



**MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT
Kenya Informal Settlements Improvement Project**

**RESETTLEMENT POLICY FRAMEWORK
(RPF)**

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Abbreviations

DP	Displaced Person
EU	European Union
ESIA	Environmental and Social Management Framework
ESMMP	Environmental and Social Management and Monitoring Plan
FMP	Financial Management Policy
GOK	Government of Kenya
GTZ	German Development Agency
GRC	Grievance Redress Committee
JBIC	Japan Bank of International Cooperation
KISIP	Kenya Informal Settlements Improvement Project
K-SUP	Kenya Slum Upgrading Project
LA	Local Authorities
M & E	Monitoring & Evaluation
MoF	Ministry of Finance
MOH	Ministry of Housing
MOLG	Ministry of Local Government
MoLH&UD	Ministry of Lands, Housing and Urban Development
MOW	Ministry of Works
NEMA	National Environment and Management Authority
NGO	Non Governmental Organization
OP	Operational Policy
PAP	Project Affected Person
PAPC	Project Affected Persons Committee
PCT	Project Coordinating Team
PIU	Project Implementation Unit
PMU	Project Management Unit
PS	Principal Secretary
RIC	RAP Implementation Committee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
R&R	Resettlement and Rehabilitation
SIDA	Swedish International Development Agency

Executive Summary

A. About KISIP

The Kenya Informal Settlements Project (KISIP) is a five year project of the Government of Kenya (GOK) with support from the World Bank, through The International Development Association, (IDA), the Swedish International Development Cooperation Agency (Sida) and the Agence Française de Développement (AFD). The overall project development objective is to improve living conditions of people living and working in informal settlements in slums in fourteen (14) selected counties, by improving security of land tenure and investing in infrastructure based on plans developed in consultation with communities.

KISIP is housed in the Ministry of Lands, Housing and Urban Development and currently being implemented in 14 counties in the following 15 towns and cities of Eldoret, Embu, Garisa, Kakamega, Kericho, Kisumu, Kitui, Machakos, Malindi, Mombasa, Nairobi, Naivasha, Nakuru, Nyeri and Thika; selected on the basis of agreed criteria. The project addresses infrastructural needs of the informal settlements in drainage, access roads, security lighting, solid waste management, water and sanitation.

The KISIP is desirous to ensure that environmental and social issues are adequately identified and addressed in all its components. To achieve this, an Environment and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF) were prepared prior to project approval. The key objective of the ESMF and RPF is to provide a framework for systematic and effective identification and management of environmental and social issues for KISIP. The ESMF provides guidance on integrating of environmental issues into project design and implementation; while the RPF provides guidance on mitigating the likely impacts associated with land acquisition and displacement. The ESMF/RPF forms part of the financing agreement between the World Bank and the Government of Kenya.

After the mid-term review of the project, it was necessary to review and update these safeguard instruments. This report outlines the revised Resettlement Policy Framework (RPF)

B. Procedures in developing this RPF:

Development of this RPF was the concerted effort between the Consultant (Repcon Associates), the KISIP National Team, the Counties and other stakeholders. The RPF Study entailed review of available project documentation followed by field work covering 11 out of the 15 towns participating in KISIP.

Fieldwork involved discussions with key officers in the participating towns followed by visits to sites targeted for year one projects. Each site was investigated to document the baseline biophysical and social scenario, suitability for proposed investments, and emergent social and environmental concerns which was complemented by discussions with target groups. A draft report was prepared for review by both KISIP and the World Bank. The draft was shared with KISIP and the participating counties during two workshops in Kilifi and Nakuru. The Nakuru workshop was also attended by the World Bank Safeguards Team which was in the Country then and who subsequently had opportunity to comment on the draft outputs.

Upon further review, the draft RPF was disclosed through the Ministry of Housing website- www.housing.go.ke and advertised widely in the local media. Following receipt of reviewer's comments, the final RPF was approved by the World Bank and the then Ministry of Housing and disclosed in the Bank's Infoshop.

C. Purpose and legal anchorage of this RPF

This RPF has been developed to guide resolution of any displacement anticipated from project activities. However, given the small scale nature of investments anticipated under the KISIP, and the fact that projects will be designed to use public land; no major displacement impacts are anticipated. The RPF has been prepared in conformity with OP 4.12 of the World Bank and is anchored in the policy and legal provisions of the GoK pertinent to Involuntary Resettlement namely;- The National Constitution, Sessional Paper No. 3 of 2009 on National Land Policy, Chapter 288 of the laws of Kenya among others. In line with these legal tools, principles and mechanism to govern compensation and resettlement assistance within the KISIP have been formulated.

D. The potential for land acquisition/ displacement in KISIP:

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,
- Displacement of settlements to reclaim public utility land,
- Land reservation for receptacles and waste collection centers, 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.

There is therefore 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.

E. Tools in managing displacement and compensation:

This RPF has identified the Resettlement Action Plan (RAP) as the core instrument to be applied in responding to displacement impacts occasioned by implementation of KISIP activities. Terms of Reference for preparation of RAPs have been provided to ensure that RAPs cover basic elements as follows:-

- i) Identification of project impacts and affected populations;
- ii) Particular aspects of the legal framework for land acquisition and compensation, as defined in this RPF
- iii) Socio-economic characteristics of the affected population with key base line values;
- iv) Particular aspects of the compensation details, as applied to the sub-project;
- v) Description of resettlement assistance and restoration of-livelihood activities;
- vi) Detailed budget;
- vii) Implementation schedule;
- viii) Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
- ix) Details of public consultation, participation, and planning for the sub-project;
- x) Particular aspects of the description of provisions for redress of grievances, as applied to the sub- project; and
- xi) Particular aspects of the Framework for monitoring, evaluation, and reporting, as applied to the sub-project.

F. Procedure in development of RAPs:

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

- a) Proposals to avoid and limit potential displacements are incorporated into the final detailed designs
- b) Compensation is effected long before project start-up and;
- c) 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.

As an entry point to the management of displacement and attendant compensation, each project proposed under KISIP will be screened for land acquisition and displacement impacts. Screening will take during conceptual design stage and will seek to identify land acquisition and resettlement impacts and accordingly determine the level of RAP to be prepared.

Screening the projects for displacement impacts will yield any of the following categories:

- a) Category S1 for projects displacing more than 200 people/livelihoods. A full RAP will need to be prepared, approved, and implemented.
- b) Category S2 for projects displacing less than 200 people/livelihoods. An abbreviated RAP will need to be prepared, approved and implemented.
- c) Category S3 for projects without displacement impacts or minor and not involving either physical displacement or loss of income is less than 20%. This will still have to be documented in the screening report.

