



**GOVERNMENT OF KENYA**

**EXECUTIVE OFFICE OF THE PRESIDENT**

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**KENYA DEVELOPMENT RESPONSE TO DISPLACEMENT IMPACTS PROJECT  
(KDRDIP) (P161067)**

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**RESETTLEMENT POLICY FRAMEWORK (RPF)**

**(FINAL)**

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**February, 2017**

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### ACRONYMS AND ABBREVIATIONS

ARAP	Abbreviated Resettlement Action Plan
CBO	Community Based Organisation
CC	Compensation Committee
CDD	Community- Driven Development
CDDC	Community- Driven Development Committees
CDP	Community Development Plan
CEC	County Environment Committee
CDE	County Director of Environment
CDP	Community Development Pan
CEOs	Chief Executive Officers
CIDP	County Integrated Development Plan
CIG	Common Interest Group
CPCU	County Project Coordinating Unit
CRA	Community Resource Assessment

CPCU	County Project Coordinating Unit
CPSC	County Project Steering Committee
EA	Environmental Audit
EIA	Environmental Impact Assessment
EMCA	Environment Management Coordination Act
ESIA	Environmental and Social Impact Assessment
EMMP	Environmental Monitoring and Management Plan
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FAO	Food Agricultural Organization
FGDs	Focused Group Discussions
GIS	Geographic Information System
GOK	Government of Kenya
GPS	Geographic Positioning System
IA	Implementing Agency
IPM	Integrated Pest Management Plan
IPMF	Integrated Pest Management Framework
KDRDIP	Kenya Development Response to Displacement Impact Project
MMP	Mitigation Management Plan
M&E	Monitoring and Evaluation
MoU	Memorandum of Understanding
NEMA	National Environment Management Authority
NGO	Non-Governmental Organization
NPCU	National Project Coordinating Unit
NRM	Natural Resources Management
NPSC	National Project Steering Committee
PAD	Project Appraisal Document
PDO	Project Development Objective
PIU	Project Implementing Unit
PAP	Project Affected Persons
RAP	Resettlement Action Plan
SA	Social Assessment
TOR	Terms of Reference
VMGs	Vulnerable and Marginalized Groups (VMGs)
VLD	Voluntary Land Donations
WB	World Bank
WRMA	Water Resources Management Authority

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## DEFINITION OF TERMS USED IN THE REPORT

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

- **Sub projects** means any activity which will potentially be directly implemented by the county government, CSOs or project beneficiaries to be funded by the World Bank under KDRDIP.
- **Census** means a field survey carried out to identify and determine the number of Project Affected Persons (PAP), their assets, and potential impacts; in accordance with the procedures, satisfactory to the relevant government authorities, and the World Bank Safeguard Policies. The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and the Local Leaders.
- **Compensation** means the payment in kind, cash or other assets given in exchange for the taking of land, or loss of other assets, income/profits including fixed assets thereon, in part or whole.
- **Cut-off date** is the date of commencement of the census of PAPs 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.
- **Project Affected Persons (PAPs)** means persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project, result in direct economic and or social adverse impacts, regardless of whether or not the said Project affected persons physically relocates. These people may have their: (i) standard of living adversely affected, whether or not the Project Affected Person must move to another location; (ii) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently, adversely affected; (iii) access to productive assets adversely affected, temporarily or permanently; or (iv) business, occupation, work or place of residence or habitat adversely affected.
- **Involuntary Displacement** means the involuntary taking of land resulting in direct or indirect economic and social impacts caused by:
  - a) Loss of benefits from use of such land;
  - b) Relocation or loss of shelter;
  - c) Loss of assets or access to assets; or
  - d) Loss of income sources or means of livelihood, whether or not the project affected person has moved to another location.
- **Involuntary Land Acquisition** is the taking 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, natural resources embedded in and any structures thereon whether temporary or permanent and which may be required for the Sub-project.
- **Land acquisition** means the taking of or alienation of land, buildings or other assets thereon for purposes of the Sub-project.

- **Rehabilitation Assistance** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.
- **Replacement cost** means replacement of assets with an amount sufficient to cover full replacement cost of lost assets and related transaction costs.
- **Replacement cost for agricultural land** means the pre-project or pre-displacement, whichever is higher, value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: a) preparing the land to levels similar to those of the affected land; b) any registration, transfer taxes and other associated fees.
- **Replacement cost for houses and other structures** means the prevailing cost of replacing affected structures of the quality similar to or better than that of the affected structures, in an area; and such costs shall include:
  - a) Building materials;
  - b) Transporting building materials to the construction site;
  - c) Any labour and contractors' fees; and
  - d) Any registration costs.
- **Resettlement Assistance** means the measures to ensure that project affected persons who may require to be physically relocated are provided with assistance such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement during relocation.
- **Resettlement Action Plan (RAP)** is a resettlement instrument (document) to be prepared when development locations requiring resettlement are identified, *i.e.* where land acquisition leads to physical displacement of persons more than 200, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. A RAP is prepared by the party impacting on the people and their livelihoods. A RAP contains specific requirements for resettling and compensating the affected parties before implementation of the project activities causing adverse impacts.
- **Abbreviated Resettlement Action Plan (ARAP)** is a resettlement instrument to be prepared when development locations requiring resettlement are identified, *i.e.* where land acquisition leads to physical displacement of persons less than 200, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. This is as per guidance provided in para 25 of OP 4.12.
- **Resettlement Policy Framework (RPF)** this is a framework prepared to guide resettlement action and in particular the preparation of Resettlement Action Plans during Project implementation. The RPF will be publicly disclosed in impacted areas 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 project implementation. Resettlement Action Plans will be prepared consistent with the provisions of this RPF.
- **Vulnerable Groups** includes: widows, the elderly, the disabled, the sick, marginalized groups, low income households and youth; incapacitated households – those with no one fit to work, child-headed households, street children and other

people or households characterised by low nutrition levels, low or no education, lack of employment or incomes; ethnic minority and/or gender bias (GoK, 2011).

- **Land expropriation**—Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.
- **Project-affected household**—All members of a household, whether related or not, operating as a single economic unit, who are affected by a project.
- **Stakeholders**—Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.



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## EXECUTIVE SUMMARY

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### Introduction

Kenyan Government has requested a credit from World Bank to finance the implementation of the KDRDIP. The project implementation is under the overall responsibility of the executive of the president for the Northern Kenya Development Initiative. The KDRDIP will be an integral part of the broader “Northern and North Eastern Kenya Development Initiative” specifically focusing on an area-based and progressive-solutions approach to addressing the impacts of protracted presence of refugees on the host communities around the Dadaab and Kakuma refugee camps in Garissa, Wajir and Turkana Counties in Kenya.

### Project development objectives

The Project Development Objective (PDO) is to improve access to basic social services, expand economic opportunities, and enhance environmental management for communities hosting refugees in the target areas of Kenya.

### Project Components

The project components are; Component 1 – Social and Economic Infrastructure and Services (approximately US\$45 million), Component 2 – Environmental and Natural Resource Management (approximately US\$20 million), Component 3 – Livelihoods Program (approximately US\$27.5 million), Component 4 – Project Management, Monitoring and Evaluation, and Knowledge sharing (approximately US\$7.5 million), and Component 5 – Support to return areas in Somalia (US\$ 3 million).

### Project Beneficiaries

The project will target communities in refugee-hosting areas of Garissa, Wajir and Turkana Counties that have seen protracted presence of refugees with project investments potentially benefiting both the host and refugee communities following an area based development approach. The project is potentially expected to benefit a total host population of 1,040,8961.

### Safeguard Policies and Triggers

The OP/BP 4.12 is triggered here as a precautionary measure. This policy is triggered if the Bank Financed Project is likely to cause loss of land or other assets resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets (resulting in adverse impacts upon livelihoods); and (iii) loss of income sources or means of livelihood, whether or not the affected people must move to another location or not. When OP 4.12 is triggered a Resettlement Policy Framework (RPF) or Resettlement Action Plan (RAP) is prepared as a condition for appraisal of the subproject is done by the borrower and / or an Abbreviated Resettlement Action Plan (ARAP) is prepared if less than 200 persons are affected or there is no physical displacement and less than 10% of their productive assets are lost.

In the case of the KDRDIP, impacts are not known at the time of appraisal, and so, the borrower has prepared a Resettlement Policy Framework (RPF). Subsequently, detailed RAPs may be needed during implementation and where community land is used an adequate process of consultation, in conjunction with the Ministry of Lands of allocation of community land to the subprojects. As per OP4.12 (section 8) *Bank experience has shown that resettlement of Indigenous Peoples with traditional and land-based modes of production is*

<sup>1</sup> Projected 2017 population figures

*particularly complex and may have significant adverse impacts on their identity and cultural survival. Thus the effects on sub-projects on land used by pastoral peoples in these areas needs particular attention.*

In addition, as per OP4.12 (8): *Particular attention needs to be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the elderly, women and children, indigenous peoples, ethnic minorities or other displaced persons who may not be protected through national land compensation legislation.*

The RPF will provide project stakeholders with procedures to address the risks that may arise from implementation of sub projects leading to economic or physical resettlement of populations. It is expected to provide guidelines on how the project will avoid, minimize, manage or mitigate and even compensate all project related displacement risks.

### **Principles, Objectives and Processes**

KDRDIP does not envisage major resettlement or disruption of livelihoods, but OP 4.12 is triggered as a precautionary measure. The purpose of the RPF for KDRDIP will be to: (i) avoid or minimize involuntary resettlement where feasible, exploring all viable alternative micro project designs, (ii) assist displaced persons (if any) in restoring their former living standards, income and profit capacities, and production levels to near normal, (iii) encourage community participation in planning and implementing resettlement (where applicable), providing procedures to assist the affected persons regardless of the legality of land tenure as a result of implementing the various micro sub-projects.

- 1) The RPF is therefore, prepared to guide the selection and implementation of sub projects that will require precautionary measures related to involuntary resettlement. The World Bank's safeguard policy on involuntary resettlement, OP4.12 is to be complied with where involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources and proceeds.
- 2) This framework will target certain activities that may negatively impact on the livelihoods of the target beneficiaries thus reducing the average household yields. Examples of such activities include infrastructure development and land acquisition for public utilities (community and/or county investments under components 1, 2 and 3), activities that restrict access to rangelands or change rangeland management patterns, or drain water supplies e.g. irrigation activities and siting of water points in dry season grazing areas.
- 3) The Bank O.P.4.12 requires that RPF report be disclosed as a separate and stand-alone report by the Government of Kenya and the World Bank. The disclosure of the document should be in both project visible locations where it can be accessed easily by general public and at the World Bank info shop.

### **Potential Project Impacts.**

Minimal resettlement is anticipated under this project and is only likely to occur for sub-projects linked to building local community and county infrastructure and assets. The kinds of sub-project activities to be undertaken are anticipated to have minimal adverse social risks and can be sited in such a way as to avoid the physical relocation of people. However, the majority of land is community land thus appropriate consultation and agreement will be needed to ensure that the majority of community members agree to its use for project activities. All sub projects envisaged in this project are categorized as B projects, it is

recommended that all projects avoid any type of activities that could lead to a Category A rating. In line with the World Bank safeguard policy OP 4.12, the KDRDIP will therefore minimize either physical displacement or economic displacement through a number and structured steps which are detailed in the main text of the framework.

### Resettlement Impacts

A Resettlement Action Plan (RAP) will be done where more than 200<sup>2</sup> individuals are displaced or their livelihoods affected due to the restriction of access to land. An Abbreviated Resettlement Plan (ARAP) will be formulated where less than 200<sup>3</sup> individuals are displaced. In some instances, Abbreviated Resettlement Action Plans (ARAPs) will be required where sub projects affect more than 200 people, but with minor land acquisition (20% or less of all holdings is taken) and no physical relocation is involved save for the loss of economic gains. This is as per guidance provided in para 25 in OP 4.12.

### Mitigation Measures

KDRDIP should not undertake any subprojects that will physically displace more than 200 people. Subprojects that will displace over 200 households will not be allowed, a screening form will be filled and based on that a report to NEMA will be provided to determine whether an ESIA need to be developed. The ESIA will include a RAP where people are to be displaced. The framework for the compensation/resettlement will then be applied incorporating specific elements of interest. Vulnerable persons among the project affected persons (PAP) will be identified and special assistance offered during the compensation implementation process with well-defined criteria.

For projects on community land, prior to project implementation a community land resolution form should be signed and it should have evidence of community consultation with at least 2/3 of community representation as per the community land act 2016 requirements. The World Bank in Kenya is currently refining it's guidance on voluntary land donation, and the project should follow the up-to-date guidance when available.

**Table 1: Component activities that may require land acquisition or restrict access to land**

<b>Component</b>	<b>Activities likely to require land acquisition or restrict access to land</b>
<i>Component 1: Social and Economic Investments</i>	Sub-projects that require land, water supply as it will not only require land but may promote a change of use of land which may affect livelihoods e.g. water points in dry season grazing areas.
<i>Component 2: Sustainable Environmental Management</i>	Sub-projects that require land e.g. seedling nurseries, tree planting (will also affect water supply).
<i>Component 3: Livelihood Program</i>	Sub-projects that require land e.g. irrigation schemes, markets, holding grounds, production plants etc. (may also affect water supply).

<sup>2</sup> A Category B project is expected to have site-specific, predictable, and readily manageable impacts; a Category C project is expected to have no adverse material impacts; and a Category FI project involves many components financed through Financial Intermediaries and that can be screened as A, B, or C depending on the nature of the FI portfolio.

<sup>3</sup> The actual parameters will be determined as per case specific

### Eligibility Criteria, Entitlements and Valuation of Affected Assets

Where applicable the purpose of the valuation exercise is to assess the loss to the affected persons as part of the Assessment of Resettlement Issues under the project. The basis of this valuation is derived from the World Bank's Involuntary Resettlement Policy, OP 4.12; the Resettlement Policy Framework developed for KDRDIP; and the Constitution of Kenya 2010.

### Land Acquisition and Valuation of land and other assets

Most of the land including refugee camps in the project intervention sub counties is community land. There are a few private lands within town centres. Community land is legislated under the Community Land Act, 2016 which envisages regulations to guide the process of community land registration, which are yet to be developed or gazetted. Thus there is currently a legal vacuum in acquisition of community land, so interim measures need to be agreed with the Ministry of Lands. Hence it is recommended KDRDIP seeks Voluntary donation of land through extensive consultation and agreement of at least 2/3 of the community (as per the Community Land Act), a community land resolution form should be signed by community members (minutes and signed attendance list of a broad community meeting where the use of the land for the sub-project is agreed through sufficient discussions) plus signatures of the chief, ward administrator, Ministry of Lands, and the County planning office, plus any relevant line ministry. KDRDIP should avoid siting projects on private lands. The voluntary land donation will be guided by WB guideline on VDL provided in annex 11 or any updated guidance by the World Bank.

Where land is donated, the following safeguards need to be applied, based on their relevance to the cases being encountered by sub-project proponents: (i) An assessment that the affected person does not suffer a substantial loss affecting his/her economic viability as a result of the donation; (ii) Certification that the land is free of claims or encroachments from any third party; (iii) Deed of Donation to the Community Association concerned, as witnessed by the local authorities; (iv) Declaration of Ownership with Waiver of Claims for Affected Assets; (v) Joint Affidavits of Two Adjoining Landowners or Local Officials (for unregistered lands) if available; (vi) Waiver of Rights/Quit Claim (for plants, trees, houses, structures claimed by tenants, informal settlers); and (vii) Waiver of Rights/Quit Claim (With Sharing of Claim)."<sup>4</sup>

Where applicable the below compensation approach would be used.

Table 2: Compensation approach

<b>Structures</b>	The Replacement Cost Approach (RCA) will be adopted for the valuation of the structures. The RCA is based on the assumption that cost and value are related.
<b>Livelihood</b>	Losses of income and profits for businesses will be estimated from net daily/monthly profit of the business verified by an assessment of visible stocks and activities. In addition to the compensation, disturbance allowances of 10% of total compensation will be considered (where applicable). Livelihood restoration measures will also be needed.
<b>Economic Loss</b>	The enumeration approach will be adopted for the crops and livestock

<sup>4</sup> Extracted from World Bank report no ACS14403 How to note on application of social safeguards policies to community driven development projects. July 30 2015

<b>for Livestock's and crops</b>	affected by the sub project. The enumeration approach involves taking census of the affected crops and livestock and applying market rates approved by the Land Valuation Team.
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### **Grievance Redress Mechanism (GRM)**

The objectives of the grievance process are to: provide affected people with avenues for making a complaint or resolving any dispute that may arise during the course of the implementation and determination of entitlements of compensation and implementation of the project; ensure that appropriate and mutually acceptable redress actions are identified and implemented to the satisfaction of complainants; and avoid the need to resort to forceful actions and/or judicial proceedings as well as providing a transparent and accountable implementation process. The general steps of the grievance process comprise: sensitization of target beneficiaries, constitution of institutional structures, capacity building, receipt of complaints; determining and implementing the redress action; verifying the redress action; amicable mediation and settlement; dissatisfaction and alternative actions; and documentation and communication.

It is recommended where applicable amicable dispute settlement through the traditional system where elders play key role is given priority because the procedures will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions. However, this does not mean replacing existing legal processes.

### **Institutional/Departments Responsibilities:**

A County Integrated Project Management Unit (CIPMU) is proposed which will be headed by a dedicated coordinator and will have representation from county and national governments, CSOs, representatives of beneficiary groups, and key UN partners with strong on the ground presence such as UNHCR, UNICEF and WFP. The CIPMU will ensure effective coordination of project activities with other operations supported by the World Bank and other development partners with the County Integrated Development Plan. It will also approve and monitor community sub projects following established protocols and develop consolidated county work plans, budgets, request funds releases, and track implementation and results as well as expenditure. The CIPMU will also monitor compliance with social and environmental safeguards. At the national level, it is proposed that an inter-ministerial department headed by a Principal Administrative Secretary supported by representatives from concerned line-ministries and consultants will be established at the Executive Office of the President to provide broad oversight and promote coordination for all operations under the NEDI. National Inter-Ministerial Department (NID) will prepare consolidated annual work plans and budgets based on inputs received from the 3 participating CIPMUs and recommend release of funds to counties. This NID will also prepare relevant project manuals and reporting formats which will be agreed during project appraisal and provide oversight for social and environmental safeguards. Finally, it will be responsible for coordinating with the World Bank and other key stakeholders and provide timely updates on project performance, funds utilization and audits.

A joint project steering committee headed by Chief of Staff, Executive Office of the President or his/her nominee is proposed for providing strategic oversight. This committee will have membership from county governments, line ministries, the National Treasury at a senior most level, Civil Society, and UNHCR. The project steering committee will approve annual

work plans and budgets and ensure effective coordination between counties and different line-departments of the national government.

### **Training and Awareness Creation Budget for RPF Implementation**

The budget for the preparation of RAPs/ARAPs will be derived from the specific ESIA and mitigation/livelihood restoration measures to be developed. The cost for resettlement activities will be derived from expenditures relating to:

- The preparation of the resettlement/compensation plan,
- Relocation and transfer,
- Income, profits and means of livelihood restoration plan, and
- Administrative costs

All these costs (if any) will be supported by the Government of Kenya.

### **Participatory Monitoring and Evaluation Plan**

To ensure that the implementation of the resettlement is carried out in accordance with the relevant requirements of this resettlement policy framework, the actions will be monitored and evaluated internally by a Monitoring and Evaluation Team (MET) to be constituted by the IA. The Monitoring and Evaluation Team (MET) will be expected to develop and implement a Monitoring and Evaluation Plan (MEP). The main indicators that the MEP will measure include:

- Extent of impacts on affected individuals, households, and communities;
- Amount of compensation done and to how many PAPs
- Percent improvement of communities affected by the Sub project; and
- Number of disputes or conflicts received, settled and referred elsewhere.

The monitoring unit will submit periodic (quarterly) reports to the KDRDIP PIU. The report will at least cover status of compensation disbursement, nature of complaints, redress actions and follow-ups.

