

**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN  
DEVELOPMENT AND PUBLIC WORKS**  
State Department for Housing and Urban Development

**Kenya Informal Settlements Improvement Project II  
KISIP II**

**RESETTLEMENT POLICY FRAMEWORK  
(RPF)**

Updated November, 2019

*KISIP II: Updated Resettlement Policy Framework, 2019*

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Purpose of Issue</b>
1.0	September 2019	MoTIHUD	Draft Updated RPF for World Bank and other Stakeholder review and to guide consultations.
2.0	October 2019	MoTIHUD	Revised Updated RPF incorporating review comments and public stakeholder consultations for World Bank Review and approval.
3.0	November 2019	MoTIHUD	Revised Updated RPF for KISIP II incorporating World Bank Comments for Bank review and approval.
4.0	November 2019	MoTIHUD	Disclosure Copy

Disclosure

## **Abbreviations**

ARAP	Abbreviated Resettlement Action Plan
CPTED	Crime Prevention through Environmental Design
DP	Displaced Person
ESIA	Environmental and Social Management Framework
ESMMP	Environmental and Social Management and Monitoring Plan
FMP	Financial Management Policy
GOK	Government of Kenya
GRC	Grievance Redress Committee
CGRC	Community Grievance Redress Committee
IDA	International Development Agency
KISIP	Kenya Informal Settlements Improvement Project
KYEOP	Kenya Youth Employment and Opportunities Project
MCA	Member of County Assembly
M & E	Monitoring & Evaluation
NLC	National Land Commission
NPC	National Project Coordinator
NRIC	National Resettlement Implementation Committee
NT	National Treasury
OP	Operational Policy
PAF/PAH/PAP	Project Affected Families/Households/Persons
PAPC	Project Affected Persons Committee
PCT	Project Coordinating Team
PLWD	People Living with Disabilities
PS	Principal Secretary
RIC	Resettlement/RAP Implementation Committee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
R&R	Resettlement and Rehabilitation
SEC	Settlement Executive Committees
SIA	Social Impact Assessment

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## **Executive Summary**

### **Background**

The Government of Kenya is in consultation with the World Bank for consideration of the Kenya Informal Settlements Improvements Project II (KISIP II) to consolidate the gains made under KISIP I and enhance the benefits of the project to more people in informal settlements. This Second Kenya Informal Settlements Project (KISIP II) will build on the successes and lessons learned in KISIP I, but also introduce new interventions to deepen its overall impact. It will support the interventions that have been successful under KISIP I: tenure regularization, infrastructure upgrading, and institutional strengthening. Unlike KISIP I, however, the proposed project will include new approaches and new activities to strengthen its impact on the participating communities.

### **Project Development Objective**

The proposed project development objective is to improve access to basic services and tenure security of residents in participating urban informal settlements and strengthen institutional capacity for slum upgrading in Kenya. This will be achieved by investing in infrastructure based on plans developed in consultation with the community, by supporting planning, surveying and issuance of land documents for residents of informal settlements, and by strengthening capacity of county administrations to deliver on their mandates.

### **Project Components**

The proposed project will comprise the following four components.

**Component 1(Integrated Settlement Upgrading):** KISIP2 has built on the lessons learned from KISIP1 and has combined tenure regularization and infrastructure into one integrated upgrading approach to save both money and time, ensuring better coordination between the two interventions in a settlement and deepening the project's overall impact on the participating communities by supporting tenure regularization and infrastructure upgrading in the same communities. Thus, two main interventions have been identified under this component: (i) tenure regularization; and (ii) infrastructure upgrading. Settlements will benefit from one or both interventions depending on the initial condition of the settlement.

Under tenure regularization, KISIP2 will support the chain of activities required to regularize tenure for people living on uncontested public lands. Based on experiences of KISIP 1, the project will minimize displacement of residents in planning using 'adoptive' planning approach to minimize displacement of residents in informal settlements.

Under infrastructure upgrading, KISIP2 will support the same types of investments: roads, bicycle paths, pedestrian walkways, street and security lighting, vending platforms, solid waste collection and settlement sorting, storm water drainage, water and sanitation systems, public parks, and green spaces. The menu will also include investments related to prevention of crime and violence, including but not limited to community centers. Most of the infrastructure will contribute to climate resilience and the project will have substantial climate change adaptation and mitigation co-benefits.

**Component 2 (Socio-Economic Inclusion Planning):** This component will support the development of community-level socio-economic plans. The plans intend to identify together with the communities their socio-economic needs and then address how best the needs can be met.

**Component 3 (Institutional Capacity Development for Slum Upgrading):** The Project will support institutional and policy development at national and county levels. Activities will include supporting the review of the 2005-2020 National Slum Upgrading and Prevention Strategy, the development of county-specific slum upgrading and prevention strategies, developing financing mechanisms for slum upgrading at county level, and developing strategies to plan for urban growth, prevent crime and violence and to ensure adoptive planning in informal settlements.

**Component 4 (Program Management and Coordination):** This component will finance activities of the NPCT and the CPCTs related to national and county-level project management and coordination, including planning, surveying, engineering, fiduciary (financial management and procurement), safeguards compliance and monitoring, monitoring and evaluation (M&E), and communication and community development.

### **Project Financing**

KISIP II is estimated to cost US\$165 million. The project will be financed through an International Development Association (IDA) Credit of US\$150 million equivalent. The Government will add US\$15 million as counterpart financing. The Government will be responsible for budgeting for counterpart financing to cover some operating costs, and any compensation due to project-affected people.

### **Project Area**

KISIP I was initially implemented in 15 towns located in 14 counties. Under revised guidelines, after mid-term review, the 15 counties were at liberty to propose activities in informal settlements in other towns within their jurisdiction. As a result, the number of towns participating in the project grew. In KISIP II, all the Counties are eligible to participate under a certain criterion.

### **Institutional Arrangements**

Implementation of KISIP will involve a three-tier institutional arrangement (National, County and Community). Both the National and County PCT will have dedicated Safeguards Teams to address safeguard issues. The community through the Settlement Executive Committees (SECs) will be enabled to participate in the preparation of mitigation plans, implementation and monitoring as well as grievance redress.

### **Purpose and Objectives of Resettlement Policy Framework (RPF)**

Under KISIP II, the details of the location, scope, technology and technical specifications of projects which have direct bearing on land requirements and hence the scope of displacement are not known beforehand. In the absence of such information, this generic Resettlement Policy Framework (RPF) has been prepared to lay down the broad framework for policy, procedures, entitlements, eligibility criteria, mechanism for addressing grievances, framework for stakeholder and Project Affected Persons (PAPs) participation and institutional arrangements to govern response to and resolution of displacement impacts of project implementation. This RPF has been prepared consistent with the applicable policy provisions of the GOK and the World Bank's Safeguard Policy OP 4.12 on Involuntary Resettlement.

## **Scope**

The provisions of this RPF applies to interventions in infrastructure upgrading only. In the integrated approach, where tenure regularization and infrastructure interventions happen in the same settlements, RAPs will be prepared during infrastructure upgrading sub-projects. Any residual impacts from tenure regularization will be addressed in the Environmental and Social Management Plans (ESMPs).

## **Consultations on the RPF**

Stakeholder consultations on the draft RPF were carried out at the County level, community leadership level and at the grassroots levels with an aim to identify perceived project impacts in relation to KISIP I, and devise measures in the instruments for enhancing the positive impacts and mitigating negative impacts, as well as providing a platform for project stakeholders to air their views, concerns and recommendations for incorporation into the final instrument.

## **Disclosure**

The draft RPF was disclosed through the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works website- [www.urbanandhousing.go.ke](http://www.urbanandhousing.go.ke) and advertised widely in the local media. The final and approved RPF shall be disclosed in the World Bank external website.

## **Legal and Policy Framework.**

This RPF has been prepared in conformity with the policy and legal provisions of the GoK and the World Bank. However, in preparing this RPF, operational gaps between the policy/legal frameworks of both emerged. Mitigation measures for breaching these gaps have been provided in this RPF.

## **Screening**

Social screening will be undertaken at an early stage for all potential subprojects to be undertaken in selected settlements to determine potential social risks and impacts. It will determine the need for conducting Social Impact Assessment (SIA) and preparing Resettlement Action Plan (RAP). This screening will be carried out in close consultation with various primary stakeholders.

## **Potential for Displacements**

Infrastructure upgrading interventions are likely to cause displacements of mainly structures and livelihoods. Permanent displacement of people is not expected as the infrastructure upgrading will take place within the public land, particularly way leaves and road reserves in areas already planned and surveyed. There is insignificant potential for land acquisition as all the proposed projects will be undertaken within the public/designated way leaves and reserves, and public land reserved for such purposes.

Some of the potential losses include:

- a) Damage / Loss of Residential and Commercial Structures
- b) Loss of community structures
- c) Loss of Livelihood / Income Source
- d) Crop Damage

### **Eligibility for Benefits**

The basic principle followed in this RPF is that PAPs should be assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them to pre-Project level whereby lack of legal title does not exclude individuals from the eligibility to receive compensation and/or rehabilitation assistance. PAPs eligible for compensation will include:

- a) those who have formal legal rights to land or other assets, and
- b) those who initially do not have formal legal rights to land or other assets but have a claim to legal rights based upon customary and traditional rights; upon the possession of documents such as land tax receipts; or upon the permission of local authorities to occupy or use the project affected plots.
- c) Those who have no recognizable legal right or claim to the land they are occupying are also eligible for compensation for immovable assets.

People illegally occupying public land are not eligible for compensation for loss of land but will be eligible for compensation of the immovable assets and potential loss of livelihood.

### **The Entitlement Matrix**

The RPF has an entitlement matrix to provide for compensation measures for different losses for different categories of Project Affected Persons. It will guide the entitlements during RAP preparations and implementation. The following principles will guide payment of compensation for lost assets -

- Compensation shall be paid prior to acquisition or displacement;
- Compensation shall be extended to all PAPs irrespective of tenure status, with exceptions of PAPs with no formal rights to land who cannot be compensated for land;
- Compensation will be at replacement cost meaning that replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs.
- Compensation for structures shall include the full cost of materials and labour required for reconstructing a building of similar surface and standing.
- In case of physical displacement and depending on tenure category, PAPs will be provided transition assistance such as moving allowances, subsistence allowances and alternative plot or house where possible.
- PAPs will be provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities, where available.
- In cases where in-kind replacement is not the preferred option of the PAPs, then the cash compensation will be based on the replacement cost. For the purposes of this RPF, the use of replacement value, or market value, will mean the higher value of two options.
- Vulnerable groups will need to be identified and provided with extra support according to their vulnerability.



### **Grievance Redress Mechanism**

The project will develop a robust grievance redress system from the community to national level building on the lessons learnt in KISIP I. The Grievance Officers at County and National level will establish a register of resettlement/compensation related grievances and disputes.

This RPF recommends a four-tier grievance mechanism- at the community, County, national and resolution through courts of law. It is desirable to resolve all the grievances at the community level to the greatest extent possible. To achieve the community or settlement level grievance mechanism must be credible and generally acceptable. The grievance redress mechanisms will aim to solve disputes at the earliest possible time in the interest of all parties concerned.

### **Funding Implementation of this RPF**

Generally, it is not possible to predict the nature, scope and fiscal implications of displacement likely from the activities of the project. Indeed, realistic working budgets will only be available once individual RAPs for sub-projects have been completed; but going by the expressed policy of minimising displacement and adoption of in-kind compensation, the monetary implication of displacement is greatly mitigated. The costs towards land acquisition and resettlement will be financed from the counterpart funding and be included as part of overall cost of the sub-project. Counties will be responsible for RAP implementation. World Bank funds could be used to finance procurement of services and works associated with the Resettlement and Rehabilitation process.

### **Monitoring and Evaluation**

The purpose of monitoring and evaluation is to report on the effectiveness of the implementation of the RAPs, and the outcomes and impact of compensation on the PAPs in relation to the purpose and goals of the RAPs. The M&E will be undertaken at two levels:

- (i) Internal monitoring: This will be undertaken regularly by the KISIP Monitoring Officer; and,
- (ii) External evaluations (or end-time of RAP implementation): Evaluations will be undertaken by an independent consulting firm hired by KISIP. Evaluation will be necessary in order to ascertain whether the livelihood and income restoration goals and objectives have been realized.

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## **CHAPTER ONE: INTRODUCTION**

### **1.1. Background**

The Government of Kenya is in consultation with the World Bank for consideration of the Kenya Informal Settlements Improvements Project II (KISIP II) to consolidate the gains made under KISIP I and enhance the benefits of the project to more people in informal settlements. This Second Kenya Informal Settlements Project (KISIP II) will build on the successes and lessons learned in KISIP I, but also introduce new interventions to deepen its overall impact. It will support the interventions that have been successful under KISIP I: tenure regularization, infrastructure upgrading, and institutional strengthening. Unlike KISIP I, however, the proposed project will include new approaches and new activities to strengthen its impact on the participating communities. A new approach is to support tenure regularization and infrastructure upgrading in the same communities through one integrated planning approach, aimed at saving both money and time and ensuring better coordination between the two interventions. In addition, the project will include activities to link vulnerable people (elderly, orphans, disabled, and others) of informal settlements to government programs aimed at reducing poverty and vulnerability, and to link at-risk youth to programs focused on building skills and creating opportunities for employment and self-employment. KISIP II will include activities to prevent crime and violence

### **1.2. Project Description**

#### **1.2.1. Project Objectives**

The proposed project development objective is to improve access to basic services and tenure security of residents in participating urban informal settlements and strengthen institutional capacity for slum upgrading in Kenya. This will be achieved by investing in infrastructure based on plans developed in consultation with the community, by supporting planning, surveying and issuance of land documents for residents of informal settlements, and by strengthening capacity of county administrations to deliver on their mandates.

#### **1.2.2. Project Components**

The proposed project will comprise the following four components.

##### **Component 1: Integrated Settlement Upgrading**

KISIP2 has built on the lessons learned from KISIP1 and has combined tenure regularization and infrastructure into one integrated upgrading approach. This approach aims at saving both money and time, ensuring better coordination between the two interventions in a settlement and deepening the project's overall impact on the participating communities by supporting tenure regularization and infrastructure upgrading in the same communities. Thus, two main interventions have been identified under this component: (i) tenure regularization; and (ii) infrastructure upgrading. Settlements will benefit from one or both interventions depending on the initial condition of the settlement.

### **Subcomponent 1.1: Tenure regularization**

Tenure regularization to enhance tenure security is a focus of the Government of Kenya to alleviate poverty. The National Land Policy 2009 recognizes the need for tenure security for all Kenyans, including residents of informal settlements. KISIP2 will support the chain of activities required to regularize tenure for people living on uncontested public lands. These activities include: (i) development of a local physical plan for the settlement which lays out land parcels and infrastructure (roads, etc.); (ii) surveying with physical placement of beacons (pegging) to demarcate the parcels as per the plan; (iii) preparation and issuance of letters of allotment based on the survey plan; and finally (iv) issuance of titles.

Based on experiences from KISIP1, differentiated approaches to tenure regularization have been incorporated into the KISIP2 design based on different characteristics of settlements especially density. Moreover, KISIP2 will follow the experience of KISIP1 to minimize displacement of residents in planning using ‘adoptive’ planning<sup>1</sup> approach to minimize displacement of residents in informal settlements. Adoptive planning is an approach that lays out infrastructure and plots in close alignment with the existing layout of the settlement. Under KISIP1, adoptive planning has reduced displacement by up to 85 percent in some settlements, compared with what would have occurred had the normal standards been applied. It is expected that use of the adoptive approach in KISIP2 will result in minimal displacement.

### **Component 1.2: Infrastructure Upgrading**

KISIP1 has supported an integrated package of investments to comprehensively upgrade settlements, covering 36 informal settlements in 11 urban centers, benefiting 1.2 million people. KISIP2 will support the same types of investments: roads, bicycle paths, pedestrian walkways, street and security lighting, vending platforms, solid waste collection and settlement sorting, storm water drainage, water and sanitation systems, public parks, and green spaces. The menu will also include investments related to prevention of crime and violence, including but not limited to community centers. Like the first phase of KISIP, the second phase will support an integrated package of investments to comprehensively upgrade settlements.

Under KISIP2, most of the infrastructure will contribute to climate resilience and the project will have substantial climate change adaptation and mitigation co-benefits. It is expected that KISIP2 funds will be similarly allocated ensuring that most of the financing for infrastructure will be towards climate resilient infrastructure. Additionally, counties who benefitted from high-mast lighting have requested for energy efficient options in KISIP2 as the cost of keeping the lights on has been high<sup>2</sup>. KISIP2 will be implementing energy efficient options in lighting.

### **Component 2: Socio-Economic Inclusion Planning**

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<sup>1</sup> Adoptive planning is a term developed by the Government of Kenya in response to the KISIP1 experience where the extent of displacement from using standard planning standards were found to be extensive. Adoptive planning is an approach that **adopts** to the prevailing situation in the affected settlement, and emphasizes parcel boundaries and road widths that adhere as much as possible to the existing situation on the ground. For example, in standard planning regulations, a road size would be planned to a width of 9m. Application of these standard regulations in informal settlements would lead to massive impacts and displacements and prohibitive compensation and replacement costs. Adoptive planning introduces flexible standards including one-way roads of 4m to provide for adequate accessibility while reducing the impacts. Under KISIP1, adoptive planning has reduced displacement in some cases up to 85%.

<sup>2</sup> In Mombasa, each mast is costing approximately KES 13,000-15,000 (US\$130-150) per month. Nakuru spends approximately KES 18 million (US\$ 180,000) per month on all its street lighting.

This component will support the development of community-level socio-economic plans. The plans intend to identify together with the communities their socio-economic needs and then address how best the needs can be met. These plans will determine activities that will take place in new or existing community centers and will also determine how best to raise awareness on the benefits of public spaces and green zones, and proper solid waste disposal and how to provide these within the settlements. Vulnerable community members will be prioritized as key beneficiaries in these plans. Through county social development and community development officers, KISIP2 will link vulnerable community groups, including those at risk of violence, to existing World Bank<sup>3</sup> and government safety nets programs.

This component will be implemented only in settlements undergoing infrastructure upgrading so as to provide both socio-economic and infrastructure benefits to the same community. As financing will be limited in the project, these plans will focus on increasing access to opportunities (e.g. job skills training) rather than financing the opportunities themselves. Social infrastructure could be financed under component 1.

KISIP II will include activities to prevent crime and violence in informal settlements. These activities will include (a) participatory crime and violence mapping to identify hotspots; (b) investment in infrastructure to make hotspots safer (such as in lights, gates, rehabilitation of public spaces, and others following the principles of Crime Prevention Through Environmental Design (CPTED); and (c) investment in facilities such as community centers, where programs for youth skills development and conflict mediation could take place. Work on participatory violence mapping piloted under KISIP I provides a robust methodology to CPTED into planning and design of infrastructure projects. Technical assistance to counties to integrate violence prevention in urban development plans and strengthen local coordination on the provision of services for violence prevention will also be considered.

### **Component 3: Institutional Capacity Development for Slum Upgrading**

The Project will support institutional and policy development at national and county levels. Activities will include supporting the review of the 2005-2020 National Slum Upgrading and Prevention Strategy, the development of county-specific slum upgrading and prevention strategies, developing financing mechanisms for slum upgrading at county level, and developing strategies to plan for urban growth, prevent crime and violence and to ensure adoptive planning in informal settlements.

KISIP 2 will develop activities to build capacity of the teams at the national and county levels mandated to implement the Strategy. KISIP2 will also support technical assistance, training, workshops and learning events, experience sharing and peer-learning activities with other counties, and other capacity building activities aimed at enhancing the ability of national, county, and community teams to exercise their roles and responsibilities. Fiduciary and contract management capacity building/support will also be provided. Capacity building plans for each level of government will be developed.

