

GOVERNMENT OF KENYA

RP1522



MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES

**REGIONAL PASTORAL LIVELIHOODS RESILIENCE PROJECT  
(RPLRP)**

FINAL DRAFT

**RESETTLEMENT POLICY FRAMEWORK  
(RPF)**



**EMC Consultants**  
ENVIRONMENTAL KNOWLEDGE IN PRACTISE

**RESEARCH SOUND SUPPORT CONSULTANTS LIMITED IN ASSOCIATION  
WITH EMC CONSULTANTS**

[tito@emconsultants.org/info@researchsoundltd.com](mailto:tito@emconsultants.org/info@researchsoundltd.com)

[www.emconsultants.org/www.researchsoundltd.com](http://www.emconsultants.org/www.researchsoundltd.com)

November 2013

# TABLE OF CONTENTS

<b>ACRONYMS AND ABBREVIATIONS.....</b>	<b>IV</b>
<b>1. BASIC INFORMATION.....</b>	<b>1</b>
<b>2. EXECUTIVE SUMMARY.....</b>	<b>4</b>
BACKGROUND .....	4
PROJECT COMPONENTS .....	4
PURPOSE AND SCOPE OF RPF .....	5
METHODOLOGY FOR RPF PREPARATION.....	5
LEGAL FRAMEWORK .....	5
POTENTIAL PROJECT IMPACTS AND MITIGATIONS.....	6
MITIGATION MEASURES .....	6
ELIGIBILITY FOR COMPENSATION.....	7
VALUATION METHODS .....	7
PROJECT SCREENING AND PREPARATION .....	8
STAKEHOLDER CONSULTATION AND PARTICIPATION.....	8
DOCUMENTATION.....	8
PROCEDURE FOR DELIVERY OF COMPENSATION .....	9
RPF IMPLEMENTATION AND MONITORING.....	9
ROLES AND RESPONSIBILITIES.....	9
CAPACITY FOR IMPLEMENTATION.....	10
MONITORING ASPECTS .....	10
BUDGET AND FUNDING .....	11
DISCLOSURE.....	11
<b>3. DESCRIPTION OF THE PROJECT AND POTENTIAL SUB PROJECTS CAUSING RESETTLEMENT .....</b>	<b>12</b>
BACKGROUND AND STRATEGIC CONTEXT.....	12
PASTORAL LIVELIHOODS RESILIENCE ISSUES AND CHALLENGES IN THE ASALS.....	13
PROJECT DEVELOPMENT OBJECTIVE (PDO).....	15
PROJECT BENEFICIARIES AND TARGETING APPROACH.....	16
PROJECT COMPONENTS .....	16
<i>Component 1:- Natural Water Resources Management.....</i>	<i>16</i>
<i>Sub-component 3.1: Livestock Production and Health.....</i>	<i>24</i>
<i>Sub-component 3.2: Food and Feed Production .....</i>	<i>25</i>
<i>Sub-component 3.3: Livelihood Diversification.....</i>	<i>25</i>
.....	29
FIGURE 1. PROJECT TARGETED COUNTIES.....	29
WORLD BANK SAFEGUARD POLICY .....	30
NEED FOR A RESETTLEMENT POLICY FRAMEWORK.....	30
PURPOSE OF THE FRAMEWORK .....	30
OBJECTIVES OF THE RPF .....	30
SCOPE.....	31
RESETTLEMENT IMPLICATIONS OF RPLRP .....	31
PROJECT IMPLEMENTATION .....	32
<i>Institutional And Implementation Arrangements .....</i>	<i>32</i>
PROJECT COORDINATION UNIT (PMU).....	33
<b>4. METHODOLOGY &amp; OVERVIEW OF IMPACTS.....</b>	<b>35</b>
DETAILED AND IN-DEPTH LITERATURE REVIEW .....	35

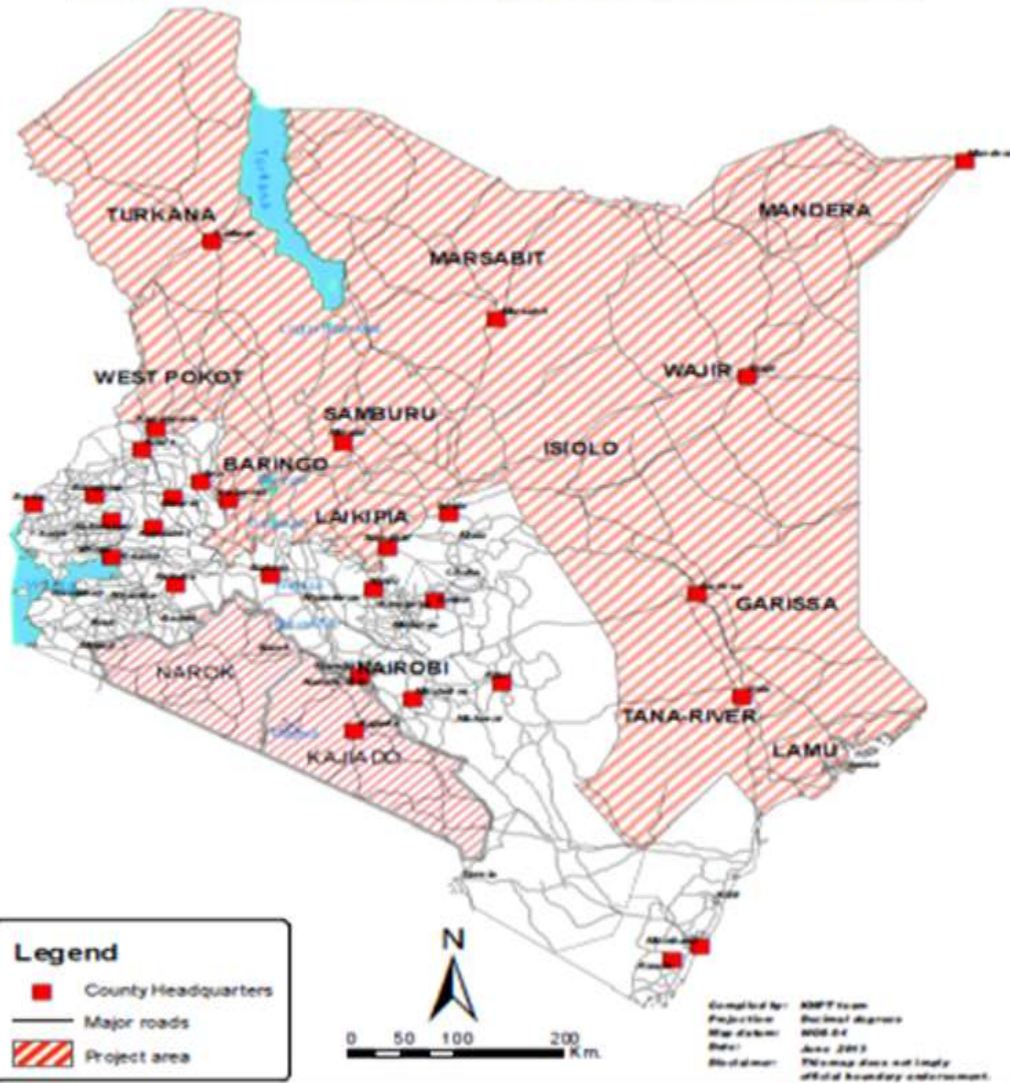
INTERACTIVE DISCUSSIONS .....	35
DEFINITION OF PROJECT AFFECTED PERSONS .....	35
PROJECT ACTIVITIES WITH DISPLACEMENT POTENTIAL .....	36
IMPLEMENTING AGENCIES (IA) .....	36
CATEGORIES OF PAPs .....	36
APPROXIMATE NUMBER OF PAPs .....	37
POTENTIAL RELOCATION AREAS .....	37
<b>5. PRINCIPLES &amp; OBJECTIVES GOVERNING RESETTLEMENT PREPARATION &amp; IMPLEMENTATION .....</b>	<b>38</b>
THE OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK (RPF) .....	38
RATIONALE FOR PREPARING THE RPF .....	38
FLEXIBILITY OF THE RPF .....	39
RPF PRINCIPLES UNDER RPLRP .....	39
INVOLUNTARY RESETTLEMENT .....	40
ENTITLEMENT UNDER RPF .....	41
<i>Physical Displacement</i> .....	41
<i>Economic displacement</i> .....	41
<b>6. LEGAL AND REGULATORY FRAMEWORK .....</b>	<b>43</b>
THE NATIONAL LAND POLICY .....	44
THE CONSTITUTION OF KENYA .....	45
LAND TENURE SYSTEM IN KENYA .....	46
<i>Customary Land Tenure</i> .....	46
<i>Freehold Tenure</i> .....	47
<i>Leasehold Tenure</i> .....	47
<i>Public Tenure and the National Land Commission (NLC)</i> .....	47
LAND ACT, 2012 .....	48
LAND ACQUISITION PROCESS .....	48
COMMUNITY LAND .....	52
CHILDREN AND ORPHANS PROVISION OF LAND POSSESSION .....	53
THE VALUERS ACT .....	53
COUNTRY AND REGIONAL STRATEGIES AND PROGRAMS TO IMPROVE LIVELIHOODS RESILIENCE .....	54
ON-GOING /RECENTLY CLOSED PROJECTS IN THE ASALS .....	56
<b>7. COMPARISON OF KENYA LAWS AND WORLD BANK REQUIREMENTS .....</b>	<b>60</b>
COMPARATIVE ANALYSIS OF WORLD BANK OP 4.12 AND KENYA’S REQUIREMENTS RELEVANT TO THE PROCESS .....	68
<b>8. ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION .....</b>	<b>69</b>
CATEGORY OF PROJECT AFFECTED PERSONS .....	69
ELIGIBILITY TYPE FOR COMPENSATION .....	71
ENTITLEMENT MATRIX .....	72
PROCESSES OF COMPENSATION AND ENTITLEMENT .....	79
<i>Formal Processes Involved With Compulsory Acquisition of Land</i> .....	79
<i>Establishment of Sub County Resettlement and Compensation Committee (SCRCC and LRCC)</i> .....	80
METHOD TO DETERMINE CUT-OFF DATES .....	80
METHODS OF ASSETS VALUATION .....	81
VALUATION PROCESS OF ASSETS .....	81
METHODS FOR VALUING ASSETS IN KENYA .....	83
OTHER METHODS .....	83
CALCULATION OF COMPENSATION BY ASSETS .....	84

<b>9. PREPARING &amp; APPROVING RESETTLEMENT AND COMPENSATION PLANS .....</b>	<b>89</b>
THE SCREENING AND RESETTLEMENT PROCESSES AND PLANNING .....	89
PROCESS .....	89
PREPARATION OF A PROJECT SPECIFIC RAP .....	89
APPROVAL OF RESETTLEMENT ACTION PLANS: .....	92
<b>10. IMPLEMENTATION ARRANGEMENTS .....</b>	<b>94</b>
INSTITUTIONAL ROLES FOR RAP PREPARATION AND IMPLEMENTATION UNDER RPLRP.....	94
<i>Ministry of Agriculture, livestock and Fisheries (MALF)</i> .....	94
<i>Project Management Unit (PMU)</i> .....	94
<i>National Land Commission (NLC)</i> .....	95
<i>Sub County Resettlement and Compensation Committees (SCRCC)</i> .....	95
<i>Locational Resettlement and Compensation Committee (LRCC)</i> .....	96
<b>11. IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS .....</b>	<b>98</b>
IMPLEMENTATION SCHEDULE .....	98
<b>12. GRIEVANCES REDRESS MECHANISMS.....</b>	<b>100</b>
THE GRIEVANCE REDRESS PROCESS .....	101
<i>Detail procedures for grievance management</i> .....	102
<i>Grievance Log</i> .....	103
<i>Monitoring Complaints</i> .....	103
<b>13. RPF IMPLEMENTATION BUDGET .....</b>	<b>104</b>
<b>14. MECHANISMS FOR CONSULTATIONS AND PARTICIPATION IN PLANNING, IMPLEMENTATION AND MONITORING .....</b>	<b>108</b>
DATA COLLECTING PHASE .....	109
IMPLEMENTATION OPERATION.....	109
MONITORING AND EVALUATION PHASE .....	109
<b>15. ARRANGEMENTS FOR MONITORING AND EVALUATION.....</b>	<b>110</b>
WHO WILL DO THE MONITORING.....	110
METHODOLOGY USE FOR THE RAP MONITORING.....	110
INDICATORS TO DETERMINE STATUS OF AFFECTED PEOPLE .....	110
REGULAR MONITORING OF RPF/RAP IMPLEMENTATION .....	111
<b>15. ANNEXES.....</b>	<b>113</b>
ANNEX 1: GLOSSARY OF TERMS .....	114
ANNEX 2: .....	117
ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM .....	119
ANNEX 4: COMMUNITY ASSETS AND INFRASTRUCTURE .....	123
ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM.....	125
ANNEX 6: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP) .....	126
ANNEX 7: OUTLINE OF RESETTLEMENT ACTION PLAN.....	129
ANNEX 8: OP 4.12 - INVOLUNTARY RESETTLEMENT .....	133
ANNEX 9: ISSUES RAISED DURING RPF CONSULTATIVE MEETING AT COUNTIES WHERE RPLRP WILL BE UNDERTAKEN .....	141
ANNEX 10: LIST OF PARTICIPANTS WHO ATTENDED CONSULTATION ON RESETTLEMENT POLICY FRAMEWORK .....	143

## ACRONYMS AND ABBREVIATIONS

AM	Aide Memoire
ARAPs	Abbreviated Resettlement Action Plans
CLB	Community Land Board
DLO	District Land Office
DPs	Displaced Persons
SCRCC	Sub County Resettlement and Compensation Committees
EIA	Environmental Impact Assessment
EMCA	Environmental Management Coordination Act
GCRC	Gross Current Replacement Cost
GOK	Government of Kenya
IDA	International Development Association
KSHS	Kenya Shillings
LA	Land Act 2012
LRA	Land Registration Act 2012
LRCC	Locational Resettlement and Compensation Committees
M&E	Monitoring and Evaluation
MEWNR	Ministry of Environment, Water and Natural Resources
MOF	Ministry of Finance
MALF	Ministry of Agriculture, Livestock and Fisheries
MTR	Mid-Term Review
NEMA	National Environment Management Authority
NGO	Non-Governmental Organisation
NLC	National Land Commission
NLP	National Land Policy
OP	Operational Policy
OVC	Orphaned Vulnerable Children
PAD	Project Appraisal Document
PAP	Project Affected Persons
PCDP	Public Consultation Disclosure Procedures
PMU	Project Management Unit
PIM	Project Implementation Manual
PLO	Project Liaison Officer
RAPs	Resettlement Action Plans
RPF	Resettlement Policy Framework
STI	Science, Technology and Innovation
USD	United States Dollar
VMGF	Vulnerable and Marginalised Groups Framework
VMGP	Vulnerable and Marginalised Groups Plan
VRB	Valuation Registration Board
WB	World Bank
WRMA	Water Resources Management Authority

# Regional Pastoral Livestock Resilience Project



## I. BASIC INFORMATION

### 1. Country and Project Name:

Kenya – Regional Pastoral Livelihood Resilience Project

### 2. Project Development Objectives:

The overall development objective of the RPLRP is to develop and implement regional approaches that enhance livelihoods resilience of pastoral and agro-pastoral communities in the drought prone areas of the ASALs of Kenya and its neighboring countries including Ethiopia and Uganda.

The project will contribute to the agreed response of Kenya along with other IGAD member states to address the regional priorities developed through the Country Programs Papers (CPP) in response to the IGAD drought disaster resilience and sustainability initiative (IDDRSI) in the Horn of Africa.

#### Specific objectives

1. The specific objective of the Natural Resource Management Component is to contribute to the development of a framework for the management and utilization of shared pastoral and agro-pastoral resources within the context of social stability and conflict prevention and management. The outcome of this is to increase availability and equitable access to sustainably managed land, pasture and livestock water resources for cross border livestock and pastoralist movement.
2. The objectives of the Marketing Access and Trade Component is to harmonize trade policies regulatory framework to promote formal regional/cross border trade; streamline livestock movement requirements at border control points; address the constraints of cross-border trade services including infrastructure, certification, information, human capacity development and value chain development. The intended outcome of this component is improved access to markets and trade.
3. In the Livelihoods Support Component, the objective is to develop resilient livestock livelihoods and other supporting diversified livelihoods. This will result in increased adaptive capacities of households in drought prone communities.
4. The Pastoral Risk Management Component objective is to establish national infrastructure and capacity for implementing harmonious and effective early warning and response systems for management of droughts and other disasters. This will result in enhanced disaster (especially drought) preparedness, prevention, management and response.
5. The Project Management objective is to have a harmonized project management within the implementing counties in the country and between the implementing countries. The outcome of this will be effective and efficient utilization of resources for the drought resilience project in the target areas

### 3. Project Outcomes:

**4. Expected Project Benefits:**

The project direct beneficiaries estimated at 92,290<sup>1</sup> are the pastoral and agro-pastoral communities susceptible to climate uncertainties and recurrent droughts.

**5. Identified Project Social Risks:**

The project investment is expected to lead to economic and physical displacement of the beneficiaries

**Recipient:** Government of Kenya –Ministry of Agriculture, Livestock and Fisheries (MALF)

**Responsible Government/Country Agency for RPF Implementation:**

**Total Project Cost (USD million):** Approx. USD\$ 102 million  
 IDA/IBRD (USD million): Approx.75

**Total Cost of RPF (USD million):**

Project preparation (USD million): 0.080  
 Government (USD million): USD 27 million including community contribution

**Name/Contacts of Consultant/Consulting Firm who prepared RPF:**

Research Sound Support Consultants/EMC Consultants

**Date RPF Prepared:** October 2013

**Date RPF** 2013

**Country:** Kenya

**Social Safeguards Specialist:**

**Country Manager:**

**Task Team Leader:**

**Country Director:**

**SDN Sector Leader:**

**Project ID:**

**Environment Category:**

**Date ISDS prepared:**

**Date ISDS disclosed:** 28<sup>TH</sup> November 2013

**Year of project appraisal:**

**Year of project closing:**

Is this a transferred project?  Yes  No

Is RPF applied to financial intermediary or intermediaries financing sub-projects?  Yes  No

Is RPF applied because zone of impact of sub-projects cannot be determined at this stage?  Yes  No

Is the RPF applied because the zone of impact is known but the site (location) alignments are not yet well established?  Yes  No

Is this community driven development (CDD) project?  Yes  No

Is this a sector-wide project with national coverage?  Yes  No

<sup>1</sup> The population has been estimated from the proportion of the project investment (KES 6 billion) relative to the requirement in the Kenya CPP (226 billion) which is multiplied by the proportion of people affected by major drought hazards (3.5 million)



Is this a regional operation, with national/sub-national coverage?

Yes  No

**Safeguard policies triggered?**

**Applicable**

Environmental Assessment (OP/BP 4.01)

Yes  No

Natural Habitats (OP/GP 4.04)

Yes  No

Forestry (OP 4.36)

Yes  No

Pest Management (OP 4.09)

Yes  No

Cultural Property (OP 4.11)

Yes  No

Indigenous Peoples (OP 4.10)

Yes  No

Involuntary Resettlement (OP 4.12)

Yes  No

Safety of Dams (OP/BP 4.37)

Yes  No

Projects in Disputed Areas (OP/BP 7.60)

Yes  No

Projects on International Waterways (OP/BP 7.50)

Yes  No

## 2. EXECUTIVE SUMMARY

### BACKGROUND

The Government of Kenya has received technical assistance from technical consortium of the development partners to finance the preparation of the proposed Regional Pastoral Livelihoods Resilience Project (RPLRP) that is to be implemented in Kenya, Uganda and Ethiopia. In Kenya, the project implementation will be under the overall responsibility of Ministry of Agriculture, Livestock and Fisheries (MALF).

The Project Development Objective (PDO) is to enhance livelihoods resilience of pastoral and agro-pastoral communities in drought prone areas through regional approaches. The project will be implemented in **14 Counties** which are **Lamu, Isiolo, Laikipia, Mandera, Marsabit, West Pokot, Turkana, Tana River, Garissa, Baringo, Samburu, Narok, Samburu and Wajir** which have cross border activities and trans-boundary stock routes linking pastoral communities on either side of the borders.

### PROJECT COMPONENTS

***Component 1: Natural Resources Management*** - At the national and sub-regional levels, this component will support the mapping of major natural resources (water resources, rangelands), their full embedment in the policy design/review process and a better planning of interventions related to them. It will rehabilitate natural resources that are crucial for livestock productivity and resilience to droughts, such as major water points and pasture. The activities will empower communities in sustainable natural resources management by introducing collective rangeland management systems. For the purpose of the RFP this component focuses on eight (3) sub components namely; i) water resource development, ii) sustainable land management in pastoral and agro pastoral areas and iii) securing access to natural resources in the Arid and Semi-Arid Lands (ASALs) and border countries.

***Component 2: Market Access and Trade***- this component will support market infrastructure with a focus on those that support regional trade and export. The objectives are both to facilitate intra-regional trade of animals and animal products. It will build the capacity in the national veterinary services, as well as promotion of increased collaboration among countries. It will improve the surveillance and control systems of trans-boundary animal disease that negatively impact trade. The component will finally assist the three countries and Inter Governmental Authority on Development (IGAD) in: (i) harmonizing their animal health and food safety standards as part of Sanitary and Phytosanitary Standards in compliance with international ones (set up by the World Organization for Animal Health and Codex Alimentarius); (ii) strengthening the national and regional market information systems; and (iii) establishing and improving regionally recognized animal identification and traceability systems.

***Component 3: Livelihoods Support; Investments***- Under this component will address trans-boundary issues related to improved livestock productivity (fodder/feed production, animal health and breed improvement) and diversification (processing, non-livestock products, etc.). This component will disseminate across participating countries existing and tested approaches and/or technologies developed through research for the dry lands. The component will be implemented under three key sub component namely; i)

Livestock production and Health, ii) Food and Feed Production and productivity, iii) Livelihood diversification.

***Component 4: Pastoral Risk Management*** - This component will strengthen existing national Early-Warning and Response Systems in the project districts and link them with a sub-regional under the IGAD platform. It is aimed at helping pastoralists build resilience to drought and other climatic shocks. The activities will harmonize the response to disasters in communities and other stakeholders, including public institutions in charge of drought management, at the sub regional level. This will be done through organizing joint sub-regional training and disseminating recognized tools for drought response such as the “Livestock Emergency Guidelines and Standards”. The activities will also support conflict management with particular focus on cross-border issues, as livestock and access to natural resources (water and pasture), which are the major drivers behind conflicts and security in the pastoral areas.

#### **PURPOSE AND SCOPE OF RPF**

The purpose of this Resettlement Policy Framework is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who may be affected by the various sub-projects to be implemented under the RPLRP. The RPF therefore is prepared to guide and govern RPLRP as subprojects are selected for financing and sets out the elements that will be common to all subprojects that will entail involuntary resettlement, which will not be known by the time of project appraisal.

Owing to the nature of the project, the exact location, nature and magnitude of sub-projects to be financed by the project cannot yet be determined at the moment. Therefore at this stage it is neither possible to determine the demography and livelihoods of neither the PAPs nor the resettlement related impoverishment risks they might face.

The Bank O.P.4.12 requires that the RPF report must be disclosed as a separate and stand-alone by the Government of Kenya and the World Bank. The disclosure of this document should be both in locations where it can be accessed by the general public and at the Info shop of the World Bank.

#### **METHODOLOGY FOR RPF PREPARATION**

Documentation of the different land tenure systems, social setups and conflict resolution mechanisms was conducted through interaction with elders, NGOs with working knowledge of the project areas. The Involuntary Resettlement policy of the World Bank was reviewed in detail to understand the project’s direct economic and social impacts that may be caused by involuntary taking of land. Particular attention was paid to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, and vulnerable ethnic minorities.

#### **LEGAL FRAMEWORK**

There are a number of national and local legal frameworks that regulate land relations in Kenya. These frameworks define land rights, ownership, procedures and requirements of transfer and acquisition of land between individuals and groups. They also provide procedures for the acquisition of land by the state or a public body for public projects.

Among the most important legal instruments in this regard are the Constitution of Kenya; Land Act; National Land Commission Act; Land Valuers Act; Land Registration Act 2012 and Land Adjudication Act.

The World Bank's safeguard policy on involuntary resettlement, OP 4.12 is to be complied with where involuntary resettlement, impacts on livelihoods, acquisition of land or restrictions to access to natural resources, may take place as a result of the project. In comparison to Kenyan law that defines rights to land ownership and ownership of property *per se*, the World Bank policy on Involuntary Resettlement goes further to highlight the important relationship between property rights, human settlement and the need to maintain people's source of livelihood.

It compliments existing law in Kenya related to property rights and land ownership by recognizing the socio economic value this presents to persons affected. The higher of the two standards will be followed in this policy framework, since that procedure also satisfies the requirements of the lesser standard.

## **POTENTIAL PROJECT IMPACTS AND MITIGATIONS**

### **Potential Impacts**

No significant displacement of persons is expected except for the acquisition of required land for the expansion of existing facilities and construction of new structures. The project interventions are meant to strengthen already existing means of livelihood by the pastoral communities and they are likely to appreciate the services and will likely donate the land required or allow creation of new community access roads through their land or plots willingly where necessary. The sub projects are likely to have two categories of effects. Permanent effects will result into an infinite loss of use of property, vegetation, or land by the affected person as a result of the sub project activities.

This is likely to occur where permanent installations such as laboratories and slaughter facilities are established. Temporal effects will result into an interruption in the current use of property or land by the affected person as a result of the sub project activities. This is likely to occur during rehabilitation of existing infrastructure especially cattle crushes, holding grounds, pastureland, water points etc.

### **MITIGATION MEASURES**

Provisions are made under this RFP to minimize all such impacts including those of socio- economic significance and on environmentally sensitive sites. Provisions are also made in this RFP to accommodate all potential situations, including cases that entail actual displacement and livelihood restoration assistance in accordance with the World Bank Policy on Involuntary Resettlement, OP 4.12.

The potential social impacts to be addressed within the context of preparing this Resettlement Framework have been identified. It is expected though that site-specific social assessment studies will be carried out within specific localities, as and when required. The framework for the compensation/ resettlement will then be applied incorporating specific (1) institutional arrangements, (2) resettlement/ compensation eligibility criteria, (3) implementation procedures, (4) financial responsibilities, and (5) monitoring and evaluation plan.

## **ELIGIBILITY FOR COMPENSATION**

Determination of the eligibility of the bona fide occupants of the properties to be compensated shall be done through a transparent and legal process, taking into consideration all the existing laws of Kenya and policies of the World Bank. Compensation will be paid only to those persons:

1. Who prior to the commencement of the project, have evidence of ownership or occupancy of the land of at least 30 days within the period of commencement of the project;
2. Who have property (a house, crops or thriving business enterprise) situated in the area identified for development;
3. With household members who derive their livelihood from the advantage of location and proximity to other social economic facilities provided the current settlement.

## **VALUATION METHODS**

### ***Agricultural land***

This will be calculated as the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

### ***Land in urban areas***

This will be calculated as the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.

### ***Houses and other structures***

It is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.

### ***Loss of Income***

Losses of income for businesses will be estimated from net daily/monthly profit of the business verified by an assessment of visible stocks and activities. In addition to the compensation, disturbance allowances of 10% of total compensation will be considered. The estimation of supplementary assistance for affected commercial structures or business units will generally be based on the estimated income obtained from the use of the business/commercial unit and the estimated period of disruption of business activities.

## **PROJECT SCREENING AND PREPARATION**

### ***Sub projects Screening***

Sub-projects might have a social impact on the community. Potential socio-economic impacts that will require mitigation measures, resettlement and compensation will have to be identified. The subprojects will be screened to know whether involuntary resettlement, land acquisition, or loss, denial or restriction of access to land and other economic resources will be caused by the implementation of the sub-project or whether the sub-project result in the permanent or temporary loss of crops, fruits and household infrastructures such as granaries, outside toilets, kitchens, and other structures.

### ***Preparation of RAPs***

Subproject specific Resettlement Action Plans will drafted by the RPLRP/PMU in consultation with other parties responsible for resettlement specifying the procedures it will follow and the actions it will take to properly resettle and compensate affected people and communities. The Abbreviated Resettlement Action Plan will be used where less than 200 individuals are displaced or less than 10% of affected land is lost.

### ***Community Sensitizations***

Communities within the project areas as well as indigenous communities will be sensitized on the project and likely project impacts and the extent of their involvement to ensure project success. Measures instituted to address negative project impacts will be well communicated to the community.

