Bank financing.¹⁴

Disclosure

15. The borrower makes the social assessment report and draft IPP/IPPF available to the affected Indigenous Peoples' communities in an appropriate form, manner, and language.¹⁵ Before project appraisal, the borrower sends the social assessment and draft IPP/IPPF to the Bank for review.¹⁶ Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank makes them available to the public in accordance with [*The World Bank Policy on Disclosure of Information*](#), and the borrower makes them available to the affected Indigenous Peoples' communities in the same manner as the earlier draft documents.

Special Considerations

Lands and Related Natural Resources

16. Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to:

(a) the customary rights¹⁷ of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods;

(b) the need to protect such lands and resources against illegal intrusion or encroachment;

(c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and

(d) Indigenous Peoples' natural resources management practices and the long-term sustainability of such practices.

17. If the project involves (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied (such as land titling projects), or (b) the acquisition of such lands, the IPP sets forth an action plan for the legal recognition of such ownership, occupation, or usage. Normally, the action plan is carried out before project implementation; in some cases, however, the action plan may need to be carried out concurrently with the project itself. Such legal recognition may take the following forms:

(a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or

(b) conversion of customary usage rights to communal and/or individual ownership rights.

If neither option is possible under domestic law, the IPP includes measures for legal recognition

of perpetual or long-term renewable custodial or use rights.

Commercial Development of Natural and Cultural Resources

18. If the project involves the commercial development of natural resources (such as minerals, hydrocarbon resources, forests, water, or hunting/fishing grounds) on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied, the borrower ensures that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples' livelihoods, environments, and use of such resources. The borrower includes in the IPP arrangements to enable the Indigenous Peoples to share equitably in the benefits¹⁸ to be derived from such commercial development; at a minimum, the IPP arrangements must ensure that the Indigenous Peoples receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to that to which any landowner with full legal title to the land would be entitled in the case of commercial development on their land.

19. If the project involves the commercial development of Indigenous Peoples' cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples' livelihoods, environments, and use of such resources. Commercial development of the cultural resources and knowledge of these Indigenous Peoples is conditional upon their prior agreement to such development. The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.

Physical Relocation of Indigenous Peoples

20. Because physical relocation of Indigenous Peoples is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of [OP 4.12, *Involuntary Resettlement*](#), that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.

21. In many countries, the lands set aside as legally designated parks and protected areas may overlap with lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied. The Bank recognizes the significance of these rights of ownership, occupation, or usage, as well as the need for long-term sustainable management of critical ecosystems. Therefore, involuntary restrictions on Indigenous Peoples' access to legally designated parks and protected areas, in particular access to their sacred sites, should be avoided. In exceptional circumstances, where it is not feasible to avoid restricting access, the borrower prepares, with the free, prior, and informed consultation of the affected Indigenous Peoples' communities, a process framework in accordance with the provisions of [OP 4.12](#). The process framework provides guidelines for preparation, during project implementation, of an individual parks and protected areas' management plan, and ensures that the Indigenous Peoples participate in the design, implementation, monitoring, and evaluation of the management plan, and share equitably in the benefits of the parks and protected areas. The management plan should give priority to collaborative arrangements that enable the Indigenous, as the custodians of the resources, to continue to use them in an ecologically sustainable manner.

Indigenous Peoples and Development

22. In furtherance of the objectives of this policy, the Bank may, at a member country's request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to:

- (a) strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;
- (b) make the development process more inclusive of Indigenous Peoples by incorporating their perspectives in the design of development programs and poverty reduction strategies, and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and free, prior, and informed consultation and participation;
- (c) support the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples;
- (d) address the gender¹⁹ and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children;
- (e) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;
- (f) strengthen the capacity of Indigenous Peoples' communities and IPOs to prepare, implement, monitor, and evaluate development programs;
- (g) strengthen the capacity of government agencies responsible for providing development

services to Indigenous Peoples;

(h) protect indigenous knowledge, including by strengthening intellectual property rights; and

(i) facilitate partnerships among the government, IPOs, CSOs, and the private sector to promote Indigenous Peoples' development programs.