### **Stakeholder Consultation, participation and Disclosure of RPF**

During the month of December 2016 and January 2017 consultations were held in Nairobi and project areas with representatives of relevant government institutions (Annex 8 and 9), stakeholder representatives drawn from the pastoral communities, vulnerable and marginalized groups, representative of Kenyans who have registered as refugees, representative from National and County Governments, research institutions, implementing agencies and representatives of partners in development, NGOs operating in project areas. During the consultations the consultant underlined the importance of the safeguards and emphasized that the KDRDIP envisages no and/or minimal physical relocation of project affected persons (PAPs) in its implementation across the 5 sub counties. Every effort will be made to ensure that the siting of sub-project investments avoid physical resettlement of anyone and minimizes economic displacement (if any). Disclosure will involve uploading the RPF in the e-government website, accordingly share the link with the WB. Subsequently, the WB will upload the information in the WB info shop.

### **Flexibility of the RPF**

RPF is for the entire program period and it needs to be flexible to respond to the changes like the upcoming regulation to guide process of community land registration and the refugee bill which may happen during the lifetime of the KDRDIP. As a result, Mid-Term Review (MTR) will be carried out to assess how effectively the safeguard instruments have been implemented and if any updates/revisions are required. In other words, the RPF is a living document and if need be, will be revised to reflect issues that may not have been foreseen now but may arise in the future as well as reflect legal, institutional, and policy changes that

could occur during the life of the program. In addition, in the event that there are changes that arise anytime during the implementation of the program not covered in the RPF, the document will be updated accordingly.

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## 1 INTRODUCTION

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### 1.1 BACKGROUND

This document presents a Resettlement Policy Framework (RPF) for the Kenya Development Response to Displacement Impacts Project prepared under a consultancy as a Technical Assistance to the Executive Office of the President for the Northern and North Eastern Development Initiative (NEDI). The RPF has been developed as one of a set of due diligence instruments required to address and manage environmental and social impacts associated with the KDRDIP project.

The Kenya DRDIP (KDRDIP) seeks to focus on an area-based and progressive-solutions approach to addressing the impacts of protracted presence of refugees on the host communities around the Dadaab and Kakuma refugee camps in Garissa, Wajir and Turkana Counties in Kenya. KDRDIP will be financed through investment project financing (IPF) and the total cost of the project is US\$ 100 million. Financing of country level activities comes from US\$ 50 million each from Regional IDA and national IDA allocation. The proposed project is eligible for the use of Regional IDA funds owing to: (a) the SOP involves four eligible countries under the HOA Initiative – Djibouti, Ethiopia, Kenya and Uganda; (b) the project addresses regional spillover effects; (c) there is strong country ownership which underpins the project design; and (d) the project will enhance the harmonization of policies and practice relates to forced displacement across the Horn.

### 1.2 COMPONENTS OF KDRDIP

#### *1.2.1 Component 1 – Social and Economic Infrastructure and Services (approximately US\$45 million).*

This component will specifically support improvements in access to quality basic services for the host communities. The key services will include education, primary and secondary health services, water supply, sanitation and hygiene. The guiding principles would be: (a) Prioritization based on identified community needs especially by girls and women; (b) Inputs complementary to ongoing support from the county and national governments as well as other development partners and civil society organizations; (c) compliance with quality standards and norms of GOK; and (d) strong accountability to citizens and credible systems for monitoring and evaluation.

➤ *Subcomponent 1(a): Community Investment Fund (approximately US\$42.5 million).*

This subcomponent seeks to improve community access to basic social services and economic infrastructure by providing investment funds that, together with community contributions, will expand and improve service delivery and build infrastructure for local development. Investments will be identified, prioritized, implemented, and monitored by beneficiary communities. Potential investments (subprojects) include the construction, upgrading, rehabilitation, and/or expansion of basic social services, such as education, water supply, human health, and veterinary care; and economic infrastructure such as rural roads, market structures, and storage facilities. The target community, with guidance from local government, will identify and prioritize the specific social services and economic infrastructure to be funded under this subcomponent through the community-driven development approach. Only those subprojects that are currently functioning—that can cover their operating costs and have staff—and those who have a budget for staff and



materials provided by their respective administration will be supported, ensuring the sustainability of the interventions.

- *Subcomponent 1(b): Capacity Support for Local Planning and Decentralized Service Delivery (approximately US\$2.5 million).*

This subcomponent seeks to improve the service-delivery capacity of local-level government authorities. Specifically, it will support capacity building of local government authorities and local implementing institutions in the areas of community-driven planning process, local development management, service-delivery capacities enhancement, mainstreaming of project interventions with government's development planning and budgeting process, coordination of all development stakeholders at local-level and community-level development learning. The project will also support technical assistance to reinforce the capacity of specialized implementing agencies, including the recruitment of national and international technical assistance for the planning, engineering design, procurement, construction management, safeguards and technical monitoring of physical investments.

### **1.2.2 Component 2 - Environmental and Natural Resource Management (approximately US\$20 million).**

This component aims to decrease environmental impacts of protracted refugee presence and the direct and indirect consequences on the host communities which include unprecedented deterioration of the natural resource base due to overexploitation of wood and other non-timber forest products for various purposes (shelter, firewood, charcoal, food, medicines, etc.), overgrazing from ever-increasing livestock numbers, and over-abstraction of groundwater for domestic consumption and livestock. Severe environmental degradation has led to host communities forced to travel much longer distances in search of pastures, but also to meet their energy (fuel wood) and construction material needs. The proposed activities that would enhance environmental management include improving access to energy in the form of environmentally friendly alternative sources of household energy, and reduce risks associated with wood fuel supply and demand. The operation will also support activities aimed at generating information that supports decision-making for the sustainable management of natural resources including wildlife; and the implementation of natural resource management activities in host communities, refugee camps as well as in the surrounding areas, in order to mitigate the impact on natural resources in particular and the environment at large.

- *Subcomponent 2(a): Integrated Natural Resources Management (approximately US\$18 million).*

This subcomponent intends to enhance the productivity of environmental and natural resources, including arresting the degradation of fragile ecosystems in forest, range, and agricultural lands. It would support soil and water conservation through biological and physical activities on individual farms and communal lands, including the construction of soil bunds, stone bunds, artificial waterways, cut-off drains, check dams (gully rehabilitation), bench terraces, hillside terraces, trenches, area closures, planting of multipurpose trees, and groundwater recharge interventions. Customary/traditional Community institutions will be engaged and strengthened through more inclusive representation of women and youth, and ensuring community agreements and monitoring of land use. The primary implementation modality for the component will be labour intensive public works and specific efforts will be made to integrate women – not only into the labor opportunities but also as beneficiaries of the activities.

➤ *Subcomponent 2(b): Access to Energy (approximately US\$2 million).*

This subcomponent seeks to improve the host communities' access to energy by promoting the better use of energy resources and increasing access to alternative sources of energy. Support will be given to interventions that address the host communities' energy requirements, such as domestic cooking and lighting; social services, such as schools and health services; and productive activities, including lighting for small shops and businesses and for manufacturing and processing. Household cooking is currently based on firewood and charcoal. To address this concern, improved cooking devices will be introduced with appropriate community consultations about methods of cooking and baking and what types of firewood are locally available. Training would be provided on the use of the new devices, including the preparation of fuel. Attention would be given to monitoring use, regular maintenance, and repairs. Solar lanterns and lamps are among the options for meeting home and street lighting as well as mobile phone charging needs. The inputs provided by the project will be complementary to the proposed off-grid solar operation.

➤ *Component 3 – Livelihoods Program (approximately US\$27.5 million).*

Refugee hosting communities in the target areas derive their income either from traditional livelihoods including pastoralism, agro-pastoralism, and small-scale agriculture; and/or non-traditional livelihoods including small businesses, skills-based jobs and service enterprises. Both forms of livelihoods are characterized by low-level technologies and skills, which are often characterized by inherent low productivity and incomes. Some of the major challenges affecting traditional and non-traditional livelihoods include periodic droughts, lack of reliable water source for livestock and agriculture, and limited access to capital, quality inputs, capacity building and technical support to increase productivity, access to markets and lack of infrastructure. The component will support interventions aimed at improving the productivity of traditional and non-traditional livelihoods and strengthening the resilience of communities. The support will include improved access to technology and equipment, storage and processing infrastructure and finance. There will be priority attention to build community institutions through mobilization and selection of beneficiary groups, the formation of Common Interest Groups and strengthening capacities of producer cooperatives for accessing input and output markets. The key guiding principles will be: (a) Emphasis on promoting livelihoods of the most vulnerable including women and youth; (b) Building on experiences and tools developed by government and partner agencies in promoting livelihoods; and (c) Optimizing of the existing infrastructure including those in the refugee camps. The component will ensure convergence with other livelihood interventions in the target area.

➤ *Sub-component 3 (a): Support to Traditional and Non-Traditional Livelihoods (approximately US\$25 million).*

The objective of this sub-component is to increase the production and productivity of pastoralism (livestock); agro-pastoralism (crop and livestock) and agriculture (crops and livestock); and commercialize their livelihood activities for improved incomes, employment, and self-reliance. Support for on-farm activities primarily will aim to improve lives of pastoralists/agro-pastoralists through enhancing the production and productivity of livestock (goats, camels, cattle and poultry) and dry land farming with emphasis on rebuilding pastures. The support to off-farm activities will aim at strengthening the value chains for selected commodities and promoting agri-businesses. This in turn is envisaged to be achieved through improved access to financial services (through the promotion of grassroots financial institutions) and strengthening technical and advisory services to help

host communities identify viable businesses and/or investment opportunities and income generating activities.

- *Sub-component 3 (b): Capacity Building of Community-Based Organizations for Livelihoods (approximately US\$2.5 million).*

The objective of this sub-component is to improve the service delivery capacity of pastoral/ago-pastoral/farmer organizations, including community-based organizations. The support will include establishing and building the capacity of community-based organizations (CBOs) given the CDD approach of the project and primacy of CBOs in inclusive implementation and sustainability of project investments. For livelihoods promotion, the CBOs would include pastoralist groups, livestock marketing associations, community disease reporters, farmer organizations, cooperatives, Village Savings and Lending Associations (VSLAs), and common interest groups (CIGs). These CBOs will be trained in group management, savings, financial literacy, bookkeeping, and encouraged to have regular meetings to promote savings, inter-loaning, timely repayment, and up-to-date books of accounts. These efforts will be coordinated by the County and Sub-County Technical Committees who will have overall responsibility for the capacity building. Both the traditional and non-traditional livelihoods will be implemented through Common Interest Groups (CIGs). These capacity building efforts of CIGs will be coordinated by respective County Project Implementation Units (CPIU) which will have overall responsibility for the capacity building.

### **1.2.3 Component 4 – Project Management, Monitoring and Evaluation, and Knowledge sharing (approximately US\$7.5 million).**

The objectives of this component are to ensure enhanced and effective project management, coordination, and implementation and to support the design of the project’s M&E system, which will be described in detail in the M&E manual. The implementation of the proposed operation will follow existing government structures. To ensure robust project management and implementation, Steering Committees (SCs) and Technical Committees (TCs) will be established at National and County levels. While the SCs will provide broader oversight and ensure cross-sector coordination the TCs will ensure technical guidance and backstopping (TCs) to project management as well as implementation. The project will build on existing community-level structures, such as community development committees, and will establish new local-level institutions as needed, including community facilitation teams, community project management committees, community procurement committees, and social audit committees.

The component will support the design of the project’s management information system for monitoring inputs, outputs, and processes; the evaluation of outcome and impacts; environmental and social safeguard monitoring; and participatory M&E and internal learning. M&E activities will include regular monitoring of the progress and performance of implementation; independent process monitoring of the community-level planning and effectiveness and quality of capacity-building efforts; and undertaking annual thematic studies and outcome as well as impact assessments -of-project. The project’s Results Framework will be used as a basis for reporting progress against indicators, including progress toward achieving the PDO and implementation progress. The project will consider the use of mobile technologies to increase the reach and frequency of data capturing at the local level and aggregating it in a platform that could serve as a dashboard.

Kenya and Somalia will join other DRDIP countries in the Regional Project Steering Committee hosted by the Regional Secretariat on Forced displacement and Mixed Migration

anchored in IGAD and represented by nominee of its national steering committees and project coordinator. It will benefit from the Regional Secretariat led activities including research, knowledge generation, the documentation of lessons learnt to enhance the coordination, knowledge sharing and learning across the project countries. The regional project steering committee will provide oversight of the implementation of the regional program and will guide, advise, and support a regional policy dialogue.

#### **1.2.4 Component 5 - Support to return areas in Somalia (US\$ 3 million).**

Following Tripartite Agreement, voluntary repatriation of some of the Somali refugees from the Dadaab camp to key return areas of Mogadishu, Kismayo and Baidoa in Somalia is in progress. Currently, a number of different agencies and actors are supporting returnees with shelter, livelihood interventions, and essential social services in these return areas; albeit in an uncoordinated manner with limited role for the local government authorities. Security is also a major challenge for the government with large numbers of returnees and IDPs settling in a sporadic manner within a rather short timeframe exacerbating the development deficits in these areas. This component will support IGAD and the Regional Secretariat on Forced displacement and Mixed Migration to channel capacity and systems support to the federal, regional and municipality level administrations to adopt a development approach that is displacement sensitive, and better coordinated interventions in return areas.

The key interventions of IGAD will include (i) provision of technical assistance for developing appropriate guidelines for ensuring a coordinated development response in return areas; and building capacities, systems and processes; (ii) Development and maintenance of a database to include mapping of services, spatial planning and Geo tagging of social services to determine gaps in provision, identify priorities for areas and agencies, and prevent duplication and inefficiencies; (iii) Regular monitoring, reporting and learning from experiences including documenting community voices and identifying the potential role of traditional governance structures - for scaling up; and (iv) Responding to "just in time" needs expressed by the local government, which could range from providing an expert with specific skills for few weeks, to reviewing technical documents or carrying out a quick assessment.

The component will also enable the Regional Secretariat for Mixed Migration and Forced Displacement to augment its staffing and operational resources to support the activities for and in Somalia.

### **1.3 KDRDIP OBJECTIVES**

KDRDIP will contribute to Kenya's key priorities identified in the World Bank's Country Partnership Strategy (CPS) for FY 2014-18 of reducing poverty and inequality by helping achieve objectives of improved social service delivery for vulnerable groups, particularly women; greater citizen feedback on the quality of service delivery in key sectors; improved agriculture productivity; enhanced transparency in the use of public resources; greater involvement of the private sector; and reduced vulnerability to climate change, especially in the Arid and Semi-Arid Lands (ASALs).

The Project Development Objective (PDO) is to improve access to basic social services, expand economic opportunities, and enhance environmental management for communities hosting refugees in the target areas of Kenya.

The following key indicators will be used to track progress toward the project development objective:

- Beneficiaries with access to basic social and economic services and infrastructure (disaggregated by type of service and target group).
- Beneficiaries of economic development activities that report an increase in income (disaggregated by type of service, gender, and target group).
- Direct beneficiaries of which female.
- Land area where sustainable environmental management practices have been adopted as a result of the project (hectare)

## 1.4 OBJECTIVE AND PURPOSE OF THE RPF

### 1.4.1 *Objective of the RPF*

As per the World Bank's policy on Involuntary Resettlement (OP4.12): Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.
- Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

This RPF includes several provisions that were outlined in the Terms of Reference:

- a brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement plan or an abbreviated plan cannot be prepared by project appraisal;
- principles and objectives governing resettlement preparation and implementation;
- a description of the process for preparing and approving resettlement plans;
- estimated population displacement and likely categories of displaced persons, to the extent feasible;
- eligibility criteria for defining various categories of displaced persons;
- a legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- methods of valuing affected assets;
- organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- a description of the implementation process, linking resettlement implementation to civil works;
- a description of grievance redress mechanisms;

- a description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- a description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- arrangements for monitoring by the implementing agency and, if required, by independent monitors.

#### 1.4.2 Purpose of the RPF

The RPF will provide project stakeholders with procedures to address compensation issues as related to affected properties and livelihoods including land, assets and income generating activities during project implementation. The objectives of the Resettlement Policy Framework (RPF) are to:

- Establish the KDRDIP resettlement and compensation principles and implementation arrangements;
- Describe the legal and institutional framework underlying Kenyan approaches for resettlement, compensation and rehabilitation;
- Define the eligibility criteria for identification of project affected persons (PAPs) and entitlements;
- Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- Provide procedures for filing grievances and resolving disputes.

The RPF will apply to all sub-projects/ activities to be identified in a participative manner with target communities within the project target areas. The procedures will be carried out through-out preparation and implementation, and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a Resettlement Action Plan (RAP) is required, it will be prepared in accordance with guidance provided for in this RPF, including detailed measurement surveys, identification (census) of PAPs/displaced persons, and public consultation and disclosure procedures (PCDP) (REA, 2015). This RPF follows the guidance provided for in the WB OP 4.12 on Involuntary Resettlement. This RPF ensures that any possible adverse impacts of proposed Sub-project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks will thus be minimized by:

- avoiding displacement of persons without a well-designed compensation and relocation process;
- minimizing the number of PAPs to the extent possible;
- compensating for losses incurred and displaced incomes and livelihoods; and
- ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs livelihoods and their wellbeing.

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## 2 PROJECT ENVIRONMENT

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### 2.1 PHYSICAL ENVIRONMENT

The selected Project counties; have patterns of livelihoods clearly varying from one area to another. Local factors such as climate, soil and access to markets all influence livelihood patterns. All the selected project counties fall in lowlands where main livelihood activities are either pastoralists or agro-pastoralists.

Since patterns of livelihood depend so much upon geography, it makes sense to divide Kenya into a number of livelihood zones. Kenya is classified broadly into ecological zones (Kenya soil survey, 2010). Agro-ecological Zoning (AEZ) refers to the division of an area of land into smaller units, which have similar characteristics related to land suitability, potential production and environmental impact (Joy R.A Otolu, 2013).

The ecological zones have a mix of altitude, rainfall and soil. Zoning in Kenya is divided into agro-ecological zones and this refers to the division of an area land into smaller units, which have similar characteristics related to land suitability, potential production and environmental impact. An agro-ecological zone is a land resource mapping unit defined in terms of climate, landform and soils, and/or land cover, and having a specific range of potentials and constraints for land use (FAO, 1996).

FAO's ecological zones in Kenya can be classified into Tropical Alpine, Upper Highlands - UH, Lower Highlands - LH, Midlands which include Upper Midland - UM, Lower midland - LM. There is also the Lowlands that is the low altitude - L and Coastal lowlands - CL. The project counties fall in the low altitude category L.

### 2.2 SOCIO-CULTURAL ENVIRONMENT

In recent years, the poverty paradox in Kenya has met renewed attention among researchers, policy-makers and the common public. Yet, very little attention has been focused on the relationship between socio-economic factors and popular participation in management of constituency development funds geared towards rural poverty alleviation. According to World Bank (2015), Kenya is now a lower middle -income country, with annual incomes of \$1,046 to \$4,125. While the recalculation showed lower debt ratios the poverty levels in the country remain at over 40 per cent.

Vulnerable persons<sup>1</sup> among the sub projects affected persons (PAP) will be identified and special assistance offered during the compensation implementation process with a well-defined criteria which would include among others: age above 70 years, physical/mental disability, women, minorities, indigenous people/pastoralists, youth, widows, orphaned children and bedridden or seriously sick persons.

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<sup>1</sup> VMGs that meet the Bank's criteria for "marginalization" and the GoK's criteria of "vulnerable/marginalized" and "minority" communities will include youth, indigenous people, elderly women and men, and widows/orphans.

