

**UGANDA  
MINISTRY OF ENERGY AND MINERALS  
(MEMD)**

**RESETTLEMENT POLICY FRAMEWORK (RPF)**

**FOR**

**THE COMMUNITY ENHANCEMENT PROGRAM (CEP) FOR THE  
PROPOSED ELECTRICITY DEVELOPEMNT PROJECT (ESDP)**

**NOVEMBER 2010**

## Table of Contents

DEFINITIONS .....	1
1.0 PROJECT BACKGROUND.....	3
2.0 PROJECT OBJECTIVES .....	3
3.0 OBJECTIVES OF THE RPF .....	4
3.1 Objectives and basic terms of preparation of the RPF .....	4
3.2 Impact, land acquisition and resettlement .....	4
3.3 Acquisition of land .....	4
4.0 RESETTLEMENT .....	6
4.1 Involuntary resettlement - Resettlement Impacts and Mitigation. ....	6
4.2 Basis for the resettlement policy framework.....	8
4.3 OBJECTIVES AND JUSTIFICATION OF THE RPF.....	9
4.3.1 Objectives of the RPF .....	9
4.3.2 Justification for the RPF .....	9
4.4 THE LEGAL FRAMEWORK.....	11
4.4.1 The Local Government Act 1997 .....	11
4.4.2 The Electricity Act 1999.....	11
4.4.3 Land Tenure and Ownership.....	12
4.4.3.1 The Uganda Constitution of 1995.....	12
4.4.3.2 The constitution and the land tenure systems .....	12
4.4.4 The Land Act 1998 .....	13
4.4.5The Acquisition Act (1965).....	14
4.4.6 Land Tenure and Property Rights .....	15
4.4.7 World Bank Policies .....	15
4.4.7.1 Comparison between Uganda Land Laws and the World Bank OP 4.12 Involuntary .....	16
5.0 LAND ADMNISTRATION AND CATEGORIES OF AFFECTED PERSONS.....	19
5.1 Jurisdiction of the Framework.....	19
5.2 General Land acquisition.....	19
5.3 LIKELY NUMBER AND CATEGORIES OF AFFECTED PERSONS .....	20
5.4 Land customary users .....	23

6.0 STEPS TO BE FOLLOWED IN LAND ACQUISITION AND RESETTLEMENT FOR THE CEP PROGRAM INVESTMENT ACTIVITIES .....	24
6.1 The screening process .....	24
6.2 Steps leading to the preparation of Resettlement Action .....	26
6.3 Public Consultation and Participation .....	27
7.0 GUIDING PRINCIPLES FOR THE VARIOUS TYPES OF LAND ACQUISITION MECHANISMS .....	28
7.1 Previous and current land acquisition practices .....	28
7.2 Proposed land acquisition mechanism .....	28
7.3 Voluntary Land Contribution with Compensation .....	29
7.4 Involuntary Acquisition of land .....	30
8.0 ELIGIBILITY CRITERIA AND CONDITIONS FOR DISPLACEMENT OF CEP .....	31
8.1 Criteria for determining eligibility for compensation .....	31
8.2 Procedures for payment of compensation .....	32
8.3 Uganda legislation on compensation.....	32
8.4 Conditions to be followed in displacement of persons.....	32
9.0 NOTIFICATION, VALUATION PROCEDURES AND ENTITLEMENTS .....	33
9.1 Notification Procedure.....	33
9.2 Valuations for State Owned land.....	33
9.3 Valuation for customary land .....	33
9.4 Calculations for compensation payments and related considerations .....	34
9.4.1 General Considerations.....	34
9.4.1.1 Computation of Compensation .....	34
10.0 PROCEDURE FOR DELIVERY OF COMPENSATION.....	37
10.1 Consultation and Public participation .....	37
10.2 Notification of land resource holders .....	37
10.3 Documentation of holdings and assets .....	37
10.4 Complaints / Grievance Resolution Mechanism .....	37
11.0 RESETTLEMENT FUNDING.....	39
12.0 IMPLEMENTATION AND MONITORING PLANS.....	40
12.1 Resettlement Action Plans.....	40
12.2 Monitoring Arrangements .....	40

## DEFINITIONS

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

- (a) “Census” means a field survey carried out to identify and determine the number of CEP program Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions (LGIs).
- (b) CEP program Affected Person(s) (PAPs) are persons affected by land and other assets loss as a result of CEP activities. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.
- (c) “Compensation” means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from CEP program activities.
- (d) “Cut-off date” is the date of commencement of the census of PAPs or DPs within the CEP program area boundaries. This is the date on *and beyond which any person whose land is occupied for CEP program, will not be eligible* for compensation.
- (e) “Displaced Persons” mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the CEP program, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location ; lose right, title, interest in any houses, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.
- (f) “Involuntary Land Acquisition” is the possession of land by government or other government agencies for compensation, for the purposes of a public CEP program against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.
- (g) “Land” refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the CEP program.
- (h) “Land acquisition” means the possession of or alienation of land, buildings or other assets thereon for purposes of the CEP program.
- (i) “Rehabilitation Assistance” means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable CEP program Affected Persons and Displaced Persons to improve their

living standards, income earning capacity and production levels; or at least maintain them at pre-CEP program levels.

- (j) “Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan” -is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting on the people and their livelihoods. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the CEP program activities commences.
- (k) ”Replacement cost” means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on Market rate (commercial rate) according to Ugandan law for sale of land or property. In terms of land, this may be categorized as follows; (a) “Replacement cost for agricultural land” means the pre-CEP program 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 costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;
- (l) “Replacement cost for houses and other structures” means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.
- (m) “Resettlement Assistance” means the measures to ensure that CEP program Affected Persons and Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.
- (n) “The Resettlement Policy Framework (RPF)” is an instrument to be used throughout the CEP Program implementation. The RPF sets out the resettlement objectives and principles, organizational arrangements and funding mechanisms for any resettlement, that may be necessary during ERT implementation. The RPF guides the preparation of Resettlement Action Plans of individual sub projects in order to meet the needs of the people who may be affected by the project. The Resettlement Action Plans (“RAPs”) for the CEP Program will therefore be prepared in conformity with the provisions of this RPF.

## **1.0 PROJECT BACKGROUND**

The Uganda Electricity Transmission Company Limited (UETCL) proposes to construct 134 Km of a 220 kV transmission line from Kawanda to Masaka to evacuate power from Bujagali and other proposed hydropower stations on the Nile to central Uganda as well as serve as a high voltage backbone to the proposed regional interconnection network between Uganda, Tanzania, Rwanda, and DR Congo. The project will be financed by the IDA under the Electricity Sector Development Project (ESDP). The proposed transmission line will transmit power from Kawanda 220/132/33kV substation to Masaka West substation from which the load centres of Masaka, Mbarara shall be supplied with power.

Overall, the proposed construction of the transmission lines will be associated with:

- Consultancy Services for Detailed Line Route Survey, Line Profiling, Geological Survey, Tower Spotting, Designs and Supervision of Works during construction.
- Construction of a new 220kV double circuit steel tower transmission line (135km) from the proposed new 220/132 Kawanda substation (to be operated initially at 132kV) to the new Masaka west 220kV substation.
- Extension and construction of Masaka West 220kV Substation
- Construction of 2 X 220kV feeder line bays at the new Kawanda Substation ( to be initially operated at 132kV)
- Construction of 2X220 kV feeder line bays Masaka West Substation ( to be initially operated at 132kV)
- Installation of 2X125MVA, 220/132/33kV Auto transformers at the existing Masaka West 220/132kV Substation.
- Two 220kV and two 132kV transformer bays
- Clearing of right-of-way as necessary
- Construction of access roads as necessary
- Construction of workers camps and storage facilities for the project materials

In addition, the project will invest in a community enhancement program to help the communities around both the stations of Kawanda and Masaka and along the t-line reap benefits from the investment. At the same time MEMD will be fulfilling its social responsibility to Ugandans in this location. Community enhancement activities include among others street lighting, lighting of markets, health centres, schools, and safe water supply.

However, the community development initiatives and the specific sub project activities will be developed and finalized during project implementation.

## **2.0 PROJECT OBJECTIVES**

The overall development objective of the main proposed project and its associated community development program is to improve the availability and reliability of electricity supply in the central and southwest regions of Uganda. The specific project objectives include:

- Provision of adequate transmission capacity to supply the south western and Western region of Uganda

- Provision of adequate transmission capacity for implementation of rural electrification
- Improvement of quality and reliability of power supply to the south western and Western Uganda
- Enhance community services by improving opportunities for their connection to lighting, and provision of basic facilities as such as water and other services to benefit small, medium and large scale industries and communities along the project area.