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<sup>3</sup> These are the National Safety Nets Program for Results (Additional Financing P161179), the Kenya Social and Economic Inclusion Project (P164654) and the Kenya Youth Employment and Opportunities Project (KYEOP) (P151831).



#### **Component 4: Program Management and Coordination**

This component will finance activities of the NPCT and the CPCTs related to national and county-level project management and coordination, including planning, surveying, engineering, fiduciary (financial management and procurement), safeguards compliance and monitoring, monitoring and evaluation (M&E), and communication and community development.

##### **1.2.3. Project Financing**

KISIP II is estimated to cost US\$165 million. The project will be financed through an International Development Association (IDA) Credit of US\$150 million equivalents. The Government will add US\$15 million as counterpart financing. The Government will be responsible for budgeting for counterpart financing to cover some operating costs, and any compensation due to project-affected people. Compensation costs associated with proposed subprojects will be identified and budgeted for on an annual basis.

##### **1.2.4. Project Activities with Potential for Displacements**

Infrastructure upgrading interventions are likely to cause displacements of mainly structures and livelihoods. Permanent displacement of people is not expected as the infrastructure upgrading will take place within the public land, particularly way leaves and road reserves in areas already planned and surveyed. There is insignificant potential for land acquisition as all the proposed projects will be undertaken within the public/designated way leaves and reserves, and public land reserved for such purposes.

Displacement impacts are anticipated to be small in scale occasioned by activities as follows:

- Partial demolition of structures to expand / realign road reserves,
- Reclamation of encroached way-leaves,
- Displacement of open and mobile shops (kiosks) to expand / realign road reserves, provide drainage canals, etc.,
- Land reservation for receptacles and waste collection centres, posts for security lighting,
- Removal of structures to create room for trunk infrastructure such as water mains and hydrant points towards mitigating severity of fire disasters.

Resettlement Action Plans will need to be prepared to mitigate the displacement impacts for each infrastructure upgrading sub-project. Any displacement impacts from tenure regularization will be addressed through the Environmental and Social Management Plans (ESMPs).

##### **1.2.5. Project Area**

KISIP I was initially implemented in 15 towns located in 14 counties. Under revised guidelines, after mid-term review, the 15 counties were at liberty to propose activities in informal settlements in other towns within their jurisdiction. As a result, the number of towns participating in the project grew. In KISIP II, all the Counties are eligible to participate under a certain criterion.

In preparation for KISIP 2, KISIP I financed the preparation of detailed designs and bidding documents for upgrading plans for 39 settlements in six counties (Nairobi, Kilifi, Kakamega, Kisumu, Nakuru, Mombasa). Implementation of the plans will ensure that KISIP II is able to provide relatively quick and high-impact results. An additional 17–20 settlements in other counties



will also benefit from infrastructure upgrading. However, not all counties will be able to access the funds, and clear criteria will need to be developed during preparation that allow selection to be made on technical grounds. Alternatively, the funds can be allocated for integrated settlement planning for tenure regularization and infrastructure, allowing the development of a pipeline for future investment.

All counties will be eligible for support for integrated settlement planning for tenure regularization and infrastructure. KISIP II is expected to support about 74 settlements from KISIP I (which have benefited from tenure regularization) with detailed designs and bidding documents for settlement upgrading plans. It will support an additional 75 settlements with integrated planning for both tenure regularization and infrastructure. All counties will be eligible for support under this component. However, detailed eligibility criteria will be established to ensure that the work has a high impact. Such criteria could include, overall population of the settlement, density of the settlement, and assurance that settlement is on government land, which the government is willing to release for tenure regularization.

#### **1.2.6. Expected Project Benefits**

The project's expected benefits will arise from investments in infrastructure and from tenure regularization. Although a cost-benefit analysis for KISIP I investments has not yet been done, analysis done for similar investments in urban areas in Kenya and in other countries showed significant benefits for the types of investments KISIP I and II are supporting. Examples are as below.

- 1. Benefits of investments in urban roads.** The benefits associated with improved roads are (a) travel time savings; (b) travel cost savings; (c) reductions in vehicle operating costs; (c) enhanced access to jobs, markets, health facilities schools, and other services at lower cost than otherwise available (reflected in enhanced land values); and (d) promotion of economic growth in the region through enhanced trade, increased efficiency, and higher productivity. The economic rate of return for urban roads under various World Bank-supported projects in Africa ranged from 18 to 33 percent.
- 2. Benefits of drainage systems.** Benefits include (a) reduced number of days of work lost due to flooding (b) reduced property damage (buildings, roads, furniture, appliances, household goods); (c) increased property values; (d) reduced loss of income from businesses whose hours are curtailed and access reduced; (e) improved travel times on streets that used to flood; (f) lower maintenance costs for vehicles; and (g) reduced costs of illness associated with exposure to polluted and stagnant water. Analysis done for the Kenya Municipal Program showed that investments in a drainage system that considered only reduced number of days lost from work generated an internal rate of return of 32 percent.
- 3. Benefits of investments in street lighting.** Benefits of street lighting include (a) increased perception of safety, (b) reduced accidents, and (c) and increased ability to do business after dark. People interviewed for the beneficiary analysis of KISIP I noted that they felt a greater sense of security at night and were now walking along streets with lights, rather than taking motorized transport to their destinations. Some participants pointed out that accidents between vehicles and between vehicles and pedestrians had declined. Some mentioned that business hours had expanded and that the appearance and liveability of the urban centre had improved.

- 4. Benefits of tenure security.** Benefits of tenure security include (a) increased investments in housing and businesses, (b) increased labour-force participation, (c) improved health due to reduced stress from fear of displacement and expropriation. People interviewed for the beneficiary analysis of KISIP I noted that they felt much reduced stress and were planning to invest in their properties.

#### **1.2.7. Institutional Arrangements**

Implementation of KISIP will involve a three-tier institutional arrangement (National, County and Community).

- a) National level: The project will be implemented by the KISIP1 Project Coordination Team (NPCT) that has over the years developed a good level of awareness and improved capacity to address Environmental and Social (E&S) risks. Whereas, the KISIP National Coordinator has overall responsibility for project management, on a day-to-day basis, general responsibility for safeguard management will be discharged by the Head of Safeguards Section. It is proposed that the Safeguards Team be composed of:
  - 1) Head of Environmental and Social Safeguards to provide overall coordination of all safeguard issues and be responsible for reporting both to the National PCT and the World Bank.
  - 2) Social Safeguards Officer who will be responsible for managing all the social impacts and issues of the project including RAP preparation, implementation and monitoring in collaboration with the Counties.
  - 3) Environmental Safeguards Officer who will be responsible for managing environmental issues and impacts of the projects including ensuring the preparation, implementation, monitoring and reporting of ESIA/ESMPs in collaboration with the Counties.
  - 4) Community Development Officer who will ensure full participation of communities in safeguards management.
- b) County level: The county governments will be the executing agencies of the project. They will establish County Project Coordination Teams (CPCTs) which mirror the PCT in personnel. Unlike KISIP I, the Counties will play an enhanced role in safeguards management. They will be in charge of implementation of RAPs and ESIA where applicable. To enable them perform these enhanced roles, they are expected to enhance their capacity. The County Safeguards Team will mirror the National Team, but in addition, it is recommended to have additional personnel to handle community liaison and grievance redress.
- c) Community level: Communities will form Settlement Executive Committees (SECs) to provide an interface between the communities and the project. This approach has been successful in promoting community participation in the KISIP 1. The SECs provide an important link and avenue through which the community can participate in safeguards management. Moreover, communities will form community-level grievance redress committees to improve access to simple, appropriate, and effective grievance redress mechanism.

In addition, task mapping and capacity assessment of those responsible for implementation of safeguards in both the NPCT and the participating Counties will be conducted. The findings will inform measures to strengthen staffing and safeguards capacity. Moreover, the National

Safeguards team will use their experience in KISIP 1 to mentor and build capacity of the County Teams.

Third party monitoring will be considered, given the large number of settlements and counties in which KISIP2 will be engaged in, including those with unknown capacities to manage social risks. The detailed roles and responsibilities of the national, county and community institutions will be provided in the Project Implementation Manual (PIM).

### **1.3. Scope**

The provisions of this RPF applies to interventions in infrastructure upgrading only. In the integrated approach, where tenure regularization and infrastructure interventions happen in the same settlements, RAPs will be prepared during infrastructure upgrading sub-projects. Any residual impacts from tenure regularization will be addressed in the Environmental and Social Management Plans (ESMPs).

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## **CHAPTER TWO: RESETTLEMENT POLICY FRAMEWORK (RPF)**

### **2.1. Purpose and Objectives of Resettlement Policy Framework (RPF)**

Under KISIP II, the details of the location, scope, technology and technical specifications of projects which have direct bearing on land requirements and hence the scope of displacement are not known beforehand. In the absence of such information, this generic Resettlement Policy Framework (RPF) has been prepared to lay down the broad framework for policy, procedures, entitlements, eligibility criteria, mechanism for addressing grievances, framework for stakeholder and Project Affected Persons (PAPs) participation and institutional arrangements to govern response to and resolution of displacement impacts of project implementation. This RPF has been prepared consistent with the applicable policy provisions of the GOK and the World Bank's Safeguard Policy OP 4.12 on Involuntary Resettlement.

OP 4.12 requires that an RPF be prepared for all projects that anticipate both physical and livelihood displacement. Though, minimal if any displacement is anticipated from KISIP II activities, this RPF has nonetheless been prepared for KISIP with the following objectives: -

- i) To provide a policy, legal and institutional framework for responding to all displacement impacts occasioned by activities undertaken under KISIP. This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by:
  - a) the involuntary taking of land resulting in relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether the affected persons must move to another location; or
  - b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.
- ii) To offer choices among, and identify technically and economically feasible resettlement alternatives;
- iii) To put in place modalities for providing prompt and effective compensation at full replacement cost for loss of assets attributable directly to the project and provide support during the transitional period to enable the affected people to improve or at least restore their pre-impact living standards; and,
- iv) To guide the preparation of Resettlement Action Plans (RAPs) if PAPs in any subproject selected for Bank financing are more than 200, or Abbreviated Resettlement Action Plans (ARAPs) if the PAPs are less than 200.

### **2.2. Supporting Principles**

In approaching rehabilitation assistance within KISIP, provisions of both GoK and OP 4.12 of the World Bank will apply and where gaps are encountered, additional provisions in mitigation will be identified. Additionally, project development will be firmly anchored on principles aimed at mitigating displacement impact as follows: -

**Minimization of Displacement:** This RPF subscribes to the policy of minimization of displacement to be pursued as follows: -

- Investments proposed under KISIP are by design quite small and targeted at enhancing quality of life among host communities. This will greatly minimise the need for displacement.
- Preparation of new Physical Development Plans will utilize existing way leaves. Thus, wherever permanent dwellings may potentially be affected by a proposed PDP, adaptive planning shall be employed to avoid/minimise displacement/relocation accordingly;
- To the extent possible, projects will utilize public easements- sewer lines, other linear infrastructures etc. will be routed inside existing right-of-way's (roads, streets, and power lines) wherever possible.
- Development of PDPs should provide minimum-displacement mitigation measures in cases where people and livelihoods will have to be displaced to protect and conserve critical natural resources (e.g. wetlands and riparian reserves) and other public spaces.

**Enhancement of benefits and Livelihood Restoration:** One of the objectives of this RPF is to ensure that livelihoods are improved or restored to pre-displacement levels. Where impact on land use is such that sustainability of livelihoods may be affected, preference will be given to land-for-land compensation rather than cash pay-outs. This applies to people who are not necessarily physically displaced but who are affected by a land loss that affects their sustainability.

**Assistance to vulnerable groups:** This RPF recognises the need for providing additional support to vulnerable groups so as to cushion them from impacts associated with the project and to facilitate faster adjustment in the new environment. Vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them.

### **2.3. Procedures in developing this RPF**

This RPF is an update of the RPF for KISIP I, and involved consultations and reviews between KISIP, the World Bank, Counties and communities. The revision has benefited from experiences and lessons learnt from operationalizing KISIP I RPF.

The update involved the following tasks:

- a) An identification of gaps and challenges experienced, from review previous reports and action taken as part of implementation of RPF for KISIP I.
- b) An analysis of the legal and institutional framework for addressing displacements and compensation and the World Bank policies as well as best practices.
- c) An analysis of the proposed design and scope of KISIP II and identification and characterization of potential social impacts and especially displacement.
- d) Review of the entitlement matrix to address displacement impacts from both infrastructure and tenure regularization interventions.
- e) Review of the existing grievance redress mechanisms (GRM) and application of the same in practice and suggest improvements to be implemented to comply with WB guidelines and enhance efficiency and effectiveness.
- f) Identification of potentially disadvantaged or vulnerable individuals or groups (if any) that might be disproportionately impacted by resettlement and measures to support them or areas within the project area with land tenure conflicts or land disputes that require particular attention.

- g) Improvement of the institutional arrangements (including implementation and monitoring mechanisms that ensures inclusiveness and participation of all affected people/groups and or communities) and the organizational structure for KISIP II design.
- h) A proper and detailed categorization of persons affected by the project activities.
- i) Development of appropriate Annexures to provide further guidance on procedures, requirements, and best practices.
- j) Subjecting the draft RPF to County and Communities for feedback.

#### **2.4. Consultations on the RPF**

Stakeholder consultations on the draft RPF were carried out at the County level, community leadership level and at the grassroots levels with an aim to identify perceived project impacts in relation to KISIP I, and devise measures in the instruments for enhancing the positive impacts and mitigating negative impacts, as well as providing a platform for project stakeholders to air their views, concerns and recommendations for incorporation into the final instrument.

A 2-day consultation workshop specifically targeting the County governments was held with the 14 counties who participated in KISIP 1. This was attended by two officers from each county – an Environmentalist and a Community Development Officer, and held on 26<sup>th</sup> and 27<sup>th</sup> September 2019 in Nairobi. Targeting the communities, and in order to have a representative sample of the fourteen counties and 137 informal settlements that KISIP I is working in, a sample of three counties i.e. Nairobi, Machakos and Nakuru (Naivasha) was drawn. Out of these, 11 settlements were selected for the consultations with a mix of settlements benefitting from Infrastructure upgrading and/or tenure regularisation.

**Table 2 - 1: Breakdown of Meetings/Workshop Participants**

Meeting	Date	Participants	Gender	
			Male	Female
<b>Introductory meeting/ County KISIP PCT and Environmental and Social Safeguards Officers consultation</b>	26 <sup>th</sup> & 27 <sup>th</sup> September 2019	<ul style="list-style-type: none"> <li>• County Government of Nairobi, Kisumu, Garissa, Machakos, Nyeri, Uasin Gishu, Kiambu, Nakuru, Kericho, Kitui, Kilifi, Mombasa, Embu County KISIP representatives and County Environmental and Community Development Officers</li> <li>• KISIP National representatives</li> <li>• Housing Secretary</li> <li>• World Bank GRM Consultants</li> </ul>	15	23
<b>Nairobi County and Community leaders Meeting (held at Kenya Bankers)</b>	1 <sup>st</sup> October 2019	<ul style="list-style-type: none"> <li>• County Government of Nairobi KISIP team</li> <li>• Settlement Executive Committees (SECs) from KCC, Kayole Soweto, Kahawa Soweto, Embakasi village, Redeemed settlements</li> </ul>	29	19



*KISIP II: Updated Resettlement Policy Framework, 2019*

		<ul style="list-style-type: none"> <li>• Grievance Redress Committee (GRCs) from KCC, Kayole Soweto, Kahawa Soweto, Embakasi village, Redeemed settlements</li> <li>• KISIP National Representatives</li> <li>• World Bank GRM Consultants</li> <li>• Chiefs/ Assistant Chiefs</li> <li>• County Administration</li> <li>• Member of County Assembly (MCA) Kahawa West</li> <li>• P.A to MCA Savannah</li> </ul>		
<b>Machakos County and Community leaders meeting in Machakos (held at Villa Conference)</b>	2 <sup>nd</sup> October 2019	<ul style="list-style-type: none"> <li>• County Government of Machakos KISIP</li> <li>• KISIP National representatives</li> <li>• SEC Members from Swahili and Kariobangi settlements</li> <li>• GRC Members from Swahili and Kariobangi settlements</li> <li>• Personal Assistant (PA) to the MCA Central ward</li> <li>• CEO, Hope Disability Network</li> <li>• World Bank GRM Consultants</li> </ul>	24	16
<b>Public meeting in Kariobangi settlement, Machakos</b>	2 <sup>nd</sup> October 2019	<ul style="list-style-type: none"> <li>• County Government of Machakos KISIP</li> <li>• KISIP National representatives</li> <li>• Consultant</li> <li>• SEC and GRC Members from Kariobangi settlement</li> <li>• Members of the Public (Kariobangi settlement)</li> <li>• World Bank GRM Consultants</li> </ul>	10	11
<b>Nakuru County and Community leaders meeting in Naivasha (held at Masada Resort)</b>	3 <sup>rd</sup> October 2019	<ul style="list-style-type: none"> <li>• County Government of Naivasha</li> <li>• KISIP National representatives</li> <li>• SEC Members from Kihoto, Kamere, Kasarani and Karagita settlements</li> <li>• GRC Members from Kihoto, Kamere, Kasarani and Karagita settlements</li> <li>• Chiefs</li> <li>• CBOs representatives</li> <li>• PA MCA Karagita</li> </ul>	28	15
<b>Public meeting in Kihoto settlement, Naivasha</b>	3 <sup>rd</sup> October 2019	<ul style="list-style-type: none"> <li>• County Government Naivasha</li> <li>• KISIP National representatives</li> <li>• SEC and GRC from Kihoto settlement</li> <li>• Community members</li> </ul>	14	10

Some of the emerging cross cutting concerns raised in these platforms included<sup>4</sup>:

- The linkage to *Inua Jamii* (GOK Social Protection programmes) should be through forwarding the names to the chief Chiefs can also help in mobilizing assistance where required e.g. towards rebuilding of houses. Contractor contracts should also specify clauses on vulnerable persons' access to employment.
- **SEC/GRC:** The two committees are effective but some lapses in resolving grievances escalated to contractor and KISIP County/National were cited. In addition, it was noted that there is a need for KISIP to strengthen the working relationship of SEC/GRC with contractors. Suggestions were made to formally introduce the parties to each other at commencement of the projects and ensure sustainability through participation in site activities, namely, monthly progress review site meetings and regular monitoring of project impacts.

The capacity of the SEC/GRC needs enhancement through training and provision of necessary resources e.g. office space in the settlements, airtime, stationery and for GRCs to provide Logs, black books/registers. Where facilitation of SEC/GRC is done by contractors, these are considered to be less effective.

SEC/GRC roles and responsibilities need to be better defined due to overlapping mandate to avoid conflict and duplication.

There is need to consider SEC/GRC timelines more so lifeline of the committees. The committees need to be revisited in a timely manner to assess their effectiveness, composition changes, and enable action on the same.

There is need for a mechanism to track grievances progress at settlement and county/national level.

- **Livelihood Restoration:** There is a need to enhance livelihood restoration provisions for affected traders since current allocations are reportedly insufficient for the intended purpose.
- **The vulnerable and marginalized groups** in the sense of marginalized groups do not exist within the target informal settlements. However, other categories of vulnerable groups exist e.g. street children.
- **Unintended Project impacts:** The project has in some cases brought about undesired impacts to e.g. an increase in house rent is a positive impact for structure owners but negative for tenants.
- **Vulnerable Persons:** Opportunities (based on case examples) exist to enrol chiefs, county in providing additional non-monetary assistance to some groups in e.g. rebuilding of structures.
- County focus/enforcement of safeguards in KISIP 1 was lacking despite their attendance of the various meetings at settlement level e.g. involving contractors.

These concerns where applicable have been incorporated in the development of this RPF.

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<sup>4</sup> Details can be found in Annex 1.