### 3 LAND, TENURE AND LAND USE AND RELATED ISSUES

#### 3.1 OVERVIEW

Land tenure system in all the five intervention sub counties is mainly communal land with small pockets of public spaces and registered private land in urban centres. Community land is owned by the communities and managed in trust by the County Government. The community land act recently came into force in September 2016, however the regulations for communities to register their land are yet to be developed. Turkana west hosts the Kakuma and Kalobeyei refugee camps and Dadaab refugee complex has camps in Fafi Lagdera and Dadaab sub counties. The refugee camps are located on communal land that has been set aside for humanitarian purposes as per the Refugee Act 2006. There are no lands set aside as forest or protected land in all the in intervention areas. However, there are plans to gazette Lotikipi plains in Turkana west as a game reserve, which is far from Kakuma. As the demarcation for the proposed game reserve has not been done there is potential that some sub projects may potentially be located within the planned reserve area. It is important to note that O.P 4.12 paragraph 3 and 7 do not apply at this stage. Therefore, for the purpose of this project it is recommended that the implementing agency should liaise with County Government of Turkana and KWS to ensure sub projects are not sited in these areas.

Table 3 below shows land classification and respective acts in Kenya.

*Table 3: Land classification in Kenya and Respective Acts*

PRIVATE LAND	PUBLIC LAND	COMMUNITY LAND
Land Act (Act No. 6 of 2012)	Land Act (Act No. 6 of 2012)	The Community Land Act, No. 27 of 2016 (the Act) came into force on 21 September 2016. The Act aims at: <ul style="list-style-type: none"> <li>• Giving effect to Article 63 of the Constitution of Kenya, 2010 (the Constitution) which provides for a classification of land known as community land. To this end, the Constitution provides that community land shall vest in and be held by communities.</li> <li>• Providing for, first, the recognition, protection and registration of community land rights. Second, the management and administration of community land. Third, the role of county governments in relation to unregistered community land and related matters.</li> <li>• The Act repeals the Land (Group Representatives) Act (Chapter 287 of the Laws of Kenya) and the Trust Lands Act (Chapter 288 of the Laws of Kenya).</li> </ul>
Land Registration Act (Act No. 3 of 2012)	Land Registration Act (Act No. 3 of 2012)	
Land control act 1967	Land control Act 1967/Revised 2010	
National land commission act (Act No. 5 of 2012)2012	National land Commission Act (Act No. 5 of 2015)	
Environmental Management and Coordination Act (EMCA CAP 385) Revised 2015	Environmental Management and Coordination Act (Act No. 8 of 1999) Revised 2012	
	Wildlife (conservation and management) Act 2013	
The Refugees Act section 16 (2) of the Refugees Act, 2006. Designation of Areas as Refugee Camps 2) The Minister may, by notice in the Gazette, in consultation with the host community, designate places and areas in Kenya to be – (a) transit centres for the purposes of temporarily accommodating persons who have applied for recognition as refugees or members of the refugees’ families while their applications for refugee status are being processed; or (b) refugee camps. (3) The designated areas provided for in subsection (2) shall be maintained and managed in an environmentally sound		



manner.

### 3.2 KDRDIP LAND REQUIREMENT

Project intervention areas have very few registered private lands mainly in the key urban centres. KDRDIP sub projects should avoid private lands. As most of the land is communal, for most projects voluntary donation of land will be sought by extensive consultation and agreement of at least 2/3 of the community (as per the Community Land Act). As the regulations for the Community Land Act are not yet gazetted, a community land resolution form should be signed by community members (minutes and signed attendance list of a broad and inclusive community meeting where the use of the land for the sub-project is agreed is discussed is sufficient) plus signatures of the chief, ward administrator, Ministry of Lands, and the County planning office, plus any relevant line ministry. In the case of voluntary land donations separate RAPs may not be required, unless there is loss of assets or the land is privately owned. As mentioned previously it is not recommended that investments that will require private land are financed.

#### 3.2.1 *Voluntarily donated land (VDL) for community Sub-project<sup>1</sup>*

The main characteristics that be fall such VDL include: in-kind land contributions from the community for development projects for the good of the community; the community may contribute the land on a purely voluntary basis or may ask for in-kind compensation to part with the land; may involve a long history for community development; basically the VDL is popular in CDD type of projects in the following sectors: public works, water, agriculture, decentralization delivery, school and health projects just to name a few. The community VDL have notable challenges that should always be safeguarded including: ensure that land donation is “truly” a voluntary decision and not “forced voluntary”; who is donating and who is being affected? ensure that the donation of land does not cause any significant reduction in land size and livelihood; ensure that communal land practices are not severely altered, VDL decisions can divide community and cause future disputes if not well consulted and documented. To address this a VDL guideline developed by World Bank is provided in annex 11.

If an investment is to take place on community land, a community resolution form showing that there is at least 2/3 agreement on the project and that the process for consultation has been followed by the county land ministry or community land registrar (previously the county land management board); (See annex 10)

### 3.3 ACTIVITIES THAT MAY REQUIRE LAND ACQUISITION UNDER KDRDIP

Component 1, 2 and 3 may have activities that may require land acquisition.

**Table 4: Component activities that may require land acquisition and likely to trigger 4.12**

Component	Activities likely to require land acquisition or restrict access to land
<i>Component 1: Social and Economic Investments</i>	Sub-projects that require land, water supply as it will not only require land but may promote a change of use of land which

<sup>1</sup> Note that the new community land acts states that “Any land which has been used communally, for public purpose ... [is] public land vested in the national or county government, according to the use it was put for’ (section 13.2)”..

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	may affect livelihoods e.g. water points in dry season grazing areas.
<i>Component 2: Sustainable Environmental Management</i>	Sub-projects that require land e.g. seedling nurseries, tree planting (will also affect water supply).
<i>Component 3: Livelihood Program</i>	Sub-projects that require land e.g. irrigation schemes, markets, holding grounds, production plants etc. (may also affect water supply).

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## 4 RESETTLEMENT IMPACTS

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### 4.1 OVERVIEW

This RPF considers project affected people as those who stand to lose, as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, range lands, or important cultural sites, commercial properties, tenancy, income-earning opportunities, and social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, using eminent domain or other regulatory measures.

While there are different levels and types of sub projects, community driven development projects can be defined as “projects for which the majority of investment funding is for a large number of small and scattered subprojects”. Such subprojects may be multi-sectoral or may be limited to a single sector, such as agriculture or multi-sectoral with the following characteristics relevant to safeguard issues:

- Overall size - small to medium
- Often aimed at rural development
- Numerous, scattered sub-projects
- Nature and scope of sub-projects not known at the time of appraisal
- Sub-projects selected by a community-driven mechanism
- Implementation governed by an Operational Manual (OM) or equivalent
- Monitoring and evaluation (M&E) mechanisms fairly elaborate to capture the quantity and quality of project outcomes.

### 4.2 IDENTIFIED PROJECT SOCIAL RISKS

It should be noted that minimal resettlement is anticipated under this project and is only likely to occur for sub-projects linked to building local community and county infrastructure and assets. The kinds of sub-project activities to be undertaken are anticipated to have minimal adverse social risks and can be sited in such a way as to avoid the physical relocation of people.

All sub projects envisaged in this project are categorized as B or C projects.<sup>1</sup> Given the challenges involved in managing environmental and social issues related to Category A projects, it is recommended that KDRDIP projects avoid any type of activities that could lead to a Category A rating. A Category A project is expected to have significant, large-scale irreversible or unpredictable impacts. However, if Category A subprojects are explicitly excluded from a KDRDIP project, a clear technical justification should be provided to put such subprojects in the negative list, such as the lack of capacity by communities to manage significant environment and social risks, high transaction costs to properly manage impacts, etc.

The exact sub-project sites for the project are not yet definitively identified. Therefore, at this stage it is neither possible to determine the exact location, demography and impact on assets and/or livelihood of neither the PAPs nor the resettlement related impoverishment

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<sup>1</sup> A Category B project is expected to have site-specific, predictable, and readily manageable impacts; a Category C project is expected to have no adverse material impacts; and a Category FI project involves many components financed through Financial Intermediaries and that can be screened as A, B, or C depending on the nature of the FI portfolio.

risks they might face, if any. However, as noted no resettlement is envisaged and the siting of sub-project investments will, as much as possible, take this into consideration. Moreover, the majority of adverse impacts are minimal given the nature of the investments related to the project.

In Component 1, 2 and 3 every effort will be made to site infrastructure in areas that avoid and/or minimize physical and economic displacement. Once the sites are established and it becomes clear that there will be economic or physical impacts that require compensation mitigation actions, sub-project RAPs will be prepared as required by NEMA and World Bank guidelines. The RPF will identify the typical sub-project impacts anticipated for the proto-types of investments that are envisaged under component and develop a checklist to guide triggering the policy and guidance on actions and forms of compensation that should be provided.

The guidelines of the resettlement policy framework apply to components 1, 2, and 3 under the project, whether or not they are directly funded in whole or in part by the World Bank. The policy framework applies to all economically and/or physically displaced persons regardless of the total number affected by the severity of impact and whether or not they have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, youth, the elderly, women and children, indigenous groups, ethnic minorities and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through Kenya's land compensation legislation.

### 4.3 POTENTIAL PROJECT IMPACTS

The potential land related impacts may include but not limited to the following as shown in the table 5 below.

*Table 5: Potential Social Impacts Associated with the Project*

No.	Type of impact	Description of potential impact / issue	Social significance	Proposed Mitigation measure
1	Land use and utilization	Condition and size of existing land is likely to be changed due to adoption of more cropping than livestock systems. Some Pastoralists likely to lose grazing grounds for their livestock and this may lead to resource use conflicts between pastoralists due to changes in land use.	Highly rated	Undertake a comprehensive stakeholder engagement (pastoralist users of the land) to ensure that solutions are arrived at in a participative manner

2	Community livelihoods and household farm production, profits, incomes, etc.	At project implementation land will be cleared during land preparation. Both pastoral and agro-pastoral systems will lose relatively more grazing land to cropping systems. The ASAL counties depend predominantly on livestock as a source of household income and a livelihood activity.	Highly rated	As part of ESIA a cost benefit analysis should be done to look at how best to optimize land use in the sub project areas.
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## 5 KDRDIP CATEGORIES OF PAPS

### 5.1 INTRODUCTION

Land acquisition for sub-projects may result in negative impacts to different categories of PAPS. Until the exact sub-project locations are determined it is not possible to estimate the likely number of people who may be affected, because the technical details of the sub-projects have not yet been developed. However, the likely displaced (economically or physically) persons can be categorized into two main groups of host communities and Kenyan who have registered and likely to be affected by closure of Dadaab refugee camp. These two further have the following classification units among them:

- a) **Affected Individuals:** Individuals who risk losing income, assets, investments, land, property and/or access to natural and/or economical resources as a result of a KDRDIP Sub-project.
- b) **Affected Household:** A household is affected if one or more of its members are affected by any KDRDIP Sub-project. This includes: (i) any members in the households, men, women, youth, children, dependent relatives and friends, tenants; (ii) Vulnerable individuals who may be too old or ill to farm along with the others; (iii) Members of households who cannot reside together because of **cultural** rules, but who depend on one another for their daily existence; (iv) members of households who may not eat together but provide housekeeping or other activities critical to the family's maintenance; and (v) Other vulnerable people who cannot participate, due to being physically challenged or for cultural reasons, in production, consumption, or co-residence (GoK, 2011).

Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labour contributions are critical to the functioning of the "household". For example, in polygamous settings, there are situations where each wife has her own home.

- c) **Vulnerable Households:** Vulnerable households may have different land needs from most households, or needs unrelated to the amount of land available to them. Vulnerable households include:
  - Vulnerable and Marginalized Groups - are often closely tied to their traditional or customary lands and natural resources on these lands, but these lands may not be under legal ownership pursuant to national law. Due to this, any form of resettlement embodies for vulnerable and marginalized groups more serious risks than for any other **populations and should consequently be avoided at all costs**. If this is not feasible, the vulnerable and marginalized groups' land use will be documented by experts in collaboration with the affected households without prejudicing any land claim, the affected vulnerable and marginalized groups will be informed of their rights with respect to these lands under national laws, including any national law recognizing customary rights or use, the project will offer affected vulnerable and marginalized groups at least compensation and due process available to those with full legal title to land in the case of commercial development of their land under national laws, together with culturally appropriate development opportunities; land-based compensation or compensation-in-kind will be offered in lieu of cash compensation where feasible and the project will enter in good faith into a negotiation with the

affected vulnerable and marginalized groups, and document their informed participation and the successful outcome of the negotiation.

- Single women – who may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom s/he is linked in dependency as part of the household, resettlement will not sever this link.
- Elderly – elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith and kin and neighbours. Losing land will affect their economic viability. What would damage their economic viability even more than losing land is resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.
- **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 programs from government (central and local), international organizations and the NGO community. (v) **Orphans and street children** – due to the impacts of the AIDS crisis that plagues Kenya today, there are a considerable number of orphaned children, whose parents have died from AIDS. These children are more vulnerable since they are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard. Orphaned children engage in any form of economic activity to provide for themselves and their siblings, by engaging in activities such as manual work at open air markets, transporting of loads for short distances in centres scavenging for waste paper, metals and other exploitative employment, etc.
- **Woman-headed households** – may depend on husbands, sons, brothers, or others for support. However, in other cases too, women are the main breadwinners in their household even where the men have remained with the family. Women therefore need relatively easy access to health service facilities, as mothers and wives. For example, where the land being acquired is used by a woman with no formal rights to it or a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.

The RPF envisaged in the KDRDIP offers numerous inherent opportunities and benefits for the intended target groups – especially women and youth who would be involved in the pastoral subsystem activities.

## 5.2 ELIGIBILITY CRITERIA FOR VARIOUS CATEGORIES OF AFFECTED PEOPLE

This section outlines eligibility criteria, which is necessary to determine who will be eligible for resettlement and benefits, and to discourage inflow of ineligible people.

### 5.2.1 Principles

In line with the World Bank safeguard policy OP 4.12, the KDRDIP will therefore, minimize displacement through the following design procedures:

1. Wherever inhabited dwellings may potentially be affected by a component of a sub-project, the sub-project shall be redesigned (facility relocated or rerouted) to avoid any impact on such dwellings and to avoid displacement/relocation accordingly;
2. Wherever the impact on the land holding of one particular household is such that the household may not be sustainable in the long term, even if physical displacement of such a household is not feasible, the sub-project shall be redesigned (facility relocated or rerouted) to avoid any such impact;
3. Minimization of land impact will be factored into site, practice and technology selection and design criteria;
4. Costs associated with displacement, loss of assets or access to assets e.g. grazing areas, restoration of livelihoods and resettlement (if any) will be met by GOK;
5. To the extent possible, sub project facilities will be located on public spaces; a more participatory approach will be put in place for the communities to confirm where to site these facilities with express authority of the local county administration.
6. Infrastructures required by the sub project will be routed inside existing right-of-ways, easements or reservations (roads, streets, power lines, drainage canals) wherever possible.

The involuntary taking of land results in: relocation or loss of shelter; and loss of assets or access to assets or loss of income sources or means of livelihood, whether or not the PAPs must move to another location or not. Therefore, meaningful consultations with the affected persons (directly and through representatives), local authorities and communal leadership allows for establishment of the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. OP4.12 suggests the following three criteria for eligibility;

1. those who have formal rights to land (including customary/communal land, traditional and religious rights, recognized under Kenyan Law);
2. those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the national and local laws of Kenya or become recognized through a process identified in the resettlement plan;
3. those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from, but are recognized under the World Bank's OP 4.12.

Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF. Persons covered under c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this RPF, if they occupy the project area prior to a cut-off date established by the management committees in close consultation with the potential PAPs, local community leaders and the respective local Land Control Boards and the Operational Policy acceptable to the World Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (a), (b) or (c) above are to be provided with compensation for loss of assets other than land. Therefore, it is clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. Persons who



encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance (GoK, 2003).

### 5.2.2 *Eligibility Process*

PAPs classification is provided in Section 5. The process will involve review of tenure documents owned by occupants, interviews with households and groups in the affected area. County governments and national government's Ministry of Land concerned with land ownership and management will also hold the consultant. PAPs covered in a) and b) are provided compensation for the land they lose, and other assistance ensuring that they are: Informed about their options and rights pertaining to resettlement; Consulted on, or offered choices among, and provided with technically and economically feasible resettlement; Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project (GoK, 2014).

Land for land compensation will be applied to PAPs who might lose their land. All PAPs irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some assistance if they occupied the land before the entitlement cut-off date. Persons who encroach on the area after the socio-economic study (census and valuation survey form refer to annex 4) are not eligible for compensation or any form of resettlement assistance. There will therefore be a package of compensation and other resettlement measures to assist each category of eligible PAPs to achieve the objectives of the policy.

Eligibility criteria will also be determined by: i. Loss of property ii. Loss of wages iii. Cut-off date.

### 5.2.3 *Eligibility for Community Compensation*

It is also important to note that the eligibility may be claimed collectively e.g. as a community or religious group and does not necessarily have to be individuals or families. Communities (on communal lands) that permanently lose land and/or access to assets and or resources under statutory or customary rights will be eligible for compensation. Example of community compensation could be for grazing lands, or access to other communal assets, public toilets, cattle crushes/dips, cottage/market places, off farm research demonstrations, community water pans. The rationale for this is to ensure that the pre-project socio-economic status of communities where adversely impacted, is also restored (WB, 2008).

Eligibility criteria will also be determined by the status of development up to when the study starts and will further be determined by other development approvals as issued by both national and county government offices. The key local authorities to be interviewed by both national and county the consultants will include County, sub county and ward government officials such as the County/ ward agricultural officer, the County officers, chiefs and sub-chiefs. Other PAPs include: identified large and small-scale farmers, businessmen and businesswomen, women leaders and other leaders of social groups.

## 5.3 APPROXIMATE NUMBERS OF PAPS

It is important to underscore that at this stage it is not possible to determine the number of PAPs for several reasons: The individual sub-projects will be identified during project implementation in a participatory process. Due to this, the locations, nature and magnitude of these Sub-projects cannot be determined before implementation. For each Sub-project, which might require physical and/or economic resettlement (this will be assessed through screening processes), the number of PAPs will be established through a Resettlement Action

Plan or an abbreviated RAP, which will be elaborated before project implementation (details in section 9.4).

#### 5.4 ECONOMIC DISPLACEMENT

If land acquisition for a sub-project causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the projects will meet the following requirements: i) promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost; ii) In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery or other equipment; iii) Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable; iv) Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, livestock, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost; v) Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected; vi) Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living. Compensations and entitlements are detailed in annex 6.

## 6 RELEVANT LEGAL, REGULATORY AND INSTITUTIONAL FRAMEWORK

### 6.1 RELEVANT NATIONAL LEGISLATIVE FRAMEWORK

The section sets out the legal framework, the fit between the laws and regulations of Kenya and World Bank policy requirements, and proposed measures to bridge the gaps between them. The detailed procedures for land acquisition are elaborated under the “Land acquisition Act” in chapter 295 for private land. As most of the project areas are community land the next section will dwell on its salient features.

### 6.2 COMMUNITY LAND ACT 2016

Most or all the project intervention areas fall within the classification of community land. Community land is governed by the Community Land Act, No. 27 of 2016 (the Act). This act came into force on 21 September 2016.

The Act aims at:

- Giving effect to Article 63 of the Constitution of Kenya, 2010 (the Constitution) which provides for a classification of land known as community land. To this end, the Constitution provides that community land shall vest in and be held by communities.
- Providing for, first, the recognition, protection and registration of community land rights. Second, the management and administration of community land. Third, the role of county governments in relation to unregistered community land and related matters.

The Act repeals the Land (Group Representatives) Act (Chapter 287 of the Laws of Kenya) and the Trust Lands Act (Chapter 288 of the Laws of Kenya).

#### 6.2.1 *Salient features*

##### ➤ *Ownership*

Community land in Kenya shall vest in the Community. In this respect, the term “Community” has been defined to mean a consciously distinct and organised group of users of community land who are citizens of Kenya and share any of the following attributes: common ancestry, similar culture or unique mode of livelihood; socioeconomic or other similar common interest; geographical space; ecological space; or ethnicity.

The Act requires a community claiming an interest in or right over community land to be registered.

##### ➤ *Tenure systems and classes of holding of community land*

Community land may be held under any of the following land tenure systems:

- customary
- freehold
- leasehold, and such other tenure system recognised under the Act or other written law.