It is envisaged that this project will trigger O.P.4.12 Involuntary resettlement and hence a Resettlement Action Plan for the Kawanda Masaka t-line has been prepared. Further it is necessary that a resettlement policy framework is prepared for the community enhancement program as some activities may require the taking of land and assets thereon. Further, this is also because the scope and details of the specific community enhancement program activities are not known and therefore an RPF has to be prepared and disclosed prior to Appraisal of the project.

### **3.0 OBJECTIVES OF THE RPF**

The objective of this RPF is to provide a legal framework and a screening process for future CEP activities. As the exact scope of the investments could not be identified prior to appraisal, the Resettlement Policy Framework (RPF) has been prepared as an instrument to be used throughout the implementation of the investments. The RPF, on disclosure and approval will specify the legal instruments applicable to resettlement and compensation and organizational arrangements required for application of the policy framework.

#### **3.1 Objectives and basic terms of preparation of the RPF**

The framework document is designed to enable MEMD and other participating institutions, communities and the World Bank to address the needs of the populations that could be affected by the program by establishing policies, principles, institutional arrangements for management of issues related to acquisition of land and hence displacement of persons and impact on their livelihoods. The legislation on resettlement of the government of Uganda and OP 4.12 Involuntary Resettlement of the World Bank will govern any resettlement arising out of the activities of the program.

#### **3.2 Impact, land acquisition and resettlement**

Any resettlement of populations may engender:

- Loss of land;
- Loss of housing or commercial business;
- Loss of Economic resources or employment;
- Marginalization of the population concerned;
- Loss of access to natural resources;
- Disturbance of way of life of affected population;

#### **3.3 Acquisition of land**

The sub project developers (both public and private) as well as local communities who may wish to participate in this program will:

- Participate in the identification of the scope of the program;

- Screen the CEP Program activities as to their potential environmental, social, economic impacts as well as their potential to cause resettlement and its corollaries;
- Specify the zones of installation or citing of the CEP Program facilities.

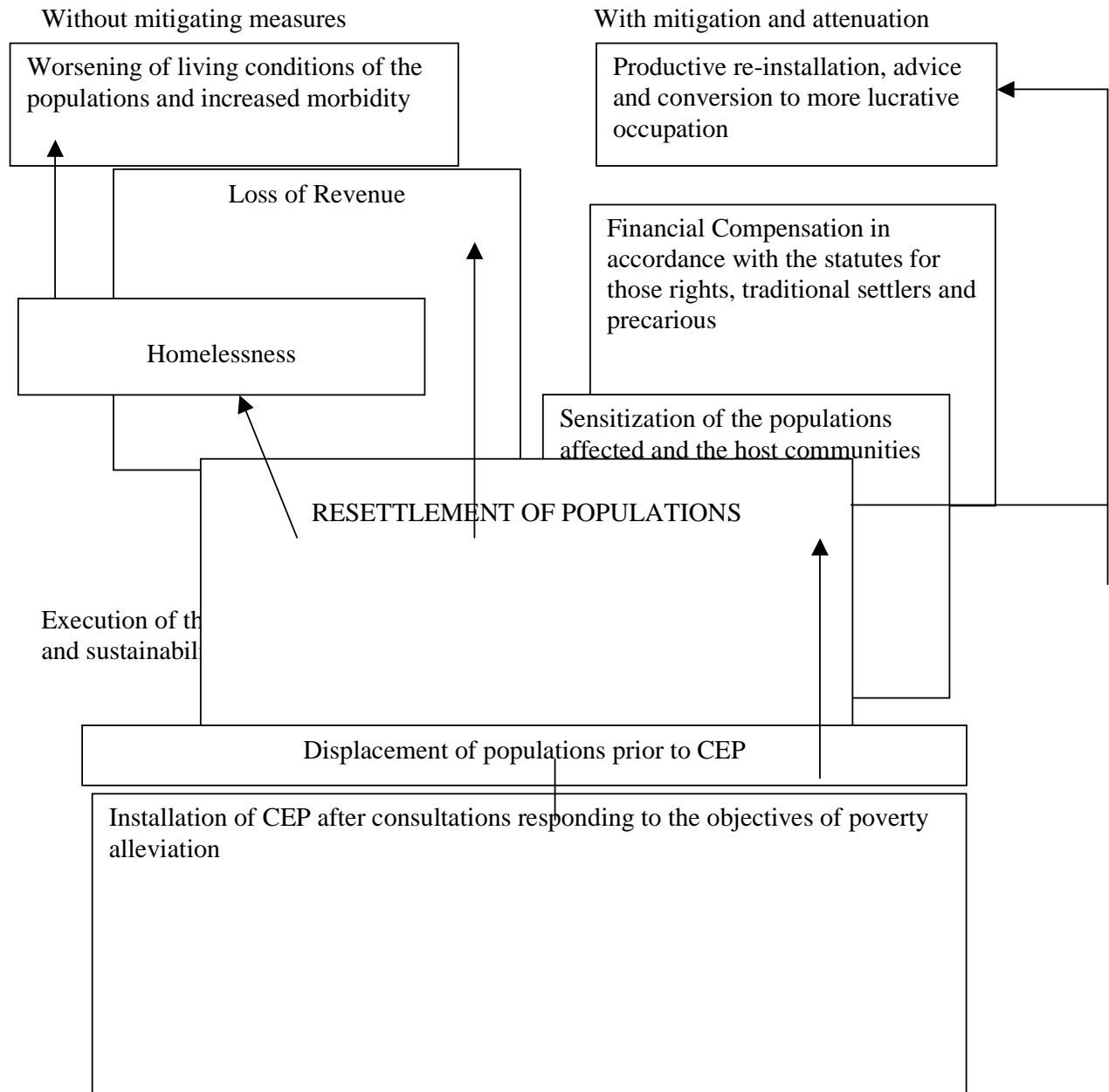


## 4.0 RESETTLEMENT

### 4.1 Involuntary resettlement - Resettlement Impacts and Mitigation.

#### Creation of poverty

#### Creation of a productive momentum



Introduction of unmitigated involuntary resettlement arising from implementation of CEP may lead to severe economic, social and environmental impacts where:

- ③ production systems are dismantled,
- ③ people face impoverishment if their productive assets or income sources are lost,
- ③ people are relocated to environments where their community institutions and
- ③ social networks are weakened,
- ③ kin groups are dispersed, and cultural identity, traditional authority and the
- ③ potential for mutual help are diminished or lost.

Consultation between UETCL, private and public developers and other participating Institutions and local government and lands authorities as well as some community leaders, it became evident that, insofar as land acquisition is concerned the prevailing atmosphere has been one of dialogue within and between communities, and the local government authorities. The prevailing tendency has been the competition between communities to offer voluntarily land in order to attract implementation of programs irrespective of the prevailing difficulties. This is especially so in the new locations for common services which the general public see as a contribution to their well being. This dialogue and the voluntary acquisition of land is normally carried out first at the lower local government level (sub-counties, parishes and villages). Any compensation process is usually undertaken within the existing community structures and systems through this dialogue.

This nature of land acquisition will, certainly continue in the future but, as a word of caution, the off-springs of the elders in the communities, in particular the more educated off springs are beginning to question the rights of their elders to voluntarily give up land in this manner whatever the utility of the land for their communities or the public at large. It is evident therefore, in order to avoid any future litigation and in the case of voluntary land acquisition, the consultation process with the communities takes in as broad a spectrum of the communities as possible (including youths and women with documentation to prove such offers).

The Resettlement Policy Framework serves to provide safeguards against severe adverse impacts of proposed programme activities and proposes mitigation against potential impoverishment risks by:

- avoiding displacement of people in the first place or,
- minimizing the number of Displaced Persons or,
- adequately compensating the displaced persons for losses incurred or adequately providing other resettlement assistance or rehabilitation as seen necessary to address impacts of the intended interventions.

**Categories of losses and their impacts on displaced persons**

Loss Category	Social Impacts
---------------	----------------

Relocation	Impoverishment, disturbance of production systems, loss of sources of income, loss or weakening of community systems and social networks, loss of access to social amenities such as hospitals and schools, water; dispersion of kin groups, loss of cultural identity and traditional authority, loss or reduction of potential for mutual help, emotional stress.
Loss of land but no relocation	Impoverishment, loss of sources of income and means of livelihood, loss of assets or access to assets, increased time to access resources
Alienation due to neighbors being relocated	Impoverishment, weakening of community systems and social networks, loss of mutual help and community support, loss of traditional authority, loss of identity and cultural survival, emotional stress
PAPs and host communities	Impoverishment, loss of sources of income, reduced time and access to resources such as hospitals and schools, water, increased time to access resources, disruption of social fabric, increased crime, increase in diseases such as HIV/AIDS, clash of cultural and religious beliefs and cultural norms.