## **STAKEHOLDER CONSULTATION AND PARTICIPATION**

### ***Consultation Phases***

The levels of consultation will vary from households to community groups, based on the particular context of the sub-project(s). The RAP team will design the questionnaires but it will be the households, organizations, and institutions that will validate their effectiveness through feedback. Focus group meetings with women, farmers' associations, individuals who own farms, etc., as well as primary and/or secondary schools, health centers, and agricultural cooperative unions are usually good sources for establishing the community baseline situation. During implementation, PAPs will be informed about their rights and options. The grievance mechanism will continue to operate and all grievances will be recorded. The participation of local leaders and PAPs in disseminating information and resolving disputes will be important once RAP implementation starts. PAPs representatives will participate in the sub-project workshops at mid-term and at the end of RAP implementation. To the extent possible, the RAP should include social accountability tools like citizen report cards to assess the quality of RAP implementation, and in some cases, assist the RAP team in tracking expenditures.

## **DOCUMENTATION**

The names and addresses of affected persons will be compiled and kept in a database including claims and assets. The records are also important especially for future monitoring activities. Documentation will include documents relevant to land transactions (voluntary and involuntary).

## **PROCEDURE FOR DELIVERY OF COMPENSATION**

Consultation and public participation with the PAPs will initiate the compensation process to ensure that all affected individuals and households are well informed and adequately involved in the entire process. Those who hold title to the land resources will be duly informed and in case there are no clearly identified owners or users of land to be acquired, MALF, the respective local government administrations through the lands officers and the traditional leaders of the respective communities where the land is located will be solicited to help identify owners or users in order to sensitize them on the project and its implications.

The RPLRP/PMU either through an internal team or through a consulting firm will undertake a detailed survey of all losses that will result for each household, enterprise, or community affected by the RPLRP. During inventories of assets, the owners or persons authorized to represent them on their behalf will be required to countersign them to minimize the possibility of subsequent claims or disputes regarding claims.

Compensation payment will be made by National Land Commission to the PAPs or by court order on the amount of compensation where this has been the subject of litigation between the RPLRP and the Affected Entity. MALF will disburse the funds directly to NLC with the relevant records of payments consigned to the RAPs.

## **RPF IMPLEMENTATION AND MONITORING**

**Compensation and Resettlement Committees** - The Compensation and Resettlement Committees at Sub County and Locational level will be responsible for organizing and ensuring that compensations payable to PAPs are made in line with the provisions and procedures of this RPF.

**Grievance Redress Committee**- The Grievance Redress Committee will be responsible for receiving and logging complaints and resolving disputes. The GRC will resolve each grievance or dispute to ensure that redress actions are implemented by whoever is mandated to undertake such action. If affected persons are not satisfied the GRC, they will be entitled to seek redress through the Courts of Law.

**Monitoring and Evaluation Team** - The Monitoring and Evaluation Team will be responsible for the monitoring of the RAP implementation programme to ensure that stated targets are met and project affected persons are duly compensated in line with the RAP requirements. The sequence of implementation activities and responsibilities are summarized in the table below.

## **ROLES AND RESPONSIBILITIES**

The implementation activities will be under the overall guidance of the RPLRP/PMU with support from line ministries. The sub County/County governments in the targeted sub project areas will be heavily involved in all resettlement, relocation and compensation efforts for sub projects where resettlement is indicated.

No.	Institution	Responsibility
1.0	Ministry Agriculture, Livestock and Fisheries	<ul style="list-style-type: none"> <li>• Overall supervision of the RPF and Resettlement/Compensation Plan.</li> <li>• To provide funds for compensation payment.</li> <li>• Trigger the process through inventory of affected persons and assets and implement planning close consultation with Consultant.</li> </ul>
2.0	Ministry of Lands Housing and Urban Development	<ul style="list-style-type: none"> <li>• To carry out the valuation and compensation payment process and reporting for the affected persons</li> </ul>
3.0	Ministry of Gender and Social Development	<ul style="list-style-type: none"> <li>• To oversee gender related issues to ensure that vulnerable women, former IDPs, the poor and elderly are compensated equally.</li> </ul>
4.0	Ministry of Environment, Water and National Resources	<ul style="list-style-type: none"> <li>• Document water resources in the area where the affected might be relocated to.</li> </ul>
5.0	National Environmental Management Authority	<ul style="list-style-type: none"> <li>• Review and monitor Social &amp; Environmental Impact Assessments.</li> </ul>
6.0	Project Coordination Unit	<ul style="list-style-type: none"> <li>• To liaise with district and MALF in ensuring peaceful implementation of the process including handling any grievances.</li> </ul>
7.0	Regional/District Land Valuation Officers	<ul style="list-style-type: none"> <li>• Assist in the valuation and compensation payment process and reporting.</li> </ul>
8.0	Resettlement Committees	<ul style="list-style-type: none"> <li>• To assist the community and support in the inventory of affected persons.</li> </ul>
10.0	Consultants, NGO, CSO	<ul style="list-style-type: none"> <li>• Prepare plans and assist with implementation and capacity building. Assist with sensitization and monitoring.</li> </ul>

### **CAPACITY FOR IMPLEMENTATION**

Effective implementation of the RPF will require adequate capacity enhancement within institutions and other stakeholders. Training will be provided to cover application of RPF including project screening, impact identification and analysis, procedures for preparation of RAPs, monitoring and review of Social Safeguards performance as well as reporting and implementation of the RAPs. Social Development Specialist will be recruited by MALF to fully address all land acquisition and resettlement issues including indigenous and vulnerability issues of the project. This will also be the responsible focal person for all social matters related to the RPLRP and other existing or future projects. Building in-house capacity is the only sustainable solution.

### **MONITORING ASPECTS**

The monitoring and evaluation will be the main mechanism to alert the RPLRP of any delays and problems and these activities will help measure the extent to which the main objectives of the RPF have been achieved. To ensure that the implementation of



resettlement is executed in line with this RPF, the activities will be monitored and evaluated internally by a Monitoring and Evaluation team at the PMU at the national level and on ground at the sub County level. The PMU will undertake the routine internal monitoring and evaluation of the implementation of the resettlement issues so as to ensure that all the responsible units follow the schedule and comply with the principles of the resettlement plan. A number of objectively verifiable indicators shall be used to monitor the impacts of the compensation and resettlement activities. Annual evaluations will be made in order to determine whether the PAPs have been paid in full and before implementation of the individual subproject activities, and whether the PAPs enjoy the same or higher standards of living than before.

### **BUDGET AND FUNDING**

At this stage, it is not possible to confirm the exact number of people who may be affected. This is because the technical designs and details have not yet been developed and the land needs have not yet been fully identified. The budget will be developed from the specific social assessment studies and mitigation/livelihood restoration measures to be developed. The budget will cover resettlement activities including compensation cost for affected assets.

MALF through the RPLRP/PMU will prepare the resettlement budget and will finance this budget in accordance with the administrative and financial management rules and manuals of the PIM and the National Treasury will provide all the funds for resettlement.

### **DISCLOSURE**

This RPF will be disclosed in compliance with relevant Kenyan regulations and the World Bank Operational Policy OP 4.12 on Involuntary Resettlement. The documents will be disclosed at the Info shop of the World Bank and will also be available to any interested persons. MALF will also provide copies of the RAPs for disclosure at the World Bank Info shop for public access. In addition the RAPs should be available throughout the project area and preferably, MALF will prepare summaries of the RAPs in local languages for distribution to accessible points within the project area.

### 3. DESCRIPTION OF THE PROJECT AND POTENTIAL SUB PROJECTS CAUSING RESETTLEMENT

#### BACKGROUND AND STRATEGIC CONTEXT

**The Kenya Vision 2030:** This is the overarching national development master plan that aims to move all Kenyans towards the future as one nation that respects and harnesses the diversity of its peoples' values, traditions, and aspirations for the benefit of all. It reaffirms the Government's commitment to addressing the particular priorities of Kenyans living in arid and semi-arid lands

**Agriculture (comprising livestock, fisheries and crops, and related activities) remains a key sector in Kenya's economy.** Agriculture is the mainstay of the Kenyan economy, directly contributing about 24% of the annual Gross Domestic Product (GDP), 65% of total exports and provides more than 60% of informal employment in the rural areas. Agriculture in Kenya, therefore, offers considerable options for economic growth and rural poverty reduction.<sup>2</sup>

Livestock contributes more than 47% of the agriculture GDP, and 12% to the national GDP in Kenya. The livestock sector in Kenya employs about 50% of the agricultural workforce and about 90% of the Arid and Semi-Arid Lands (ASALs) workforce. The ASALs occupy 89% of the of the Kenyan landmass of which 70% is arid (Northern Kenya) and 19% semi-arid lands dispersed all over the country. The ASALs are home to about 14 million people (of whom 4 million are pastoralists<sup>3</sup>). Approximately 95% of ASAL households derive their income from the livestock subsector where. 70% of livestock is produced.

The number of smallholder farmers and small-herders who are unable to sustain a living from agriculture is however increasing and yet, with concerted efforts these groups could benefit greatly from the country's long experience in collective actions through cooperatives and producer associations as witnessed in the dairy and horticulture sub-sectors. The under-exploited potential of rangelands and fisheries subsectors could also offer the residents in the ASALs sustainable alternative livelihood options.

The ASALs have the lowest development indicators and the highest incidence of poverty in the country, partly because of past government policies put into effect following the Sessional Paper No. 10 of 1965 which advocated giving less priority to investing in less developed Provinces.<sup>4</sup> For many years this statement guided the direction of Government resources, with the result that the social and physical infrastructure of the arid districts was neglected. Many analysts also argued that the region's main livelihood strategy, pastoralism, was irrational and environmentally destructive, and that the ASALs contributed little to the national economy.

The most obvious implication of the worsening situation and vulnerability of ASALs in Kenya were demonstrated during the severe droughts that afflicted Kenya and other IGAD countries between 1981 and 2011. The negative impact of the droughts was

---

<sup>2</sup> A Kenya CPP - A framework to End Drought Emergencies in the HoA, October 2012

<sup>3</sup> Kirbride and Grahn 2008

<sup>4</sup> ibid Government of Kenya Sessional Paper No 2 for 2008,

particularly evident among the pastoralist who lost major parts of their livestock, and in the increasing number of people receiving food aid<sup>5</sup>. For example the number people who received food aid as a proportion of the total affected by drought increased from 60% in 2006 to 88 % in 2010. The livestock subsector sustained significant losses as a result of the drought between 2008 and 2011 which was estimated at approximately Ksh 699,336 billion with Ksh 56,142 billion in damages and Ksh 643,194 billion in losses in income flows<sup>6</sup>.

## **PASTORAL LIVELIHOODS RESILIENCE ISSUES AND CHALLENGES IN THE ASALS**

Due to the drought in 2011 and high cost of farm inputs, the agriculture sector recorded a low growth of 1.5 per cent. The severe contraction of production in (ASALs) was the major contributory factor to the recorded reduction of national agricultural growth. In these areas, crop and livestock production declined significantly. There were also significant losses in livestock breeding herds and other assets that may reduce the productive capacity of these areas for years to come, if no outside intervention is taken to restore productive capacity quickly. In addition to the drought, crop and livestock farming was also adversely affected by fuel prices that has resulted to high inputs and transport costs during 2011/2012.

Over the past few decades, the ASALs have witnessed several transformations that impacted on the livelihoods of the pastoralists. Migration of the rural communities from the congested high-rainfall areas to the fragile low rainfall areas has contributed to change of land-use to non-pastoral activities such as cropping in grazing lands not well suited for that region. Also, large pastoral grazing areas have been converted to settlements, removed from communal use to conservation. The pastoral grazing areas have also been targeted by large government schemes such as Turkwell Electricity project and the Olkaria Geothermal project thereby reducing accessible communal grazing. In addition, records indicate that droughts in the arid and semi-arid parts of Kenya have become longer and more frequent. Over the past 8 years (2005–2012) Kenya has experienced four episodes of severe drought (2004/05, 2005/06, 2008/09, and 2010/11).

The negative impacts of shrinking pastoral grazing areas and drought manifest itself in accelerated ecological deterioration. This is characterized by increasing loss of vegetation cover, land degradation through soil erosion, fragmentation and deterioration of water sources. These has led to scarcity of livestock feed and water resources. The limited, overgrazed and degraded rangelands hamper herd growth, leading to reduction of stock numbers below economical thresholds, consequently driving many pastoralists to perpetual food insecurity. Increased competition for scarce grazing and water resources often leads to inter-communal conflicts, insecurity, limited access to markets and other basic services.

Drought forces livestock owners to sell animals facing imminent death at low sale prices, thus leading to depressed purchasing capacity of pastoralists (as food prices increase) increasing their vulnerability to starvation. Deteriorating livestock health, low crop

yields, and rising food prices exacerbate food insecurity. In spite of the above prevents and transformations, pastoralism remains the most viable economic activity for most of the people of the ASAL region.

Besides pastoralism, the climatic and cultural diversity of the vast arid and semi-arid areas offers significant economic and livelihood opportunities that is hitherto untapped or underexploited. The ASALs are a landscape rich in biodiversity, both fauna and flora, there are untapped underground water resources as well as stretches of land that could be used for food and animal feed production. These vast resources and opportunities, if properly managed and exploited in the presence of reliable infrastructure and social services, could offer sustainable and prosperous livelihoods for the inhabitants and eventually spur significant economic growth for the whole nation.

Experience shows that livestock market access is an invaluable part of the livelihood of the pastoralist and agro-pastoralists. Markets inject money into the local economy on each market day even in times of stress. This money supports financial access to food. Livestock markets therefore serve as drivers of rural economies, in pastoral areas. So if markets collapse .it will result in the collapse of the local economy.

The RPLRP will address the concerns identified above which are the degradation of the rangeland, scarcity of livestock forage and water, access to market and trade, exploitation of alternative opportunities to ensure the livelihood of the ASAL communities is secure

Implementation of natural resource management component aims at having prevailed access, management and utilization of shared resources. Development of well-planned water resources, with appropriate infrastructure and trained management capacities of local communities will ensure prevailed access, promote equity, ensure sustainable use and reduce user rights and access conflict. Water is recognized as a key constraint in ASAL that determines migratory nature of pastoralists. Migrations due to water scarcity are closely associated with livestock deaths, notifiable disease outbreaks, and increased incidence of waterborne human infections. Re-vegetation of degraded areas with grass and trees will be done to ensure that land regain its productivity. Strategic feed reserves (hay stores) will be constructed to store surplus, the reserves will be used as emergency feeds to reduce livestock mortalities in subsequent droughts. These activities will improve water and pasture availability in quantity and quality hence reducing resource based conflict and promoting resilience of the pastoral communities during dry seasons.

Protecting the pastoral economy from collapsing due to market failure in essence is building the resilience of the pastoralists. Activities under market access will ensure all year-round access to markets both local and regional by facilitating the physical markets and attendant infrastructure to remain functional. In addition the markets and trade access component proposes measures that will prevent collapse of livestock prices to ensure the target communities are not disadvantaged in the terms of trade with other food and consumer items. The component will also address measures to improve the ice accruing to livestock and livestock products marketed by the target communities.

Enhanced health of livestock will contribute to reduction of morbidity and mortality. This will result in increased livestock off-take and increased incomes. Breeding will result in animals that are more productive under the ASAL conditions. Drought tolerant crops will

contribute to food security and crop by products will be utilized for animal feeding hence increasing availability of feed. Surplus pastures during the rainy seasons will be conserved for utilization during dry spells. This will ensure the productivity of livestock is not adversely affected. The irrigation schemes will further contribute to fodder and food availability for animal left in the homesteads when others migrate. Support will be provided to pastoralists who have lost their animals to start income generating activities.

Under the Pastoral Risk Management (PRM) component, the project will build the capacity of target communities and their service providers to anticipate and monitor threats through early warning systems and respond appropriately. The anticipated state of preparedness will enhance the resilience of the community to shocks.

### **PROJECT DEVELOPMENT OBJECTIVE (PDO)**

The overall development objective of the RPLRP is to develop and implement regional approaches that enhance livelihoods resilience of pastoral and agro-pastoral communities in the drought prone areas of the ASALs of Kenya and its neighboring countries including Ethiopia and Uganda.

The project will contribute to the agreed response of Kenya along with other IGAD member states to address the regional priorities developed through the Country Programs Papers (CPP) in response to the IGAD drought disaster resilience and sustainability initiative (IDDRSI) in the Horn of Africa.

#### **The aims of the project include:**

- Mitigating droughts impact at the national level by introducing regional interventions in complement to the existing national initiatives such as Kenya Government Sessional Paper No 2 of 2008 on National Livestock Policy, and the Kenya Vision 2030.
- Building capacities in Kenya for pastoral and agro-pastoral communities from ASALs that will increase resilience to medium and long-term climate related vulnerabilities with a focus on livestock related livelihoods;
- Building and strengthening linkages with Ethiopia and Ugandan Governments to better tackle issues that affect communities in the ASALs.

#### **Specific objectives under the components**

6. The specific objective of the Natural Resource Management Component is to contribute to the development of a framework for the management and utilization of shared pastoral and agro-pastoral resources within the context of social stability and conflict prevention and, management. The outcome of this is to increase availability and equitable access to sustainably managed land, pasture and livestock water resources for cross border livestock and pastoralist movement.
7. The objectives of the Marketing Access and Trade Component is to harmonize trade policies regulatory framework to promote formal regional/cross border trade; streamline livestock movement requirements at border control points; address the constraints of cross-border trade services including infrastructure, certification, information, human capacity development and value chain

- development. The intended outcome of this component is improved access to markets and trade.
8. In the Livelihoods Support Component, the objective is to develop resilient livestock livelihoods and other supporting diversified livelihoods. This will result in increased adaptive capacities of households in drought prone communities.
  9. The Pastoral Risk Management Component objective is to establish national infrastructure and capacity for implementing harmonious and effective early warning and response systems for management of droughts and other disasters. This will result in enhanced disaster (especially drought) preparedness, prevention, management and response.
  10. The Project Management objective is to have a harmonized project management within the implementing counties in the country and between the implementing countries. The outcome of this will be effective and efficient utilization of resources for the drought resilience project in the target areas.

### **PROJECT BENEFICIARIES AND TARGETING APPROACH**

The project direct beneficiaries estimated at 92,290<sup>7</sup> are the pastoral and agro-pastoral communities susceptible to climate uncertainties and recurrent droughts. The beneficiaries will be targeted based on informed processes and innovative tools (e.g. PAPOLD, CMDRR, applying maps, GIS, remote sensing and ICT tools and resources) of defining the biophysical areas that have direct or indirect impact on the ASALs communities and ecosystems e.g. country, national and regional boundaries, trans-boundary water and land resources, trans-boundary animal movement and livestock trade areas, conflict areas and hotspots.

### **PROJECT COMPONENTS**

#### ***Component 1:– Natural Water Resources Management***

At the national and sub-regional levels, this component will support the mapping of major natural resources (water resources, rangelands), their full embedment in the policy design/review process and a better planning of interventions related to them. It will rehabilitate natural resources that are crucial for livestock productivity and resilience to droughts, such as major water points and pasture. The activities will empower communities in sustainable natural resources management by introducing collective rangeland management systems. This component focuses on:

- New water facilities to be constructed
- Water facilities to be rehabilitated
- Water sheds for the existing shared water facilities to be rehabilitated/developed
- Pastoral and Agro-pastoral rangelands/field demonstration schools to established

---

<sup>7</sup> The population has been estimated from the proportion of the project investment (KES 6 billion) relative to the requirement in the Kenya CPP (226 billion) which is multiplied by the proportion of people affected by major drought hazards (3.5 million)

### **Sub-component 1.1: Water Resources Development**

The subcomponent will be implemented through the following outputs:

#### **Available regional/national mapping of water resources and issues users (including for investments) refined and disseminated**

The project will refine, improve, assimilate and disseminate information of water resource from the existing maps and databases<sup>8</sup> of the selected project areas. IGAD will coordinate the development of the legal framework as well as provide a platform for sharing the data and maps. They will facilitate the improvement of the maps resolution.

At the national activities will include;

- Develop legal framework for data and map sharing
- Carry out water resources, water use/users profiling. This will be achieved by: study availed data/maps on location of water resources, function of the resource and quality of water; Ground truthing and; Update profiles of water resources and access facilities (data collection, analysis, documentation, storage and production

#### **The infrastructures for water access resources developed and rehabilitated**

The project will develop surface water through appropriate community-owned water harvesting structures while harnessing ground water based on social and environmental sustainability criteria. IGAD will convene meeting to coordinate the siting of the water resource facilities. The following activities will be undertaken to achieve this output:

1. Identify and design water resources access facilities. This involves carrying out feasibility studies on identified water resources access facilities and survey and design water resources access facilities;
2. Rehabilitate water resource access facilities-water pans, earth dams and boreholes
3. Construct new water resource facilities- water pans, earth dams, rock catchment and boreholes.

The ministry of Environment, Water and Natural Resources, which possess the necessary technical knowhow and have the mandate will be engaged in the process and to evaluate

#### **The stakeholders' capacities to manage the shared water resources through knowledge dissemination and sharing are strengthened**

To achieve the output IGAD will support the setting up of integrated information system and support regional workshops to share best practices. At the country level activities to achieve this will include;

1. Set up integrated information system;
2. Build capacity for water user association. Where there none existence the project will establish water resources user committees for shared water resources; train on water management skills; hold workshops to share knowledge on best practices on water resources management at regional, country and county levels

---

<sup>8</sup>. Example from IGAD, NDMA WESCOORD ground water resources and WRMA

3. Build capacity for staff; the staff will be trained on operation and maintenance of water facilities; sponsor relevant short courses and exchange visit to enhance their capacities.

### **Sub-component 1.2: Sustainable Land Management**

The subcomponent will be implemented through following outputs:

#### **Available regional/national mapping of land resources and use related issues refined and disseminated**

To effectively manage the shared rangelands ecosystems (e.g. seasonal grazing areas, degraded pasture resource areas and forest cover). IGAD will coordinate the development of the legal framework as well as provide a platform for sharing the data and maps. They will facilitate the improvement of the maps resolution. At the national level, activities will include: Refine, improve, assimilate and disseminate information existing in maps and databases<sup>9</sup> in the project areas, use the information to target intervention points. Concentration will be mainly in areas adjacent to borders and along key regional livestock corridors.

1. Promote best practices for rangeland resources through: carry out needs assessment to identify gaps; hold knowledge sharing workshops to share best practices at county, national and regional levels; support exchanges visits and study tours.

#### **Rangeland ecosystems with trans-boundary implications including for livestock movements are rehabilitated**

IGAD will convene meeting to coordinate the choice of intervention points. At the national level The following activities will be undertaken to achieve this output: Rehabilitate degraded areas through bush control, seed bulking, extensive reseeding and soil conservation; conservation of pasture seeds and forage will be promoted

#### **Policies at regional level on rangeland management are harmonized.**

These will be achieved through the following activities: IGAD will convene joint meetings for the member state to review and harmonize policies on rangeland management. While at the national level the activities will include:

1. Collect, Identify gaps, review and harmonize relevant policies; disseminate the policies
2. Disseminate the AU land policy
3. Carry out a study on effectiveness of implementation of policy regulation

### **Sub-component 1.3: Securing Access to Natural Resources in the ASALs and border countries**

The subcomponent will be achieved through the implementation of the following outputs:

---

<sup>9</sup>. Example, Rangeland NDVI, Fewsnet, ICPAC, MET, RCMRD



### **Conflict prevention, management and resolution strategies and approaches are harmonised**

To realise this output, the following activities will be undertaken: IGAD will facilitate setting up platform for information sharing; they will also coordinate the development of a legal framework for information sharing.

- a) Form cross-boundary resilience platform; identify conflict hotspots and drivers; sensitize relevant stakeholders on the identified causes and mitigation options;
- b) Conflict resolution by: Set up a platform for accessing, disseminating and sharing information Facilitate repeated joint meetings between communities to foster unity; Support joint activities; Train local government officials and security officials to enforce agreements; Facilitate signing of the shared agreement; facilitate exposure visits of community members

### **Policies at regional and national level on rangeland management including those on secured access to NR are harmonized and supported**

- a) To achieve the above the project will undertake the following activities; IGAD will facilitate and coordinate meetings to review and harmonize policies related to secure access to natural resources. At the national level activities will include:
- b) Support harmonization of decentralization policies and land use policies; hold regional and local policy consultations and harmonization meeting; support production and dissemination of the policies. A consultant will be engaged to drive the process.
- c) Strengthen traditional institution for implementation of policies by; mobilize community leaders; facilitate meeting that build on traditional conflict management; facilitate formal recognition of the institutions; facilitate the community to carry peace campaigns
- d) Operationalize existing policies through; Civic education, create awareness and network at county and regional level; Support formal cross border peace building negotiations and information sharing meetings.

### ***Component 2: Market Access and Trade***

This component will support market infrastructure with a focus on those that support regional trade and export. The objectives are both to facilitate intra-regional trade of animals and animal products. It will build the capacity in the national veterinary services, as well as promotion of increased collaboration among countries. It will improve the surveillance and control systems of trans-boundary animal diseases that negatively impact trade. The component will finally assist the three countries and IGAD in: (i) harmonizing their animal health and food safety standards as part of Sanitary and Phytosanitary Standards in compliance with international ones (set up by the World Organization for Animal Health – OIE and Codex Alimentarius); (ii) strengthening the national and regional market information systems; and (iii) establishing and improving regionally recognized animal identification and traceability systems. Key subcomponent activities include:

- Livestock Markets to be rehabilitated/Construction

- Construction and rehabilitation of border check points to be rehabilitated/Construction
- Construction/rehabilitation of laboratories
- Construction/rehabilitation of slaughter facilities
- Construction/rehabilitation of holding/auction grounds
- Construction/rehabilitation of trading routes to be demarcated
- Grazing and strategic livestock feed reserves to be demarcation
- Watering points to be demarcated

### **Sub-Component 2.1: Marketing Infrastructure and Information Systems**

This sub-component will facilitate access to markets and trade through the provision of physical infrastructure and marketing information to livestock market participants.

#### **2.1.1: Livestock Marketing Infrastructure improved**

Physical Markets are generally underdeveloped and poorly integrated locally and regionally. In several instances, poorly supported cross-border trade and mobility are major causes of health and security hazards. IGAD will coordinate mapping and gap analysis of cross-border market infrastructure to ascertain the adequacy of:

Holding grounds for animals to rest and recuperate after long period of trekking before being sold. The holding grounds services will include access to water and animal feed, livestock products processing facilities, testing and certification facilities and quarantine facilities.

Infrastructure improvement is expected to facilitate access to markets and trade through the improved physical infrastructure facilities such as, (i) construction of five sanitary slaughtering facilities in selected towns; (ii) the development of four and rehabilitation of 6 holding and auction yards/grounds in marketing towns and border trading points with Uganda and Ethiopia and providing veterinary services at these places, including inspection and certification services; and (iii) demarcating cross-border trading routes and providing services (watering and animal health) along these routes.

- a) There specific objectives will be achieved through the following priority activities:
- b) Mapping of existing and required infrastructure and harmonize the need for coordinated infrastructure in the region, and;
- c) Identification of needs, renovation/construction of infrastructures and installing management models.

#### **2.1.2 Establishment of a Market Information System**

Limited access to market information (prices, sources, demands and objective standards for selling and buying animals, etc.) is a real constraint marketing livestock in the ASALs. Improving the information flows to local producers will be an important undertaking to improve market access. There are several market information systems including the voluntary widely adopted use of mobile phone systems. However these systems lack approaches that assure clear and harmonized definition of data, access to reliable data and innovative ways of information dissemination and feeding systems.

The project will provide marketing information both nationally (Kenya) and at IGAD level to enhance informed decision-making. IGAD will develop regional market information platform that will enable the region to share marketing information. National priority activities include:

1. Upgrade and integrate the National Livestock Marketing Information System with the regional market information systems
2. Development of mechanisms for dissemination of the information through electronic, print and verbal media.
3. Capacity building of pastoral populations and relevant stakeholders on marketing information utilization and other aspects of livestock marketing and trade (auction system, grading and certification, taxation, and legal procedures for export).

### **Sub component 2.2: Livestock Marketing support and Value Chain Development**

The transfer of animals from the farm gates to the terminal markets is the major value added activity along the value chain of the pastoral and agro-pastoral livestock systems. Livestock marketing channels are segmented into domestic and cross-border sections. Most of the producers market small quantities of livestock commodities and this happens seasonally. The phenomena become a barrier to their participation in domestic as well as the cross-border segments of the livestock markets.

Furthermore, while all traders (small, medium and large-scale) participate in the domestic segment of the marketing chain, only large-scale traders get involved in the export segment due to the huge initial capital investment. In addition, there is very little presence of processors in the marketing channels particularly the cross-border segment.