Further, community land may be held as communal land, family or clan land, reserve land, or in any other category of land recognised under the Act or any other written law.

##### ➤ *Registration of community land rights*

The Act requires community land rights to be registered in accordance with its provisions and the provisions of the Land Registration Act, 2012. In this respect, a Certificate of Title

issued by the Community Land Registrar shall be evidence of ownership of the land. This Certificate of Title shall not be subject to challenge, except on grounds of fraud or misrepresentation to which the person is proved to be a party or where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme. The registration of a community as the proprietor of land shall vest in that community the absolute ownership of that land, while, the registration of a community as the proprietor of a lease shall vest in that community the leasehold interest described in the lease, together with and subject to all implied and express rights and privileges.

➤ *Community land registrar and register*

The Chief Land Registrar is required to designate a qualified registrar to be the Community Land Registrar responsible for registration of community land.

The Act also requires the maintenance for each registration unit, a community land register in accordance with section 8 of the Land Registration Act, 2012.

➤ *Customary land rights*

The Act recognises customary land rights including the customary right of occupancy and provides for their adjudication and documentation. The Act also gives customary land rights equal footing in law as freehold and leasehold tenure. In this regard, the term “customary land rights” is defined to mean rights conferred by or derived from African customary law, customs or practices provided that such rights are not inconsistent with the Constitution or any written law.

Subject to the transition and saving provisions under the Act, any person who immediately before 21 September 2016 had a subsisting customary right to hold or occupy land shall upon commencement of this Act continue to hold such right.

➤ *Compulsory acquisition*

The Act limits the compulsory acquisition by the State of any interest in, or right over community land only in the instance where the compulsory acquisition is, first, in accordance with the law. Second, for a public purpose. Third, upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement.

➤ *Role of County Government in respect of community land*

The main role of the County Government under the Act is to hold in trust on behalf of a community unregistered community land and any monies payable as compensation for compulsory acquisition of any such unregistered community land. Any such monies shall be deposited in a special interest earning account by the County Government and shall be released to the community upon registration of the community land.

A County Government is prohibited from selling, disposing, transferring, and converting for private purposes or in any other way disposing of any unregistered community land that it is holding in trust on behalf of a community.

➤ *Community Land Management Committee*

The Act establishes a Community Land Management Committee which shall be elected by a community assembly consisting of all adult members of the community. The functions of the Community Land Management Committee shall be to:

- have responsibility over the running of the day to day functions of the community

- manage and administer registered community land on behalf of the respective community;
- coordinate the development of community land use plans in collaboration with the relevant authorities;
- promote the co-operation and participation among community members in dealing with matters pertaining to the respective registered community land, and
- prescribe rules and regulations, to be ratified by the community assembly, to govern the operations of the community.

➤ *Conversion of Community Land*

Community land can be converted to either public land or private land and vice versa. The Act provides that at least two-thirds of the community members must approve any conversion of community land. This does not however limit the application of the Land Act, 2012 and any other law in respect of compulsory acquisition of land.

➤ *Special Rights and entitlements in community land*

A community may, with the approval of its members, allocate land to a member or a group of members for exclusive use and occupation for such a time as the community will determine. However, an individual entitlement shall not be superior to the community title and a separate title shall not be issued.

Further, a pastoral community may grant grazing rights to a non-member of a community.

➤ *Benefit sharing*

An agreement relating to investment in community land should be free, open and a result of a consultative process which should involve among other things stakeholder consultations and involvement of the community. The agreement should provide for the payment of compensation and royalties, capacity building of the community and transfer technology to the community.

➤ *Dispute resolution mechanisms*

A registered community may use alternative dispute resolution mechanisms including traditional dispute resolution mechanisms to settle disputes. However, where all efforts of resolving a dispute fail, a party may institute judicial proceedings.

➤ *Group representatives who held land under the Land (Group Representatives) Act*

The group representatives who held land under the Land (Group Representatives) Act together with the communities they represent are to be registered as a community under the Act. Land held under by group representatives in this respect may not be sold, leased or converted unless it has been registered under the Community Land Act.

Other legislation concerning resettlement is described in Table 6.

**Table 6: Kenya legislation on Resettlement**

<b>Legal Framework</b>	<b>Functional relationship to Resettlement</b>
The Land Acquisition Act Chapter 295 Laws of Kenya	Provides for the acquisition of land for public benefit. The government has powers under the act to acquire land for projects, which are intended to benefit the general public. The sub-projects requiring resettlement are under the provision of this Act.
The Registration Land Act Chapter 300Laws of Kenya	Provides for the absolute proprietorship over land (exclusive rights). Such lands can be acquired by the state under the Land

	Acquisition Act in the project area.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Registered Land Act.
Physical Planning Act No. 6 of 1996	Section 2 of the Act requires that all land intended for any development requires a planning and development permission. Section 36 of the Act also requires that development projects, which have substantial alteration of state of land, must be subjected to an EIA.
The Local Government Act Chapter 265 Laws of Kenya	Provides to making by-laws and institutions by the Councils. By-laws can be made on the governance of a project under the provisions of this Act.
The Traffic Act Chapter 403 Laws of Kenya	The Act also prohibits encroachment on and damage to roads including land reserved for roads by and project or any human settlement or by an exercise of resettlement. The project is under the provision of the Act.
The wayleaves Act Chapter 292 Laws of Kenya	Provides for certain undertaking to be constructed e.g. pipelines, canals, pathways etc, through or under any land or settlement. The project is under the provision of the Act.
The Water Act Chapter 372 Laws of Kenya	The Act vest the water in the state and gives the provisions for the water management, including irrigation water, pollution, drainage, flood control, and abstraction. It is the main legislation governing the use of water especially through water permit system where special provision of water may be made for settlement or resettlement.
The Lakes and River Act Chapter 409 Laws of Kenya	This Act provide for the protection of river, lakes and associated flora and fauna. The provision of this Act may be applied, in the management of the resettlement zones in this project.
The Wildlife Conservation and Management Act, Cap 376	This Act provide for the protection, conservation and management of wildlife in Kenya. The provision of this Act should be applied in the management of the project.
The Public Health Act Laws of Kenya	Provides for the securing of public health and recognizes the importance of water. It provides for prevention of water pollution by any development activity including resettlement by stakeholders.
The Refugees Act section 16 (2) of the Refugees Act, 2006  Designation of Areas as Refugee Camps	(2) The Minister may, by notice in the Gazette, in consultation with the host community, designate places and areas in Kenya to be—  1. (a) transit centres for the purposes of temporarily accommodating persons who have applied for recognition as refugees or members of the refugees' families while their applications for refugee status are being processed; or 2. (b) refugee camps.  (3) The designated areas provided for in subsection (2) shall be maintained and managed in an environmentally sound manner.

### 6.3 COMPARISON BETWEEN WB OP4.12 AND KENYA LEGAL REQUIREMENTS

The laws of Kenya only provide compensation for land that is legally owned by PAPs and no compensation to encroachers for the same. The World Bank OP4.12 provides for compensation for land to both legal owners and persons deriving livelihoods from use of such land. OP4.12 states that where there is a conflict between the Bank and government

frameworks, those of the Bank shall take precedence. A further comparison between the Laws of Kenya and the World Bank OP 4.12 are contained in Table 7 below.

**Table 7: Comparison between Kenyan Law and World Bank 4.12 - regarding Compensation**

Category of PAPs/Type of Lost Assets	Kenyan Law	World Bank OP 4.12
Land Owners	Cash compensation based upon market value. Under statute. Land for Land under Customary Law.	Recommend land-for-land compensation. Other compensation is at replacement cost.
Land Tenants	Entitled to compensation based upon the amount of rights they hold upon land under relevant laws.	Are entitled to some form of compensation whatever the legal recognition of their occupancy.
Land Users	In some cases land users have some form of secure tenure extended to them under law regarding easement rights where if a person uses land for 7 consecutive years without a dispute entitles him to a right equivalent to ownership. In other cases land users not entitled to compensation for land, entitled to compensation for crops and other economic assets.	Entitled to compensation for crops, may be entitle to replacement land and income must be restored to pre-project level at least.
Owners of " Non-permanent " Buildings	Cash compensation based on market value or entitled to new housing on authorized land under government (state or local) housing programs	Entitled to in-kind compensation or cash compensation at full replacement cost including the labor and relocation expense, prior to displacement
Owners of "Permanent" buildings	Cash compensation is based on market value	Entitled to in kind compensation or cash compensation at full replacement cost without depreciation including labor and relocation expense, prior to displacement
Perennial Crops	Cash compensation based upon market rates calculated as an average net market income	As per section 7.7 of this RPF once approved by the Bank and disclosed in Kenya and at the Bank info shop

From the point of view of the process of land acquisition and compensation aforementioned, it is possible that the procedures described are likely to be significantly more time consuming and onerous than would be practicable in the event that resettlement issues arise in a significant number of Sub-projects. It will therefore be necessary to streamline the compensation review process under Kenyan law to ensure that approved timelines are consistent with those required by the Bank for timely Sub-project approval and implementation. The PCU will develop and agree (with the Office of the President) a valuation and compensation procedure that allows the delegation of authority and decision making to the local (or county) level in the case of Sub-projects that have minimal resettlement impact.

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## 7 COMPENSATION FOR LAND AND OTHER ASSETS

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Although not envisaged, if applicable during the course of the project for small-scale asset valuations may be necessary, a valuation expert should be contracted by KDRDIP at the project outset to develop a standardized procedure for asset valuation, which can then be applied by a project representative at the community, ward and/or county level. This standardized procedure would include a series of 'look-up' tables for estimating asset value by type according to the approximate size and condition of the existing asset. The tables would necessarily be developed using legally acceptable valuation procedures accepted by both the Government of Kenya and World Bank for purposes of fairness and consistency. The approach will consider replacement costs and types and levels of compensation under the Kenya law, and valuation of lost assets will be made at their replacement cost. The calculation methods to be adopted for the different types of assets are discussed below.

### 7.1 COMPENSATION FOR LIVESTOCK/WILDLIFE

Compensation will be ideal from two point of views: the market value of the category of animal by age and region; and two the valuation guidelines normally advised by the Ministry of Agriculture Livestock and Fisheries; or in case of game by the Kenya Wildlife Services (KWS).

### 7.2 COMPENSATION FOR BUILDINGS AND STRUCTURES

The project should avoid land with structures.

### 7.3 COMPENSATION FOR COMMUNITY ASSETS

Compensation will be provided for community assets identified through the socio-economic survey. In all cases, these will be provided in-kind and new facilities will be provided for even if there are existing facilities at the new location.

#### 7.3.1 *Compensation for Sacred Sites*

Turkana West may have sacred sites especially around Kakuma. This policy does not permit the use of land that is defined to be cultural property by the Bank's Safeguards OP 4.11. Sacred sites include but not restricted only to; altars, initiation centres, ritual sites, tombs and cemeteries. It includes other such sites or places/features that are accepted by county laws (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/county governments' the use of sacred sites for any project activity is not permitted under this project.

#### 7.3.2 *Compensation for Beehives*

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



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

Sections of the intervention areas where water is available is suitable for growing of fruits. Where fruits exist on affected land e.g. Water melons, which is one of the common fruit trees in the project areas; the agriculture valuation method must be adopted. This goes for all other tree based crops including other trees of nutritional, medicinal and other significant economic value. Given their significance to the local subsistence economy, which this project intends to positively impact, fruit trees will be compensated on a combined replacement/market value. Fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labour invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they formally lived and, in some cases, to continue to harvest fruit from those trees for subsistence purposes and/or sale to traders. If a household/individual chooses to transfer ownership of the trees, transfer costs will be paid in addition to labour costs. The compensation rate will be based on information obtained from the socio-economic information.

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## 8 INSTITUTIONAL FRAMEWORK, & IMPLEMENTATION SCHEDULE AND COSTS

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### 8.1 PROJECT LAUNCH

Before Sub-project launch, an assessment of the social impacts of each Sub-project should be conducted as part of ESIA. Issues to be addressed by ESIA will include: demography, land tenure and socio-economic structures (for larger Sub-projects involving more than 100 households, as needed); and consultations with county governments and with the PAPs (for all Sub-projects). A key task to be conducted under this process is a household survey describing the extent of the social impacts. At this stage, all PAPs will be listed in order to avoid an influx of people trying to take advantage of the compensation and rehabilitation. A cut-off date is proclaimed. That means, a date from which eligibility for compensation will be terminated. New inhabitants coming to the project affected areas will not be considered for compensation. The principles of compensation/rehabilitation will be triggered wherever there will be land acquisition and adverse social impacts.

### 8.2 IMPLEMENTATION SCHEDULE

If deemed necessary environmental and social impact assessments will be conducted parallel with the design of the sub-projects, and will determine the number of PAPs and to assess demand of needs of the displaced persons. The needs are such as housing, water, health facilities and sanitation. Target dates for achievement of expected benefits to resettled persons and hosts are to be set.

Disseminating various forms of assistance to PAPs will be done. Planning and coordination of the tasks of the various actors is key to successful implementation. To achieve this goal, workshops will be organized with the stakeholders and other relevant government agencies, at project launch and at the commencement of every Sub-project identified to have adverse social impacts.

The stakeholders will be requested to participate in the decision making process and provide inputs in the area of their expertise in order to establish a coherent work plan or schedule. PAPs will also be consulted with the aim of obtaining their positions on issues at stake. The requirements of their work/programs/business activities will be incorporated in the expropriation/compensatory plans.

Consultative workshops will focus on: taking stock of the legal framework for compensation; settling institutional arrangements and mechanisms for payment of compensation; defining tasks and responsibilities of each stakeholder; and establishing a work plan.

A monthly implementation schedule of activities is to be undertaken and will be a topic of discussion at the next workshop. This way, they will be able to feed back on the implementation process, any curative measures or improvements. The project staff /county governments/government team will conduct this under the leadership of a resettlement expert.

Where applicable compensation should be completed before displacement impact occurs.

### 8.3 RPF IMPLEMENTATION BUDGET

Resettlement activities in Kenya can be financed through a number of arrangements, namely: government budget; loans borrowed from the domestic market by governments; loans borrowed from development partners; and grants. In the case of the KDRDIP project, the resettlement budget will be financed by the Government of Kenya. The overall cost of the KDRDIP Project is an estimated US\$100 million and does not include resettlement.

At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs/details have not yet been developed and land needs have not yet been identified. When these locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, thus facilitating the preparation of a detailed and accurate budgets for each RAP. Each RAP will include a detailed budget; Table 8 provides a sample template for budgeting.

*Table 8: Sample Template Budget for a RAP*

	Amount or number	Total estimated cost	Agency responsible
<b>Asset acquisition</b>			
Land			
Structure			
Crops and economic trees			
Infrastructure			
<b>Land Acquisition and preparation</b>			
Land			
Structures			
Crops and other			
Community Infrastructure			
<b>Relocation</b>			
Transfer of possessions			
Installation costs			
<b>Economic rehabilitation</b>			
Training			
Capital Investment			
Technical Assistance			
<b>Monitoring</b>			
<b>Contingencies</b>			
<b>TOTAL</b>			

At this stage, all that can be reasonably and meaning fully prepared is an indicative budget, highlighting key features that the budget must contain. This is shown in the Table 9:

*Table 9: Illustrative Budget for RAP*

Item	Estimated Cost KES	Comments
Stakeholders trainings/ consultation forums on	500,000	assuming a 5 year program with one workshop at KES 100,000 every year

RPF		
Monitoring and evaluation studies on the implementation of RAPs under KDRDIP	500,000	To ensure compliance to the principles of RPF, it is expected that the PMU will recruit consultants to carry out independent studies assessing compliance of the implemented RPLRP RAPs with RPF principles.
Evaluation of Livelihood empowerment programs under KDRDIP	1,000,000	As part of economic rehabilitation, PMU will assess effectiveness of economic rehabilitation of RAPs under KDRDIP to ensure lesson learning and improvement
KDRDIP RAP training manual	500,000	A consultant will be recruited to prepare a RAP training manual for easier implementation of the KDRDIP RAPs
Annual RPF audit	800,000	In view of the dynamism of the on-going reforms, the KDRDIP/PMU shall organize at least one annual audit meeting for RPF Audit and with NLC/Ministry of Lands to review the compulsory acquisition procedures in line with lessons learnt and the new regulation for the community land act.

## 8.4 IMPLEMENTATION ARRANGEMENTS

### 8.4.1 Introduction

A County Integrated Project Management Unit (CIPMU) is proposed which will be headed by a dedicated coordinator and will have representation from county and national governments, CSOs, representatives of beneficiary groups, and key UN partners with strong on the ground presence such as UNHCR, UNICEF and WFP. The CIPMU will ensure effective coordination of project activities with other operations supported by the World Bank and other development partners with the County Integrated Development Plan. It will also approve and monitor community sub projects following established protocols and develop consolidated county work plans, budgets, request funds releases, and track implementation and results as well as expenditure. The CIPMU will also monitor compliance with social and environmental safeguards.

At the national level, it is proposed that an inter-ministerial department headed by a Principal Administrative Secretary supported by representatives from concerned line-ministries and consultants will be established at the Executive Office of the President to provide broad oversight and promote coordination for all operations under the NEDI. National Inter-Ministerial Department (NID) will prepare consolidated annual work plans and budgets based on inputs received from the 3 participating CIPMUs and recommend release of funds to counties. This NID will also prepare relevant project manuals and reporting formats which will be agreed during project appraisal and provide oversight for social and environmental safeguards. Finally, it will be responsible for coordinating with the World Bank and other key stakeholders and provide timely updates on project performance, funds utilization and audits.

A joint project steering committee headed by Chief of Staff, Executive Office of the President or his nominee is proposed for providing strategic oversight. This committee will have membership from county governments, line ministries, the National Treasury at a senior most level, Civil Society, and UNHCR. The project steering committee will approve annual work plans and budgets and ensure effective coordination between counties and different line-departments of the national government.

#### **8.4.2 *Community Compensation Payments***

It is very unlikely that sub-projects will take land occupied by physical structures, including community facilities. However, if this situation arises, community compensation will be in-kind only for a community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent or better standard as required by local planning regulation. Examples of community compensation include:

- i) School Building (public or religious);
- ii) Public Toilets;
- iii) Well or Pump;
- iv) Market Place;
- v) Road;
- vi) Storage/ warehouse.

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## 9 PROCESS FOR SCREENING, PREPARING AND APPROVING RAPS

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### 9.1 SCREENING FOR INVOLUNTARY RESETTLEMENT

Sub-project screening is used to identify the types and nature of potential impacts related to the activities proposed under the Project and to provide adequate measures to address the impacts. Screening for resettlement issues shall be part of the environmental and social screening, as is detailed in the ESMF. Measures to address resettlement shall ensure that PAPs are:

1. Informed about their options and rights pertaining to resettlement;
2. Included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives;
3. Provided prompt and effective compensation at full replacement cost for; and
4. Losses of assets and access attributable to the Sub-project(s)

Sub-project screening will be incorporated into the Sub-project application form which the County must submit as part of their county development plan. The goal is to identify and consider resettlement issues as early as possible.

On the basis of the screening, the County Chief officer<sup>1</sup> for the specific intervention sector will propose which of the following options should be put in place: (a) an option assessment of alternative project designs with a view to avoid and/or reduce displacement risks; (b) the elaboration of an open minded option assessment as vulnerable and marginalized groups might be affected and if avoidance is not feasible an vulnerable and marginalized groups plan (this decision will need to be co-signed by the vulnerable and marginalized groups screening structure); (c) and (c) the elaboration of a resettlement action plan to address all other resettlement risks (see draft ToRs in Annex 1).

For projects not anticipated to result in displacement, and where loss of assets are anticipated to be *negligible*, then this information shall also be indicated in the Sub-project application form along with a request to waive the requirement for a RAP.