G. Other provisions in managing displacement and compensation:

Towards management of land acquisition and compensation assistance, the RPF has provided guidelines for for:-

- i) Land acquisition and compensation although it is not expected to happen under KISIP;
- ii) Valuation of the affected properties/assets and livelihoods;
- iii) Preparation and implementation of the mitigation plans through participatory process;
- iv) Public disclosure of the RAP;
- v) The nature of compensation and assistance has been recommend through an Entitlement Matrix covering the diversity of likely impacts anticipated in the project;
- vi) Appropriate local and national institutional framework for effective implementation and monitoring of RAPs;
- vii) A Grievance Redress Mechanism.

H. Highlights of the Entitlement Matrix

The entitlement matrix is designed to ensure fair play while and PAPs will be entitled to compensation to reflect personal effort as captured in from valuation. Where land is partly lost, rightful owners will be compensated at replacement cost and will benefit from a 2 months' notice to vacate with a right to harvest all seasonal crops affected. Encroachers/squatters will get a reasonable notice to vacate but retain right to harvest maturing crops. Where all land is lost, the principle of compensation at replacement cost compound with a 15% ex gratia payment to for involuntary acquisition will be paid to rightful owners while lease holders will receive adequate notice to vacate and earn compensation equivalent to outstanding lease. Encroachers will receive an advance notice to vacate but vulnerable ones could attract assistance to resettle on humanitarian grounds. All investments on land will be

compensated at replacement costs with owners retaining the right to salvage all materials. Mobile shop owners will be assisted to relocate to other sites.

I. Core Policies of this RPF:

As a core policy of this RPF, land acquisition is not anticipated within KISIP. However, should land acquisition be necessary, construction activity on any acquired land should not start before compensation has been paid in full in line with laws governing land acquisition. Further, this RPF allows for creation of local mutually acceptable forums for grievance redress but leaves the option for aggrieved parties to result to the High Court of Kenya whose decision will be final and binding.

The policy of minimisation of displacement will be overriding but where inevitable, land acquisition will take place upon prompt compensation as per this RPF with preference going to in kind compensation.

J. Responsibilities in managing land acquisition and compensation:

The implementation of this RPF will be a joint effort between the Ministry of Lands, Housing and Urban Development and the County governments. Whereas, the funds and technical support will be provided by the ministry through KISIP, Counties will be involved in the preparation of the RAPs, providing non-monetary options such as alternative space for traders, local implementation, and monitoring.

Adoption of measures as outlined in this RPF and the ESMF (Volume One) will be a major step towards ensuring that investments proposed under KISIP will be socially acceptable, environmentally sustainable and economically viable which are the three core pillars for sustainable development.

K. The need for Local Community Participation

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.

L. Requirements for Disclosure

In line with requirements of OP4.12, the RPF was disclosed locally and on the World Bank's Infoshop.

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CHAPTER ONE: INTRODUCTON

Background

1.1 The Government of the Republic of Kenya is implementing the Kenya Informal Settlements Improvement Project (KISIP) with financial support from the World Bank, SIDA, and AfD. KISIP is part the national strategy¹ to address to address challenge associated with urban growth. Moreover, KISIP contributes to the Country's aspirations contained in the *Vision 2030* and Millennium Development Goals (MDGs) on improving the living conditions of people living in slums.

1.2 KISIP has the ultimate objective to *improve living conditions in informal settlements in selected Kenyan towns spread in 14 counties*. This will be achieved through priority interventions in following areas:-

- i) Institutional strengthening,
- ii) Improving security of land tenure,
- iii) Investing in infrastructure in informal settlements based on plans developed in consultation with communities.
- iv) Support to proactive planning to better anticipate urban growth and help prevent the growth of slums in future.

Design of the Program

1.3 KISIP has four components:-

- i) *Institutional strengthening/development and program management* - will assist in strengthening the capacity of the Ministry of Lands, Housing and Urban Development, and the participating counties, and will also finance program management activities (including preparation of a baseline platform and systems for monitoring and evaluation).
- ii) *Enhancing tenure security* – will support scale-up and process systematization of ongoing efforts to regularize tenure in urban slums, and will include financing for the following types of activities: community organization and mobilization, identification and demarcation of settlement boundaries, preparation of Part Development Plans, and issuance of letters of offer/allotment to individuals/groups.
- iii) *Investing in settlement infrastructure*– will support implementation of settlement upgrading plans developed at the community level,

¹ The Strategy comprises of three multi-sectoral programmes namely;- (i) The Kenya Informal Settlements Improvement Programme, (ii) The Kenya Municipal Program (KMP) and, (iii) the Nairobi Metropolitan Services Improvement Project (NaMSIP) financed by the World Bank.

- investment in settlement level infrastructure and, where necessary, extension of trunk infrastructure to settlements.
- iv) *Planning for growth: Supporting delivery of affordable housing and serviced land* – will support proactive planning to prevent the growth of new slums and mechanisms for delivery of land and housing that can enhance affordability for middle- and low-income households.

A core design feature of KISIP is that proposed interventions are community driven and targeted and at a scale that allows for local operation and maintenance.

Focal Area of the KISIP Project

1.4 The project is being implemented initially in 15 towns located in 14 counties. Under revised guidelines, the 15 counties can propose activities in informal settlements in other towns within their jurisdiction. The number of towns participating in the project is therefore envisaged to grow in the coming years. The initial towns were former provincial capitals and other towns selected on the basis of an established criteria.

Detailed accounts of the bio-physical and social baseline of participating municipalities are provided in the ESMF.

Nature and scale of investments anticipated under KISIP

1.5 Appendix 1.1 below provides a tentative list of Year One Settlements and proposed activities which are mainly anticipated to target upgrading of infrastructure such as roads, drainage, provision of security lighting etc. From field consultations undertaken as part of this RPF Study, there is potential for projects targeting solid waste management, improvement of drainage, opening up of access roads, provision of bridges, and provision of lightning. This investment mix informed the formulation of this RPF.

