



The Kenya Power & Lighting
Co. Ltd.

**KENYA ELECTRICITY EXPANSION PROJECT (EASP)-KPLC
DISTRIBUTION COMPONENT**

RESETTLEMENT POLICY FRAMEWORK

November, 2009

EXECUTIVE SUMMARY

1. The distribution component of the Kenya Electricity Expansion Project designed to reduce losses in the distribution system, improve quality of electricity supply and increase access to electricity.
2. There are different sizes of substations that will be constructed or upgraded. These substations will require approximately one (1) acre of land each and different equipment.
3. The land required for the low voltage overhead power lines (i.e. 11kV, 33kV and 66kV) is 5 meters on each side from the center of the poles for 11 and 33kV, 10 meters on each side from the center of the poles for single line 66 kV and 15 meters on each side from the center of the poles for double line 66 kV double line.
4. The total length of lines to be constructed is 770.5 kilometers. This translates to 95 hectares or 190.20 acres. Approximately 80% of this land comprises of road reserves and public utility land hence compensation will not be required.
5. There is the likelihood that the identified route lines and substation sites lead to either the physical displacement of people, loss of their shelter, loss of assets, loss of income sources or means of livelihood, or restriction of access to economic resources. Therefore, OP 4.12 will be triggered. However, some of the substation sites and power line routes have not yet been established. When KPLC eventually establishes this, land would be acquired or access to economic resources may be lost, denied or restricted and people may then be affected. At that stage, OP 4.12 calls for the preparation of individual Resettlement Action Plans that must be consistent with this RPF.
6. A major objective of this RPF is to ensure that affected individuals and households, and affected and/or displaced communities are meaningfully consulted, have participated in the planning process, and are adequately compensated to the extent that at least their pre-displacement incomes have been restored and that the process has been a fair and transparent one. The specific objectives include: to avoid or minimize involuntary resettlement; to ensure that people and enterprises affected by the project are compensated for any loss of property and/or socio-economic displacement as a result of the project ; to provide affected people with the opportunities to restore or improve their living standards and income earnings capacity to at least pre-project levels and to provide guidelines to stakeholders participating in the mitigation of adverse social impacts of the project, including rehabilitation/ resettlement operations in order to ensure that PAPs will not be impoverished by the adverse social impacts of the project.

7. It is not envisaged that many sub-projects will require land acquisition, which will cause displacement and lead to the need to relocate and/or compensate affected people. Nevertheless, funds should be made available that will be used to cater for the few sub-projects that may require land acquisition and, therefore, compensation. Consequently an indicative resettlement budget has been included in the RPF to ensure that funds are allocated for compensation, should the need arise.

8. The main costs will involve the payments for entitlements, and the training of KPLC PIT team in aspects of resettlement plan preparation, implementation and monitoring. The estimates have been prepared with the prevailing prices of entitlements and other necessary items in mind. Also included is a contingency (about 10%) to cater for any unforeseen expenses that may arise. The indicative cost and budget for the activity will be approximately US\$ 123,200 (Approximately KES 9.24 Million).

9. As the project is a government owned and managed program, land acquisition should be considered as being acquired in the public interest. That being the case all costs of the resettlement program will be borne by the government through the Ministry of Energy.

Acronyms

BP	Best Practices
DFI	Development Finance institutions
EAP	Environmental Action Programmes
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
GRRM	Grievance Referral and Redress Mechanism
HV	High Voltage
IFC	International Finance Corporation
KPLC	Kenya Power and Lighting Company Limited
LPAP	Land Purchase Assistance Programme
O&M	Operations and Maintenance
PAPs	Project Affected Persons
PAH	Project Affected Households
PCDP	Public Consultation and Disclosure Plan
PIM	Project Information Memorandum
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework

Definitions of Key Terms

Project Affected Person (PAP): any person who, on account of the execution of the Project, or any of its components or subprojects would have their:

1. right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, in full or in part, permanently or temporarily; or
2. business, occupation, work, place of residence or habitat adversely affected; or
3. standard of living adversely affected.

Project Affected Household means the family or collection of PAPs that will experience effects from land acquisition regardless of whether they are physically displaced or relocated or not.

Compensation means payment in cash or kind for an asset to be acquired or affected by a project at replacement cost.

Cut-off-date means the date after which PAPs will NOT be considered eligible for compensation, i.e. they are not included in the list of PAPs as defined by the socio-economic survey.

Displaced Persons means all the people affected by a project through land acquisition, relocation, or loss of incomes and includes any person, household, firms, or public or private institutions who as a result of a project would have their;

- (i) Standard of living adversely affected;
- (ii) Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected; or
- (iii) Business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected, with or without displacement.

Encroachers mean those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.

Entitlement means the range of measures comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to /business restoration which are due to PAPs, depending on the type and degree nature of their losses, to restore their social and economic base.

Full Cost of Resettlement Compensation based on the present value of replacement of the lost asset, resource or income without taking into account depreciation.

Income Restoration means the measures required to ensure that PAPs have the resources to *at least* restore, if not improve, their livelihoods.

Indigenous peoples mean the people indigenous to an area and include ethnic minorities as defined by World Bank Operational Policy on Indigenous Peoples (OP 4.10).

Involuntary Resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement.

This occurs in cases of: (i) lawful expropriation or restrictions on land use based on eminent domain; and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

Land acquisition means the process whereby a person or household is involuntarily alienated from all or part of the land s/he owns or possesses, to the ownership and possession of a project for public purposes, in return for fair compensation.

Market Value means the process of determining market value has sought to establish appropriate compensation figures so that the affected population is able to restore their standards of living to levels “at least as good as or better than” than they were prior to the project. Where the Government rates do not provide for this standard of value, KPLC, with the technical support of the independent evaluator will calculate and adjust the compensation figures according to these principles.

Relocation means the physical moving of PAPs from their preproject place or residence, place for work or business premises,

Resettlement Action Plan means the time-bound action plan with budget setting out resettlement strategy, objectives, entitlements, actions, responsibilities, monitoring and evaluation.

Resettlement Impacts The direct physical and socio-economic impacts of resettlement activities in the project and host areas.

Resettlement Policy Framework A resettlement policy framework is required for projects with subprojects or multiple components that cannot be identified before project approval. This instrument may also be appropriate where there are valid reasons for delaying the implementation of the resettlement, provided that the implementing party provides an appropriate and concrete commitment for its future implementation. The policy framework should be consistent with the principles and objectives of OP 4.12 of the World Bank.

Socio-economic survey means the census of PAHs/ PAPs of potentially affected people, which is prepared through a detailed survey based on actual data collected.

Vulnerable means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e.; (i) female-headed households with dependents; (ii) disabled household heads; (iii) poor households; (iv) landless elderly households with no means of support; (v) households without security of tenure; and (vi) ethnic minorities.

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1.0 INTRODUCTION

1.1 Purpose

1. The purpose of this policy framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to the *Distribution Component* of the *Kenya Electricity Expansion project*.

1.2 Objectives of the Project

2. The distribution component of the Kenya Electricity Expansion project is designed to reduce losses in the distribution system, improve quality of electricity supply and increase access to electricity. The objectives of the project are:

- i) Reduction of the non-technical losses at the annual rate of one percent through effective inspection, and targeted improvement in collection rates;
- ii) Increasing access to electricity by accelerating connection rates and introducing a customer-friendly connection policy;
- iii) Improving system reliability and performance by replacing obsolete protection gear, installing auto-reclosers and auto load-break switches and sectionalizers in the distribution system;
- iv) Installing metering systems to segregate transmission and distribution losses.

1.3 Description of the Proposed Component

3. KPLC's Proposal has identified priority programs for the reinforcement and upgrade of the distribution systems. These are grouped as follows:

1.3.1 Nairobi Area.

Table 1: Description of Proposed Component in Nairobi

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
1.	Rironi S/S	- Construction of 2 km of 66 kV and 10km 11 kV lines. - Construction of 2x23 MVA 66/11kV Substation	Limuru & Kikuyu Constituency	
2.	Lower Kabete Substation	-Construction of 1 km of 66 kV and 5km 11 kV lines. - Construction of 2x23 MVA 66/11kV Substation	Parklands	

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
3.	Ndenderu Substation	-Construction of 10 km of 66 kV and 10 km 11 kV lines. - Construction of 2x23 MVA 66/11kV Substation	Kiambaa	
4.	Githunguri Substation	-Construction of 20 km of 33 kV and 5 km 11 kV lines. - Construction of 1x23 MVA 66/11kV Substation	Githunguri	
5.	Kiambu Town Substation	-Construction of 10 km of 66 kV and 10 km 11 kV lines. - Construction of 2x23 MVA 66/11kV Substation	Kiambaa	
6.	Athi River S/S Reinforcement (EPZ)		Kathiani	Establish 1x23 MVA 66/33 kV Tx as part of Export processing Zone (EPZ) Reinforcement
7.	New Athi Substation (Sykimau)	-Construction of 1km of 66 kV and 5 km 11 kV lines. - Construction of 1x23 MVA 66/11kV Substation	Embakasi	
8.	Ruaraka Parklands 66kV lines	Construction of 20km O/H 66kV line	Mathare and Starehe Constituency	
9.	Uplands Substation	- Construction of 1x23 MVA 66/11kV Substation - Construction of 20km of 66 kV and 5 km 11 kV lines.	Westlands Constituency	
10.	Ngong Matasia 66kV Line	-Construction of 20km 66kV line	Kajiando North	
11.	Nairobi North Kikuyu 66kV line	Construction of 20km 66kV line	Kikuyu and Limuru	
12.	Underground Cable work	Construction of a 25 km underground cable		

1.3.2 Coast Area.

Table 2: Description of Proposed Component in Coast

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
1.	Jomvu Substation	- Construction of 2x7.5 MVA 33/11kV Substation - Construction of 10 km of 33 kV and 10km 11 kV lines.	Changamwe	
2.	Kwale Substation	-Construction of 30 km of 66 kV and 5km 11 kV lines. - Construction of 2x7.5 MVA 33/11kV Substation	Matuga	
3.	Mishomoroi Substation	-Construction of 1 km of 33 kV and 10 km 15 kV lines. - Construction of 1x7.5 MVA 33/11kV Substation	Kisauni	
4.	Shimoni Substation	-Construction of 30 km of 33 kV and 5 km 11 kV lines.	Msambweni	
5.	Coast New 11 KV lines	-Construction of 30 km of 11 kV line.	Malindi, Mvita and Changamwe	
6.	Coast New 11 KV lines	Construction of 102 km of 11 kV line.	Malindi, Mvita and Changamwe	

1.3.3 Western Area.

Table 3: Description of Proposed Component in Western region

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
1.	Ahero Substation	- Construction of 20 km of 33 kV line. - Construction of 2x2.5 MVA 33/11kV tx -Establishment of 3no. outgoing 11 kV feeders approximately 5kms	Nyando	