#### 9.1.1 *Screening Checklist*

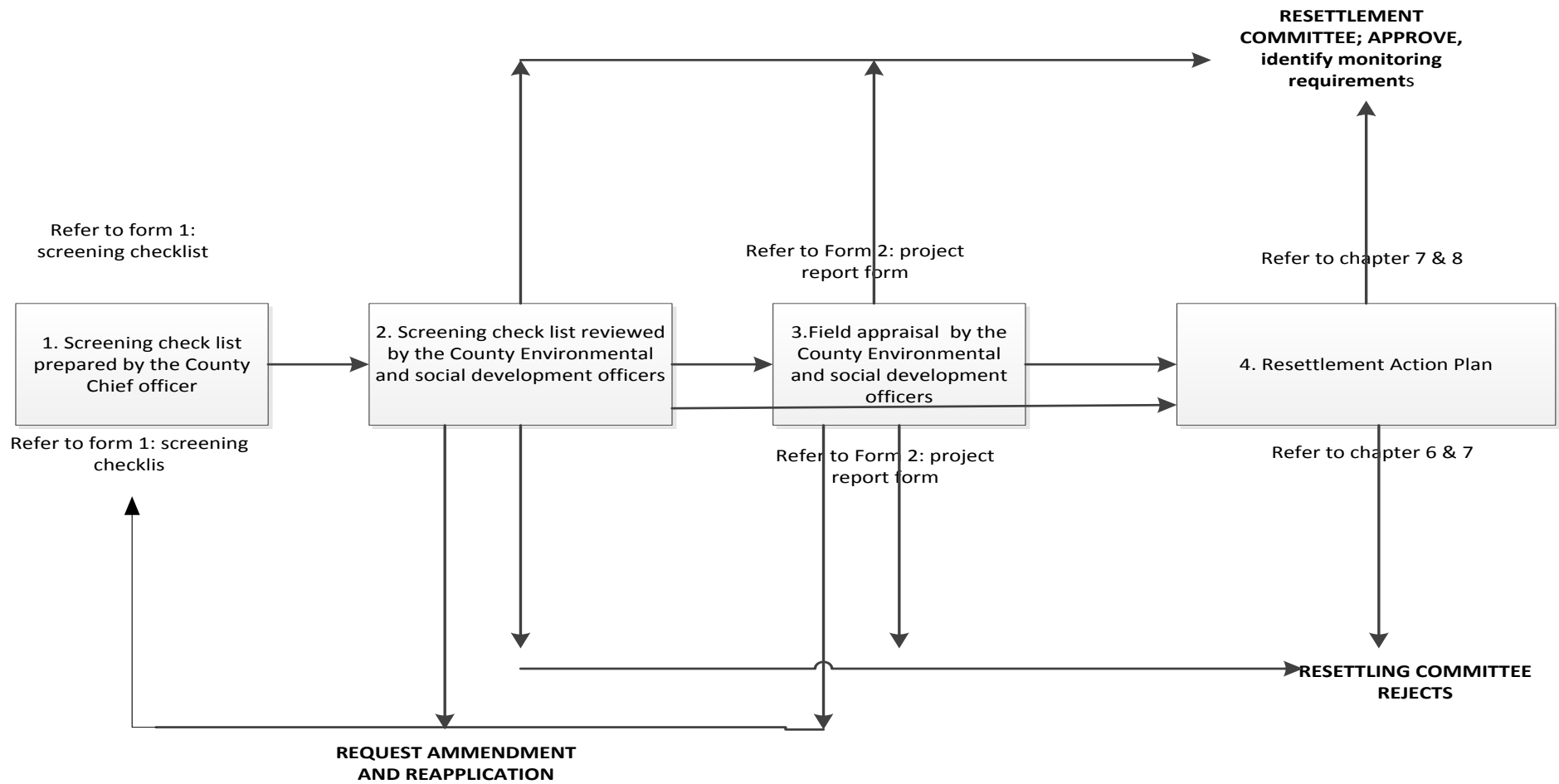
The screening checklist form is shown in Annex 2, and will be incorporated into the Project's Implementation Manual/project operational manual. The screening checklist will be completed by a County Chief officer and submitted to the Resettlement Committee for a decision. In case that vulnerable and marginalized groups might be affected, the IPPF provides an additional recommendation whether the justification for a physical and/or economic resettlement and/or whether the proposed option is shared by the affected vulnerable and marginalized groups.

#### 9.1.2 *Screening Review Form*

The screening form will then need to be reviewed by the County Steering Committee and cleared by the Resettlement Committee. The Resettlement Committee will advise whether an additional option assessment should be carried out with a view to avoid or reduce the physical or economic displacement or whether the argument of the Sub-project proposal is providing sufficient evidence for the proposed decision. The checklist review form,

<sup>1</sup>Respective Chief officers

presented in Annex 2, prompts the reviewer to verify the information provided, and confirm the best course of action.



**Figure 1:** Decision Tree for Sub-project Preparation and Approval-

**Source:** Adopted from NRM Project



## 9.2 SUB-PROJECT DESIGN

If the screening indicates that an individual Sub-project requires in its present layout the physical or economic resettlement, the project, which might want to finance this Sub-project, will advise on the relevant structures to consider feasible alternative Sub-project designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social, financial and costs/benefits.

## 9.3 BASELINE AND SOCIO-ECONOMIC DATA

An important aspect of preparing a RAP is to establish appropriate socio-economic baseline data to identify the persons who will be displaced by the individual Sub-project, to determine who will be eligible for compensation and assistance, and to discourage inflow of people who are ineligible for these benefits. The PAPs may be classified into three groups:

- a. Those who have formal legal rights to the land they occupy;
- b. Those who do not have formal legal rights to land, but have a claim to land that is recognized or recognizable under the national laws including those measures put in place by the draft land policy; or
- c. Those who have no recognizable legal right or claim to the land they occupy.

In summary, the census consolidates information that 1) provides initial information on the scale of resettlement to be undertaken; 2) gives an indication of further socio-economic research needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and 3) establishes indicators that can/be measured at a later date during monitoring and evaluation. An illustrative example of a census survey form is provided in Annex 3. Baseline data for Sub-project RAPs will include: number of persons; number, type, and area of the houses to be affected; number, category and area of residential plots and agricultural land to be affected; and productive assets to be affected as a percentage of total productive assets.

## 9.4 PREPARATION OF A SUB-PROJECT RAP/ARAP

A RAP or ARAP shall be prepared by the County Coordination Unit, preferably with the support of technical service providers or mobile extension teams, for Sub-projects that have been determined to result in potential involuntary resettlement and/or land acquisition. When a RAP or ARAP is required, the CCU shall submit completed studies along with their RAP's Sub-project application to the Resettlement Committee for appraisal, and subsequently to the implementing agency and World Bank. Detailed guidelines for preparing a RAP and an abbreviated RAP are available on the World Bank's website ([www.worldbank.org](http://www.worldbank.org)) and in the World Bank's Resettlement and Rehabilitation Guidebook. The basic elements of a RAP (in the case where an RPF is in place) are provided in Table 10.

*Table 10: Contents of a RAP and ARAP (OP 4.12)*

### RAP

- Description of activity and its potential impact
- Census survey
- Methodology for valuation
- Particular aspects of the legal framework for land acquisition and compensation,

as applied to the sub-project;

- Particular aspects of the compensation framework as applied to the sub-project;
- Description of resettlement assistance and restoration of livelihood activities;
- Detailed budget;
- Implementation schedule;
- Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
- Details of public consultations, participation, and planning for the sub-projects;
- Particular aspects of the description of provisions for redress of grievances, as applied to the sub-project; and
- Particular aspects of framework for monitoring, evaluation, and reporting, as applied to the sub-project.

An abbreviated plan covers the following minimum elements:

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

## 9.5 REVIEW OF SUB-PROJECT RAPS/ARAPs

Sub-projects proposed by the County will be reviewed and recommended by the Resettlement Committee. In this process, RC will review eligibility for Sub-projects based on field appraisals, which includes results of the environmental and social screening used and consequently, approval by the County Project Steering Committee (CPSC).

The RAP/ARAP will be submitted once completed to the county technical team/Resettlement committee for screening and approval in compliance with the project institutional administrative arrangements. It is anticipated that Counties will not have the institutional capacity to prepare RAPs/ARAPs or studies during the start of the program and thus will be assisted and supported by NPCU. The identified service providers/stakeholders will be capacity build on RAP/ARAP development to be able to assist the counties in developing and implementing the RPF. The Ministry of Lands, National Land Commission and the County Land Boards will be trained on the environmental and social safeguards policies and good practices as well as be supported to strengthen and/or set up systems for monitoring and implementation of the same. Capacity building for the safeguards systems will also be supported under the Kenya Devolution Trust Fund managed by the World Bank. This will ensure there is a trained cadre of staff at the County level with knowledge about environmental and social safeguards and systems in place.

### 9.5.1 *Strategy to handle conflicts*

As the screening process is carried out by the beneficiaries, they will establish an independent grievance mechanism, guided by the County Steering Groups, to inform all PAPs about the project and receive and address specific concerns about compensation and

relocation that are raised by displaced persons or members of host communities, including a recourse mechanism designed to resolve disputes in an impartial manner.

### **9.5.2 Compensation and Benefits for Displaced Persons**

The Implementation Agencies will oversee the implementation of resettlement activities and ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. When displacement cannot be avoided, the project, which wants to finance the individual Sub-project, will offer displaced persons and communities' compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living or livelihoods. Where livelihoods of displaced persons are land-based, or where land is collectively owned, the projects will offer land-based compensation. The project will further provide opportunities to displaced persons and communities to derive appropriate development benefits from the project.

### **9.5.3 Loss of Property**

This includes loss of: houses, crops and trees, structures, fixed improvements, businesses which should be compensated at market valuation, negotiated settlements, productivity valuation, material and labor valuation. In cases where the loss is partial then disposition of salvage material will be exercised. Cash payments may also be made if a small fraction of property is lost instead of replacing the whole property, but if the partial loss results in the PAPs not being economically viable then the property is replaced. Those who lose houses will also be assisted with temporary residence (if necessary).

### **9.5.4 Loss of Wages and Income**

These are persons who will lose their income due to the project. Workers losing employment in the process of relocation should be entitled to transitional income support. Compensation equivalent to lost income required for the duration of impact should be paid to the latter. In addition, PAPs will be entitled to transitional assistance, which include moving expenses, temporary residence (if necessary), and employment in the project while waiting employment. In difficult cases, local authorities such as chiefs may be used to judge eligibility as well as village committees.

### **9.5.5 Cut-Off Date**

Cut-off dates are essential in the process of drawing up lists to ensure that ineligible persons do not take the opportunity to claim eligibility. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land thereby posing a major risk to the sub-project. The cut-off date for this project shall be determined by the Resettlement Committee, as appropriate, making anyone who makes a claim for loss of land or any assets after such a date ineligible for expropriation/ compensation.

The entitlement cut-off date refers to the time when the assessment of persons and their property in the identified project areas are carried out, i.e. the time when the sub-project owners/implementers have identified the land sites they would need and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered. Unfinished structures would be identified and secured, and unused materials for individuals' constructions will be gathered at the site so that the cut-off survey can estimate PAPs' investment which should be compensated for in lieu of expenses (including

labour) incurred until the cut-off date. Because the time period between the cut-off date and the time that actual productive investments (civil works, etc.) would start, (e.g. likely to be anytime period from six months on), special attention needs to be taken to secure the sites from rush and opportunistic invasion.

These measures could include close consultation with the recognized PAPs, signs that inform general public of intended use of site, security patrols to identify opportunistic invaders etc. Further patrols and monitoring of any violation of the cut-off date could be carried out by local administrations such as the office of the Chief and be reported to the County resettlement committee. This could also be done both by the local PAPs representatives or the local community. The cut-off date is to be chosen in close consultation with the County governments responsible for land administration, and local leaders and the sub project owners/implementers. This should occur as soon as possible after the affected land is identified.

This process must be in full compliance with the conflict resolution mechanisms in this RPF and this date must be communicated effectively to the potential PAPs and surrounding local communities. The local community and community leaders will play a crucial role in identifying users of land.

#### **9.5.6 Consultation**

Following disclosure of all relevant information through the project's communication channels and the independent grievance mechanisms; the project will provide for, RAPs, consult and facilitate the informed participation of affected persons and communities, including host communities, in decision making processes related to the resettlement. The MCAs will ensure that consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to ensure that the living conditions of the PAPs are enhanced or at least restored.

#### **9.6 APPROVAL OF RESETTLEMENT ACTION PLANS/ARAPS**

After clearance from the Resettlement Committee, the compensation, resettlement and rehabilitation activities of the RAP/ARAP will be satisfactorily completed and verified by the communities before funds can be disbursed for civil works under the Sub-project. The EMPs and RAPs/ARAPs developed for Sub-projects will also be reviewed by the Implementation Agencies and the World Bank. For quality assurance, it is required that RAPs/ARAP prepared for Sub-projects be submitted to the World Bank for review to ensure that they are produced in line with the OP 4.12. Gaps in quality shall be addressed through training at the county level for relevant service providers and reviewers, funded by the project as part of the budget for capacity building. Subsequent RAPs/ARAPs prepared throughout the rest of the project can then be reviewed by the Land Commissioners, with an annual independent review process led by the NPCU.

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## 10 MECHANISM FOR CONSULTATIONS AND PARTICIPATION OF DISPLACED PERSONS IN PLANNING, IMPLEMENTATION AND MONITORING

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### 10.1 DATA COLLECTION, ANALYSIS AND INTERPRETATION

#### 10.1.1 *Preparation and planning*

The IA will ensure inclusivity of all targeted PAPs at all levels of the study. The PAPs will be consulted through meetings at county governments' halls and other county facilities to provide preliminary accurate data. Information about the project, will be shared in a local language that they understand. PAPs will be given a platform to ask questions about the project, identify social impacts of project operations, and suggest mitigation measures and alternatives to be considered in the design. The contribution of the PAPs will be integrated into the Sub-projects implementation process, from planning to evaluation. Furthermore, data about socio-impacts of the Sub-projects and the mitigation measures suggested will be provided to local newspapers and local radio stations and other media. The data collected will serve as instruments for the monitoring of the social mitigation measures.

#### 10.1.2 *Implementation Phase*

During implementation, the PAPs will need to be informed about their rights and options, at which point they will have their say and discuss matters that need clarification. Where applicable Cash compensation amount and size of land offered for compensation will be presented to each eligible PAP for consideration and endorsement before cash payment or land compensation can be effected. The CPSC will set up grievance redress mechanisms.

#### 10.1.3 *Monitoring and Evaluation Phase*

The PAPs representatives will participate in the project completion workshops (annual, mid-term and end term), to give their evaluation of the impacts of the project. They will also suggest corrective measures, which will be used to improve implementation of other Sub-projects. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as a monitoring and evaluation exercise.

### 10.2 GRIEVANCES REDRESS MECHANISMS

Grievances may arise from members of communities who are dissatisfied with: (a) the eligibility criteria, (b) community planning measures, (c) approval of CDPs and allocation of funds or (d) actual implementation.

This section sets out the measures to be used to manage grievances. The overall process of grievance handling is as follows:

- a) Compensation committees including representatives of PAPs will establish the compensation rates.
- b) During the initial stages of the valuation process, the affected persons are given copies of grievance procedures as a guide on how to handle the grievances/sensitization of PAPs.
- c) The process of grievance redress will start with registration of the grievances to be addressed for reference, and to enable progress updates of the cases. An example of a grievance redress form is provided in Annex 5.
- d) The project will use a local mechanism, which includes peers and local leaders of the affected people. These will ensure equity across cases; they eliminate nuisance claims and satisfy legitimate claimants at low cost.

- e) The response time will depend on the issue to be addressed but should not exceed 10 business days. Compensation will be paid to individual PAPs only after a written consent of the PAPs is received, including both husband, wife and children.
- f) Should a PAP decline the compensation suggested, he/she could appeal to the County Project Steering Committee and local Land Control Board.
- g) A Compensation Committee (CC) and local Land Control Board at the local level will first revise his/her case.
- h) Then the CC will draft its inclusions and submit them to the implementing agencies (IAs) for deliberation in the aim of settling the differences.
- i) And when these have failed the individual PAP has the right to take his case to the civil courts for litigation.

In order to deal with the grievance that may rise during the implementation of the RAP, there is need to incorporate a grievance redress process with IAs and with PAPs representatives committee to hear the complaints and provide solutions, and reduce unnecessary litigation by resolving disputes through mediations.

It is recommended where applicable amicable dispute settlement through the traditional system where elders play key role is given priority because the procedures will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions. However, this does not mean replacing existing legal processes.

### 10.3 GRIEVANCE REDRESS PROCESS

At the time the individual resettlement plans are approved and individual compensation contracts are signed, affected individuals and homesteads would have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple, administered as far as possible at the local levels to facilitate access, flexibility and open to scrutiny.

The Resettlement Committee being a party to the contract would not be the best office to receive, handle and rule on disputes. Therefore, taking these concerns into account, all grievances concerning non-fulfilment of contracts, levels of compensation, or seizure of assets without compensation should be addressed to the County Lands Officer, assisted by the local Land Control Board.

If the verdict rendered by the chief is not acceptable to either the individual affected nor the management committee, then the parties in their compensation contract would have agreed that the matter would be appealed to a Court of Law as provided for by law. Notwithstanding that the grievance redress mechanism accepts that the compensation and resettlement plans will be (contracts) binding under the laws of Kenya.

The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the Courts which would otherwise take a considerably longer time.

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 s/he has about the method or value of the assets or proposed measures are satisfactorily resolved.

All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by notifying their area chief. The chief will inform and consult with the Resettlement Committee, the IA, the local Land Control Board, PAP and other records to determine a claim's validity. If valid, the chief will notify the complainant and s/he will be settled. If the complainants claim is rejected, then the matter will be brought before the County Land Registrar and local Land Control Board. If the PAP is dissatisfied with their decision, then s/he will be free to seek the determination by a Court of Law as provided in the Constitution. The decision of the High Court would be final and all such decisions must be reached within a full growing season after the complaint is lodged.

If a complaint pattern emerges, the Involuntary Resettlement Associations (IAs), the county Land Control Board and the local Chief/ward administrator will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. The IA and the county Land Control Board will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

## 11 MONITORING AND EVALUATION

### 11.1 ARRANGEMENTS FOR MONITORING AND EVALUATION

This section sets out requirements for the monitoring of the implementation of the RPF. In addition, monitoring of social indicators will be mainstreamed into the overall monitoring and evaluation system for both levels of project implementation (sub-projects and project). The arrangements for monitoring will anchor on the overall monitoring plan of the entire KDRDIP, which will be through the IA (executive office of the president department of northern Kenya development). All RAPs will set the following major socio-economic goals by which to evaluate their success:

- a. Affected individuals, households, and communities able to maintain their pre-project standard of living, and even improve on it; and
- b. Local communities remaining supportive to the project.
- c. Absence or prevalence of conflicts.

In order to assess whether these goals are met, RAPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

- 1) The IAs will institute an administrative reporting system that:
  - a. Provides timely information about all resettlement grievances arising as a result of KDRDIP project activities for action;
  - b. Identifies any grievances in relation to resettlement that have not been resolved at a County level and require resolution through the involvement of the IA;
  - c. Documents the timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses;
  - d. Evaluates 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.
  - e. Feedback system to the PAP process and other stakeholders consistent with the Environmental and Social Management Framework, the Sub-Project Committees and county coordinating teams will be responsible for periodically transferring the information compiled "on the ground" to the IA, so that it is alerted in a timely manner to any difficulties arising at the County level.

### 11.2 MONITORING OF RPF IMPLEMENTATION

County Coordinating Unit will compile basic information on all physical or economic displacement arising from the KDRDIP, and convey this information to the IA, on a quarterly basis. They will compile the following statistics:

- a. No. of Sub-projects requiring preparation of a RAP;
- b. No. of households, and number of individuals (women, men and children) physically or economically displaced by each macro-project;
- c. Length of time from sub-project identification to payment of compensation to PAPs;
- d. Timing of compensation in relation to commencement of physical works;
- e. Amounts of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);



- f. No. of people raising grievances in relation to each macro-project;
- g. No. of unresolved grievances.