#### 4.2 Basis for the resettlement policy framework

At the national level, resettlement and compensation issues occur where evaluations have been done by competent consultants procured to evaluate the required project compensation based on district compensation rates as approved by the Chief Government Valuer and prevailing market rates. Multi-sector committees comprising representation from the affected Local authority, Lands (the Chief Government Valuer), Ministry of Energy and Mineral Development, participating institutions like Health, Education, Ministry of Local Government, Agriculture, and the developer participate guide the consultant and participate in the evaluation. Payment for such compensation is based on whichever is higher of prevailing commercial rates or district rates which are approved by the Chief Government Valuer and are frequently revised or updated.

This Resettlement Policy Framework (RPF) therefore will enable the screening of programme activities following the results of the findings from the above and other field investigations. Interviews with local people and officials from various Departments of State, Local Government Offices, Private Sector; and information from some previous studies, reports and documents have been used in preparing this framework. The framework establishes parameters for conducting land acquisition and compensation including resettlement of persons who may be affected during implementation of the CEP investment activities, particularly for infrastructure, socioeconomic activities and conflict-prone activities such as opening land for power lines, generation stations, fire breaks, roads, etc. The screening process developed in this framework is consistent with the Bank's OP 4.12 Involuntary Resettlement. This policy requires that all Bank-financed operations are screened for potential impacts, and that the required compensation work is carried out on the basis of the screening results before implementation or civil works for each subproject begins. In addition, the framework adopts and adapts to some of the local experiences and the provisions of local /national legislation, and the World Bank's Operational Policy (OP 4.12) on Involuntary Resettlement, which emphasizes the following principles:

- Avoiding or minimizing involuntary land acquisition and resettlement, where feasible and exploring all viable alternatives before resorting to involuntary resettlement.

- Where involuntary resettlement and land acquisition is unavoidable, assistance and sufficient resources should be provided to the displaced persons with the view to maintaining and/or improving their standards of living, earning capacities and production levels.
- Encouraging community participation in planning and implementing land acquisition, compensation and/or resettlement, and provision of assistance to affected people regardless of the legality of their land rights or their title to land.

### **4.3 OBJECTIVES AND JUSTIFICATION OF THE RPF**

#### **4.3.1 Objectives of the RPF**

Involuntary resettlement arising from development CEP Program may give rise to some economic, social and environmental hardships. The hardships stem from the following reasons among others:

- disruption of production systems,
- affected persons skills being rendered inapplicable in new environments,
- increased competition for resources,
- weakening of community and social networks,
- dispersion of kin groups
- loss of cultural identity and traditional authority and
- loss of mutual help

In some cases, loss of land may pave way for implementation of the CEP activities because the CEP program activities demand land acquisition. The people may be affected because of loss of agricultural land, loss of buildings, loss of access or proximity to water, health and social amenities.

The objective of this Resettlement Policy Framework (RPF) is to provide a screening process, for any future CEP program activities, to ensure that where land acquisition for CEP program activities is inevitable, resettlement and compensation processes for lost land and associated assets should be conceived and executed in a sustainable manner. This entails providing sufficient investment resources to meet the needs of the persons affected and/or displaced from their habitat and resources. It also requires adequate collaborative consultation and agreement with the CEP program affected persons to ensure that they maintain or improve their livelihoods and standards of living in the new environment. The Resettlement Policy Framework provides guidelines for development of appropriate mitigation and compensation measures, for the impacts caused by future CEP program activities whose exact locations are not known prior to ESDP appraisal. The RPF is intended for CEP as a practical tool to guide the preparation of Resettlement Action Plans (RAPs) for sub-CEP program activities during implementation of the comprehensive CEP program.

#### **4.3.2 Justification for the RPF**

The CEP for Electricity Sector Development Project 's expected investment activities are not likely to result in the relocation of people except perhaps in the land-stressed areas where loss of land and access to economic resources are distinct possibilities given the prevailing customary land tenure system and the land speculation activities now prevalent in these areas.

This framework therefore is necessary to provide guidelines for addressing concerns of affected persons where:

- land is contributed voluntarily for the development of CEP program activities in return for compensation,
- land is contributed voluntarily for development of CEP program activities without seeking compensation, and
- land is acquired involuntarily for the development of CEP program activities.

The guiding principle for land acquisition will be that where land is required for implementation of the CEP, appropriate safeguards will be observed to avoid or reduce the negative impacts of land acquisition on the affected community members. This framework will be applied to all CEP program sites with the in-built mechanisms for resolving any forms of disputes on land acquisition. This RPF will apply to all activities implemented that are associated with this program. The RPF is presented in a much more comprehensive manner so as to guide and ensure that all conditions of population dislocation or loss of socio-economic benefits are taken into account during formulation of the resettlement action plans (RAPs).

## **4.4 THE LEGAL FRAMEWORK**

### **4.4.1 The Local Government Act 1997**

The local Government Act provides for the system of local governments. Administratively, Uganda is divided into five levels of Local Governments whereby each level has statutory functions with respect to participatory development planning.

The five levels are as follows:

Local Government Unit	Level
District Councils and Kampala City Council	5
County Councils and Municipal Councils	4
Sub County Councils Town Councils Municipal Divisions City Divisions	3
Parish Councils	2
Village Councils	1

Currently, there are 112 districts, and each district is subdivided into counties, which in turn are divided into sub-counties/towns followed by parishes and villages. There are 14 Municipal Councils which are subdivided into Municipal Divisions, followed by parishes and villages. There is one city council, Kampala City Council, which is sub-divided into 5 city divisions. The District Councils, City Councils, Municipal Councils, Sub-county Councils, Municipal Division Councils and Town Councils are Local Governments. The County Councils, Parish Councils and Village Councils are administrative units.

### **4.4.2 The Electricity Act 1999**

The Electricity Act 1999, under PART IV, provides for use of land for energy installations. The Act provides for:

- The power of a license (or a project developer) to use land (section 67)
- Procedures for using public land
- Removal or alteration of electric supply lines
- Compensation
- Compulsory acquisition of land (section 71)

Part IV of the Act provides for Rural Electrification under which CEP will be implemented. Section 64 created the Rural Electrification Fund (REF) and authorized the Minister to make regulations for the management of the Fund by Statutory Instrument. Statutory Instruments 2001 No. 75 established the Rural Electrification Board (REB) to manage REF and also established the Rural Electrification Agency (REA) as the Secretariat of REB with powers to:

- Build and maintain a national rural electrification data base

- Prepare for REB an annual status report on rural electrification programs indicating progress and hindrances to the execution of the rural electrification programme and identifying significant obstacles impeding progress as well as options for mitigating those obstacles
- Recommend to REB the most efficient use of the Fund for the promotion of rural electrification
- Generate and provide information relating to rural electrification investments
- Undertake planning and budgeting for rural electrification and
- Process applications for financial support from the REF

The institutions with responsibilities identified in this RPF are the Rural Electrification Agency (REA) which will play a key role, the Ministry of Energy and Mineral Development (MEMD), The Electricity Regulatory Authority (ERA), private energy developers and communities, and implementing institutions (health, water, and education). These entities will liaise with local authorities and comply with their obligations under the RPF.

#### **4.4.3 Land Tenure and Ownership**

Land tenure in Uganda is governed by statute such as the 1995 Constitution, the Land Act 1998 and the Land Acquisition Act 1965.

##### **4.4.3.1 The Uganda Constitution of 1995**

Article 237. (1) of the constitution vests all land in Uganda in the citizens of Uganda. However, under Article 237 (1) the government or a local government may acquire land in the public interest. Such acquisition is subject to the provisions of Article 26 of the same constitution, which gives every person in Uganda a right to own property. The constitution also prescribes that land in Uganda will be owned in accordance with following land tenure systems:

- Customary
- Freehold,
- Mailo
- Leasehold.

The constitution provides procedures to follow during the acquisition of land for public interest and provides for prompt payment of fair and adequate compensation prior to taking possession of land. The constitution is however silent on resettlement and compensation.

##### **4.4.3.2 The constitution and the land tenure systems**

Customary Tenure is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies. That is customary tenure is not governed by written law. Land is owned in perpetuity and customary occupants are occupants of former public land and occupy the land by virtue of their customary rights; they have propriety interest in the land and are entitled to certificates of customary ownership. Certificates of customary ownership may be obtained, through application to the Parish Land Committee and eventual issuance by the District Land Board.

##### **Freehold Tenure**

The freehold tenure derives its legality from the constitution and its incidents from the written law. Involves the holding of land in perpetuity or a term fixed by a condition and enables the holder to exercise, subject to the law, full powers of ownership.

##### **Mailo Tenure**

- Has roots in the allotment of land pursuant to the 1900 Uganda Agreement
- Derives its legality from the constitution and its incidents from written law

- Involves the holding of land in perpetuity
- Permits the separation of ownership of land from the ownership of developments on land made by a lawful or bona fide occupant.
- Enables the holder to exercise all powers of ownership, subject to the rights of those persons occupying the land at the time of the creation of the mailo title and their successors.