## **2.5. Disclosure**

The draft RPF was disclosed through the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works website- [www.urbandhousing.go.ke](http://www.urbandhousing.go.ke) and advertised widely in the local media. The final and approved RPF shall be disclosed in the World Bank external website.

## **2.6. Outline of this RPF**

This RPF is presented in Six Chapters and Appendices.

- Chapter I introduce the background and provide a brief description of the project thus setting the context of potential scope and scale of land acquisition and resettlement impacts anticipated under the project and also justifies the need for an RPF.
- Chapter II provides the purpose and need for the Resettlement Policy Framework (RPF), and procedures.
- Chapter III outlines the policy, legal and institutional framework
- Chapter IV focuses on the risks and potential social safeguard issues, the screening potential sub-projects and subsequent preparation of Resettlement Action Plans.
- Chapter V outlines the valuation, eligibility and entitlement matrix

Chapter VI presents implementation procedures, including institutional mechanism for implementation of this RPF.

Disclosure

## **CHAPTER THREE: THE POLICY AND LEGAL FRAMEWORK**

### **3.1. Right to property**

The right to property is protected under Article 40 the Kenyan constitution (2010). Article 40(3) states that the State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—

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

### **3.2. Classification and Administration of Land**

The Kenyan constitution (2010) in article 61 classifies land into three categories: public, community and private. Article 62 of the Constitution defines public land as:

- (a) land which at the effective date was un-alienated government land as defined by an Act of Parliament in force at the effective date;
- (b) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;
- (c) land transferred to the State by way of sale, reversion or surrender;
- (d) land in respect of which no individual or community ownership can be established by any legal process;
- (e) land in respect of which no heir can be identified by any legal process;
- (f) all minerals and mineral oils as defined by law;
- (g) government forests other than forests to which Article 63 (2) (d) (i) applies, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;
- (h) all roads and thoroughfares provided for by an Act of Parliament;
- (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;
- (j) the territorial sea, the exclusive economic zone and the sea bed;
- (k) the continental shelf;
- (l) all land between the high and low water marks;
- (m) any land not classified as private or community land under this Constitution; and
- (n) any other land declared to be public land by an Act of Parliament

In this regard, public land is vested in and held by a county (or national) government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission (NLC), more so if it is:

- (a) Un-alienated government land as at the effective date;

- (b) Transferred to the State by way of sale, reversion or surrender;
- (c) Land in respect of which no individual or community ownership can be established by any legal process;
- (d) Land in respect of which no heir can be identified by any legal process.

The functions of NLC in managing public land on behalf of the national and county governments, monitoring and having oversight responsibilities over land use planning and the registration of all rights and interests in land are buttressed in the National Land Commission Act 2012.

Article 63(2) defines community land as consisting of:

- (a) land lawfully registered in the name of group representatives under the provisions of any law;
- (b) land lawfully transferred to a specific community by any process of law;
- (c) any other land declared to be community land by an Act of Parliament; and
- (d) land that is—
  - (i) lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;
  - (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or
  - (iii) lawfully held as trust land by the county governments, but not including any public land held in trust by the county government under Article 62 (2).

Article 64 of the constitution defines private land as consisting of:

- (a) registered land held by any person under any freehold tenure;
- (b) land held by any person under leasehold tenure; and
- (c) any other land declared private land under an Act of Parliament.

The Land Registration Act 2012 revises, consolidates and rationalizes the registration of titles to land, to give effect to the principles and objects of devolved government in land registration. Section 7 requires the establishment of a land registry containing cadastral maps and names of the land owners while Section 8 details the requirements of such where community land is concerned. These are key in the verification of actual land owners where private and community land is concerned.

Where private land ownership is concerned, Section 25 recognizes the certificate of title as *prima facie* conclusive evidence of proprietorship, unless it has been acquired on grounds of fraud and misrepresentation, or acquired illegally, un-procedurally or through a corrupt scheme.

### **3.3. Development Planning and Control**

The recently enacted Physical and Land Use Planning Act, 2019 makes provisions for the planning, use, regulation and development of land and for connected purposes. It mandates Counties to prepare and implement local physical and land use development plans in respect of a city, municipality, town or unclassified urban. In this regard, development control in relation to building plans and processing of easements and way-leaves is charged to the County in the interest of the general welfare of the public.

### **3.4. Compulsory Acquisition of Land**

Part VIII of the Land Act, 2012 provides for the process and conditions involved in compulsory acquisition of interests in land. Under section 107, the National Land Commission has been given the responsibility to compulsorily acquire land for public purposes on behalf of the national and county governments.

Key steps involved in the process include:

- The acquiring entity makes a request to the National Land Commission (NLC)
- Upon approval of a request, the Commission publishes a notice of intention to acquire. A copy of the notice is served to the Registrar and every person with an interest in the targeted land.
- The Commission may authorize inspection of the land intended for acquisition to ascertain whether the land is suitable for the intended purpose.
- At least thirty days after publishing the notice of intention to acquire land, the Commission shall appoint a date for an inquiry to hear issues of propriety and claims for compensation by persons interested in the land. This in regard to the Matrimonial Property Act, 2013 which gives equal rights to both married men and women to acquire, administer, hold, control, use and dispose of property such as land, would have to involve both spouses, where such land is considered as matrimonial property. In addition, where such land involves a deceased party, succession is undertaken in accordance with the Law of Succession Act Chapter 160.
- Upon the conclusion of the inquiry, the Commission shall prepare a written award, in which the Commission shall make a separate award of compensation for every person whom the Commission has determined to have an interest in the land.
- On making an award, the Commission shall serve on each person whom the Commission has determined to be interested in the land, a notice of the award and offer of compensation.
- After notice of an award has been served on all the persons determined to be interested in the land, the Commission shall, promptly pay compensation in accordance with the award to the persons entitled.
- In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under the Act, the Commission may take possession of the land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire notwithstanding that no award has been made.
- Upon taking possession and payment of just compensation in full, the land shall vest in the national or county governments absolutely free from encumbrances.

Where community land is concerned, the Community Land Act, 2016 provides for compulsory acquisition. In addition, the community Land Act in Section 6 empowers the county government as a trustee of all unregistered community land, on behalf of the communities for which it is held. In this case, the procedure would entail:

- Government through NLC would make an application to the County Government as a trustee of the land, to set apart the proposed project area for purposes of public interest;
- Upon receiving the notice of intention to acquire, the County Government gives a notice that it intends to set apart the land in question and cause the notice to be published in the Kenya Gazette. Such a notice shall specify the boundaries of the land required to be set apart and the purpose for which the land is required to be set apart;
- NLC undertakes valuation of the land;
- NLC makes prompt payment of full compensation to the respective county governments who shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land. Any such monies shall be deposited in a special interest earning account by the county government;
- Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition;
- Once compensation is awarded, the land will be set apart and the County Government will publish in the Kenya Gazette a notice setting the land apart. Once the land is set apart, the land will vest in GoK and ownership in that land will be transferred to the Authority.

In regards to compensation of land in compulsory acquisition, NLC is required to prescribe the criteria and guidelines to be adhered to in the acquisition of land – currently issued under the Land Act Subsidiary Legislation i.e. Land Regulations, 2017 and the Land (Assessment of Just Compensation) Rules, 2017, and which considers:

- The market value of the land as at date of publication in the Gazette of the notice of intention to acquire the land; considers the condition of title or laws which restrict the use of the land;
- Damage sustained or likely to be sustained by persons interested at the time of the Commission's taking possession of the land by reason of severing the land from his or her other land;
- Damage sustained or likely to be sustained by persons interested at the time of the Commission's taking possession of the land by reason of the acquisition injuriously affecting his or her other property, whether moveable or immovable, in any other manner or his or her actual earnings;
- Reasonable expenses incidental to the relocation any of the persons interested or who will be compelled to change residence or place of business as a consequence of the acquisition; and
- Damage genuinely resulting from diminution of the profits of the land between the date of publication in the Gazette of the notice of intention to acquire the land and the date the Commission takes possession of the land.

Over and above the market value, a 15% disturbance allowance is applied in valuation.

In such cases, the Valuer's Act, Cap 532, clearly outlines that valuation for purposes of determination of compensation can only be undertaken by a registered and practicing valuer with the right certification by the Valuers Registration Board.

The Land Act however provides alternatives to compulsory acquisition. Section 144 provides for state authorities, departments or the county government to apply for the creation of a wayleave,

while Section 147 gives powers to the Registrar with respect to creation public right of way. However, this does not absolve the acquiring entity from compensation for the land.

### **3.5. Settlement Programmes**

Under the Land Act, 2012, the National Land Commission has the mandate to implement settlement programmes to provide access to land for shelter and livelihood on behalf of the national and county governments. Settlement programmes shall include, but not be limited to provision of access to land to squatters, persons displaced by natural causes, development projects, conservation, internal conflicts or other such causes that may lead to movement and displacement.

Whereas the Commission shall assist the national and county governments in the administration of settlement programmes; the identification of beneficiaries shall be carried out and verified by a sub-county selection committee specified in section 134(4).

The Commission shall reserve public land for the establishment of approved settlement programmes, and where public land is not available purchase private land subject to the Public Procurement and Disposal Act, 2005 No. 3 of 2005 or any other law. Upon planning and survey, land in settlement schemes shall be allocated to households in accordance with national values and principles of governance provided in Article 10 and the principles of land policy provided in Article 60(1) of the Constitution and any other requirements of natural justice.

The Act further states that any land acquired in a settlement scheme shall not be transferable except through a process of succession. Beneficiaries of land in settlement schemes shall pay a sum of money as may be determined from time to time by the Commission and the body of trustees responsible for settlement matters.

The Act establishes a Land Settlement Fund administered by the National Land Commission. The Fund shall be applied to the following purposes-

- (a) provision of access to land to squatters, displaced persons, for development projects, for conservation, or for any causes that may lead to movement and displacement of persons;
- (b) purchase of private land for settlement programmes;
- (c) establishment and management of refugee camps;
- (d) provision of shelter and a livelihood to persons in need of settlement programmes;
- (e) research, documentation and dissemination of information on settlement programmes; and
- (f) any other purpose that would enhance the development and promotion of settlement programmes that may be approved by the Commission.

### **3.6. Resolution of Conflicts/Disputes**

The Constitution in Article 162 establishes a court of the same standing as the High Court to hear and determine disputes relating to the use and occupation of, and title to, land, and environment. The Environment and Land court has jurisdiction to hear and determine all disputes relating to



land and environment. Section 13 (2) of the Environment and Land Court Act, 2012 provides for such disputes as relating to:

- (a) Environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
- (b) Compulsory acquisition of land;
- (c) Land administration and management;
- (d) Public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and
- (e) Any other dispute relating to environment and land.

In exercise of its jurisdiction, the Court has power to make any order and grant any relief as it deems fit and just, including interim or permanent preservation orders including injunctions; prerogative orders; award of damages; compensation; specific performance; restitution; (b) declaration; or costs.

In addition, the Constitution, in Article 159 encourages alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms, as long as they are consistent with the spirit of the Constitution; and aimed at expediting issues of land rights, transfer and supporting economic development. Particularly, where these disputes concern land, NLC Act in Section 5 empowers the NLC to encourage the application of traditional dispute resolution mechanisms.

### **3.7. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities (2012)**

The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (No. 56 of) 2012. This Act makes provision for the prevention, protection and provision of assistance to internally displaced persons and affected communities, and gives effect to the Great Lakes Protocol on the Protection and Assistance of Internally Displaced Persons, and the United Nations Guiding Principles on Internal Displacement and for connected purposes.

According to the Act, displacement and relocation due to development projects or interests shall only be lawful if justified by compelling and overriding public interest, where no feasible alternatives exist and carried out in accordance with the applicable laws. Where the displacement and relocation cannot be averted, the Act guides on provision of mitigation measures that are durable and sustainable, and derived through active participation of the affected. Such will include:

- (a) Seeking the free and informed consent of the affected persons;
- (b) Holding public hearings on the project planning;
- (c) Giving reasonable notice to allow the affected persons review and react to the displacement conditions;
- (d) Access to justice and administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair;
- (e) Displacement process should reflect respect to human rights principles, taking into particular account the protection of community land, the special needs of women, children and persons with special needs, including:

- full information and effective participation of those affected,
  - provision of safe, adequate and habitable sites,
  - availability of safety, nutrition, health and hygiene, as well as protection at the new location; and
  - acceptability of the resettlement sites.
- (f) Monitoring of the displacement and relocation by an independent body.

### **3.8. Affirmative action for minorities, marginalized groups, older members of the society and other Vulnerable Groups**

The national values espoused in the Constitution includes the protection of marginalised persons and groups. It mandates state officers to put in that affirmative action programmes designed to ensure that minorities and marginalised groups participate fully and are represented in governance and other spheres of life as well as addressing the special needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities.

### **3.9. Legal provision for re-settlement assistance within KISIP**

While compulsory acquisition upon prompt compensation is allowed under Kenya law, it is not anticipated that KISIP will compulsorily acquire private land to implement potential projects, rather the project intervenes on public land. Where, land is lawfully acquired, the Constitution makes provisions for compensation to be paid to occupants in good faith of land even if they do not hold title to the land – whose applicability is subject to a determination by NLC.

In KISIP, the potential displacement impacts to people and livelihoods will affect unlawful occupants of public land (way leaves and road reserves) – an act prohibited in the Land Act 2012 (and the Traffic Act), and whose occupants are subject to eviction as long as the prescribed procedures of eviction are adhered to. There is therefore no legal basis for compensation of land for unlawful occupants of public land under Kenyan law.

Therefore, in mitigation of this policy gap, this RPF has drawn heavily from the principles of OP 4.12 on involuntary resettlement. Core elements of OP4.12 are briefly outlined below.

### **3.10. Requirements of OP 4.12 on Involuntary Resettlement**

The Bank's Operational Policy 4.12 on Involuntary Resettlement is triggered in situations involving involuntary taking of land and involuntary restrictions of access to legally designated parks and protected areas. The policy aims to avoid involuntary resettlement to the extent feasible, or to minimize and mitigate its adverse social and economic impacts. It promotes participation of displaced people in resettlement planning and implementation, and its key economic objective is to assist displaced persons in their efforts to improve or at least restore their incomes and standards of living after displacement. The policy prescribes compensation and other resettlement measures to achieve its objectives and requires that borrowers prepare adequate resettlement planning instruments prior to Bank appraisal of proposed projects.



Land acquisition, resettlement and rehabilitation for the project will comply with the provisions of the OP 4.12. This policy covers direct economic and social impacts that both result from Bank-assisted projects, and are caused by; -

- (a) the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or
- (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

Towards addressing the said impacts, OP 4.12 requires that a resettlement plan or a resettlement policy framework be prepared with the following objectives: -

- (a) To outline measures to ensure that the displaced persons are: -
  - (i) informed about their options and rights pertaining to resettlement;
  - (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
  - (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.
- (b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are: -
  - (i) provided assistance (such as moving allowances) during relocation; and
  - (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.
- (c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are: -
  - (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
  - (ii) provided with development assistance in addition to compensation measures demanded by the policy;
  - (iii) such as land preparation, credit facilities, training, or job opportunities.

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

**3.10.1. Gaps between PO 4.12 and the GoK legal provisions**

This RPF has been prepared in conformity with the policy and legal provisions of the GoK and the World Bank. However, in preparing this RPF, operational gaps between the policy/legal frameworks of both emerged. Table 3-11 presents a gap analysis between the GoK and the World Bank provisions and how the gaps will be mitigated.

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**Table 3 - 1: Comparison of Kenya and World Bank Policies on Resettlement and Compensation**

<b>Issue</b>	<b>GoK Provisions</b>	<b>WB OP 4.12 Provisions</b>	<b>Comparisons/Gaps</b>	<b>Procedures for filling gaps</b>
Involuntary resettlement	According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest.	Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.	The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable	For RAP, ensure that resettlement issues are considered at the design stage of the project in order to avoid/ minimize resettlement.
Consultation with affected parties	The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures.	Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties	Same as the World Bank	All the affected persons should be meaningfully consulted as provided for in both GoK regulations and the World Bank procedures.
Grievances	Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court	For physical resettlement, appropriate and accessible grievance mechanism will be established.	Kenyan legislation meets OP4.12 requirements.	Implement the grievance procedures of both GoK and World Bank
Eligibility Criteria	The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right. The Law provides that people	Defined as: (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws	Kenya's Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated	Ensure ALL users (including illegal squatters, laborers, rights of access) of affected

*KISIP II: Updated Resettlement Policy Framework, 2019*

Issue	GoK Provisions	WB OP 4.12 Provisions	Comparisons/Gaps	Procedures for filling gaps
	<p>eligible for compensation are those holding land tenure rights Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood. The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p> <p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>of the country); (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and19 (c) those who have no recognizable legal right or claim to the land they are occupying.</p> <p>To determine eligibility: Carry out resettlement census. Cutoff date for eligibility is the day when the census begins.</p>	<p>land. However, it does not specifically recognize all users of the land to be compensated. The constitution of Kenya on the other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p> <p>Same as World Bank</p>	<p>lands are included in the census survey or are paid</p> <p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
Measures	<p>Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be granted to land to land compensation.</p> <p>Land Act 2012 appears to prefer mode of compensation by the</p>	<p>Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based. Cash based compensation should only be made where (a) land taken for the project is a small fraction of the</p>	<p>Land for Land provided for in the Land Act based on agreement by the PAP.</p> <p>Cash based compensation seems to be the preferred mode of awarding compensation</p>	<p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid (b) If the impacts include physical relocation include measures to</p>

*KISIP II: Updated Resettlement Policy Framework, 2019*

Issue	GoK Provisions	WB OP 4.12 Provisions	Comparisons/Gaps	Procedures for filling gaps
	<p>Government to the affected population.</p> <p>Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just compensation have not been put in place.</p> <p>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the</p> <p>Land Act other than ‘just compensation’ The Act is does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</p>	<p>affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p> <p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable,</p>	<p>to the affected population by Government of Kenya</p> <p>‘Just compensation’ as stipulated in the Land Act not yet specifically defined.</p> <p>OP 4.12 provides related land transaction fees. Land Act not clear on this.</p> <p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>ensure that the displaced persons are</p> <p>(i) provided assistance (such as moving allowances) during relocation; and</p> <p>(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.</p> <p>(c) Ensure that displaced persons are</p> <p>(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and</p> <p>(ii) provided with development assistance in addition to compensation measures</p>

*KISIP II: Updated Resettlement Policy Framework, 2019*

Issue	GoK Provisions	WB OP 4.12 Provisions	Comparisons/Gaps	Procedures for filling gaps
		<p>compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>		<p>(iii) such as land preparation, credit facilities, training, or job opportunities.</p> <p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons</p>
Timing of compensation payments	There are no relevant constitutional or legislative provisions that specify the timing of completion of resettlement and compensation.	Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access.	There is no equivalence on implementing all relevant resettlement plans before project completion or on providing resettlement entitlements before displacement or restriction of access. Even if these requirements are met, they would be applicable only to communities with	Compensation payments are done prior to displacement.

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Issue	GoK Provisions	WB OP 4.12 Provisions	Comparisons/Gaps	Procedures for filling gaps
			proprietary rights or interests in affected lands.	
Calculation of compensation and valuation	Kenyan law provides for compensation in respect of acquired land at market rates (in addition to damages due to severing of the acquired land from other land, damages due to injurious effect on other or actual earnings due to the acquisition, reasonable expenses incidental to the relocation due to the acquisition, and diminution of the profits of the land between date of publication of notice of intention to acquire and actual possession).	OP 4.12 emphasises the need for compensation at replacement cost coupled with provision of support during the transitional period to improve or at least restore living standards of affected people to pre-displacement levels.	There are no equivalent provisions on relocation assistance, transitional support, or the provision of civic infrastructure.	The Replacement Cost Approach (RCA) will be adopted for the calculation of compensation, and livelihood restoration
Resettlement assistance	No specific provision with respect to additional assistance and monitoring.	Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.	OP 4.12 provides higher standards	Affected people are to be offered resettlement support to cover a transition period in accordance with OP 4.12
Vulnerable groups	The Constitution of Kenya requires the State to address the needs of vulnerable groups, including “minority or marginalized” and “particular ethnic, religious or cultural communities”	Particular attention to be paid to vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children.	No specific Kenyan law to operationalize the constitutional provision on vulnerable groups.	Particular attention to be paid to vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children.