This project will address the value chain barriers through the following priority activities:

#### **2.2.1: Model Cooperatives:**

The project will develop model cooperatives capable of strengthening the sale and marketing power of the small herding communities by selling to the producer association for onward sale to exporters and processors. To achieve this out put the following activities will be undertaken:

1. Develop Organizations' model for coordinating sales of livestock to major livestock buyers. Innovative approaches such as the experience of CARE in Marsabit where community bank approaches were set to link the producers with the market systems.
2. Build the capacity pastoralists on cooperative and contract marketing with other market actors (Major abattoirs and exporters) and sensitize producers on benefits of collective actions through cooperatives and producer associations.

#### **2.2.2 Value Chain Development**

Cross border Livestock Marketing Channels will be analyzed to isolate channels with good prospects for value chain development, and for the promotion of high value livestock commodities such as the “green livestock”. IGAD will Commission a study on gap-analysis of regional value chains that would provide high impact on the livelihood of

pastoralists. In addition, IGAD will develop a training programme for member states on cross-border value chains.

- a) The following national activities will then be undertaken to achieve this output:
- b) Conduct livestock market research using value chain approach
- c) Develop value chains of selected cross border livestock products including specialty livestock products (Organic/green meat)
- d) Build capacities of market actors on cross-border value chains

### **2.2.3. Protection of pastoral assets**

Livestock is both the principal asset and source of income for the vast majority of ASAL residents. Drought is the single greatest cause asset losses through body condition loss and livestock mortality. This imposes considerable economic and welfare costs on pastoralists.

Conversion of livestock assets into other asset forms and sustainable insurance can mitigate this risk and shock. This will support the food security strategy of the region by sensitizing communities to sell livestock and use the money received to purchase cereals/food at the most favorable terms of trade between livestock and cereals, and store cereals/food. The following activities will be implemented:

- a) Capacity building of pastoralists on alternative asset holding
- b) Scaling up of grain storage and warehouse receipt systems
- c) Popularizing and scaling up of the index based livestock insurance schemes

### **2.2.4 Financial systems to support livestock trade**

Considering that lack of access to credit has been identified as major barrier to entry in livestock marketing, and particularly international trade, efforts will be put in place to provide a revolving fund where producers and traders can access financial capital. Support financial service provision to small business particularly for women and young people will go a long way in enhancing resilience. The project will:

- a) Review existing financial access schemes and products to pastoralists and livestock farmers and support improvement/up scaling of systems where relevant.
- b) Improve access to financial products and services (banking and insurance) to low-income urban and rural communities, through micro-finance and micro-insurance initiatives.

## **Sub-component 2.3: Improving Livestock Mobility and Trade in Livestock and Livestock Product**

The anticipated outcome of this subcomponent will be achieved through the implementation of the following output

### **2.3.1: Trade policies and Regulatory framework of the Governments and Region improved**

IGAD will coordinate harmonization of regional trade policies for the member states to trade with each other and with the outside world.

Then the country will achieve this output through the following activities:

- a) Review, ratification and implementation of regional trade policies and protocols.
- b) Review of national policies and regulations and aligning them with the regional policies and protocols
- c) Making the policy, legal and regulatory requirements accessible by livestock marketing and trade participants.
- d) Capacity building of relevant government officials and private sector people working in the livestock trade on basic legal and regulatory requirements

### **2.3.2: Cross border food safety control of livestock products Improved**

Uncontrolled cross border movement of livestock is a major barrier to trade in the region, which could be overcome by harmonized legislation, regulation testing and certification systems condoned by the countries in the region. In addition certification is an important means of collection of valuable information to consumers about product quality and safety. (E.g. food safety).

This output will be achieved by undertaking the following activities through the application and scaling up the available innovations and practices such as Digital Pen and Animal Identification and Traceability systems.

IGAD will Coordinate Setting and harmonizing cross-border trade SPS, and other trade-facilitating tools. It will also coordinate regional diseases surveillance and laboratory networks. In addition, IGAD, will coordinate development of harmonized livestock identification, certification and traceability system

- a) Implementation of the harmonized cross-border trade SPS, and other trade-facilitating tools
- b) Upgrading of veterinary laboratory services through provision of reagents, equipment and training
- c) Implementation of harmonized animal identification system and traceability

### ***Component 3: Livelihoods Support; Investments***

This component will address trans-boundary issues related to improved livestock productivity (fodder/feed production, animal health and breed improvement) and diversification (processing, non-livestock products, etc.). This component will disseminate across participating countries existing and tested approaches and/or technologies developed through research for the dry lands. The component will be implemented under three key sub component namely; i) Livestock production and Health, ii) Food and Feed Production and productivity, iii) Livelihood diversification. The component activities include:

- Construction/rehabilitation of communal demonstration permanent crushes
- Construction/rehabilitation of Crushes
- Pasture improvement (degrade range rehabilitation/ reseeded, pasture seeds scheme)
- Training and demonstration for households in different income generation activities
- Support appropriate alternative income generating enterprises for households
- Field demonstration plots to be established
- Construction/rehabilitation of Storage Facilities

### ***Sub-component 3.1: Livestock Production and Health***

The sub-component will be implemented through the following outputs:

#### **3.1.1 Disease and vector surveillance and control services strengthened and harmonized at national and regional levels**

IGAD will convene meetings for harmonisation of regional policies (AU policy and IGAD-LPI) and disease control protocols, vaccination programmes. IGAD will support research in camel diseases

Under this sub component significant investment will be made on the national activities including:

- a) Aligning national policies with regional policies (AU policy, IGAD-LPI) and cascade to the county governments; developing and strengthening regional disease-surveillance (through work with FAO to scale up digital pen technology) to monitor disease prevalence and spread;
- b) Synchronized regional vaccination campaigns for identified major diseases such as FMD, CBPP, CCPP and PPR in targeted areas;
- c) Vector and pest control will be carried out through spraying, spot on or pour on, traps and targets
- d) Identify research institutions to collaborate in the camel diseases research

#### **3.1.2 Capacity of the pastoral Community to access sustainable Animal Health services enhanced**

##### **IGAD will set up platform for information sharing on best practices, innovation on animal production and health delivery services**

At the national level the following activities will be supported; (i) building the capacity of the pastoral communities and animal health service providers to identify and report occurrence of diseases; (ii) develop partnerships between the community, animal health service providers and other stakeholders in order to facilitate provision of inputs and services within the counties;

#### **3.1.3 Indigenous Livestock Breeds Conserved**

The ASAL areas are home to diverse and adapted livestock breeds, which can be used as foundation stock for breed improvement programs. The diverse breeds occupy different ecosystems and can be used to enhance resilience of pastoral communities

At the regional level IGAD will support harmonisation of breeding strategies for the countries. At the National level the program will establish four sub-regional breeding centres (SBC) to provide superior breeding material to individual pastoralists and the community breeding programmes;

- a) Develop community based livestock breeding programmes (CBLBP) for cattle, camels, sheep and goats while incorporating indigenous knowledge);
- b) Strengthen national focal point to develop breeding strategy; support breeder organization to enhance data collection and maintain breed standards
- c) Build capacity of communities for improved productivity using platforms such as pastoral/farmer field days, schools (FFS/FPS) and farmer-farmer exchanges.

### ***Sub-component 3.2: Food and Feed Production***

The sub-component will be implemented at the national level through uptake of technologies and best practices for up scaling to achieve the following outputs:

#### **3.2.1. Availability and utilization of drought tolerant fodder**

- a) Drought tolerant fodder offers an opportunity for communities to build reserves to combat drought. The sub-component will support the following activities:
- b) Promote production, bulking and conservation of drought tolerant fodder for livestock feeding in the agro-pastoral areas;
- c) Support development of a food security reporting system to assess the vulnerability of the communities; and
- d) Construct model hay sheds and provide harvesting equipment at strategic locations.

#### **3.2.2. Investments in irrigation and irrigated agriculture enhanced**

The following activities will be implemented:

- a) Enhancing irrigation technologies along permanent water sources in the pastoral areas for the cultivation of fodder crops to reduce vulnerability of communities especially during prolonged dry spells;
- b) Support distribution of certified fodder crop seeds and other inputs to improve productivity, and
- c) Establishment and capacity building of irrigation water users associations (IWUA) to manage and ensure sustainability of the irrigation schemes.

### ***Sub-component 3.3: Livelihood Diversification***

#### **Viable value chains on pastoral and agro-pastoral alternative livelihoods promoted (e.g. hive products, Gums & Resins, Poultry, Medicinal plants, Fodder and Fish.**

Under this component IGAD would facilitate the member states to carry out market survey and identify international markets for identified products under this component.

The following national priority activities will be undertaken to achieve this output

- a) Value chain analysis of identified possible alternative livelihood sources (e.g. Honey, Gums and Resins, Poultry, Medicinal plants, fodder and fish) will be carried out in order to minimize inefficiencies/losses thereby maximizing returns for the different players involved.
- b) Capacity building of communities on improved production using platforms such as pastoral/farmer field days, schools (PFS/FFS) and farmer-farmer exchanges,
- c) Support cottage industries for selected enterprises to improve market access; develop training programs for communities on group dynamics and financial management, and promote linkages to existing micro-financing institutions
- d) Support capacity building on wildlife conservancy, livestock tourism and eco-tourism.

### ***Component 4: Pastoral Risk Management***

This component will strengthen existing national early-warning and response systems in the project districts and link them with a sub-regional under the IGAD platform. It is aimed at helping pastoralists build resilience to drought and other climatic shocks. The

activities will harmonize the response to disasters in communities and other stakeholders, including public institutions in charge of drought management, at the sub regional level.

This will be done by organizing joint sub-regional training and disseminating recognized tools for drought response such as the “Livestock Emergency Guidelines and Standards”. The activities will also support conflict management with particular focus on cross-border issues, as livestock and access to natural resources (water and pasture), which are the major drivers behind conflicts and security in the pastoral areas. Key subcomponent activities include:

- Support conflict management with particular focus on cross-border issues, as livestock and access to natural resources (water and pasture), which are the major drivers behind conflicts and security in the pastoral areas.
- Readily avail, timely disseminate, and understood Early warning information
- Harmonized and strengthen Drought Resilience Mechanism policies
- Institutionalized effective responses to early warnings

#### **Sub-Component 4.1: Pastoral Risk Early Warning and Response Systems**

This subcomponent will aim at strengthening and harmonizing the EW and response systems at the national and regional levels through two out puts. The sub-component will involve institutions that have capacity in early warning on forage supply, water supply, livestock market prices/volume, livestock movement, disease control, conflict resolution and terms of trade –cereal prices. The institutions include technical departments such as Livestock, Agriculture and Meteorology, East African early warning system ([www.glews.tamu.edu](http://www.glews.tamu.edu)), National Livestock Marketing Information Center Kenya ([www.lmiske.net](http://www.lmiske.net)), waterhole monitoring for East Africa with NASA data ([www.watermon.tamu.edu](http://www.watermon.tamu.edu)), IGAD Climate Prediction and Application Centre ([www.icpac.igad.org](http://www.icpac.igad.org)) and our own National Drought Management Authority.

##### **4.1.1 Early Warning Systems are strengthened and harmonized in the region; and capacities are built / developed to turn early warning into action**

Strengthening and harmonizing early warning in the region, and capacity building to turn early warning into action. IGAD will coordinate, organize and facilitate capacity building (workshops, study tours, trainings etc.) for national experts and senior officials to enable knowledge and experience sharing to identify best practices, and develop a harmonized methodology for risk profiling at regional level and train member states in the use of the methodology , establish and operationalize a regional EWR platform to collect and analyze information for dissemination to relevant national authorities to guide action, establish and operationalize a regional EWR platform to collect and analyze information for dissemination to relevant national authorities to guide action. Interventions in national Early warning systems will be achieved through the implementation of the following activities:

- a) Expand sentinel sites to cover 60% of Kenya
- b) Establish National Rapid Response Systems, Livestock-insurance schemes / pilot projects for adoption in the region. Support and incorporate traditional EW information and coping systems and integrate with the conventional EWS
- c) Best practices and interventions acquired from the regional capacity building will then be domesticated in the project area. Such innovations include financial risk



- transfers mechanisms (weather based Insurance) that has already been piloted and may need scaling up. ,
- d) Undertake national risk profiling e.g. natural hazards vulnerability, climate, and institutional capacities and disseminated at all levels. IGAD to consolidate a regional risk profile.
  - e) Dissemination of EW information through traditional vernacular media, print media and website with the ultimate aim being linkage of early warning to action. Link national platform to Regional EW platform.

#### **4.1.2 Building capacity of communities to develop Contingency plans<sup>10</sup>**

Developing and operationalization of contingency plans will be achieved through;

IGAD to organise regional training of trainers in formulation of contingency plans and develop guidelines, training modules and capacity build trainers for contingency planning, assess existing national structures' response capacity and build where gaps exist.

- a) Strengthening contingency planning capacities of communities and stakeholders by training different levels of implementers and beneficiaries at national level in contingency planning
- b) Formulation and dissemination of contingency plans at all levels.
- c) The contingency plans will be submitted to IGAD for consideration and compilation of regional contingency plans.
- d) Internally assess existing national structures' response capacity
- e) The project will Support food security assessments and development of a livestock food commodity balance sheet.

#### **Subcomponent 4.2: Disaster Risk Management (DRM)**

The objective of the DRM is to operationalize effective disaster risks management policies and avail contingency funds. Three outputs are expected to be achieved namely;

##### **4.2.1 Ex-ante risk reduction measures for effective disaster management developed and implemented**

This will entail supporting the following activities:

- a) IGAD undertaking training of trainers (TOT) on DDRM-related key guidelines/standards such as Livestock Emergency Guidelines and Standards (LEGS)
- b) As part of the Regional-national activities, this will entail supporting the following activities:
- c) TOTs will cascade the trainings at national levels.
- d) Upscale disaster preparedness and mitigation measures through adopting research and innovations at all levels as well as developing human capacity (education – institutionalization of Livestock Emergency Guidelines and Standards (LEGS) and Community Managed Disaster Risk Reduction (CMDRR). This will help focus interventions to early warning.
- e) Awareness creation of disaster risk management options among policy makers

---

<sup>10</sup> Systems and capacities for effective response

#### **4.2.2 DRM policies are harmonized, operationalized, mainstreamed and institutionalized at the central and line ministry levels**

- a) To harmonize, operationalize, mainstream and institutionalize DRM policies, the following activities will be undertaken;
- b) Participate in regional workshops organized by IGAD for knowledge and experience sharing on DRM policies and harmonize where possible.
- c) Harmonizing DRM policy at the national and county.
- d) Mainstream DDRM policies and strategies into all line ministries and institutions

#### **4.2.3 Contingency Funds (regional & national) created and operationalized**

- a) Create mechanisms (fiduciary and administrative capacities) for receiving and disbursing contingency funds. IGAD to building countries capacities to access the IGAD regional DRM contingency fund (guidelines)
- b) IGAD to support the development of DRM contingency fund guidelines and country criteria for assessing those funds

### **Sub-Component 4.3: Climate Risk Management**

The following priority outputs will be achieved,

#### **4.3.1 Readily available and accessible drought related weather and climate information (decision making processes to enhance resilience of livelihoods in the ASALs research and analytical work on climate change including climate outlook) are used in planning**

Climate Risk Management strives to ensure that drought related weather and climate information is readily available and accessible to the stakeholders. The project will implement the following activities:

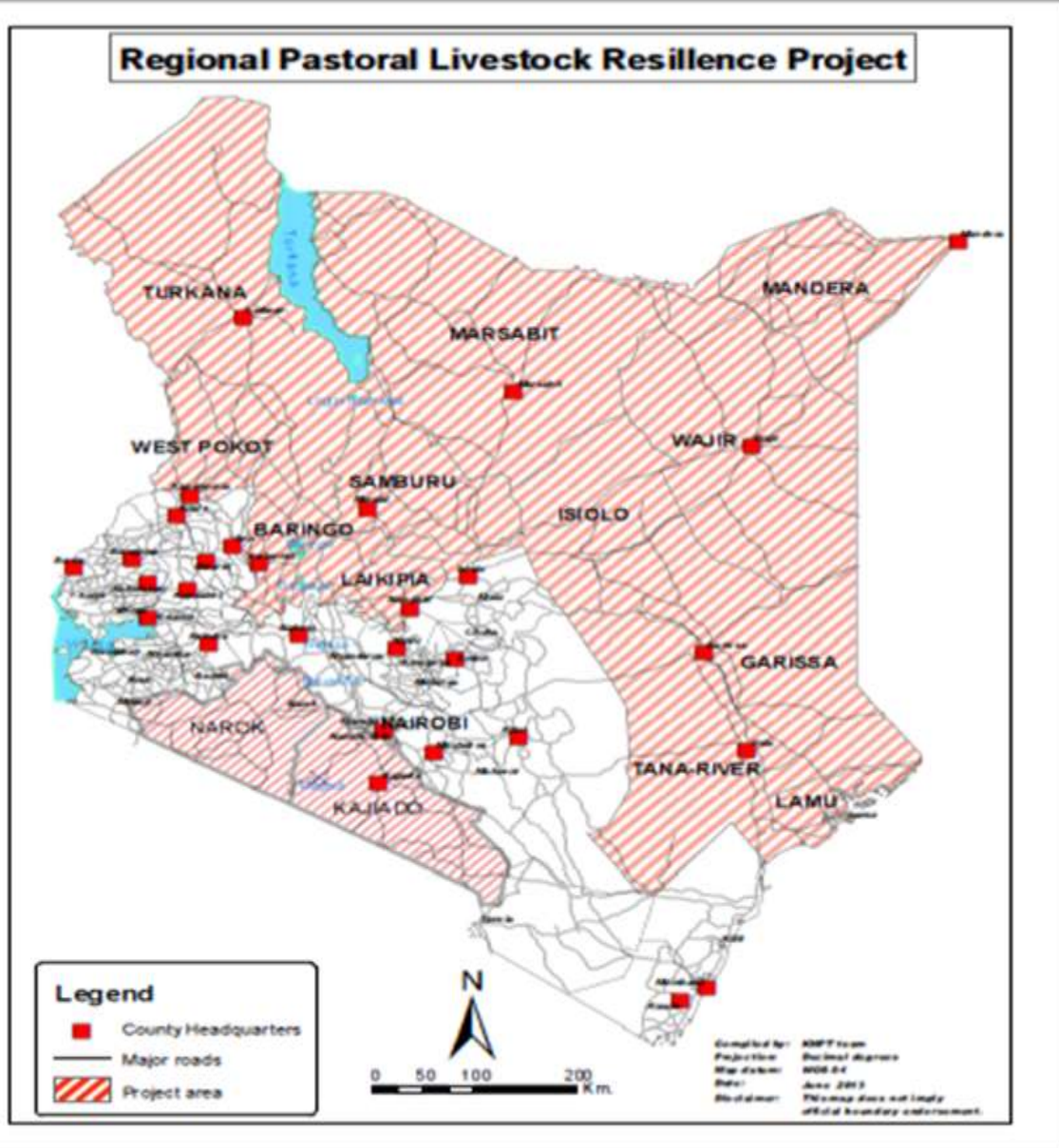
- Link to Global framework for climate services (GFCS)
- Facilitate workshops for identifying actionable elements from GFCS at the regional level.
- Implement climate change activities as identified at the regional forum at the country level.
- Adoption of research and innovations (advocate for conservation tillage, limited burning and promote reforestation and use organic fertilizers) at all levels (National )

#### **4.3.2 Climate change management policies are incorporated into planning and investments for pastoralists**

The project will incorporate climate change adaptation policies into national planning and budgeting in the various components in order to adapt and mitigate the effects of climate change. This output will be achieved through Integration of climate change information into early warning and information systems with emphasis on improving the integration of climate change information into existing bottom-up and top-down early warning systems (e.g. CBLEWS, ALRMP, FEWSNET, LINKS, LEWS, ICPAC and FAO forecasts), and refining information formats and dissemination structures.

### ***Project Beneficiaries***

The project direct beneficiaries estimated at 92,290<sup>11</sup> are the pastoral and agropastoral communities susceptible to climate uncertainties and recurrent droughts. The beneficiaries will be targeted based on informed processes and innovative tools (e.g. PAPOLD, CMDRR, applying maps, GIS, remote sensing and ICT tools and resources) of defining the biophysical areas that have direct or indirect impact on the ASALs communities and ecosystems e.g. country, national and regional boundaries, trans-boundary water and land resources, trans-boundary animal movement and livestock trade areas, conflict areas and hotspots.



**Figure 1. Project Targeted Counties**

<sup>11</sup> The population has been estimated from the proportion of the project investment (KES 6 billion) relative to the requirement in the Kenya CPP (226 billion) which is multiplied by the proportion of people affected by major drought hazards (3.5 million)

## **WORLD BANK SAFEGUARD POLICY**

The Involuntary Resettlement policy of the World Bank was reviewed in detail to understand the project's direct economic and social impacts that may be caused by involuntary taking of land resulting in:

- a) Relocation or loss of shelter;
- b) Loss of assets or access to assets, or
- c) Loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

The potential for involuntary restriction of access to legally designated areas and protected areas resulting in adverse impacts on the livelihoods of the displaced persons was also be assessed.

## **NEED FOR A RESETTLEMENT POLICY FRAMEWORK**

The RPF derives from the World Bank's Involuntary Resettlement Policy OP/BP/4.12, which sets out safeguard measures where a bank-assisted project will involve involuntary resettlement of persons to make way for implementation of the project, and where such resettlement may result in loss of assets and create hardships for those being resettled. The RPF provides the basis for preparing Resettlement Action Plans for individual sub-projects once their location and scope are known.

## **PURPOSE OF THE FRAMEWORK**

The purpose of this Resettlement Policy Framework is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who may be affected by the various sub-projects to be implemented under the RPLRP. The RPF therefore is prepared to guide and govern RPLRP as sub projects are selected for financing and sets out the elements that will be common to all subprojects that will entail involuntary resettlement, which will not be known by the time of project appraisal. In particular it will be used among others: -

- To avoid, manage, and/or mitigate potential risks arising out of displacement.
- To develop a Resettlement Action Plan and propose an implementation framework for RAP.

## **OBJECTIVES OF THE RPF**

The objectives of the Resettlement Policy Framework (RPF) are to:

1. Establish the resettlement and compensation principles and implementation arrangements for RPLRP
2. Describe the legal and institutional framework underlying Kenyan approaches for resettlement, compensation and rehabilitation;
3. Define the eligibility criteria for identification of Project Affected Persons (PAPs) and entitlements;
4. Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders;
5. Provision of procedures for filing grievances and resolving disputes; and
6. Development of an outline for the development of Resettlement Action Plans

## SCOPE

The resettlement policy framework covers the following elements, consistent with the provisions described in OP 4.12, paras. 2 and 4:

- a) Description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement plan is required
- b) Principles and objectives governing resettlement preparation and implementation;
- c) Description of the process for preparing and approving resettlement plans;
- d) Estimated population displacement and likely categories of displaced persons, to the extent feasible;
- e) Eligibility criteria for defining various categories of displaced persons;
- f) Legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- g) Methods of valuing affected assets;
- h) Organizational procedures for delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer;
- i) Description of the implementation process, linking resettlement implementation to civil works;
- j) Description of grievance redress mechanisms;
- k) Description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- l) Description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- m) Arrangements for monitoring by the implementing agency and, if required, by independent monitors.

## RESETTLEMENT IMPLICATIONS OF RPLRP

During the implementation of the RPLRP, particularly **Component 1, 2, 3 and 4** specific sub projects are likely lead to acquisition of a sizeable portion project sites. This is likely to lead to land acquisition on a permanent or temporary basis and will likely livelihoods.

The impact will vary in degree depending on the nature of investment under the RPLRP. For instance, the building of earth dams and other structures could result in the total loss of land, assets, and livelihoods of the communities in the sub project area. Such sub projects could require relocation and displacement. On the other hand, some investments such as boreholes could cause land take and resettlement and impact livelihood, and may not necessarily cause physical displacement of a great number of people.

At this point, the exact impact of the proposed sub projects under the project is not yet known and it will only be known when sub projects are identified. Nonetheless, all or part of the proposed sub projects may involve land acquisition and impact on livelihoods. Cultural and community assets as well as spiritual sites may also be lost and some communities may lose their farmlands permanently.

Due to the complex and varied nature of the proposed sub projects, the impact and the severity of resettlement may also be very different. As a rule and in accordance with the bank operational procedures on involuntary resettlement, each sub project, which may affect land and assets, will trigger preparation of specific Resettlement Action Plan (RAP) based on this RPF.

However, the level of detail and complexity of each RAP will depend on the investment and type and the level of impact. The specific sub project RAPs, need to include detailed baseline census and socio-economic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standard of the living; implementation schedule or resettlement activities; and detail cost estimate. In addition, the RAP will include a detailed description of the sub project and its impacts.

## **PROJECT IMPLEMENTATION**

### ***Institutional And Implementation Arrangements***

Project activities are implemented at (i) regional and/or (ii) Country (national and county) levels.

#### **The National Activities;**

In Kenya, the department responsible for livestock development will be the project-implementing agency at the national and county level. The department responsible for livestock development will designate a project coordinator for the entire period of the project. The project coordinator shall be responsible for the day-to-day coordination of the entire project. There will also be Component Coordinators for the four components of the project. And in line with Bank guidelines the GoK will also second an environmental specialist with requisite qualifications. The necessary support staff, including an accountant and a procurement specialist, will support the coordinator.

#### **Project Steering Committees**

The Project will be coordinated at the regional level through a regional coordination committee under the auspices of IGAD. At the Country level, a National Project Steering Committee will be established. It will be the technical coordination committee and will comprise of relevant stakeholders (e.g. KCA, KARI, KWS, KLMC, KLBO ILRI and Universities) and other relevant NGOs. The NSC will meet quarterly and be responsible for approving: (i) the annual work plans and budgets before recommending their endorsement by the Inter-Ministerial Coordination Committee (ICC), and (ii) monitoring of the implementation progress and reporting. Membership of the committee will be derived from relevant institutions including NDMA, and Research institutions. The beneficiaries will be represented through pastoral associations and individuals identified.

The committee will be responsible for technical guidance for implementation of the Kenya-RPLRP. Relevant Sub-committees will be formed to handle specific issues on behalf of the Steering Committee. Decisions of the national steering committee will be implemented by a project secretariat headed by the national project coordinator.

Other key roles of the NSC will be to spearhead formation of county project teams; convene the project steering committee and other national meetings; Constitute the national project Secretariat, Facilitate implementation of relevant project interventions in the context of resilience to drought and sustainable livelihoods; and be the entry point for development partners and other funding agencies in this project.

Like the National Project Steering committee, there will a County steering Committee headed by and appointee of the Governor. A county project service committee (CPSC) headed by a county project coordinator and comprising of all implementing agencies at county level will be established. Their role will be to plan, budget and monitor implementation of project activities at county level. The CPSC will link closely with existing County stakeholder forums (including the ASAL stakeholder forum in the respective county) for necessary input into project planning and re-planning. The Secretariat of the CSC will be the county project coordination unit headed by the county project coordinator (CPC).

The Agricultural Sector development project (ASDP) is spearheading establishment of stakeholder forums and steering committees in the Agricultural sector in all counties of the country including the project area. RPLRP will therefore utilize these committees and forums. The implementation of project activities at the sub county level will be done through sub-county service units (SCSU) coordinated by the County Project Coordinator.