From discussion with diverse stakeholders to KISIP however, it has emerged that investments anticipated under KISIP will be small in scope and largely community targeted in which case, potential social and environmental impacts are expected to be quite limited. However, incidents involving both physical and economic displacement could occur but to very limited scope. Based on the assessment of proposed activities, the following types of impacts are envisaged:-

Activity	Impacts
Reclamation of public utility plots	All buildings in the targeted land will be relocated.
Upgrading/ opening of infrastructure such as slum roads, drainage canals, waste handling points, etc.	Reclaiming the way leaves and road reserves for such infrastructure will render some people homeless while others will lose trading premises and opportunities for gainful employment.
Development and implementation of Physical Development Plans	<p>Development of PDPs has potential to displace people and livelihoods to create public amenities, roads and way leaves.</p> <p>Implementation of Physical Development Plans will displace people who have encroached on public utilities areas such as road reserves, way leaves, etc. They stand to lose their investments and any income that accrues from them.</p>

Appendix 1.2 below provides a pictorial presentation of possible displacement impacts anticipated under KISIP.

Need for a Resettlement Policy Framework (RPF)

1.6 Under KISIP the details of the location, scope, technology and technical specifications of projects which have direct bearing on the land requirements and hence the scope of displacement are not known before hand. In the absence of such information, this generic RPF has been prepared to lay down the broad framework for policy, procedures 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.

1.7 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 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 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.
- ii) To offer choices among, and identify technically and economically feasible resettlement alternatives; and,
 - 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.

Procedures in developing this RPF:

Development of this RPF was the concerted effort between the Consultant (Recon Associates), the KISIP National Team, the Counties and other stakeholders. The RPF Study entailed review of available project documentation followed by field work covering 11 out of the 15 towns participating in KISIP. Fieldwork involved discussions with key officers in the participating towns followed by visits to sites targeted for year one projects. Each site was investigated to document the baseline biophysical and social scenario, suitability for proposed investments, and emergent social and environmental concerns which was complemented by discussions with target groups. A draft report was prepared for review by both KISIP and the World Bank. The draft was shared with KISIP and the participating counties during two workshops in Kilifi and Nakuru. The Nakuru workshop was also attended by the World Bank Safeguards Team which was in the Country then and who subsequently had opportunity to comment on the draft outputs.

Upon further review, the draft RPF was disclosed through the Ministry of Housing website- www.housing.go.ke and advertised widely in the local media. Following receipt of reviewer's comments, the final RPF was approved by the World Bank and the then Ministry of Housing and disclosed in the Bank's Infoshop.

Outline of this RPF

1.8 This RPF is presented in Five Chapters and appendices. A definition of terms used in the RPF is provided in Appendix 1.3.

- 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 an overview of the policy and legal framework in respect of Involuntary Resettlement.
- Chapter III outlines the matrix for entitlements
- Chapter IV focuses on the planning process to be adopted in the screening potential sub-projects and subsequent preparation of Resettlement Action Plans.
- Chapter V outlines the institutional mechanism for implementation of this RPF.

CHAPTER TWO: THE LEGAL/INSTITUTIONAL FRAMEWORK

2.1 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.

Classification of Land

2.2 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 unalienated 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

2.3 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).

2.4 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.

Compulsory Acquisition of Land

2.5 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.

2.6 Key steps involved in the process include:

- The acquiring entity makes a request to the National Land Commission
- 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.
- 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.

Settlement Programmes

2.7 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).

2.8 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.

2.9 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.

Resolution of conflicts/disputes

2.10 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, 2011 provides for such disputes are relating to:

- (a) relating to environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
- (b) relating to compulsory acquisition of land;
- (c) relating to land administration and management;
- (d) relating to 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; (h) declaration; or costs.

Legal provision for re-settlement assistance within KISIP:

2.9: 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. The potential displacement impacts to

people and livelihoods will affect encroachers on public land (way leaves and road reserves). There is no legal basis for compensation of encroachers and illegal 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.

The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities

2.10 This is provided for in 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; and, 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.

Requirements of OP 4.12

2.11 According to OP 4.12, any World Bank assisted project/program must comply with the provisions of OP 4.12 for impacts associated with land acquisition and displacement. OP 4.12 applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. 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.

2.12: 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.

Gaps between PO 4.12 and the GoK legal provisions

2.13 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 have emerged as follows:-

- i) While the GoK through diverse legal tools including the new constitution allows for acquisition and thus displacement, OP 4.12 favours a policy of avoidance or minimization of involuntary resettlement and design of appropriate mitigation in case avoidance or minimisation is not possible.
- ii) While the Kenyan law provides for compensation in respect of acquired land at market rates, 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.

- iii) The Kenyan law has no provision for compensation in respect of economic displacement unlike OP4.12 which recognises both physical and economic displacement.
- iv) The Kenya system originally recognised only title holders as *bonafide* property owners but currently, the new Constitution has opened an '***in-good-faith***' window through which compensation can be extended to non-title holders which is more in harmony with the OP 4.12 premise that 'lack of legal title should be no bar in extending assistance and support to those displaced by projects'.

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.

Supporting Principles

In approaching rehabilitation assistance within the 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:-

2.15: **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 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, the latter shall be redesigned to avoid 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-ways (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.

2.16: 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 payouts. This applies to people who are not necessarily physically displaced but who are affected by a land loss that affects their sustainability. Examples include open air merchants and kiosk operators.

2.17: 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.

CHAPTER THREE: THE ENTITLEMENT MATRIX FOR KISIP

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

Nature and scope of displacement impacts under KISIP

3.1: The Entitlement Matrix unveiled below has been prepared based on displacement impacts anticipated from KISIP activities. Displacement impacts are anticipated to be small in scale occasioned by activities as follows;-

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

Computation of Compensation:

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

3.2: 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 market value of such lands in the case of freehold land.

3.3: 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 under this Act 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.

3.4 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.

3.5 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 re-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.

The Entitlement Matrix

3.6 The entitlement matrix outlined in table 3.1 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;
- 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.
- 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.

Compensation for vulnerable groups

3.7 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. 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:-

- 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.