*KISIP II: Updated Resettlement Policy Framework, 2019*

<b>Issue</b>	<b>GoK Provisions</b>	<b>WB OP 4.12 Provisions</b>	<b>Comparisons/Gaps</b>	<b>Procedures for filling gaps</b>
Livelihood restoration and assistance	There are no specific laws or regulations specifying support for livelihood restoration and transition and moving allowances	Livelihoods and living standards are to be restored in real terms to pre-displacement levels or better	Kenyan policy and legislation would need to be aligned with Bank policy to effectively guarantee rights of all affected persons of involuntary resettlement	Steps to be taken to restore livelihoods and living standards in real terms to pre-displacement levels or better
Economic displacement	The Kenyan law has no provision for compensation in respect of economic displacement	OP4.12 recognises both physical and economic displacement.	OP 4.12 provides a higher safeguard standard in regard to economic displacement	Provide for mitigation of economic displacement to restore livelihoods

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### **3.11. Cultural Property (OP 4.11)**

The World Bank Policy OP/BP 4.11 defines physical cultural resources as movable or immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Physical cultural resources may be located in urban or rural settings, and may be above or below ground, or under water. Their cultural interest may be at the local, provincial or national level, or within the international community.

The Bank assists countries to avoid or mitigate adverse impacts on physical cultural resources from development projects that it finances. The impacts on physical cultural resources resulting from project activities, including mitigating measures, may not contravene either the borrower's national legislation, or its obligations under relevant international environmental treaties and agreements.

The borrower addresses impacts on physical cultural resources in projects proposed for Bank financing, as an integral part of the environmental assessment (EA) and resettlement planning process.

### **3.12. Legal mechanism proposed for the KISIP RPF**

2.14: Diverse legal and policy tools have been identified as being applicable to land acquisition and compensate/resettlement assistance within KISIP as follows; -

- (i) *The National Constitution*: The New Constitution provides the broad framework for land acquisition and compensation. More pertinently, the spirit of the National Constitution will apply in guiding compensation for non-title deed holders and those economically displaced which are not covered under any other Kenyan statute.
- (ii) *The Land Act, 2012*: Compulsory land acquisition is not anticipated within KISIP. However, where the need to compulsorily acquire land for the purpose of the project, the Land Act, 2012 will apply.
- (iii) *OP 4.12 of the World Bank*: This policy guideline will complement Kenyan laws and policy provisions in compensation and resettlement planning.
- (iv) *Mitigatory principles*: Alongside the legal/policy provisions outlined above, this RPF has identified specific principles whose application will further mitigate would-be impacts of displacement. The same are outlined in sections below.

## **CHAPTER FOUR: RISKS AND GENERIC POTENTIAL SOCIAL SAFEGUARD ISSUES**

### **4.1. Social Screening: Identification of Risks**

Social screening will be undertaken at an early stage for all potential subprojects to be undertaken in selected settlements which meet criteria as set out in the Project Appraisal Document. The screening which will provide preliminary information on the potential social risks likely to be encountered during implementation and operation of the sub-projects. The purpose of screening is to get an overview of the nature, scale and magnitude of the issues in order to determine the need for conducting Social Impact Assessment (SIA) and preparing Resettlement Action Plan (RAP). This screening will be carried out in close consultation with various primary stakeholders: beneficiaries; potential project affected persons, women, county government and other local key informants. A screening questionnaire is presented in *Appendix 2*.

After identifying issues, the applicability of the Bank's environment and social safeguard policies is established along with Government of Kenya's regulatory requirements. Based on this, boundaries and focus areas for the SIA along with the use of specific instruments will be determined.

Though it is envisaged that the subproject activities will have very generic social issues that are manageable through standards and codes of practice, there might be some sub- project activities proposed in due course, that carry a higher risk of social disruptions and/or impacts. The possibility of such an issue arising in the sub-project site will be identified during the screening process.

Social screening provides first stage information about the sub project which also identifies:

- (i) beneficiary population living within various impact zones of the project based on distance;
- (ii) extent of land required, and number of land owners affected;
- (iii) all persons likely to be affected by the project including land owners, non-title holders, tenants, squatters, and vendors.
- (iv) impacts on poor and vulnerable groups including needs and priority for social and economic betterment;
- (v) potential damage / loss of common community structures such as recreational areas, water tank including pipelines, religious cultural monuments / sites, and so on
- (vi) adequacy and sustainability of the proposed/available mitigation measures for the identified adverse impacts and risks.

Social screening reports are crucial to decide whether a particular subproject should be considered under the project. The outcome of the screening process will help prioritize the

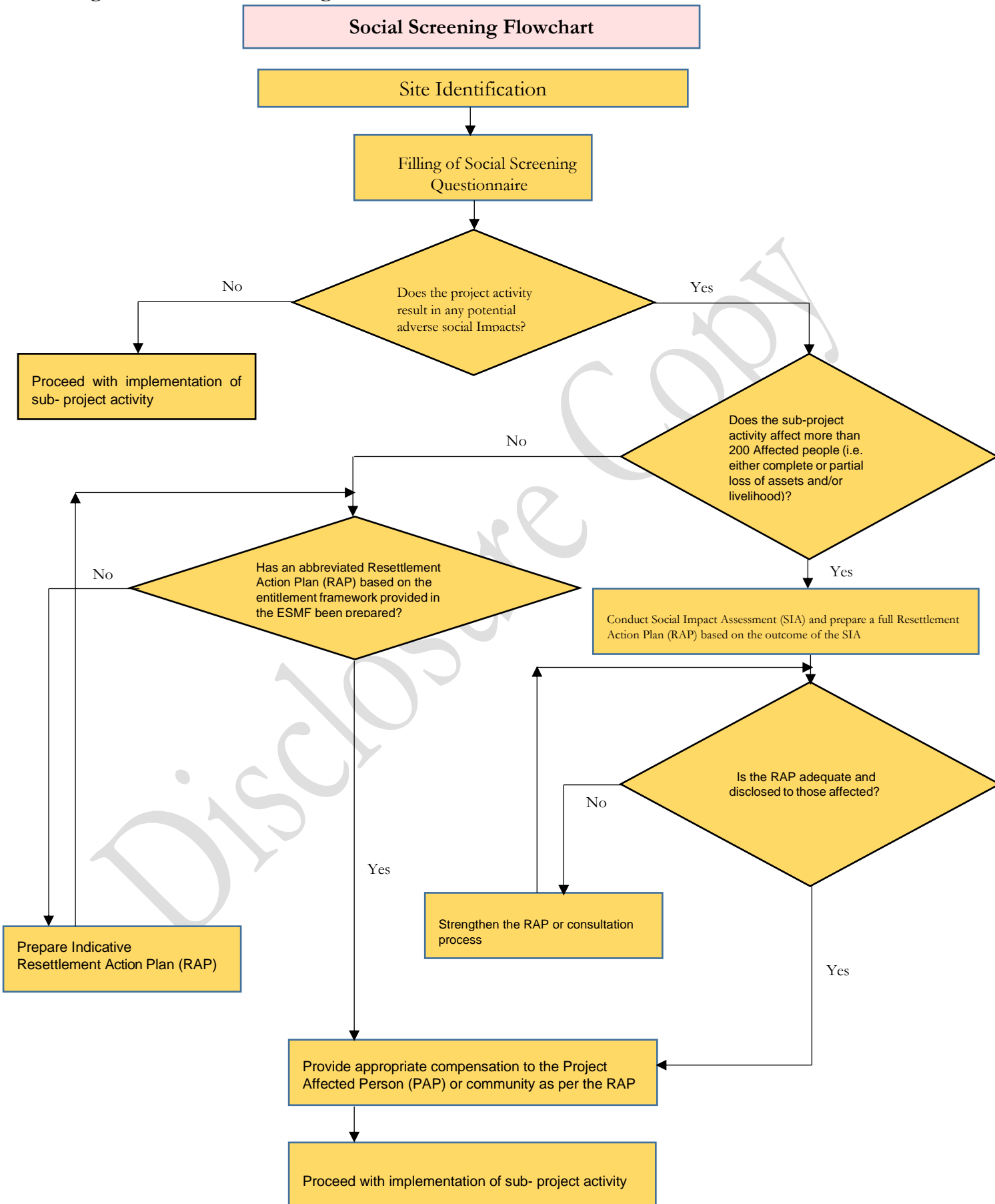
various investments and where required, start the clearance process in a timely manner. A particular subproject will be considered for inclusion in the project only if it will not result in adverse social impacts.

Based on screening report prepared during feasibility stage, site-specific social impacts will be thoroughly identified along with the appropriate mitigation measures. All the adverse impacts identified during social screening will be worked out in details while preparing site specific Social Mitigation Plan during detail engineering design phase. The plan identifies vulnerable communities, damage and loss of structures, land and community infrastructures. A separate cost estimate will be prepared and incorporated in the mitigation plan.

The environmental and social screening flowcharts depicted below illustrate the overall screening process.

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Figure 4 - 1: Social Screening Flow Chart



#### 4.2. Potential Social Impacts

While the Project is expected to benefit communities in the informal settlements, the implementation of proposed components of the project could lead to some undesirable impacts on people and land. This section identifies the adverse social impacts from the implementation of the sub-project activities with a view to facilitate early evaluation of such impacts and integrate suitable avoidance, minimization and mitigation measures during sub-project planning and implementation.

A description of the activities provided in Chapter 1 indicates that the implementation of these sub-projects is not expected to lead to significant adverse social impacts. The impacts, if any, are expected to be minor, localized and can be readily managed. The adverse social impacts as well as other positive impacts likely to arise due to execution of the component sub project have been summarized in Table 4.1 presented here:

**Table 4 - 1:Project Induced Likely Social Impacts**

No	Project Activity	Possible Adverse Social Impacts	Positive Impacts
I	<b>Infrastructure upgrading</b>	<ul style="list-style-type: none"> <li>• Acquisition/use of small amount / linear strips of lands – public/private/Community</li> <li>• Impacts to non-title holders on public lands</li> <li>• Damages to standing crops and plantations</li> <li>• Loss of existing structures and community property.</li> <li>• Loss or displacement of livelihoods</li> <li>• In rare cases, compulsory acquisition of private/community land for infrastructure</li> <li>• Loss of encroached structures – fully or partially</li> <li>• Displacement of temporary and mobile businesses</li> <li>• Loss of crops and agricultural crops</li> <li>• Displacement of tenants in affected houses/structures</li> <li>• Likely increase in rent for tenants</li> </ul>	<ul style="list-style-type: none"> <li>• Connectivity to main roads or shelters via restored linkages - new roads and bridges.</li> <li>• Provision of basic services enhanced: accessibility, water, lighting, etc.</li> <li>• Improved security and reduction in crime</li> <li>• Improved sanitation and hygiene</li> <li>• Increased value to land due to enhancement of security of tenure</li> <li>• Improvement in the local economy</li> <li>• Appreciation of land values</li> <li>• Short term employment</li> <li>• Reduction in environmental hazards</li> <li>• Likely increase in rental income for structure owners</li> </ul>

### 4.3. Types of Losses

- a) **Damage / Loss of Residential and Commercial Structures:** Based on past experience, the infrastructure upgrading works are likely to cause damages of various extents to the residential and commercial structures. The likely structural damages shall be categorized as follows;
- Partially affected where the remainder of the structure is viable for continued use with repairs.
  - Fully affected where entire structure is affected or residual structure not suitable for continued use.

In the case of structural damage or loss, the project's entitlement matrix provides for mitigation measures for both structure owners and tenants or leaseholders.

- b) **Loss of community structures:** For the damage and loss of common community structures such as resting place, water tank, temple, and so on, the project would undertake repairs/renovations or replacement of damaged structures in consultation with the local committees such as Settlement Executive Committees.
- c) **Loss of Livelihood / Income Source:** In case of loss of livelihood or income sources such as petty shops like teashops, mobile shop and, whose land holdings become less than minimum economic land holdings and so on, the project shall provide rehabilitation assistance to the affected people.
- d) **Crop Damage:** In case of possible damage of crops by the subproject the concerned people will be served sufficient notice giving time to harvest the crops from the field. However, in case of crop damage due to subproject activities, it will be considered as direct impacts for which the project shall provide replacement value of the crops as per current market price in the same vicinity.

### 4.4. Guiding Principles for Addressing Social Issues

Land acquisition and involuntary resettlement will be avoided where possible, minimized and mitigated, and will be carried out in accordance with these guidelines. Sub-project proposals that will require acquisition of land and demolition of structures will be carefully reviewed to minimize or avoid their impacts through avoidance or minimization process. The principal objectives to handle resettlement issues are as follows:

- a. Involuntary resettlement will be avoided or minimized by exploring all possible options that have least impacts in terms of land acquisition and resettlement;
- b. In unavoidable circumstances, the affected persons irrespective of their legal status will be assisted in their efforts to improve their livelihoods and standards of living or at least restore them in real terms to the pre-affected levels;
- c. The compensation and assistance to the project affected people are based on the principle that people shall not suffer net losses as a result of the project.
- d. Necessary and relevant assistance is accorded to vulnerable persons and,

- e. Set up of an effective Grievance Redress Mechanism to ensure grievances are addressed effectively and in the shortest time possible.

The project implementation agencies will ensure timely provision of compensation and resettlement assistance to the project affected people. The land acquisition process will be a voluntary, transparent and negotiated process. Individuals may elect to voluntarily contribute land or assets provided the persons making such contributions do so willingly and are informed that they have the right to refuse such contributions.

#### **4.5. Land Acquisition and Payment of Compensation**

Most of the subprojects proposed under KISIP II are not expected to lead to land acquisition or loss of land. Only minor damage and disturbance in structures and livelihood to non-title holders is expected.

The project will comply with the practical safeguard measures to reduce impact to people due to the loss of land, damage of residential and other structures, livelihood and minor assets to as minimum level as possible by:

- (i) avoiding loss or acquisition of land, damages or loss of structures and livelihoods as far as possible by seeking alternative options, and
- (ii) extending repair and restoration assistance, and or, cash assistance to the affected families as per Entitlement Matrix provisions.

Should land acquisition be unavoidable, the due process for land acquisition as outlined in the Land Act, 2012 will be followed and compensation paid as per the entitlement matrix.

#### **4.6. Voluntary Land (And Assets) Donation**

Individuals may also elect to voluntarily contribute land or assets, provided the persons making such contributions do so willingly and are informed that they have the right to refuse such contributions. Procedures will be in place to ensure that all donations are voluntary and freely given; that the donor is the legitimate owner of the land; and that the donor is fully informed of the nature of the project, the implications of donating the property, and his entitlements as provided for in the land acquisition and resettlement policy being adopted by the project. As principle, to the possible extent land and asset donations from vulnerable groups will be avoided. Should the small strips of land owned by these groups be required, the land should be purchased through private negotiations or the land acquisition process extending complete assistance as per the RPF.

The following measures will have to be applied in dealing with land donations, based on their relevance to the cases being encountered:

- a) Proof of meeting where the land acquisition and resettlement policy has been discussed with the affected person and acknowledgement by the affected person of his knowledge of the land acquisition and resettlement policy.
- b) Certification from the government body that the land is free of claims or



- encroachments from any third party;
- c) Deed of donation to the proponent concerned, as witnessed by the government officials and an independent witness, duly registered in the name of the Government;
  - d) Voluntary land donation will be limited to “Corridor of Impact” area only;
  - e) The Voluntary Land Donation (VLD) should be done in full compliance with the World Bank protocol on VLD, including the establishment and verification of the donor’s informed consent.
  - f) Impacts on individual households should be marginal limiting up to 5% percent of the productive assets and the remaining assets are economically viable to ensure livelihood or shelter;
  - g) The individuals/households making voluntary donation will be within the project area of influence;
  - h) The land donation is made freely in public and without coercion and shall not affect household’s livelihood security;
  - i) In the event of land donation where the donated land has structures not included in the donation, the affected assets will be compensated as outlined in the Entitlement Matrix;
  - j) Project affected people are fully aware of required procedures and entitlement as well as principle of land donation;
  - k) In case of public or government land, the encroacher cannot claim such land as donation;
  - l) Land donation shall not lead to total/complete displacement; and
  - m) The cost of transaction shall be borne by the project/government.

#### **4.7. Resettlement Action Plans (RAPs)**

Having identified the potential impacts of the relevant sub-projects, the next step is to develop action plans to mitigate the impacts. The RAPs provide a link between the impacts identified and proposed mitigation measures to realize the objectives of involuntary resettlement. The RAPs will take into account the magnitude of impacts and accordingly prepare a resettlement plan that is consistent with this framework for Bank approval before the sub-project is accepted for Bank financing:

- a) Sub-projects that will affect more than 200 people due to land acquisition and/or physical relocation will require a full Resettlement Action Plan (RAP).
- b) Sub-projects that will affect less than 200 people will require an abbreviated RAP.

The above plans will be prepared as soon as subproject is finalized, prior to Bank’s approval of corresponding civil works bid document. Projects that are not expected to have any land acquisition or any other significant adverse social impacts; on the contrary, significant positive social impact and improved livelihoods are exempted from such interventions.

The terms of reference for conducting a Resettlement Action Plan are indicated as Appendix 4. The indicative outline of Resettlement Action Plan is provided in Appendix 5.

The RAP will be prepared early in the Design Stage for respective investments so as to ensure that:

- a) All proposals and alternatives to avoid and/or minimise potential physical and economic displacements are explored and incorporated into the final sub project detailed designs;
- b) Affected persons will be compensated at replacement value long before project start-up and assisted in their efforts to improve their livelihoods and standards of living, or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher
- c) Where involuntary resettlement and land acquisition is unavoidable, resettlement and/or compensation activities will be conceived and executed before project start up. This shall entail full compensation at current replacement value for loss of assets and livelihood, and;
- d) Adequate time is provided for the resolution of conflicts and grievances before the bidding process is completed.

For operational purposes, it is advisable that the consultant for RAP studies submits a draft RAP report alongside the draft detailed engineering designs for simultaneous review to improve on the synergies and ensure that the RAP provides an opportunity to minimize displacement impacts and improve the design process.

The basic elements of a RAP will include; -

- a) Identification of project impacts and affected populations;
- b) Particular aspects of the legal framework for land acquisition and compensation, as defined in this RPF;
- c) Socio-economic characteristics of the affected population with key base line values;
- d) An inventory and valuation of affected assets and sources of livelihood;
- e) A compensation framework outlining the land acquisition procedures/encumbrance and compensation processes, options available, eligibility, entitlement as well as specific rates for compensation of loss of assets/livelihood and the methodology of how these values were derived as applied to the sub-project;
- f) Description of resettlement assistance and restoration of-livelihood;
- g) A detailed budget providing costs for each of the RAP activity and resources required;
- h) An Implementation schedule including public consultation program, disclosure, individual delivery of the entitlement compensation package, offer notice period and agreement finalization date where applicable, etc.;
- i) Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
- j) Details of public consultation and participation, and planning for the sub-project, including community engagement strategy;
- k) Particular aspects of the description of provisions for redress of grievances, as applied to the sub - project; and

- l) Particular aspects of the Framework for monitoring, evaluation, and reporting, as applied to the sub-project.

In case some of the affected PAPs lose more than 10% of their productive assets or require physical relocation, the plan will also cover a socioeconomic survey to determine the livelihood provision impact and, if needed, income restoration measures.