#### **PROJECT COORDINATION UNIT (PMU)**

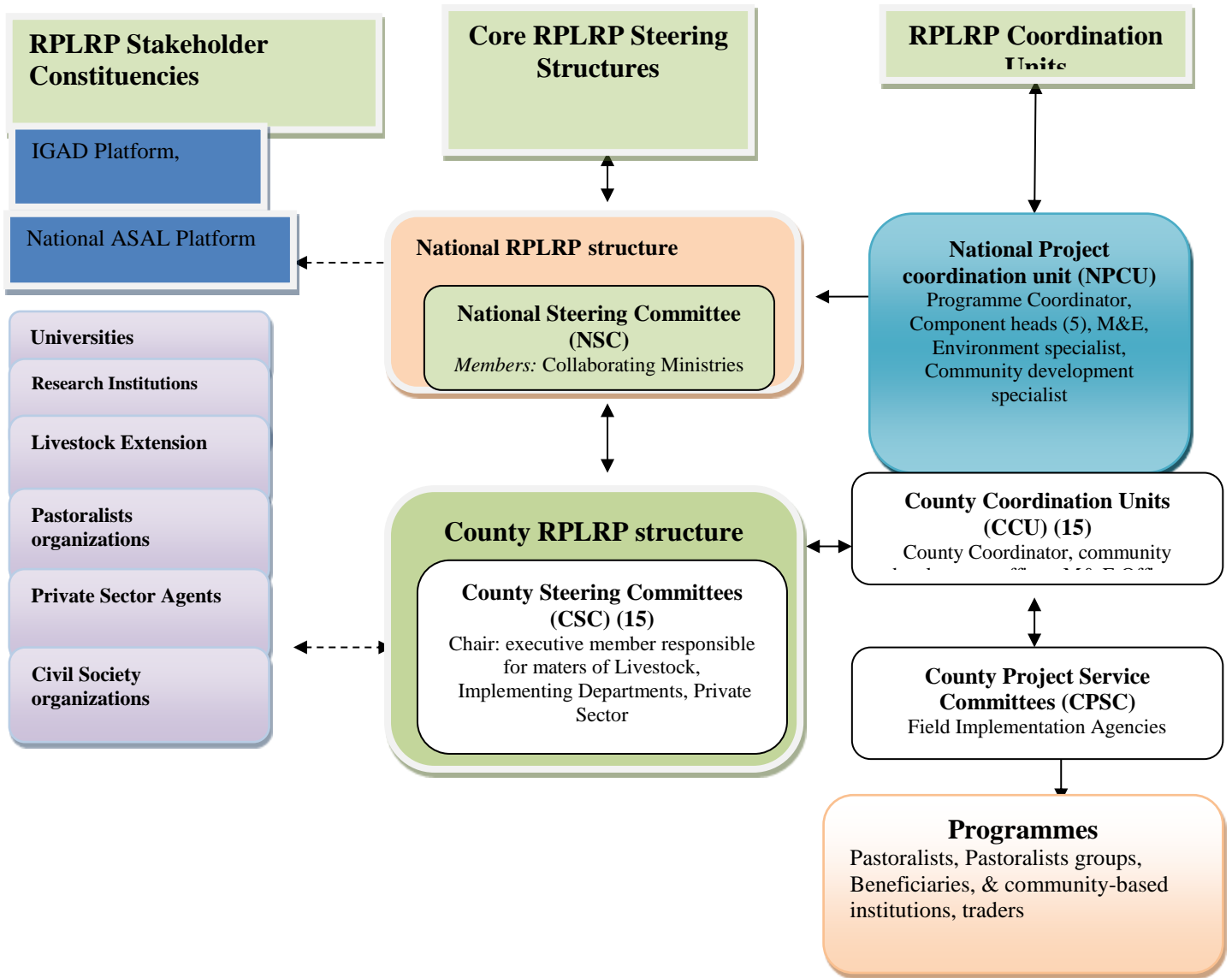
The project coordination unit will comprise of the National Coordinator, 4 project component heads, M&E officer, community development Specialist, procurement specialist and the project Financial Accountant as shown in the organizational structure in **Figure 1** below. The PMU will oversee the project implementation by backstopping and facilitating the project implementation teams at counties and sub- counties to access the project resources based on the approved activities.

Below is a flowchart showing the interactions of various players in the organization and implementation structure of the Kenya- RPLRP.

#### **Implementation Arrangements**

General Organizational/Coordination and Implementation Structure of RPLRP

#### **Figure 1: Organization Structure of RPLRP**





## 4. METHODOLOGY & OVERVIEW OF IMPACTS

This Resettlement Policy Framework (RPF) was prepared using the following approaches and methodologies;

### DETAILED AND IN-DEPTH LITERATURE REVIEW

Existing baseline information and literature was reviewed in preparing this RPF. Documents reviewed include:

- *Project Aide Memoire (AM)*
- *Draft Project Appraisal Document (PAD)*
- *Constitution of Kenya,*
- *Government of Kenya Valuation Act*
- *World Bank Involuntary Resettlement Operational Policy 4.12.*
- *Land Act 2012*
- *Land Registration Act 2012*
- *Land Adjudication Act*
- *National Land Commission Act*

### INTERACTIVE DISCUSSIONS

Stakeholder discussions in project targeted Counties are still on going at the time of preparing this RPF and are being held/scheduled to be held in **Laikipia, Isiolo, Mandera, Narok, Kajiado, Tana River, West Pokot, Baringo and Lamu** Counties.

Issues raised during the workshop are captured in **Annex 9. Annex 10 and include** individual participants and institutions who attended the meeting.

### DEFINITION OF PROJECT AFFECTED PERSONS

According to this RPF, Project Affected Persons (PAPs) are considered to be those who stand to lose as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, fishing areas or important cultural sites, commercial properties, tenancy, income-earning opportunities as well as social and cultural networks and activities. Such impacts may be permanent or temporary. This might occur through land expropriation, using eminent domain or other regulatory measures, and could include restricted or reduced access to legally designated grazing and fishing areas and protected areas such as gazetted forests as well as grazing land.

The RPF under this project applies to all economically and/or physically displaced persons regardless of the total number of affected or the severity of impact and whether or not PAPs have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, the elderly, women and children, including orphans, marginalized groups and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through Kenya's land compensation legislation.

## **PROJECT ACTIVITIES WITH DISPLACEMENT POTENTIAL**

The sub projects envisaged to have displacement potential are listed below. The following works will include both construction and /or rehabilitation of:

- Earth dams
- Water pans
- Shallow Wells
- Livestock Markets
- Livestock Routes
- Rangeland Grazing Areas
- Livestock Quarantine and holding grounds
- Small Scale Irrigation schemes
- Boreholes

## **IMPLEMENTING AGENCIES (IA)**

The list is not exhaustive and could include other ministries and agencies

- Ministry of Water, Environment and Natural Resources (MWENR)
- Ministry of Agriculture, Livestock and Fisheries (MALF)
- Water Resources Management Authority (WRMA)
- National Drought Management Authority (NDMA)
- County Governments

## **CATEGORIES OF PAPS**

The likely displaced persons (economically or physically) under various RPLRP sub projects are categorized into three groups namely: -

- Project affected persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources as a result of activities related to a given investment under RPLRP.
- Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by a given investment/sub project. These include members like the head of household, male, and female members, dependent relatives and members, tenants, etc.
- Vulnerable groups who could be a member of affected households. The sub projects will separately identify the vulnerable members, such as those who are too old or too ill; children; those stricken with HIV/AIDS; women; unemployed youth, and orphans; households headed by women that depend on sons, brothers, and others needing support and are especially vulnerable. The vulnerable groups are eligible for additional assistance under this RPF, as it is explained later in *Entitlement Matrix, Table 4*.

The categories given above may not cover all types of affected persons. In addition, the categories are not mutually exclusive. The RPLRP sub project activities should have well-prepared and comprehensive RAPs that would be specific and comprehensive enough, listing all affected groups and people and the impacts

Affected local community – A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion. For example project activities could lead into loss of welfare or cultural erosion, conflict etc. In addition, the sub projects under RPLRP can cause breakdown of communities and social networks due to physical separation as a result of the investment specific infrastructures if not mitigated.

#### **APPROXIMATE NUMBER OF PAPS**

Determination of the number of PAPS is not possible at this time due to the nature of RPLRP, which is a framework approach and as a result sub projects, which will be funded under the RPLRP, have not been fully identified in terms of location, nature, scope and magnitude. At this stage, sub project descriptions do not exist for any of the sub project investments to allow estimation of number of the PAPS. The purpose of this RPF is therefore to establish the mechanisms, procedures and principles for compensation and livelihood restoration for all potentially affected people under RPLRP and guide the preparation of the RAPs for individual investments under RPLRP.

Each sub-project investment which might require physical and/or economic resettlement, the number of PAPS will be established through the census which will be undertaken as part of the preparation of the investment specific RAP.

#### **POTENTIAL RELOCATION AREAS**

During the development of RPLRP investments, location for resettlement if necessary will be identified during the development of the sub project specific RAPs by National Land Commission and the Sub County and Locational Resettlement and Compensation Committee (SCRCCs and LRCCs) (explained later in the document) and project affected persons.

## 5. PRINCIPLES & OBJECTIVES GOVERNING RESETTLEMENT PREPARATION & IMPLEMENTATION

This RPF applies to all components of the various sub project investments under the RLPRP. It applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

### THE OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK (RPF)

The objectives of the RPF are to:

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

The RPF will apply to all sub projects, which will be financed under the RLPRP. The procedures will be carried out throughout preparation and implementation of the sub projects, and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a sub project RAP is required, it will be prepared in accordance with guidance provided in this RPF. The RPF follows the guidance provided in the World Bank Operational Policy on Involuntary Resettlement (OP4.12), as described in *Annex 8* as well as Kenyan laws related to land acquisition.

The RPF ensures that any possible adverse impacts of sub project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks can be minimized by:

- Avoiding displacement of people without a well-designed compensation and relocation process;
- Minimizing the number of PAPs, to the extent possible;
- Compensating for losses incurred and displaced incomes and livelihoods; and
- Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs livelihoods and their wellbeing.

### RATIONALE FOR PREPARING THE RPF

Given the nature of the RLPRP, sub projects have not been identified at the time of preparation of this RPF. This RPF therefore will be the basis for preparing the project investments specific RAPs. The RPF will set out the procedures for the development of more detailed RAPs for those investments/sub projects and associated facilities that have an impact on land, assets, and livelihoods. The RPF ensures that any possible adverse impacts are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks.

## **FLEXIBILITY OF THE RPF**

Since this RPF is prepared for a **5-year program** it needs to be flexible to respond to the changes, which may happen during the life of the RLPRP. Such changes will include:

- Changes in relevant legislations; introduction of new acts and legislations;
- The upcoming constitutional reforms which includes reforms in the water and land sector which may affect existing ministerial arrangements,
- Possible adjustments to the new devolved structures etc.

As a result, Mid-Term Review (MTR) will be carried out to assess how effectively the safeguard instruments have been implemented and if any updates/revisions are required. In other words, the RPF is a living document and if need be, will be revised to reflect issues that may not have been foreseen now but may arise in the future as well as reflect legal, institutional, and policy changes that could occur during the life of the program. In addition, in the event that there are changes that arise anytime during the implementation of the program not covered in the RPF, the document will be updated accordingly.

## **RPF PRINCIPLES UNDER RPLRP**

1. *Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.*
2. This RPF applies to all PAPs regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles.
3. Where involuntary resettlement and land acquisition are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing resources to give PAPs the opportunity to share project benefits.
4. PAPs will be meaningfully consulted and will participate in planning and implementing of the resettlement activities.
5. PAPs will be assisted in their efforts to ideally 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 the project implementation, whichever is higher.
6. Measures to address resettlement shall ensure that project affected peoples are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.
7. Projected affected persons if resettled will be supported to integrate economically and socially into host communities so that adverse impacts on host communities and vice versa are minimized. To this end, appropriate patterns of social

- organization will be promoted and existing social and cultural institutions of PAPs will be supported to the greatest extent possible.
8. All PAPs will be identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.
  9. 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, orphans, marginalized groups and the ethnic minorities or other displaced persons who may not be protected through the Kenyan law. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.
  10. The implementation of individual RAPs must be completed prior to the implementation of the investments under RLPRP.

Furthermore, this RPF applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank are a) directly and significantly related to RLPRP investments; b) necessary to achieve its objectives as set forth in the project documents; and c) carried out, or planned to be carried out, at the same time as the project.

As noted above, investments under RLPRP will avoid or at least minimize involuntary resettlement to the extent possible. However, where it is unavoidable, appropriate measures to mitigate adverse impacts will be carefully planned and implemented following the general framework outlined in this document.

### **INVOLUNTARY RESETTLEMENT**

Involuntary resettlement, if left unmitigated, normally gives rise to severe economic, social, and environmental risks. People face impoverishment when their productive assets or income sources are lost and social networks are weakened. Some of the impacts of resettlement, if not mitigated, include: (a) ***Landlessness*** (b) ***Joblessness*** (c) ***Homelessness*** (d) ***Marginalization*** (e) ***Increased morbidity and mortality*** (f) ***Food insecurity*** (g) ***Educational loss*** (h) ***Loss of access to common property and*** (i) ***Social displacement.***

## ENTITLEMENT UNDER RPF

### *Physical Displacement*

If people must move to another location due to the implementation of a sub project under RLPRP, the GoK, through the Implementing Agency (IA) with engagement of National Land Commission<sup>12</sup> (NLC) as is required by the Land Act 2012 will ensure that just compensation is provided. This RPF offers displaced persons choices among others feasible resettlement options, including adequate replacement housing, land or cash compensation based on the replacement cost where appropriate. In accordance with OP.4.12, displaced PAPs will also be provided full relocation costs above the compensation amount. Particular attention will be paid to the needs of the poor and the vulnerable, who will be assisted through capacity empowerment during the RAP implementation to adapt to new environments.

In the case of physically displaced persons with recognized or recognizable rights, the project will offer the choice of replacement property of at least equal value, equivalent or better characteristics and equal or better location or cash compensation at full replacement value. Replacement value includes all the expenses which replacing a property will cost. Where displaced persons own and occupy structures, the project will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost.

Compensation in kind may be offered in lieu of cash compensation based upon mutual agreement between the EA and PAPs as provided for by the Land Act 2012. The Land Act 2012, the legal instrument governing land acquisition and compensation in Kenya, specifies that all PAPs must receive just compensation. It is specific in regard to costs related to moving, disturbances, and legal fees for land transactions of the PAPs. This presents a gap where if not properly interpreted may not see the PAPs getting compensation for the above-related costs unless the Bank procedures are followed. For that reason, in all instances where compensation will be undertaken, unless the interpretation of just compensation by NLC is taken to mean all other related costs of relocation mentioned above then the Bank policies will apply and will require that these costs are fully met by the implementing agency.

### *Economic displacement*

The Land Act 2012, Part VIII, section 111 and 125, talks of just, full and prompt payment in the assessment of NLC in case of economic displacement. There is no specific mention of moving allowance and disturbance allowance as part of the compensation. Again, as highlighted above unless “just payment” is interpreted to include related costs of economic displacement, the bank procedures that provide for the same will be followed instead of the host country regulation. If land acquisition for a given sub project funded under RLPRP causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the project will meet the following requirements:-

- a) *Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;*

---

<sup>12</sup> National Land Commission (NLC) is the legally constituted body authorized to undertake or give approval to compulsory acquisition of Land, according to Land Act 2012.

- b) In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net income during the period of transition, and for the cost of transfer and reinstallation of plants, inventory, machinery and other equipment;*
- c) Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable;*
- d) Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost;*
- e) Provide additional targeted assistance (e.g. credit facilities, training or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;*
- f) Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.*

In particular, the taking of land and related assets will take place only after full compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and relocation costs have been provided to economically or physically displaced persons.



## 6. LEGAL AND REGULATORY FRAMEWORK

The chapter sets out the legal operating environment for acquisition of land as anticipated in the implementation of the RLPRP. The chapter seeks to highlight major issues related to Kenya's land legislation with regards to compulsory land acquisition and involuntary resettlement. It provides a brief overview of Kenya's Land Policy, Kenyan Constitution 2010 and related provisions connected with land use, planning, acquisition, management and tenure, and more specifically the legislation related with land expropriation or acquisition, land valuation and land replacement. The chapter compares the Kenyan legislation with the World Bank provisions on resettlement, with gaps highlighted and recommendations drawn to fill gaps.

**Table 1. Summary of relevant legal statutes applicable to RPLRP**

<b>Legal Framework</b>	<b>Functional Relationship to Resettlement</b>
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim has to be given written reason for the action taken that undermines the right.
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.
The Valuers Act 532	The act establishes valuers registration board, which has the responsibility of regulating the

	activities and conduct of registered valuers in accordance with the provision of the act.
Environment and Land Court Act, 2011	This act establishes Environment and Land Court, a court with status of high court, which shall facilitate the just, expeditious, proportionate, and accessible resolution of disputes related to land and environment, including compulsory land acquisition, land tenure, titles, boundaries, compensation, valuations, rates, land use and environmental planning.
Community Land Bill 2011	Provides for allocation, management and administration of community land. Establishes Land Allocation Committees and Community Land Board

### THE NATIONAL LAND POLICY

The National Land Policy (“NLP” or “Policy”)<sup>13</sup> was adopted in August 2009 with the aim of providing an overall framework for new legislation and defining key measures required to address critical issues such as land administration, access to land, land use, and restitution related to historical injustices and an outdated legal framework. The NLP addresses constitutional issues such as compulsory acquisition and development control.<sup>14</sup> Section 45 of the NLP defines compulsory acquisition as “the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation.”<sup>15</sup> Under the current Constitution,<sup>16</sup> the Land Act 2012 empowers the National Land Commission (under the guidance of Minister for Lands) to exercise the power of compulsory acquisition on behalf of the State.<sup>17</sup> Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.<sup>18</sup>

According to the NLP, the exercise of compulsory acquisition in the past has been conducted with abuses and irregularities.<sup>19</sup> The NLP therefore calls for a revision of such power and requires the GoK:

1. To review the law on compulsory acquisition to align it with the new categories of land ownership (public, private and community land);<sup>20</sup>
2. To harmonize the framework for compulsory acquisition to avoid overlapping mandates;<sup>21</sup>

<sup>13</sup> *Sessional Paper No. 3 of 2009 on National Land Policy* (referred to as the “National Land Policy” in this report) was adopted in August 2009 by the Ministry of Lands. Available at [http://www.lands.go.ke/index.php?option=com\\_content&task=view&id=238&Itemid=48](http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48), accessed May 25, 2011.

<sup>14</sup> Development control is the power of the State to regulate the property rights in urban and rural areas and is derived from the State’s responsibility to ensure that the use of land promotes the public interest.

<sup>15</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*, § 45.

<sup>16</sup> The Constitution of Kenya, 1963, was replaced in 2010.

<sup>17</sup> Land Act, § 6, 2012.

<sup>18</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*. §233(d).

<sup>19</sup> *Id.* at Chapter 3.2.1.1, article. 46.

<sup>20</sup> *Id.* at Chapter 3.2.1.1, article. 47(a).

<sup>21</sup> *Id.* at Chapter 3.2.1.1, article. 46 and 47(b). Under the previous Constitution, Chapter IX (Trust Land), Art. 18, the President and local authorities had the power to set apart Trust Land for the purposes of the Government of Kenya or

3. To establish compulsory acquisition criteria, processes and procedures that are efficient, transparent and accountable;<sup>22</sup>
4. To institute legal and administrative mechanisms for the exercise of the power of compulsory acquisition by the State through the National Land Commission;<sup>23</sup> and
5. To confer pre-emptive rights on the original owners or their successor in title where the public purpose or interest justifying the compulsory acquisition fails or ceases.<sup>24</sup>

### **THE CONSTITUTION OF KENYA**

The Constitution of Kenya, 2010,<sup>25</sup> protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.<sup>26</sup> Article 40(3) states:

*“The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation” –*

- a) *Results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or*
- b) *Is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –*
  - (i) *Requires prompt payment in full, of just compensation to the person; and*
  - (ii) *Allows any person who has an interest in or right over, that property a right of access to a court of law.*<sup>27</sup>

The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act, 2012 designates the NLC as the institution empowered to compulsorily acquire land.<sup>28</sup> Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is "for a public purpose or in the public interest," but neither the Constitution nor any law provides an exclusive list of permissible public purposes or interests. The state's exercise of this power is left at the discretion of NLC, and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to court.

Article 40(3)(a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to “occupants in good faith” of

---

any corporate body established by an Act of Parliament, or companies which shares are held on behalf of the GoK and for extraction of minerals and oils. This power does not exist under the new Constitution. Under the Government Lands Act, the President has special powers with regards to government land, and he may exercise these powers through the Commissioner of Lands. (Government Lands Act, Chapter 280, §3.)

<sup>22</sup> *Sessional Paper No. 3 of 2009 on National Land Policy*, Chapter 3.2.1.1, § 47(c).

<sup>23</sup> *Id.* at Chapter 3.2.1.1, p. 47(d).

<sup>24</sup> *Id.* at Chapter 3.2.1.1, §47(e).

<sup>25</sup> The Constitution of Kenya, 2010, was adopted by the Government of Kenya on 27 August 2010. The full text is available at [http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution\\_of\\_Kenya2010.pdf](http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf), accessed May 25, 2011.

<sup>26</sup> Constitution of Kenya, art. 40.

<sup>27</sup> *Id.*

<sup>28</sup> The Land Act, 2012 The Government of Kenya, Section 8.

land acquired by the state who do not hold title for such land.<sup>29</sup> An occupant in good faith is a “bona fide” occupant. On the other hand, under the Constitution, those who have acquired land illegally are not regarded as deserving any compensation.<sup>30</sup>

In addition to Article 40, Chapter 5 of the Constitution is relevant to compulsory acquisition. This chapter, entitled “Land and Environment,” is divided into two parts. Part 1 deals with land, and Part 2 deals with environment and natural resources. Part 1 of Chapter 5, articles 60 – 68, describes the principles of land policy. Land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas.<sup>31</sup> These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.<sup>32</sup>

## **LAND TENURE SYSTEM IN KENYA**

Land tenure in Kenya is classified as public, community or private.<sup>33</sup> Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”<sup>34</sup>), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas.<sup>35</sup> The National Land Commission (NLC) will manage public land.<sup>36</sup> Community land includes land that is “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines,” and “ancestral lands and lands traditionally occupied by hunter-gatherer communities.”<sup>37</sup> Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya.)

### ***Customary Land Tenure***

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit number of similar characteristics as follows:

- First, individuals or groups by virtue of their membership in some social unit of production or political community have guaranteed rights of access to land and other natural resources.
- Individuals or families thus claim property rights by virtue of their affiliation to the group.

---

<sup>29</sup> Constitution of Kenya. Id. at art. 40(5).

<sup>30</sup> Constitution of Kenya. Id. at art. 40(6).

<sup>31</sup> Id. at art. 60.

<sup>32</sup> Id. at art. 60(2).

<sup>33</sup> Id. at art. 61.

<sup>34</sup> Id. at art. 63(d)(i).

<sup>35</sup> Id. at art. 62(g).

<sup>36</sup> Id. at arts. 62(3), 67(2)s (a).

<sup>37</sup> Id. at art. 63(d)(i) and (ii).

### ***Freehold Tenure***

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. Freehold land is governed by the Land Registration Act, 2012. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

### ***Leasehold Tenure***

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

### ***Public Tenure and the National Land Commission (NLC)***

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012. These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land. However the new constitution grants those rights to the NLC which is governed by the *National Land Commission Act, 2012* that specifies the role of NLC as:

- To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;
- Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and
- Acquire land for public purposes
- Solve land disputes and deal with historical land injustices
- Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or
- May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument.

Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships and other urban

centers and open water bodies.’ The Government Lands Act does not contain any notion of trusteeship by government of the land to her people.

Notwithstanding the foregoing, it is a common law doctrine to the effect that common property resources such as rivers, forests and parks are held by the state in trust for the general public. Consequently, the state cannot alienate these resources or use them in a way detrimental to public interest. This is the doctrine that would ensure that public land cannot be alienated or committed to waste to the detriment of public interest. It is the case that the statutory framework for land ownership in Kenya is heavily influenced by common law jurisprudence on land ownership-the owner’s rights include the rights of use and abuse. In Kenya however, the development of physical planning legislation has vested in the state the cumulative rights of other landowners. The regulatory power is referred to as police power.

### **LAND ACT, 2012**

The Land Act <sup>38</sup> is the Kenya’s framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). The LA was adopted on 2<sup>nd</sup> May 2012 and provides for sustainable administration and management of land and land based resources including compulsory acquisition. The Act is based on the 2010 Constitution that recognizes the rights of the landowner and the necessity for fair and just compensation.<sup>39</sup>

### **LAND ACQUISITION PROCESS**

#### ***Proof that compulsory possession is for public good***

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit; and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

#### ***Respective Government agency or cabinet must seek approval of NLC***

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The NLC will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. But at the same time the NLC may reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

#### ***Inspection of Land to be acquired***

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose that the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in

---

<sup>38</sup> Land Act, 2012.

<sup>39</sup> The Constitution of Kenya, 2010 recognizes prompt and just compensation when compulsory acquisition of land is made.

writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

### ***Publication of notice of intention to acquire***

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*.<sup>40</sup> It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar.<sup>41</sup> The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body.<sup>42</sup> NLC will therefore be required to make a comprehensive notice that includes description of land, public purpose for which the land is acquired and the acquiring public body.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

### ***Serve the notice of inquiry***

Thirty days after the publication of the Notice of Intention to Acquire, the NLC then schedules a hearing for public inquiry. NLC must publish notice of this hearing in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct those interested in the land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.<sup>43</sup>

### ***Holding of a public hearing***

The NLC convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, the NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant.<sup>44</sup>

Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the NLC of documents of title to the land. The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an

---

<sup>40</sup> The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

<sup>41</sup> Land Act, 2012, 107

<sup>42</sup> Government of Kenya 1994. Coastal Aquaculture Limited v. The Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Mombasa H.C. Misc. Appl., No. 55 of 1994, [http://www.kenyalaw.org/CaseSearch/case\\_download.php?go=97115264151454584840489&link=](http://www.kenyalaw.org/CaseSearch/case_download.php?go=97115264151454584840489&link=), accessed May 25, 2011.

This ruling was upheld by the Court of Appeal. Coastal Aquaculture Limited v. the Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Nairobi. No. 252 of 1996, [http://www.kenyalaw.org/CaseSearch/view\\_preview1.php?link=49186237036025529910634](http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=49186237036025529910634), accessed May 25, 2011.

<sup>43</sup> Land Act, 2012 (112).

<sup>44</sup> *Id.* at article 112.

inquiry. It will also provide opportunity to those interested in the land to hear the justification of the public authority in laying claims to acquire the land.

### ***Valuation of the land***

Part III of the Land Act 2012, section 113 (2a) states that “*the Commission shall determine the value of conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the persons interested in the land have or have not appeared at the inquiry.*” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae stipulated that it will develop. Nonetheless, just compensation could also be interpreted as market rated. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

### ***Matters to be considered in determining compensation:***

Market value of the property, which is determined at the date of the publication of the acquisition notice.<sup>45</sup> Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial. Increased market value is disregarded when:

- *It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.*
- *It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.*
- *Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.*
- *Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.*
- *Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant’s life).*
- *Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the Commissioner takes possession of the land.<sup>46</sup>*

### ***Matters not to be considered in determining compensation:***

- a) *The degree of urgency, which has led to the acquisition.*
- b) *Any disinclination of the person’s interest to part with the land.*
- c) *Damages sustained by the claimant, which will not represent a good cause of action.*
- d) *Damages which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future land use.*
- e) *Increased land value accrued by its future use.*

---

<sup>45</sup> *Id.* at article 112 and article 111.

<sup>46</sup> Schedule 2 governing compensation.



- f) *Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.*<sup>47</sup>

### ***Award of compensation***

Under the Land Act 2012 section 117, the State may award a grant of land in lieu of money compensation (“land for land”), upon agreement, and provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable.<sup>48</sup> The law stipulates that any dispossessed person shall be awarded the market value of the land.<sup>49</sup> The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the National Land Commission (NLC) has determined the amount of compensation, the NLC prepares and serves a written award of compensation to each legitimate claimant.<sup>50</sup> The NLC will publish these awards which will be considered “final and conclusive evidence” of the area of the land to be acquired, the value of the land and the amount payable as compensation.<sup>51</sup> LA, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney’s fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

### ***Payment of Compensation***

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that “first offer compensation shall be paid promptly” to all persons interested in land<sup>52</sup> before a notice of acquisition is issued. Section 119 provides a supplementary condition and states that if the size of land is greater than the size of land in respect of which the award has been made, then NLC shall compensate for excess size “as soon as practicable.”<sup>53</sup> Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.<sup>54</sup>

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying any persons interested accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

All cost related to compensation and resettlement of PAPs will be financed by the Government of Kenya and is a condition for the loan from the World Bank.

### ***Transfer of Possession and Ownership to the State***

---

<sup>47</sup> Schedule 3 governing compensation for compulsory acquisition.

<sup>48</sup> *Land Act*, 117.

<sup>49</sup> *Land Act*, Schedule

<sup>50</sup> *Land Act*, 115

<sup>51</sup> *Land Act*, 115

<sup>52</sup> *Land Act*, This language reflects the language of the Kenya Constitution, 1963.

<sup>53</sup> *Land Act*, 119

<sup>54</sup> *Land Act* 115.