Table 3.1: The Proposed Entitlement Matrix

NO	Type of Loss	PAP category	Entitlements
<i>A. Loss of Agricultural Land</i>			
1	Plot used for agriculture is affected	Rightful owner (not likely under KISIP)	<ul style="list-style-type: none"> · Right to harvest seasonal crops · Compensation at replacement cost for loss of land · Option for in kind compensation in favour of better quality land
		Encroachers	<ul style="list-style-type: none"> · 2 months advance notice to vacate and right to harvest all seasonal crops or where the option to harvest is not available because the land is required before crops reach maturity, monetary compensation for the value of the crops · Option of alternative land for vulnerable households such as old ladies whose livelihoods depends on cultivation
<i>B. Loss of residential/ commercial/ industrial land</i>			
1	Partial loss of land but residual is viable	(a) Owner (Not likely under KISIP)	<ul style="list-style-type: none"> · Cash compensation for lost land at replacement cost · Additional 15% ex-gratia for compulsory acquisition
		(b) Tenant / Lease holder	<ul style="list-style-type: none"> · Transitional allowance equivalent to 2 months rental allowance
		(c) Squatters /mobile shops	<ul style="list-style-type: none"> · An appropriate advance notice to vacate land to be determined by the RAP Implementation Committee (RIC)
2	Entire loss of land	(a) Owner/ -Not likely under KISIP	<ul style="list-style-type: none"> · Cash compensation at replacement cost; Ex-gratia assistance @15% of compensation amount towards compulsory acquisition; · Option for in kind compensation · The right to salvage all materials
		(b) Tenants/ Lease holders	<ul style="list-style-type: none"> · Invoke the provisions of the lease agreement on termination of lease · Transitional allowance equivalent to 2 months income
		(c) Squatters /mobile shops	<ul style="list-style-type: none"> · Advance notice to vacate
<i>C. Loss of structures</i>			
1	Partial loss but residual viable	(a) Legal User with valid ownership	<ul style="list-style-type: none"> · Cash compensation at replacement cost for affected portion calculated on MOW rate without depreciation; · Repair costs equivalent to 25% of the compensation

NO	Type of Loss	PAP category	Entitlements
		(b) Owner without titles	<ul style="list-style-type: none"> · Right to salvage material · Cash compensation at replacement cost for affected portion based on MOW rates but without depreciation. · Repair costs for unaffected structure to be determined; and · Right to salvage material
		(c) Squatter	<ul style="list-style-type: none"> · Cash compensation at replacement cost without depreciation · Repair costs to be determined · Right to salvage material
2	Fully affected/ part affected and remaining structure is non-viable	(a) Structure owners with/ without valid title	<ul style="list-style-type: none"> · Alternative accommodation where possible, or · Cash compensation at replacement cost without depreciation · Cash compensation at replacement cost without depreciation · One time shifting allowance of ksh 5000 · Right to salvage materials.
		(b) Tenant/ Lease Holder	<ul style="list-style-type: none"> · Housing allowance for two month equivalent rental value · A onetime shifting allowance of ksh 5000 · Right to salvage materials · Right to alternative accommodation for a vulnerable household.
		(c) Squatter	<ul style="list-style-type: none"> · Cash compensation at replacement cost of the affected unit based on Scheduled of Rates without depreciation · Housing allowance for 2 months · Assistance to enrol in Government sponsored housing schemes where possible. · One time shifting allowance of ksh 2500 · Vulnerable households will be offered 3 months housing rental allowance · Right to salvage materials.
<i>D. Loss of Income</i>			

NO	Type of Loss	PAP category	Entitlements
1	Loss of permanent source of income	Household	<ul style="list-style-type: none"> · Subsistence allowance equivalent to 3 months minimum wages for unskilled agriculture workers. · Alternative sources of livelihood where possible. · Skills development for PAPs in this category.
2	Loss of rental income		<i>Subsistence allowance equivalent to 2 months rental income</i>
3	Loss of income from business	(a) Owners	· Cash grant equivalent to one week average income
		(b) Employees	· Lump sum maintenance allowance equivalent to 2 months of minimum wages as per local guidelines.
		(c) Hawkers/ Mobile shops	Relocation to other sites where possible.
<i>E. Loss of community propriety resources</i>			
			<ul style="list-style-type: none"> · Project will avoid all standing communal properties · Where open spaces used for children play are affected,
<i>F. Support to vulnerable groups</i>			
			<ul style="list-style-type: none"> · Additional cash support of Ksh 2000/month for the first two months · Support to assist in overcoming the respective vulnerability.
<i>G. Unidentified Impacts</i>			
			· Mitigation measures will be proposed based on the principle of this RPF

Note: Most of the land will be of plot size hence viability for agriculture is difficult to describe hence the assumption is that entire plot is affected.

CHAPTER 4: PLANNING FOR LAND ACQUISITION AND RESETTLEMENT MITIGATION

Screening of projects for displacement impacts

4.1: Each investments proposed under KISIP will be screened for land acquisition and displacement impacts. Screening will take place at the conceptual design stage and will seek to identify land acquisition and resettlement impacts and accordingly determine the level of RAP to be prepared. From the screening, all projects displacing/ impacting on more than 200 people (about 40 households) will be categorised as S1. In case sub-projects involve less than 200 people losing livelihoods or facing displacements, the sub-project will be categorised as S2. In case there are no impacts or impacts are minor and not involving either physical displacement or loss of income is less than 20%, the sub-project will be categorised as S3 in which case, additional assistance in addition to compensation may not be envisaged. In case of S-1 sub-projects, a full Resettlement Action Plan (RAP) will be prepared and in case of S-2 (where impacts are minor) abbreviated Resettlement Action Plans will be prepared. In case of S3 projects deemed to be devoid of displacement impacts, this still has to be documented in the screening report.

Preparation of Resettlement Action Plans

4.2: In principle, RAPs will be prepared and implemented jointly by the Ministry of lands, housing and urban development; and respective counties. RAP preparation will be part of consultancy services for socio-economic surveys, preparation of settlement upgrading plans (SUPs), feasibility studies, detailed designs, and preparation of bid documents. (Terms of Reference in respect of preparation of RAPs is provided in Appendix 4.1).

Whereas, the ToRs for the Consultancy contain the preparation of RAP, it is expected that the detailed ToRs for RAPs will be finalised based on the finding of the screening report.

The basic elements of a RAP will include;-

- i) Identification of project impacts and affected populations;
- ii) Particular aspects of the legal framework for land acquisition and compensation, as defined in this RPF
- iii) Socio-economic characteristics of the affected population with key base line values.
- iv) Particular aspects of the compensation details, as applied to the sub-project;
- v) Description of resettlement assistance and restoration of-livelihood activities;

- vi) Detailed budget;
- vii) Implementation schedule;
- viii) Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
- ix) Details of public consultation, participation, and planning for the sub-project;
- x) Particular aspects of the description of provisions for redress of grievances, as applied to the sub- project; and
- xi) Particular aspects of the Framework for monitoring, evaluation, and reporting, as applied to the sub-project.

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

- a) Proposals to avoid and limit potential displacements are incorporated into the final detailed designs
- b) Compensation is effected long before project start-up and;
- c) 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.

Approach to RAP development

4.4 **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 5.

4.5 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 etc 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 4.2.

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.

4.6: 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 4.3 provides a checklist for the baseline socio-economic survey.