After preparation of RAP, the following steps shall be undertaken:

- a) The draft version of RAP will be shared with WB for clearance for implementation before disclosure and implementation.
- b) After no objection has been obtained, the final version will be disclosed on the Ministry's website and World Bank's external website.
- c) Sourcing/mobilization of budget for RAP implementation.
- d) RAP implementation: Compensation, resettlement and rehabilitation activities will be initiated, and will be completed before awarding contracts of construction works.
- e) A RAP completion report will be prepared and submitted to the Bank
- f) Contracts for the works or the process of issuance of titles can be finalized.

#### **4.8. Approach to RAP development**

##### **Public sensitisation meetings:**

Upon determination of the full extent of physical coverage of the project and the potentially affected lands, meetings will be held in the project area with a view to publicising the project. The mode of engagement at this stage will be public meetings (barazas) organized by the Settlement Executive committees and the County KISIP Teams. During the meetings, the RAP Team:

- a) Will explain the proposed projects to the community and clearly identify the project sites on the map so as to help identify potential Project affected Persons (PAPs);
- b) Will explain the whole RAP process and emphasize community participation and cooperation at each stage;
- c) Will explain the entitlement of the PAPs and the compensation procedures as provided in the RPF;
- d) Will explain the grievance redress procedure to the community;
- e) Will take a record of the proceedings of the meetings including the list of attendance. This should be annexed to the final RAP report.

Further guidance on enhancing community participation in the RAP process is given in **Appendix 6**.

##### **Inventory/Census of PAPs to prepare Asset Registers:**

Following sensitisation meetings, each PAP will be visited systematically and all assets recorded in a sheet. The inventory team will work with the SECs for purposes of establishing the authenticity of potential PAPs. To improve the integrity of the PAP register, full-proof form of identification will be used including GPS coordinates and photographs of the PAPs and assets to be lost.

The following categories of people will be recognised for eligibility for assistance: -

- Those who have formal rights to land including customary/communal land recognized under Kenyan Law.
- Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the laws of Kenya or become recognized through a process identified in the resettlement plan.
- Those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from the affected assets.
- People with temporary claim to the land either for trading, worship, and recreation purposes.

As part of the inventory, tenure status will be reviewed to determine whether the asset is individually owned or belongs to a group. This is essential towards fine-tuning the final register of PAPs who will henceforth be negotiated with. The asset register will be signed by the RAP Team and countersigned by the PAP who will retain a copy. At this time, the grievance procedure will also be explained to the affected person. A sample form for PAP registration including asset inventory is provided in **Appendix 7**.

The RAP team will use the services of a surveyor to mark way leaves and road reserves as shown on the approved PDPs or Registry Index maps (RIMs). The affected or encroached assets will be clearly marked. The process of marking the encroached assets will be undertaken in collaboration with the county government.

#### **Socio-economic Survey of affected Households:**

The RAP Team will undertake socio-economic surveys to identify all affected PAPs for purposes of capturing their social-economic parameters such as household size, income levels, education levels, housing condition, access to basic services, asset ownership etc. The inventory will also identify potentially affected properties, the extent of potential acquisition, diversity of stakeholders to the property, status of legal tenure and the development thereon etc. and will thus serve to revalidate the Register of PAPs and respective claims. The socio-economic survey will be fully consultative and will employ *household interviews, group discussions, Focus Group Discussions; Key Informant Interviews etc.* Appendix 8 provides a checklist for the baseline socio-economic survey.

#### ***Inventory of Vulnerable Groups:***

As part of the Socio-economic baseline survey, people considered to be disadvantaged as compared to rest of society will be inventoried to ensure provision of soft landings in the compensation process. Such groups should include; -

- i) Indigenous people: These are people who are closely tied to their traditional or customary lands and natural resources on these lands, but these lands may not be under legal ownership. Going by tradition, indigenous peoples are rarely encountered in urban centres and it is unlikely that any will be displaced under the KISIP. Indeed, none were encountered during field work either for the KMP or currently under KISIP.

- ii) Physically handicapped people: Such are usually disadvantaged in that their labour is challenged which makes them often unable to secure employment and locks them out of certain businesses.
- iii) Elderly persons: Elderly people without assets or investments and people to depend on suffer numerous vulnerabilities. Displacement will affect their economic viability while resettlement would damage their economic viability even more than losing land since it will separate them from the person or household on whom they depend for their support. Such people will be identified for special cushioning.
- iv) HIV/AIDS afflicted persons: Relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health Projects from the government, international organizations and the NGO community.
- v) Orphans and street children: Due to the impacts of the AIDS pandemic, there are a considerable number of orphaned children, whose parents have died from AIDS related diseases. These children today fall into three categories of care namely (i) those being looked after by close relatives, (ii) those being looked after by the government, local authorities or NGOs and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often "voiceless" because they have no parents to defend or stand up for them.
- vi) Child workers: Numerous orphaned children will be encountered in Kenyan urban areas where they engage in any form of economic activity to provide for themselves and their siblings. Core occupation include activities such as manual work at open air markets, transporting loads for short distances, scavenging for waste paper and metals and other exploitative employment. Compensation for these orphans and street children, if they are affected by the projects in a way which requires their physical relocation, would take the form of paying for their rehabilitation and training to acquire useful vocational skills.

**Proclamation of a cut-off date:**

A cut-off date from which eligibility for compensation will be terminated will be proclaimed and new inhabitants coming to the project affected areas will not be considered for compensation. The effective cut-off date will be the date when the census begins or when the project area is delineated. The cut-off date will be officially published and communicated to all PAPs. For the purposes of this RPF, at the conclusion of the census survey but before disclosure of the RAP, a meeting will be called to confirm and validate the PAP register. The meeting will seek to inquire whether any potential PAP has been left out. The cut-off date will be announced to the community during this meeting. The county government will take appropriate and suitable measures to prevent further encroachments after the cut-off date.

**Valuation Methods:**

Upon completion of field work and compilation of Asset Registers, the RAP Team will embark on instituting valuation of the assets so as to determine the payments due to PAPs in the form of compensation and assistance. Valuation will be undertaken by an independent Registered Valuer who will be part of the RAP Team. KISIP may undertake an independent valuation of the affected assets for accountability reasons.

Compensation for land will aim at providing compensation for land, labour and crop loss. The Valuer will adopt legally acceptable valuation procedures accepted by both the Government of Kenya and as described in OP 4.12 for purposes of fairness and consistency. Valuation for land will be based on market rates while that of other assets will adopt either Schedule of rates from GOK agencies such as Ministry of Lands, Ministry of Agriculture or Rates from Contractors, or a mix of both depending on the context. A top-up equivalent to 15% of the compensation package will be paid to cater for involuntary acquisition.

**Negotiations on modalities for compensation:**

Upon assembly of the final register, all the PAPs in the informal settlement may be brought together to form a PAP Committee to spearhead their interests and undertake negotiation on their behalf where applicable. This committee will also be useful during compensation or relocation assistance.

**Finalisation of the RAP:**

The final RAPs will have to be approved by the County governments and KISIP respectively. The final RAPs will also be submitted to the World Bank for review and clearance. Once cleared, the RAPs will be disclosed and implemented. They will also be submitted to NEMA to support the application for an EIA license.

**Disclosure:**

Before the final RAP, the final draft RAP report will be disclosed to the communities and other stakeholders. Disclosure will in the form of:

- a) Public disclosure meeting organized in the settlement
- b) The RAP will be posted on the Ministry of Lands, Housing and Urban Development website
- c) The RAP will be available at the KISIP offices (National and County) and a copy with the SEC

During public disclosure, a summary of the main findings and recommendations, entitlements, and PAP register will be presented in a language and manner understandable to all PAPs.

**4.9. Cultural Property Resources**

All utilities and common property resources likely to be affected due to the project will be relocated with prior approval of the concerned agencies before start of construction. Similarly, cultural properties whose structure is likely to get affected, will be relocated at suitable locations, as desired by the community before construction starts. Local community need to be contacted and discuss relocation aspects, siting as well as their maintenance.

All necessary and adequate care shall be taken to avoid or minimize impact on cultural properties (which includes cultural sites and remains, places of worship including temples, mosques, churches and shrines, etc., graveyards, monuments and any other important structures as identified during design and all properties/sites/remains notified under the National Museums and Heritage Act, No. 6 of 2006. No work shall spillover to these



properties, premises and precincts.

#### **4.10. Consultation**

Implementing agencies will ensure that all occupants of land and owners of assets located in a proposed subproject area are consulted. Community meetings will be held in each affected settlement to inform the local population of their rights to compensation and options available in accordance with these guidelines.

According to OP 4.12, all affected persons must be consulted on the resettlement options and offered opportunities to participate in the planning, implementation, and monitoring. These include land owners, structure owners, tenants, traders, and vendors among others.

Consultation with project affected persons (PAPs) should start as early as possible and maintained throughout the project cycle. If handled well, the process has the potential to reduce or eliminate potential negative impacts of the project for the local residents and prepare in advance to deal with the residual impacts caused by the project preparation, implementation and operation. The main objectives of the consultations are:

- (1) Dissemination of information on the Project plan to project-affected-people and local communities.
- (2) Collection of opinions and comments of project-affected-people and local communities on the Project plan, particularly on the proposed impact mitigation measures.
- (3) Promotion of the active participation of project-affected-people and local communities into the Project implementation from the early stage of the Project planning.
- (4) In particular, promoting the participation of project-affected-people and local communities into the tasks relating to compensation, resettlement, and land clearance for the Project.
- (5) Ensuring the accountability of the tasks relating to land acquisition, compensation, resettlement, and livelihood restoration.

The Project will also make deliberate efforts to facilitate and arrange for consultative meetings with members of the vulnerable and marginalized groups<sup>5</sup> and in these meetings there will be free and prior information about the proposed sub project, the proposed location, and potential adverse impacts of the project on the marginalized and vulnerable groups.

#### **4.11. Information Disclosure**

The mechanism of information dissemination will be simple and accessible to all. The means that may be explored include briefing material and organization of community consultation sessions. The briefing material (to be prepared in a language understandable to PAP) can be in the form of: a) brochures (including project information, land acquisition and details of entitlements including compensation and assistance to be given to the PAPs) that can be kept in the local Government office; b) posters to be displayed at prominent locations and; c) leaflets that can be distributed throughout the length of the project corridors. Consultation

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<sup>5</sup> Refer to the Project's Vulnerable and Marginalized Groups Framework for a detailed engagement of vulnerable and marginalized groups.



meetings should also be organized at regular intervals by the PCT to acquaint the PAPs of the following:

- Timeline and progress of the project;
- Information on compensation and entitlements;
- Information on land acquisition;
- Time line for acquisition.

Also, the opinion and consensus of the community needs to be sought for common and cultural property relocation.

The RPF and subsequent implementation plans as well as studies for investments will be disclosed on the government websites and other public places accessible to the local people and NGOs in English and local language.

Disclosure Copy

## CHAPTER FIVE: VALUATION, ELIGIBILITY AND THE ENTITLEMENTS

This chapter outlines the compensation package allowed for by this RPF.

### 5.1. Valuation

The basis of the valuation will be the Full Replacement Cost for immovable assets in accordance with the World Bank’s Involuntary Resettlement Policy, OP 4.12; and the Lands Act 2012; and the Constitution of Kenya. In determining the replacement cost of assets, depreciation of the asset and the value of salvage materials will not be taken into account, nor will the value of benefits to be derived from the project be deducted from the valuation of an affected asset

Table 5.1 below provides the general guideline for cost preparation and method for valuing affected assets/ properties taking a cue from sampled RPFs prepared for other public sector projects. In this context, the compensation is the amount required, so far as money can do so, to put the owner or user of a land or building in the same position as if his/her use and enjoyment has not been disrupted. In other words, it is based on the principle of “Full Replacement Cost”.

**Table 5 - 1: Summary of Valuation methods**

Item	Types	Method
Land	Community land, private land	1. Prevailing market value of the land to be acquired if there is a vibrant and free land market. Otherwise a negotiated price will be agreed. 2. Additional compensation for disturbance to the land owner (estimated at 15% of (1)) 3. Supplementary assistance representing loss of income where applicable
	Public (government) land	No compensation
Main and Auxiliary structures	Any type of structure, e.g. mud houses with thatch roofing/sand-crate block houses.	Full Replacement Cost method. No depreciation will be applied. Resettlement/relocation assistance where applicable
Farm crops and trees	Fruit and Non fruit trees, crops	1. First option is avoidance or allowed to remain in forests/plantations 2 Replacement cost in the case of crops (and only where found during verification/validation). 3. Replacement cost in the case of non-fruit trees considering the age, size and life of the tree. In the case of fruit trees and where found to be commercially viable, in addition to replacement value, the productivity, age and market price of output is applied. In case of trees, compensation only if found at time of validation and based on calculated on a net loss

Item	Types	Method
		basis i.e. the difference between the number of trees lost less the number of trees gained.
Cultural property	Cemeteries, graves, shrines,	1. First option is avoidance. 2. Relocation/Replacement cost method will be used and should be done in consultation with and acceptable to the traditional authorities or community leaders. This will incorporate costs for any accompanying ceremonies.
Losses of income and livelihood	Farming, etc.	Estimation of net monthly/annual profit for farm/business based on records; application of net monthly/annual profit to the period when farm/business is not operating in line with entitlement matrix.
Disturbance allowance	-	15% of total compensation

## 5.2. Eligibility for Benefits

The basic principle followed in this RPF is that PAPs should be assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them to pre-Project level whereby lack of legal title does not exclude individuals from the eligibility to receive compensation and/or rehabilitation assistance. PAPs eligible for compensation will include:

- d) those who have formal legal rights to land or other assets, and
- e) those who initially do not have formal legal rights to land or other assets but have a claim to legal rights based upon customary and traditional rights; upon the possession of documents such as land tax receipts; or upon the permission of local authorities to occupy or use the project affected plots.
- f) Those who have no recognizable legal right or claim to the land they are occupying are also eligible for compensation for immovable assets.

People illegally occupying public land are not eligible for compensation for loss of land but will be eligible for compensation of the immovable assets and potential loss of livelihood.

The WB's OP 4.12 recognizes that individuals and households who occupy project-affected areas after the cutoff date are not eligible for compensation. All people moving into the project area and/or people conducting construction works, planting trees, etc. after the cut-off date are non-eligible PAPs and thus will not receive any compensation. Advance notice will be given, requesting them to vacate their premises and dismantle affected structures prior to project implementation.

## 5.3. Computation of Compensation

Pursuant to the impacts anticipated as highlighted above, computation of entitlement has been proposed in sections below.

Where any land has been acquired, compensation shall only be payable in addition to the value of any improvement or works constructed on such lands for the loss of rights over such lands in the case of land under customary tenure, and for the replacement value of such lands in the case of freehold land.

In estimating the compensation to be paid for any land or development therein or the potential profits thereof, the following shall be taken into account:

- The value of such lands, estates or interests or profits at the time of the issuance of the notice to acquire, and shall not take into account any investments or works made or constructed thereafter on the lands,
- That part only of the lands belonging to any entity /person acquired without consideration for the enhancement of the value of the residue of the lands by reason of the proximity of any investment or works to be made or constructed by the Project, and
- 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 Kenyan currency adjusted for inflation annually. 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 labour.

In dealing with compensation, preference shall be given to land based resettlement strategies for Project Affected Persons whose livelihoods are land-based. Where sufficient land is not available at a reasonable price, non-land based options centred on opportunities for employment or self-employment will be provided in addition to cash compensation for land and other assets lost. However, this lack of land shall be documented and justified.

In determining the replacement cost to be compensated to the PAP, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, World Bank guidelines and technical specifications for compensation at replacement cost will be applied.

Compensation for land, structures, business, fixed improvements and other temporary assets will be based on market valuation, productivity valuation, negotiated settlements, material and labour valuation, disposition of salvage materials and other fees paid. It should be noted that lack of title, license or permit is not a bar to compensation.

#### **5.4. The Entitlement Matrix**

The entitlement matrix outlined in table 5.2 below defines the type of compensation and assistance to be provided to the different categories of project affected households. The following principles will guide payment of compensation for lost assets -

- Compensation shall be paid prior to acquisition or displacement;

- Compensation shall be extended to all PAPs irrespective of tenure status, with exceptions of PAPs with no formal rights to land who cannot be compensated for land;
- Compensation will be at replacement cost meaning that replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. Replacement cost for agricultural land implies the market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of preparing the land to levels similar to those of the affected land; and any registration and transfer taxes;
- Compensation for structures shall include the full cost of materials and labour required for reconstructing a building of similar surface and standing. In other words, the affected person must be able to have their structure rebuilt in a different location using the compensation paid for the old building. Depreciation will not be taken into account while calculating the cost of affected structures. The Compensation package will also include cost of moving, such as transport costs as well as any associated land titling or transfer fees.
- In case of physical displacement and depending on tenure category, PAPs will be provided transition assistance such as moving allowances, subsistence allowances and alternative plot or house where possible. PAPs will also be offered support after displacement during transition period and based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living.
- PAPs will be provided with development assistance in addition to compensation measures such as land preparation, credit facilities, training, or job opportunities, where available.
- In cases where in-kind replacement is not the preferred option of the PAPs, then the cash compensation will be based on the replacement cost. For the purposes of this RPF, the use of replacement value, or market value, will mean the higher value of two options.

### **5.5. Compensation for vulnerable groups**

In addition to these entitlements, households who are found in difficult situations and are at greater risk of impoverishment (i.e. orphaned children, those that are physically challenged, etc) as identified by the census will be provided with appropriate assistance by the project. Assistance may be in form of food, temporary accommodation, medical subsidy, employment referrals or priority employment in project activities. Where possible, support in alleviating the respective vulnerability may be offered. This will include forwarding of names of e.g. elderly PAPs to the Local administration i.e. chiefs and relevant County Government departments of for consideration in other national and county level programmes. Elderly and People Living With Disabilities (PLWD) PAPs may also be considered for assistance in rebuilding their structures on a case by case basis.<sup>6</sup> The assistance is meant to help them cope with the displacement caused by the project and as such the following considerations will be made when project sites are identified and PAP listed: -

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<sup>6</sup> Restricted to cases the Community will highlight (and verified by SEC and County) during the RAP implementation as requiring such help. This may include identification of artisans, supervision and quality control by County KISIP team and/or SEC.

- Special consideration should be paid to these groups by identifying their needs from the socio-economic and baseline studies undertaken as part of the RAP process;
- The groups should be individually consulted and given opportunities to participate in the resettlement decision-making process, as well as project activities;
- Consultation with these groups should ensure that resulting resettlement and compensation improves their pre-project livelihood-with preference going to their resettlement in the same settlement.
- The RAPs should be designed to ensure special attention is paid to the monitoring of the resettlement process in order to ensure that pre-project livelihoods are indeed improved upon;
- PAPs should be given sufficient technical and financial assistance to make use of the grievance mechanisms of the project where required;
- Decisions concerning them should be made in the shortest possible time.

#### **5.6. Cut-off date**

The cut-off date is the date agreed between the client and the project affected persons and sets the deadline for which persons with assets impacted by the project will be eligible for compensation. The objective of the cut-off date is to establish a deadline for which project affected persons qualify for entitlement to compensation. Persons entering the Project Area after the Cut-Off Date are not eligible for compensation and/or resettlement assistance.