2) The Project Safeguards Officer will scrutinize these statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. They will alert the KDRDIP coordinators, and the IA, if there appears to be any discrepancies. The financial unit under the IA will directly monitor compensation. The IA will allow for calculation of the final cost of resettlement and compensation per PAP; financial records will be maintained by the sub-projects.

3) The resettlement statistics will also be provided to an independent consultant who will be contracted on an annual basis, in collaboration with the Environmental Audit (as described in the ESMF). The indicators in table 11 will be used to monitor implementation of the RPF.

*Table 11: KDRDIP RPF Verifiable Indicators*

<b>Monitoring</b>	<b>Evaluation</b>
Outstanding compensation or resettlement contracts not completed before next agricultural season	Outstanding individual compensation resettlement contracts
Subprojects unable to settle compensation after two years	Outstanding compensation contracts
Grievances recognized as legitimate out of all complaints lodged	All legitimate grievances rectified
Pre-project production and income (year before land used) versus present production and income of resettlers, off-farm income trainees, and users of improved agricultural techniques	Affected individuals and /or households compensated or resettled in first year who have maintained their previous standard of living at final evaluation
Pre-project production versus present production (crop for crop, land for land)	Equal or improved production per affected household/homestead
Pre-project income of vulnerable individuals identified versus present income of vulnerable groups	Higher post-project income of vulnerable individuals

### 11.3 DATABASE MANAGEMENT FOR PAPs

Each PAP will be provided with among others: signed documents recording initial situation, all subsequent sub project use of assets/improvements, and compensation agreed upon and received. The Resettlement Committee and IA will maintain a complete database on every PAP impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages. Each PAP receiving compensation will have a database containing:

- a. PAP biological information
- b. Number of dependent/PAP claim.
- c. Amount of land available to the PAP when the database is opened.
- d. Additional information will be acquired for PAP's eligibility for resettlement and/or compensation:
- e. Level of income and of production
- f. Inventory of material assets and improvements in land, and
- g. Debts.

Each time land is used /acquired by a Sub-project, the database will be updated to determine if the PAP is being affected to the point of economic non-viability and eligibility for compensation/resettlement or its alternatives. These databases will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received, and signed for.

## **11.4 RPF AUDIT**

### **11.4.1 *Annual Audit***

The annual audit of RPF implementation will include: a summary of the performance of each Sub-project vis-à-vis its RAP; and a presentation of compliance and progress in the overall implementation of the RAP. The audit will: Verify results of internal monitoring; Assess whether the RAP sub projects are in compliance with Op 4.12 and the Government regulations; whether the resettlement objectives have been met; specifically, whether livelihood and living standards have been restored or enhanced; Assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation; Ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs conditions. Annual audit reports will be submitted to the IA and shared with the World Bank for information.

### **11.4.2 *Socio-Economic Monitoring***

The purpose of socio-economic monitoring is to ensure that PAPs are compensated and recovery is on time. It will go on as part of the implementation of each Sub-project RAP, to assess whether compensation has been paid, income has been restored and resettlement objectives were appropriate and delivered. Monitoring of living standards will continue following resettlement. The objective is that the standard of living of the PAPs has been improved, restored and has not declined.

A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many children in school compared to before, health standards, etc.). Proposals are set out in Annex 9. The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance.

For each Sub-project with adverse social impacts, a monitoring and evaluation plan of the mitigation measures will be established. As part of the preparation of each RAP, a household survey will be conducted of all PAPs, prior to physical or economic displacement, and this will provide baseline data against which to monitor the performance of the RAP. Following the completion of all expropriation/compensation operations, a household survey will be conducted. The aim of the survey is to assess the impacts of the social mitigation and measures implemented. In addition, the relevant county technical teams and PAPs will be consulted to provide their assessments of the impacts of social mitigation measures applied.

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## ANNEXES

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### ANNEX 1: DRAFT TORs FOR ELABORATION OF RESETTLEMENT ACTION PLAN (RAP)

This template is extracted from OP 4.12 Annex 1 which can also be found on the Bank's website at [www.worldbank.org](http://www.worldbank.org).

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

**Description of the Sub-project:** General description of the sub project and identification of sub project area.

**Potential Impacts:** Identification of (a) the sub project component or activities that give rise to resettlement, (b) the zone of impact of such component or activities, (c) the alternatives considered to avoid or minimize resettlement; and (d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

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

**Socio-economic studies:** The findings of socio-economic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including;

**(a) The results of a census survey covering;**

Current occupants of the affected area to establish a basis for design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance; standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living ( including health status) of the displaced population; the magnitude of the expected loss, total or partial, of assets, and the extent of displacement, physical or economic; information on vulnerable groups or persons, for whom special provisions may have to be made; and provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

**(b) Other studies describing the following;**

land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems ( including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the sub project area.

The patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the Sub-project

Public infrastructure and social services that will be affected; and Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, non-governmental organizations (NGO's) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

**Legal Framework:** The findings of an analysis of the legal framework, covering:

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

**Institutional Framework:** The findings of any analysis of the institutional framework covering:

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

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

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

**Resettlement Measures:** A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of OP 4.12. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

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

- (a) Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, local advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources,
- (b) Any measures necessary to prevent land speculation or influx of eligible persons at the selected sites,
- (c) Procedure for physical relocation under the project, including timetables for site preparation and transfer; and
- (d) Legal arrangements for regularizing tenure and transferring titles to resettlers.

**Housing, infrastructure, and social services:** Plans to provide (or to finance rustler's provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

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

**Community Participation:** a description of the strategy for consultation with and participation of resettlers and host communities, including:

- (a) A description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of resettlement activities,
- (b) A summary of the views expressed on how these views were taken into account in preparing the resettlement plan,
- (c) A review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); and
- (d) Institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as vulnerable and marginalized groups, ethnic minorities, landless, and women are adequately represented.

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

- (a) Consultations with host communities and local governments,
- (b) Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers,
- (c) Arrangements for addressing any conflict that may arise between resettlers and host communities, and

- (d) Any measures necessary to augment services (e.g. education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

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

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

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

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

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

**ANNEX 2: SCREENING CHECKLIST**

Project investment name \_\_\_\_\_

County and location: \_\_\_\_\_

Estimated cost (USD): \_\_\_\_\_

Objectives of the sub-project: \_\_\_\_\_

Activities to be undertaken: \_\_\_\_\_

<b>Will the Project?</b>	<b>Yes</b>	<b>No</b>
1. Adversely affect natural habitats nearby, including forests, rivers or wetlands?		
2. Require large volumes of construction materials (e.g. gravel, stone, water, timber, firewood)?		
3. Use water during or after construction, which will reduce the local availability of groundwater and surface water?		
4. Affect the quantity or quality of surface waters (e.g. rivers, streams, wetlands), or groundwater (e.g. wells, reservoirs)?		
5. Be located within or nearby environmentally sensitive areas (e.g. intact natural forests, mangroves, wetlands) or threatened species?		
6. Lead to soil degradation, soil erosion in the area?		
7. Create waste that could adversely affect local soils, vegetation, rivers and streams or groundwater?		
8. Create pools of water that provide breeding grounds for disease vectors (for example malaria or bilharzia)?		
9. Involve significant excavations, demolition, and movement of earth, flooding, or other environmental changes?		
10. Affect historically-important or culturally-important site nearby?		
11. Require land for its development, and therefore displace individuals, families or businesses from land that is currently occupied, or restrict people's access to crops, pasture, fisheries, forests or cultural resources, whether on a permanent or temporary basis?		
12. Result in human health or safety risks during construction or later?		
13. Involve inward migration of people from outside the area for use of services or other purposes?		
14. Increase tension/ conflict or disputes among or within communities?		
15. Affect indigenous people, or be located in an area occupied by indigenous people?		
16. Be located in or near an area where there is an important historical, archaeological or cultural heritage site?		
17. Result in a significant change/loss in livelihood of individuals?		
18. Adversely affect the livelihoods and /or the rights of women?		
19. Cause increased settlement or degradation of surrounding areas?		



20. Disposal of bush clearance residue may cause spreading of invasive species?		
21. Introduce a non-native animal or plant species?		
22. Involve handling of vet drugs and vaccines?		
23. Maintenance and management responsibilities have not been defined and accepted by concerned parties?		
24. Has not extensively consulted and included VMGs in the selection, planning and project benefits including women?		
25. Has not received wide community agreement on project including by VMGs?		
26. Has not informed the community of the focal point for GRM?		

If you have answered Yes to any of the above, please describe the measures that the project will take to avoid or mitigate environmental and social impacts

What measures will the project take to ensure that it is technically and financially sustainable and well co-ordinated with other interventions in the area?

*If the answer to any of questions "Yes", please use the indicated Annexes or sections(s) of the ESME, RPF and VMGF for guidance on how to avoid or minimize typical impacts and risks.*

#### *Expert Advice*

##### *Completed by County Project Implementation officer*

Name: \_\_\_\_\_ Position/Community: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Tel contact: \_\_\_\_\_

##### *Approved by Community committee chair*

Name: \_\_\_\_\_ Position \_\_\_\_\_

Signature: \_\_\_\_\_ Date \_\_\_\_\_ Tel contact: \_\_\_\_\_

##### *Checked and approved by:*

##### *Field Appraisal Officer (CDE)(NEMA)*

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Stamp \_\_\_\_\_

Date: \_\_\_\_\_ Tel contact: \_\_\_\_\_

##### **Action plan (completed by Field Appraisal Officer)NEMA**

Which course of action do you recommend?

- ESIA  EIA  ESMP  RAP (RPF is the reference document with reference to resettlement issues)  VMGP  Other environmental/social plans  
 There are no/negligible environmental or social risks

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If a RAP is required, will the project displace or restrict access for less than 200 individuals, or if over 200, are losses for all individuals less than 10% of their assets?

If yes, prepare an abbreviated RAP  If no, prepare a full RAP

Full details of resettlement requirements are provided in the accompanying Resettlement Policy Framework.

*Checked and approved by:*

*PIU Environmental Officer Name:* \_\_\_\_\_ *Signature/Stamp* \_\_\_\_\_ *Date* \_\_\_\_\_

*PIU Social Officer:* \_\_\_\_\_ *Signature/stamp:* \_\_\_\_\_ *Date* \_\_\_\_\_

**ANNEX 3: SAMPLE OF LAND ASSET AND PHYSICAL INVENTORY CENSUS SURVEY FORM***Socio-Economic Household Datasheet of PAPs*

<b>Interviewer</b>		<b>Signature</b>
<b>Supervisor</b>		(After verification)
<b>Name</b>		
<b>Position of concession in village coordinates</b>		
<b>Day / Month / Year</b>		
<b>1) Head of Extended Family</b>		
<b>2) No. of nuclei families in extended family residential group</b>		
<b>3) Head of household extended family</b>		

**a) Household Interview**

Relationship to Head of family	Sex		Place of Birth	Age	M	Marital status	Residence tenure	Ethnic group	Religion	Education level	Income earner			Economic rating		
	M	F									Yes	No	Primary	Secondary	Tertiary	

**Head of Family/Household (HOH):** 1. Head of household; 2. Spouse of HOH; 3. Child of HOH; 4. Grandchild of HOH; Parent of HOH; No answer

**Marital status:** 1. Married; 2. Widowed; 3. Divorced; 4. Single; 5. No answer

**Residence tenure:** 1. Permanent residence; 2. Resident absent; 3. Member of non-resident; 4. Visitor; 5. other (specify); 6. No answer

**Educational level:** 1. No formal education; 2. Primary; 3. Secondary; 4. Youth polytechnic; 5. Religious school; 6. College; 7. university

**ANNEX 4: Sample Asset Valuation Survey Form**

Household ID of Asset Inventory for Project Affected People

Date \_\_\_\_\_

HH ID	No. of persons in the HH	Total landholding of HH (m <sup>2</sup> )	Land to be acquired (m <sup>2</sup> )	Land <sup>9</sup> use type	Loss of % total	Loss of assets			Loss of crops			Loss of other assets	Other losses				
						Permanent structures (m <sup>2</sup> )	Temporary structures (m <sup>2</sup> )	Area of residence land lost (m <sup>2</sup> )	Fruit trees lost (type and number)	Agri. Land lost (m <sup>2</sup> )	Other (specify)		e.g. graveyard; wells, etc. (type and number)	Rented residence	Business lost	Etc. (specify)	

**Entitlements of PAPs**

HH ID	Compensation for land			Compensation for structures		Compensation for crops and trees			Compensation for other assets and losses (e.g. Graveyards, wells, businesses, etc.)		
	Quantity (m <sup>2</sup> )	Unit price per m <sup>2</sup>	Entitlement (Kshs)	Unit price (Kshs per m <sup>2</sup> )	Entitlement (Kshs)	Quantity unit	Unit price (Kshs)	Entitlement (Kshs)	Quantity unit	Unit price (Kshs)	Entitlement (Kshs)

<sup>9</sup>Please fill in the type of land: 1. Communal; 2. Privately titled; 3. Public land; 4. Gazetted land; 5. Ranching/Group land; 6. Other (specify)

**ANNEX 5: Sample Grievance Procedure Form**

<b>Grievance Form</b>				
<i>Grievance Number</i>		<i>Copies to forward to:</i>		
<i>Name of Recorder</i>		<i>White (Original)-Receiver party</i>		
<i>County/Ward/Settlement</i>		<i>Blue (Copy) – Responsible Party</i>		
<i>Date</i>		<i>Green (Copy) – DSI for Database</i>		
		<i>Pink (Copy) – Complainant</i>		
<b>INFORMATION ABOUT GRIEVANCES</b>				
<i>Define the Grievance:</i>				
<b>INFORMATION ABOUT THE COMPLAINANT</b>			<b>Forms of Receive</b>	
<i>Name-Surname</i>			<input type="radio"/> <i>Phone line</i>	
<i>Telephone Number</i>			<input type="radio"/> <i>Community/Information meetings</i>	
<i>Address</i>			<input type="radio"/> <i>Mail</i>	
<i>Village/Settlement</i>			<input type="radio"/> <i>Informal</i>	
<i>Ward/County</i>			<input type="radio"/> <i>Other</i>	
<i>Signature of Complainant</i>				
<b>DETAILS OF GRIEVANCE</b>				
<b>1. Access to land and Resources</b>	<b>2. Damage to</b>	<b>3. Damage to Infrastructure or Community Assets</b>	<b>4. Disease or loss of livelihood</b>	<b>5. Traffic Accident</b>
a) Fishing grounds b) Lands c) Pasturelands d) House e) Commercial site f) Other	a) House b) Land c) Livestock d) Means of livelihood e) Other	a) Road/Railways b) Bridge/Passageways c) Power/Telephone Lines d) Water sources, canals and water Infrastructure for irrigation and animals e) Drinking water f) Sewage System g) Other	a) Agriculture b) Animal husbandry c) Beekeeping d) Small scale trade e) Other	a) Injury b) Damage to property c) Damage to livestock d) Other
<b>6. Incidents Regarding Expropriation and</b>	<b>7. Resettlement Process (Specify)</b>	<b>8. Employment and Recruitment (Specify)</b>	<b>9. Construction Camps and Community Relations</b>	<b>10. Other (Specify)</b>

<b>Compensation</b>			<ul style="list-style-type: none"> <li>a) <i>Nuisance from dust</i></li> <li>b) <i>Nuisance from noise</i></li> <li>c) <i>Vibration due to explosions</i></li> <li>d) <i>Misconduct of the project personal/worker</i></li> <li>e) <i>Complaints follow up</i></li> <li>f) <i>Other</i></li> </ul>	
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**ANNEX 6: MATRICES ON ASSET ACQUIRED AND COMPENSATION ENTITLEMENT**

<b>ASSET ACQUIRED</b>	<b>TYPE OF IMPACT</b>	<b>ENTITLED PERSON</b>	<b>COMPENSATION ENTITLEMENT</b>
<b>AGRICULTURAL LAND</b>	No displacement. Cash compensation for affected land equivalent to market value Less than 50% of land holding affected. The remaining land remains economically viable	Farmer /title holder	Cash compensation for affected land equivalent to market value
		Tenant/lease holder	Cash compensation for the harvest of the affected land equivalent to average market value of the last 3 years OR market value of the crop for the remaining period of tenancy/lease agreement whichever is greater
	<b>Displacement:</b> More than 50% of land holding lost OR Less than 50% land holding lost but remaining land not economically viable	Farmer /title holder	Land for land replacement where feasible or compensation in cash for the entire land holding according to PAPs choice. Land for land replacement will be in terms of a new parcel of equivalent size and productivity with a secure tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration and other costs Relocation assistance (cost of shifting + assistance in re-establishing economic trees + allowances upto a maximum of 12 months while short term crops mature)
		Tenant /lease holder	Cash compensation equivalent to average of the last 3 years market value for the mature and harvested crop OR market value of the crop for the remaining period of tenancy/lease agreement whichever is greater Relocation assistance (costs of shifting + allowance).
		Agricultural worker	Cash compensation equivalent to local average of 6 months' salary

			Relocation assistance (Costs of shifting + allowance) Assistance in getting alternative employment
<b>COMMERCIAL LAND</b>	<b>No displacement:</b> Land used for business partially affected, limited loss	Title holder/Business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (OR tax records from comparable business, OR estimate where such records do not exist).
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (all tax records from comparable business or estimates where such records do not exist).
	<b>Displacement:</b> Premise used for business severely affected, remaining area insufficient for continued use	Title holder/Business owner	Land for land replacement or compensation in cash according to PAPs choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration and other costs. Relocation assistance (cost of shifting + allowance) Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates)
		Business person is lease holder	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (OR tax records from comparable business or estimates) OR relocation allowance whichever is higher. Relocation assistance (Cost of shifting) Assistance in rental/lease of alternative land/property (for a maximum of 6 months) to re-establish the business.
<b>RESIDENTIAL LAND</b>	<b>No displacement:</b> Land used for residence partially affected, limited loss, and the	Title holder	Cash compensation for affected land



	remaining land remains viable for present use		
		Rental/Lease holder	Cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement (written or verbal)
		Title holder	Land for land replacement or compensation in cash according to PAPs choice. Land for land replacement shall be of minimum plot of acceptable size under the zoning law/s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocated plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration and other costs. Relocation assistance (cost of shifting + allowance)
	<b>Displacement:</b> Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s	Rental/Lease holder	Refund of any lease/rental lease paid for time/use after date of removal Cash compensation equivalent to 3 months of lease/rental fee Assistance in rental/lease of alternative land/property Relocation assistance (cost of shifting + allowance)
<b>BUILDING AND STRUCTURES</b>	<b>No Displacement:</b> Structure partially affected but the remaining structure remains viable for continued use	Owner	Cash compensation for affected building and other fixed assets  Cash assistance to cover cost of restoration of the remaining structure
		Rental/Lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant e.g. a fence) Disturbance compensation equivalent to 2 months rental cost
	<b>Displacement:</b> Entire structure affected	Owner	Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or

	OR Structure partially affected but the remaining structure is not suitable for continued use		<p>better size and quality in an available location which is acceptable to the PAP.</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (cost of shifting + allowance)</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Rental/Lease holder	<p>Cash compensation for affected assets (verifiable improvement to the property by the tenant eg a fence)</p> <p>Relocation assistance (cost of shifting + allowance equivalent to 4 months rental cost)</p> <p>Assistance to help find alternative rental arrangements</p> <p>Rehabilitation assistance if required ( assistance with job placement, skills training)</p>
		Squatters/In formal dwellers	<p>Cash compensation for affected structure without depreciation</p> <p>Right to salvage materials without deductions from compensation</p> <p>Relocation assistance (Cost of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project CBO.</p> <p>Alternatively assistance to find accommodation in rental housing or in a squatter settlement scheme if available)</p> <p>Rehabilitation assistance if required (Assistance with job placement, skill training)</p>
		Street vendor (Informal without Title or Lease to the store or shop)	<p>Opportunity cost compensation equivalent to 2 months' net income based on tax records for previous year (OR tax records from comparable business or estimates), or the relocation allowance, whichever is higher</p> <p>Relocation assistance (Cost of shifting)</p> <p>Assistance to obtain alternative site to re-establish the</p>

			business
<b>STANDING CROPS</b>	Crops affected by land acquisition or temporary acquisition or easement	PAP (Whether owner, tenant, or squatter)	Cash compensation equivalent to average of the last 3 years market value for the mature and harvested crop
<b>TREES</b>	Trees lost	Title holder	Cash compensation based on type, age, and productive value of affected trees PLUS 10% premium
<b>TEMPORARY ACQUISITION</b>	Temporary acquisition	PAP (Whether owner, tenant, or squatter)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)