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
2.	Bomet Substation	-Construction of 40 km of 33 kV and 5km 11 kV lines. -Construction of 5 km of 11 kV line - Establishment of new 7.5 MVA 33/11kV tx	Bomet Central	
3.	Bungoma Substation	- Establish new 7.5 MVA 33/11kV tx -Construction of 5 km of 11kV line	Kandunyi	
4.	Keroka Substation	Construction of 40 km of 33 kV and 5km 11 kV line. -Construction of 5 km of 11 kV line - Establishment of new 7.5 MVA 33/11kV tx	Nyaribari Masaba	
5.	Chapseon Substation	-Construction of 5 km of 33 kV and 10 km 11 kV line. -Establish new 2.5 MVA 33/11kV tx - Establish 2 no. feeders approximately 5km	Kipkelion	
6.	Elgon view Substation	-Establish new 7.5mva 11kV switchgear 33/11kV tx -Construction of 2km of 33kV line and 2 km of 11kV line	Eldoret	
7.	Kaplamai Substation	- Establish a new 1x7.5 mva -Construct 2x11 kV feeders (33kV and 11kV lines) - Construction of 10 km of 33 kV and 11kV line.	Cherangani/ Marakwet West	
8.	Sosiot Substation	-Construction of 5 km of 33 kV line. - Establish a new 2.5 mva ,11kV feeders approximately 4kms	Belgut	

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
9.	Kapsowar Substation	- Construction of 1x23 MVA 66/11kV Substation - Establish a new 1x2.5 mva -Construction of 2x11Kv feeders -Construction of 5km of 33 kV and 11 kV lines	Marakwet East and Marakwet West	
10.	Kibos Substation	-Construction of 4km of 33kV line -Establishment of new 7.5 mva, 33/11kV tx -Establishment of 3no. x 11 Kv feeders approximately 6 km	Kisumu Town East	
11.	Kabarak University Substation	-Construction of 30km of 33kV line and 10km of 11kV -Establishment of a new 7.5 mva, 33/11kV tx	Rongai	
12.	Kipsarman Substation	-Establishment of a new 2.5 MVA, 33/11kV - Construction of 5km of 2x11kV feeders - Construction of 5km of 33kV line and 11kV lines		
13.	Majengo Substation	-Construction of 1km of 33kV line -Establishment of a new 2.5 MVA, 33/11kV tx -Establishment of 3no. x 11 kV feeders approximately 4 km	Hamisi	
14.	Matutu substation	-Establishment of new 2.5 MVA, 33/11kV tx -Establishment of 3no. x 11 kV feeders approximately 6 km		
15.	Maseno 33/11kV substation (new)	-Construction of 15km of 33kV line -Purchase of plot -Establishment of a new 1x7.5 MVA, 33/11kV tx -Establishment of 3 no.11 kV feeders approximately 4 km		

1.3.4 Mt Kenya Area.

Table 4: Description of Proposed Component in Mt Kenya region

Number	New Line Routes & Substation Sites		Distribution Systems Reinforcement and Upgrade	
	Location	Scope of Work	Location	Description
1.	Gatundu Substation	- Construction of 10 km of 33 kV and 11 kV line. - Establish new 2x7.5 MVA tx	Gatundu	
2.	Juja Substation	-Construction of 5 km of 33 kV o/h line -Construction of 5 km of 11 kV line - Establishment of 2x7.5 MVA 33/11kV substation -Construction of 2 km of 11 kV o/h line	Juja	
3.	Kianjai Substation	-Additional 1x2.5 MVA 33/11kV tx	Tigania West	
4.	Muranga Substation	-Construction of 13 km of 33 kV o/h line. -Establish 2x2.5 MVA 33/11kV Substation - -Construction of 10 km of 11 kV o/h line.	Kiharu	
5.	Tala Substation	- Construction of 30 km of 33 kV o/h line. -Establish 1x7.5 MVA 33/11kV Substation - -Construction of 2.5 km of 11 kV o/h line.	Kangundo	
6.	Mwea Substation	- Establish 7.5 MVA tx -Construction of 22 km of 33 kV and 5 km of 11kV line -Purchase of plot	Mwea	

1.4 Components Involving Land Acquisition and Resettlement and/or Compensation

1.4.1 Substations

5. There are different sizes of substations that will be constructed or upgraded. These substations will require 1 acre each and different equipment.

6. The equipment in the substation will include transformers, bus bars, circuit breakers, isolators and switchgears. The work in new substations will include the civil works namely the removal of the topsoil and filling with hardcore material before preparing the transformer plinth and the foundation for equipment bases. The fencing is usually done to secure the compound prior to the commencement of the construction works.

1.4.2 Power Lines

7. There are three categories of distribution lines under this project namely:

- High voltage lines - 66kV
- Medium voltage lines - 33kV and 11kV

8. Most of the overhead power networks at 11KV, 33KV and 66KV are constructed on treated wooden poles although concrete poles are being introduced. Wooden poles are treated with creosote, which is a petrol-chemical product.

9. The total length of new lines to be constructed in this project is 770.5 kilometers. Approximately 85% of this land comprises of road reserves and public utility land.

1.4.3 KPLC Land Acquisition and Resettlement and/or Compensation Procedure in the Past

Substations

10. The KPLC would identify the potential site and the individual registered landowner whom they would approach and negotiate the land price based on the existing market value. If the plot belongs to the Local Authority or is public land (Government), the KPLC would make a formal request to either of them. Upon approval, the Local Authority would effect the allotment of the land while the Government would grant the land through the Commissioner of Lands, as the case may be. KPLC also approaches its sister companies (parastatals) for land. This is only done on a willing seller basis.

11. The owner of the land is compensated appropriately. If there are tenants or squatters on the land, they are also compensated according to the report of the Kenya Power and Lighting Company Limited Resettlement Action Team. The team would value the property on the land i.e. buildings and crops, as well as the land itself.

Medium and High Voltage Lines

12. A reconnaissance survey would first be done to search for the best possible route. It is KPLC policy to avoid existing structures as much as possible. Once the best route has been established, a meeting between the KPLC staff, the locals and the local administration would be arranged. During this meeting KPLC would formally request for permission to survey the area. Once this is agreed upon, the surveyor would move to site and take detailed profiles of the area and also place pegs where the poles are to be

located. The surveyor would then prepare a cadastral map of the area showing the plot numbers and the route of the power lines as well as the position of the poles.

13. The Wayleaves section of the KPLC would then prepare a wayleaves agreement showing the specific affected plot and the proposed route. KPLC would not acquire ownership of the land through this agreement. The landowner would only grant KPLC access to place their poles on his/her land and promise to adhere to the requirements such as not growing anything higher than 12 feet within the wayleave trace. The wayleave trace for the high voltage lines is 15m and 10m for the medium voltage lines. The landowner has the right to reject or accept this proposal. If KPLC is denied access by rejection of this agreement an alternative route would be sought.

14. KPLC will also consult with other relevant institutions such as Telkom Kenya, County Councils, Kenya Civil Aviation Authority (KCCA), Kenya Pipeline Company, Kenya Ports Authority, Department of Defence, Kenya Wildlife Service, Kenya Forestry Service and Ministry of Public Works and Housing to ensure that the proposal is in harmony with other proposed developments.

1.5 Justification for Resettlement Policy Framework

15. Some of the identified line routes may lead to either the physical displacement of people, loss of their shelter, loss of assets, loss of income sources or means of livelihood, or restriction of access to economic resources. If it happens then OP 4.12 is triggered and those affected must be compensated. Some power line routes have not yet been established. When these are eventually established, access to economic resources may be lost, denied or restricted and people may then be affected. At that stage, OP 4.12 calls for the preparation of individual Resettlement Plans that must be consistent with this RPF.

2.0 POLICY FRAMEWORK

16. The purpose of this policy framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied during the implementation of the proposed substations and distribution lines.

17. The RPF has outlined the guiding principles to be followed when involuntary land acquisition and Resettlement and or compensation is undertaken. This Framework sets out the key issues that need to be delineated into project specific RAP in order to minimise to the extent possible the impact to Project Affected People (PAP) and also to mitigate any negative impacts upon local communities and enhance positive impacts.

19. The Framework applies to all displaced persons regardless of the total number affected, the severity of the 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 displaced; especially those below the poverty line; the landless, the elderly, women and children, indigenous groups and the ethnic and religious minorities or other displaced persons who may not be protected through Kenyan legislation.

20. To address the impacts under this policy, resettlement and compensation plans will include measures to ensure that displaced persons are;

- informed about their options and rights pertaining to resettlement and compensation.
- consulted on, offered choices/ options, and provided with technically and economically feasible resettlement and compensation alternatives.
- provided with prompt and effective compensation at full replacement cost for losses of assets and access, attributable to the project, and
- provided opportunities to improve or at least restore their livelihoods and standards of living

2.1 Principles and Objectives Governing Resettlement Preparation and Implementation

21. The impacts due to involuntary resettlement from development projects, if left unmitigated, often gives rise to severe economic, social and environmental deprivation. These may result in production systems being dismantled, people facing impoverishment when their productive skills may be less applicable and the competition for resources greater; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

22. The resettlement policy, in most cases, is not triggered because people are not being affected by physical displacement. It is triggered because the project activity may cause land acquisition, whereby a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on the land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, affected people in most cases have to be compensated for their loss (of land, property or access) either in kind or in cash. According to the Banks experience, resettlement of indigenous peoples with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. All viable alternative project designs should be explored to avoid physical displacement of these groups.

23. Affected people, according to the World Bank policy, refers to people who are directly affected socially and economically by the Bank-assisted investment projects.

24. In the preparation of the project, the affected people should:

- be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- 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 levels prevailing prior to the beginning of project implementation, whichever is higher.

25. Any project which includes the acquisition of land either of a temporary or permanent nature requires the development of a project-specific RAP or Compensation Framework (both are referred to as a RAP in the discussion that follows).

26. The project-specific RAP must take cognisance of the following:

- Requirements of this Resettlement Policy Framework.
- Requirements of the laws of Kenya.
- A project-specific community engagement strategy will be developed.
- A project Eligibility Notice will be posted both in the local media and at appropriate locations within the footprint of the project.
- The RAP will identify the nature and magnitude of the land acquisition needed in terms of permanent and temporary requirements for the project.
- The RAP will have a clear definition of the PAP by socio-economic and gender category; household or family; the cut-off dates for eligibility for compensation; the assets to be compensated at replacement cost.
- The RPF requires that an implementation mechanism be set in place for the delivery of the entitlement compensation package, as well as to meet the objective of the RAP.
- The RAP will undertake a detailed socio-economic survey in order to identify entitlement, key issues faced in terms of land acquisition and compensation; and options and strategies for minimising impacts on current land use activities or cultural heritage.
- The RAP will provide specific rates for compensation of loss of assets at fair market and equitable value and the methodology of how these values were derived.
- The RAP will set out the land acquisition and compensation processes, options available, eligibility and entitlement and consultation and grievance referral and redress mechanisms (GRRM).