Table 5 - 2: Proposed Entitlement Matrix

Affected Asset	Type of Impact	Entitled Person/Entity	Entitlement Details
Commercial Land	<b>No displacement:</b> Land used for commercial/business purposes is partially affected, there is limited loss, remaining portion is viable and no displacement is occasioned.	Title holder/Business owner	<ul style="list-style-type: none"> <li>▪ Cash compensation for lost portion of land where a business is viably operated.</li> <li>▪ Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year or tax records from comparable business or estimates where such records do not exist.</li> </ul>
		Business owner is a lease holder	<ul style="list-style-type: none"> <li>▪ Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year or tax records from comparable business or estimates where such records do not exist.</li> </ul>
	<b>Displacement:</b> Premise used for business severely affected, remaining area insufficient for continued use.	Title holder/Business owner	<ul style="list-style-type: none"> <li>▪ Replacement with a new parcel of land of equivalent size and market potential, with secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration and other costs. OR</li> <li>▪ Cash compensation for the land at replacement cost as decided by the Competent Authority (National Land Commission) which includes Stamp duty and other fees payable for registration.</li> <li>▪ 15% disturbance allowance will also be provided.</li> <li>▪ Relocation assistance (cost of shifting)</li> <li>▪ Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year or tax records from comparable business or estimates where such records do not exist.</li> </ul>
		Business person is a lease holder	<ul style="list-style-type: none"> <li>▪ Opportunity cost compensation equivalent to 2 months' net income based on tax records for previous year or tax records from comparable business or estimates where such records do not exist.</li> <li>▪ Relocation assistance (cost of shifting)</li> <li>▪ Assistance in rental/lease of alternative land/property ( for a maximum of 6 months) to re-establish the business.</li> </ul>
	Residential land	<b>No displacement:</b> Land used for residence partially affected, limited loss, and the remaining land remains viable for present use.	Title holder
Rental/lease holder			<ul style="list-style-type: none"> <li>▪ Rental allowance as prevailing in the vicinity of project area for a maximum of 3 months.</li> <li>▪ A one-time shifting assistance (financial or in-kind or as most appropriate) may be considered.</li> <li>▪ Assistance to access pre-primary and primary education for displaced children</li> </ul>



*KISIP II: Updated Resettlement Policy Framework, 2019*

Affected Asset	Type of Impact	Entitled Person/Entity	Entitlement Details
	<p><b>Displacement:</b> Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s</p>	Title holder	<ul style="list-style-type: none"> <li>▪ Land for land replacement or cash compensation.</li> <li>▪ Land for land replacement shall be of minimum plot of acceptable size under the zoning laws or plot of equivalent size, whichever is larger, in either the community or a nearby settlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocated plot, cash compensation to cover the difference in value shall be considered. Transfer of the land to the PAP shall be free of taxes, registration and other costs.</li> <li>▪ Cash compensation for the land will be at replacement cost as decided by the Competent Authority (NLC) which includes Stamp duty and other fees payable for registration.</li> <li>▪ 15% disturbance allowance will also be provided.</li> <li>▪ Relocation assistance (cost of shifting)</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>▪ Relocation assistance (cost of shifting)</li> <li>▪ Cash compensation equivalent to 3 months of rental/lease fee</li> <li>▪ Assistance to access pre-primary and primary education for displaced children</li> </ul>
Buildings and structures	<p><b>No displacement:</b> Structure partially affected but the remaining structure remains viable for continued use.</p>	Owner	<ul style="list-style-type: none"> <li>▪ Cash compensation for the affected building to the extent not viably feasible and other fixed assets at replacement cost.</li> <li>▪ Cash compensation to cover cost of restoration of the remaining structure</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>▪ Rental allowance as prevailing in the vicinity of project area for a maximum of 3 months.</li> <li>▪ A one-time shifting assistance (financial or in-kind or as most appropriate) may be considered.</li> <li>▪ Cash compensation for affected assets verified as improvements to the property by the tenant.</li> <li>▪ Assistance to access pre-primary and primary education for displaced children</li> </ul>
	<p><b>Displacement:</b> Entire structure affected or residual structure not suitable for continued use.</p>	Owner	<ul style="list-style-type: none"> <li>▪ Cash compensation for entire structure and other fixed assets at replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.</li> <li>▪ Right to salvage materials without deduction from compensation</li> <li>▪ Relocation assistance (cost of shifting +allowance)</li> </ul>

*KISIP II: Updated Resettlement Policy Framework, 2019*

Affected Asset	Type of Impact	Entitled Person/Entity	Entitlement Details
			<ul style="list-style-type: none"> <li>▪ Rehabilitation assistance if required (assistance with job placement, skills training)</li> <li>▪ Where main dwelling house is affected, a 6 months housing/rental allowance will be given to allow time for rebuilding of the structure may be considered.</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>▪ Rental allowance as prevailing in the vicinity of project area for a maximum of 3 months.</li> <li>▪ A one-time shifting assistance (financial or in-kind or as most appropriate) may be considered.</li> <li>▪ Cash compensation for affected assets verified as improvements to the property by the tenant.</li> <li>▪ Assistance to help find alternative rental arrangements</li> <li>▪ Rehabilitation assistance if required (assistance with job placement, skills training)</li> <li>▪ Assistance to access pre-primary and primary education for displaced children</li> </ul>
		Squatters/informal dwellers	<ul style="list-style-type: none"> <li>▪ Cash compensation for the affected structure at replacement cost</li> <li>▪ Right to salvage materials without deduction from compensation</li> <li>▪ Relocation assistance (cost of shifting +allowance)</li> <li>▪ Rehabilitation assistance if required (assistance with job placement, skills training)</li> <li>▪ Assistance to access pre-primary and primary education for displaced children</li> <li>▪</li> </ul>
		Street vendor (informal without Title or lease to the store or shop)	<ul style="list-style-type: none"> <li>▪ Opportunity cost compensation equivalent to 2 months' net income based on tax records for previous year or tax records from comparable business or estimates where such records do not exist.</li> <li>▪ Relocation assistance (cost of shifting)</li> <li>▪ Assistance to obtain alternative site to re-establish the business.</li> </ul>
Loss of income sources	Wage earning	Employees	<ul style="list-style-type: none"> <li>▪ Monthly subsistence allowance equivalent to three (3) months wages. This will be calculated based on the average wage rates prevailing in the County.</li> <li>▪ Where possible, necessary training facilities for development of entrepreneurship skills to take up self-employment projects as part of R&amp;R benefits.</li> </ul>

**KISIP II: Updated Resettlement Policy Framework, 2019**

Affected Asset	Type of Impact	Entitled Person/Entity	Entitlement Details
			<ul style="list-style-type: none"> <li>▪ Employment opportunities with contractors, if PAP is qualified and interested, and such opportunities are available</li> </ul>
	Kiosks ( owned or rented) <sup>7</sup>	Owners	<ul style="list-style-type: none"> <li>▪ The assistance will be paid as a flat sum for 3 months based on average monthly income</li> <li>▪ Alternative sites where available to be explored e.g. through linkage to county programmes providing market infrastructure, or if KISIP menu for infrastructure in the particular settlement includes market stalls.</li> </ul>
	Loss of rental income	Owners	<ul style="list-style-type: none"> <li>▪ Assistance equivalent to 3 months rental income.</li> </ul>
Standing crops	Seasonal crops	PAP (whether owner, tenant, or squatter)	<ul style="list-style-type: none"> <li>▪ compensation towards crop lost before harvest due to forced relocation, equal to market value of crop lost plus cost of replacement of seeds for the next season's harvest. Only applicable for a standing crop as at time of validation.</li> <li>▪ Avoid damage as far as possible. Crop damage compensation if advance notice is not possible.</li> </ul>
	Perennial crops such as fruit trees	PAP (whether owner, tenant, or squatter)	<ul style="list-style-type: none"> <li>▪ Market value will be calculated as equal to the capitalized value.</li> <li>▪ Capitalized value is the net present value of production of such crops, at a discount rate of 9% per annum.</li> </ul>
Trees	Non-fruit trees lost	Owner	Cash compensation based on type, age, and productive value of the affected trees.
Community resources	Common property resources (community building, water pipes, culverts, bridge etc.)	Community	<ul style="list-style-type: none"> <li>▪ The common property resources and the community infrastructure shall be relocated in consultation with the community</li> <li>▪ Repairs and restoration will be undertaken by the project.</li> <li>▪ Compensation/assistance will be provided in the form of provision of community, recreational, infrastructure facilities, and help in organizing income generating schemes, in consultation with the host community.</li> </ul>
Cultural property		Community	<ul style="list-style-type: none"> <li>▪ If restriction of access, a process framework will be prepared in consultation with traditional authorities</li> <li>▪ 2. Otherwise, replacement value for relocation to new sites proposed by community or traditional authority and performance of necessary pacification rites.</li> <li>▪ Chance find provided for in case of construction works.</li> </ul>

<sup>7</sup> However, ambulatory vendors licensed for fixed locations (with business shades/platforms which they set up every day and remove in the evening in one location) will be considered as kiosks.

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Affected Asset	Type of Impact	Entitled Person/Entity	Entitlement Details
Vulnerable groups		Household	<ul style="list-style-type: none"> <li>▪ Where possible, support in alleviating the respective vulnerability may be offered. This will include forwarding of names of e.g. elderly PAPs to the Local administration i.e. chiefs and relevant County Government departments of for consideration in other national and county level programmes.</li> <li>▪ Elderly and People Living with Disabilities (PLWD) PAPs may also be considered for assistance in rebuilding their structures on a case by case basis.<sup>8</sup></li> <li>▪ Disturbance allowance</li> <li>▪ Transportation to new locations</li> <li>▪ Preferential treatment in getting strategic locations in new market centers</li> <li>▪ Physically challenged PAPs to be located at ground floor of markets</li> <li>▪ Priority in processing and disbursing of compensation</li> </ul>
Unidentified impacts			Unforeseen impacts will be documented and mitigated based on the provisions of the policy applicable for the project.

<sup>8</sup> Restricted to cases the Community will highlight (and verified by SEC and County) during the RAP implementation as requiring such help. This may include identification of artisans, supervision and quality control by County KISIP team and/or SEC.

## **CHAPTER SIX: IMPLEMENTATION PROCEDURES**

### **6.1. Resettlement Procedures**

#### **Modalities for payment of compensation:**

Payment of compensation and other assistance will be implemented by respective RAP Implementation Committees (RICs) as outlined in the entitlement matrix **(Table 5.2)**.

In case of compulsory acquisition, which is highly unlikely under KISIP, the compensation will be in accordance with the provisions of the Kenya constitution 2010, and the Land Act, 2012.

For KISIP, since no land acquisition is envisaged, the PAPs will mostly likely be encroachers and squatters on government land or land set aside for public purposes. These types of PAPs only qualify for relocation assistance and livelihood restoration measures. In providing this assistance, the RICs will consider both monetary and non-monetary assistance like alternative sites for traders and skills training.

Once the PAP registers are validated by the RICs, the appropriate assistance will be given to the PAPs promptly and notices issued for relocation. The date, time and place for payments will be made known to the PAPs in good time.

#### **Stakeholder involvement**

All RAPs will provide a clear implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities. The RAP will include a target date when the expected benefits for resettled persons and hosts would be achieved. To facilitate planning and coordination of the tasks in resettlement, respective County KISIP PCT will hold monthly meetings during which representatives of PAPs will be invited. At the construction stage, The PAP Committee may attend site meetings with contractors. Such a forum will accord PAPs an opportunity to voice their concerns and mitigate any unforeseen impacts.

#### **Integration with the Sub-Project Cycle**

The following activities will be completed prior to issue of bids in the respective sub-projects-

- i) The RAP will be approved by the KISIP and the World Bank
- ii) Where land acquisition is required, process will be initiated through issue of the first notification;
- iii) in case on non-title holders, as appropriate identity cards will be issued;
- iv) the sites for reconstruction of alternative community assets is identified;
- v) Grievance redress committee and RIC would have been constituted; and
- vi) In case of any physical displacement, alternative resettlement sites are identified as needed.

The following activities will be completed prior to award of respective contracts for sub-projects-

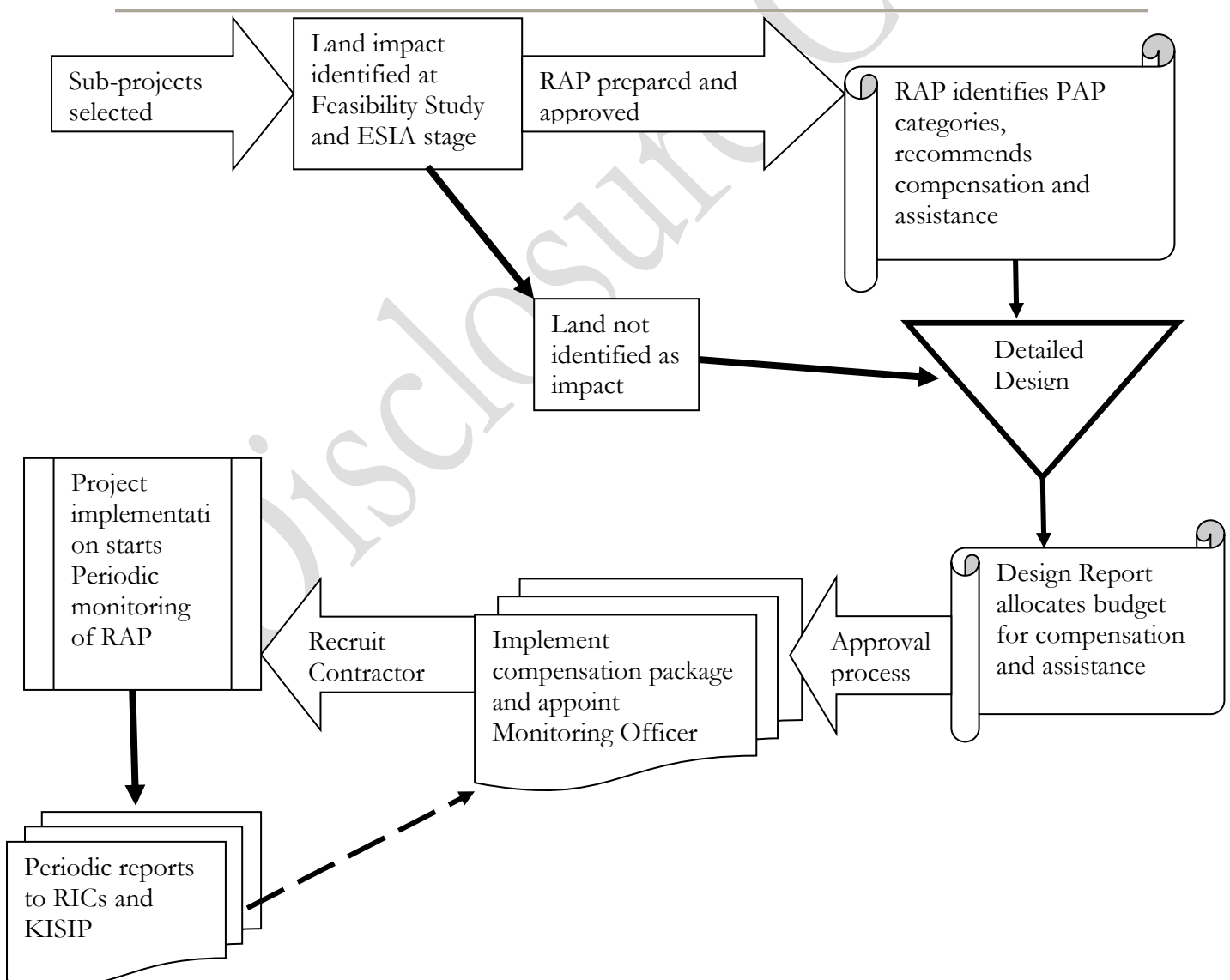
- (a) The compensation for land acquisition will be paid;
- (b) The R&R assistance will be extended to all affected people;
- (c) The allotment of alternative houses or business sites as needed will be affected; and
- (d) All the affected community assets reconstructed.

The County KISIP Team will certify successful completion of the activities in coordination with Supervision consultants, if available.

## 6.2. Coordination between land acquisition, resettlement and civil works

Compensation in respect of physical displacement will take place before groundbreaking. In order to safeguard interests of PAPs, the following implementation schedule will be followed: -

**Figure 6 - 1: Conceptual framework for implementation coordination for KISIP sub-projects**



Subsequent to this schedule:

- The Ministry jointly with the county governments bears responsibility for total and comprehensive settlement of compensation awards and other assistance.
- Contracts for construction will only be affected when awards for compensation have been concluded and payments made.
- A Social Safeguards Officer will be appointed by respective County to serve as secretary to the RIC and to coordinate compensation activity.
- The RAP will be monitored continuously by the Social Safeguards Officer and updated accordingly. Periodic monitoring reports will be issued to RIC and KISIP PCT.

### 6.3. Grievance Redress Mechanism

The project will develop a robust grievance redress system from the community to national level building on the lessons learnt in KISIP I. The channels of uptake at all levels will include walk-ins, face-to-face communication, toll-free calls, letters, e-mails, text messages, WhatsApp, etc. The mediation process shall be confidential, transparent and objective, as well as accountable, easy, fast, accurate and participative. The general steps of the grievance process have been summarized in **Table 6-1** below and comprise:

1. Registration/receipt/Acknowledgment of Complaints
2. Investigate and determine solution to the complaint
3. Implementing the Redress Action;
4. Verifying the Redress Action;
5. Monitoring and Evaluation; and
6. Recourse or Alternatives

**Table 6 - 1: Grievance Redress Mechanism**

Step	Process	Description	Timeframe	Responsibility
1	Grievance receipt and registration/logging	<ul style="list-style-type: none"> <li>• Face to face; phone; letter, recorded during public/community meetings; WhatsApp etc.</li> <li>• Significance assessed and grievance recorded or logged using the model complaint form and filed.</li> </ul>	1-2 Days	An aggrieved party or PAPs.  GRCs
2	Development and implementation of response	<ul style="list-style-type: none"> <li>• GRC meets or takes a decision on the grievance</li> <li>• Grievance assigned to appropriate party for resolution if necessary</li> </ul>	5- 10 Days	GRC



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Step	Process	Description	Timeframe	Responsibility
		<ul style="list-style-type: none"> <li>• Response development with input from relevant stakeholders</li> <li>• Redress response/action approved by GRC and logged</li> <li>• Redress response/update of progress on resolution communicated to the complainant</li> <li>• Start implementing redress action</li> </ul>		
3	Verifying the implementation of redress action	<ul style="list-style-type: none"> <li>• Redress action implemented and verified by GRC.</li> <li>• GRC satisfied with implementation of redress action</li> <li>• Complainant duly signed the grievance resolution form</li> </ul>	10-15 Days	Environmental (Social) Officer/Safeguard Specialist at County
4	Close grievance or refer grievance to 2nd tier resolution	<ul style="list-style-type: none"> <li>• Completion of redress action recorded or logged</li> <li>• Confirm with complainant that grievance can be closed or determine what follow up is necessary</li> <li>• Record final sign off of grievance</li> <li>• If grievance cannot be closed, return to step 2 or recommend to the next tier- County, National</li> </ul>	15-25 Days	Environmental (Social) Officer/Safeguard Specialist at County/ Grievance Officer
5	Court of law	If 2nd and third level settlement does not address dispute, complainant can resort to court of law	Unknown	Safeguard Specialist at KISIP
6	Monitoring and evaluation, and reporting	Grievance Redress Mechanism Process is documented and monitored		Safeguard Specialist at KISIP

The Grievance Officers at County and National level will establish a register of resettlement/compensation related grievances and disputes. The receipt of complaints will include

its logging and registration as this will help with monitoring the status of the grievances and ease reporting on them. The existence and conditions of access to this register (where, when, how) will be widely disseminated within the project community/town as part of the consultation undertaken for the project in general. The person designated to receive complaints shall receive all complaints and shall officially register these complaints using the first section of the proposed complaint registration and resolution form provided in Appendix 9.

This RPF recommends a four-tier grievance mechanism- at the community, County, national and resolution through courts of law. It is desirable to resolve all the grievances at the community level to the greatest extent possible. To achieve the community or settlement level grievance mechanism must be credible and generally acceptable. The grievance redress mechanisms will aim to solve disputes at the earliest possible time in the interest of all parties concerned.

The first level in addressing grievances will be at the settlement. The settlement will form a Settlement Grievance Redress Committee comprising of two members from SEC, and three other respected community members who are not PAPs. The committee should be elected by the community in a transparent manner and after sensitisation by KISIP PCT.