Inventory of Vulnerable Groups:

4.7 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:

4.8 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 was concluded. 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

4.9 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.

4.10 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 OP4.12 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. A top-up equivalent to 15% of the compensation package will be paid to cater for involuntary acquisition.

4.11 **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.

4.12 **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.

4.13 **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.

CHAPTER FIVE: IMPLEMENTATION PROCEDURES

Management of the Resettlement Process

5.1 Establishment of a RAP Implementation Committee-RIC: Towards managing implementation of RAPs, there will be established a working committee known a RAP Implementation Committee (RIC) for each County. Since the implementation of RAP is a joint responsibility between the Ministry and the County governments, the Committee will have joint membership. It is proposed, the RIC will comprise the following membership:

From KISIP National PCT

- a) Head of Component 1
- b) Head of component 3
- c) Environmental and social safeguard specialists
- d) Community Development specialist
- e) 3 members from Component 2 – Surveyor, land administrator and valuer
- f) Engineer
- g) KISIP Finance Officer

From the County

- a) County KISIP Coordinator who will be the chairman
- b) Community Development Officer
- c) Head of Component 3 – Engineer
- d) County Surveyor
- e) County Physical Planner
- f) County Environmental Officer
- g) Representative from enforcement department
- h) Town Administrator

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

The respective County will provide the secretariat for the committee.

The key roles of the RIC 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

5.2 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 2.1)

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 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.

5.4 Coordination of other assistance to PAPs: Delivery of other assistance to PAPs will be the responsibility of county governments under the coordination of respective RICs. Table 4.1 outlines the coordination mechanism in the delivery of identified services. In line with table 4.1, the services will be sourced internally within Counties.

Detailed planning will take place upon conclusion of the RAP but certainly during the detailed design stage to ensure allocation of adequate funding to support service delivery.

5.5 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.

5.7 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.

5.8 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 effected; 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.

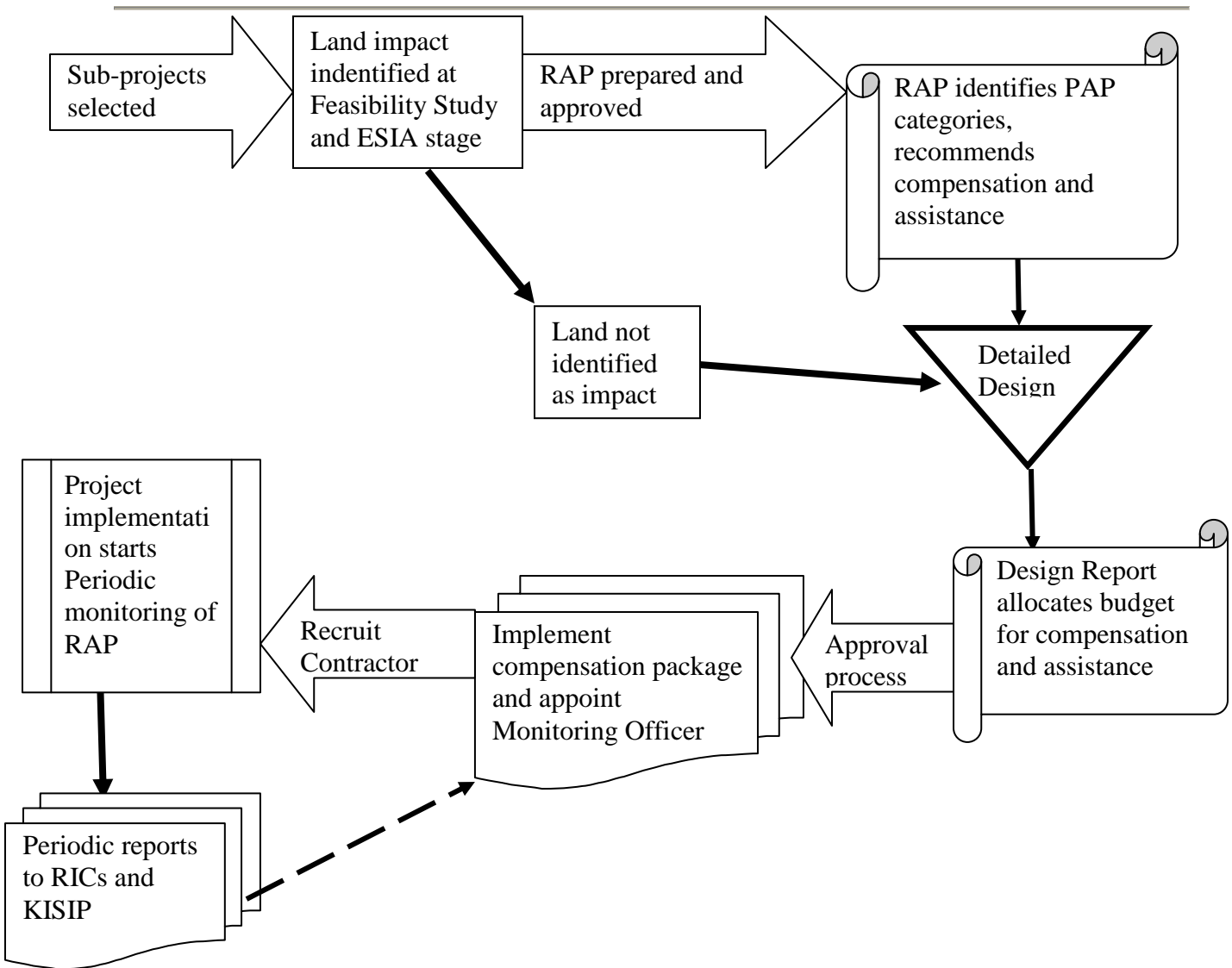
Table 5.1: Modalities for delivering non-cash compensation and assistance to PAPs under the KISIP

Nature of assistance	Responsible Department	Phasing of activity	Indicators for monitoring	Supervision
Assistance to vulnerable groups – street families, destitute adults, single parents, orphans, etc	Social Services	Planning in RAP stage with budgetary allocation before award of contract.	Availability of a register of vulnerable groups. Percentage of registered vulnerable groups being reached. Diversity of Projects offered	RICs
Provision of alternative land to PAPs	Lands	Continuous assistance during project implementation	Register of PAPs updated Suitable land identified screened for environmental impacts No. of PAPs resettled No. of social amenities –water and sanitation, recreation etc provided in new site	RICs
Provision of Income Replacers-(IRs) job placement, allocation of market stalls, investment in IGAs etc.	Planning Department	Ditto	Register of PAPs in this category Percentage of PAPs receiving income replacers Percentage of beneficiary PAPs sustaining the IRs	RICs
Delivery of Primary Health care and others	Public Health Department	Ditto	No of PAPs being reached Diversity of services offered	RICs
Access to primary and pre-primary education for displaced children	Education and Social welfare departments	Ditto	Register of needy children established. Percentage of children accessing education Quality of services provided.	RICs