Once first offer payment has been awarded, the NLC serves notice to all persons with interest in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.<sup>55</sup>

### ***Temporary Possession***

The Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

## **COMMUNITY LAND**

Community Land in Kenya is governed by Community Land Bill 2011 and this act provide for the allocation, management and administration of community land. Community land is tenure system that defines land owned by traditional community, identified on the basis of ethnicity, culture or similar community of interests. This law establishes Land Administration Committees (LAC) to allocate customary land rights to community members. However, LACs are subject to the jurisdiction of the Community Land Board (CLB). Community Land Board exercise control over the allocation and the cancellation of customary land rights by the LAC. CLB also establish and maintain a register and a system of registration for recording the allocation, transfer and cancellation of customary land rights and rights of leasehold. Besides, they also hold and manage community land on behalf of those communities to regulate all transactions relating to community land and to facilitate the recording and issuance of title in community land. The LAC on other hand allocates the right in respect of the specific portion of land to community members by agreement with notification of the CLB for registration. They also determine the size of the portion and the boundaries of the portion of land in respect of which the right is allocated. LACs have the powers of cancellation of rights with approval of CLBs<sup>56</sup>.

Land may be acquired by State from community only when customary land rights of those affected persons receive just compensation from the State. Compensation shall be determined through an agreement between CLB, Cabinet Secretary and persons concerned or affected. The compensation shall also include affected assets or property or any improvement made on the land. The same will apply to leaseholders who shall be compensated for the improvement during the currency of the lease. Compensation payable shall be from moneys appropriated by Parliament for the purpose. Any community land acquired by State after just compensation shall cease to be community land for use by the state. In case of grievance and disagreement the Act proposes, appeal to arbitration act 1995 or High court.

### ***Urgent Acquisition***

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days

---

<sup>55</sup> Land Act, 115 and 116

<sup>56</sup> Community Land Bill 2011

from the date of publication of the notice of intention to acquire, and on the expiration of that time the Commission shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar. On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

### ***Opportunity for Appeal***

The Kenya Constitution establishes Environment and Land Court<sup>57</sup>. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the *Environment and Land Court Act, 2011* empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- *The determination of such person's right over the land;*
- *The amount offered in compensation; and*
- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*<sup>58</sup>

Parties will pay fees as determined by Environment and Land Court, which may waive them completely or in part on grounds of financial hardship.<sup>59</sup>

### **CHILDREN AND ORPHANS PROVISION OF LAND POSSESSION**

The Land Act 2012, Part III, section 27<sup>60</sup> recognizes the capacity of a child as being capable of holding title to land through a trustee and such a child shall be in the same position as an adult with regard to child's liability and obligation to the land.

### **THE VALUERS ACT**

Valuation of land is a critical aspect of compulsory acquisition practice. Compensation awards will be made by the National Land Commission based on land valuation determined by registered valuers. The Valuers Act<sup>61</sup> establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must

---

<sup>57</sup> Land Act 2012, Section 128

<sup>58</sup> *Land Acquisition Act*. at article 29(7).

<sup>59</sup> *Land Acquisition Act* at article 43.

<sup>60</sup> "A child shall be capable of holding title to land through a trustee and such child be in the same position as an adult with regard to the child's liability and obligations to the land".

<sup>61</sup> The Valuers Act, Chapter 532, [http://www.kenyalaw.org/kenyalaw/klr\\_app/frames.php](http://www.kenyalaw.org/kenyalaw/klr_app/frames.php), accessed May 25, 2011.

be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers, which shall include the date of entry in the register, the address of the person registered the qualification of the person and any other relevant particular that the Board may find necessary. As of March 2011, there were 285 registered valuers in Kenya.<sup>62</sup> The Valuers Act does not provide for a description of the valuation procedures and methods.

In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Ksh.10,000) and/or imprisonment for three years. Fees for land valuation in case of compulsory acquisition are established based on the value of the property as “the first Kshs 400,000 at 1 per cent. Residue at 0.5 per cent”<sup>63</sup> and are paid by those who requested the valuation.

RPLRP sub-project RAPs will make use of the services of registered valuers who are approved by Valuers Registration Board.

## **COUNTRY AND REGIONAL STRATEGIES AND PROGRAMS TO IMPROVE LIVELIHOODS RESILIENCE**

The following selection of policies, strategies, legal frameworks and assessment documents reflect the government position on drought management and improving livelihoods resilience in the ASAs

**The Constitution of Kenya 2010:** The constitution has provided two levels of government: - the national and county level. It has specified functions at each level of government to be performed by the national government, county government or both.

The Devolution is a main instrument of the new Constitutions for addressing all forms of inequality and inequities in Kenya. Devolution is not seen only as means to achieve fairness to all Kenyan citizens, but also as means to explore the opportunities in the neglected arid and semiarid lands of Kenya. It aims to ensure maximizing use of the natural resources of the neglected counties of the ASALs.

**The Sessional Paper No 8 for 2012on the National Policy for Sustainable Development of Northern Kenya and Other Arid Lands:** This Sessional Paper emphasizes the need to address three distinct policy challenges that are particular to northern Kenya and other arid lands. These include:

- How to close the developmental gap between Northern Kenya and the rest of the country, which is a product of its historical experience, and in so doing strengthen national cohesion;
- How to protect and promote the mobility and institutional arrangements that are so essential to productive pastoralism; and
- How to ensure food security across the arid and semi-arid lands where unpredictability is certain to increase as the impact of climate change deepens.

---

<sup>62</sup> Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

<sup>63</sup> *Legal Notice 32.*

**Kenya Country Programming Paper (Ke-CPP)** is the strategic arm of the Sessional Paper No 8 for 2012. The CPP presents a Framework for ending recurrent drought emergencies in Kenya. It combines the efforts of the ASLAs communities, the GoK, civil society and the private sector, and collective efforts of the IGAD member states and the Horn of Africa Development Partners.

**The Draft Disaster Management Policy:** This Policy emphasizes preparedness on the part of the Government, communities and other stakeholders in disaster risk reduction activities. The policy aims at establishing and strengthening disaster management institutions, partnerships, networking and main streaming disaster risk reduction in the development process so as to strengthen the resilience of vulnerable groups to cope with potential disasters.

**Agricultural Sector Development Strategy (ASDS 2010–2020):** The ASDS is the overall national policy document for all the agricultural sector ministries and stakeholders. The document outlines the characteristics, challenges, opportunities, vision, mission, strategic thrusts and the various interventions that the ministries will undertake to propel the agricultural sector to the future.

**National Climate Change Response Strategy:** This Strategy stipulates the Government’s commitment to enhancing the resilience of communities in all drought- and other climate change-induced disasters and improving the capacity for adapting to global climate change.

**Food security and Nutrition Security Policy:** The Food Security and Nutrition Policy provide an overarching framework and cover the multiple dimensions of food security and nutrition improvement. It has been purposefully developed to add value and create synergy between existing sectoral and other initiatives of government and partners. It recognizes the need for many public agencies and private sector involvement, and that hunger eradication and nutrition improvement are a shared responsibility of all Kenyans. The policy and associated actions will remain dynamic to address contextual changes and changing conditions over time. This policy is framed in the context of basic human rights, child rights and women’s rights, including the universal ‘Right to Food’.

**The Draft National Social protection Policy:** It provides a framework for interventions based on the social safety net concept in responding to and building drought resilience.

**The Policy Framework for Nomadic Education in Kenya:** This document recognizes that Kenya’s nomadic communities, the majority of whom are pastoralists, face multiple barriers to education and that unless these barriers are removed, Kenya will not achieve the Millennium Development Goals for education nor the Education for All goals. It states that the Government will specifically target nomadic communities through the adoption of alternative interventions and policies, which are sensitive to the realities of nomadic regions. The Policy Framework makes Provision for the establishment by statute of the National Commission for Nomadic Education in Kenya (NACONEK).

**Ending Conflict among Communities in Northern Kenya and other Arid Lands, 2010-2012:** This strategy was developed jointly by the then Ministry of State for provincial Administration and Internal Security and the then Ministry of State for

Development of Northern Kenya and other Arid Lands, in collaboration with political leaders from the region. It argues that successful reduction of inter-communal conflict in arid lands will only be achieved if there is coordinated action by four different types of stakeholder: the Kenyan state, political leaders, communities, and neighbouring countries. It argues for measures to incentivize peace building and conflict management at all levels, and to work with clusters of conflict that cross-administrative boundaries.

### **IGAD Drought Disaster Resilience and Sustainability Initiative (IDDRSI)**

Based on the Summit Directive of IGAD member States the Secretariat of IGAD developed the IGAD Drought Disaster Resilience and Sustainability Strategy, which has both regional and national components founded on the regional programming paper and the country programming paper. IGAD has established the following institutions to which K-RPLRP will be linked. A Regional Drought Disaster Resilience and Sustainability Platform that will make decisions on drought policy and investment issues; a Steering Committee, which guides the Regional Platform on behalf of the General assembly, and the Coordination and Management Unit at the Secretariat in-charge of day to day operations of the Platform. The Coordination Unit linked to the National Platforms in Kenya, will facilitate discussions on drought resilience and align programme development and implementation at national and regional levels. These structures and mechanisms will therefore be used to facilitate coordination with other participating Member States in the project.

### **ON-GOING /RECENTLY CLOSED PROJECTS IN THE ASALS**

The Kenya Government has a rich history of development approaches for the ASALs since independence in 1963. The first phase of ASAL development focused on landscape management by promoting commercial livestock production (1963–1980), and registration of pastoral group ranches mainly in Kajiado, Narok, Samburu and Laikipia for semi-arid districts while in the more arid districts on Northern and Eastern Provinces, a block-grazing model was promoted (1968-1982).

The first 10-year ASALs development Program was formulated in 1979 and implemented until 1988. In 1989, the government demonstrated its commitment to the ASAL by creating the Ministry of Reclamation and Development of Arid and Semi-arid Areas and Wastelands (MRDASW) that was mandated to coordinate the overall policy formulation of all developments in ASAL. During the tenure of this Ministry, the Environmental Action Plan (EAP) was developed. The main objective of the EAP was to enhance the ability of the ASAL communities to manage their resources in a sustainable manner. The significance of the EAP with reference to Ending Drought Emergencies is drawn from its emphasis on the need for policies, legislation and institutions that would address economic development and seek solutions for environmental problems of the ASAL with emphasis on protected pastoralism, dryland farming, wildlife integration, and drought management, reclamation of wastelands, community participation and overuse of wood forest resources.

The following projects and Programs were designed with the aim of building the resilience of ASAL communities to drought using advanced approaches and technologies.

**Kenya Livestock Development Program (KLDP), 1968–1982:** The World Bank funded KLDP was a large, complex, multi-donor, long-term and expensive project. It lasted 14 years and cost about US\$81.2 million. Its planning was primarily top-down, complicated by the lack of ecological function of Kenyan rangelands characterized by non-equilibrium systems.

Although KLDP was considered one of the most promising rangeland management programs, lack of planners' knowledge of the socio-cultural and ecological conditions on the ground, and the absence of a holistic community-based approach were behind its failure. Lessons learned from this early development project have led to the present-day nature of ASAL projects that are bottom-up, localized, small-scale, community-oriented and devoted to poverty alleviation.

**Emergency Drought Recovery project, 1991–1996:** This was a World Bank funded project. A key lesson from the project was that short-term emergency interventions were insufficient for reducing the vulnerabilities of ASAL communities and building their resilience to shocks. The key achievements of the project were the formation of water users associations for village water supply and the livestock drug users associations, both of which enhanced community participation in drought management.

**Arid Lands Resources Management project (ALRMP), 1996–2010:** This World Bank funded initiative's main thrust was to institutionalize drought management in the Government system as well as undertake integrated development of the ASALs. A key lesson from this project was that building community structures/institutions, such as pastoralist associations and Community based organizations (CBOs), greatly increases the local capacity to manage droughts and respond to emergencies in a timely and effective manner prior to the arrival of external assistance. It emphasized the need to promote community level contingency planning and early warning systems. The ALRMP also facilitated the introduction of mobile schools into the mainstream education system.

**ASALs-based Livestock and Rural Livestock Support Programs (ALLPRO), 2004–2012:** ALLPRO was implemented by the Ministry of Livestock Development and funded by the African Development Bank. It focused on improving sustainable rural livelihoods and food security through protected livestock productivity, marketing and support for drought management and food security initiatives in 22 districts.

**Capacity Kenya- and IntraHealth Project.** The project is supported by USAID, which is helping to improve capacity in Human Resources for Health (HRH). Although a national initiative, Capacity Kenya recognizes the distinct HRH challenges facing the arid lands, and is implementing a series of affirmative action measures in the training and development of health service personnel. Other projects in the health sector are also reorienting themselves to respond to the difficulties experienced by remote and nomadic communities in accessing quality health care, such as APHIAplus Northern Arid Lands, which was implemented between 2010 and 2012.

**Kenya Drylands Livestock Development Programs 2010–2013:** is funded by USAID and implemented by the Citizen's Network for Foreign Affairs (CNFA). The Program's focus is to enhance trade in livestock and livestock products to increase incomes and food security for Kenyan pastoralists in Garissa, Mandera, Wajir and Tana River counties. The

Program is investing in the livestock value chain as a means to raise income and assure food security.

**Resilience and Economic Growth in the ASALs (REGAL) (2012-2017):** USAID is supporting drought resilience through two programs which are part of a broader strategy to link and layer humanitarian and development assistance in Kenya's northern arid lands. The first layer of investment is the humanitarian agencies including the World Food Programme's (WFP) are engaged in food/cash/for-asset activities in the nine arid counties; Turkana, Baringo, Samburu, Marsabit, Isiolo, Mandera, Wajir, Garissa and Tana River that initiate investment in building resilience amongst vulnerable communities and households in the arid lands through asset creation.

**REGAL-IR** operates in Turkana, Marsabit, Isiolo, Wajir and Garissa. The five counties targeted by the resilience program were selected on the basis of several criteria. First, these counties had the highest number and percentage of households in need of food assistance during the 2011 drought and thus offer the greatest opportunity for reducing the food assistance caseload in the arid lands. Second, they offer an opportunity to build on prior USAID investments, including WFP food/cash-for-asset activities funded by the Office of Food for Peace (FFP), the Arid and Marginal Lands Recovery Consortium (ARC) funded by the Office of U.S. Foreign Disaster Assistance (OFDA), and USAID Kenya's Drylands Livestock Development Program (DLDP). Finally, these counties have also been targeted by other donors, including DFID's through their Hunger Safety Net (HSN), EC, World Bank and JICA.

**REGAL-AG** supports the livestock value chain in two of the five northern arid counties targeted by the resilience program in Marsabit and Garissa. The two counties targeted for the livestock value chain program were selected on the basis of additional criteria. First, these two counties offer the greatest growth potential for livestock. Second, both are national and cross-border market hubs for livestock. Third, they are critical nodes in the Government of Kenya's proposed LAPSSSET corridor. In addition, the investment in Marsabit is geographically contiguous with USAID's livestock value chain program in Ethiopia (PRIME) and aims to leverage market opportunities afforded the Isiolo-Moyale road. Similarly the investment in Garissa builds off the already well-established markets there, as well as prior investments by USAID/Kenya.

**Kenya Rural Development Programs (KRDP) –on going:** Supported by the European Union, the key result area for ASALs in this project is to increase the capacity of ASAL communities to respond effectively to drought and other vulnerabilities. It focuses on securing long-term food security through improving agricultural productivity nationwide, better responses to drought, and protects livelihoods in the ASALs. The Program is informed by the need for a sector-based approach that has not featured prominently in previous interventions. It is mainly built on lessons from the Drought Management Initiative (DMI). The KRDP will continue the Linking Relief Rehabilitation and Development (LRRD) efforts started under the DMI.

**The DFID-supported Hunger Safety Net Programs (ongoing):** The project uses biometric technologies to disburse cash transfers using electronic point-of-sale devices managed by a network of traders. The Program is demonstrating that increasing the penetration of new technologies into remote areas is both beneficial and achievable. The



key lesson learnt from the project is the use of Information Communication Technologies to minimize the effect of distance on social service delivery.

**Education for Nomads:** The Ministry of State for Development of Northern Kenya and other Arid Lands supported a process of participatory research during 2009-2010, which resulted in the development of a people-centered distance learning strategy for nomadic communities. The Ministry has also facilitated the establishment of the independent Northern Kenya Education Trust (NoKET), which is supporting the education of students from pastoralist families, particularly girls, at secondary, tertiary and university levels, and which has now absorbed the previous UNICEF-supported secondary scholarship scheme for girls from North Eastern Province.

**Drought Resilience and Sustainable Livelihoods Programme in the ASALs of Northern Kenya (DRSLP) 2012-2017);** This project supported by AfDB in 6 counties of Turkana, Baringo, Isiolo, Marsabit, Samburu, West Pokot is a livelihood project focusing on natural resource management, livestock infrastructure development and capacity building.

**Medium Term ASAL Programme MTAP (201-2014)** is supported by the Government of Denmark and GoK covers the counties of Lamu, Garissa, Tana River, Isiolo, Marsabit and Wajir. Its objective is to contribute to reduced poverty in the context of Kenya's Vision 2030 and of safeguarding the state of the environment and promoting sustainable management of natural resources. The Natural resource management component of the programme is to enable policy and regulatory framework for environment and natural resource management including county plans developed and implemented with poverty reduction orientation, Poverty reduction, enhanced food security, reduced livelihood vulnerability and improved NRM; build capacity of Civil Society Organizations and Private sector service providers to support and influence NRM as a contribution to poverty alleviation.

## 7. COMPARISON OF KENYA LAWS AND WORLD BANK REQUIREMENTS

This chapter page outlines World Bank policies on involuntary resettlement and compares them to Kenyan legislation on the same. The World Bank's Operational Policy on Involuntary Resettlement (O.P. 4.12 is widely accepted as reflecting international standards on involuntary resettlement. Laws on land administration in Kenya are comprehensive but differ in several ways with the Bank's OP 4.12 (Involuntary Resettlement) policy. For example, entitlements for payment of compensation are essentially based on the right of ownership, which limits the rights of non-formal occupants like slum dwellers or squatters, which the Bank's OP 4.12 policy recognizes.

**Table 2** below also includes a comparative analysis of Kenya's Land Laws and Bank's OP. 4.12 with recommendations on addressing areas of conflict. In all cases where the Kenyan regulations appear less stringent than OP. 4.12 the bank procedures will apply.

**Table 2. Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps**

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<b>GENERAL REQUIREMENTS</b>			
<p>World bank OP4.12 has overall policy objectives, requiring that:</p> <ol style="list-style-type: none"> <li>1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.</li> <li>2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties.</li> <li>3. Displaced persons should be assisted in improving livelihoods etc, or at least restoring them to previous levels.</li> </ol>	<ol style="list-style-type: none"> <li>1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest.</li> <li>2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures.</li> <li>3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.</li> </ol>	<ol style="list-style-type: none"> <li>1. The Law does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable.</li> <li>2. Same as the World Bank</li> <li>3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It is does not talk about improving livelihood or restoring them to pre-project status.</li> </ol>	<ol style="list-style-type: none"> <li>I. For each of the RPLRP subproject, ensure that resettlement issues are considered at the design stage of the project in order to avoid/minimize resettlement.</li> </ol> <p>Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<b>PROCESS REQUIREMENTS</b>			
<p><b>Consultation:</b> Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs</p>	<p>The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.</p>	<p>Same as World Bank</p>	<p>Implement consultation procedures as outlined in in both Kenyan legislation and World Bank.</p>
<p><b>Grievance:</b> For physical resettlement, appropriate and accessible grievance mechanism will be established.</p>	<p>Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court</p>	<p>Kenyan legislation meets OP4.12 requirements.</p>	<p>N/A</p>
<p><b>Eligibility Criteria</b> <i>Defined as:</i> (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);  (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—</p>	<p>The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights</p> <p>Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the</p>	<p>Kenya’s Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated.</p> <p>The constitution of Kenya on the other hand recognizes ‘occupants of</p>	<p>Ensure ALL users (including illegal squatters, labourers, rights of access) of affected lands are included in the census survey or are paid (see Section 4).</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and<sup>19</sup> (c) those who have no recognizable legal right or claim to the land they are occupying</p>	<p>land for their livelihood.</p> <p>The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p>	<p>land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p>	<p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
<p><i>To determine eligibility:</i> Carry out resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>Same as World Bank</p>	

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><b>Measures:</b> Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based.</p>	<p>Legislation provides for land for land compensation but the Land Act 2012 does not state whether preference should be granted to land to land compensation.</p>	<p>Land for Land provided for in the Land Act but act not specific on when it should be applied except when the affected person chooses to receive land to land award.</p>	<p>Ensure that all alternative options are considered in preference to providing cash compensation (as outlined in the Entitlement Matrix).</p>
<p>Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p>	<p>Land Act 2012 appears to prefer mode of compensation by the Government to the affected population.</p>	<p>Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya</p>	<p>Use World Bank OP4.12 procedures in determining form of compensation</p>
<p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation</p>	<p>Land Act talks of prompt, just and full compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just and fair compensation has not been put in place.</p>	<p>Just compensation as stipulated in the Land Act not yet specifically defined.</p>	<p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p>
	<p>Attorney's fees, cost of obtaining advice or cost incurred in preparing and making written claim not included in just compensation</p>	<p>Land Act very clear on attorney fees that it is not included. OP 4.12 includes those cost as part of full replacement</p>	<p>Implement World Bank policy on Attorney's fees.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>	<p>The Act is does not out rightly stipulate assistance for relocation but we can interpret that relocation cost will be included in just compensation.</p>	<p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p><b>Valuation:</b> With regard to land and structures, “replacement cost” is defined as follows:</p> <p>For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive fair and just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer.</p> <p>Land Act 2012 talks of fair and just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just and fair compensation.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of ‘just and fair compensation has not been defined.</p> <p>Interpretation of just and fair compensation not clear</p> <p>Interpretation of just and fair compensation not clear.</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</p> <p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>



OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
contractors' fees, plus the cost of any registration and transfer taxes.			
<b>Monitor</b> Adequate monitoring and evaluation of activities to be undertaken.	According to Land Act can be undertaken County Land Boards.	Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation	Implement as prescribed in the World Bank OP4.12 and Kenyan Law.

**COMPARATIVE ANALYSIS OF WORLD BANK OP 4.12 AND KENYA’S REQUIREMENTS RELEVANT TO THE PROCESS**

**Table 3: Comparative Analysis of World Bank OP 4.12 and Kenya’s requirements Relevant to the Process**

Category of PAPs and Type of Lost Assets	Kenyan Law	World Bank OP4.12
Land Owners	Fair and just compensation which could be in form of cash compensation or Land for Land	Recommends land-for-land compensation. Other compensation is at replacement cost
Land Tenants	Constitution says that ‘occupants of land’ entitled to some level of pay in good faith. Land Act stipulates that they are entitled to some compensation based on the amount of rights they hold upon land under relevant laws. However, those who acquired land illegally not entitled to any.	PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.
Land Users	Land Act not clear on Land Users although in some cases they can receive some form of compensation depending on the determination by NLC	Entitled to compensation for crops and investments made on the land; livelihood must be restored to at least pre-project levels.
Owners of Temporary Buildings	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the loss temporary buildings.	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Owners of Permanent buildings	The constitution of Kenyan respects the right to private property and in case of compulsory acquisition, just compensation must be granted to the owner for the permanent building	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Perennial Crops	Just and fair compensation for the loss of crops	As per specifications of this RPF, once approved by the Bank and disclosed at the Bank info shop,

## 8. ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

This chapter is a summary description of the category of the affected groups under the RPLRP and the potential type of impacts related to involuntary resettlement. In addition, this chapter describes entitlements for each type and category of impact, and sets out the detailed requirements for determining the value of affected assets and outlining the process by which valuation will be undertaken. It also explains entailment and compensation measures.

### CATEGORY OF PROJECT AFFECTED PERSONS

Affected groups under RPLRP sub-projects in this RPF will include:

Affected Individual – An individual who suffers loss of land, property, other assets or investments made on land, livelihood, and/or access to natural and/or economic resources as a result of the sub project investments funded under RPLRP.

Affected Household – A household is affected if one or more of its members is affected by RPLRP sub projects, either by loss of property, land, and access, or otherwise his or her livelihood could be affected in any way by project activities. They include:

- *Any members in the households, men, women, children, dependent relatives and friends, tenants;*
  - *Vulnerable individuals who may be too old or ill to farm along with the others; relatives who depend on one another for their daily existence;*
- a. Vulnerable Groups and Households – Vulnerable groups, individual or part of the households may have different land needs from most households or needs unrelated to the amount of land available to them, e.g.:
- Female headed households;
  - Poor
  - Non-farming residents;
  - The elderly;
  - The sick;
  - The disabled;
  - Persons Living With HIV/AIDS
  - Marginalized and Vulnerable Persons; and
  - Orphans and Vulnerable Children

Following is a brief explanation of some of the vulnerable groups identified for this RPF

- **Orphans** -Due to the impacts of the AIDS crisis in Kenya and the past conflicts around the country, there are a considerable (some estimates put it at 20% of all children or 1.7<sup>64</sup> million) number of orphaned children, who have lost at least one parent. These children today fall into three categories of care namely (i) those being looked after by close relatives, (ii) those being looked after by the government, local authorities or NGOs and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they

---

<sup>64</sup> According Kenya Bureau of Statistics (KBS) there over 1.7 million orphans, of this, UNAIDS reports 1.1 HIV/AIDS affected orphaned.

are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard.

Orphaned children engage in any form of economic activity to provide for themselves and their siblings, by engaging in activities such as manual work at open air markets, transporting loads for short distances, and other exploitative employment.

- ***Unmarried women***-These are women who may be dependent on male members or others for support. Since an affected individual is able to name the person with whom he/she is linked in dependency as part of the household, resettlement will not sever this link.
- ***HIV/AIDS afflicted persons***-Relatively high percentages of the poor and total population are living with HIV or are terminally ill with HIV/AIDS. Many are beneficiaries of numerous health programmes from the government, international organizations and the NGO community.
- ***Widow-Female-headed households***-These may depend on relatives, sons, brothers, or others for support. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.
- ***Small-scale female farmers***-Small-scale female farmers are also vulnerable because they may not have men available within the household to carry out male specific land preparation tasks. Either male relatives in other households help them voluntarily, or they hire men for cash, or food. Land compensation will specifically include the labour costs of preparing new land.
- ***Elderly persons***-Elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith, kin and neighbours. Losing land will affect their economic viability and resettlement would damage their economic viability even more than losing land since it will separate them from the person or household on whom they depend for their support.
- ***Non-farming households depending on farming household's*** -This is another category of affected people who could be among the vulnerable. They are non-farming individuals who are engaged in other works, including some agricultural work and their livelihoods could be affected as a result of the project they include landless labourer, fishermen, whose main income come from fishing, sand harvesters, and small businesses relaying on the farming communities. In addition, women non-farmers. These women earn income from other sources and/or depend on relatives for “exchanges” of staple foods. Since they do not farm they will not be affected by the sub-projects need for agricultural land. However, if their buildings lie on land needed by a sub project. They will lose at minimum their social network that they rely on if not resettled together.

- ***Affected local community*** – A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion. For example project activities could lead into loss of welfare or cultural erosion etc. In addition, the investments under RPLRP can cause breakdown of communities and social networks due to physical separation as a result of the investment specific infrastructures if not mitigated.

These household types are not mutually exclusive, and a female heading a household may be a small-scale farmer or an orphan may be an HIV/AIDS affected person. These groups are particularly vulnerable to land acquisition activities, and as such the following considerations will be made when sub project sites are identified and PAPs listed. In addition, the list above is not an exhaustive list and the socioeconomic survey which will be done for preparation of sub project specific RAPs under the RPLRP needs to be exhaustive in the category of the affected people and their sources of livelihoods.

### **ELIGIBILITY TYPE FOR COMPENSATION**

The following are some of the category of impacts eligible for compensation. The list, though, can be added to when socio-economic study and census undertaken for individual investments under RPLRP, where other types of impacts could be identified.

- Land
- Property
- Land and property
- Structures on land
- Crops and trees
- Livelihoods
- Grazing land
- Businesses
- Community assets

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out for the preparation of investment specific RAPs. **Table 4** below summarizes the entitlements for each group of affected persons.