**ANNEX 7: SOME SOCIO-ECONOMIC INDICATORS TO BE CONSIDERED FOR KDRDIP IMPACT**

<b>Indicator</b>	<b>Target</b>
<b>HEALTH</b>	
Incidence of poor health	Good health rate
Rate of contracted diseases especially malaria	Disease prevention especially malaria and HIV/AIDS
Infant mortality rate	Prevention of infant deaths
Water borne diseases	Non incidence of water borne disease
<b>SAFETY</b>	
Accident rate	Non increase in accidents due to project interventions
<b>EDUCATION LEVEL</b>	
Literacy rates	Increase in basic literacy rates of population targeted by intervention
Enrolment at school (primary, secondary, tertiary)	Increased rates of enrolment of both boys and girls at all schooling levels, to average international rates for those targeted by intervention
Number of school leavers	Reducing the number of school leavers to average international levels
<b>INCOME LEVELS/WEALTH</b>	
Levels of poverty	Elimination of poverty
Total HH income	Increase in HH income to levels that exceed expenditure and ensure livelihood security
Total HH expenditure	No change or decrease in average expenditure
<b>POPULATION DYNAMICS</b>	
Levels of inward migration	Manageable levels of inward migration according to carrying capacity (in terms of population, employment opportunities and land availability) of affected area
Levels of outward migration	Reduce the need for forced outward migration
Level of outward migration of young people (age 16-25)	Reduce the need for forced outward migration of young people (age 16-20)

**ANNEX 8: SUMMARY OF CONSULTATION MEETINGS WITH STAKEHOLDERS**

<b>Stakeholder interviews comments on KDRDIP</b>		
<b>Turkana West Sub County</b>		
<b>Stakeholder meetings and Venue</b>	<b>Summary of main comments</b>	<b>Proposed Mitigation Measures</b>
Meeting with LOKADO at their Office, Kakuma 1530hrs 13th Dec 2016	Project should support high impact long term projects like construction of vocational institute to provide skills in masonry, welding, mechanic. Support ICT growth in Turkana West. Support water harvesting measures especially in mountainous Mt Moroto area. As environmental degradation is a big concern the project should support capacity building, carry out campaigns, fund tree nurseries, support expansion of green belt zones; Support solid waste management by filling the numerous pits in the refugee camps; Support pastoralists to find good markets for camels. Support projects for aquifer regeneration in Turkana west as the high population of refugees has diminished the water resource.	The proposed sub projects/interventions by the communities are covered broadly by the components in KDRDIP. As indicated in the PAD a CDD is the best approach to involve the communities throughout the decision process. Hence the operational approach of CDD should be adopted for project implementation in the underdeveloped and underserved areas that KDRDIP is targeting. The CDD approach embeds the required flexibility needed to respond to the scale and nature of communities' needs in diverse local conditions. It will allow decision making to devolve to communities, ensuring that resource distribution is fair, supports priority local infrastructure and service delivery needs, and incentivizes collective action.
Meeting with Opinion leaders at chief's office Kakuma 1534hrs 14th Dec 2016	Chief – Livelihood before coming of refugees was mainly pastoralism and the main challenges was availability of water, grazing area and livestock diseases. After introduction of refugees there was increase in population. This brought about new diseases, street children and prostitution. Food security is now an issue. Environmental officer- County government program on environment include; Solid waste management, natural resource management, tree nursery program in all wards. KDRDIP can expand this programs and assist in hazardous waste disposal created by oil exploration activities.	Also Community-responsive approaches should be strengthened into the local development processes of planning and budget development process. Also, in order to mitigate risks of remoteness of areas and limited implementation capacity, the project design should incorporate a reliance on the communities' accountability mechanisms and the strategic use of technology; complement the World Bank's supervision with third-party monitoring where required; and strengthen community institutions and local government capacity

	<p>Women representative- KDRDIP can support agricultural programs by damming the Tarach river flash floods and rock catchment projects near Ugandan border. Currently many interventions focus on borehole drilling which is not sustainable. On education KDRDIP can assist in setting up rehabilitation centres for the drug addict youths in Kakuma. On health the project should provide medicine and support equip existing facilities. On girl child mistreatment of host community by refugees, early pregnancy/ marriages is a big problem. The project support should be extended to this group by constructing vocational centres to train them on special skills. On infrastructure the priority should be on the main highway between Kakuma and Lodwar which is in bad condition. The project should also support peace/sport activities</p> <p>Women representative - school drop outs due to lack of fees is a big problem and the project should support by providing education funds and empowering women through business enterprise support.</p>	<p>Special consideration for local participation in paid employment within the project</p> <p>In order to enhance the full participation and equal benefit sharing in the community women should be targeted for informal skills provision especially with regard to livelihood support projects. They should also be targeted for micro - credit and table banking initiatives to enable them carry out the small businesses. The Project design should incorporate specific corporate social Responsibility programmes targeting these components of the population.</p> <p>Siting of sub projects sites jointly with community and relevant stakeholders to enhance even distribution.</p> <p>Negotiation and sensitization programmes for community leaders and VMGs</p> <p>Projects prioritized by the communities to be supported</p>
<p>Meeting with Assistant county commissioners for Lokichigio and Nanam Divisions at Assistant county commissioner's office Lokichigio 1000hrs 15th Dec 2016</p>	<p>Biggest problem in Lokichigio and Nanam division is; water scarcity. Most boreholes are dry. Cattle rustling and conflicts, Pastoralism has become unsustainable due to climate change, cattle raids/rustling have become more dangerous.</p> <p>On going projects; Oil exploration activities conducted by CEPSA; Plans to set up Lotikipi game reserve in Nanam Division on an area covering 3000 square kilometres.; Lapsset corridor planned in Turkana west.</p> <p>Opportunities in the area; Nasinyono irrigation scheme, Lokecherea Kupe rock catchment.</p> <p>Proposed intervention projects by KDRDIP; Education</p>	<p>In order to have an area based development approach It is important KDRDIP sustains the close collaboration and coordination between UNHCR and local NGOs already working in the project areas</p>

	<p>sector – equip schools, provide infrastructure, employ teachers, build boarding facilities, mobile schools for nomads Health – AIC hospital in Lokichogio lacking equipment; Provision of shed nets instead of green house</p> <p>Livelihood support by constructing slaughter house/abattoirs tanning hides and skins and meat processing</p> <p>Local Communities should be engaged in project identification through community entry and Kraal based intervention.</p>	
<p>Meeting with Oropoi division assistant sub county commissioner at Deputy county commissioner office Kakuma 0930 hrs 16th Dec 2016</p>	<p>Literacy levels are very low in Turkana west county and health facilities in Oloropi and Kalobeyei lack personnel and medicine. KDRDIP funding should be done directly to Counties rather than through treasury.</p>	
<p>Meeting with Turkana west sub county land administrator at Kakuma county lands office 1045hrs 16th Dec 2016</p>	<p>Head land administration office in Turkana west sub county in charge of Kakuma, Lopur, Letea, Kalobeyei, Lungot, Kokichogio, and Nanam Ward.</p> <p>Deals with approval permits and planning.</p> <p>Turkana county has a land allotment policy. Process for land acquisition;</p> <p>Step 1 – request community</p> <p>Step 2 – obtain consent</p> <p>Step 3 – conduct a meeting and pass a resolution to be signed by community representatives</p> <p>Step 4- pay the required fee into exchequer revenue account as per Turkana finance act</p> <p>Step 5 – land survey is carried out and demarcation done</p>	<p>It is anticipated the sub projects will all be on community land, therefore prior to project implementation a community land resolution form should be signed and it should have evidence of community consultation with at least 2/3 of community representation as per the community land act 2016 requirements. The World Bank in Kenya is currently refining its guidance on voluntary land donation, and the project should follow the up-to-date guidance when available.</p>

	<p>Step 6 - allotment letter is issued</p> <p>Currently there is a land regulation bill at Turkana county assembly for adoption. This bill will regulate how residents/ public and private investors can acquire land.</p>	
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<b>Dadaab, Lagdera, Fafi and Wajir South Sub Counties</b>		<b>Proposed Mitigation Measures</b>
<p>Meeting with Host Community representatives at Banki moon hall UNHCR compound Dadaab 1500hrs 19th Dec 2016</p>	<p>Refugees are a burden to the host communities. Local communities have hosted the refugees for 25 years. The refugees have caused massive environmental degradation by cutting down trees to sale charcoal, supplement food ration and house construction. Before the arrival of refugees, the camp and surrounding area was covered with vegetation and there was presence of wild animals. With the coming of refugees, the environment is heavily degraded and water resource in the area have been depleted due to the numerous boreholes. The refugees also keep large number of livestock's and this has led to depletion of pasture lands impacting on host communities' livelihood. Climate change has also brought about constant famine and drought. With reduction in livelihood means and reducing purchase power among host communities most residents are abandoning pastoral livelihood (commonly known as pastoral drop outs) and opting to establish settlement centres along the main roads where they can get government services or register as refugees. Cases of local people from pastoral areas with no shelters in town centres have increased. school dropouts have also increased and this can lead to other harms like radicalization. The loss of livelihood leads to increase in conflicts and insecurity.</p>	<p>As indicated in the PAD KDRDIP should support interventions to mitigate the social, economic, and environmental impacts through the investment components across the three project counties that host refugees. Specific activities will be determined based on local circumstances, but the project offers a useful platform for learning about approaches and intervention successes.</p> <p>To have involvement from the communities and support to the initiatives operational approach of CDD should be adopted for project implementation in the underdeveloped and underserved areas that KDRDIP is targeting. The CDD approach embeds the required flexibility needed to respond to the scale and nature of communities' needs in diverse local conditions. It will allow decision making to devolve to communities, ensuring that resource distribution is fair, supports priority local infrastructure and service delivery needs, and incentivizes collective action</p>



	<p>Proposed Priority projects KDRDIP should support; The funds should come through local implementing partners for it to be community driven and not the national government to avert corruption and mismanagement.; The road to Garissa has been heavy damaged due to the heavy trucks supplying relief food to the refugee camps and therefore Infrastructure upgrade should the highest priority project KDRDIP should address. The project should divert the funds on upgrading to bitumen standards of the Garrisa to Liboi A3 road.</p> <p>Other projects; Dryland farming; Millennium project; Irrigation farming; Social programs; Cash transfers</p> <p>On repatriation; Repatriation will be stopped if Kenyans registered as refugees are not removed from refugee database. The opinion of most people is that repatriation is a protracted game between Jubaland and Kenyan government as the Jubaland administration will demand facilities. The community also feel Somali refugees are discriminated as only non-Somali refugees are moved to Kakuma Refugee Camp.</p> <p>Post repatriation task force through department of intergovernmental affairs with mandate of post repatriation plans; Rehabilitation, Camp cleanup, Land asset sub committee Handover to host community Latrines back fill; National government to provide security for facilities like schools and health centres against vandalism. KDRDIP should start as soon as possible to ease tension between</p>	<p>It is evident from the comments that expectations are high and should be managed. Therefore, the Investments funded through the project should aim at meeting demand for increased social services, both in terms of number and quality, and allowing the most vulnerable, particularly women and children, to have access to health and education services, water, energy, livelihood, finance, and a business enabling environment through the creation of both business opportunities and improved infrastructure that facilitates movement of products and services along their value chain.</p> <p>Project should support the rehabilitation of Kenyans currently registered as refugees</p> <p>KDRDIP should be able to adapt itself to an environment where there is uncertainty about some activities to which the project can intervene. The continued unstable situation in Somalia and ability of Kenya and Somalia to ensure the safe, dignified, voluntary return and sustainable reintegration of Somali refugees from Kenya</p> <p>Special consideration for local participation in paid employment within the project</p>
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	host and refugees	
Meeting with Kadhi (Judicial officer Kadhis court) Dadaab 1000hrs 23rd Dec 2016	<p>Administers marriages and divorce, inheritance matters, and mediation in the Dadaab area covering all the refugee camps.</p> <p>Many cases of intermarriage between refugee and host community. Repatriation will impact these families and may lead to divorce, rise in children cases and family disintegration</p> <p>Opines that repatriation of refugees is not voluntary as the government has given deadlines which amounts to forceful eviction.</p> <p>Locals registered as refugees because of hunger. If the Kenyan government has looked after its own people, then there will no Kenyans in refugee database.</p> <p>On pastoralism people no longer care about pastoral life and majority have started settling in sedentary lifestyle due to environmental degradation and poverty.</p> <p>There are more divorce cases due to drug abuse, poverty and cultural erosion</p> <p>Women bear the most burden after divorces and become vulnerable because mostly they are left with the children</p>	<p>In order to enhance the full participation and equal benefit sharing in the community women should be targeted for informal skills provision especially with regard to livelihood support projects. They should also be targeted for micro - credit and table banking initiatives to enable them carry out the small businesses. The Project design should incorporate specific corporate social Responsibility programmes targeting these components of the population</p> <p>capacity development in the areas of inclusion of disadvantaged groups, and gender sensitivity; enhancing Capacity of counties to plan, monitor, budget, and engage citizens in the target counties; Conflict sensitivity and resolution; and Climate Change;</p> <p>Siting of sub projects sites jointly with community and relevant stakeholders to enhance even distribution.</p>
Meeting with Garissa County Community Liasion Officer at Weston Hotel Nairobi 1500 Hrs 23rd Dec 2016	<p>The 50km host community radius is a wrong measure of host community affected by the refugee crisis</p> <p>Refugees have caused massive environmental degradation to the fragile ecosystem area where the camps are located mainly due to overstocking, overgrazing, destruction of vegetation for charcoal production, fencing, and construction of shelters.</p> <p>Refugees have better opportunities when compared to host community as they enjoy free health care, free water, free education and free food. Refugees also have</p>	<p>Projects prioritized by the communities to be supported</p> <p>Negotiation and sensitization programmes for community leaders and VMGs</p> <p>In order to have an area based development approach It is important KDRDIP sustains the close collaboration and coordination between UNHCR and local NGOs</p>






	<p>businesses and get remittances from their relative abroad. Refugees buy goods without taxes and trade with relatives from Somalia. This creates inequality and pulls the host communities to the camp.</p> <p>The host communities have high expectation for compensation when refugees are repatriated</p> <p>KDRDIP intervention areas should be in areas where there is need and not settlements.</p> <p>Danish Refugee Council livelihood projects have better level of trust among the host community</p> <p>National level functions and county level functions for the KDRDIP should be closely monitored and evaluated.</p> <p>KDRDIP should not focus on political interests by Members of Parliament</p> <p>KDRDIP livelihood component can be best implemented by Danish Refugee Council and environmental component can be implemented by red cross</p> <p>On Repatriation; Repatriation should be done in voluntary and humane way without timetables and deadlines. Plans for mitigation measures and restoration should go hand in hand with repatriation programme.</p>	already working in the project areas.
Meeting MP for Dadaab Mohamed Dahir Duale at Savannah Café Nairobi 0830 hrs 12th Jan 2017	<p>KDRDIP possible support areas; Restoration and rehabilitation of the highly degraded environment in Dadaab Constituency.</p> <p>Support education by equipping and staffing of existing of schools</p> <p>Support creation of vocational training institutes</p> <p>Refugees keep huge number of livestock competing with host community livestock leading to overgrazing. Livelihood support for host communities may reduce over dependence on pastoralism</p> <p>If refugees are repatriated the huge infrastructure</p>	

	<p>investments within the camps should be handed back to relevant authorities, the project should support continuity of services offered by this facility to the host communities</p> <p>On repatriation of refugees Kenyans who have registered as refugees may opt to continue residing within the camp</p> <p>On KDRDIP implementation the structure should include civil society organization local NGOs county government</p> <p>On mineral resources in Dadaab Constituency there are huge deposits of good quality gypsum at Saredo and Hagarbur</p> <p>On wildlife and protected areas: there are no protected areas but wildlife is present in the constituency and there are reported cases of wildlife conflicts mainly by hyenas attacking livestock.</p>	
<p>Meeting with Garisaa county Governor Nadhif Jama at Lilian Towers Nairobi on 12th Jan 2017 1100 hrs</p>	<p>Refugees have been a burden to the host community for over 25yrs. Previously Dadaab was an area covered with dense vegetation but refugees cut down trees leaving the land bare. KDRDIP should invest in restoration and rehabilitation of the environment especially around refugee camps.</p> <p>Water resource utilization on the shared Ewaso Nyiro catchment is not sustainable, the population living in the lower catchment are receiving less amount of water due to over abstraction in the upper catchment zones for irrigation and horticultural farming. This actions are illegal and WARMA has no capacity to monitor.</p> <p>The County government will allocate lands for KDRDIP project will be allocated land.</p> <p>Proposed project support areas;</p>	

	<p>KDRDIP Water projects in Lagdera should focus on Construction water pans in Lagdera sub county as the ground water is saline and drilling of boreholes in Dadaab as the water is not saline.</p> <p>Support education for the girl child</p> <p>Support construction of technical institutes</p>	
<p>Meeting with MP for Wajir South Constituency at Panafric Flame tree restaurant on 13th Dec 2016 0800hrs</p>	<p>Wajir South sub county is one the largest sub counties in Kenya only second to North Horr in size. Main problems in the sub county include; water scarcity and understaffed health sector.</p> <p>Borehole running by water user's association have numerous management challenges due to corruption and mismanagement, the project can support digging water pans as they have less management requirements. Water pans can be done in grazing areas, stock routes and along laggas.</p> <p>KDRDIP can also support urban water distribution and de-salination in Habaswein town</p> <p>On health sector the project can fund equipping of health by supporting employment of personnel and provision of drugs and equipment.</p> <p>On education the project can support staffing, water connection to schools and provision of books and stationeries</p> <p>On livelihood the project should support the index based livelihood insurance. At the moment uptake has been very low due to lack of awareness the project can support its sensitization.</p> <p>On proliferation of new settlement. Pastoralism as a way of living is not sustainable and most pastoralists are now opting to settle down in areas where they can get access to services.</p>	

	<p>The project can support livestock breeding to have better milk meat producing breeds. The project can also support veterinary services like tick control</p> <p>The project can also support agricultural projects around new settlement as a livelihood support for ex Injir farm in Habaswein</p> <p>The project should provide support to Local industries like gum arabica harvesting, bee keeping and fuel efficient stoves</p> <p>Skills training support by construction of vocational institutes.</p> <p>The project should also support setting up of renewable energy centres in new settlements.</p>	
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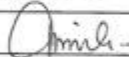
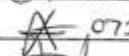
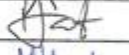
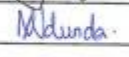
## ANNEX 9: REGISTER OF STAKEHOLDERS CONSULTED

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	13/12/2016		
		Venue	LOKADO HR OFFICE		
		Time started	3:30 PM	Time ended	
Name	Organization	Designation	Email Address	ID No	Signature
Akron Kennedy Peter	LOKADO	Program officer	akronk@lokado.com	13126863	
Paul Esekem	LOKADO		Paul.kenya@esem.com	29779579	
EZEKIEL BIDA	LOKADO	Prog. officer	ezekielbida@yahoo.co.uk	13648887	
NATALIE NDUNDA	UNHCR	Spr. Environment Ass.	NNDUNDA@unhcr.org		
VICTOR EMBUKI	LOKADO	Livelihood officer	victorembuki@gmail.com	24576528	