### **Leasehold Tenure**

- Is created either by contract or by operation of the law
- Is a form under which the landlord or lessor grants the tenant or lessee exclusive possession of the land, usually for a period defined and in return for a rent
- The tenant has security of tenure and a proprietary interest in the land.

#### **4.4.4 The Land Act 1998**

Key features of the recognized forms of land tenure in Uganda are:

#### **Customary Tenure:**

- Is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies. That is customary tenure is not governed by written law.
- Land is owned in perpetuity customary occupants are occupants of former public land and occupy the land by virtue of their customary rights; they have proprietary interest in the land and are entitled to certificates of customary ownership.
- Certificates of customary ownership may be obtained, through application to the Parish Land Committee and eventual issuance by the District Land Board.

#### **Freehold Tenure**

- Derives its legality from the constitution and its incidents from the written law.
- Involves the holding of land in perpetuity or a term fixed by a condition
- Enables the holder to exercise, subject to the law, full powers of ownership

#### **Mailo Tenure**

- Has roots in the allotment of land pursuant to the 1900 Uganda Agreement
- Derives its legality from the constitution and its incidents from written law
- Involves the holding of land in perpetuity
- Permits the separation of ownership of land from the ownership of developments on land made by a lawful or bona fide occupant.



- Enables the holder to exercise all powers of ownership, subject to the rights of those persons occupying the land at the time of the creation of the mailo title and their successors.

### **Leasehold Tenure**

- Is created either by contract or by operation of the law.
- Is a form under which the landlord or lessor grants the tenant or lessee exclusive possession of the land, usually for a period defined and in return for a rent
- The tenant has security of tenure and a proprietary interest in the land.

The 1998 Land Act addresses land holding, management control and dispute processing. The Act creates a series of land administration institutions, namely, Uganda Land Commission (ULC), District Land Boards (DLB), Parish Land Committees (PLC) and District Land Tribunals (DLT). Section 78 of the Act gives valuation principles for compensation, i.e. compensation rates to be yearly approved by DLBs. The basis for compensation is depreciated replacement costs for rural properties and market values for urban properties.

Article 75 of the Land Act 1998 and Article 243 of the 1995 Constitution creates District Land Tribunals with jurisdiction to determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the ULC or other authority with responsibility relating to land; and the determination of any disputes relating to the amount of compensation to be paid for land acquired. Article 77 (e) of the Land Act 1998 gives power to the DLTs to determine any other dispute relating to land under this act. Article 88 (1) of the act stipulates that an appeal will lie from the decision of a DLT to the High Court. Article 89 of the Land Act 1998 also recognizes the right of traditional authorities to determine disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure.

#### **4.4.5 The Acquisition Act (1965)**

This act makes provision for the procedures and method of compulsory acquisition of land for public purposes whether for temporary or permanent. The Minister responsible for land may authorize any person to enter upon the land and survey the land to determine its suitability for a public purpose. The Government of Uganda is supposed to pay compensation to any person who suffers damage as a result of any action. Any dispute as to compensation payable is to be referred to the Attorney General or court for decision.

The Land Acquisition Act does not go beyond compensation. It is not required under the Act to provide alternative land for the affected people by CEP activities. Once they are promptly and adequately compensated, then the obligations stop there. The GOU, through the Ministry of Lands, Water and Environment, will pay the compensation to the affected persons. This act also sets out the legal process for payment of compensation. There is no requirement or provision in the law that people need to be assisted to move or that alternative land be made available. Each affected person entitled to be compensated; on receipt of his/her compensation is expected to move and has no further claim.

#### **4.4.6 Land Tenure and Property Rights**

##### **Mailo land**

The Mailo land tenure system under the Uganda Agreement of 1900, resulted in a total of 9,003 square miles of land in Buganda being shared out among the Protectorate Government, the Kabaka (traditional king), chiefs and notables. Mailo land title is issued in perpetuity.

##### **Customary land tenure**

Customary land tenure is the oldest form of tenure and can supersede all other forms of land tenure, depending on the particular situation and above all, the length of residency of the occupant.

##### **Freehold Land Tenure**

Freehold land tenure is limited to a number of churches and schools, which had established a presence by 1900. Under freehold tenure, the title runs in perpetuity. Normally, no conditions are attached to how much land can be granted to such institutions.

##### **Leasehold land tenure**

Public land in Kampala is allocated to the City by the Uganda Land Commission (ULC). The Kampala City Council (KCC) is in turn responsible for leasing land to suitable applicants for development on a leasehold basis. Formal land transfers are regulated and governed by the Urban Authorities Act (1965) and Land Reform Decree (1975). Mailo landowners may also grant leases to various types of developers. Public and private leases typically run for either 49 or 99 years.

Property rights and the land tenure systems provide equal incentives to all Ugandan groups for improved land management. The Land Acquisition Act (1965) and the Land Act of 1998 which to some extent take care of land tenure and property rights has a cautious land acquisition plan. The Resettlement Policy Framework draws its strength from national legal instruments that exist in Uganda. Specifically the Land Acquisition and Compensation Policies recognizes, among others:

- -the acquisition of the right of land and benefit by customary occupancy in good faith,
- -the acquisition of the right of land and benefit through the official channels,
- -the rules governing protected zones,
- -the relationship between the public and the land authorities, and
- -the rights and obligations of title holders.

#### **4.4.7 World Bank Policies**

The World Bank's Safeguard Policy OP 4.12 applies to CEP activities and to all economically and /or physically CEP program-displaced persons, regardless of the number of people affected the severity of impacts and the legality of land holding. Particular attention should be given to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities and other disadvantaged persons.

The Bank's Policy requires that the provision of compensation and other assistance to CEP affected Persons is carried out prior to the displacement of people. In particular, repossession of land for CEP program activities may take place only after compensation has been paid. Resettlement sites, new homes and related infrastructure, public services and moving allowances will be provided to the affected persons in accordance with the provisions of the Bank's policies and incorporated into all Resettlement Action Plans.

The policy encourages participation of the affected persons in the planning and preparation of Resettlement Action Plans. It also offers the impacted persons an opportunity to improve their living standards.

#### **4.4.7.1 Comparison between Uganda Land Laws and the World Bank OP 4.12 Involuntary**

##### **Resettlement**

Whereas the law relating to land administration in Uganda is wide and varied, entitlements for payment of compensation are essentially based on the right of ownership. The World Bank OP 4.12 is fundamentally different from this, and states that affected persons are entitled to some form of compensation whether or not they have legal title if they occupy the land by a specified cut-off date. The higher of the two standards will be followed in this policy framework, since that procedure also satisfies the requirements of the lesser standard.

### Comparison of Ugandan Law and World Bank Op 4.12 Regarding Compensation

Category of PAPs and Type of Lost Assets	Ugandan Law	World Bank OP4.12	Mitigation measures
Land Owners	Cash compensation based upon market value under statute. Land for Land	Recommends land-for-land compensation. Other compensation is at replacement cost.	<i>Na</i>
Land Tenants	Entitled to compensation based on the amount of rights they hold upon land under relevant laws. Illegal tenants are not entitled to compensation	PAPS are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.	<i>Design CEP activities to avoid resettlement or minimize displacement of people e.g. citing and routing of Program activities will try to avoid land held by illegal tenants.</i>  <i>Dialogue with policy makers will be initiated to explore the possibility of giving compensation to illegal tenants</i>
Land users	-In some cases land users have some form of secured tenure extended to them under new laws. In other cases land users are not entitled to compensation for land. -Entitled to compensation for crops and any other economic assets. -Land for Land	Entitled to compensation for crops, may be entitled to replacement land and income will be restored to at least pre-CEP program levels.	<i>Design CEP Program to avoid resettlement or minimize displacement of people e.g. sitting and routing of Program activities will try to avoid land held by illegal tenants.</i>  <i>The program will have a strategy for enabling the PAPs restore their incomes to at least pre-CEP program levels</i>  <i>Dialogue with policy makers will be initiated to explore the possibility of giving compensation to all illegal tenants</i>
Owners of	Cash compensation based on market	Entitled to in-kind compensation or cash	<i>Dialogue with policy makers will be</i>

<b>Category of PAPs and Type of Lost Assets</b>	<b>Ugandan Law</b>	<b>World Bank OP4.12</b>	<b>Mitigation measures</b>
Temporary Buildings	value or entitled to new housing on authorized land under government (state or local) housing programs.	compensation at full replacement cost including labor and relocation expenses, prior to displacement.	<i>initiated to explore the possibility of including labor and relocation expenses prior to displacement</i>
Owners of Permanent buildings	Cash Compensation is based on market value.	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.	<i>Dialogue with policy makers will be initiated to explore the possibility of including labor and relocation expenses prior to displacement</i>
Perennial Crops	Cash compensation based upon rates calculated as an average net agricultural income.	As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,	<i>Na</i>

## **5.0 LAND ADMINISTRATION AND CATEGORIES OF AFFECTED PERSONS**

### **5.1 Jurisdiction of the Framework**

- In implementing this framework, the following will apply:
- all land acquisition, including voluntary land contribution will be compensated
- compensation will be limited to valuations made after the cut-off date
- compensation for existing infrastructure will be limited to new land acquired for extensions and rehabilitation of these infrastructures and related services
- all land conflicts will be resolved in a transparent manner and in a manner that is not coercive. Attempts will be made to resolve conflicts at the village, traditional authority or district level. Where this is not possible, recourse can be heard at Uganda Courts of Law.