## ENTITLEMENT MATRIX

**Table 4: Entitlement Matrix**

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Less than 20% of land holding affected  Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value, taking into account market values for land.
		Community land	Cash compensation for affected land equivalent to replacement value taking into account market value
		Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of land holding lost  Land does not become economically viable.	Farmer/ Title holder	<p>Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost.</p> <p>Community land – land for land replacement where feasible or compensation in cash</p> <p>Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location, which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.</p>

<b>Land and Assets</b>	<b>Types of Impact</b>	<b>Person(s) Affected</b>	<b>Compensation/Entitlement/Benefits</b>
			Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance )  Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance )
		Tenant/Lease holder	Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.  Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance )
Land users	Impact on livelihood	Land less, encroachers	Compensation to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
Commercial Land	Land used for business partially affected  Limited loss	Title holder/ business owner	Cash compensation for affected land equivalent to replacement value, taking into account market values for land.  Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
	Assets used for business	Title	Land for land replacement or compensation in cash

<b>Land and Assets</b>	<b>Types of Impact</b>	<b>Person(s) Affected</b>	<b>Compensation/Entitlement/Benefits</b>
	<p>severely affected</p> <p>If partially affected, the remaining assets become insufficient for business purposes</p>	holder/business owner	<p>according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)</p>
		Business person is lease holder	<p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</p> <p>Relocation assistance (costs of shifting)</p> <p>Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.</p>
Residential Land	<p>Land used for residence partially affected, limited loss</p> <p>Remaining land viable for present use.</p>	Title holder	Cash compensation for affected land equivalent to replacement value, taking into account market values for land.
		Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)



Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws</p>	Title holder	<p>Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost.</p> <p>Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status.</p> <p>When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance)</p>
	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws</p>	Rental/lease holder	<p>Refund of any lease/ rental fees paid for time/ use after date of removal</p> <p>Cash compensation equivalent to 3 months of lease/ rental fee</p> <p>Assistance in rental/ lease of alternative land/ property</p> <p>Relocation assistance (costs of shifting + allowance)</p>
Buildings and structures	<p>Structures are partially affected</p> <p>Remaining structures viable for continued use</p>	Owner	<p>Cash compensation for affected building and other fixed assets, taking into account market values for structures and materials</p> <p>Cash assistance to cover costs of restoration of the remaining structure</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months rental costs
	Entire structures are affected or partially affected  Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, taking into account market values for structures and materials, or alternative structure of equal or better size and quality in an available location, which is acceptable to the PAP.  Right to salvage materials without deduction from compensation  Relocation assistance (costs of shifting + allowance)  Rehabilitation assistance if required (assistance with job placement, skills training)
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant), taking into account market values for structures and materials Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)  Assistance to help find alternative rental arrangements  Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/informal dweller	Cash compensation for affected structures, without depreciation, taking into account market values for structures and materials  Right to salvage materials without deduction from

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			<p>compensation</p> <p>Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project)</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</p> <p>Rehabilitation assistance if required assistance with job placement, skills training)</p>
		Street vendor (informal without title or lease to the stall or shop)	<p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</p> <p>Relocation assistance (costs of shifting)</p> <p>Assistance to obtain alternative site to re- establish the business.</p>
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<p><i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques,</p> <p><i>Economic rehabilitation assistance:</i> Provide assistance to facilitate this transition... For example, assistance with and payment for construction of new zero-grazing structures on alternative lands; provision of buffer lands</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			<p>for growth of cattle fodder; assistance with cultivation of fodder, provision of cattle fodder for lag period until cultivated cattle fodder becomes available.</p> <p>Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.</p>
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	<i>Replace water access:</i> Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Loss of communal properties such as burial grounds and places of worship, community centres, and social buildings	Loss of access to these sites, temporarily or permanently, loss of investment made.	Communities affected	<i>Consultation:</i> Undertake consultation with affected households to determine appropriate arrangements and compensation if suitable. Replacement of the social buildings, such as schools and dispensaries.
Loss of livelihoods	Loss of means of livelihoods such as small production, such as collection of forest product, fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	Communities engaging in non-farming livelihoods such as hunters and gatherers, fisher folk, beekeeper.	Livelihood restoration programs: Undertake to help the affected communities restore their livelihood.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e. g. boundary wall demolished, trees removed), taking into account market values for structures and materials

## PROCESSES OF COMPENSATION AND ENTITLEMENT

### *Formal Processes Involved With Compulsory Acquisition of Land*

The following is the formal processes involved when land needed for public development projects is acquired.

**Step 1:** An acquiring authority makes a formal request to the NLC indicating the purpose of the land to be acquired. The request should prove that the land is needed for public purpose.

**Step 2:** The Commission will consider the request in view of the guidelines. If the Commission is convinced that the land is required for public purpose, the Commission will write to the Acquiring Agency to that effect, and directs them to acquire the land.

**Step 3:** The Commission will then give “Notice of Intention” to acquire the land in the “Kenya Gazette or County gazette” side by side with the “Notice of Inquiry”. The public announcements will be made widely in standard mass communication avenues such as newspapers and on the radio.

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” must mention places and fixed dates when persons interested in the subject land are to submit their claims to the NLC or their appointee.

**Step 4:** NLC will inspect the land and undertake valuation through any of the registered valuer for just compensation before issuing an award depending on their own assessment and the representations of interested parties as submitted at the inquiry.

**Step 5:** The award will then be issued in the prescribed form indicating the amount of compensation awarded while the statement form gives the landowners option of acceptance or rejection of the award. If the landowner accepts the award, NLC or acquiring authority will issue a first offer cheque, which may be interpreted as the first tranche in settlement. During receipt, the landowner will sign an acceptance letter when receiving the first tranche.

**Step 6:** After receipt of first tranche a “Notice of Taking Possession and Vesting” will be issued by NLC or acquiring authority on the exact date of taking possession. The notice will instructs the landowner to take his/her title for amendment or cancellation. It is copied to the Government Land Registrar to make necessary changes to the affected deed. On the other hand, if the owner rejects the award, the NLC or acquiring authority deposits the money in special account pending the former’s appeal. Compensation will be based on ‘just compensation’.

**Step 7:** After notice has been served NLC or acquiring authority shall promptly pay, in full, the remaining compensation in accordance with the award to the persons entitled

**Step 8:** After the full compensation and after land has been acquired, NLC or acquiring authority shall as soon as practicable ensure that a final survey is undertaken of the land acquired.

Section 117 of Land Act 2012 allows for in-kind compensation as follows:-  
*“Notwithstanding anything contained in the Lands Act, where the land is acquired for the Government or County government, NLC may agree with the person whom he has determined to be the proprietor of the land that person, instead of receiving an award, shall receive a grant of land, not exceeding in value the amount of compensation which NLC considers would have been awarded, and upon the conclusion of the agreement that person shall, be deemed conclusively to have been awarded and to have received all the compensation to which he is entitled in respect of his interest. An agreement under subsection (1) shall be recorded in the award. Such a grant can be another land or anything equivalent to the value of the land<sup>65</sup>”.*

Application of the formal process of land acquisition, described above, is contingent on the constitution of the NLC. In the latter case, the formal process set out under the Land Act will be applied, and the RPF will be modified accordingly.

#### ***Establishment of Sub County Resettlement and Compensation Committee (SCRCC and LRCC)***

For the purpose of this RPF, at each sub level, a sub County and Locational Resettlement and Compensation Committees (SCRCC/LRCC) will be established to assist the smooth implementation of the RAP, and ensure participatory and transparent implementation of the RAP. The SCRCC/LRCCs will not engage in land acquisition or compensation as this remains the prerogative of the NLC but will instead facilitate the process for transparency and ownership.

The SCRCC/LRCCs will ensure effective communication among between affected persons, NLC and implementing agency. The SCRCC/LRCCs will include representative of implementing agency or acquiring authority<sup>66</sup>, social service department, representative of an NGO, representative of the PAPs among other members.

The SCRCC/LRCCs will liaise with the PAPs at the lower levels through the Locational Resettlement and Compensation Committees (LRCCs) which will be established in each location affected by a sub project.

#### **METHOD TO DETERMINE CUT-OFF DATES**

The entitlement cut-off date refers to the time when the assessment of persons and their property in particular sub project areas is carried out, which is the time when the census or economic survey is initiated. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the area.

Where there are clearly no identified owners or users of land or assets, the respective sub County and County Administration will notify the community leaders and representatives to help to identify and locate the land users and owners. These leaders and

---

<sup>65</sup> Land Act 2012, section 117.

<sup>66</sup> Acquiring authority is the Implementing agency that has made formal request to acquire land.

representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The PAPs will be informed through both formal notification in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

## **METHODS OF ASSETS VALUATION**

Valuation is the process of determining the value of land, or an asset that PAPs possesses or use. Compensation for all land use and assets in kind or cash will be required for the following:

- *Land;*
- *Residential buildings, any structures and fixtures;*
- *Cultivated crops (both cash and food crops) and trees; and*
- *Loss of businesses or employment.*

Replacement cost is used for land and properties affected by investments under the RPLRP. For agricultural land, the replacement value it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

For houses and other structures, it is the market cost for replacing the property, including the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer

In addition, resettlement and economic rehabilitation assistance will be provided to the PAPs, as outlined in the Entitlement Matrix. It is essential that if cash compensation is selected then replacement values are used to establish actual compensation for all sub projects funded under RPLRP. A registered valuer with Valuers Registration Board (VRB) will undertake the valuation exercise, using existing market price, to establish replacement cost. This will done as part of the preparation of each investment specific RAP.

Although the type of compensation will be the individual's choice, compensation in kind will be preferred as cash payments raises issues regarding inflation and security. In addition, provision of cash does not ensure that the PAP's income will be restored. For payment of compensation in-kind, the timing and alternative locations will have to be decided and agreed upon by each recipient, in consultation with the individual sub project SCRCC.

## **VALUATION PROCESS OF ASSETS**

### ***Development of Standard Valuation Table***

Due to the expected sub projects and the localized nature of the majority of interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the course of the implementation of the project.

### ***Field Preparation of asset inventory***

The first step will be to carry out an asset valuation survey as part of the RAP preparation. The team will include the consultant contracted by the implementing agency to carry out the RAP and the district and/or registered land valuer who will work closely with SCRCC, which will be established for the implementation of the RAP in a given sub project district. It will include a representative of the PAPs. Each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the approach described above. The values of each asset will then be recorded in a register and shown to the affected person for agreement. The register will be signed and a copy given on the spot to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism. The information collected, including census, will have been compiled in electronic and hard copy form, with a separate file for each affected household, including:

- *Census results;*
- *Asset inventory and valuation;*
- *Photographs; and*
- *Any other relevant information.*

The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets. **Table 5** below describes the forms of compensation.

**Table 5. Forms of Compensation**

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Kenya Shillings, based on the replacement cost. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
Resettlement and Economic Rehabilitation Assistance	Assistance may include livelihood restoration measures, moving allowance, transportation and labour

One purpose of using in-kind compensation will be to reduce inflationary pressure on the cost of goods and services. Local inflation may still occur and thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The issue of security, especially for people who will be receiving cash compensation payments will be addressed by the local administration. The timing and venue for in-kind compensation will be decided by each implementing agency in charge of specific investment with consultation with the PAPs and with the assistance of SCRCC.



## **METHODS FOR VALUING ASSETS IN KENYA**

Valuation is not an exact science. There are, however, certain fundamentals and basic appraisal methods, which will enable the valuer to arrive at a logical and supportable estimate of value of property owned by PAPs. Any valuation model to have validity it will have to produce an accurate estimate of the market price. The method will therefore have to reflect the market culture and conditions at the time of valuation. The following method will be considered:-

### ***Investment method***

The investment method will treat property like any other investment in the market, where the main factors influencing investment decisions are security of principal, adequate yield, security of income, administrative costs and capital growth. The procedure is to capitalize the rental income (net of expenses or outgoing) using a coefficient based on the prevailing market yield. Yield adjustments will have to be made where income is terminable. Where ownership will accrue in future or the expected income stream is likely to change, the benefit is deferred at an appropriate rate, where adequate market data are available. Where sale and rental transactions are rare, and there is scarcity of comparative data on rental and capitalization rates, the method will not be used.

### ***Direct comparison method***

The method will be used to value assets by comparing like with like. It is a very reliable method if current market information is available on sale prices and rentals. It is usual to reduce sales or rented information to unit price for compensation purpose.

### ***Replacement Cost Approach***

Replacement Cost Approach, is where market sale and rental information is not available, value can be arrived at by using the cost approach - that the costs of replacing assets is based on damages caused by project operations. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs.

### ***Gross Current Replacement Cost***

Gross Current Replacement Cost (GCRC) is defined as the estimated cost of erecting a new building having the same gross external area as that of the existing one, with the same site works and services and on a similar piece of land.

## **OTHER METHODS**

### ***Rates from Contractors:***

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 will 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.

As noted earlier, to comply with OP 4.12, under this RPF the replacement cost approach will be used, which includes all expenses to replace a lost property and/or land. No depreciation will be used since the crux of this approach is that the people who lose land and assets will be able to replace them at least at the pre project level.

## **CALCULATION OF COMPENSATION BY ASSETS**

The following methods of calculation will be adopted for the preparation of the aforementioned standardized asset valuation tables and/or the application of specific case-by-case valuations in the case of sub projects that have significant impacts.

### ***Compensation for Land in urban areas***

The compensation will be based on replacement cost, which will be the market price plus the cost of buying a new plot of land and the fees and taxes involved.

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

The RLPRP will provide first replacement of land for any affected land. If receiving land as compensation, the affected party will then be compensated for the labour required to replant the crops. In the case where there is no alternative land available, cash compensation at full replacement value will be provided. This will be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality.

Any associated costs of purchasing the land i.e., taxes, registration fees will be included in the compensation. Compensation will also be done for any improvement made on the land with calculation made using current prevailing market rates for labour, equipment and materials. In cases where land lost is only a small fraction of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided will be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land). In addition, the PAPs will be compensated for any permanent improvements made to the land (for instance water distribution and supply lines). This will be calculated based on the price of making the permanent improvement at current prevailing market rates for labour, equipment and materials.

Compensation for land is aimed at providing a farmer and landowners whose land is acquired and used for project purposes, with compensation for land labour and crop loss. The farmer's labour is one of the biggest investments he/she makes in producing a crop which is higher than all other inputs such as seed and fertilizer. 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.

### ***Land Measurement***

For purposes of measuring land under the project, the unit of measurement would be that which is used and understood by the affected farmers and if a traditional unit of measure exists in the rural areas, that unit will be used. If a traditional unit of measurement does not exist in a particular area then it is recommended that land should be measured in metres or any other internationally accepted unit of measurement.

However, in such an event, the unit that is being used must be explained to the affected farmers/users and must somehow be related to easily recognizable land features that the communities are familiar with, such as using location of trees, stumps, etc. as immovable pegs. The most important concern of this exercise is to ensure that the affected person is

able to verify using his/her own standards/units of measurement, the size of land that is being lost. This will ensure transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. A farmer should know how much land he/she is losing, in terms of size and the replacement land must be at least of that same size and comparable value as land lost.

### ***Calculation of Crops Compensation Rate***

The compensation of the crops will be paid at market rate for the production lost. This rate incorporates the value of crops and the value of the labour invested in preparing new land. Market value is equivalent to average of last 3 years market value for the mature and harvested crop. The value of the labor invested in preparing agricultural land and ploughing will be compensated at the average wage in the community for the same period of time.

### ***Crop Values Determination***

The value of each staple crop affected will be taken as the highest market price (over 3 years) reached during the year. This will be validated from current market prices of crops as kept by Sub County and County Agricultural office.

The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop.

The labor costs will be paid in Kenya Shillings at the prevailing market rates. For transparency reason, all land labor will be compensated for at the same rate. If the land is needed at agriculturally critical date when farmer or PAPs will not have enough time to prepare another land without assistance, support will be provided in the form of labor intensive village hire, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. The farmer will still continue to receive his/her cash compensation to enable him/her to pay for sowing, weeding and harvesting.

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

Compensation will be paid by replacing structures such as houses, buildings, huts, farm, outbuildings, latrines and fences on alternative land provided as an in-kind compensation. Cash compensation would be available as preferred option for structures lost, that are not the main house or house in which someone is living. The ongoing market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement costs without depreciation of the structure. The second option is provision of cash compensation at full replacement value. Replacement values will be based on:

- *Measurements of structures and detail of materials used;*
- *Average replacement costs of different types of household buildings and Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).*
- *Prices of these items collected in different local markets;*
- *Costs for transportation and delivery of these items to acquired/ replacement land or building site;*

- *Estimates of construction of new buildings including labor required;*
- *Any associated taxes, registration fees.*

### ***Compensation for Community Assets***

Community assets include community-owned assets such as water points, wells, marketplaces and community/ public facilities (e.g., schools, clinics police posts). Community assets will be identified through the census and enumerated. In the event that community assets are affected, in-kind and new facilities will be provided even if there are existing facilities at the new location, except if such assets are not needed in the new place. However, if community trees are affected, the community will be compensated through provision of new seedlings equivalent to the value of lost trees. Some community assets such as burial grounds in rare cases may need to be moved, therefore the cost of moving graves and related structures should be considered.

### ***Compensation for Sacred Sites***

This RPF is conscious of the fact that valuation of sacred places is a difficult undertaking because of the complexity of placing monetary value on a cultural site. Additionally, most sacred sites belong not only to an individual but a family, village or community.

Under this RPF to the largest extent possible, the sacred sites and use of land that is defined to be cultural and/or sacred property by the Banks Safeguards OP 4.11 will be avoided. Sacred sites will include but not be restricted only to; museums, altars, initiation centres, ritual sites, ancestral tombs, trees, stones, and cemeteries which are considered sacred by the project affected persons. It will also include other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. However, if the impact on some cultural sites is unavoidable, utmost care will be done to ensure that all related activities affecting such sites and compensation is culturally appropriate and acceptable to the involved community and that all the processes are done in a consultative manner and with full participation of the affected communities.

### ***Compensation for Loss of Enterprises***

Business structures in project areas will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income, profits and production during the transition period (time lag between losing the business and re-establishment). If it is not possible or preferable to provide replacement site for an affected business/enterprise, the full replacement cost to re-establish the business, as described above, will be provided.

### ***Compensation for vegetable gardens and beehives***

Most vegetable garden, form part of the residential space of most homes - though miniature in size, they make critical component of most family's food and nutritional supplement through provision of vegetables. Until a replacement garden starts to bear, the family displaced (economically or physically), will have to purchase vegetables in the market for daily use. The replacement costs therefore, will be calculated based on the average amount that an average town dweller spends on buying these items for one year per adult from the local market. Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities, or access to hives is denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

### ***Compensation for horticultural, floricultural and fruit trees***

Papaya, banana, guava, medicinal and aromatic crops will form a set of primary fruit trees that are likely to be found in project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of: *subsistence food for families; cash produce that contribute to the export economy; petty market income in some areas, and shade (in the case of mango trees)*. For banana trees, they have a relatively much shorter productive life, normally, than mango trees. For banana trees will not bear fruit more than once a year. Therefore, compensation for banana trees would be based on the full market rates for bananas harvested in that year and for one additional year. The second year payment is for the replacement cost of planting a new tree, looking after it and harvesting it which could all be done in one year. This method in general is used for trees/plants that have a relatively short life.

Mango tree and other fruit bearing trees with longer life span will be compensated on a combined replacement/market value. Mango trees used for commercial purposes will be compensated at market value based on historical production records.

If households choose to resettle, they will be compensated for the labour invested in the trees they leave behind. For this RPF, the compensation rate will be based on the value of the mango and other fruits harvested in one season multiply by the years of the maturity of the tree. The compensation could also be in the form of providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income.

### ***Other domestic fruit, shade trees,***

As defined in this RPF, individuals will be compensated for wild trees which are located in their land. Wild productive trees belong to the community when they occur in the bush

as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

***Compensation for livelihood that are not necessarily land base***

For those who have small production and that production is a major part of their livelihoods, such as forest fruit and herbs collectors, fishermen, beehive keepers, livestock owners, tenants, those working on land, sand collectors, earning an income, which is affected by any sub project. The RPF proposes full livelihood restoration and support to such vulnerable groups affected by the project activities. The livelihood restoration support will be in the form of cash including training and capacity building to engage in new occupation, including activities created by a given sub project.

## **9. PREPARING & APPROVING RESETTLEMENT AND COMPENSATION PLANS**

This chapter describes how a determination will be made (screening) on whether sub projects under RLPRP will lead to physical or economic displacements. If through the screening process, it is determined that displacement will occur, then the section highlights the steps, process and methodologies for preparing RAPs. The RAPs for each investment will be prepared in accordance with this RPF.

### **THE SCREENING AND RESETTLEMENT PROCESSES AND PLANNING PROCESS**

#### **Screening**

Given the diverse types of investments under the RPLRP and as a result different severity of impacts, each sub project that is proposed to be included under RPLRP will be screened by the RPLRP /PMU which has been established by the State Department of Livestock for overall coordination of RPLRP related activities, and classified according to its potential social, economic and environmental impacts. Screening will be based on the defined area of impact, primary engineering drawings, maps and if available satellite images of the sub project area showing homes, farms, workplaces, schools, health posts, places of worship and other individual and community assets.

If screening determines that resettlement is likely, the next step will be to initiate consultation and the preparation of a RAP. The steps to be undertaken for each individual Resettlement Action Plan (RAP) include; an identification of Project Affected Persons (PAPs), a socioeconomic census and asset inventory of the area, and consultation. Each RAP when prepared will contain the analysis of alternative sites undertaken during the land screening process.

#### **Resettlement Processes and planning,**

Once the decision is made on the location of a given sub project under RPLRP and the census is conducted for a preparation of the RAP for a given sub project, the implementing agency starts the RAP processes, including the preparation of the RAP explained below.

#### **PREPARATION OF A PROJECT SPECIFIC RAP**

Once a sub project is approved to be financed under the RPLRP, the MALF/RPLRP/PMU will initiate a consultative and participatory process for preparing the RAP as follows:

- (i) A socio-economic survey/census will be completed to determine scope and nature of resettlement impacts including the number of PAPs, the number and size of the assets, the economic activities, the other socio-economic data, and productive assets to be affected, among others.
- (ii) The socio-economic assessment will focus on the potential affected communities, including some demographic data, description of the area, livelihoods, the local participation process, socio-cultural characteristics of the population. This

together with the census will establish baseline information on livelihoods and income, landholding, etc.

Aside from the census and socioeconomic survey, which are the basis for collecting data and information on the PAPs and their assets, the following guidelines will be used when the RAP is being developed.

- (i). Consultation and participatory approaches; A participatory approach will be adopted to initiate the compensation process. Consultations will start during the planning stages when the technical designs are being developed, and at the land selection/screening stage. The process therefore seeks the involvement of PAPs throughout the census and socioeconomic study for identifying eligible PAPs and throughout the RAP preparation process.
- (ii). Notification; All eligible PAPs will be informed about the project and the RAP process. A cut-off date will be established as part of determining PAPs eligibility, which is the date the census or the socioeconomic survey is initiated. In special cases where there are no clearly identifiable owners or users of the land or asset, the RAP team must notify the respective local authorities and leaders. A “triangulation” of information – affected persons; community leaders and representatives; and an independent agent (e.g. local organization or NGO; other government agency; land valuer) – may help to identify eligible PAPs. The RAP team will notify PAPs about the established cut-off date and its significance. They will be notified both in writing and by verbal notification delivered in the presence of all the relevant stakeholders.
- (iii). Notification to NLC; One of the first steps in this process once the census undertaken for the preparation of the RAP is done, the implementing agency makes a written request to NLC of the intention for the acquisition of the identified area for a given investment under the RPLRP. NLC will inspect the land and grant approval for the land to be acquired for the implementation of the project. With this approval, NLC will make a written notification through the *Kenya Gazette* or *County Gazette* of the intention to acquire the identified land for public purposes.
- (iv). Documentation and verification of land and other assets; NLC, the legal agency responsible for the approval of compulsory land acquisition and compensation for national and county development projects, together with a contracted registered valuer, and the SCRCC, will arrange meetings with PAPs to discuss the compensation and valuation process. For each individual or household affected by a given investment/sub-project, the RAP preparation team will complete a Compensation form containing necessary personal information on the PAPs and their household members; their total land holdings; inventory of assets affected; and demographic and socio-economic information for monitoring of impacts. This information will be documented in a report, and witnessed by an independent or locally acceptable and respected community member. The reports will be regularly updated and monitored.
- (v). Compensation and valuation. All types of compensation will be clearly explained to the individual and households involved by consultant, NLC representative and SCRCC. This will refer especially to the basis for valuing the land and other assets, which will always be done in the presence of the PAPs or their representatives. Once



such valuation is established, the NLC will produce, in presence of SCRCC, a Contract or Agreement that lists all property and assets that will be acquired by the project and the types of compensation selected. *Table 4* above provides a sample of entitlements that are eligible for compensation. These options include in-kind (e.g. replacement housing) and cash compensation. All compensation should occur in the presence of the affected persons and the community local leaders. If cash compensation is the preferred choice of the PAPs, the means to provide such cash compensation will be decided by the PAPs, e.g., through a cheque, direct deposit to the PAPs account or direct payment in cash to PAPs given that access to banking is sometimes a challenge in remote environment. Compensation costs will met by the Government of Kenya.

- (vi). From this point, the provisions of this RPF will be utilised up to payment of the compensation package including resettlement support where appropriate. The costs associated with resettlement or relocation will be included in the RAP budgets for all investments under RPLRP.
- (vii). Payments: The Government of Kenya through the Ministry of Finance (Treasury) will provide funding to the Ministry of Agriculture, Livestock and Fisheries (MALF) State Department of Livestock, which is the overall implementing agency for the RPLRP. The compensation amount for the land and properties will then be provided to the NLC, which will be in charge of land acquisition. The NLC will make award to the PAPs for the affected land and properties
- (viii). Grievance Mechanism: Establishment of grievance mechanism will be one of the key requirements of the RAP processes in every RPLRP sub project. One of the key roles of the proposed SCRCC, under individual sub-project, will be to address disputes. Grassroots based disputes will be dealt by Location Resettlement Committee (LRCC) led by the administrative chiefs (explained in Chapter 9, under Implementation Arrangements). All PAPs will be informed by the SCRCC and LRCC how to register grievances or complaints, including specific concerns about compensation and relocation as well as dispute regarding livelihood restoration measures. The PAPs will be informed about the dispute resolution process, specifically about how the disputes will be resolved in an impartial and timely manner.
- (ix). Environmental and Land Court will provide opportunity for appeal when a solution will not be found using the established local mechanisms. The court will deal with land and compensation related disputes. However, the Land Act 2012 and Environment and Land Court Act 2011 advocates for alternative dispute resolution (ADR) methods in tackling land related disputes. Alternative dispute resolution approaches will be given preference and based on customary rules, arbitration or third-party mediation. ADR will be promoted or defended as a resolution to disputes related to resettlement and land.

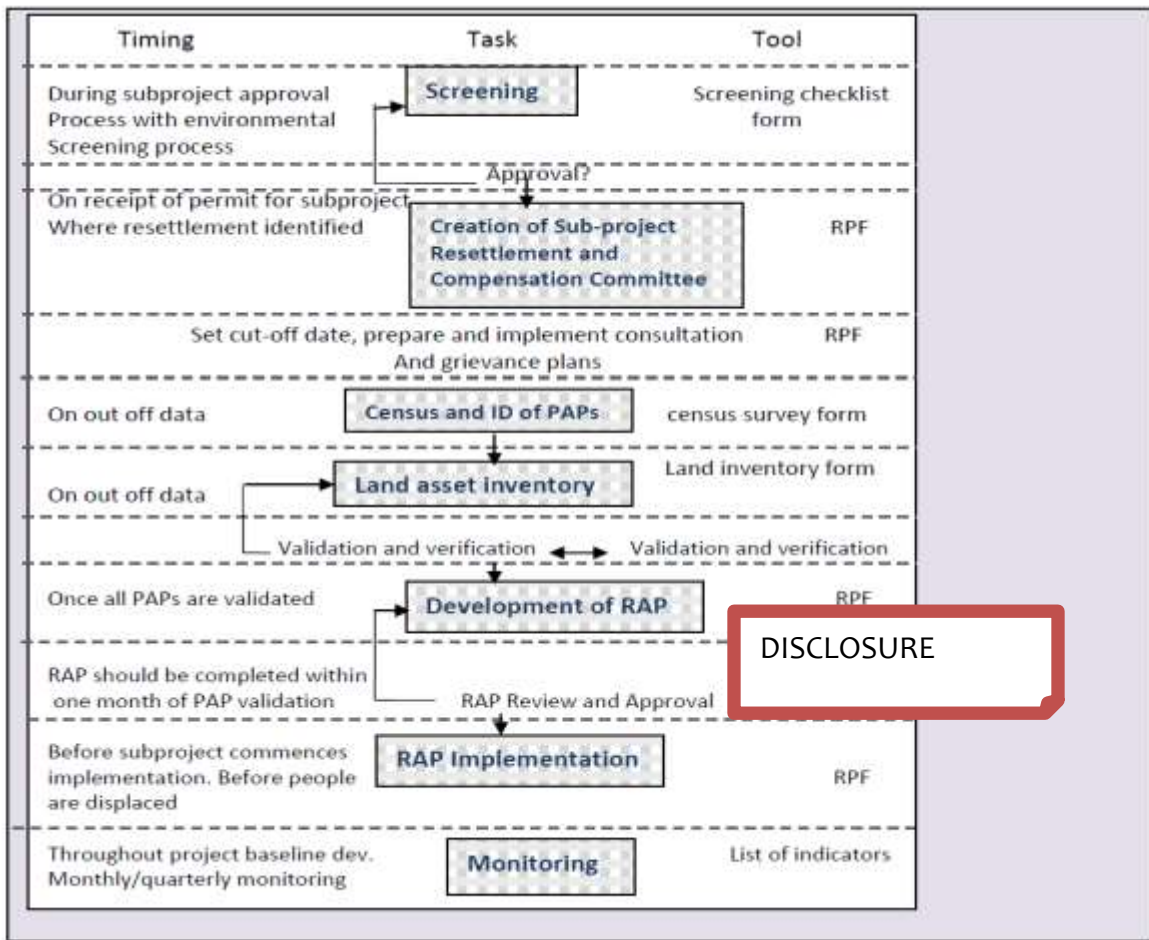
Consultation: All the RPLRP sub projects will provide for informed participation of affected persons and communities, including host communities, in decision-making processes related to resettlement.