27. The specific RAP for each project will take into account the requirements of the applicable laws of Kenya as well as requirements of the World Bank.

2.2 Process Description for Resettlement Plans Preparation and Approval

28. Resettlement plans should be built around development strategy and packages aimed at improving or at least restoring the economic base for those relocated. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land or on private land acquired or purchased for resettlement. Whenever replacement

land is offered, those affected are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons or the provision of land would adversely affect the sustainability of a protected area, or sufficient land is not available at a reasonable price, non-land based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be clearly demonstrated.

29. Payment of cash compensation for lost assets may be appropriate where
- a. livelihoods are land based but the land taken for the project is less than 20% of the total productive area and the residual is economically viable
 - b. active markets for land, housing, and labour exist, displaced persons use such markets and there is sufficient supply of land and housing
 - c. livelihoods are not land based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in the local markets.

30. These aspects will be assessed as described in the sections below.

2.2.1 Socioeconomic Survey

31. At project launching, an assessment of the social impacts of each subproject will be conducted. The assessment will help to : (i) determine which mitigation measures to be taken; (ii) establish whether or not detailed resettlement action plans with timetables and budgets should be prepared.

32. Issues to be addressed by the Social Impact Assessment (SIA) will include: demography; land tenure; socioeconomic structures, consultations with local authorities and with the Project Affected Persons (PAPs). A key task to be conducted under this process is a household survey describing the extent of the social impacts. The social survey should contain general house hold data such as: family size, gender and age information; education; occupation; land ownership, tenure arrangements and so forth.

33. Resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population, In addition to describing standard household characteristics, socio-economic surveys should describe:

- (a) The magnitude of displacement;
- (b) Information on the full resource base of the affected community;
- (c) The extent to which the groups will experience total or partial loss of assets;
- (d) Public infrastructure and social services that will be affected;
- (e) Formal and informal institutions (such as community organizations, ritual groups etc.) that can assist with designing and implementing the resettlement programs; and
- (f) Attitudes on resettlement options.

34. Socio-economic surveys, recording the names of affected families, should be conducted as early as possible to curtail inflows of populations ineligible for compensation.

35. The survey would estimate the extent to which the affected families will experience loss of assets, including control over resources, as well as infrastructure and social services available. The survey should further describe local organizations and institutions, village councils, religious groups etc., which could later participate in

planning and implementation of the resettlement options. Expected changes in demography and health impacts should also be addressed. At this stage, all PAPs will be listed in order to avoid an influx of people trying to take advantage of the compensation and resettlement. A cut off date will also be 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.

36. Closely linked to land acquisition is involuntary resettlement. The loss of land often implies that those who lived on the land need to be relocated or resettled. A critical task of the SIA will be to identify new land for those PAPs who will lose their land.

37. The principles of compensation/resettlement will be triggered wherever there will be land acquisition and adverse social impacts. However, should the SIA findings reveal that more than 200 people are affected by a subproject, a Resettlement Action Plan (RAP) will have to be prepared.

38. OP 4.12 will be triggered wherever there will be involuntary land acquisition and resettlement and /or compensation and adverse social impacts. However, it allows for an abbreviated resettlement plan (ARP) to be prepared for situations where the impacts on the entire displaced population is minor (i.e. affected people are not physically displaced and less than 10% of their productive assets are lost) or fewer than 200 people are displaced.

2.2.2 Alternative Sites and Selection

39. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for both rural and urban resettlement. For land-based resettlement, the new site's productive potential and location advantages should be at least equivalent to those of the old site. The World Bank encourages "land for land" as long as the replacement land is of equal quality to the lost land. In selecting the new relocation site, it is also important that the sources of other income generating to complement farm income are made accessible. The new site should provide comparable access to employment opportunities, infrastructure, services and production opportunities.

2.2.3 Access to training, employment, and credit

40. Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population. Thus, alternative employment strategies are needed for non-agricultural displaced farmers. Where feasible, new economic activities made possible by main investment requiring the displacement, vocational training, employment counseling, transportation, employment in the main investment project or in resettlement activities, establishment of industries, incentives for firms to locate in the area, credit and extension for small businesses or reservoir aquaculture, and preference in public sector employment are all considered in the areas where applicable.

41. To address the impacts under this policy, resettlement plans must include measures to ensure that the affected and/or displaced persons are:

- a. Informed about their options and rights pertaining to resettlement.
- b. Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives.

- c. And provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project.

2.3 Estimated Population and Likely Categories of Affected Persons

42. The socioeconomic survey will determine the total estimated population that would be affected by the project.

43. The likely affected and/or displaced persons can be categorized into the following 2 groups:

- a. **Affected Individual** -An individual who suffers loss of assets or investments, land and property and/or access to natural and/or economical resources as a result of the project activities and to whom compensation is due. For example, an affected individual is a person who farms a land, pastoralists whose routes have been altered, who conducts street vending, or a person who has built a structure on land that has been demarcated and is now required by the project.
- b. **Affected Household** - a household is affected if one or more of its members is affected by project activities, either by loss of property, land, loss of access or otherwise affected in any way by project activities.

2.4 Eligibility Criteria for Compensation

44. There is need to carry out a census to identify the persons who will be affected by the project to determine who is eligible for assistance and benefits, and to discourage inflow of ineligible people. The level of asset loss as either temporary or permanent and assign economic values to them will be assessed. To effectively do this, the survey will undertake asset inventory survey for PAPs.

45. This will be done through interviews, group discussions and review of existing documentary evidence (such as permits and licenses) for assets to be lost in the project. There will be a review of whether the asset is individually owned or belongs to a group. The involuntary taking of land results in: Relocation or loss of shelter, loss of assets or access to assets or loss of income sources or means of livelihood, whether or not the PAPs must move to another location or not. Therefore meaningful consultations with the affected persons (directly and through representatives), local authorities and appropriate NGOs allows for establishing the criteria by which affected persons will be deemed eligible for compensation and other resettlement assistance.

46. 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 approval as issued by both central and local government offices. The key local authorities to be interviewed by the consultants will include District, Divisional and location government officials such as the District/ divisional agricultural officer, the District officers, chiefs and sub-chiefs. Other persons include: identified large and small-scale farmers, businessmen and businesswomen, women leaders and other leaders of social groups.

47. Affected persons may be classified in one of the following three groups:

- a. Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of Kenya).
- b. Those who do not have formal legal rights to land at the time the census begins but have a claims to such land or assets- provided that such claims are recognized under the laws of the country or become recognized through an identified process.
- c. Those who have no recognizable legal right or claim to the land they are occupying.

48. The process will involve review of tenure documents owned by occupants, interviews with households and groups in the affected area. Local authorities and Ministry of Lands and Settlement, which is concerned with land ownership and management will also hold discussions with the consultant.

49. Persons covered in a) and b) are provided compensation for the land they lose, and other assistance ensuring that they are:

- i. Informed about their options and rights pertaining to resettlement.
- ii. Consulted on, or offered choices, and provided with technically and economically feasible resettlement options.
- iii. Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.

50. Persons covered under c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the policy objectives, if they occupy the project area prior to the cut off date. 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 affected by the project are provided compensation for loss of assets other than land.

51. There will therefore be a package of compensation and other resettlement measures to assist each category of eligible affected persons to achieve the objectives of the policy.

52. Eligibility will also be assessed using the following information:

1. **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).
2. **Loss of wages and income:** These are applicable to 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.

3. **Disturbance Allowance:** These are applicable to persons who will be affected by the disruption that movement away from their present location will cause

53. 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.

54. 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.

55. 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.

2.5 Legal Framework

56. We have in Kenya a plethora of enactments all governing land and transactions in land¹. Thus the substantive land law is to be found in two different statutes while the adjectival land law is to be found in five different statutes not forgetting the customary land law of the various tribes in Kenya.

57. There are two systems of substantive land law, three systems of conveyancing and five systems of registration. The two systems of substantive law are under:

- 1 The Indian Transfer of Property Act 1882 as amended by 1959 Amendment Act
- 2 The Registered Land Act

58. The three systems of conveyancing are those applicable to land registered under:

- 1 Government Lands Act Cap 280, part X Laws of Kenya and Land Titles Act Cap 282, Part III Laws of Kenya
- 2 Registration of Titles Act
- 3 Registered Land Act.

2.5.1 Registration Systems

59. The five registration systems are those under:

1. The Government Lands Act (G.L.A)
2. Registration of Titles Act (R.T.A)
3. The Land Titles Act (L.T.A)
4. The Registration of Documents Act Cap 285 Laws of Kenya (R.D.A)
5. The Registered Land Act (R.L.A)

60. The Registration of Documents Act is not peculiar to land law as documents completely unrelated to land are registrable under it.

¹ P. L. Onalo. Land Law and Conveyancing in Kenya. Heinemann Kenya. Nairobi. 1986

2.5.2 Ownership

61. Absolute or complete ownership can be said to be in the state. Under G.L.A the commissioner of Lands, on behalf of the Republic of Kenya grants leases of town plots for any term not exceeding ninety nine (99) years and of agricultural land for 999 years. The grantee becomes owner and subject to the terms and conditions of the lease he possesses the bundle of rights of ownership. The 999-year leases can be converted into freehold and the 99 years to 999. On conversion or expiry of lease the new grant may be issued under R.T.A or R.L.A.

62. All unalienated land other than trust land and all reversion of government leases are vested in the government. Others whether held on freehold or leasehold are vested in grantees as owners having the rights over them.

63. The power of the state to qualify (extinguish) property rights in the public interest is embodied in Section 75 of the Kenyan Constitution. The section however makes the exercise of that power subject to due process of law. Section 117 of the Constitution further provides that an Act of Parliament may empower a county council to set apart trust land for:

- (a) The use and occupation of any public body or authority for public purposes; or
- (b) Prospecting or mining purposes; or
- (c) The use and occupation of any person or persons for a purpose that is likely to benefit the residents of the area.

64. Section 117 part 4 stipulates that the setting apart is void unless the law under which it is made makes provision for the prompt payment of full compensation. The Trust Land Act, in Sub-sections 7 to 13, makes provision for the setting apart of land and payment of compensation with regard thereto.

65. All land in urban areas of Kenya and much of the land in rural areas has a registered title. The title to land is either freehold or leasehold. The development and use of freehold title is controlled by land planning regulations which are administered by both the Central Government and the Local Authority in which the Land is situated. (A Local Authority is either a County Council or Municipal Council whose activities are established and controlled by Local Government Legislation).