Nature of assistance	Responsible Department	Phasing of activity	Indicators for monitoring	Supervision
Replacement of social assets- churches, social halls, etc.	Social welfare department in consultation with Planning Dept.	Ditto	Establishment of Register of lost social assets Alternative land identified Assistance to recreate as per Entitlement Matrix	RICs
Assistance to Vulnerable groups	Social Department	Ditto	Establish register of vulnerable groups by category Percentage of PAPs being assisted.	RICs

Coordination between land acquisition, resettlement and civil works

5.6 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:-



Conceptual framework for implementation coordination for KISIP sub-projects

5.9 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 Resettlement 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 Resettlement Officer and updated accordingly. Periodic monitoring reports will be issued to RIC and KISIP PCT.

Grievance redresses process

5.10 This RAP recommends a three-tier grievance mechanism- at the community, RICs, 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.

The second level of grievance mechanism will involve the RICs. The RICs will consider grievance reports forwarded to it from the community grievance committee and make a determination.

If complainants are not satisfied by the decision of the RICs, they can seek redress from the High court.

5.11 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.

Funding implementation of this RPF

5.12 **Costs of the RFP:** 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. World Bank funds could be used to finance procurement of services and works associated with the Resettlement and Rehabilitation process.

Institutional coordination

5.13 **Project Management at Ministry level:** The Project will be implemented under the overall supervision of the Ministry of Lands, Housing and Urban Development (MoLH&UD). In this capacity, the MoLH&UD will interface with other sector ministries, agencies and Counties on matters and policies relating to the project. The MoLH&UD 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 be take place under the signature of the Principal Secretary (or his designated representative) as the overall accounting officer for the Ministry.

5.14 **The KISIP Team:** The MoLH&UD has put in place a project team for the preparation and implementation of KISIP with a skills mix as provided in Table 5.2 below. Further the Project has retained the services of Central Technical Assistance Team (CTAT) to provide extra and specialized capacity building. The project team is 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.

5.15 **The Project Coordinator (PC)** 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.

5.16 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 5.2: Staff line-up for the KISIP

	Position	Qualifications	Roles and responsibilities
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):

5.17 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.

Inter-sectoral coordination

5.18 **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.

5.19 **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.

Requirements for Monitoring and Evaluation

5.20 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.

5.21 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.

5.22 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.

5.23 The annual audit of RPF implementation will include (i) a summary of the performance of each sub-project vis-a-vis its RAP, (ii) a summary of compliance and progress in implementation of the process frameworks for respective investments and (iii) a presentation of compliance and progress in the implementation of RAP and application of the provisions of RPF and remedial measures as needed based on the findings of the audit. This audit will be carried out by the ministry and based on the findings of the audit, appropriate remedial action will undertake as needed.

APPENDICES

Appendix 1.1: Tentative List of Year One Settlements

Appendix 1.2: Pictorial presentation of displacement impacts

Appendix 1.3: Definitions of Terms

Appendix 4.1: TORs for preparation of RAPs

Appendix 4.2.: Registration form for PAPs

Appendix 4.3: Checklist for Socio-economic baseline survey

Appendix 5: Enhancing Community Participation in RAP Process

Annex 1.1: Tentative List of year one settlements

No	Town	Land tenure status	Relocation needs	Size in Acres	Population size	Population density	Approved PDP	Planning Done	Proposed projects	Ranking
	Nairobi									
1	Kinyago Kanuku	CCN	Few people will be relocated	4.2	20000	Dense	42/13/2001/02 Approved PDP No 261	Yes	-	A
2	Gitathuru	CCN	Many people will be relocated	-	1000	Dense			-	A
3	Kahawa Soweto	CCN	Few people will be relocated	3	3000	Very dense			-	A
4	Embakasi Village	CCN	Few people will be relocated	7.5	3000	Dense			-	A
5	Kitui	CCN	-	1.5	12000	Very dense				A
	Thika									
1	Kiangombe	government	Few people to be relocated	To be confirmed	To be confirmed	Dense	TKA/4/03/2 Approved PDP No 359	Yes	Sewer Water & sanitation Roads GIS maps Survey Waver on land tenure	A
2	Kiganjo	government	No one will be relocated	To be confirmed	To be confirmed	Dense			Roads Sewer Street light Planning	A
	Nyeri									
1	Gitathini Village	Trust land/ MCN	Few people	45	-	Dense	C6/2003/03 Approved PDP No.242	Yes	-	A
2	Kiamwathi village	Trust land	None	-	100 Families	-	c/2298/03/01 No 01	Yes	-	A
3	Ithenguri Village	Trust land	None	11	14 Families	Dense	C2299/03/01	Yes	Survey	A
4	Muruguru	Trust land	None	1.2	15	Dense	C6-2302/02/1	Yes	-	A

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	Village				Families					
5	Kihatha Village	Trust land	None	11	64 Families	Dense	C6 -2296/02/1 Approved PDP No 244	Yes	-	A
6	Kamuyu	Trust land	None	26	-	Dense	C6- 2303/02/1 Approved PDP No 01	Yes	Street lighting Road construction	A
7	Riamukurwe	Trust land	None	10	119 Families	Dense	C6- 2005/01	Yes		A
8	Majengo	To be confirmed	None	-	-	Dense		Yes	Roads Street light Steps maintenance	A
9	Kiawara	To be confirmed	None	-	-	Dense		Yes	Road maruming Street lighting	A
Machakos										
1	Swahili Village	Trust land	Few people To be relocated	5.0 Acres	5000 Persons	Dense	56/67/5 A pproved PDP No 42	Yes	Storm water drains Roads Street lighting Solid waste Public waste/trunk sewer	A
2	Kariobangi Village	Trust Land	None	19	2315 persons Per 1999	Very dense			Drainage storm water Saver lines Street lighting Roads	A
Kitui										
1	Mjini	Private (have letters of offer); some have title deeds	Few people will be relocated	10		dense			Water and sanitation Electricity (street lighting)	A
2	Kaango (mosquito)	Private (have letters of offer);	Few people will be	18		dense			Electricity (street	A