**APPROVAL OF RESETTLEMENT ACTION PLANS:**

All RAPs developed for RPLRP sub projects will be reviewed by the RPLRP /PMU and the World Bank. For quality assurance, it is required that RAPs prepared for specific investments be submitted to the World Bank for review to ensure that they are produced in line with principles of this RPF and safeguards quality control. Gaps in quality shall be addressed through reviewers and the contracted consultants.

Once the individual RAPs are approved, they should be disclosed in the country and in the Bank info shop. In addition, each RAP should be available in the localities where the investments are intended. The entitlement section of each RAP and the entitlement matrix should be translated into the local language and be distributed among the affected communities.

**FIGURE 3. RAP SCREENING AND APPROVAL PROCESS**



## 10. IMPLEMENTATION ARRANGEMENTS

The Ministry of Agriculture, Livestock and Fisheries (MALF), State Department of Livestock through the RPLRP/PMU will provide the overall coordination of the sub projects under the RPLRP. The PMU has the overall role of the coordination and quality control, and among its other roles, it ensures that the investment prepare the needed safeguards instrument, in this case the RAP, in accordance to the RPF.

RPLRP /PMU will screen proposed sub projects to determine their viability and feasibility. Once a sub project is proposed for funding, PMU will prepare a TORs for the RAP consultant, the RAP developed as required, and subsequently reviewed. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies.

### **INSTITUTIONAL ROLES FOR RAP PREPARATION AND IMPLEMENTATION UNDER RPLRP**

#### ***Ministry of Agriculture, livestock and Fisheries (MALF)***

The main agency involved in implementation of the RPF will be MALF as an overall implementing agency; it will have overall responsibility for the implementation of RPLRP and will act as the central agency responsible for holding all information relevant to the RPF and subsequent RAPs. MALF also has the responsibility for the mobilization of funds from Government for resettlement and compensation purposes of specific approved RAP

#### ***Project Management Unit (PMU)***

The PMU already set up under the RPLRP will be responsible for the day-to-day coordination of the RPLRP sub projects including screening of sub projects and keeping records of the implementation of RPLRP. To assist implementing agencies, the PMU, will be staffed with a social safeguards specialist. The first role of the PMU with regards to the preparation of the RAPs will be to screen all sub projects to be funded by the RPLRP and to determine if they need to prepare a RAP.

The necessary screening will be done through a clearly outline screening procedure as outlined in **Figure 3** of this RPF. Once a proposed sub project is accepted to be funded under the RPLRP, the PMU will prepare the TOR before it is used to hire the consultant to prepare the RAP, which is done though the implementing agency for a given investment. Once the RAP is prepared, under the supervision of the implementing agency, the PMU will review the RAP for consistency of such document with RPF under all RPLRP financed sub projects. As part of this review, it will collect all the needed information and documentation for the preparation of the RAP and later all the documentation for its implementation. Even though NLC and implementing agencies are responsible for direct implementation of RAP, all the RAP information regarding the preparation and implementation will be passed to the PMU for review, documentation and filing.

MALF will also notify the NLC of its intention to acquire land; establish the SCRCC and LRCC; establish the budget needed for the implementation of the RAP; provide the budget for the land and property compensation to the NLC, which in turn will

compensate the affected people; working with the NLC on the processes of land compensation (see “Formal Processes Involved With Compulsory Acquisition of Land” discussed earlier). MALF will also provide budget for SCRCC and LRCCs operations; ensure the grievance committees are established and working; collect all the needed documentation for compensation as well as grievances and compile them; send a copy of all the documents to the Bank; and monitor RAP implementation.

### ***National Land Commission (NLC)***<sup>67</sup>

The National Land Commission (NLC) is the legal agency under the new constitutional dispensation responsible for compulsory acquisition of private land for public development by national government and county governments. NLC is governed by National Land Commission Act 2012, which stipulates one of its roles as that of compulsory acquiring land for national government and county governments’ development projects among other roles. Key roles of NLC in the implementation of this RPF and subsequent RAPs under RPLRP will include: provide approval to request made by implementing agency under RPLRP to acquire land; notifies landholders in writing of the intention to acquire land; assist in resolving disputes related to compensation; undertake public consultation on intended acquisition with the help of SCRCC; receive money from MALF for actual payment of entitlement awards to PAPs.

### ***Sub County Resettlement and Compensation Committees (SCRCC)***

This RPF proposes the constitution of SCRCCs for each sub project under RPLRP. SCRCCs will be established at the district level to ensure participatory and transparent implementation of the RAP. The SCRCCs will not engage in land acquisition or compensation, as this remains the prerogative of the NLC. Depending on how NLC establishes its new cascading institutions in the counties, this RPF will be updated accordingly. For purposes of this RPF, SCRCC will help NLC carry out its mandate efficiently- particularly ensuring effective communication of NLC with the affected communities. Members to SCRCC will include representation from the following agencies and entities

- Representative of NLC, as the chair of SCRCC to grant legitimacy to the acquisition and resettlement process and ensure that legal procedures as outlined in Land Act 2012 and binding document of the RPF are adhered to.
- The County Administration representative, which will provide the much needed community mobilization, and support to the sub project and to the process of resettlement
- Land Survey Officer will survey all affected land and produce acquisition map.
- The District Gender and Social Development Officer, which will be responsible for livelihood restoration programs.
- The Lands Registrar will verify all affected land and validate the same.
- Two PAP representative from Location Resettlement and Compensation Committee – act as voice for the PAPs

---

<sup>67</sup> National Land Commission is established by National Land Commission Act 2012 and Chapter 8 of Land Act 2012 outlines its specific role in compulsory acquisition process.

- NGOs and CBOs locally active in relevant fields to ensure effectiveness, fairness, just compensation, and transparent process in the whole acquisition process.

The SCRCC will have the following specific responsibilities:

- Ensuring effective flow of information between NLC and PAPs and the implementing agency and the PAPs
- Coordinate Locational Resettlement and Compensation Committees (LRCCs), validate inventories of PAPs and affected assets;
- Coordinate activities between the various organizations involved in relocation; facilitate grievance and conflict resolution; and provide support and assistance to vulnerable groups.
- Conducting extensive public awareness and consultations with the affected people so that they can air their concerns, interests and grievances.
- Resolving disputes that may arise relating to resettlement process. If it is unable to resolve any such problems, channel them through the appropriate formal grievance procedures laid out in this RAP.
- Assist with the livelihood restoration activities.

***Locational Resettlement and Compensation Committee (LRCC)***

Since sub Counties are fairly large, further decentralized resettlement unit will be formed at the location of the sub project. Subsequently, Locational Resettlement and Compensation Committees, based in each administrative location of sub projects, will be established. The LRCCs will be constituted by MALF and SCRCCs through consultation with the PAPs and will act as the voice of the PAPs. The LRCCs will work under guidance and coordination of DRCC and implementing agencies.

LRCCs will be formed after the formation of the SCRCC. Their membership will comprise of the following:

- The locational Chief, who is the government administrative representative at the locational unit and who deals with community disputes will represent the Government in LRCC
- Assistant Chiefs, who supports the locational Chief and Government in managing local community disputes in village units will form membership of the team.
- Female PAP, elected by women PAPs, will represent women and children related issues as regards resettlement and compensations
- Youth representative, elected by youths, will represent youth related concerns in the LRCCs
- Male representatives elected by the members of the PAPs
- Vulnerable persons representative, will deal and represent vulnerable persons issues in the LRCC.
- Business representative, will represent business people concerns in LRCC
- CBO representatives

Membership of LRCCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatically be members of the team by virtue of their positions. Each of LRCCs will elect their own chairperson and a secretary among themselves. The roles of LRCCs will include among others the following:

- Conducting extensive public awareness and consultations with the affected people.
- Help ensure that local concerns raised by PAPs as regards resettlement and compensation among others are promptly addressed by relevant authorities.
- Assist the effective working of RAP consultants in preparation and validation of the RAP
- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the DRCC.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women, orphaned children affected by the sub project are addressed.
- Assist the PAPs in the process of compensation, including helping those who cannot write or read.
- Help the vulnerable during the compensation and restoration of their livelihoods
- Ensure that all the PAPs in their locality are informed about the content of the RAP.

## **II. IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS**

Before any sub project is implemented, PAPs will need to be fully compensated by NLC in accordance with the principles of this RPF and the RAPs. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation prior to displacement and preparation of resettlement sites with adequate facilities, where required. Taking of land and related assets may take place only after compensation has been paid and where applicable, resettlement sites and moving allowances have been provided to displaced persons. For sub project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the RPF and individual RAPs.

The schedule for the implementation of activities related to specific RAPs, will be prepared based on the principles of this RPF, and must be agreed between the NLC, MALF, SCRCCs and affected PAPs to give legitimacy to the whole process as outlined in the law.

These will include the target dates for start and completion of civil works, the dates of the possession of land and properties used by PAPs, dates of the full compensation, dates of transfer of titles to NLC, and date of hand over of land to implementing agency. This schedule will be determined by the NLC in consultation with the implementing agency, SCRCCs and the PAPs. The consultation process will ensure that RAPs contains acceptable measures agreed upon among all stakeholders that link resettlement activity to civil works under each specific investment in compliance with this policy.

The timing mechanism of these measures will ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected. Once finalised the RAP should be sent to the RPLRP /PMU and the World Bank for final review and approval.

### **IMPLEMENTATION SCHEDULE**

Given the nature of RPLRP, preparing an implementing schedule at moment is not possible. Each sub project once identified and screened, if required, will prepare an individual implementation schedule together with PMU, which will be included in the RAP. Therefore all RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities.

The plan will include a target date when the expected benefits for resettled persons and hosts community, if relevant, would be achieved. Arrangements for monitoring of implementation of the resettlement and evaluating its impact will be developed during the preparation of individual RAPs implementation schedules. The principles for preparation of monitoring and evaluation are discussed in *Chapter 14, Monitoring and Evaluation*.



Target dates for achievement of expected benefits to resettled persons and hosts will be set and the various forms of assistance to the resettled persons will be disseminated to them.

Planning and coordination of the tasks of the various actors involved in the RAP implementation will be key to successful RAPs implementation. To achieve this, workshops will be organized with the stakeholders and other relevant government agencies, at individual sub project launching and at the commencement of every project investment identified to have adverse social impacts. The workshops will focus on (i) taking stock of the legal framework for compensation, (ii) describing institutional arrangements and mechanisms for payment of compensation, (iii) defining tasks and responsibilities of each stakeholder and (iv) establishing a work plan in accordance to individual tasks in RAP.

## 12. GRIEVANCES REDRESS MECHANISMS

Grievance procedures are required to ensure that PAPs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. The procedures should also ensure that the entitlements are effectively transferred to the intended beneficiaries. PAPs will be informed of the intention to implement the grievance mechanism, and the procedures will be communicated at the time of the preparation of investments' specific RAPs.

Under RPLRP, grievances may arise from members of communities who are dissatisfied with (i) the eligibility criteria; (ii) valuation of assets and compensation, or (iii) actual implementation of RAPs, among others. This chapter sets out the measures to be used to manage grievances.

The Land Act 2012 and National Land Commission Act 2012 obligate the NLC to manage grievances and disputes related to resettlement or land amicably. NLC will be expected to put in place mechanisms and structures that arbitrate or negotiate with PAPs or landowners whenever there are any grievances concerning their compensation.

### **Overview**

A key element of resettlement activities will be the development and implementation of a grievance mechanism in all RPLRP sub projects. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. A clear time schedule will be defined for resolving grievances under each investment, ensuring that they are addressed in an appropriate and timely manner.

The grievance procedure will be simple and will be administered, as far as possible, at the sub project level by the Sub County Resettlement and Compensation Committee (SCRCC).

Cascading down, there will be Locational Resettlement and Compensation Committees (LRCCs) based in each administrative location. It will be established by SCRCC through PAPs consultative meetings chaired the representative of implementing agency. LRCC will act as the voice of the PAPs and will work under guidance and coordination of SCRCC in handling PAPs' grievances. Some of the grievances can be resolved at this level. If not, the LRCC will assist the PAPs to address their grievances to the DRCC.

The grievance procedure outlined in this RPF will not replace existing legal dispute and grievance redress in the country especially in respect to what will be set up by the NLC, which PAPs will be persuaded to use an option of last resort if they feel dissatisfied.

Based on consensus, the SCRCCs and LRCCs will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions that may delay the implementation of a sub project. If the grievance procedure fails to provide a result, complainants can still seek legal redress.

Steps involved with the grievance management include:

- *During the initial stages of the valuation process, the affected persons will be given copies of grievance procedures as a guide on how to handle the grievances. This will include who to contact (a phone number, address and location, time) as well as type of grievances they can refer to this committee.*
- *The process of grievance redress will start with registration of the grievances to be addressed for reference at the locational level through LRCC. In all instances, records will be kept to enable progress updates of the cases.*
- *Traditional local mechanisms will be used and will include local leaders and the affected persons trying to find a solution with the concerned parties.*
- *In cases where a solution cannot be found at the locational or LRCC level reference will be made to the DRCC.*
- *These will ensure transparency, fairness, consensus building across cases, eliminate nuisance claims and satisfy legitimate claimants at low cost.*
- *The response time will depend on the issue to be addressed but all measures will be put in place to ensure efficiency,*
- *Once the grievance is addressed and agreement reached, the compensation will be paid to the PAPs.*
- *All the processes will be documented, including the names, the type of the grievances, what was done to resolves it, if it was resolved, if not what was the next step taken.*

Should a PAP refuse the compensation suggested, the individual PAP has the right to take his/her case to the civil court for litigation.

### **THE GRIEVANCE REDRESS PROCESS**

As noted earlier, grievance redress will be the functions of the LRCC and SCRCC committees. A grievance log will be established by SCRCC and copies of the records kept by both LRCC and SCRCC to be used for monitoring of complaints.

The grievance redress mechanisms will be designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution, which would otherwise take a considerably longer time. If LRCC cannot adequately address the grievance, then reference will be made to SCRCC who shall strive to address the grievances raised.

If a complaint pattern emerges, the implementing agency, SCRCC, and LRCC will discuss possible remedial measures. The above institutions will be required to give advice concerning the need for revisions of procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. Implementing agencies, SCRCCs, LRCCs and the local leaders will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

### *Detail procedures for grievance management*

The procedure for managing grievances under all RPLRP sub projects will be as follows:

- The affected person will file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing to the sub project SCRCC. The grievance note should be signed and dated by the aggrieved person. A selected member of the LRCC will act as the sub Project Liaison Officer (PLO) who will be the direct liaison with PAPs.
  - The PLO will be working in collaboration with the other LRCCs members as well as DRCC. Where the affected person is unable to write, the PLO will write the note on the aggrieved person's behalf. Any informal grievances will also be documented by the sub Project Liaison officer. The note should be embossed with aggrieved person's signature or thumbprint. A sample grievance form is provided in *Annex 5*. A copy of this completed form should be submitted by the sub Project Liaison Officer to SCRCC.
- 1) *The Sub Project Liaison Officer and LRCC will consult to determine the validity of claims. If valid, the Committee will notify the complainant that s/he will be assisted and a response will be given in the due time.*
  - 2) *The LRCC will meet and respond within 14 days during which time any meetings and discussions to be held with the aggrieved person will be conducted. If the grievance relates to valuation of assets, a second or even a third valuation will be undertaken, at the approval of SCRCC until it is accepted by both parties. These should be undertaken by separate independent valuers than the person who carried out the initial valuation. The more valuations that are required to achieve an agreement by both parties, the longer the process will take. In this case, the aggrieved person must be notified by the Sub Project Liaison Officer that his/her complaint is being considered.*
  - 3) *If the complainant's claim is rejected by the Committees, the Sub Project Liaison Officer will assist the aggrieved person to take the matter to the SCRCC. The SCRCC will look at the complaint raised by the PAPs and provide direction, explanation and a response. Sometimes, it will necessitate the aggrieved person to present him or herself to SCRCC to explain him/herself. All efforts will be made to try and reach some consensus with the complainant.*
  - 4) *If the aggrieved person does not receive a response or is not satisfied with the outcome by SCRCC within the agreed time, s/he may lodge his/her grievance to the Land Office, also mandated to help resolve such matters and NLC.*
  - 5) *Where the matters cannot be resolved through local routes, the grievance will be referred to courts. The SCRCC will provide assistance at all stages to the aggrieved person to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible.*

### ***Grievance Log***

The Sub Project Liaison officer will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- *Date the complaint was reported;*
- *Date the grievance log was uploaded onto the Sub project database;*
- *Date information on proposed corrective action sent to complainant (if appropriate);*
- *The date the complaint was closed; and*
- *Date response was sent to complainant.*

### ***Monitoring Complaints***

The Sub-Project Liaison Officer will be responsible for:

- *Providing the sub project SCRCC with a weekly report detailing the number and status of complaints;*
- *Any outstanding issues to be addressed;*
- *Referring the complaints to the SCRCC if not solved at the LRCC level and*
- *Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.*

### **Management of Grievances in the Kenya Land Laws**

The current Kenyan constitution section 159, Land and Environmental Court Act 2011, National Land Commission Act 2012 and Land Act 2012 advocates for alternative dispute resolution mechanisms before seeking formal legal redress in disputes relating to land and resettlement. In practise this can be the village head and other local or traditional dispute resolution mechanisms.

### 13. RPF IMPLEMENTATION BUDGET

The actual cost of resettlement and compensation for each RPLRP sub project will be determined during each socio-economic study for the preparation of the individual RAPs. The Government of Kenya will finance all the resettlement compensations cost because they are the party that would be impacting livelihoods. The total cost of resettlement under RPLRP will depend on the number of sub projects that will lead to land acquisition.

At this stage, it is not possible to estimate the exact number of people who may be affected under RPLRP since the technical designs and details of all investments have not yet been finalized. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with RPLRP implementation.

However, when these locations are known, and after the conclusion of the site-specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, a detailed and accurate budgets for each RAP will be prepared. Each RAP will include a detailed budget, using the following template thus facilitating the preparation of a detailed and accurate budget for resettlement and compensation.

PMU together with the relevant implementing agency for a given investment will prepare the resettlement budget, which will be financed by the Government of Kenya through the Ministry of Finance. At this stage all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features the budget must contain, inter alia, as follows;

**Table 6. Illustrative Budget Template for the RAP**

Asset acquisition	Amount or number	Total estimated cost	Agency responsible
Land			
Structure			
Crops and economic tress			
Community infrastructure			
<b>Land Acquisition and Preparation</b>			
Land,			
Structure,			
Crops areas and others			
Community infrastructure			
<b>Relocations</b>			
Transfer of possessions			
Installation costs			
<b>Economic Rehabilitation</b>			
Livelihoods restoration			
Training			
Capital Investments			
Technical Assistance			
NGO support			
Monitoring			
Contingency			

**Table 7: Explanation of Assumptions on Indicative Budget**

#	Item	Costs (in KSHS)*	Assumptions
1	Compensation for loss of Land	/hectare	For land acquisition purposes, based on cost realized in projects involving similar issues in Kenya.
2	Compensation for loss of Crops	/hectare of farm lost	Includes costs of labor invested and average of highest price of staple food crops as per methods described in this RPF.
3	Compensation for loss of access to pastoralists	N/A	Those affected would be provided with shared access, or alternate routes (decision agreed through consultation and participation of all)
4	Compensation for loss of access to fishing resources.	/fishmonger	Data provided from revised socio-economic study will determine market values of catch, fish products etc. that is produced.
5	Compensation for other livelihoods affected such as gathering medical herbs and plants from the forest, small production such as bee keeper loss of labor income for those dependent on the land taken	N/A	Livelihood restoration program
6	Compensation for Buildings and Structures		This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.
7	Compensation for Trees	/year/tree	Based on methods described in this RPF for compensation for trees.
8	Cost of Relocation Assistance/Expenses	/household	This cost is to facilitate transportation, etc.
9	Cost of Restoration of Individual Income	Say	Assumed to be higher than the GDP/capita.
10	Cost of Restoration of Household Income	Say	Through employment in Program Activities.
11	Cost of Training Farmers , pastoralists and other PAPs		This is a mitigation measure which seeks to involve those affected by the project activities. This figure represents a costs of around Kshs/person
12	NGO support	Number/years	Administrative support to undertake livelihood restoration or monitoring and evaluation of RAPs implementation
	Cost of restoration of livelihood for vulnerable	/year/	Assumed to be higher than the GPP/capita

In addition to the budget for compensation, budget is needed for the following activities. The budget presented here is indicative and may change substantially depending on the type of sub projects and the number of training and workshops. This is just a sample to indicate the need for these other budget items.

**Table 8: Indicative Budget for the Next 5 years**

	<b>Indicative Budgetary Item</b>	<b>No.</b>	<b>Unit cost (USD\$)</b>	<b>Total cost (USD\$)</b>
1.	Stakeholders trainings/ consultation forums on RPF	5 <sup>68</sup>	100,000	<b>500,000</b>
2.	Monitoring and evaluation studies on the implementation of RAPs under RPLRP	10 <sup>69</sup>	100,000	<b>500,000</b>
3.	Evaluation of Livelihood empowerment programs under RPLRP <sup>70</sup>	10	200,000	<b>1,000,000</b>
4.	RPLRP RAP training manual <sup>71</sup>	1	100,000	<b>500,000</b>
5.	Annual RPF audit	8	100,000 <sup>72</sup>	<b>800,000</b>
	<b>Total</b>			<b>2,260,000</b>

**Table 9: Assumptions for the RPF Budget line**

<b>Item</b>	<b>Justification</b>
1. Stakeholders trainings for GoK institutions that will be involved in the implementation of RAPs under RPLRP	MALF and other GoK legal institutions charged with compulsory acquisition will need to be taken through the principles of this RPF. At the moment we cannot tell the number of meetings that may be needed. However, in the next 5 years we foresee at least one meeting every year. The RPF will be adjusted accordingly depending on the need and changes occasioned by current constitutional reforms.
2. Monitoring and Evaluation of RAPs under RPLRP	To ensure compliance to the principles of RPF, it is expected that the RPLRP/PMU will carry out independent studies assessing implemented RAPs, their compliance with RPF principles.
3. Evaluation of livelihood programs under RPLRP	As part of economic rehabilitation, RPLRP /PMU will assess effectiveness of economic rehabilitation programs under various RAPs implemented under RPLRP to ensure lesson learning and improvement of effectiveness of such programs over time.
4. Development of RPF – RAP implementation manual	There will be need to develop a RAP implementation manual that is line with RPF principles building on

<sup>68</sup> In the 5 years, at least 5 meetings are envisaged for stakeholders involved in resettlement and compensation for RPLRP. They will be organized at cost of US\$100,000 per meeting to update and share lessons learnt in the implementation of the RPF

<sup>69</sup> To ensure compliance to the principles of RPF, it is expected that the PMU will recruit consultants to carry out independent studies assessing compliance of the implemented RPLRP RAPs with RPF principles.

<sup>70</sup> As part of economic rehabilitation, PMU will assess effectiveness of economic rehabilitation of RAPs under RPLRP to ensure lesson learning and improvement.

<sup>71</sup> A consultant will be recruited to prepare a RAP training manual for easier implementation of the RPLRP RAPs

<sup>72</sup> An annual audit will be carried out with the engagement of the stakeholder. The amount is the cost of the each audit meetings



	lessons learnt.
5. RPF Annual Audit	In view of the dynamism of the on-going reforms, the RPLRP/PMU shall organize at least one annual audit meeting for RPF Audit and 3 with NLC to review the compulsory acquisition procedures in line with lessons learnt built from previous resettlement program.
6. 20% contingency	Shall support unforeseen contingencies in the implementation of this RPF.

#### **14. MECHANISMS FOR CONSULTATIONS AND PARTICIPATION IN PLANNING, IMPLEMENTATION AND MONITORING**

Public consultations and participation are essential because they afford potential PAPs the opportunity to contribute to both the design and implementation of the project activities and reduce the likelihood for conflicts between and among PAPs and implementing agencies. The way land administration is undertaken in Kenya today is based on long standing a traditional and cultural practice that makes public consultations with the rural communities, indispensable. Effective and close consultations with PAPs are a pre-requisite for project success. In recognition of this, particular attention will be paid to public consultations with project-affected individuals/households/homesteads when resettlement and compensation concerns are involved.

Public consultations will take place at the inception of the planning stages when the potential land areas are being considered. The participation strategy will evolve around the provision of a full opportunity for involvement. Therefore, as a matter of strategy, public consultations will be an on-going activity taking place throughout the entire project cycle. For example, public consultation will also occur during the preparation of the (i) the socio-economic study, (ii) the resettlement and compensation plan (iv) the environmental impact assessment and (v) during the preparation of the compensation contract.

Public participation and consultations will take place through meetings, radio programs, public meetings for the explanations of project ideas and requirements, preparation of the RAPs and ESIA's, making public documents, including the RPF and consequent RAPs, available at the national, local levels at suitable locations like the official residences/offices of local chiefs/elders. These measures will take into account the low literacy levels prevalent in these rural communities in Kenya by allowing enough time for responses and feedback.

Notwithstanding, the best guarantor for public interest are the traditional and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole.

The involvement of the PAPs, including the host communities, in case there is physical resettlement and there is a host community, in planning prior to the move will be critical since initial resistance to the idea of involuntary resettlement is expected. To obtain cooperation, participation and feedback with the resettled persons and hosts, space will be provided for both to be actively involved in the preparation phase of the RAPs. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention will be given to vulnerable groups such as the landless, and women to ensure that they are represented adequately in such arrangements.

Conflicts between hosts and resettled persons may develop as increased demands are placed on land, water, forests, services etc. To mitigate the resettlement's impact on host

populations, they will be informed and consulted and included in the planning meetings for the resettlement exercise of affected person and impact mitigation plan for the expansion of services. Any payments due to the hosts for land or other assets provided to resettled persons will be promptly made.

Conditions and services in host communities should improve, or at least not deteriorate with provision of improved education, water, health and production services as mitigation to both groups. This will foster a better social climate for their integration. In the long run, the extra investment will help prevent conflicts and secure the project's aim. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the resettled persons. On the other hand, local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

SCRCC and LRCC are expected to play an important role in the consultation process. They will be in close contact with the affected communities and in continuous communication with them about the RPLRP sub projects, their impacts, resettlement and compensation processes, grievances management, among other things. They will also be the ones communicating the cut-off date and other project related issues to the PAPs.

#### **DATA COLLECTING PHASE**

During the preparation of RPLRP sub project RAPs, preliminary public consultations and socio-economic survey study will be undertaken. It will involve active participation of the all PAPs in provision of preliminary data. PAPs will be important information providers, enabling accurate and effective data. Information about proposed project will also be explained to PAPs in the local language that they understand. Besides, PAPs will be given platform to ask questions about the project, identify impact of the proposed RPLRP sub projects, suggest mitigation measures and alternatives to be considered in the technical design that limit impacts. The RAP preparation consultant will also labour to provide rationale for data collection, discuss data with PAPs and give PAPs feedback on the collected data.

#### **IMPLEMENTATION OPERATION**

During implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAPs for consideration and endorsement before cash payment or land compensation can be effected.

#### **MONITORING AND EVALUATION PHASE**

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

## 15. ARRANGEMENTS FOR MONITORING AND EVALUATION

This chapter sets out requirements for the monitoring of the implementation of the RAPs, which will be prepared in accordance to this RPF.