The second level of grievance mechanism will involve the County Resettlement Implementation Committee (CRICs). The CRICs will consider grievance reports forwarded to it from the community grievance committee and make a determination. The CRIC will comprise of the County Coordinator, Environment Officer, Social/Community Officer, Component Heads for Infrastructure, and Land tenure, Assistant Deputy County Commissioners, and Ward Administrator<sup>9</sup>.

The third level of grievance mechanism will involve the National PCT, (NRIC) which will comprise of the National Project Coordinator, Heads of Components, Environment and Social Safeguard heads, and a designated Grievance Redress Officer who will be the Secretary. It will handle grievances referred to it by the CGRCs and monitor the performance of the whole GRM for the project. The NRIC will also provide overall coordination of the implementation of this RPF.

If complainants are not satisfied by the decisions of the grievance's committees, they can seek redress from the High court.

Grievance procedures may be invoked at any time, depending on the complaint. No person or community from whom land or other productive assets are to be taken will be required to surrender those assets until any complaints he/she has about the method or value of the assets or proposed measures are satisfactorily resolved.

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<sup>9</sup> One staff based at County Government will be designated as a grievance officer for monitoring and tracking progress.

#### **6.4. Funding Implementation of this RPF**

Generally, it is not possible to predict the nature, scope and fiscal implications of displacement likely from the activities of the project. Indeed, realistic working budgets will only be available once individual RAPs for sub-projects have been completed; but going by the expressed policy of minimising displacement and adoption of in-kind compensation, the monetary implication of displacement is greatly mitigated. The costs towards land acquisition and resettlement will be financed from the counterpart funding and be included as part of overall cost of the sub-project. Counties will be responsible for RAP implementation. World Bank funds could be used to finance procurement of services and works associated with the Resettlement and Rehabilitation process.

Each sub-project will develop specific budgets for implementation of the RAPs at the completion of final designs. Table 6-2 provides an indicative budget of key activities that must be considered.

**Table 6 - 2: Indicative Budget for RAP Implementation**

<b>No.</b>	<b>Activities</b>	<b>Approx. Cost (USD)</b>
1.	Cost of preparation of a RAP	15,000.00
1	Compensation for lost assets (land, structures, crops, trees)	250,000.00
2	Relocation assistance	50,000.00.
3	Assistance to vulnerable PAPs	30,000.00
4	Community engagement	20,000.00
5	Grievance Redress processes	30,000.00
6	Administrative support to Settlement Executive Committees, Resettlement Committees, and Grievance Redress Committees (GRCs)	10,000.00
7	Capacity building	50,000.00
8	Monitoring and evaluation	40,000.00
9	Disclosure	10,000.00
10	10% Provision for contingencies	50,000.00

#### **6.5. Institutional Coordination**

##### **Project Management at Ministry level**

The Project will be implemented under the overall supervision of the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works. In this capacity, the ministry will interface with other sector ministries, agencies and Counties on matters and policies relating to the project. The Ministry of Transport will interface with the National Treasury on issues pertaining to Project funding to ensure smooth flow of both internal and external funding. The ministry will communicate directly with the Bank on technical issues related to the implementation of the program including financial, procurement and physical progress of the implementation and all such communication will take place under the signature of the Principal Secretary (or his designated representative) as the overall accounting officer for the Ministry.

##### **The KISIP Team:**

The Ministry of transport has put in place a project team for the preparation and implementation of KISIP with a skills mix as provided in **Table 6-2** below. Further the Project will procure the services of Consultants to provide extra capacity on a need basis. The project team is to be responsible for routine implementation and technical austerity of the KISIP project activities principally through liaison with counterpart staff within Counties and will operate under overall jurisdiction of the Principal Secretary for and simultaneously receive technical backstopping and oversight from other ministerial departments.

**The National Project Coordinator (NPC)** is the overall technical coordinator in the implementation of KISIP and assisted by a Social Development Officer in case of land acquisition and resettlement and other social issues related to this program. The Project coordinator will supervise the project team and ensure that project implementation activities and reports are on schedule and in compliance with the financing agreement. The coordinator will report to the PS and will from time to time draw the attention of the PS to all emerging policies issues for decision at that level or a higher level.

**County Project Implementation Units**

For effective implementation of the Project, Counties will establish County KISIP Teams whose composition is a replica of the national team.

**Table 6 - 3: Staff Line up for the KISIP PCTs**

	<b>Position</b>	<b>Qualifications</b>	<b>Roles and responsibilities</b>
1	Project Coordinator	Relevant degree, 15 years' experience of which five in Project management.	Overall Project management
2	Environment	Degree in environmental sciences or equivalent and ten years' experience in the sector.	Mainstreaming environmental issues in the Project
3	Social and Community Development	Degree in sociology or equivalent with ten years' experience in community work	Community and social issues
4	Monitoring and Evaluation	Degree in project management or similar and ten years' experience of M&E.	Monitoring and Evaluation
5	Finance	Degree in finance, commerce or similar, ten years' experience in accounting and finance.	Financial management
6	Procurement	Degree in procurement related field and ten years' experience in public procurement.	Procurement and stores management
7	Head of Component 1 Institutional Development	Degree in social sciences or other relevant field and 10 years' experience in the sector	Responsible for implementation of Component 1
8	Head of Component 2 Tenure Security	Degree in land administration, land surveyor similar and 10 years' experience of land tenure issues	Responsible for implementation of Component 2

### **Settlement Executive Committees (SECs)**

Implementations of measures proposed under KISIP have potential to improve the quality of life in the target informal settlements. However, such as it so often happens, such gains can easily be eroded through lack of ownership, maintenance and participatory management. This RPF thus requires that, as part of project development, all communities benefitting from KISIP organized under the Settlement Executive Committees (SECs) be mobilized to participate in the project identification, design, options for mitigating adverse impacts, and operation and maintenance of the built infrastructural assets.

In the case of SECs/GRCs, the PCT will clearly outline and define the roles and responsibilities of the SEC and GRC, and regularly sensitise both institutions at appropriate intervals. Clear TORs will be developed for both committees. At an appropriate interval, with support of KISIP PCT, a

review should be undertaken to assist in replacements or new community elections if need be and where required e.g. if committee is not effective.

The capacity of the SEC/GRC will be enhanced by the County/National PCTs through training and provision of necessary resources e.g. office space in the settlements (where possible and available), basic stationery and for GRCs to provide Logs, black books/registers.

#### **6.6. Establishment of a Resettlement Implementation Committees-RIC**

The National Project Coordinator shall establish a National Resettlement Implementation Committee (NRIC) to provide oversight and overall coordination for the implementation of the provisions of this RPF. The NRIC comprise of the following membership:

- a) National Project Coordinator
- b) All Component Heads
- c) Environmental and social safeguard specialists
- d) Community Development specialist
- e) KISIP Finance Officer

Similarly, each County shall establish committee known a County RAP Implementation Committee (CRIC). It is proposed, the RIC will comprise the following membership:

- a) County Coordinator,
- b) Environment Officer,
- c) Social/Community Officer,
- d) Component Heads for Infrastructure, and Land tenure,
- e) Assistant Deputy County Commissioners, and
- f) Ward Administrator

The members of parliament and members of the County Assembly (MCAs) may be co-opted as ex-officio members.

The key roles of the RICs will be;

- a) Provide overall leadership in the implementation of RAPs
- b) Study the final RAP reports and draw a program of implementation
- c) Organize the public disclosure of the final RAP
- d) Confirm entitlements and the final PAP register
- e) Oversee compensation and other assistance to PAPs
- f) Hear and consider representations from PAP Committees
- g) Support the grievance redress mechanism

#### **6.7. Inter-sectoral coordination**

**Ministry of Finance (MoF)** is the borrower and interlocutor for the World Bank regarding KISIP. The MoF will therefore be responsible for the negotiations and signing of the credit and any amendments to the project's legal agreement.

**The National Environment Management Authority-NEMA:** NEMA is the environmental regulator and will review and grant EIA licenses to projects under KISIP. As part of the process, whenever a project identifies displacement as a potential impact, a RAP has to be prepared and submitted to NEMA alongside the EIA report for approval.

### **6.8. Requirements for Monitoring and Evaluation**

The arrangements for monitoring will fit in the overall monitoring plan of the entire project under auspices of the ministry. Monitoring will focus on physical progress and associated costs as spelled out in the RAP and ensure that these are implemented and coordinated in a manner to ensure that civil works are not delayed.

In order to ensure that compensation and assistance will enable the affected people to improve or restore their livelihoods, an impact assessment will be undertaken 6-12 months after the implementation is completed to evaluate whether the intended objectives are realised. For this, suitable baseline indicators related to income, assets, land ownership, expenditure pattern of key activities, housing conditions, access to basic amenities, demographic characteristics, indebtedness, etc. will be collected during the census survey and will be used for assessing the change in the living standards while carrying out the impact evaluation.

The purpose of monitoring and evaluation is to report on the effectiveness of the implementation of the RAPs, and the outcomes and impact of compensation on the PAPs in relation to the purpose and goals of the RAPs. This section describes the Monitoring and Evaluation (M&E) system for the RAPs and also describes the parameters and associated indicators to be monitored, and the monitoring milestones and resources, including the persons or institutions responsible for carrying out the monitoring activities. KISIP monitoring officer at both the National and County levels will be part of the RAP implementation team.

Monitoring reports will be submitted to the KISIP PCT which has a fully-fledged monitoring unit. The latter unit will synthesize monitoring reports to: -

- a) Provide timely information about all resettlement activities;
- b) Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the PCT;
- c) Document the timely completion of project resettlement obligations for all permanent and temporary losses;
- d) Evaluate whether all PAPs have been compensated in accordance with the requirements of this RPF and that PAPs have higher living standards in comparison to their living standards before physical or economic displacement.

The following parameters will be used to guide the measurement of the RAP performance:

- a. Each PAP household will have a digitized compensation file/record prepared by KISIP indicating his/her background situation before RAP, the compensation agreed upon and received, the physical relocation/resettlement, the impacts on land and property, the use of



assets/improvements after RAP etc. This data will be entered into a database for comparative analysis at all levels;

- b. The mode of compensation preferred by PAPs and used by the KISIP;
- c. The use of compensation payments and other resettlement assistance by PAPs;
- d. The grievance handling outputs and outcomes for respective PAPs;
- e. The number of grievances and the time and quality of resolution;
- f. PAPs' ability to re-establish their livelihood activities and property, including alternative incomes; and
- g. New livelihood activities established and the productivity of such livelihoods at household and community levels;

The M&E will be undertaken at two levels:

- (iii) Internal monitoring: This will be undertaken regularly by the KISIP Monitoring Officer; and,
- (iv) External evaluations (or end-time of RAP implementation): Evaluations will be undertaken by an independent consulting firm hired by KISIP. Evaluation will be necessary in order to ascertain whether the livelihood and income restoration goals and objectives have been realized.

### **6.8.1. Internal Monitoring**

The effectiveness of the RAP implementation process and activities will be monitored through internal monitoring. This will be undertaken by KISIP's Monitoring Officer and will involve monitoring of the compensation process and activities to ensure that effectiveness is achieved throughout the RAP implementation process. Internal monitoring will be carried out during the resettlement compensation payment period and after that period (post-compensation payment period).

The relevant monitoring indicators against which to measure the RAP implementation effectiveness are presented in **Table 6-3** below.

**Table 6 - 4: Proposed Monitoring Indicators**

<b>Activity/Parameters</b>	<b>Indicators</b>
Compensation payments to PAPs	Number of PAPs promptly paid Number of PAPs not paid promptly and reasons Amounts of money paid to PAPs
Restoration of livelihoods and assets	Number of PAPs with restored assets Number of PAPs with livelihood levels restored (based on socio-baseline survey) Number of community facilities restored Number of vulnerable PAPs assisted Type of assistance provided to vulnerable PAPs Number of vulnerable PAPs resettled Number of PAPs without restored assets Number of PAPS without restored livelihood enterprises Number of community facilities not restored and reasons Number of vulnerable PAPs not assisted and reasons

<b>Activity/Parameters</b>	<b>Indicators</b>
Community participation and public engagement	Number of local consultative meetings held Number of County and National Government leaders engaged/briefed about the RAP Number of Civil Society representatives engaged/briefed about the RAP Number of PAP consultative meetings held
Grievance management	Number of grievances received Number of grievances resolved promptly (in allowed time) Number of grievances not resolved in time but completed Number of outstanding grievances not resolved Number of grievances referred Nature of outcomes from referred grievances
Mutation and registration of land rights	Number of mutation forms signed by PAPs Number of land titles received Number of land titles processed and returned to owners Number of land titles not processed and why Number or percentage of encumbrances entered on PAPs' titles

### **6.8.2. External Evaluation**

KISIP will initiate the process of external evaluation in collaboration with other national stakeholders. To avoid conflict of interest, the external evaluation will be undertaken by an external evaluation agency/consulting firm. The external evaluation will also be thematically undertaken at two levels and will examine the RAP implementation effectiveness and outcomes as outlined in **Table 6-4**.

**Table 6 - 5: External Evaluation**

<b>Process indicators that measure the effectiveness of the RAP implementation process</b>	<b>Outcome indicators (the main design of outcome evaluation will be a pre- and post-compensation comparative analysis)</b>
a) Adequacy (of staff numbers/skills/knowledge levels; equipment and facilities) at PCT. b) Legislative compliance with national and World Bank standards c) Outputs of the M&E, compensation payments, community engagement, reporting, grievance processes as indicators of effectiveness and adequacy d) Collaboration and coordination adequacy of the PCT	Livelihood changes among PAP households, including production systems and the standard of living and welfare

### **6.8.3. RAP Completion Report**

KISIP will at the end of the RAP implementation submit a final report to the World Bank. The final report will indicate the effectiveness of the RAP implementation process, including: the organization and delivery of compensation payments and other resettlement measures; the grievance handling system; the M&E system; the community and public engagements, including vulnerable PAPs; and the socioeconomic impacts of the resettlement measures. The final report

will give an overall assessment of the RAP outputs against inputs indicating the planned activities completed and not completed as well as the lessons learnt during the RAP implementation.

#### **6.8.4. Completion Audit**

The completion audit is intended to verify the results of the RAP implementation indicators, and to assess whether the RAP implementation achieved the resettlement objectives. A specific question for the final audit is whether livelihood and living standards have been restored or enhanced. If the answer is positive, then the RAP implementation will be considered to be completed. The RPF notes that the audit will also assess the efficiency, effectiveness, impact and sustainability of the RAP subproject activities and document the lessons learnt for application to future sub-projects or other projects in the sector and in the country. Finally, the completion audit will ascertain whether the resettlement entitlements were appropriate, as defined in the RPF guidelines. KISIP will submit the completion audit report to the World Bank for review and appropriate action. KISIP will be responsible for sourcing of and assigning to competent firm(s) the undertaking of the completion audit.

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## **APPENDICES**

**Appendix 1: Definitions of Terms**

**Appendix 2: Screening Checklist**

**Appendix 3: Land/Asset Donation Form**

**Appendix 4: TORs for preparation of RAPs**

**Appendix 5: Indicative Format for Resettlement Action Plan**

**Appendix 6: Enhancing Community Participation in RAP Process**

**Appendix 7: Registration form for PAPs**

**Appendix 8: Checklist for Socio-economic baseline survey**

Disclosure Copy

**Appendix 1: Definition of Terms used in this RPF**

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

**“Census”** means a field survey carried out to identify and determine the number of Project Affected Families/households/Persons (PAF/PAH/PAP) or Displaced families (DFs). The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures emanating from consultations with affected communities.

**Project Affected Person(s) (PAPs)** are persons affected by land use or acquisition needs of the Program. 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 must move to another location.

**“Compensation”** means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon in the case of private land tenure.

**“Cut-off date”** is the date of commencement of the census of PAPs or DPs within the project area boundaries. This is the date on and beyond which any person whose land is occupied for project use, will not be eligible for compensation.

**“Displaced Persons”** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the project, will suffer direct economic and social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people will have their: standard of living adversely affected, whether or not the Displaced Person must move to another location; lose right, title, interest in any house, 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.

**“Facilitation”** means the payment in kind, cash or other assets given in exchange for the acquisition of fixed assets thereon in the case of public land tenure i.e. applies to squatters and encroachers.

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

**“Involuntary Land Acquisition”** is the repossession of land by government or other government agencies for compensation, for the purposes of a public project 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.

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

**“Land acquisition”** means the repossession of or alienation of land, buildings or other assets thereon for purposes of the Project.

**Lease holder:** A land user who has obtained temporary usage of the land on account of having entered into a lease agreement with the owner.

**Market rate:** The selling price of a commodity in the open competitive market.

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

**“Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan”** - is a resettlement instrument (document) to be prepared 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 project activities.

**“Replacement cost”** means replacement of assets with same quality and quantity with an amount sufficient to cover full cost of lost assets and related transaction costs and taxes. The cost is to be based on **Market rate (commercial rate)** according to Kenyan 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-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

**“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 shall include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.

**“Resettlement Assistance”** means the measures to ensure that 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.

**“The Resettlement Policy Framework (RPF)”** has been prepared as an instrument to be used throughout the slum improvement programme implementation. The RPF will be disclosed to set

out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the program. The Resettlement Action Plans (“RAPs”) for the program will be prepared in conformity with the provisions of this RPF

**A Squatter:** An individual occupying land to which they have no claim under any tenure system.

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**Appendix 2: Screening Checklist**

Questions to be considered	Yes/No. Briefly Describe	Is this likely to result in a significant effect? Yes/No/? -why
<b>Brief Project Description</b>		
<b>A. Triggers to WB Safeguard Policies</b>		
1. Does the project trigger one or more of the WB Safeguard policies		
<b>B. GoK Policies and Laws applicable</b>		
2. Does the project fall under/trigger any GoK Policies and Laws?		
<b>C. Project Location</b>		
3. Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape, cultural or other value, which could be affected by the project?		
4. Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected by the project?		
5. Are there any areas or features of historic or cultural importance on or around the location which could be affected by the project?		
6. Are there existing land uses on or around the location e.g. homes, gardens, private property, industry, commerce, recreation, public open space, community facilities, agriculture, forestry, tourism, mining, or quarrying which could be affected by the project?		
7. Are there any areas on or around the location which are densely		

populated or built up, which could be affected by the project?		
8. Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities which could be affected by the project?		
9. Do people live on the proposed site?		
10. Do indigenous peoples live on or near the site?		
11. Are there known archaeological, historical or other cultural property? Are any of these world heritage/ UNESCO designated etc.		
<b>D. Socio-Economic Impact</b>		
12. Will the project entail resettlement of population?		
13. Will the project affect People's property or livelihoods/income?		
14. Will the project affect indigenous peoples?		
15. Will it limit access to natural resources to local populations?		
16. Will it have an impact on land use?		
17. Will it induce further encroachment of nearby areas?		
18. Could cultural resources be affected?		
19. Could it affect nearby properties?		
<b>E. Displacement Impacts</b>		
Will project include?		
20. Acquisition of private/community land?		
21. Alienation of any type of government land including that owned by urban local body/community?		
22. Clearance of encroachment from government/urban local body land?		
23. Clearance of squatting from Government/Urban local body?		