66. Leasehold land is held on leases from the Central Government or, less frequently, from the Local Authority and such leases will contain provisions governing the development of the land and the use to which the land can be put. The leases frequently contain provisions against any dealing with the land without the consent of the landlord.

67. The Central Government administers its land through a Department of Lands which is headed by a Commissioner of Lands.

2.5.3 Expropriation of Land for Development in Kenya

68. In Kenya expropriation is provided for in the Constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land. But the constitution only gives general guidelines. The detailed procedures for acquisition are elaborated under the “Land acquisition Act” in chapter 295 for private land and chapter 288 for unregistered Trust Lands. “Trust Land” refers to that land that is still

held under African customary tenure. The title to this land is said to vest in the County Council in trust for its inhabitants, hence the term “Trust”

2.5.4 Procedures under Chapter 295 of the “Land Acquisition Act”

69. In short, a formal request should be submitted to the “Commissioner of Lands” by the benefiting authority, e.g. a municipal council in case of urban areas. Any other public body or Government may request for acquisition this way. The Commissioner will then forward the application to the Minister in charge of lands. If the minister is convinced that the land is required for public purpose, he writes to the commissioner to that effect, and directs him to acquire the land (Section 6(1)). The Commissioner will then give “Notice of Intention” to acquire the land (section 6(2)) in the “Kenya Gazette” side by side with the “Notice of Inquiry”.

70. The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” mentions places and fixed dates when persons interested in the subject land are to submit their claims to the Commissioner of Lands or his appointee (a “Valuation Officer” also known as “Collector of compensation”) according to Section 9. Meanwhile the Collector of Compensation is supposed to inspect the said land and value it for compensation. After the inquiry the Collector will issue and award depending on his own assessment and the representations of interested parties as submitted at the inquiry (Section 10 and 11).

71. The award is issued in a prescribed form, together with a statement form. The former indicates the amount of compensation awarded while the latter gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, the collector will issue a cheque in settlement together with a formal “Notice of Taking Possession and Vesting” (section 19). The notice instructs the landowner to take his title for amendment or cancellation. It is copied to the Government surveyor and the land registrar to make necessary changes to the affected deed. On the other hand if the owner rejects the award, the collector deposits the money in court pending the former’s appeal. Compensation is based on open market value.

2.5.5 Procedures under Chapter 288 of the “Land Acquisition Act”

72. “Setting apart” carried out at the instance of the state will involve the following procedure. The President will write to the local authority in charge of the said Trust Land informing the Council that the land is required for public purpose by a public body. The Council is supposed to deliberate the matter at a full council meeting and give consent. The “District Commissioner” in charge of the affected area will then proceed to ascertain interests, determine areas and assess compensation for the land after which he is to issue an award. In case of acquisition at the instance of the County Council itself, the whole process is repeated except that this time the President is not involved in giving directions. It starts with a full council meeting.

73. In sum, land use rights can be withdrawn by the state in the public interest. However, the state has the responsibility for paying fair compensation for any losses and improvements. There is no specific resettlement policy and regulatory framework. The land law only specifies compensation payment for expropriated land, which is done in the public interest. It is silent on compensation issues such as the principles, forms, eligibility, valuation, adequacy, procedures, timing and responsibilities.

74. There is no legal mechanism for affected persons to appeal against compensation paid or other resettlement measures. The only legal recourse available to affected persons is the courts of the country. Fortunately, there are well-established local mechanisms for conflict resolution concerning land among local communities

75. In the absence of a comprehensive resettlement legal and policy mechanism in the country, the requirements of WB OP 4.12 will become the operational policy framework on all sub-projects requiring displacement.

2.6 Framework for RAP-Procedures

76. This RPF describes the key principles to be followed during the preparation of RAP for this project. This section outlines the procedures for implementing compensation for impacts and losses, those of a physical or economic displacement as well as the rehabilitation assistance that is to be provided for affected households in order to restore their livelihoods and for mitigation measures for those indirectly affected communities. The scope and level of detail of the project-specific RAP will vary with the magnitude of displacement and the complexity of the measures required to mitigate adverse impacts.

2.6.1 RAP Framework Guiding Principles

77. The principles of the RPF outlined above shall be delineating into the specific project RAP's. These procedures are more extensively elaborated upon below.

2.6.2 Resources

78. A team will be set up to oversee all the activities of the RAP. The size of the team, its formation, its functions and terms of reference will depend upon the extent of the land acquisition and numbers of PAPs.

2.6.3 Community Engagement Requirements

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

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

81. The Principles are:

- All stakeholders must be consulted and be effectively involved in a two-way communication with the project sponsors. Special efforts will be made to consult with women and vulnerable communities.

- The RAP will include an explicit public information strategy. This will include the use of mass media, possibly through radio and television, to advise the dates and times of public meetings, availability of documents, selection criteria, cut-off dates, and compensation measures.
- The consultation should be preceded by providing all the relevant and accurate information.
- Following disclosure of all relevant information, the client will consult with and facilitate the informed participation of affected persons and communities, including host communities, in decision-making processes related to resettlement. Consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to achieve outcomes that are consistent with the objectives of this Framework.
- Supply of information and consultation with different stakeholders should be through a language and medium they are comfortable with.
- In certain cases, for example, the land acquisition process, where the information is not easily understood by the people, KPLC shall take responsibility for simplifying and ensuring that the whole process is understood by the project affected persons, using appropriate methods of communication.
- There shall be a specific and transparent mechanism for the recording of grievances and their timely resolution. The Company will make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available.
- Where affected population do not have land titles, cadastral surveys may have to be carried out to establish the basis for compensation and procedures will be established to regularize and recognize claims to land, including claims that derive from customary law and traditional usage.
- Clear communication of responsibility and accountability procedures, personnel and resource availability for effective implementation of plan shall be put in place.
- A schedule shall be prepared and disseminated in appropriate places within the footprint of the project detailing the time, place for consultation and contact details of the lead person.

2.6.4 Eligibility Notice

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

2.6.5 Implementation Mechanism

83. The RAP will require that an implementation mechanism be set in place for the delivery of the entitlement package, as well as to meet the objective of the RAP. The strategy of implementation includes the delineation of roles and responsibilities of organisations/ institutions, as well community groups, the

procedures to be followed along with the support facilities available and a timeframe for implementation of each of the activities.

84. These are as follows:

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

2.6.6 Legal and Legislative Requirements

85. A summary of the legal framework, policies, principles and objectives that govern the land acquisition and compensation processes will be prepared and disclosed to PAPs.

86. Where the information is not easily understood by the people, the company shall take responsibility for simplifying and ensuring that the requirements and procedure is understood by the project affected persons, using appropriate methods of communication.

2.6.7 Involuntary Land Acquisition

87. The RAP will provide both detailed and locational maps identifying the nature and magnitude of land acquisition needs, both permanent and temporary for the project.

88. The maps will detail the extent of the impact of land acquisition on each individual project affected household (PAH) and to the extent possible each PAPs asset/economic interest in the land to be acquired.

89. In cases where the family members have informally divided and cultivated their ancestral land with no mutation legally recorded, the portion of the land currently being farmed or resided upon by the PAP will allocated in accordance with their mutation arrangement and the disbursement of compensation will be pro rata basis on a acreage/percentage basis. However, the compensation option entitlements will be calculated on the overall size of the land parcel or PAH basis.

2.6.8 Socio-economic Survey

90. Provide a summary of relevant baseline information on affected populations; identifying all categories of impacts and people both directly and indirectly which include those of a physical and economical nature. The summary will include an assessment of their relevant socio-economic circumstances; identify key issues faced in terms of land acquisition and compensation; whether or not the PAH or PAP falls with the criteria for vulnerability and options and strategies for minimising impacts on current land use activities or cultural heritage.

91. An electronic database will be developed to store all socio-economic data collected during the survey. Each PAH and PAP within the parcels of land to be acquired for the project will be given a unique identification number that will grant eligibility to compensation and to the various compensations options that will be developed. A questionnaire will be developed for the household survey and for the economic interest within each parcel of land.

92. Photographs of PAPs and their assets will be taken to supplement identification and ensure transparency with respect to material assets. The census survey data will assist in preparing the micro plans for each PAH/ PAP and will be used to monitor the success of the RAP process.

93. The survey should bring out as a minimum the following details:

- Name and family details
- Demographic information on social classification, education and occupation of each family member
- Skill base/ education level for each member
- Total family income (from all sources)
- Details of land ownership and extent of land loss due to the land acquisition/ negotiation. (Actual land ownership, and not only in terms of land records)
- Details of income loss due to loss of land (from agriculture, plantation, labour and sharecropping).
- Details of any structure or asset on the impacted land
- Identification of vulnerability (women-headed household, family with physically and mentally challenged members, family with aged members, family with income below poverty line and family losing more than the economic threshold of their land through acquisition/ negotiation)

2.6.9 Resettlement and Compensation Action Plan

94. Following the collection of the baseline data, market surveys for structures, land and crops a resettlement action plan or compensation framework will be developed providing options for eligible PAHs and PAPs taking cognizance of the feedback from the various stakeholders. Meetings will be set up to disclose the various resettlement and compensations options available for all PAHs and PAPs. At the meeting the resettlement, rehabilitation, assistance and compensation options available will be discussed in broad general terms and further meetings will be arranged to discuss with individual PAHs and PAPs the specific

resettlement, rehabilitation, assistance and compensation options that are applicable to them.

95. The following process will form the basis of compensation but not limited as such:

- Land-based compensation will be the preferred option and will be based on the principle of equal productivity and/or value. Assistance with purchase and registry will be provided and such land should be free from all encumbrances.
- Payment of cash compensation for lost assets may be appropriate where:
 - (i) livelihoods are not land-based;
 - (ii) livelihoods are land-based but the land taken for the project is a small fraction of the affected holding and the residual land is economically viable;
 - (iii) replacement land or housing of comparable quality is not available locally;
 - or (iv) active markets for land, housing, and labor exist locally, displaced persons use such markets, and there is sufficient supply of land and housing. Cash compensation levels will be sufficient to replace the lost land and other assets at full replacement cost in local markets. The PAH/PAP (owner) receiving the compensation should be persuaded to operate through a joint account in the name of both the entitled person and his or her spouse, unless the person is divorced or separated. The purpose for which the money could be used will be monitored by the monitoring team. The PAHs should be encouraged to invest in creation of capital, property, payment of debts, or enhancing their livelihood. These processes will be explained to the PAHs/PAPs in village level consultations held before the land acquisition process, and in accordance with the schedule of consultations outlined in the community engagement plan.
- The PAHs/ PAPs should be encouraged to purchase alternative land with their compensation (through the Land Purchase Assistance Programme LPAP), so as to facilitate their income restoration and return to their traditional activity of agriculture. This assistance will be provided by the rehabilitation team. This team will assist the families in identifying alternate lands and will provide information on the market prices prevailing in the area.
- Transition assistance/allowance will be provided to vulnerable PAHs and eligible entitled PAPs. The method of assistance and allowance will be developed as part of the compensation package.
- Start-up assistance/ allowance will be provided for PAHs/ PAPS who chose the land-for-land option. The method of assistance and allowance will be developed as part of the compensation package. PAHs/PAPS will be allowed to harvest crops as well as transfer fruit trees to the extent possible and within the relocation schedule.
- Land purchase assistance shall be provided to entitled PAHs/PAPs from the rehabilitation team. The assistance will be in the form of:
 - Disseminating information about availability of different categories of land and their values
 - Helping the PAPs in identifying alternate lands and applying for bank loans, if required.
 - Assisting PAPs with acquiring land title.