### **5.2 General Land acquisition**

Land acquisition in Uganda may be achieved through:

Occupancy by individual persons and by local communities, in accordance with customary norms and practices, which do not contradict the Constitution, uninterrupted occupancy by individual nationals who have been using the land in good faith for at least twelve years before 1995 and, authorization on the basis of an application submitted by an individual or corporate person in the manner established by the Land Law. The Land Law stipulates that a land title will be issued by the Lands Department. However, the absence of title will not prejudice the right of land use and benefit acquired through occupancy. The application for land title will include a statement by the local administrative authorities, preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants. Title to local community land will be issued in a name decided upon by the community and individual men and women who are members of the local community may request individual titles after partitioning community land.

The right of land use and benefit can be proved by presentation of the respective title; testimonial proof presented by members, men and women of local communities and by expert evidence and other means permitted by law. Among other modes of land transfer, the Land Law permits the transfer of land by inheritance, without distinction by gender. The right of land is not subject to time limit for the following cases:

- (i) Where the right was acquired by local communities through occupancy;
- (ii) Where the land is intended for personal residential purposes and;
- (iii) Where individual nationals intend to use the land for family purposes.

### **5.3 LIKELY NUMBER AND CATEGORIES OF AFFECTED PERSONS**

The likely numbers of persons who may be affected and displaced during implementation of the CEP Comprehensive program activities cannot be accurately estimated. However, the CEP Program Affected Persons (PAPs) or the persons likely to be displaced economically or physically can generally be categorized into the following main groups.

#### **a) Affected Households**

A household will be affected if one or more of its members are affected by the CEP Program activities. This will be either in the form of loss of property, land or access to services or socio-economic resources.

Affected household members will include:

- ③ any member of the household whether men, women, children, dependent relatives, friends and tenants
- ③ vulnerable individuals who may be too old or ill to farm or perform any duties with the others
- ③ members of the household who are not residents because of cultural rules, but depend on one another for their livelihood
- ③ members of the household who may not eat together but provide housekeeping or reproductive services, critical to the family's maintenance
- ③ -other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.
- ③ disabled people who may be attached to a particular service center.

In general, the local families live in farm families that co-reside sharing production, consumption and domestic farming services on a regular and continuous basis. However, compensation should not be limited to people living together to the exclusion of those who may not be in residence with the rest of the family, for reasons such as polygamy.

The affected households– A household is affected if one or more of its members is affected by sub-CEP program activities, either by loss of property, land, loss of access, or otherwise affected in any way by CEP program activities. This provides for:

- any members in the households, men, women, children, dependent relatives and friends, tenants, vulnerable individuals who may be too old or ill to farm along with the others
- Opposite sex-relatives who cannot reside together because of cultural rules, but who depend on one another for their daily existence
- Opposite-sex relatives who may not eat together but provide housekeeping, or reproductive services critical to the family's maintenance, and

-Other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.

In the local cultures, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular basis even though living separately. Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labor contributions are critical to the functioning of the “household”. For example, among polygamous groups, each wife has her own home.

#### **b) Vulnerable Households**

One of the objectives in the decentralization policy of Uganda targets empowering women by removing restrictive practices on women's participation in decision-making processes that affect them. Additionally because of the sporadic activities of the rebel group, the LRA, there may be some internally displaced people, from northern Uganda. Therefore, particular attention will be paid to impacts on vulnerable members of these communities such as women, children, the disabled, female and child headed households, and internally displaced people;

#### **c) Internally displaced Persons**

These are people who had to flee their homes as a result of rebel atrocities committed against their communities and are now virtually refugees in their own country and have not returned. They may be dependent on the NGO community and others for support. Particular efforts are to be made not to negatively impact these people where possible, but when unavoidable, efforts will be concentrated on post-compensatory measures such as opportunities to participate in CEP program activities.

#### **d) Orphaned Children**

Despite the Laws of Uganda and those of the International Labor Organization (ILO) and other organizations, children, especially orphaned children or children separated from their parents, remain particularly vulnerable to forced employment and associated health and safety hazards. They participate in income generating activities such as fetching of water, artisanal mining, etc. If they are impacted by this CEP program in a way that means they have to be physically relocated, their compensation cannot be in cash. Instead, efforts will be geared towards enrolling them in a UNICEF-funded program or registration with other children's charities that are operating in Uganda today, for rehabilitation. Their compensation could take the form of paying for their rehabilitation and training to acquire useful vocational skills.

#### **e) Women**

Women may depend on husbands, sons, brothers or others for support. In many cases too, women are the main breadwinners in their households, yet in some communities in Uganda, women cannot own land. Also, as mothers and wives, they need access to health service facilities. Women are central to the stability of the household. They will not be resettled in a way that separates them from their households as the survival of their households depends on them.

Furthermore, the decentralization policy of Uganda recognizes the plight of women and seeks to encourage employment and the involvement of women in decision-making. Their compensation will take into account all these factors. The needs and problems of the women are likely to be



different both in character and magnitude from those of men, particularly in terms of social support, services, employment and means of survival. One of the roles of women in Uganda is to provide food and other services like water and firewood. They are the major tillers of land and many especially the urban dwellers earn their living from selling of produce and other food stuffs in markets. Hence the women will face more difficulties than the relocated men in finding and opening up land for cultivation as well as in re-establishing markets and other trade. Women in subsistence communities often depend on forest resources for basic needs such as food, fuel and animal forage. These would need replacement. Female heads of households are eligible for the same benefits as their male counterparts but they would need special attention if they lack resources, educational qualifications, skills, or work experience compared to men.

**f) Elderly**

The elderly people farm or engage in other productive activities as long as they are physically able to. Their economic viability does not depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith and kin and neighbors. Losing land will not necessarily affect their economic viability. They will have cash or in-kind replacements to exchange. For future production they need access to only a small parcel of land. What would damage their economic viability is resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.

**g) Voluntary Land Contributors**

Under some energy projects, especially community projects, there were instances when individual members gave land voluntarily. Particular attention will be paid to ascertain that these contributions were indeed voluntary and free from all pressures from society and free from fear of prosecution, marginalization or stigmatization. All persons or groups affected by this will be monitored even where contributions are voluntary to ascertain whether they have not been or likely to be affected such that they are left poorer or livelihoods affected without course for compensation. Sometimes land is given “voluntarily” because people do not want to be seen as or accused of, holding back community development. These household types are not mutually exclusive, so that the elderly may be internally displaced persons, and women may be affected individuals.

## **5.4 Land customary users**

These are the indigenous groups and are usually peasant farmers or pastoralists who may have customary rights to the land and other resources taken from the CEP program. These people usually have ancestral customary rights to regulate collective common property and have open access to common grazing land, fishing areas, forest and grassland resources for subsistence and cash incomes. The MEMD, REA, project developers and all implementing institutions will take into consideration the affected people in this category and work out a compensation and resettlement package for them if the program affects them.

### **a) The Land owner (s)**

These will lose agriculture land, living quarters plot, structures, valuable crops and income generating activities.

### **b) The affected with business enterprises**

Another category of people is that of owners of commercial plots, structures used in commercial and industrial activity. It also includes business persons and artisans occupying or renting the commercial premises.

### **c) Squatters and Encroachers**

There are may be some cases of squatters (on unused urban or rural land) and encroachers on forest and farmland. The program will allocate some resources to rehabilitate the squatters and the encroachers.

### **d) The very poor**

The poorest people in a community e.g. those with very small land holdings may lose their viability after land acquisition and require full income restoration. The challenge for the very poor may be to identify sustainable living and income-generating options that are acceptable and workable for them. A social preparation phase can help to build the capacity of the very poor over a period of time to help them to identify problems, constraints and possible solutions.