24. Number of structures, both authorized and/or unauthorized to be acquired/cleared?		
25. Number of household to be displaced?		
26. Details of village common properties to be alienated, Pasture land (acres) cremation /burial ground and others specify?		
27. Describe existing land uses on and around the project area (e.g. Community facilities, agriculture, tourism, private property)?		
28. Are financial/in kind compensation measures expected to be needed?		
<b>F. Loss of Assets, Crops, fruit, household infrastructure and livelihood</b>		
Will the project result in the permanent or temporary loss of		
29. Crops?		
30. Fruit trees/coconut palms? Specify with numbers		
31. Household assets/infrastructure? Specify with numbers		
32. Loss of agriculture land? specify with numbers		
<b>G. Welfare , employment and gender</b>		
33. Is the project likely to provide local employment opportunities, including employment opportunities for women?		
34. Is the project being planned with sufficient attention to local poverty alleviation objectives?		
35. Is the project being designed with sufficient local participation of women in the planning design and implementation process?		
<b>H. Historical, Archaeological, or cultural Heritage sites</b>		
Based on available sources, consultation with local Authorities, local knowledge and/ or observation could the project alter?		
36. Historical heritage site(s) or require excavation near the same?		
37. Archaeological heritage site(s) or require excavation near the same?		
38. Cultural heritage site(s) or require excavation near the same		

39. Graves or sacred locations or require excavation near the same?		
<b>I. Result/Outcome of Environmental/ Social and Resettlement Screening Exercise</b>		
RAP category required (RAP/ARAP)		
Any special conditions		
<b>P: Authorisation</b>		
Screening undertaken by: .....	Signature.....	
Designation.....	Date.....	
Approved by.....	Signature.....	
Designation.....	Date.....	
PCT Confirmation by:	Signature.....	
.....	Date.....	
Designation.....		
<b>Summary of features of project and its location indicating the need for RAP</b>		

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**Appendix 3: Sample Voluntary Land/Asset Donation Form/Agreement**

County:	
Sub county:	
Settlement/Village:	
Village:	

Name of land/Asset owner:	ID Number:	Beneficiary of the project: Y/N		
Gender:	Age:	Occupation:		
Address:				
Description of land that will be taken for the project	Area affected	Total landholding area:	Ratio of land affected to total land held:	Map/Title Deed, if available
Description of annual crops/Trees growing on the land now and project impact:				
Description of assets affected and project impact:				
Describe any other assets that will be lost or must be moved to implement the project:				
Estimated value of donated assets:				

By signing or providing thumb-print on this form, the land/asset user or owner agrees to contribute assets to the project for the construction and development of the.....for the benefit of the community. The contribution is voluntary, and the Owner/user will not claim any compensation against the grant of this asset nor obstruct the construction process on the land in case of which he/she would be subject to sanctions according to law and regulations. The owner certifies that they hold the transferable rights of land/asset in question.

By signing or providing thumb-print on this form, the Project Proponent agrees to accept this grant of asset for the purposes mentioned.

Name of affected person:

County Representative Name:

Signature:

Signature:

Id Number:

Date:

Date:

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#### **Appendix 4: Sample TOR for Preparation of RAPs**

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

1. *Description of the project.* General description of the project and identification of the project area.
2. *Potential impacts.* Identification of:
  - (a) the project component or activities that give rise to resettlement;
  - (b) the zone of impact of such component or activities;
  - (c) the alternatives considered to avoid or minimize resettlement; and
  - (d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.
3. *Objectives.* The main objectives of the resettlement program.
4. *Census Survey.* The findings of the census survey to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including
  - (i) current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
  - (ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;
  - (iii) the magnitude of the expected loss--total or partial--of assets, and the extent of displacement, physical or economic;
  - (iv) information on vulnerable groups or persons for whom special provisions may have to be made; and
  - (v) provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.
5. *Institutional Framework.* The findings of an analysis of the institutional framework covering
  - (a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
  - (b) an assessment of the institutional capacity of such agencies and NGOs; and
  - (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.
6. *Eligibility.* Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.



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

8. *Resettlement measures.* A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

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

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

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

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

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

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

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

12. Community participation. Involvement of resettlers and host communities,

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

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

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

(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such

vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

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

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

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

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

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

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

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

## Appendix 5: Indicative Format for Resettlement Action Plan

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### (A) Abbreviated Resettlement Action Plan (*if population affected is < 200*)

An abbreviated plan covers the following minimum elements:

- a. A census survey of displaced persons and valuation of assets
- b. Description of compensation and other resettlement assistance to be provided
- c. Consultations with displaced people about acceptable alternatives
- d. Institutional responsibility for implementation and procedures for grievance redress.
- e. Arrangements for monitoring and implementation and
- f. A timetable and budget.

### (B) (Complete/Full) Resettlement Action Plan (*if population affected is > 200*)

1. The scope and level of detail in the resettlement plan will vary with the magnitude of land acquisition and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed compensation payment and resettlement of adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be stated clearly in the resettlement plan.
2. **Description of the Project.** General description of the project and identification of the project area.
3. **Policy and Legal Framework.** A presentation of relevant Government of Kenya Policies, laws and regulations governing resettlement, World Bank Policies, as well as a gap analysis of the provisions and how they will be beached.
4. **Potential impacts.** Identification of: (a) the project component or activities that give rise to land acquisition and resettlement; (b) the alternatives considered avoiding or minimizing land acquisition and resettlement; and (c) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.
5. **Objectives.** The main objectives of the resettlement program.
6. **Results of census socio-economic surveys.** The findings of surveys to be conducted in the early stages of project preparation and with the involvement of potentially affected people, including: (a) the results of a census survey; (b) current occupants of the affected area to establish a basis for the design of the compensation payment and resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;

- (c) standard demographic and socio-economic characteristics of the affected households; (d) the magnitude of the expected loss - total or partial - of assets and the extent of impact, physical and/or economic; (e) public infrastructure and social services that will be affected; and (f) social and cultural characteristics of affected communities, including a description of formal and informal institutions (community organizations, NGOs, ritual groups, that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.
7. **Eligibility.** Definition of affected persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.
  8. **Valuation of and compensation for losses.** The methodology to be used in valuing losses to determine their replacement cost and a description of the proposed types/levels of compensation under local law and such supplementary measures, as are necessary to achieve replacement cost for lost assets.
  9. **Resettlement measures.** A description of the package/s of compensation and other resettlement measures that will assist each category of eligible affected persons to achieve the objectives of the policy. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and must be prepared in consultation with them. Should include any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites. The provisions of housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to ensure comparable services to host population. Additional measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.
  10. **Income Restoration Measures.** Wherever the livelihoods are affected, appropriate measures for improvement or restoring of livelihoods, including assistance during the transition period, will be proposed which should be compatible with the cultural preference and skill of the affected people.
  11. **Community participation, Consultation and Disclosure.** Involvement of affected people for consultation with and participation in the preparation and implementation; (b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan; (c) a review of the alternatives presented and the choices made by affected persons, wherever options are available to them, including choices related to forms of compensation and resettlement assistance; (d) Project policy on R&R and RAP should be disclosed to the public through various means – print/web sites/documents available at the concerned department offices.
  12. **Integration with host population.** Measures to mitigate the impact of resettlement on any host communities, including: (a) consultations with host

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

13. **Implementation Arrangements:** The description of agencies responsible for implementation of compensation payment and resettlement activities should be outlined and an assessment of the institutional capacity of such agencies and NGOs should be made, including identification of any steps that would be required to enhance the institutional capacity of agencies responsible for resettlement implementation.
14. **Grievance procedures.** Affordable and accessible procedures for redressed of disputes arising from resettlement - such grievance mechanisms should also take into account the availability of judicial recourse.
15. **Implementation schedule.** Implementation schedule covering all payments of compensation and other applicable resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to re-settlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the over-all project.
16. **Costs and budget.** Tables showing itemized cost estimates for all compensation payments and associated resettlement activities other contingencies; time-tables for expenditure; sources of funds; and arrangements for timely flow of funds and funding arrangements for land acquisition and resettlement should be described.
17. **Monitoring and evaluation.** Arrangements for monitoring of compensation payments and resettlement activities by the implementing agency, supplemented by independent monitors, as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; evaluation of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

**Appendix 6: Enhancing Community Participation in RAP Process**

The RAP team shall develop a community engagement plan as a first step towards informing the community about the project, its impacts and entitlement framework. It should include a description of the implementation mechanism to be set in place for delivery of the entitlement packages. The plan shall accord with the requirements of this Policy and good industry practices.

The community engagement plan shall be an ongoing process in order to engage stakeholders in meaningful consultations about the project and shall continue throughout all stages of the project. Their concerns and aspirations should be fed back into the development of the RAP.

The good principles for RAP process as provided as follows:

- a) All stakeholders must be consulted and be effectively involved in a two-way communication with the project sponsors. Special efforts should be made to consult with women youth and vulnerable communities.
- b) The RAP should include an explicit public information strategy, including the use of mass media, possibly through radio and television, to advise the dates and times of public meetings, availability of documents, selection criteria, cut-off dates, and compensation measures depending on the needs and scale of each project.
- c) Consultations should be preceded by provision of relevant and accurate information.
- d) Following disclosure of all relevant information, the proponents should consult with and facilitate informed participation of affected persons and communities, including host communities, in decision-making processes related to resettlement. Consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to achieve outcomes that are consistent with the objectives of this Framework.
- e) Supply of information and consultation with different stakeholders should be through a language and medium they are comfortable with. In certain cases, for example, the land acquisition process, where the information is not easily understood by the people, the Proponent should take responsibility for simplifying and ensuring that the whole process is understood by the project affected persons, using appropriate methods of communication.
- f) There should be a specific and transparent mechanism for the recording of grievances and their timely resolution. Every effort should be made to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available.
- g) Where affected population do not have land titles, cadastral surveys may have to be carried out to establish the basis for compensation and procedures will be established to regularize and recognize claims to land, including claims that derive from customary law and traditional usage.



- h) Clear communication of responsibility and accountability procedures, personnel and resource availability for effective implementation of plan shall be put in place.
- i) A schedule shall be prepared and disseminated in appropriate places within the footprint of the project detailing the time, place for consultation and contact details of the lead person.

The RAP will require that an implementation mechanism be set in place for the delivery of the entitlement package, as well as to meet the objective of the RAP. The strategy of implementation includes the delineation of roles and responsibilities of organizations/ institutions, as well community groups, the procedures to be followed along with the support facilities available and a timeframe for implementation of each of the activities.

These are as follows:

- ✓ Community Engagement
- ✓ Issuance of Eligibility Notice
- ✓ Land Survey
- ✓ Asset Inventory
- ✓ Census survey of the PAPs
- ✓ RAP Stakeholder Consultation
- ✓ Land Acquisition, Payment of Compensation and Land Purchase
- ✓ Moving assistance and Land clearance
- ✓ Rehabilitation and Income Restoration
- ✓ Community Development (if deemed appropriate or necessary)
- ✓ Monitoring and Evaluation

### ***Eligibility Notice***

A project eligibility notice will be posted both in the local media and at appropriate locations within the footprint of the project. In accordance with the above good practices and the community engagement plan a notice must be published informing communities and PAPs of the cut-off date for compensation eligibility.

### ***Pre-project Consultations***

Any pre project consultations by any group should be considered and shall form or be part of initial review documents in the preparation of the Project Consultations. This will be important for the following:

- ✓ Stakeholder Identification;
- ✓ Establishment of interests of each stakeholder;
- ✓ Determination of initial scope of consultation; and
- ✓ Determination of approaches and tools for consultations.



### ***Formation of Advisory Committees***

Advisory committees are formed based on certain considerations. For example, if the Survey identifies that there is a group of key stakeholders whose major undertaking is Commercial Shop keeping, the formation of a **Shopkeepers Compensation Committee** is necessary. This will be replicated if we have farmers, pastoralist, and harvesters etc. as key stakeholders. These committees shall be tasked to discuss and negotiate compensation rates for damage or loss resulting from Project activities.

The committees will later on develop into **Compensation Negotiation Committee (CNC)** which is a broader stakeholder forum which is the central medium for discussion on all matters related to compensation, land access and resettlement.

Regular capacity building workshops shall be undertaken with all the stakeholder bodies on a variety of issues ranging from negotiations and consultation to aspects of the project process and money management.

### **Community Consultative Committee (CCC)**

A Community Consultative Committee (CCC) with representation from the affected communities, various government agencies, and the proponents should be formed. The CCC provided a forum for consultation and feedback on all project related issues. It will evolve into a forum for discussions on community development requests as well. The CCC can be replaced by both the Compensation Negotiation Committee and a forum called the Social Responsibility Forum

### ***Social Responsibility Forum***

The Social Responsibility Forum (SRF) is the main deliberative and planning body, where community development plans and agreements will be finalized or confirmed, in consultation and cooperation with stakeholders and development partners.

The Forum should discuss issues relating to sustainable social investments, community development programmes, capacity-building, employment, and related livelihood enhancement and socio-economic benefits for project affected people and communities in the Project Area.

### ***Community Information Centres***

Community Information Centres should be established in each of the Project area communities. The centres should be equipped with equipment and communication materials to support participation and consultation with community members, while Community Liaison Officers (CLOs) completed a communication skills training program. Roving CLOs should be utilized to provide an information sharing service to the PAPs.

The range of services and information available at these centres has continued to develop over time to include complaint and grievance registration; Project information dissemination; employment registration and queries; newsletter distribution; resettlement and compensation information; and community health information.

**Appendix 7: Checklist to Guide Inventory of PAP**

**AFFECTED BUILDING SHEET**

**Scheme Name:**

Map Sheet:	Land Register No.	
County:	Sub County:	Settlement/Village:
GPS Coordinates:		
Owner:	Owner Contacts (ID, Telephone):	

**Description of main affected unit:**

Type of Structure/asset	Use:	
Permanent	Non-permanent	
Surface:	Number of rooms:	
Walls:	Material	Condition
Roof:	Material	Condition
Floor:	Material	Condition

Annexes outside: Latrine: Bathroom: Kitchen: Others:

Additional features and amenities in the house

Permanently Inhabited: By:	Regime of occupation:
Periodically Inhabited By:	Regime of occupation

Valuation proposal (details of calculation on attached sheet):

Proposed distribution of compensation:

User 1:

User 2:

User 3:

User 4:

Date:

Prepared By:

**AFFECTED HOUSEHOLD SHEET**

(This include questions related to demographic and socio-economic characteristics ,assets ownership, indebttness, house type, size, ownership and available facilities in the houses, in case of shops the details related to type of shop , number of employees, turnover and income and related business information).

<b>Household Reference:</b>	<b>Name of Head of Household :</b>
-----------------------------	------------------------------------

**KISIP II: Updated Resettlement Policy Framework, 2019**

County:	Sub county:	Settlement:	Village:
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**Reference of Affected Asset:**

Type:                      Structure:                      Plot:                      Crops

**Household Information:**

Head of Household Name:                      Age:                      Sex:                      Nature of vulnerability:

Identity Document:	Type:	Number:
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**Composition of Household:**

Number	Name	Relationship with Household Head	Sex	Age	Education	Occupation	Income

Total Estimated Household Cash Income:.....

**Type of business premises:**

Size,    Construction materials,  
 Nature of business,                      Turnover,                      net incomes,  
 Indebtedness by category.  
 No of employees,                      number of customers received /day

**Project Impact:**

Assessment of the Impact of the Loss of the Affected Asset on Household's Livelihood:-----  
 -----  
 -----  
 -----

**Proposed Compensation or Resettlement Package**

Household's Wishes

Proposed Package:

**Proposed Livelihood Restoration Package:**

Household's Wishes:

Proposed Package

Appendix 8: Checklist for Socio-economic baseline survey

Serial Number.....  
Municipality.....Settlement.....  
Project.....  
Name of enumerator.....Date of interview.....

1) Respondents Profile

1.1: Personal details

- Name.....Age.....Sex: M/F
- Position: HHH/Wife/Son/DIL/Daughter/FHH/
- Education Background: None/Primary level only/Secondary level/Beyond secondary level
- Family size of respondents: .....Own children.....Dependent children.....other dependants.....
- Education level of children/Primary...../Secondary...../College...../University...../Other.....

1.2: Type of housing (Tick)

- (i) Mud walled, thatch roof (ii) Brick, thatch roof (iii) Mud wall, iron sheet roof (iv) Iron sheet wall& roof (v) Timber wall, iron sheet roof (vi) Any above plus concrete floor (vii) Stone wall, Iron sheet roof (viii) Stone wall, tiled roof

1.3: Structures in homestead (Tick): Main house, detached kitchen, Barn, Cattle enclosure, Pen for goats, Poultry house, Toilet, Water storage, perimeter fence, gate, others .....

1.4: Do you have rental houses (Y/N). If yes, how many rooms @.....Kshs per month

1.5: Main source of household energy: firewood/kerosene/charcoal/ LPG/ grid electricity/ solar (tick one)

1.6: Where do you obtain domestic water? River/ communal well/ communal pipe/ Water kiosk/ Own pipe/ own well. Give distance to the nearest source.....km

1.7: Where is the nearest medical centre? Within estate/ walking distance/ takes bodaboda/ takes matatu/ is far away (tick one)

1.8: Who operates the medical center? GOK/Municipality/ FBI/ NGO/ CBO/ Private/ other (tick)

1.9: Where is the nearest public school? Within estate/walking distance/takes bus/ far away

1.10: How far is your religious institution? Within estate/walking distance/far away/ there is none

1.11: How long have you lived here?

1.12: How did you settle here?

**2.0: Respondent livelihood analysis**

2.1: Please provide your livelihood status never worked/ retired/ self-employed / no income source/ have rental houses/ others.....

2.2: List main sources of income by respondent household

- a) b) c)
- d) e)

2.3: Please provide your income profile for the last 4 years:

Income source (specify)	2006 (Kshs)	2007 (Kshs)	2008 (Kshs)	2009 (Kshs)
Trade				
Rental income				
Farming				
Employment				
Remittance				
Others				

2.4: Do you feel that your livelihood is changing(Y/N) improving/ worsening/ don't know (tick)

2.5: What are your indicators for (i) a rich person

.....

.....

.....(ii) a poor person

.....

.....

2.6: Going by that criteria would you say that majority (over 50%) residents in your settlement are rich/moderately rich/ poor/ very poor/ other (explain).

.....

**3.0: Community-based support networks**

3.1: Please identify community-based groups operating in your settlement

Group name	Members	Functions / roles	Belongs (Y/N)	List benefits

				<b>from each group</b>

3.2: Do you think that your participation in these groups will be affected by the proposed project (Y/N) If yes, in what ways.....  
 .....

3.3: Please list any external groups that extend assistance to your settlement.

Group name	Affiliation	Target group	Support provided

**4: Presence of vulnerable groups in target settlement:**

4.1: Is respondent aware of presence of households that have people that are aged with nobody to care for them/ orphaned children/ children that are psychologically challenged/ mothers that are psychologically challenged/ family members are physically challenged/ family members are terminally/very ill/ families recently stricken by misfortune? (tick as appropriate)

4.2: How does the community currently respond to such cases?  
 .....  
 .....  
 .....  
 .....

4.3: Please list all your fears/ concerns over the proposed development as explained to you in this interview.

**Appendix 9: Grievance Form**

<b>1. Grievance Form</b>		
Grievance Number		
Name of the Recorder		
Settlement Name:		
Date		

**INFORMATION ABOUT GRIEVANCE**

<b>2. Information About The Complainant</b>		Forms of Receiving the report
Name-Surname		<input type="checkbox"/> Phone Line
Telephone Number		<input type="checkbox"/> Community/ Information Meetings
ID number (Attach)		<input type="checkbox"/> Mail
Address/ village		<input type="checkbox"/> Informal
Is complainant a PAP		<input type="checkbox"/> Other

**3. Summary Of Grievance**

**4. Statement From The Complainant: Briefly state the issues involved. (to be recorded in black book too)**

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**1. Supporting Documents Available Yes/No. Attach:**

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.....

**6. Witness Statement**

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.....  
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**7. Committees Decision Based On Evidence Derived from The Above Proceedings:**

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.....  
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**Signatures:**

Complainant..... Witness.....

Chairperson..... Secretary.....

Date.....

**8. Conclusion:**

Issue Resolved Yes/ No.....

.....  
.....  
.....  
.....

**Appendix 10: Grievance Log/Register**

<b>Case No</b>	<b>Date</b>	<b>Complaint Or Incidence</b>	<b>Action Taken/ Responsibility</b>	<b>Status</b>

Disclosure Copy