96. The project recognizes that households falling within a certain threshold due to the land acquisition process could become more vulnerable than others and may need additional rehabilitation assistance. Such PAHs or PAPs will be identified as early as possible in the process and will be provided with additional support, assistance or compensation based on a reasonable and rational criterion.

97. In addition, the project will provide land purchase assistance to PAHs and PAPS who want to use their compensation to buy alternative lands. Costs of registration fees, etc for acquiring similar land/ structure will be reimbursed on actual costs or fair market value.

98. The RAP activities that will be undertaken by the project will also be designed and implemented to contribute additional assistance (transition allowance) to the rehabilitation of the affected households. The plan will also provide a detailed schedule for the implementation of the RAP.

- Crop compensation will be paid in accordance with fair market value. A survey will be performed to assess fair market value.
- Income restoration should be part of the monitoring programme normally carried out over a 3 year term with periodic reviews. Specific attention should be given to requirements of women and vulnerable people and the physical challenged.
- Community development plans should form part of the RAP and be investigated as possible mitigate

2.7 Methods of Valuing Affected Assets

99. Legally acceptable valuation procedures that are accepted by both the Government of Kenya and World Bank, will be applied for purposes of fairness and consistency. This will consider replacement costs as well as types and levels of compensation under the Kenya law. Valuation of lost assets will be made at their replacement cost. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement net depreciation, moving expenses and other transaction costs. This minimum value is then compared to the cost of new measures. This is arrived at, by analyzing current costs of land, crops, construction and materials.

100. The estimate of these costs of these new measures can be obtained through the following:

- Rates quoted by contractors for similar structures in other construction projects/programs: When rate schedules do not exist or are out of date, recent quotations by contractors for similar types of construction in the vicinity of the project can be used for calculating replacement costs. In projects offering the options of cash compensation or alternative accommodation, the construction cost estimates for alternative accommodation could be used for calculating cash compensation payable.

- Schedule of rates obtained from the Chief Valuer, Commissioner of Lands Office, Ministry of Lands and Settlement: The Materials departments have a schedule of rates for preparing estimates for construction projects, which the consultant can use to assess costs for construction materials and labor. When applied to calculation of replacement cost, rates current for the period of actual replacement will be used.
- *Estimation of replacement cost*

For distribution lines, KPLC will mainly follow the road reserves and redesign will be done to avoid resettlement. Where resettlement is unavoidable the following steps are taken to ensure fair compensation

1. Right of way agreement is signed between the owner and KPLC
2. Evaluation of land loss / damages will be done by wayleave officer and property officer using approved government rates. Where necessary independent valuers will be engaged
3. Compensation is made to the owner

101. The estimation of replacement cost for land will be pegged on market value at the time of the valuation. Depending on the level of severity, a compensation of upto 50% will be done. For structures, replacement cost will be based on current cost of construction of putting up similar structure at the time of assessment. Data will be collected by KPLC PIT from contractors in the area and supplement from government departments like Ministry of Public works.

102. An inventory of each asset belonging to the PAP will be taken in his/her presence. Values of each asset will be pre-printed, shown to the affected person, and set against the type and number of such losses that the individual will be shown, and the total of all losses as well. The inventory and evaluation will be signed and a copy given on the spot to the affected person. The form will say, and the affected person will be notified, that the inventory will not be official until a second signed copy, verified by project supervisory staff, is returned to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person.

2.7.1 Compensation for loss of property

103. Compensation will be facilitated by (a) paying special attention to the adequacy of the legal arrangements, concerning land title, registration, site occupation (b) publicizing among people to be displaced the laws and regulations on valuation and compensation (c) establishing criteria for determining the resettlement eligibility of affected households, e.g., households that have only partially lost their assets but are no longer economically viable.

104. Compensation for land, structures, business, fixed improvements, and other temporary assets will be based upon market valuation, disposition for salvage materials, and other fees paid. Lack of title, license, or permit will not bar compensation because even squatters have construction costs relative to design, materials employed, workmanship, and final finish. The assessment will be undertaken in consultation with affected communities (by use of interviews, representatives) and relevant (central and local) government agencies.

105. The Kenyan law recognizes compensation for loss of property due to implementation of development projects. The law includes houses, crops and trees.

106. It also recommends a fair compensation for loss of property. The government has established a compensation principle, and that is, compensation for loss of property is paid at market value. Property loss falls under four categories namely:

- Property owners
- Business tenants
- Residential tenant
- Encroachers (using land)
- Squatters

a) *Property owners*

107. The property owner is to be compensated by land replacement at new site and paid for the crops and trees at market price. Where he has lost structures (business or residential), compensation is at full value and not depreciated. For loss of rental income, a lump sum cash payment of 6 months rent per tenant is to be paid, as well a disturbance fee of \$ 100. Fences, made of wood or wire, are to be compensated at \$ 3 per meter and for hand-dug wells the property owner is to be compensated at \$ 200.

b) *Business tenants.*

108. Payment of half of turnover for 6 months is to be paid and replacement cost for assets that cannot be moved as well as a disturbance allowance of \$100.

c) *Residential tenant*

109. He/she is to be paid 6 months rent equivalent for disturbance. He is also to be compensated for the assets that cannot be moved.

d) *Encroachers*

110. The encroachers (those who come after cut-off date) are not eligible for compensation or other rehabilitation measures provided by the project.

e) *Squatters*

111. For compensation the squatters are to be compensated at full replacement value for structures, relocation to resettlement site with payment for site rent. There will also be payment of lieu wages while rebuilding and a disturbance cost of \$ 100.

112. The “Land for land” compensation will be applied to PAPs who might lose their land. The following are taken into account:

- i. The legal status of the land to be compensated;
- ii. The quality of land as regards its utilization and
- iii. The size of land and the number of people using it as their main source of income.

113. The Kenya community law states that all land belongs to the Government and in case of expropriation the land is to be compensated at market price. Private professional agencies such as private and independent real estate agencies, banks or mortgage firms are engaged in determining market values for land, or to evaluate the adequacy of administratively set compensation. The local governments through

purchase will acquire the land required. The Collector of Compensation or valuation expert in consultation with field Valuation Officers at the Ministry of Lands will establish the value of the land. PAPs, who will lose their titles, will be provided new land with titles. Those without titles (e.g. where customarily land ownership exist) will also be provided land in accordance to the legal status (e.g. if it was customarily ownership) of the land previously cultivated or exploited-this will however be minimal for distribution component. Economically marginalized PAPs with reduced access to land will be given particular attention by providing them with more land in order to enhance the sources of livelihood

2.7.2 Replacement cost for other assets:

114. For public infrastructure: - In-kind replacement within an agreed time schedule, or full compensation to the agency replacing the service is required e.g., public phone booths.

115. For cultural property and community-owned facilities: In-kind replacement or compensation at replacement cost for land and structures (e.g., religious churches, mosques, private or community-operated schools, village meeting houses, local libraries)

116. For cash crops: Arrangements should be made to allow for harvest or market value should be paid for lost cash crops. The annual market value of crops for the previous 3 years is deemed appropriate as crop compensation. For crop damage, compensation rates of the Ministry of Agriculture will be used as a guide.

117. Other assets: Tube wells, graves, fishponds, poultry houses, fences and other tangible assets should be replaced in kind (or with functional equivalents), relocated or be compensated at replacement cost

118. The consultants together with the Ministry of Agriculture, Lands and Settlement, Roads, Public Works and Housing, Finance and local government agencies will conduct the execution of the expropriation/compensation operations. PAPs will be consulted about compensation arrangements prepared. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAP for consideration and endorsement before cash payment for land can be affected. It should be noted that costs of construction vary from one locality to another.

119. In the valuation of farmland, due consideration will be given to labour and crop loss in addition to the land value. The biggest investment a farmer makes in producing a crop is his or her labour. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labour put into the land each year by the farmer. As a result, compensation relating to land will cover the market price of labour invested as well as the market price of the crop lost.

120. It is difficult to forecast when during the growing season a farmer might need to give up his/her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may be provided to land users in addition to compensation payments, for example, if the farmer is notified that his/her land is needed at an agriculturally critical date, when s/he will no longer have enough time to prepare another land without help. Assistance will be provided so as to ensure that replacement land will be ready by the sowing dates. The farmer will still continue to

receive his/her cash compensation so that s/he can pay for sowing, weeding and harvesting.

121. A summary of the entitlements is presented in table 5.

Table 5: Summary of Entitlements

Categories of Affected Persons	Categories of Assets Lost/Affected											Basis for Compensation			
	Land	Buildings	Structures				Livestock shelters	Business		Fixed Improvements	Crops	Trees	Loss of assets	Loss of Business	Disturbance
			Fences		Wells			Rental	Other						
			Wall	Wood/Wire	Drilled	Hand dug									
Property Owner	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Business Tenants								✓	✓	✓	✓	✓	✓	✓	
Residential Tenants										✓	✓	✓		✓	
Encroachers		✓		✓			✓		✓		✓	✓	✓		
Squatters		✓							✓	✓	✓	✓	✓	✓	
Formula for Compensation	Size * unit rate at market value	Materials + Construction including labour	Materials + Construction including labour	\$3 per meter	Materials + Construction including labour	\$200 per well	Materials + Construction including labour	6 months rent per tenant	½ of 6 months turnover	Materials + Construction including labour	Expected Yield + Labour cost	Yield + Labour cost		\$ 100 per PAP	

A comparison of the Kenyan Laws and OP 4.12 is given in table 6 below.