### **e) The host population**

There could be adverse impact on the host population due to development of resettlement sites

### **f) Individuals**

These fall under the above mentioned categories but affected individually. Others are the tenants who will lose contract on farming or leasing and share of crops. There will also be those who will lose homes occupied with the permission of the owner or those who are illegal. The categories given above may not cover all types of affected persons. In addition, the categories are not mutually exclusive. It is important therefore that the CEP program activities should have well prepared and comprehensive resettlement action plans that would be specific and comprehensive

enough to benefit all the categories of affected persons, through the following and other actions as may be appropriate:

- ⌚ quick decisions and rapid action on the RAPs' to assist the affected persons in a timely manner,
- ⌚ individual and collective consultations will be expedited at the conception of the program sites,
- ⌚ the affected persons will be given the opportunity to participate or to work in the CEP activities,
- ⌚ alternative subsistence farming plots will be identified, surveyed and developed and made Available to those losing land,
- ⌚ compensation for loss of crops and trees will be determined prior to re-location or construction and paid accordingly,
- ⌚ rehabilitation support, where appropriate, will be given to those moved from their land during relocation and re-establishment,
- ⌚ resettlement will be aimed at improving their livelihoods,
- ⌚ monitoring of the RAPs to ensure that resettlement and compensation has improved the quality of life of all the affected persons, in comparison with their pre-resettlement conditions, and
- ⌚ Technical and financial assistance will be made available to them.

## **6. 0 STEPS TO BE FOLLOWED IN LAND ACQUISITION AND RESETTLEMENT FOR THE CEP PROGRAM INVESTMENT ACTIVITIES**

Implementation of the program investment activities, particularly the infrastructure and related services may include construction of new electricity plants with their access roads, water and sanitation facilities and the expansion/protection /rehabilitation of some existing structures. These activities may require land acquisition, leading to people's denial or restriction of access to land resources, services and social amenities. In this case, resettlement action plans, consistent with OP 4.12 and this resettlement policy framework, will be prepared.

### **6.1 The screening process**

Once the list of CEP Program activities is known, the process for land acquisition and resettlement will start with the screening process (identification and analysis) of possible and

alternative sites for CEP program activities implementation. During screening and indeed during all the other planning and preparatory activities, there will be adequate consultation and involvement of the local communities and the affected persons. Specifically, the affected persons will be informed about the intentions to use the earmarked sites for the CEP Program.

The affected persons will be made aware of:

- a) Their options and rights pertaining to resettlement.
- b) Specific technically and economically feasible options and alternatives for resettlement sites, if required.
- c) Proposed dates for displacement or land repossession.
- d) Effective compensation rates at full replacement costs for loss of assets and services
- e) Proposed measures and costs to maintain or improve their living standards.
- f) Grievance procedure

## **6.2 Steps leading to the preparation of Resettlement Action**

The screening process is a very important component of several activities that contribute to the preparation of the Resettlement Action Plans (RAPs). Preparation and submission of the Resettlement Action Plan to the relevant local government authorities and World Bank comprises the following steps:

**Step 1:** The program investment activities to be undertaken and the locations of the investments will undergo preliminary evaluation on the basis of the objectives of the program.

**Step 2:** The developer, MEMD, and implementing institutions will approach the communities impacted through the local government authorities with the view to arriving at a consensus on possible sites for the type of facility to be adopted.

**Step 3:** The Local Communities authorities (village councils, parish/sub-county county and district development committees) will undertake their inter-communal consultations in order to review the siting of the facility.

**Step 4:** The environmental and social screening process in conformity with the provisions of the ESMF and the RPF screening process.

The process will determine:

- whether any resettlement will be required at the chosen site and if so whether alternative sites are available,
- whether any loss of land, assets or access to economic resources will occur or
- whether any of the World Bank operational policies will be triggered.

**Step 5:** On the basis of analysis of the matrix emanating from the two screening processes a final selection of the optimum site presenting the least negative environmental and social impacts including resettlement /loss of assets can be made.

**Step 6:** Where resettlement or loss of assets cannot be avoided, the provisions of the World Bank's OP 4.12 will be applied and a RAP prepared for each sub project /investment. From this point, the provisions of this RPF will be utilized up to payment of the compensation package including resettlement support where appropriate.

The costs associated with this resettlement or relocation will be included in the Resettlement Action Plans (RAPs) for all the investments. For all Government projects including those implemented by MEMD, the government of Uganda through the implementing agency shall provide funds for compensation after identification of the land and a comprehensive evaluation report done and approved by the Government Valuer. For private sector led projects, the developer shall provide funds for compensation after full identification of the land and a comprehensive evaluation by an approved valuer based on rates equal to or better than those published by the district where the sub project is located.

Basic Contents of a Resettlement Plan (RAP) for CEP activities

- ③ description of activity and potential impact
- ③ census of displaced persons if any
- ③ eligibility, valuation and compensation for losses
- ③ community participation
- ③ environmental protection and management
- ③ grievance procedures/ redress
- ③ organizational responsibilities
- ③ implementation schedule
- ③ arrangements for implementation, monitoring and evaluation
- ③ budget

### **6.3 Public Consultation and Participation**

CEP Program activities involving the community owe their success to community active participation right from planning to implementation. Hence public consultations through participatory rural appraisal will be mandatory for all CEP Program requiring land acquisition; compensation and resettlement for the CEP program Investment activities.

The aim of public consultations at this stage would be to:

- disseminate concepts for proposed CEP program with a view to implement CEP program interest amongst communities.
- determine communities' willingness to contribute in kind towards the implementation of the CEP program, or accept the need for land acquisition for purposes of the program.

## **7.0 GUIDING PRINCIPLES FOR THE VARIOUS TYPES OF LAND ACQUISITION MECHANISMS**

### **7.1 Previous and current land acquisition practices**

While the land acquisition practice may have had its merits, some landowners were disadvantaged and made poorer. Also, the vulnerable people were disadvantaged because they did not have a say in the land acquisition process. The situation was aggravated by lack of capacity on the part of landowner(s) or vulnerable groups to forward their grievances to those responsible, including the courts of law to address their grievances.

Currently in Uganda, there is growing awareness of the obligations on the part of CEP funding agencies, CEP program implementers as well as the public and the government, particularly on the need for fair practices in land acquisition, payment of compensation and resettlement.

### **7.2 Proposed land acquisition mechanism**

This Resettlement Policy Framework, for the CEP program activities advocates all measures to eliminate or minimize the impacts of physical and economic displacement of people. Therefore when the acquisition of land is required, the program will:

- Initially endeavor to utilize available freehold or public land,
- seek voluntarily donated land, sufficient for the purposes of the CEP program,
- negotiate acquisition of land suitable for implementation of the CEP program activities using agreed compensation plans and only as a last resort,
- Acquire land through involuntary means following the provisions outlined in this RPF.

All relevant agencies, including Local Government Authorities and the communities concerned and the PAPs will be consulted, clearly explaining the purpose of the acquisition, the area of land required and the owner's right to resettlement and compensation without any economic or moral prejudice.

In the case of customary land, apart from implicating the MEMD, Local Government Authorities, the community leaders such as chiefs and a broad spectrum of the community, including youths and women should be party to any consensus to the acquisition of land and the modalities envisaged. Whatever the consensus arrived at the provisions of this RPF and the World Bank Safeguard Policy OP 4.12 will be applied.

The institutional framework for application of this consensus or any litigation thereof is discussed further in this document. In this regard the institution charged with piloting the land acquisition will consign in a record:

- ③ the land to be acquired,
- ③ names of the owners and occupiers of that land as far as they can be ascertained; or in the case of customary land the name of the land owner who is the holder of the right over the land as ascertained by the community,
- ③ identify local community leaders/representatives to assist in the process of land acquisition,
- ③ assess magnitude of impacts relative to the need for resettlement and/or compensation and valuation of assets to be compensated for,
- ③ establish financial records showing the costs of relocation and compensation, the beneficiaries and indicating how these costs were arrived at,
- ③ information on households or individuals eligible for relocation to their socioeconomic standing (incomes, production material assets, debts etc) ,
- ③ -details of the relocation site(s) in response to the exigencies contained;
- ③ -details of resettlement after-care and assistance, where appropriate,
- ③ available employment opportunities for the PAPs in the CEP program activities.

These records will be retained in the RAPs with copies detained by the MEMD and local government authorities.

### **7.3 Voluntary Land Contribution with Compensation**

Voluntary Land Contribution with Compensation refers to cases where individuals or community land owners agree to provide land for CEP program-related activities, in return for negotiated compensation.

**Note:** Voluntary Land Contribution without Compensation is not recommended, because the experience has shown that opening up this venue either leads (i) to elitism or to (ii) forced contribution from the most vulnerable groups or persons. To avoid this elitism, abuses of vulnerable groups, and delays in CEP Program, it is preferable to compensate all land acquisition for program activities.



#### **7.4 Involuntary Acquisition of land**

Involuntary acquisition of land and assets thereon, including resettlement of people, unless absolutely necessary, will be avoided. Where involuntary land acquisition is unavoidable then it will be minimized to the greatest extent possible. The Displaced Persons if any will participate throughout the various stages of the planning and implementation of the land acquisition, compensation and resettlement plans and processes. Prior to the preparation of the Resettlement Action Plans, the persons to be displaced will be informed of the provisions of this Framework and their entitlements at public meetings. The Lands Law Legislation sets out in detail, the procedures for the acquisition of customary land and freehold land by Government and OP 4.12 comes into effect.