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		some have title deeds	relocated						lighting)	
	Embu									
1	kathita	Council land	No one will be relocated	45		Not dense			Flood lights	A
2	dallas	private	No one will be relocated	9 acres		Very dense			Street lighting roads	A
	Garissa									
1	Bura	Trust land	No one will be relocated			Not dense			non	A
2	mashambani	Trust land	No one will be relocated			Not dense			non	A
3	stadium	Trust land	No one will be relocated			Not dense			non	A
	Eldoret									
1	Mwenderi (Huruma)	Private individuals titles registered	No one will be relocated	161 acres	20,000	Very dense	Yes	Yes	Yes See LASDAP report	A
2	Kamukunji	Private individuals titles registered	No one will be relocated	25 acres	8000	Very dense	Yes	Yes	Yes See LASDAP report	A
3	Munyaka	Private residents have share certificates	No one will be relocated	99 acres	12000	Dense	Yes	Yes	Yes See LASDAP report and storm water	A
	Nakuru									
1	Gilani	Private individuals titles registered Block 7	No one will be relocated	44.5 acres	20,000	Dense	Yes	Yes		A
2	Kaptembwo	Private individuals titles registered Block 24	No one will be relocated	462 acres	120,000	Dense	Yes	Yes	yes	A
3	Kwa Rhonda	Private individuals titles registered	Few people will be relocated	712 acres	50,000	Dense	Yes	Yes	Yes	A
4	Bondenii	Council land (council Allocation)	No one will be relocated	22.2 acres		Dense	Yes	Yes	Yes	A
	Naivasha									
1	Kihoto	Council land	No one will		30000	Dense	Yes	Yes	Yes storm	A+

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		issued individuals to with titles	be relocated						water drainage	
2	Karagita	Private (Individual titles registered)	No one will be relocated		75,000	Dense	Yes	Yes		A+
3	KCC	Government land Road/Railway reserve	All will be relocated to already acquired land by council	10 acres	1,500	Dense	In the new relocation area is done	No	Yes on the alternative site for housing, and consolidation of parcel of the alternative site and preparation of site layout plan.	A
	Kericho									
1	Laibon / Majengo	Private land under dispute	Many people will be relocated	75	1400	Dense	Yes		Road	A
2	Chelimo	Private	Few people will be relocated	680	240	Not dense	Yes		Road	A
3	Swahili/ Nubian Village	Private. Allotted by government to individual. Process on-going	None	140	480	Dense	Yes		Road	A
	Kisumu									
1	Manyatta Arab	Government (dispute)	Few people will be relocated	0.05km ²	13100	Dense	YES		Road Sewerage streetlight	A
2	Manyatta	Private	Few people will be relocated	4.4km ²	73601	Dense	YES		Road Sewerage Electricity	A
3	Nyalenda	Private	Few people will be relocated	2.7km ²	56616	Dense	YES		Road Sewerage Electricity	A
	Kakamega									
1	Kaburini	Government	Many people	5	300	Dense	none		None	A

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			will be relocated						(relocation needed)	
2	Majengo/am alemba	Government	Few people will be relocated	-	-	Dense	YES		Access road	A

Appendix 1.2: Pictorial presentation of anticipated impacts

Nyalenda Estate -Kisumu



1 Settlements recently displaced by road expansion in Nyalenda-Kisumu



2. Provision of drainage facilities could displace settlements – Nyalenda Kisumu



3. community level dump yards will require space –Nyalenda Kisumu



4. Provision of Public toilets will require space_Nyalenda Kisumu

Amalemba estate-Kakamega



5. Reclamation of way leaves will displace structure like this one- Amalemba estate Kakamega



6..The encroachers understand that space was reserved for a way leave- Amalemba Kakamega



7This permanent house is being constructed right across a road reserve in Amalemba estate of Kakamega



8. The Makaburini estate in Kakamega has slowly encroached on the only cemetery in town

Makburini Settlement-Kakamega



9. Reclamation of makaburini will occasion loss of both private and communal assets



10. Inside the Makaburini settlement right behind the mosque settlement



11. Access into makaburini even in case of a fire disaster would be challenging



12..Toilets in makaburini slum



13 Petty traders would also be affected in Makaburini



14. Including this innovative charcoal maker/dealer

Karagita Settlement-Naivasha



1.A road that is proposed for development and some of the businesses to be affected.



2.A watering point



3. A commercial water point



4. A road that is targeted for upgrading

Kihoto Settlement-Naivasha



1.the drainage is a great problem in Kihoto



2.drainage is a problem



3. poor roads and drainage



4. Poor drainage



5. The kihoto ground is flat

6.. drainage trench dug to direct flood water away from the estate



1.disposal of effluent into the roadside



2.



3. some of the smallscale businesses that are going to be affected



4. some of the businesses that will be affected



5. disposal of effluent into the road



6..A charcoal seller on the roadside

KCC Settlement-Nakuru



1. some of the people who own structures in KCC



2.The KCC informal settlement



3. A church in the informal settlement



4. Some of the landlords in KCC giving their views



5. tailoring business in KCC

Kaptembwa settlement-Nakuru



6..The road that leads to the children's orphanage



1.The Kaptembwa estate.



2.



3. A cobbler along the road



4 A blocked drainage



5. Some small scale businesses along the road reserve



6. Other businesses on the drainage path.



1. The major drainage for the estate



2. some businesses that have encroached on the drainage path



3. the drainage from the lower end



4. the drainage as it enters into the school compound



5. The drainage passing at the entrance of the two primary schools



6..The drainage enters the school compound

Bondeni Settlement Nakuru



1.The drainage channel from Bondeni estate



2. proposed drainage channel passes through a settlement in the lower end



3. other businesses that have encroached



4. common businesses along the bondeni drainage path

Munyaka settlement-eldoret



1.



2. Gabbage building up in the estate



3. ..At Munyaka with some of the



4. small businesses that are on the

landlords giving their views to the municipal council officials

drainage path

Huruma Mwenderi Eldoret



1. drainage of effluent



2. blocked drainages



3. blocked drainage



4. children buying food from a peddler



5. an overflowing sewer



6. Gabbage is dumped in the that blocked drainage.

KERICHO PHOTOGRAPHS WITH CAPTION NOTES



1. The proposed road



2. the proposed road and drainage



3. Proposed road-Kericho



4. An informal settlement?.....Kericho

Annex 1.3: 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.

“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 or 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.

“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.

Appendix 4.1: Template for the design of sub-project Resettlement Action Plans

The basis for preparing RAPs is provided by Resettlement Policy Framework (RPF) which guides and governs projects as sub-projects are selected. In the case of KISIP, it is the responsibility of the concerned Municipality to prepare RAP, which will be reviewed and approved by MOH and NEMA.