Table 7. Summary Comparing Kenyan Laws and O.P 4.12

WB O.P 4.12 Involuntary Resettlement	Kenyan Laws
<ul style="list-style-type: none"> ▪ The purpose of the policy is to avoid or minimize involuntary resettlement, and where this is not feasible, to assist displaced persons in improving or at least restoring their livelihood and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher <p>OP 4.12 identifies three categories of affected persons:</p> <ol style="list-style-type: none"> a. Those who have formal legal rights to land, including customary and traditional rights recognized under laws of the country b. Those who do not have legal rights to land, but have a claim to such land or assests provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan. This is further explained: “Such claims could be derived from continued possession of public lands without government action for eviction”(that is, with the implicit leave of the government); and c. Those who have no recognizable legal right to claim the land they are occupying <ul style="list-style-type: none"> ▪ Categories (a) and category (b0 persons should be compensated for the land they lose, as well as provided with other agreed-upon assistance. Category (c) persons should be 	<ul style="list-style-type: none"> ▪ Kenya has various legislations which deal with involuntary resentment and land acquisitions ▪ The way leaves Act (Cap 292) provides for certain undertakings to be constructed e.g pipelines, canal, energy transmission lines, pathways etc through or under any lands. Section 3 of the Act states that the government may carry any works through, over or under any land whatsoever provided it shall not interfere with any existing building or structures of an ongoing activity. Notice, however, will be given before carrying out any such works. Any damages caused by the works would be compensated. ▪ Land Acquisition Act (Cap. 295) provides for compulsory or otherwise acquisition of land from private ownership for the benefit of the general public. Full compensation for any damage resulting from the entry onto land to things such as survey upon necessary authorization are to be undertaken in accordance to section 5 of the Act. Likewise where land is acquired compulsorily, full compensation shall be paid promptly to all persons affected in accordance to sections 8 and 10 along the following parameters: <ol style="list-style-type: none"> i. Area of land ii. The value of the property in the opinion of the

provided with resettlement assistance in lieu of compensation for the land they occupy as well as other assistance as necessary, if they have occupied the area prior to an agreed cut-off date for entitlements. The policy regulation is that all three categories should be provided with compensation for loss of assets other than land

- commissioner of land (after valuation)
- iii. Amount of compensation payable
- iv. Market value of the property
- v. Damages sustained from severance of the land parcel
- vi. Damages to other property in the process of acquiring the said land
- vii. Consequences of changing residence or place of business by the land owner (disturbance)
- viii. Damages from diminution of profits of land acquired

- The Limitations of Actions Act (Cap. 22) provides for recognition of squatters and the conditions under which they could have rights for compensation for loss of land. If squatters have been in occupation of private land for over twelve (12) years, then they could have acquired rights as adverse possessors of that land.

NB: The Kenyan laws don't provide for the compensation of encroachers.

122. As stated before, in the absence of a comprehensive resettlement legal and policy mechanism in the country, the requirements of WB OP 4.12 will become the operational policy framework on all sub-projects requiring displacement.

2.8 Organizational Procedures for the Delivery of Entitlements

2.8.1 Administrative Authorities

123. The project is under the administrative authority of the Ministry of Energy. Policy and strategic decisions involve the following Ministries:

- Ministry of Finance
- Ministry of Environment and Natural Resources
- Ministry of Lands and Settlement (Physical Planning Department)
- Ministry of Roads, Public Works and Housing
- Ministry of Agriculture
- Ministry of Local Government.

124. The Local Authorities in the respective project regions will also be involved. Some of them are listed below.

- Nairobi City Council
- Kiambu Town Council
- Mavoko County Council
- Kajiando County Council
- Nyando Town Council
- Bomet Town Council
- Bungoma Town Council
- Muranga Town Council
- Mombasa City Council
- Kisumu City Council
- Uasin Gishu County Council
- Gatundu Town Council
- Muranga Town Council

125. These make decisions about the policy direction of the project and subprojects. The execution of the project will be delegated to the project coordination office constituting of sector specialties such as the Department of Physical Planning and supported by a technical advisory body made up of the experts. The members of the advisory body are composed of directors of relevant ministries. Project operations regarding resettlement/ rehabilitation will be coordinated and monitored by the coordination office.

2.8.2 Activities Involved

Substations

126. A reconnaissance survey of the area will be effected and a suitable location will be identified. The Properties Section of the KPLC will then do a search of the records at the lands registry to establish the individual registered land owner. They will then approach the owner and negotiate for the purchase of the portion of land. The owner must be informed of the intended change of land use. In the case of public land, a formal request will be made to the local authority or Government to secure access and use.

127. Once the owner is agreeable to the proposal, the people in the area will be informed of the proposed project and its activities. This will be done through holding of a joint meeting between the KPLC staff, the local administration, and the local community members.

Power Lines

128. A census survey will be effected to identify the best possible route for these lines. The Wayleaves Section of the KPLC will organize for a meeting with the local administration and the people who will be affected by the project. During this meeting KPLC will inform the people that they intend to install power lines in the area and formally request for their permission to survey the area. It will be clarified to the people that a detailed profile of the area is required to establish the exact locations of the poles as well as the extent to which the installation will affect them. Once the people give their consent, the surveyor will move to site, take detailed profiles of the area and place pegs where the poles are to be located. The surveyor will then prepare a cadastral map of the area showing the plot numbers and the route of the power line as well as the position of the poles. They will also determine how much land will be alienated for this purpose.

Cut off Date

129. The cut off date will be set as the date when the reconnaissance survey is done and the report is finalized.

2.8.3 Institutional Arrangements

130. A socio economic survey will be undertaken in the project area. The Project Implementation Unit (PMU) will appoint a Resettlement Action Plan Implementation team comprising of socio-economist, surveyor, way leave officer, environmentalist, Distribution engineer, and Land valuer, Legal Officer, and Building Technician, who will undertake this assessment. This assessment will establish the project impacts as well as the appropriate compensation for the affected people. The compensation will be arrived at based on the methods described in section 2.6 of this RPF. The PMU will review the assessment report and approve the compensation proposal.

131. In the cases for the substations, KPLC through the Properties Section will present a proposal to the owner based on the compensation calculated by the RAP Implementation team. The Properties Section will be responsible for the negotiations and payment while the RAP Implementation team will monitor the payments.

132. In the cases for the distribution lines, the KPLC through the Wayleaves Section will then prepare a wayleaves agreement showing the specific affected plot, the proposed route and proposed compensation for the anticipated losses. The agreement will also contain all the public safety requirements that the owner is supposed to adhere to. The landowner will be requested to give consent once she/he is satisfied with the agreement. Compensation will be made to both the affected persons who are currently using the land as well as the registered owners. The RAP Implementation team will monitor the payments made.

2.9 The Implementation Process

133. Target dates for achievements of expected benefits to PAPs and hosts are to be set. Disseminating various forms of assistance to them 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 launching and at the commencement of every subproject identified to have adverse social impacts.

134. 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.

135. The 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.

136. The implementation will follow the work plan and periodic review meetings will be held. This way, they will be able to feed back on the implementation process, any curative measures, or improvements.

2.10 Grievance Redress Mechanisms

137. Grievances may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation. 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. The process of grievance redress will start with registration of the grievances with the RAP Implementation team. A Compensation Committee, comprising of 2 representatives of the PAPs, the area District officer, area chief (s), 2 KPLC staff from the Wayleaves and Property sections and the leader of the RAP Implementation team. The task of this committee will be to receive and verify information concerning grievances. They will not handle or rule on disputes. The grievances that they will review will include non fulfillment of contracts, levels of compensation, or seizure of assets without compensation. Form attached in **Appendix 1 & 6** will be used. The claimant fills the forms, they are submitted to RAP implementation committee who will check them for accuracy and consider the grievance. Claim follow-up will be done by RAP committee and form in **Appendix 6** will be used.

138. The committee will seek to eliminate nuisance claims and satisfy legitimate claimants by attempting to reconcile the aggrieved PAP(s) and the KPLC through the PMU. The response time will depend on the issue to be addressed but it should be addressed with efficiency. Compensation will be paid to individual PAPs only after a written consent of the PAPs, including both husband and wife.

139. If the committee is unable to reconcile the claimant, then the matter should be taken to the local courts for settlement. It will be the responsibility of the Compensation Committee to inform the aggrieved PAP(s) clearly about his/her rights

and offer advice on the steps to obtain legal redress. The aggrieved PAP(s) will have the right to pursue the matter through the courts up to the highest level if necessary.

140. The figure 2.1 below illustrates grievance redress procedure to be adopted.

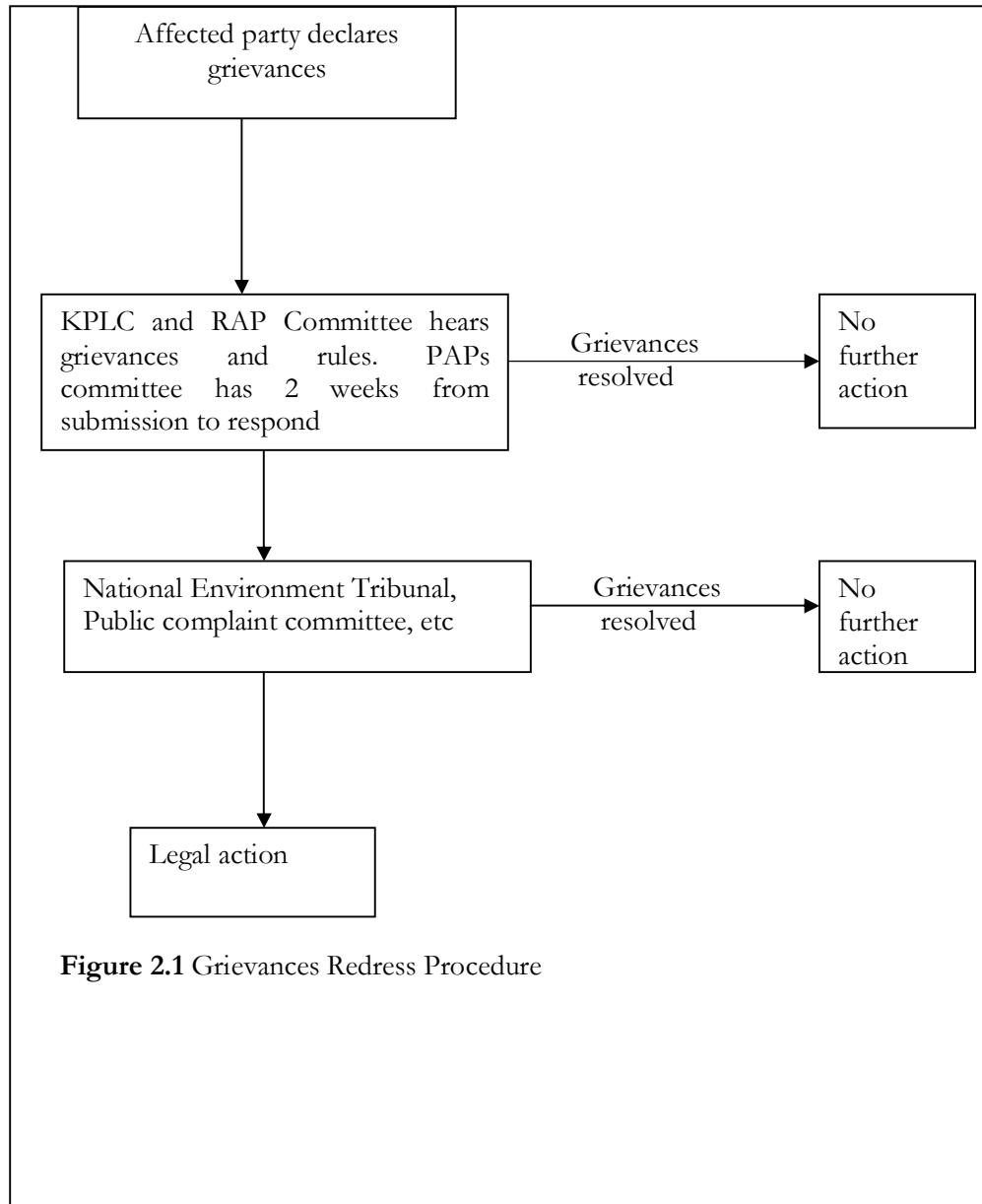


Figure 2.1 Grievances Redress Procedure

2.11 Arrangements for Funding Resettlement and Compensation

141. The estimate of the overall cost of resettlement and compensation would be determined during the socio-economic study. In collaboration with the Local Authorities and the PAPs, the KPLC through its PMU, will finance the preparation of the resettlement and compensation plan.