## **8.0 ELIGIBILITY CRITERIA AND CONDITIONS FOR DISPLACEMENT OF CEP**

### **AFFECTED PERSONS**

#### **8.1 Criteria for determining eligibility for compensation**

According to OP 4.12 of the World Bank, the criteria for determining eligibility for compensation, resettlement and rehabilitation assistance measures for persons to be displaced, will be based on the following:

- Persons that have formal legal rights to land, including customary and traditional; and religious rights recognized under the laws of Uganda. This class of people includes those holding leasehold land, freehold land and land held within the family or passed on through generations.
- Persons who do not have formal legal rights to land or assets at the time the census begins; but have a recognized claim of use to such land or ownership of assets through the national and traditional laws of Uganda.
- Persons who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from. This class of people includes encroachers and illegal occupants/squatters.

Affected persons classified under paragraph (a) and (b) will be provided compensation, resettlement and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the CEP program. The compensation will be in accordance with the provisions of this framework and if affected persons occupied the CEP program area prior to the cut-off date (date of commencement of the Census). Persons covered under sub-section (c) above are to be provided with resettlement assistance in lieu of compensation. In addition, they have to be given the necessary relocation assistance in conformity with the provisions of this policy framework provided the land was occupied prior to the established cut-off date.

All persons in the three sub-sections above are to be provided with compensation for loss of assets other than land. Consequently, this policy advocates for some kind of assistance to all affected persons, including illegal occupants/squatters and encroachers, that is, irrespective of whether they have formal titles, legal rights or not.

Communities including districts counties, sub-counties, parishes, towns, wards and villages permanently losing land, resources and/or access to assets will be eligible for compensation. Compensation to communities will include, but not limited to, that for public toilets, market

places, car parks and health posts. Compensation measures will ensure that pre-resettlement socio-economic status of the communities are restored and maintained.

## **8.2 Procedures for payment of compensation**

Compensation payment will be made in the following ways:

(a) By agreement between the project developer (public or private) and the PAPs or entities (individuals /households /communities;

- The project developer will offer such sums deemed adequate as compensation to the entity who may accept that amount as compensation payable to him or her;
- Such sums will be disbursed directly to the beneficiary entity with the relevant records of payments including the information stipulated in chapter 5 (land acquisition mechanism) consigned to the RAPs and the records of the appropriate local government authority. (District land board).

(b) By court order on the amount of compensation where this has been the subject of litigation between the project developer and the Affected Entity.

## **8.3 Uganda legislation on compensation**

In general, cash compensations are paid based upon market value of the crops. The affected persons are, in some cases, entitled to new housing on authorized land under government housing programs. Under the customary law, land is given in compensation for land.

Shortfalls in the Legislation on resettlement and compensation in several countries throughout the world have been the reason for internationally funded projects to prefer such universally acceptable policies as those of the World Bank.

## **8.4 Conditions to be followed in displacement of persons**

Where displacement of people is unavoidable, the following conditions will be followed:

- a) The entitlement cut-off date will be determined and agreed upon in consultation with the project developer and all the stakeholders particularly including MEMD and the affected persons.
- b) An assessment of the time likely to be needed to restore their living standards, income earning capacity and production levels will be made.

- c) The assessment will ensure that the condition of the displaced persons will be improved or at least maintained at least the levels prior to CEP program implementation.

## **9.0 NOTIFICATION, VALUATION PROCEDURES AND ENTITLEMENTS**

### **9.1 Notification Procedure**

The project developer will, by public notices in the daily newspapers and radio and television services, notify the public of its intention to acquire land earmarked for CEP Program activities. A copy of such notice will be served to each owner, occupier and person or agent having an interest in the land thereof. The names and addresses of the owners, occupiers and agents will be readily ascertainable. The notice will state: (i) The proposal to acquire the land; (ii) The public purpose for which the land is wanted; (iii) That the proposal or plan may be inspected by the relevant agency, e.g. for distribution lines, Electricity Regulatory Authority officials or the appropriate LG Administrative Offices; (iv) That any person affected may, by written notice, object to the transaction giving reasons for doing so, to the entities cited above within a period to be specified at the time of publication of the Notice.

### **9.2 Valuations for State Owned land**

The land asset types identified under Ugandan Law are:

- State Lands,
- Lands under traditional or customary rights.

State owned land may be allocated free or sold on a commercial basis to individuals or communities by the Minister responsible for land administration. For cases where the state-owned land is being used by the public (for instance as settlements, for farming, for grazing or any other productive activity,) the individual or the community would be expected to pay compensation. Privately owned property, would have to be compensated for at the market value. The general guiding principle is that whoever was using the land to be acquired would be provided alternative land of equal size and quality.

### **9.3 Valuation for customary land**

The CEP program activities will often require the land under customary tenure for its activities. In this case, valuation methods for the affected land and assets should conform to customary laws and land assets would be valued and compensated for according to the following guidelines:

- the Communities would be compensated for assets and investments (including labor, crops, buildings, and other improvements) according to the provisions of the resettlement plan,
- compensation rates would be replacement costs as of the date that the replacement is to be provided,
- the market prices for cash crops would have to be determined and used,

- calculations for compensation would not be made after the cut-off date, in compliance with this policy,
- For community land held under customary law, the permanent loss of any such land will be covered by compensation in kind to the community.

## **9.4 Calculations for compensation payments and related considerations**

### **9.4.1 General Considerations**

#### **9.4.1.1 Computation of Compensation**

Where any land has been acquired under this Act, compensation will only be payable in addition to the value of any improvement or works constructed on such lands:

- for the loss of usufructuary rights over such lands in the case of land under customary tenure, and
- for the market value of such lands in the case of freehold land.

In estimating the compensation to be given for any land or any estate therein or the potential profits thereof, the following will be taken into account:

- a) The value of such lands, estates or interests or profits at the time of the emission of the notice to acquire, and will not take into account any improvements or works made or constructed thereafter on the lands,
- b) That part only of the lands belonging to any entity /person acquired under this Act without consideration for the enhancement of the value of the residue of the lands by reason of the proximity of any improvements or works to be made or constructed by the CEP program, and
- c) The value of the lands acquired for public purposes but also to the damage, if any, to be sustained by the owner by reason of the injurious effects of severance of such lands from other lands belonging to such owner or occupier.

For cash payments, compensation will be calculated in Ugandan currency adjusted for inflation. For compensation in kind, items such as land, houses, other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment may be included. Assistance may include moving allowance, transportation and labor.

### ***Compensation for Land***

Compensation for land is aimed at providing for loss of crops and the labour used to cultivate the crop. Compensation relating to land will cover the market price of the land, the cost of the labour invested, as well as the replacement cost of the crop lost.

### ***Determination of Crop Compensation Rates***

Prevailing prices for cash crops would have to be determined. Each type of crop is to be compensated for, using the same rate. This rate should incorporate the value for the crop and the value for the labor to be invested in preparing new land.

### ***Compensation Rates for Labor***

The value of labor invested in preparing agricultural land will be compensated for at the average wage in the community for the same period of time. The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement farmland.

### ***Compensation for Buildings and Structures***

Compensation for buildings and other structures will be paid by replacement costs for labor and construction materials of these structures including fences, water and sanitation facilities, etc, will be used to calculate the values. Where part of the compensation is to be paid in cash the applicable replacement costs for construction materials will be used to calculate the values. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure. The CEP program will survey and update construction material prices on an on-going basis. The affected persons will also be allowed to salvage any materials from demolished structures.

### ***Compensation for Vegetable Gardens***

Vegetables are planted and harvested for daily use. Until a replacement garden can be harvested, the family displaced (economically or physically) as a result of the program will thereafter have to be compensated at the purchase prices of these items on the market.

### ***Compensation for Horticultural, Floricultural and Fruit trees***

Given their significance to the local subsistence economy, fruit trees will be compensated on a combined replacement value. Fruit trees commonly used for commercial purposes in Uganda will be compensated at replacement value based on historical production statistics.

## **9.5 Entitlements**

Entitlements for compensation will be based on the eligibility criteria and the various categories of losses identified in the desk studies and field consultations. Unless otherwise indicated, payment of compensation and other entitlements and the extension of assistance will be made to PAP households and individuals as the case may be. In dealing with compensation, preference will be given to land based resettlement strategies for CEP program Affected Persons whose livelihoods are land-based. Where sufficient land is not available at a reasonable price, non-land based options centered on opportunities for employment or self re-employment should be

provided in addition to cash compensation for land and other assets lost. However this lack of land will be documented and justified.

In addition to these entitlements, households who are found in difficult situations and are at greater risk of impoverishment (i.e. widowed household heads, households without employment, single parent households etc) as identified by the census will be provided with appropriate assistance by government. Assistance may be in form of food, temporary accommodation, medical subsidy, employment referrals or priority employment in program activities. The assistance is meant to help them cope with the displacement caused by the program.