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1. This policy should be read together with other relevant Bank policies, including *Environmental Assessment* ([OP 4.01](#)), *Natural Habitats* ([OP 4.04](#)), *Pest Management* ([OP 4.09](#)), *Physical Cultural Resources* ([OP/BP 4.11](#)), *Involuntary Resettlement* ([OP 4.12](#)), *Forests* ([OP 4.36](#)), and *Safety of Dams* ([OP 4.37](#)).
 2. "Bank" includes IBRD and IDA; "loans" includes IBRD loans, IDA credits, IDA grants, IBRD and IDA guarantees, and Project Preparation Facility (PPF) advances, but does not include development policy loans, credits, or grants. For social aspects of development policy operations, see [OP 8.60](#), *Development Policy Lending*, paragraph 10. The term "borrower" includes, wherever the context requires, the recipient of an IDA grant, the guarantor of an IBRD loan, and the project implementing agency, if it is different from the borrower.
 3. This policy applies to all components of the project that affect Indigenous Peoples, regardless of the source of financing.
 4. "Free, prior, and informed consultation with the affected Indigenous Peoples' communities" refers to a culturally appropriate and collective decisionmaking process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups (see paragraph 10).
 5. For details on "broad community support to the project by the affected Indigenous Peoples," see paragraph 11.
 6. The policy does not set an *a priori* minimum numerical threshold since groups of Indigenous Peoples may be very small in number and their size may make them more vulnerable.
 7. "Collective attachment" means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. "Collective attachment" also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.
 8. "Forced severance" refers to loss of collective attachment to geographically distinct habitats or ancestral territories occurring within the concerned group members' lifetime because of conflict, government resettlement programs, dispossession from their lands, natural calamities, or incorporation of such territories into an urban area. For purposes of this policy, "urban area" normally means a city or a large town, and takes into account all of the following characteristics, no single one of which is definitive: (a) the legal designation of the area as urban under domestic law; (b) high population density; and (c) high proportion of nonagricultural economic activities relative to agricultural activities.
 9. The currently applicable Bank policy is [OP/BP 4.00](#), *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported*

Projects. Applicable only to pilot projects using borrower systems, the policy includes requirements that such systems be designed to meet the policy objectives and adhere to the operational principles related to Indigenous Peoples identified in OP 4.00 (see [Table A1](#)).

10. The screening may be carried out independently or as part of a project environmental assessment (see [OP 4.01](#), *Environmental Assessment*, paragraphs 3, 8).
11. Such consultation methods (including using indigenous languages, allowing time for consensus building, and selecting appropriate venues) facilitate the articulation by Indigenous Peoples of their views and preferences. The *Indigenous Peoples Guidebook* (forthcoming) will provide good practice guidance on this and other matters.
12. When non-Indigenous Peoples live in the same area with Indigenous Peoples, the IPP should attempt to avoid creating unnecessary inequities for other poor and marginal social groups.
13. Such projects include community-driven development projects, social funds, sector investment operations, and financial intermediary loans.
14. If the Bank considers the IPPF to be adequate for the purpose, however, the Bank may agree with the borrower that prior Bank review of the IPP is not needed. In such case, the Bank reviews the IPP and its implementation as part of supervision (see [OP 13.05](#), *Project Supervision*).
15. The social assessment and IPP require wide dissemination among the affected Indigenous Peoples' communities using culturally appropriate methods and locations. In the case of an IPPF, the document is disseminated using IPOs at the appropriate national, regional, or local levels to reach Indigenous Peoples who are likely to be affected by the project. Where IPOs do not exist, the document may be disseminated using other CSOs as appropriate.
16. An exception to the requirement that the IPP (or IPPF) be prepared as a condition of appraisal may be made with the approval of Bank management for projects meeting the requirements of [OP 8.00](#), *Rapid Response to Crises and Emergencies*. In such cases, management's approval stipulates a timetable and budget for preparation of the social assessment and IPP or of the IPPF.
17. "Customary rights" to lands and resources refers to patterns of long-standing community land and resource usage in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State.
18. The *Indigenous Peoples Guidebook* (forthcoming) will provide good practice guidance on this matter.
19. See [OP/BP 4.20](#), *Gender and Development*.

APPENDIX 7. OP 4.10 ANNEX A: SOCIAL ASSESSMENT

OP 4.10, Annex A - Social Assessment

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

**OP 4.10 - Annex A
July, 2005**

1. The breadth, depth, and type of analysis required for the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples.
2. The social assessment includes the following elements, as needed:
 - (a) A review, on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples.
 - (b) Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
 - (c) Taking the review and baseline information into account, the identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation (see paragraph 9 of this policy).
 - (d) An assessment, based on free, prior, and informed consultation, with the affected Indigenous Peoples' communities, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples' communities given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live.
 - (e) The identification and evaluation, based on free, prior, and informed consultation with the affected Indigenous Peoples' communities, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

OP 4.10, Annex B - Indigenous Peoples Plan

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

1. The Indigenous Peoples Plan (IPP) is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed.
2. The IPP includes the following elements, as needed:
 - a) A summary of the information referred to in Annex A, paragraph 2 (a) and (b).
 - b) A summary of the social assessment.
 - c) A summary of results of the free, prior, and informed consultation with the affected Indigenous Peoples' communities that was carried out during project preparation (Annex A) and that led to broad community support for the project.
 - d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities during project implementation (see paragraph 10 of this policy).
 - e) An action plan of measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.
 - f) When potential adverse effects on Indigenous Peoples are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
 - g) The cost estimates and financing plan for the IPP.
 - h) Accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.
 - i) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples' communities.