142. At this stage, it is not possible to estimate the likely number of people who may be affected since some of the route lines and substation sites 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 would be available, thus facilitating the preparation of a detailed RAP, with accurate budget for resettlement and compensation. All the stakeholders will review this budget. Contingency measures will be put in place based on the information gathered in the survey.

143. The RAP, including the corresponding budget in the resettlement and compensation plans will be subject to the approval of the World Bank.

2.12 Mechanisms for Consultations

144. To obtain cooperation, participation, and feedback, the affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention must be given to vulnerable groups such as indigenous people, ethnic minorities, the landless, and women to ensure that they are represented adequately in such arrangements.

145. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the resettlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

146. Relocating or compensating people implies communication or dialogue with the stakeholders. The consultation and participation process will include

- Data collection
- Implementation
- Monitoring and evaluation.

Data collecting phase

147. All the actors will constitute the main taskforce in the collecting phase. PAPs will be consulted to participate in the data-collecting phase by providing socio-economic information about their livelihoods. This could be done through use of forms, questionnaires and interviews. Persons or groups of persons at the corridor sections, location, village levels, or household levels to be interviewed will also be identified and selected through stratified random sampling

148. The PAPs will be consulted through meetings at the municipalities and other local government facilities to share information about the project, discuss social impacts of project operations and the mitigation measures suggested. The contribution of the PAPs will be integrated into the subproject implementation process, from planning to

evaluation. Furthermore, data about socio-impacts of the subprojects and the mitigation measures suggested will be provided to local newspapers and radio stations.

149. The data collected will serve as instruments for the monitoring of the social mitigation measures.

Implementation

150. 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. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAP (husband and wife) for consideration and endorsement before cash payment or land compensation can be effected. A Compensation Committee will be set up for grievance redress.

Monitoring and evaluation phase

151. The PAPs representatives will participate in the project completion workshops, to give their evaluation of the impacts of the effects of the project. They are also to suggest corrective measures, which may be used to improve implementation of other subprojects. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey

152. The draft RPF was developed in consultation with the project team and relevant government agencies. Given the fact that at the design phase there is no certainty about whether involuntary land acquisition will take place and where, this draft has not involved consultations with potentially affected persons

2.13 Arrangements for Monitoring

153. The resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The objective will be to make a final evaluation in order to determine;

- i If affected people have been paid in full and before implementation of the subproject.
- ii If the people who were affected by the project have been affected in such a way that they are now living at a higher standard than before, living at the same standard as before, or they are actually poorer than before.

154. 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, extent of businesses interrupted and the return to normalcy, how many homes and social facilities electrified compared to before, health standards, etc).

155. The Safety, Health and Environment department of the KPLC will undertake internal monitoring. They will keep track of individual compensations made as well as pending cases and reasons for the same. The RAP Implementation team described in section 2.7.3 will undertake the external monitoring. It will be responsible for undertaking a baseline, mid term and end of project evaluation focusing on various issues related to rehabilitation and restoration of income. The PMU will receive feedback from both the internal and external monitoring teams. It will be the

responsibility of the PMU to ensure that follow up is made on the cases wrongly dealt with.

156. The RAP will develop a monitoring plan that includes both internal and external monitoring. There will be a three tier process that will included internal field monitoring by the companies implementation manager as well as the overall monitoring by the RAP manager.

- A framework listing indicative resettlement performance indicators for monitoring purposes will be developed.
- A schedule of when monitoring will be carried out will be developed and shall run for a minimum of three years after completion of the RAP.

157. The table below gives indicative monitoring indicators

Table 7 Monitoring Indicators

Subject	Indicator	Variable
Land	Acquisition of land	<ul style="list-style-type: none"> • Area of cultivation land acquired for KPLC developments • Area of communal land acquired for KPLC developments • Area of private land acquired? • Area of government land acquired?
Buildings/ Structures	Acquisition of buildings	<ul style="list-style-type: none"> • Number, type and size of private buildings acquired • Number, type and size of community buildings acquired • Number, type and size of government buildings acquired
	Acquisition of other structures	<ul style="list-style-type: none"> • Number, type and size of other private structures acquired • Number, type and size of other community structures acquired
Trees and Crops	Acquisition of trees	<ul style="list-style-type: none"> • Number and type of trees cut
	Destruction of crops	<ul style="list-style-type: none"> • Crops destroyed by area, type and ownership
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> • Number of homesteads affected (buildings, land, trees, crops) • Number of owners compensated by type of loss • Amount compensated by type and owner • Number of replacement houses constructed • Size, construction, durability and environmental suitability of replacement houses • Possession of latrines • Water supply access • Number of replacement businesses constructed
	Re-establishment of community resources	<ul style="list-style-type: none"> • Number of community buildings replaced • Number, type of plants lost • Number of seedlings supplied by type • Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> • Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)

Subject	Indicator	Variable
Social/ Demographic	Changes to homestead structure	<ul style="list-style-type: none"> • Homestead size (births, deaths, migration in and out) • Age distribution • Gender distribution • Marital status • Relationship to homestead head • Status of “vulnerable” homesteads
	Population migration	<ul style="list-style-type: none"> • Residential status of homestead members • Movement in and out of the homestead (place and residence of homestead members)
	Changes to access	<ul style="list-style-type: none"> • Distance/travel time to nearest school, health centre, church, shop, village
	Changes to health status	<ul style="list-style-type: none"> • Nutritional status of resettled homestead members • Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, immunizable disease) • Mortality rates • Access to health care services (distance to nearest facility, cost of services, quality of services) • Utilization of health care services • Disease prevention strategies • Extent of educational programmes • Latrine provision at schools (school child population per VIP on site)
	Changes to educational status	<ul style="list-style-type: none"> • Literacy and educational attainment of homestead members • School attendance rates (age, gender) • Number, type of educational establishments
	Changes to status of women	<ul style="list-style-type: none"> • Participation in training programmes • Use of credit facilities • Landholding status • Participation in KPLC-related activities and enterprises

Subject	Indicator	Variable
	Homestead earning capacity	<ul style="list-style-type: none"> • Ownership of capital assets • Ownership of equipment and machinery • Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) • Landholding status (tenure) • Redistribution of cultivation land • Changes to livestock ownership: pre- and post disturbance • Value of livestock sales, and imputed value of barter transactions • Consumption of own livestock production • Employment status of economically active members • Skills of homestead members • Earnings/income by source, separating compensation payments • Changes to income-earning activities (agriculture) - pre- and post disturbance • Changes to income-earning activities (off-farm) - pre- and post disturbance • Amount and balance of income and expenditure • Possession of consumer durables • Realisation of homestead income restoration plans (components implemented, net income achieved) • Possession of bank and savings accounts • Access to income-generating natural resource base (wood, grass, sand, stones)
	Changes in social organisation	<ul style="list-style-type: none"> • Organisational membership of homestead members • Leadership positions held by homestead members
	Population influx	<ul style="list-style-type: none"> • Growth in number and size of settlements, formal and informal • Growth in market areas
Consultation	Consultation programme operation	<ul style="list-style-type: none"> • Number of local committees established • Number and dates of local committee meetings • Type of issues raised at local committees meetings • Involvement of local committees in KPLC development planning • Number of participating NGOs
	Information dissemination	<ul style="list-style-type: none"> • Number, position, staffing of Information Centres • Staffing, equipment, documentation of Information Centres • Activities of Information Centres • Number of people accessing Information Centres • Information requests, issues raised at Information Centres
	Grievances resolved	<ul style="list-style-type: none"> • Number of grievances registered, by type • Number of grievances resolved • Number of cases referred to court
Training	Operation of training	<ul style="list-style-type: none"> • Number of local committee members trained • Number of affected population trained in Project-related

Subject	Indicator	Variable
	programme	training courses
Management	Staffing	<ul style="list-style-type: none"> • Number of implementing agencies by function • Number of GoK ministry officials available by function • Number of office and field equipment, by type
	Procedures in operation	<ul style="list-style-type: none"> • Census and asset verification/quantification procedures in place • Effectiveness of compensation delivery system • Number of land transfers effected • Co-ordination between local community structures, KPLC and GoK officials

158. The RAP team will work closely with the external monitoring that will be undertaken by the lenders independent resettlement specialist.

159. Further external monitoring will be conducted through the World Bank supervision missions. Classic supervision mission (twice a year) will, however not be sufficient to monitor progress in the mitigation of adverse social impacts. Supervision missions should be coupled with capacity building inputs from resettlement experts. This would ensure documentation of: progress made; local analytical capacity building and proper documentation of operations executed and the progress made.

2.14 Programming and Scheduling

160. The sub-projects that may trigger resettlement have yet to be identified. Consequently the type, size, location, possible date of commencement of construction neither of the required infrastructure nor of its operation, cannot be determined at this stage. It is therefore not possible to give precise dates for the implementation and completion of the various tasks of the sub-project RAPs.

161. The Resettlement Team (RT) will be fully informed at the start of the overall planning stage of the sub-project of two very critical dates:

- the date of commencement of infrastructure construction
- the date of commencement of operation of the infrastructure.

162. This information will guide the RT in preparing a resettlement schedule that not only fits into the overall sub-project plan, but also will determine when construction of the infrastructure can begin. For the O.P. 4.12 specifies that no construction can start unless and until the RAP has been fully implemented, including the delivery of all entitlements. Furthermore, during construction, the RT should ensure that all compensation arising from unforeseen construction damage is paid within the stipulated timeframe of 30 days failure of which should result in stoppage of construction activities.