## **10.0 PROCEDURE FOR DELIVERY OF COMPENSATION**

Compensation and resettlement activities will be funded like any other program activity eligible under the Energy Program. Funding would be processed and effected by the project developer or MEMD preferably directly to beneficiaries in conformity with the RAPs.

### **10.1 Consultation and Public participation**

Consultation and public participation with the PAPs will initiate the compensation process. This consultation and public participation has been part of an on-going process that would continue in all stages. This trend will ensure that all affected individuals and households are well informed and adequately involved in the entire process.

### **10.2 Notification of land resource holders**

Those who hold title to the land resources would be informed through the process in 7.1 above. Where there are clearly no identified owners or users, the project developer, the respective local government administrations, lands offices and traditional leaders will be solicited to help identify owners or users and sensitize them on the program and its implications. It is hoped, however that the media publications would be sufficient to avoid such eventuality.

### **10.3 Documentation of holdings and assets**

The local government structures, namely the LGs and the lower councils will assist with all documentation of data and information related to the acquisition of land, the compensation and payment processes up to the level of the responsible officer of the project developer (the accounting officer for public projects and the chief executive officer for private sector led projects). The project developer will engage the services of a competent valuer or resettlement expert. The expert will consult closely with local leaders (local administration leaders, community leaders, religious leaders, and community workers) to identify land owners and PAPs. The valuer or expert while working with the Community workers of the Sub-counties in collaboration with the Executive Committee of the village councils, the Parish Development Committees and village committees will compile and record data/information in village data books. The information will then be submitted to the Chief executive officer of the private developing company for private sector projects and to the Permanent Secretaries of the relevant Ministry for public sector projects. These will serve as data for resettlement monitoring and evaluation.

### **10.4 Complaints / Grievance Resolution Mechanism**

#### **Objections**

Prior to approval of any resettlement plans for the different investment CEP program, individuals and households already associated with the conception, design and location of the program activities would have been in a position to express their dissatisfactions or grievances to the appropriate structures and attempt to resolve these in an amicable manner using traditional and



customary avenues of conflict resolution. In pursuit of this same approach grievances could be addressed through the various tiers of local government authority, and District administrations.

At the time that the individual resettlement and compensation plans are approved and individual compensation contracts are signed, affected individuals would have been informed of the process for expressing dissatisfaction and to seek redress.

The grievance procedure will be simple, administered as far as possible at the local level to facilitate access, flexible and open to various proofs taking into cognizance the fact most people are illiterate and poor requiring a speedy, just and fair resolution of their grievances. Therefore, taking these concerns into account, all grievances concerning non-fulfillment of contracts, levels of compensation, or seizure of assets without compensation will be addressed to the existing local courts system of administration of justice in the Districts and this will be addressed to MEMD CEP Coordination Manager.

All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by notifying their village leader and the District administration (the Chief Administrative Officer-CAO). The CAO will consult with the MEMD, parish and village leaders and other records to determine claims validity. If valid, the village leader and CAO will notify the complainant and s/he will be settled.

If the complainants claim is rejected, then the matter will be brought before the District Land Tribunals and/or the local courts for settlement. If the matter cannot be settled by the local courts and/or the District Land Tribunals, the matter will go the High Court for resolution. The High Court of Uganda will be the highest appellate “judge” in this system. The decision of the High Court would be final and all such decisions will be reached within a full growing season after the complaint is lodged.

If a complaint pattern emerges, the local governments, REA, MEMD, parish and village leaders will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once the REA, MEMD, local governments, parish and village leaders agree on necessary and appropriate changes, then a written description of the changed process will be made. REA, the MEMD, local governments, parish and village leaders will be responsible for communicating any changes to the population.

In the local cultures it takes people time to decide that they are aggrieved and want to complain. Therefore, the grievance procedures will give people up to the end of the next full agricultural season after surrendering their assets to set forth their case.

Where all these avenues for redress of grievances have been exhausted without arriving at an amicable solution or consensual decision, recourse can be had with the judicial institutions in place, namely the law courts. In this regard, the Program is obliged to provide, in particular to vulnerable and disadvantaged groups the requisite assistance enabling them to present their case to such decision-making organs of government.

## **11.0 RESETTLEMENT FUNDING**

### ***Dispositions or Funding***

Funds for implementing inventory assessments as well as land acquisition and resettlement action plans will be provided by the government of Uganda for public sector projects and by the private developer for private sector led projects. In general, the cost burden of compensation will be borne by the developer after full valuation based on a comprehensive Valuer's report.

### ***Estimated costs***

At this stage, it is not possible to estimate the likely number of people who may be affected. This is because the CEP Program is being implemented in different structures and locations where new electricity infrastructure is to be built is not known at the moment. However, based on the experience of Energy for Rural Transformation Program Phase I the cost may not exceed 2% of the total construction costs of a subproject. Under ERT 1, the highest total compensation amounted to 2% of the total sub project cost while other sub projects were as low as 0.15%.

Details on technical designs have not yet been developed and the land needs have not yet been identified. When this information is available and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data would be available. Such information will facilitate the preparation of a detailed and accurate budget for resettlement and compensation. REA, Ministry of Energy and Mineral Development, and private developers and participating institutions will prepare the resettlement budgets that shall not exceed about 2% of the total construction cost of the new facilities. This budget shall be financed through existing administrative and financial management rules and procedures of the Uganda Government. The budget will be revised annually to meet the identified resettlement requirements.

There shall be capacity building for participating institutions, local governments and private developers involved in implementing resettlement issues even before they arise. The cost of capacity building activities is estimated at 0.01% of the entire project cost and will be borne by the Government of Uganda.

## **12.0 IMPLEMENTATION AND MONITORING PLANS**

### **12.1 Resettlement Action Plans**

MEMD through the CEP coordination manager will make sure that, a comprehensive Resettlement Action Plan is prepared for each CEP activity that triggers resettlement. In this undertaking, REA and MEMD or any other relevant agency may, if need be contract the services of a valuation expert to carry out the evaluations of the assets. In case of involuntary resettlement, approval of the new land areas designated to be used for resettlement will be sought from the Government in consultation with local communities.

The process of preparing the resettlement action plans, in line with the requirements of Section 5 above, will involve the following:

- a census will be carried out to identify PAPs and their assets;
- the census will generate information about the Displaced Persons, their entitlements regarding compensation, resettlement and rehabilitation assistance as required;
- consultations with the affected people about acceptable alternatives;
- disturbances, especially those affecting income-earning activities and impact on assets should be properly recorded with the view to compensation or replacement in case of resettlement;
- based on the census and inventory of losses, and in consultation with the Displaced Persons, a time-phased action plan with a budget for provision of compensation, resettlement, and other assistance as required, will be prepared;
- Arrangements for monitoring and implementation

To ensure transparency of procedures, Displaced Persons will be informed of the method of valuation employed to assess their assets. All payments of Compensation, Resettlement Assistance and Rehabilitation Assistance, as the case may be, will be made in the presence of the REA and MEMD or any other sector representative a witness, by the Chief Administrative Officer (CAO) and other relevant local leaders.

### **12.2 Monitoring Arrangements**

In order to assess whether the goals of the resettlement and compensation plan are met, a monitoring plan will be required. This monitoring plan will include indicators to be monitored, guidelines, responsible persons or institutions, necessary to carry out the monitoring activities and timelines (quarterly) when the monitoring exercises will be conducted.

The arrangements for quarterly monitoring of the resettlement and compensation activities would fit the overall monitoring programme of the entire CEP program which would fall under the overall responsibility of the Accounting Officer of MEMD. The Lead Officer will be the Coordination Manager for CEP who will institute an administrative reporting system that shall:

- a) alerts relevant authorities on the necessity for land acquisition in the CEP program activities design and technical specifications;
- b) provides timely information about the assets valuation and negotiation process;
- c) receives reports on any grievances that require resolution, and
- d) provide documents on timely completion of CEP program resettlement obligations;
- e) updates the database with respect to changes that may occur on the ground as resettlement and compensations activities are being implemented.

Annual evaluations shall be made in order to determine whether the PAPs have been paid in full and before implementation of the individual CEP activities; and whether the PAPs shall be enjoying the same or higher standards of living than before.

A number of objectively verifiable indicators shall be used to monitor the impacts of the compensation and resettlement activities. These indicators shall be targeted at quantitatively measuring the physical and socio-economic status of the PAPs and DPs, to determine and guide improvement in their social well-being. Therefore, monitoring indicators to be used for different RAPs or ARAPs will have to be developed to respond to specific site conditions. Monitoring indicators may include:

No. of activities that have triggered Involuntary Resettlement (land acquisition) in the program

- Number of RAPs done
- Number of people affected (if any)
- Amount of compensation made and the number of PAPs compensated
- Number of complaints from affected communities/households (how many resolved, how many outstanding, etc)

At the end of the project a RAPs implementation completion report will be prepared and submitted to IDA.