This section of the RPF provides a template for description of the contents of individual RAPs for KISIP sub-projects which are likely to trigger resettlement. It takes cognizance of the scope of RPF and includes the minimum information which is required to complement what is contained in the RPF.

A resettlement action plan should address potential adverse impacts of the project and at the same time make provisions for improving the socio-economic conditions of the affected populations. To address the impacts, the plan should have the following attributes:

The resettlement plan includes measures aimed at ensuring that the displaced persons are (i) informed about their options and rights pertaining to resettlement, (ii) consulted over choices and given technically and economically feasible resettlement alternatives; and (iii) provided with prompt and effective compensation at full replacement cost for losses of assets due to the project.

In case the impacts include physical relocation, the resettlement plan includes measures to ensure that the displaced persons are (i) given assistance (such as moving allowance) during relocations; and (ii) provided with residential housing or housing sites or, as required, agricultural sites for which a combination of productive potential, vocational advantages and other factors is at least equivalent to the advantages of the old site.

Where necessary, to realize the objectives of the Resettlement Policy, the plan also includes measures to ensure that displaced persons are (i) offered support after displacement for a transition period which is likely to be needed to restore their livelihood and standards of living and (ii) provided with development assistance in addition to compensation measures. Such assistance includes land preparation, credit facilities, training and/or job opportunities.

The content and level of detail of a RAP will vary depending on circumstances such as the magnitude of resettlement. However, a satisfactory Resettlement Action Plan should include the following elements. Depending upon the magnitude of impacts for each sub-project, the level of RAP will be determined, but broadly the following aspects will be covered. :-

(a) Description of the project (sub-project), project area and area of influence

Information presented in this section includes description of the project area showing

location, sitting of plants, structures, lands, affected dwellings etc; projects objectives and strategy; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.

(b) Potential Impacts

Description of project components or activities which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement

(c) Organizational Responsibility

The institutional arrangement within the implementing agency, provision of adequate

resources to the agency and inter-agency coordination should be described. The capacity and commitment of the institution to implement the RAP should be assessed. Strengthening of the institutions should be considered if necessary and the steps that will be taken together with a timetable and budget should be described at the time of preparing the project. Involvement of the local people and NGOs in planning, implementation and monitoring resettlement should be highlighted.

(d) Community Participation

This sub-section includes:-

- Description of the consultation and participation of the displaced and host communities in the design and implementation of resettlement activities including a summary of the views expressed and how these views were incorporated during the preparation of the resettlement plan.
- A review of the resettlement alternatives identified and choices made by the displaced people, including choices related to forms of compensation and resettlement assistance, relocating as individual families or as part of pre-existing families and to retaining access to cultural property (e.g. cemeteries, places of worship etc)
- Description of procedures for redress of grievances by affected people throughout the planning and implementation period.
- Description of measures aimed at sensitizing and educating the affected and host communities on matters of resettlement

(e) Integration with host communities

- Arrangements for consultation with host communities and for prompt payment to the host for land and other assets should be provided to the resettled persons
- Arrangements for resolving conflicts which may arise between the resettled persons
- Arrangements for resolving conflicts which may arise between the resettled persons and host communities should be put in place
- Appropriate measures should be formulated to augment public services such as education, water, health in host communities in order to avoid disparities between resettled persons and the host communities should be put in place.
- Resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized

(f) Socio-economic Studies

- Population census of the project area including a description of production systems, household organization, baseline information on livelihoods and standards of living of the displaced population (and host communities)
- An inventory of assets of displaced households; the magnitude of the expected loss (total or partial for individual or group assets); and extent of physical and economic displacement.
- Information on disadvantaged/vulnerable groups or persons for whom special provisions may have to be made. Such groups and persons include those living below the poverty line, the landless, the elderly, women, children, indigenous people, ethnic minorities and displaced persons who are not protected through national land compensation legislation. Resettlement involving vulnerable/disadvantaged groups/persons should be preceded by a social preparation phase to build their capacity to deal with issues of resettlement.
- Provisions for updating information on the livelihood of displaced people and their standards of living at regular intervals.
- Description of land tenure systems including common property and non-title based land ownership or allocation recognized locally and related issues.
- Public infrastructure and social services that will be affected and
- Social and cultural characteristics of displaced and host communities. Appropriate patterns of social organization should be promoted and the existing social and cultural institutions of resettled persons and their host should be retained, supported and used to the extent possible.

(h) Institutional arrangement

This will involve the identification of agencies which are responsible for resettlement activities and NGOs that may have a role to play in project implementation and assessment of the institutional capacity of such agencies and NGOs. In the case of KISIP, the agency which is responsible for resettlement activities is the Ministry of Lands and Settlement.

(i) Eligibility

Definition of displaced persons and criteria for compensation and other resettlement assistance including relevant cut off dates. The assurance should be given that lack of legal title should not bar affected persons from being compensated.

(j) Valuation and Compensation for losses

- The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets and.

- A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

(k) Identification of alternative sites, selection of resettlement site(s), site preparation and relocation

- Institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources.
- Procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites.
- Measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages.
- Legal arrangements for regularizing tenure and transferring titles to resettled persons.

(i) Shelter, infrastructure and social services

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply etc) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host communities are comparable to those provided to resettled persons.

(m) Environmental protection

An assessment of the possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts. Reference will

be made to the EMCA and Environmental Impact and Audit Guidelines of NEMA

(n) Implementation Schedules

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation indicating dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance

(o) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

(p) Monitoring and evaluation

Under this sub-section, information regarding arrangements for monitoring of resettlement activities by the implementing agency is presented. When appropriate, independent monitors will supplement the role of the implementing agency to ensure objectivity and completeness of information. Performance indicators for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts for a reasonable period of time after the resettlement activities have been completed are also presented.

(q) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP

(r) Description of programmes for improvement and restoration of livelihoods and standards of living of the affected people.

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy should be described and the magnitude of their funding should be indicated

Appendix 4.2: Checklist to guide Inventory of PAPs

AFFECTED BUILDING SHEET

Scheme Name:

Map Sheet: Land Register No.

District: Division: Location: Sub
location

GPS Coordinates:

Owner: Address:

Description:

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:

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 4.3: 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 from each group

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

ANNEX 5 : ENHANCEMENT OF 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, sand 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 Centers should be established in each of the Project area communities. The centers 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 centers 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.