163. With regard to agricultural land, it is not only essential that replacement land is provided before construction can begin, but more importantly it be made available before the start of the planting season, failure of which will oblige the proponent to provide subsistence food allowance to PAPs until the time when the crops to be planted during the next planting season would have been harvested.

2.15 Funding and Indicative Budget

164. It is not envisaged that many sub-projects will require land acquisition, which will cause displacement and lead to the need to relocate and/or compensate affected people.

165. An indicative budget is provided below to ensure that funds are allocated for resettlement should the need arise. Table 7 below gives breakdown of estimated cost.

Table 8 Breakdown of estimate cost

	Activity	Estimated Cost (US\$)	Remarks
1.	Preparation of RAP	2,700	RAP can also be prepared using KPLC in-house capacity
2.	Provision for land compensation ²	44,800	Will be acquired on willing buyer willing seller basis
3.	Provision for trees compensation ³	12,500	
4.	Compensation for crop damage ⁴	2,500	
5.	Compensation for structures (Estimated replacement cost) ⁵	30,000	
6.	Cost of relocation of people and assets ⁶	2,800	
7.	Training ⁷	12,700	Tailor-made training
8.	Monitoring and auditing	3,000	
9.	Disturbance Cost ⁸	1000	
	TOTAL	112,000	
7.	Contingencies (10%) of total cost	11,200	
	GRAND TOTAL	123,200	

166. Provision is also included in the budget for training of staff in all aspects of resettlement plan preparation, implementation and monitoring.

167. As the project is a government owned and managed program, land acquisition should be considered as being acquired in the public interest.

168. In terms of flow of funds, it is proposed that the resettlement funds be deposited by KPLC into the project account. From there payments can be made after review and approval of the sub-project expenditure.

² 32 acres for sub stations at rate of USD 1,400 per acre

³ Approximately 500 trees at rate of 25 USD per tree

⁴ Approximately 500 crops at rate of 5 USD per crop

⁵ Approximately 50 structures with replacement cost of USD 600

⁶ Approximately 10 families at a cost of 140 USD each

⁷ Training of 10 people @ 166 USD for 5 days + trainer fee of USD 1700 + Cost of hiring venue of USD 2700

⁸ The rate of disturbance cost will be at USD 100 per family (approx. 10 families will be disturbed)

169. In order to ensure that the compensation and resettlement component will be implemented smoothly efforts will need to be made to develop realistic cost estimates during preparation of the RAP. It is accepted that not all eventualities will be foreseen and a reasonable contingency (10%) has been included.

170. Provision is also included in the budget for training of staff in all aspects of resettlement plan preparation, implementation and monitoring. This is based on training ten staff members during project implementation.

171. In terms of flow of funds, it is proposed that the resettlement funds be deposited by KPLC into the project account. From there payments can be made after review and approval of the sub-project expenditure.

172. Detailed costs estimates will be based on a comprehensive inventory compiled during the baseline survey and the actual replacement costs. The RAP will contain detailed costs of compensation, relocation, and rehabilitation with a breakdown of costs for:

- Agricultural land
- Residential “
- Business “
- Housing infrastructure.
- Business losses
- Graves
- Other assets
- Public services and facilities.

173. Other related costs, such as surveying, planning, consultancy, supervision, miscellaneous entitlements and monitoring will also be estimated. As part of the ongoing progress reporting exercise, the RPT will be required to submit details of expenditure on all aspects of implementing the compensation and resettlement component of the sub-project.

Appendix 1: Public Grievance Form

RPP RAP Reference No.	
Full Name	
Contact Information Please mark how you wish to be contacted (mail, telephone, e-mail)	Address: ----- ----- ----- Telephone: ----- Email -----
Preferred Language for Communication(Please mark how you wish to be contacted)	English Kiswahili
National Identity Number	
Description of Incident or Grievance:	What happened? Where did it happen? Who did it happen to? What is the result of the problem
Date of Incident/Grievance	
	One time incident/grievance(date-----) Happened more than once(How many times-----) Ongoing (Currently experiencing problem.....)
What would you like see happen to solve the problem?	

Signature:

Date:

Please return this form to:

Kenya Power and Lighting Company Limited
 Security, Health and Environment (SHE) Department
 Stima Plaza, Kolobot Road, Parklands,
 P.O. BoX 30099-00100,
 Nairobi-Kenya

Appendix 2: Framework for the census of affected assets and affected people

Affected Plot Sheet

Reference:

Location: Region: District: Town:

GPS Coordinates:

Surface: _____ m2

Description of soil:

Perennial Crops: 1 Owner:
 2 Owner:

Annual Crops: 1 Owner:
 2 Owner:

Trees: 1 Owner:
 2 Owner

Structures: Channels: Owner:
 Anti-erosive structures: Owner:
 Buildings: Owner:

Users: User 1: Surface used: Regime of tenure:
 User 2: Surface used: Regime of tenure:
 User 3: Surface used: Regime of tenure:
 User 4: Surface used: Regime of tenure:

Valuation proposal (details of calculation on attached sheet):

Crops:

Structures:

Proposed distribution of compensation:

User 1:
User 2:
User 3:
User 4:

Prepared By:

Date:

Affected Building Sheet

Reference:

Location: Region:

District: Town:

GPS Coordinates:

Photograph number:

Owner: Full Name:

Address:

Description:

Permanent Non permanent

Surface: Number of rooms:

Walls: Material Condition

Roof: Material Condition

Floor: Material Condition

Annexes outside: Latrine: Bathroom: Kitchen: Others:

Additional features:

Permanently Inhabited:

By:

Regime of occupation:

Periodically Inhabited:

By:

Regime of occupation:

Vulnerable group:

- a) Women-headed Household.....
- b) Family with physically and mentally.....
- c) Family with aged members
- d) Family with income below poverty line
- e) Family losing more than the economic threshold of their land through acquisition/negotiation.....

Valuation proposal (details of calculation on attached sheet)

Proposed distribution of compensation:

User 1:

User 2:

User 3:

User 4:

Prepared By:

Date:

Affected Household Sheet

Household Reference:

Location: Region: W District: Town:

Reference of Affected Asset:

Type: Structure Plot Crop

Reference of Affected Asset Sheet:

Household Information:

Head of Household: Name:

Age: Sex:

Identity Document: Type:

Number:

Composition of Household:

Number	Name	Relationship with Household Head	Sex	Age
1				
2				
3				
4				
5				
6				
7				

Socio-Economic Information:

Occupations:

Head of Household:

Other members of Household:

Number: Occupation: Highest education level attained:

Number: Occupation: Highest education level attained:

Number: Occupation: Highest education level attained:

Number: Occupation: Highest education level attained:

Total Estimated Household Cash Income:

Education level of Household Members:

Number: Level:

Number: Level:

Number: Level:

Number: Level:

Project Impact:

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

Amount of land owned.....

Details of income loss due to loss of land.....

Proposed Compensation or Resettlement Package

Household's Wishes

Proposed Package

Proposed Livelihood Restoration Package:

Household's Wishes

Proposed Package

Appendix 3: Outline of A Resettlement Action Plan

Reference: OP 4.12, annex A.

Description of the sub-project and of its potential land impacts

General description of the project and identification of the project area

Potential impacts. Identification of the project component or activities that give rise to resettlement; the zone of impact of such component or activities; the alternatives considered avoiding or minimizing resettlement; and the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

Objectives.

The main objectives of the resettlement program.

Socioeconomic studies. The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including the results of a census survey covering current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance; 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 as provided for in OP 4.12, para. 8, 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.

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 project area; the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; 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, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal and Institutional Framework.

Summary of the information included in this RFP

Local legal specificities if any

Local institutional specificities, identification of agencies locally responsible for resettlement activities and NGOs that may have a role in project implementation; assessment of the institutional capacity of such agencies and NGOs.

Eligibility. Based on this RPF, 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: Description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of the policy (see OP 4.12, para. 6).

Site selection, site preparation, and relocation. Alternative relocation sites considered and explanation of those selected. Legal arrangements for regularizing tenure and transferring titles to resettlers.

Housing, infrastructure, and social services. Environmental protection and management. Community participation. Involvement of resettlers and host communities ,Integration with host populations. Measures to mitigate the impact of resettlement on any host communities

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

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; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

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

development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Appendix 4: Outline of An Abbreviated Resettlement Plan

Depending on the extent of the displacement, an ARP should be between 10 and 25 pages, including annexes.

- Brief Description of the Sub-Project
- Sub-Project Land Needs
- Land Needs
- Justification and Minimization
- Census Survey of Displaced Persons and Valuation of Assets
- Methodology
- Results
- Affected Assets
- Socio-Economic Features and Affected People's Livelihoods
- Description of Compensation and Other Resettlement Assistance
- Consultation with Displaced People
- Procedures for Grievance Redress
- Monitoring & Evaluation
- Institutional Responsibilities and Arrangements for Implementation
- Timetable, Budget and Funding Arrangements

Appendix 5: Template itemization of a RAP/ARP budget

N°	Item (break down and detail as appropriate)	Kshs	USD	%
A	COMPENSATION			
A1	Compensation for land acquisition			
A2	Compensation for destruction and damage to crops			
A3	Compensation for structures			
A4	Disturbance allowance			
A5	Contingencies - other compensations			
	<i>TOTAL COMPENSATION</i>			%
B	RESETTLEMENT			
B1	Resettlement land purchase			
B2	Resettlement land development			
B3	Housing construction			
	<i>TOTAL RESETTLEMENT</i>			%
C	ADDITIONAL MITIGATIONS			
C1	Livelihood restoration measures			
C2	Vulnerable groups			
C3	Coordination of additional mitigations			
C4	Grievance management			
	<i>TOTAL ADDITIONAL MITIGATIONS</i>			%
D	IMPLEMENTATION COSTS			
D1	Surveying and asset pre-identification			
D2	Valuation			
D3	Coordination and works supervision			
D4	Legal advice			
D6	Monitoring			
D7	Evaluation			
	<i>TOTAL IMPLEMENTATION</i>			%
E	CONTINGENCIES %			%
	GRAND TOTAL			100%

Appendix 6: Template of A claim registration and Follow-up Form

Prepared by:

Date:

Aggrieved person:

Full name:

Residence:

Project registration number:

Reason for the claim (detailed description of the aggrieved person's version):

Composition of the mediation committee:

Chair (name, position):

District chief executive representative (name, position):

Project (name, position):

Other elders (name, position):

Report of mediation efforts:

Agreed solution:

Implementation of the agreed solution:

Close-out:

In case no settlement is reached:

Reason why no settlement could be reached:

Follow-up by claimant:

Appendix 7: Template of a consultation meeting minute form

Date :

Venue:

Project participants:

Other participants (name, position) :

Total number:

Objective and agenda of the meeting:

Points addressed by Project:

Points raised by participants:

Follow-up activities:

Prepared by:

Date :