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	14/ED/2016		
		Venue	CHIEF'S OFFICE (KAKUMA LOCATION)		
		Time started	15:34	Time ended	
Name	Organization	Designation	Email Address	ID No	Signature
JOHAN-E BENO	UNHCR	Community liaison	e.benyof@unhcr.org	22423576	
COSMAS NAKINJA	oop (GOK)	CHIEF-KAKUMA	cosmas@oop.or.ke	12909203	
FLUD ESAYEN	ENVIRONMENTAL OFFICER	E-OFFICER	esayen@2013@gmail.com	29255277	
CECILIA KALES	ENV. OFFICER-KAKUMA	"	CeciliaKales@gmail.com	26068337	
KWAI STEPHEN		YOUTH LEADER	kwai.stephen@unhcr.org	26596091	
ETOT VICTOR BRUCE	D.P.O / INTERM	INTERM.	etotvictor@unhcr.org	32806999	
FLORENCE EWYAN	DISASTER PREPAREDNESS OFFICER - T.H. TEG	DPO - T.H. TEG	florenceewyan@gmail.com	23682221	
JOYCE EMURIA	#DST	CHY	"	21761374	
NATALIE NDUNDA	UNHCR	Govt. Government Liaison	NDUNDA@unhcr.org	28142847	
HARVEY ARMES	WR CONSULTANT	CONSULTANT	hharvey@unhcr.org	28000915	



Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	Thursday 15/12/2016			
		Venue	Assistant County Commissioners Office - Lokichoggio			
		Time started	10:00 AM	Time ended		
		Name	Organization	Designation	Email Address	ID No
DANSON WATHAU	GOK-ODP	ACC-LOKI	mburud83@yahoo.com	22904031		071412641
JOHANNES OGOLA	GOK-ODP	ACC-NANAN	johnnesogola@gmail.com	27167169		072253159
Natalie Ndunda	UNHCR	Gov. Environment Associate	NDUNDAN@unhcr.org	28742847		
HAROURS AMMEN	WB	CONSULTANT	harours@worldbank.org	23000911		
benson Ekono Ebei	SOPA	Project officer	benson@sopa.or.ke	23290578		
Emmanuel O. Othman	SOPA	Agri. & Project officer	emmanuel@sopa.or.ke	29482368		
Juchuth Rugumbi	SOPA	Admin officer	juchuth.rugumbi@sopa.or.ke	10977178		07234056
Gerald Ahyo	TADO	Enterprise Manag.	tadogroup@adton.com	24467092		081417125

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	16/02/2016 - Friday		
		Venue	Deputy County Commissioner's office - Kakuma		
		Time started	9:30 AM	Time ended	10:45 AM
		Name	Organization	Designation	Email Address
DANIEL KONGERE	DCC TW-SC	HRM O (HR)	KongereDaniel@gmail	09175138	 0720210717
RICHARD KIMUTAI	<del>ACC</del> <del>ORPOI</del> NGAD	A.C.C. -ORPOI	Kimutairichard@gmail	24074702 0729778531	 0729778531
HAROLD ATWINE	WR	CONSULTANT	hharold@worldbank.org	2300515	
Natalie Ndunda	UNHCR	Senior Environment Associate	NDUNDANO@unhcr.org	28142847	 Ndunda

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	16/12/2016 - Friday		
		Venue	Sub County Administrators Office - Kakuma		
		Time started	10:45 AM	Time ended	
		Name	Organization	Designation	Email Address
Lokakwan Simoi	Turkana County	Land Administrator	lokakwan.simoi	24301247	
Jemah Loudon	Turkana County	enforcement officer	@yaho.com	1444876	
Eyame dagan	Resident	-	-	20039271	
HARIS AHMED	WB	Consultant	hahmed@worldbank.org	23000911	
DAVIDESIVEN	-	-	-	27236308	
EMURIA JOSHUA	Resident	-	EMURIA.joshua@oi.com	31214993	
Nathie Ndunda	UNHCR	Env. Environment Specialist	NDUNDAN@unhcr.org	28142847	

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Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	19/12/16		
		Venue	Ban Ki Moon Hall 1 VNIKE Compound W. DADAAB.		
		Time started	08:00 PM	Time ended	
Name	Organization	Designation	Email Address	ID No	Signature
1	SULEIMAN A.O. Garissa County govt	Sub-county Admin	suleyman@yqaw.com	23441201	
2	Abdimalik Hassan Dadaab HQ	Ward Manager	Sheikhaw10@gmail.com	036266	
3	HUSSEIN M DADAAB	Ward manager	husseinm11@gmail.com	12912201	
4	Abdisalam Gordin Fafi HQ	FDCE, SICA OFFICER	Abdisalamgordin@icad.org	24462344	
5	Mohammed Idnis Garissa County	SUB-COUNTY OFFICER	idnis mohammed@gmail.com	23989903	
6	Abdulkadir Hassan Fafi HQ	FDCE	Abdulkadirhassan@icad.org	25570703	
7	Mutawo Mohamed Fafi HQ	FDCE		25326939	
8	YUSSEIF DADAAB	Security champion		0849993	
9	Idnis G. NOOR DADAAB	DDG Const. OFFIC	ugadg@icad.org	27832277	
10	GUDA, GABRIEL	World Bank Consultant	goudac@icad.org	23543747	
11	MARY N. KAMUNGO	WORLD BANK CONSULTANT	marykamungo@icad.org	3277067	

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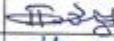

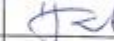
Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register			
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date			
		Venue			
		Time started	Time ended		
Name	Organization	Designation	Email Address	ID No	Signature
DOLA MOKAMUN		DAADAB		F21599657	
ALI BARJO		DAADAB	hirekard2015@gmail.com	25844220	
Muhammad Gidhan	UHRK	CLD	gidhan@unhcr.org	22936139	
Hassan Amman	WIS	CONSULTANT	ihavuk@worldbank.org	23220515	
Yusuf Idris	H-C	H-C			
Abdullahi Osman	H-C	"			
Hussein Hamud	H-C	"			
Khadij Mjib	H-C	"			
Omara Makhit	H-C	"			

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register - CLAN ELDER				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	21/12/16			
		Venue	DARFUR WAT. R. SOUTH			
		Time started	Time ended	10.00	12.27	
Name	Organization	Designation	Email Address	ID No	Signature	Contacts
MUHAMMAD MUHAMMAD BASHIR	CLAN ELDER					071009442
ADEN ABDI GUMI	ELDER					0709317172
ISMAEL ALI MUHAMMAD	ELDER					0916632688
ADEN ABDI NABIR	"			10117653		0719388294
MUHAMMAD MUHAMMAD BASHIR	"			1267156		
MUHAMMAD ABDI GADAFI	"					
MUHAMMAD MUHAMMAD BASHIR	"					

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register					
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	21/12/2016				
		Venue	DARFUR				
		Time started	11:00am	Time ended	12:12pm		
Name	Organization	Designation	Email Address	ID No	Signature	Contacts	
1	HIBO Mohamed Abdi	women	Women	-	-	[Signature]	0795311174
2	HAWA ADAN KEROW	-	Women	-	1264061	[Signature]	-
3	SAHARA BURALE HUSSEIN	-	Women	-	9749842	[Signature]	07145391143
4	DOLL OSMAN NOOR	-	Women	-	27657261	[Signature]	0707713167
5	SHAMISA JELE MAALIM	-	women	-	27083253	[Signature]	0716652888
6	HABIBA ALI MAALIM	-	Women	-	13403844	[Signature]	0703912001
7	HAWA KASSIM SHEKH	-	women	-	25481469	[Signature]	0715419129
8	HAMITHA NOOR MUKHED	-	Women	-	21645253	[Signature]	0726955724
9	SAADIA ISSACK AHMED	-	women	-	32052836	[Signature]	-
10	GRAMANA JELE	-	women	-	24325241	[Signature]	0714071361
11	HALIMA HUSSEIN MAALIM	-	women	-	27018672	[Signature]	0728744621
12	DEKA MAHATI-TARI	-	women	-	26992144	[Signature]	0729628659

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register					
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	21/12/2016				
		Venue	DARFUR				
		Time started	11:00am	Time ended	12:12am		
Name	Organization	Designation	Email Address	ID No	Signature	Contacts	
13	HALIMA HASAN DERE	-	Women	-	8495727		0708658488
14	DAHABA KASSIM SHEKH	-	Women	-	25335504		079261625
15	KALUMA DEGIOW	-	Women	-	27015160		0718999475
16	SALADA MOHAMMED	-	Women	-	9747759		0797146107
17	MARIAM MOHAMMED	-	Women	-	27016088		0721541312
18	FARAH AHMED MUHAMMAD	-	Women	-	-		0719744854
19	SAHAR ABUKAR	-	Women	-	-		0716247586
	HALIMA AHMED	-	Women	-	-		0719284242
	KHADIJA ABDI	-	Women	-	0055197		-
	KHADIJA ABDI	-	Women	-	20413414		-
	DOFA ABDIKADIR	-	Women	-	22170907		0719844672



Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	21/12/2016			
		Venue	SUB COUNTY OFFICE - JADARA			
		Time started	15.00	Time ended	15.53	
		Name	Organization	Designation	Email Address	ID No
BEACHU ASH SHAI	County Government	Sub-County Govt Officer	ibrowshirross@yahoo.com	26733817		0726624707
Mohamed Idris mad	County gov't	sub-county officer	idrisimohy4@gmail.com	23989903		0720857895
HARONS ATIMEN	IBS	CONSULTANT	hharons@worldbank.org	22000911		0722314477

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	21/12/16			
		Venue	RRDO offices			
		Time started	16.09.	Time ended		
		Name	Organization	Designation	Email Address	ID No
Meshaik Sikiin	RRDO	Program Manager	Sikiin.Meshaik	21634622		0727781220
Hassan Ahmad	RRDO	Finance officer	@yahoo.com			
GERALD GITAU	RRDO	ENERGY OFFICER	ghasantash@5mail.com	25165858		0727161862
			gerald.choge	3119148		0721321671
			gitau@gmail.com			



Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	22/12/16			
		Venue	MANJUR M FAFI SUB COUNTY			
		Time started	Time ended	10.00 am		
Name	Organization	Designation	Email Address	ID No	Signature	Contacts
Ahmed Yarow						
Hussein Alan						
Yakub Mohamed						0714948554
Bashir Hassan						0700353532
Abdi Mohamed				1738524		0706572817
Ahmed Siyat				3518090		0710454904
Ahmed Sheikhfaan				9084424		0711820250
Haret Kudle				0048354		0729880986
Gehi Alan						
Mohamed Hussein				13121096		0705247853

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	22/12/2016			
		Venue	FAIDA OFFICE - ATIANGUQUE - FORT SUD COUNTY			
		Time started	10.56	Time ended		
		Name	Organization	Designation	Email Address	ID No
Hassan S Farah	FAIDA	Environmental Asst	Hsfarah@faidaKenya.org	23651403		072241799
Silas Otieno	FAIDA	Business Officer	Sasaka@faidakenya.org	13828436		0720312411

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	22/12/2016			
		Venue	ALINJUGUR - WOMEN FEED - FAFI			
		Time started	10:48	Time ended	12:10 am	
Name	Organization	Designation	Email Address	ID No	Signature	Contacts
1. ANINA HASAN ALI		Women	-	22983302		074202775
2. MAMAR SAEUD FARAH		Women	-	-		-
3. NATHIHO HASAN BARE		Women	-	-		-
4. SALATHO ADEN ALI		Women	-	-		-
5. EBLA HASAN DICISA		Women	-	-	-	-
6. EBLA ALI AHMED		Women	-	-		-
7. IFRAH ABULLAW OMAR		Women	-	-	-	0716629672

Kenya Development Response to Displacement Impacts Project (P161067)		Stakeholder Consultation Meeting Register				
Technical Assistance to the Executive Office of the President for the Northern Kenya Development Initiative for the preparation of Environmental and Social Management Framework (ESMF) and Resettlement Policy Framework (RPF)		Date	23/12/16			
		Venue	WESTON HOTEL NAKURU			
		Time started	15.00	Time ended		
		Name	Organization	Designation	Email Address	ID No
Abdigeed	Ministry of Commerce	Chairman	elmojerend@gmail.com	21142411	[Signature]	0722-650067
Abdi Gedi	Abdi County govt of Garissa	Principal Liason officer	abdigeed75@gmail.com	13120631	[Signature]	0723832372

## ANNEX 10: COMMUNITY LAND RESOLUTION FORM

## COMMUNITY RESOLUTIONS AND AGREEMENT ON LAND ALLOCATION FOR KDRDIP PROJECT

ITEM	DESCRIPTION
Project name	
Component 1:	
Activity Code:	
Output 1.2:	
Name of Investment	
Project Location:	
GPS coordinates	
Estimated cost of the investment	
Source of Funding	
Financial Year	

### TERMS OF THE AGREEMENT

1. We the beneficiaries of  
..... discussed and agreed  
that, .....  
shall be site of the proposed  
.....
2. That we the beneficiaries are aware of the Regional Pastoral Livelihoods  
Resilience Project and this proposed sub-project at  
.....
3. That we the beneficiaries are aware that the land set aside for the investment  
is community land and no one is claiming individual ownership because it  
belongs to all of us and negative impacts on particular individuals using the



land will be addressed by the community, and no alternative claims will be made later on the land.

4. That we beneficiaries have no problem with the site of the investment.
5. That we beneficiaries have all agreed unanimously that the project implementation should continue.
6. That we the beneficiaries have agreed to register the project site and obtain a valid title for the investment site.
7. That we the beneficiaries have agreed to form a committee/association to manage the investment and ensure it (the Committee/ Association) is duly registered.
8. That we the beneficiaries will allow other neighbouring and cross-border communities access to the investment as agreed between elders of both communities.
9. That we beneficiaries shall strive to peacefully resolve any conflicts with other communities concerning the investment and that we would strive to peacefully co-exist and resolve any conflict arising out of the investment facility following due process provided by the laws of Kenya.
10. That we the beneficiaries would share the benefits of the project investments with other communities on either side of the border peacefully.

We have been designated by the community of  
 ( \_\_\_\_\_,  
 \_\_\_\_\_,  
 \_\_\_\_\_ )

Confirm the above information to be true and that we have resolved to abide by ALL terms of this agreement. (Please attach minutes of community baraza, where the community agreed to the use of this land and to us signing on their behalf to the agreement of the project - 2/3 community members should decide on any change of use of land)

S/No.	Name	Location	ID/No.	Signature
1.				
2.				
3.				
4.				
5.				

Witnessed on this ..... Day of ..... in the Year.....: by:

**1. Area Chief**

Name	ID/No.	Signature & R/Stamp

**2. Ward Administrator**

Name	ID/No.	Signature & R/Stamp

**3. Community Land Registrar**

Name	ID/No.	Signature & R/Stamp

#### 4. County Government (Physical Planning Department)

Name	ID/No.	Signature & R/Stamp

#### 5. Regional Pastoral Livelihoods Resilience Project, County Project Team Leader.

Name	P/No.	Signature & R/Stamp

#### 6. County Ministry Relevant to the project e.g. Water/Livestock Production etc.

Name	P/No.	Designation	Signature & R/Stamp

7. ....  
 .....

---

Name	ID/No.	Signature & R/Stamp

## ANNEX 11: GUIDELINE ON VOLUNTARY LAND DONATION (VDL)

Voluntary land donation is strictly defined in international practice as the ceding of a property by an owner who is: a) fully informed; and b) can exercise free will, i.e., can refuse to sell or to donate. “Fully informed” means that the owner has complete information regarding the proposed activity and its impacts, its land requirements and its alternate activity sites, as well as his or her rights to compensation. The owner has also been provided with sufficient time to consider his or her disposition of the property, and the owner has knowingly rejected the right to renege on his or her initial decision. “Free will” means that the owner can reject the possibility of giving up his or her land, because: a) there are viable alternatives available (such as rerouting of a water main if an owner refuses access to his or her property), or b) where no viable alternatives are available, the donation will be to his or her benefit (such as a road rehabilitation project that will also benefit the owner of a small piece of land to be donated for the road works).

Where small-scale temporary or permanent land takings are required for a CDD sub-project or activity, they most often are conducted on a voluntary basis and in an open and transparent manner at the community level. While voluntary land donations carried out by local communities for CDD operations do not trigger the Bank’s policy on Involuntary Resettlement, they may be based upon administrative or social coercion and may lead to unanticipated social impacts, particularly when they are not properly documented, or when they involve vulnerable or disadvantaged community groups.

Consequently, voluntary land donations should only be authorized for CDD subprojects if they can clearly document (a) Informed Consent and (b) Power of Choice. Procedures must be put into place in the ESMF (and/or the RPF) to ensure that the donation is indeed voluntary, that the donor is the legitimate owner of such lands, and that the donor is fully informed of the purpose of the donation and of the implications of donating the property<sup>1</sup>. If the land is donated on a conditional basis, the terms and conditions for the temporary use of the property must be clearly documented. Land acquisitions on a “willing buyer/willing seller” basis should also be properly documented in order to ensure that fair compensation has been paid and to avoid future conflicts over land due to lack of transparency. During CDD project design, consideration should be given to setting clear limits beyond which voluntary land donations will not be considered acceptable. Box 3 below provides examples of CDD project policies for voluntary land donations.

Regardless of country and project specificities, it is recommended that the basic guidelines to be followed for voluntary land donation in CDD projects be as follows:

- Land to be donated must be identified by the community through a participatory approach.
- Impacts of proposed activities on donated land must be fully explained to the donor.
- The potential donor is aware that refusal is an option, and that right of refusal is specified in the donation document the donor will sign.
- The act of donation is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities.
- The donor may request monetary or non-monetary benefits or incentives as a

condition for donation.

- The proportion of land that may be donated cannot exceed the area required to maintain the donor's livelihood or that of his/her household.
- Donation of land cannot occur if it requires any household relocation
- For community or collective land, donation can only occur with the consent of individuals using or occupying the land.
- Verification must be obtained from each person donating land (either through proper documentation or through confirmation by at least two witnesses).
- The implementing agency establishes that the land to be donated is free of encumbrances or encroachment and registers the donated land in an official land registry.
- Any donated land that is not used for its agreed purpose is returned to the donor.

Each instance of voluntary land donation in a CDD sub-project must be documented. This requires written notification indicating the location and amount of land that is sought and its intended use for the subproject, and requires a formal statement of donation, establishing informed consent and signed by each owner or user involved. Taxes to be paid by the land donor for registration of the land transfer, if applicable, should be covered in full by the implementation agency. The implementation agency maintains a record with documentation for each instance of land donation. The documentation is made available for review in any grievance that may arise, and is provided to the World Bank upon request (refer to Annex 2 for example of land donation documentation). The CDD project must specify means by which land donors (and, potentially, persons whose use or occupancy was not recognized in the transfer of land) may raise grievances, and measures to ensure consideration of, and timely response to, grievances raised.<sup>23</sup> The grievance process includes participation of reviewers not directly affiliated with the project implementing agency. Grievances may be referred to customary conflict mediation arrangements where they are not directly affiliated with traditional leaders who are a party to the donation process. Alternatively, grievances may be referred to grievance mechanisms established for project purposes. The grievance process imposes no cost upon those raising grievances, and participation in the grievance process does not preclude pursuit of legal remedies under the laws of the country.

It is possible to distinguish between "pure" donations without any compensation or support given to the person affected, vis-à-vis "partial" donations which involve some monetary or non-monetary benefits or incentives provided to the affected person. Both can be broadly classified as "voluntary donations" in the sense that the transfer of assets is done without involving the payment of compensation at replacement value.<sup>25</sup> Voluntary land donations may be allowed even if no viable alternative exists, as long as the donation is to the benefit of the donor (such as a road rehabilitation project that will also benefit the owner of a small piece of land to be donated for the road works). All family members (including spouses) must be aware of the donation, in order to minimize the risks of women users of the land to be donated being passed over in decision-making on land donation and the risks of cross-generational conflicts. Individuals using or occupying community or collective lands must also be aware of the donation to minimize risks of settlers or migrants being passed over in decision-making on land donation.<sup>1</sup>

<sup>1</sup> Extracted from World Bank report no ACS14403 How to note on application of social safeguards policies to community driven development projects. July 30 2015