### Overview

The arrangements for monitoring will fit the overall monitoring plan of the entire RPLRP, which will be through the Ministry of Agriculture, Livestock and Fisheries through the PMU. All RAPs will set major socio-economic goals by which to evaluate their success which will include (i) affected individuals, households, and communities being able to maintain their pre-project standard of living, and even improve on it, (ii) the local communities remaining supportive of the project and (iii) the absence or prevalence of conflicts (iv) project affected persons reporting satisfaction with the resettlement operation. In order to assess whether these goals are met, RAPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

The objective of the monitoring will be to determine;

- *If affected people are satisfied with the actual resettlement process.*
- *If affected people have been paid in full and before implementation of any RPLRP sub project that is causing resettlement.*
- *If affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it.*

The census and/or the socio-economic survey study which are the basis for the preparation of investment specific RAPs under the RPLRP, will be used as the base line for the monitoring and evaluation of the individual RAPs.

### WHO WILL DO THE MONITORING

RAP monitoring will be done at two levels, during the regular monitoring of the project by the implementing agency every six months and by an external independent consultant/agency that will be contracted on an annual basis. For the internal monitoring, the SCRCC and LRCCs will be records are used. The TOR for the independent consultant/agency or a research institute in charge of independent monitoring should be cleared by the PMU.

### METHODOLOGY USE FOR THE RAP MONITORING

Base line data will be collected from different sources, including the census and socioeconomic study undertaken for the preparation of individual RAPs. In addition, the information collected by the SCRCC and LRCC will be used. Finally, questionnaire (in the case of independent monitoring), and focus groups discussions will be used to collect data and information.

### INDICATORS TO DETERMINE STATUS OF AFFECTED PEOPLE

A number of indicators will be used in order to determine the status of all affected people under RPLRP sub projects.

- *Size of land compared to before,*
- *Standard of house compared to before,*
- *Level of participation in project activities;*
- *Access to water, access to schools and health centres as it was before the project*
- *Status of vulnerable people compared to before*

Specific indicators may include the following, which would indicate a change:

- *Access/ distance/ quality of agricultural plots*
- *Quality of, and access to, water*
- *Number of people employed*
- *Number of 'vulnerable' people*
- *Number of grievances and time taken to resolve them. If not resolved, what were the next steps*
- *The local communities remaining supportive of the project.*
- *The local communities reporting satisfaction with project resettlement*

Most of the information for these indicators will be collected through survey, interviews and focus group discussions with the affected communities. The data for these indicators will be collected every six months during the RAP implementation by RPLRP/PMU, SCRCC and an independent agency such as a research institute, a university or an NGO. SCRCCs will also assist with collection of monitoring data of the RAPs implementation.

The pre-project census information will provide most, if not all of the required information to set a baseline against which performance can be tracked.

In addition to the existing baseline data, the following steps will be taken to ensure the proper monitoring of the RAPs:

- *Questionnaire data will be entered into a database for comparative analysis;*
- *Each individual will have a compensation dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received;*
- *SCRCC specifically the land's office and County/sub County Social Development Officer will maintain a complete database on every individual impacted by the sub-project land use requirements.*
- *Regular resettlement status reports submitted by the implementing agency will be reviewed.*

### **REGULAR MONITORING OF RPF/RAP IMPLEMENTATION**

SCRCC will assist in compiling basic information related to compensation and send them to the implementing agency as part of the regular monitoring. Some of the information which will be collected at the SCRCC level will include: time to gauge the performance of the:-

- *Length of time from project identification to payment of compensation to PAPs;*
- *Timing of compensation in relation to commencement of physical works;*

- *Amount of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);*
- *Number of people raising grievances in relation to each project investment;*
- *Number of unresolved grievances.*
- *Number of vulnerable people assisted.*
- *Number of livelihoods restored and types of the livelihood restoration*

The RPLRP/PMU will review the statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. The implementing agencies will directly monitor compensation as undertaken by NLC.

Financial records will be maintained by NLC and implementing agency to permit calculation of the final cost of resettlement and compensation per individual or household and they will be included in the monitoring report. The statistics will also be provided to the external independent consultant/agency that will be contracted on an annual basis to monitor the implementation of the RAPs.

## **15. ANNEXES**

ANNEX 1: GLOSSARY OF TERMS

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

ANNEX 4: COMMUNITY ASSET AND INFRASTRUCTURE

ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM

ANNEX 6: TORS FOR DEVELOPING A RAP

ANNEX 7: OUTLINE FOR THE RAP

ANNEX 8: INVOLUNTARY RESETTLEMENT OP.4.12

ANNEX 9: ISSUES RAISED DURING RPF CONSULTATION

ANNEX 10: LIST OF PARTICIPANTS AT THE CONSULTATION WORKSHOP

ANNEX 11: CONSULTATION SCHEDULE

## ANNEX 1: GLOSSARY OF TERMS

### DEFINITIONS

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

**“Replacement cost for houses and other structures”** means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.

**“Resettlement Assistance”** means the measures to ensure that RPLRP Affected Persons and Displaced Persons under various investments who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

**“The Resettlement Policy Framework (RPF)”** is an instrument to be used throughout the Kenya Water Security and Climate Resilience Program implementation. The RPF sets out the resettlement objectives and principles, organisational arrangements and funding mechanisms for any resettlement, that may be necessary during RPLRP sub project implementation. The RPF guides the preparation of Resettlement Action Plans of individual investments in order to meet the needs of the people who may be affected by the project. The **Resettlement Action Plans (“RAPs”)** for various investments under the RPLRP will therefore be prepared in conformity with the provisions of this RPF.

**“Census”** means a field survey carried out to identify and determine the number of Projected Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts under various investments in the RPLRP. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions (LGIs).

**“Cut-off date”** is the date of commencement of the census of project affected persons, within various projects areas under RPLRP, when those who will move to the area after the time of census will not be compensated.

**“Displaced Persons”** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the various investments in RPLRP, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location; lose right, title, interest in any houses, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.



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

**“Involuntary Land Acquisition”** is when the project affected people need to be relocated or give up their rights to land and other assets as a result of development projects or other reasons which are beyond their control in this case the RPLRP PAPs.

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

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

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

**“Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan”** - is a resettlement instrument (document) to be prepared for each individual sub projects under RPLRP which is prepared based on the principles of this RPF. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. Individual RAPs are prepared by the agencies in charge of the development projects under the RPLRP. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of a given sub projects under RPLRP program activities commences.

**“Replacement cost”** means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. It includes expenses that a person will incur in order to replace his or her house or land (at market price) which could include taxes and moving allowance. In terms of land, this may be categorised as follows; (a) “Replacement cost for agricultural land” means the pre-RPLRP or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the others costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

**Program Affected Person(s) (PAPs)** are persons affected by land and other assets loss as a result of a number of projects under RPLRP. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.

**“Compensation”** means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from RPLRP activities.

## ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

**Project name:**

**Project Location**

(Include map/sketch): (e.g. Sub County, Division, Location, and Village etc).

**Type of activity:** (e.g. new construction, rehabilitation, periodic maintenance)

**Estimated Cost:**

(Kenyan Shillings)

**Proposed Date of Commencement of Work:**

**Technical**

**Drawing/Specifications**

**Reviewed:** (circle answer): Yes No

*This report is to be kept short and concise.*

**1. Site Selection:**

*When considering the location of a project, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.*

Issues	Site Sensitivity			Rating
	Low Medium High	Low Medium High	Low Medium High	
Involuntary Resettlement	Low population density; dispersed Population; legal tenure is well-defined.	Medium population density; mixed ownership and land tenure.	High population density; major towns and villages; low income families and/or illegal ownership of land; communal Properties.	

**2. Checklist questions:**

<b>Physical data:</b>	<b>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</b>
Site area in ha	
Extension of or changes to existing alignment	
Any existing property to transfer to sub-project	
Any plans for new construction	

*Refer to project application for this information.*

<b>Land and resettlement:</b>	<b>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</b>
Will the project involve loss of land and other resources?	
Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?	
What is the likelihood of land purchase for the subproject?	
How will the proponent go about land purchase?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

*Refer to the Resettlement Policy Framework.*

<b>Actions:</b>	
List outstanding actions to be cleared before project appraisal.	
Approval/rejection	Yes/No answers and bullet lists preferred except where descriptive detail is essential.

**Recommendations:**

Requires a RAP to be submitted on date:

\_\_\_\_\_  
Does not require further studies

Reviewer: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM**

Socio-economic Household Datasheet of PAPs

<i>Name of Interviewer</i>		<i>Signature</i>
<i>ID Code</i>		
<i>Name of Supervisor</i>		<i>(after verification of interview)</i>
<i>ID Code</i>		

<i>Cell Name</i>		<i>Number of Concession in Village (GPS Coordinates)</i>	
<i>ID Code</i>			

Date: .....  
 Day Month Year

<i>Name of Head of Extended Family :</i>	
<i>Number of Nuclear Families in Extended Residential Group (including household of head of extended family)</i>	

### Household Interview

Name and Surname	Relationship to Head of Family	Sex		Place of Birth	Age	Marital Status	Residence Tenure	Ethnic Group	Religion	Educational Level	Income Earner		Economic Activities	
		M	F								Yes	No	Primary	Secondary
1.														
2.														
3.														
4.														
5.														
6.														
7.														

Relation to Head of Family : 1 HoH; 2 Spouse of HoH ; 3 Child of HoH; 4 Spouse of child of HoH ; 5 Grandchild of HoH; 6 Parent of HoH; 7; 8  
9 Other (specify) ; 0 No Answer.

Marital Status : 1 Married ; 2 Widowed ; 3 Divorced ; 4 Unmarried; 0 No Answer.

Residential Status: 1 PRP (Permanent Resident) ; 2 RA (Resident absent) ; 3 Member of non-resident HH; 4 Visitor; 9 Other (specify) ; 0 No Answer.

Occupations: -

Principle Occupation: 1. Farmer ; 2 Shepherd; 3 Household ; 4 Merchant; 5 Religious leader, teacher ; 6 Artisan ; 7 Transport ; 8 Unemployed; 9 Other (specify) ; 0 No Answer Secondary Occupations: idem.

Educational Level : 1 Illiterate ; 2 Three years or less; 3 Primary School ; 4 Secondary School ; 5 Technical School ; 6 Religious School;  
0 No Answer

Religion: 1 Christian (specify denomination) ; 2 Muslim ; 9 Other (specify) ; 0 No Answer

**Land asset inventory for Project Affected People**

Village: \_\_\_\_\_

Date: \_\_\_\_\_

Cell: \_\_\_\_\_

<i>Survey no.</i>	<i>Name of House hold</i>	<i>No. of Persons in house hold</i>	<i>Total land hold (m2)</i>	<i>Land to be acquired (m2)</i>	<i>Land Use Type *</i>	<i>Loss of assets</i>	<i>Loss of crops</i>	<i>Loss of other assets</i>	<i>Other losses</i>						
						<i>Struct ures Perma nent (m2)</i>	<i>Struct ures tempo rary (m2)</i>	<i>Area of reside ntial land lost (m2)</i>	<i>Fruit trees lost and num ber</i>	<i>Agricul tural land lost (m2)</i>	<i>Other (spec ify)</i>	<i>e.g. gravey ards, wells, etc. (type and no.)</i>	<i>Resid ence (rente d)</i>	<i>Busi ness lost</i>	<i>Inco me loss</i>

\* Land types are as follows (please fill in the types of land for Kenya)

1. \_\_\_\_\_ 3.
2. \_\_\_\_\_ 4.

**Entitlements of Project Affected People**

Location: \_\_\_\_\_

Date: \_\_\_\_\_

Village: \_\_\_\_\_

Surv ey no.	Name of Head of Househ old	Compensation for Land			Compensation for structures			Compensation for crops and Trees			Compensation for other assets and losses (e.g., graveyards, wells, businesses, etc)			<i>Tota l</i> (Ks h)
		Quanti ty (m2)	Unit pric e (Ks h) per m	Entitlem ent (Ksh)	Quanti ty (m2)	Unit pric e (Ks h) per m	Entitlem ent (Ksh)	Quanti ty (m2)	Unit pric e (Ks h) per M	Entitlem ent (Ksh)	Quanti ty (m2)	Unit pric e (Ks h) per m	Entitlem ent (Ksh)	



## ANNEX 4: COMMUNITY ASSETS AND INFRASTRUCTURE

Complete one form for each community asset

<b>1. Village/town/city</b>					
<b>2. Location</b>					
<b>3. Camera and Photograph Number</b>					
<b>4. Type of structure or asset</b>					
01	School	08	Well	15	Water Supply
02	Clinic	09	Public Latrine	16	Sewerage
03	Church, Mosque or Temple	10	Public Laundry	17	Garbage Site/Dump
04	Shrine	11	Play ground	18	Fish Pond
05	Town Hall	12	Cemetery	20	Other
06	Meeting Hall	13	Electric	If other (please Specify)	
07	Well	14	Public Telephone		
<b>4. Name of structure</b>					
<b>5. Formal owner of the structure</b>					
01	District Government				
02	Community or Voluntary Organization				
03	Private Individual				
04	Other(please Specify)				
<b>6. Name and Address of owner</b>					
(Please state name and address of responsible chairman or secretary if the structure is owned by a community organization or by government)					
<b>6. Plot Number</b>					
<b>7. Telephone Number</b>					
<b>8. Number of users of structure per month</b>					
<b>9. Plot Dimensions</b>					
				M x	M
<b>10. Plot Area</b>					
					M <sup>2</sup>
<b>11. Land value per m<sup>2</sup></b>					
					KES
<b>12. Land Value (no.s 11x12 from Above)</b>					
					KES
<b>13. Estimate of building area</b>					
					M <sup>2</sup>

14. Building materials					
<b>a. Floor</b>		<b>b. Walls</b>		<b>c. Roofs</b>	
1.	Earthen	1.	Earthen	1.	Earthen
2	2Cement-plastered earthen walls	2.	Cement-plastered earthen walls	2.	Cement-plastered earthen walls
3	Straw or bamboo	3.	Straw or bamboo	3.	Straw or bamboo
4	Unbaked brick	4.	Unbaked brick	4.	Unbaked brick
5	Baked Brick	5.	Baked Brick	5	Baked Brick
6	Cement block	6.	Cement block	6	Cement block
7	Galvanized tin	7.	Galvanized tin	7	Galvanized tin
8	Tile	8.	Tile	8	Tile
9	Other (Specify)	9.	Other (Specify)	9	Other (Specify)
<b>15. Building Value per m<sup>2</sup></b>					
		M <sup>2</sup>			
<b>16. Building Value (no.s 14x16)</b>					
Signature of owner of structure					
Print name (Block Capitals)					
Signature of Valuation Surveyor					
Print name (Block Capitals)					
Date					

## ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM

<b>Grievance Form</b>				
Grievance Number		Copies to forward to:		
Name of the Recorder		(Original)-Receiver Party		
District		(Copy)-Responsible Party		
Date				
<b>INFORMATION ABOUT GRIEVANCE</b>				
Define The Grievance:				
<b>INFORMATION ABOUT THE COMPLAINANT</b>		<b>Forms of Receive</b>		
Name-Surname		<input type="checkbox"/> Phone Line <input type="checkbox"/> Community/ Information Meetings <input type="checkbox"/> Mail <input type="checkbox"/> Informal <input type="checkbox"/> Other		
Telephone Number				
Address				
Village				
District				
Signature of Complainant				
<b>DETAILS OF GRIEVANCE</b>				
<b>1. Access to Land and Resources</b>  a) Fishing grounds b) Lands c) Pasturelands d) House e) Commercial site f) Other	<b>2. Damage to</b>  a) House b) Land c) Livestock d) Means of livelihood e) Other	<b>3. Damage to Infrastructure or Community Assets</b>  a) Road/Railway b) Bridge/ Passageways c) Power/Telephone Lines d) Water sources, canals and water infrastructure for irrigation and animals e) Drinking water f) Sewerage System g) Other	<b>4. Decrease or Loss of Livelihood</b>  a) Agriculture b) Animal husbandry c) Beekeeping d) Small scale trade e) Other	<b>5. Traffic Accident</b>  a) Injury b) Damage to property c) Damage to livestock d) Other
<b>6. Incidents Regarding Expropriation and Compensation (Specify)</b>	<b>7. Resettlement Process (Specify)</b>	<b>8. Employment and Recruitment (Specify)</b>	<b>9. Construction Camp and Community Relations</b> a) Nuisance from dust b) Nuisance from noise c) Vibrations due to explosions d) Misconduct of the project personal/worker e) Complaint follow up f) Other	<b>10. Other (Specify)</b>

## **ANNEX 6: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP)**

The scope and level of detail for the development of individual RAPs plan depends on the project type and project impact. The following sample is written for sub projects with substantial impact and can be tailored based on the type and the impact of the sub projects. With this caveat, following are what is needed for the TOR for the RAP preparation.

**a) Description of the investment/project under RPLRP, project area and area of influence:** Information presented in this section will include description of the project area showing location, sitting of plants, structures, lands, affected dwellings etc; RPLRP objectives and strategy; the investment/project objectives; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.

**b) Potential Impacts:** Description of investment/project components or activities, which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement.

**c) Community Participation:** This sub-section includes:-

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

**d) Integration with host communities**

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

**e) Socio-economic Studies**

These will include the following: - Population census of the project area including a description of production systems, household organization, baseline information on livelihoods and standards of living of the displaced population (and host communities)

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

**(f) Institutional arrangement and responsibilities**

This will be the same as the RPF

**(g) Eligibility**

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

**(h) Valuation and Compensation for losses**

- The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets.
- A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001, updated February 2011), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

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

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

**(j) Shelter, infrastructure and social services**

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

**(k) Environmental protection:** An assessment of possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts.

**(l) Implementation Schedules**

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

**(m) Costs and Budget**

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

**(n) Monitoring and evaluation**

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

**(o) Commitment to follow RPF guidelines and requirement**

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

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

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy framework

## **ANNEX 7: OUTLINE OF RESETTLEMENT ACTION PLAN**

According to the OP 4.12, annex A, paragraph 24, when there is RPF, which is the case of RPLRP, then the RAP can be much shorter. It notes: “When resettlement policy framework is the only document that needs to be submitted as a condition of the loan, the resettlement plan to be submitted as a condition of sub project financing need not include the policy principles, entitlements, the eligibility criteria, organizational arrangements, arrangements for monitoring and evaluation, the framework for participation, and mechanisms for grievance readdress set forth in the resettlement policy framework. The sub project specific resettlement plan needs to include base line census and socioeconomic survey information; specific compensation rates and standards; policy entitlements related to any additional impact identifies through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standards of living; implementation schedule for resettlement activities; and detailed cost estimate”. This, in addition to the detailed description of the project and its impacts are needed to be included in the RAPs prepared under the RPLRP.

Therefore, the following is a more elaborate RAP outline, prepared for the projects without a RPF. It is included in this RPF since it provides detailed outlined for what is needed to be in each section. However, not all sections are required for the individual RAPs, as explained above.

### **Introduction**

- It briefly describes the project.
- Lists project components including associated facilities (if any).
- Describes project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

### **Minimizing Resettlement**

- Describes efforts made to minimize displacement.
- Describes the results of these efforts.
- Describes mechanisms used to minimize displacement during implementation.

### **Census and Socio-economic Surveys**

- Provides the results of the census, assets inventories, natural resource assessments, and socioeconomic surveys.
- Identifies all categories of impacts and people affected.
- Summarizes consultations on the results of the various surveys with affected people.
- Describes need for updates to census, assets inventories, resource assessments, and socio economic surveys, if necessary, as part of RAP monitoring and evaluation.

### **Legal Framework**

- Describes all relevant local laws and customs that apply to resettlement.
- Identifies gaps between local laws and World Bank Group policies, and describe project-specific mechanisms to address conflicts.
- Describes entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
- Describes method of valuation used for affected structures, land, trees, and other assets.
- Prepares entitlement matrix.

## **Resettlement Sites**

- Describes the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.
- Describes the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.
- Demonstrates that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land.
- Provides data on land quality and capability, productive potential, and quantity.
- Give calculations relating to site requirements and availability.
- Describes mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
- Provides detailed description of the arrangements for site development for agriculture, including funding of development costs.
- Have the host communities been consulted about the RAP? Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP?
- Do the host communities have a share of the resettlement benefits?

## **Income Restoration**

- Describes if there are compensation entitlements sufficient to restore income streams for each category of impact?
- Describes additional economic rehabilitation measures are necessary?
- Briefly spell out the restoration strategies for each category of impact and describe their institutional, financial, and technical aspects.
- Describes the process of consultation with affected populations and their participation in finalizing strategies for income restoration.
- Explains if income restoration requires change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?
- Describes how the risks of impoverishment are to be addressed?
- Describes the main institutional and other risks for the smooth implementation of the resettlement programs?
- Describes the process for monitoring the effectiveness of the income restoration measures.
- Describes any social or community development programs currently operating in or around the project area.
- If program exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new program or expand existing programs to meet the development priorities of communities in the project area?

## **Institutional Arrangements**

- Describes the institution(s) responsible for delivery of each item/activity in the entitlement policy



- Describes the Implementation of income restoration programs; and coordination of the activities associated with and described in the resettlement action plan.
- States how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identifies the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
- Describes the external (non-project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.
- Discusses institutional capacity for and commitment to resettlement.
- Describes mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

### **Implementation Schedule**

- Lists the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.
- Prepares a month-by-month implementation schedule of activities to be undertaken as part of resettlement implementation.
- Describes the linkage between resettlement implementation and initiation of civil works for each of the project components.

### **Participation and Consultation**

- Describes the various stakeholders.
- Describes the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
- Describes the process of involving affected populations and other stakeholders in implementation and monitoring.
- Describes the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

### **Grievance Redress**

- Describes the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication methods.
- Describes the mechanism for appeal.
- Describes the provisions for approaching civil courts if other options fail.

### **Monitoring and Evaluation**

- Describes the internal/performance monitoring process.
- Defines key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
- Describes institutional (including financial) arrangements.
- Describes frequency of reporting and content for internal monitoring.
- Describes process for integrating feedback from internal monitoring into implementation.

- Defines methodology for external monitoring.
- Defines key indicators for external monitoring.
- Describes frequency of reporting and content for external monitoring.
- Describes process for integrating feedback from external monitoring into implementation.
- Describes arrangements for final external evaluation.

### **Costs and Budgets**

- Provides a clear statement of financial responsibility and authority.
- Lists the sources of funds for resettlement and describe the flow of funds.
- Ensures that the budget for resettlement is sufficient and included in the overall project budget.
- Identifies resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
- Prepares an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.
- Describes the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.
- Describes the provisions to account for physical and price contingencies.
- Describes the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

### **Annexes**

- Copies of census and survey instruments, interview formats, and any other research tools.
- Information on all public consultation including announcements and schedules of public meetings,
- Meeting minutes, and lists of attendees.

## **ANNEX 8: OP 4.12 - INVOLUNTARY RESETTLEMENT**

*Revised February 2011*

1. Bank experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

### **Policy Objectives**

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

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

### **Impacts Covered**

3. This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by

(a) The involuntary taking of land resulting in

(i) Relocation or loss of shelter;

(ii) Loss of assets or access to assets; or

(iii) Loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) The involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement that in the judgment of the Bank, are

- (a) Directly and significantly related to the Bank-assisted project,
- (b) Necessary to achieve its objectives as set forth in the project documents; and
- (c) Carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12, para. 7](#)).

### **Required Measures**

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

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

(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

- (i) Provided assistance (such as moving allowances) during relocation; and
- (ii) Provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are

- (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
- (ii) Provided with development assistance in addition to compensation measures described in paragraph 6(a);
- (iii) Such as land preparation, credit facilities, training, or job opportunities.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which:

- (a) Specific components of the project will be prepared and implemented;
- (b) The criteria for eligibility of displaced persons will be determined;
- (c) Measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and
- (d) Potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples,<sup>15</sup> ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

9. Bank experience has shown that 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. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see [Annex A, para. 11](#)).

10. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30)

11. 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 (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers 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, the provision of land would adversely affect the sustainability of a park or 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 demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset 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; or (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 local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in pre-existing communities and groups are honoured.

### **Eligibility for Benefits**

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A, para. 6\(a\)](#)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced 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 the country);

(b) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see [Annex A, para. 7\(f\)](#)); and

(c) Those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) is provided compensation for loss of assets other than land.

### **Resettlement Planning, Implementation, and Monitoring**

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) A resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](#));

(b) A resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified

(c) A process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. The

borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its Info Shop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also [BP 4.12, para. 16](#)).

## **Resettlement Instruments**

### **Resettlement Plan**

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A, paras. 2-21](#)) for projects referred to in para. 17(a) above. However, where impacts on the entire displaced population are minor, or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A, para. 22](#)). The information disclosure procedures set forth in para. 22 apply.

### ***Resettlement Policy Framework***

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the



borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see [Annex A, paras. 23-25](#)). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex A, paras. 23-25](#)). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential sub-borrowers a resettlement plan consistent with this policy if a subproject gives rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A, paras. 23-25](#)). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in para. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing that subprojects resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, is provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

### ***Process Framework***

31. for projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before to enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to

be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

### **Assistance to the Borrower**

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing:

(a) Assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;

(b) Financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;

(c) Financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and

(d) Financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

## **ANNEX 9: ISSUES RAISED DURING RPF CONSULTATIVE MEETING AT COUNTIES WHERE RPLRP WILL BE UNDERTAKEN**

### **Summary of Public Consultation on The Regional Pastoralist Livelihood Resilience Project held in Kajiado, Turkana, Laikipia, Mandera, Narok, Baringo, Isiolo And West Pokot Counties**

**Date: 7<sup>th</sup> -15<sup>th</sup> november 2013.**

#### **Resettlement/Displacement Issues**

The workshop was convened to inform stakeholders in **the 8 selected Counties** of the intended Regional Pastoral Livelihoods Resilience project and to solicit their views on the same specifically those issues related to resettlement. The main thrust was to get views and/or concerns on the environmental and social safeguards policies by the World Bank as well as the host country regulations on the same.

The workshop participants were led through the four (4) core components of the intended project together with the sub-components involved and were then requested to give their views or any concerns that may emerge in tandem with the World Bank policies on safeguards measures. Their views were as follows;

#### **Natural Resource Management Component**

**Rehabilitation of Water Infrastructure:** - This includes building new or rehabilitating existing water sources such as dams, water pans, boreholes and shallow wells. Participants raised concerns that such undertakings may result in negative impacts such as;

- a) Conflict: - It was noted that conflicts could arise as communities compete for water resources and this may affect adversely the vulnerable and marginalized groups.
- b) Resettlement: - Some of the projects may result in displacement of persons e.g. dam construction, livestock markets among others
- c) Gender sensitivity of the project especially when locating water infrastructure
- d) How will project will improve resilience
- e) Will the compensation for land consider market rates?
- f) Will the squatters or encroachers also receive compensation?

**Rangeland Rehabilitation:** - The sub component intends to revive exhausted pasture areas by reseeded. Impacts noted by the stakeholders consulted as likely to occur include;

1. Conflict over grazing lands – This may arise due to competition among pastoralists over rangeland pasture and could have dire consequences on vulnerable and marginalized groups who depend on pasture and water in the Isiolo County.

#### **Marketing Infrastructure**

The component as proposed would include among others the rehabilitation and/or building of livestock markets and stock routes together with holding grounds. Likely impacts noted by the participants were;

- a) Conflict – This could arise due to competition and it was further noted that stock theft and compromised security is also likely to occur as animals are

taken to the markets for sale. This conflict may adversely affect vulnerable and marginalized groups

- b) Displacement – People may end up being displaced (economically and physically) e.g. when livestock markets, holding grounds or slaughterhouse are constructed.
- c) Family disruptions – This was noted as likely in cases where land may be sold by a household head without informing other family members
- d) Compensation should be done in a fair and timely manner in situations where displacement is unavoidable.
- e) Provision of social amenities to displaced/resettled persons. These may be schools or health facilities.

### **Livelihoods Support**

Stakeholders raised the following concerns regarding impacts associated with the livelihood support component;

- a) Irrigation of the fodder crop may result in displacement on either private or communal land
- b) Conflicts – Due to use of water for irrigation, water sources may be depleted leading to conflicts.

### **Alternative Livelihoods**

This sub component looks at other alternatives to livestock keeping. It proposes starting up cottage industries, engage in gum and resins harvesting, bee keeping, tourism, emerging livestock etc. Likely impacts include;

- a) Displacement – may arise e.g. when building fish ponds
- b) The project should not initiate activities which might increase pressure on resources that these groups use for subsistence harvesting;

**ANNEX 10: LIST OF PARTICIPANTS WHO ATTENDED CONSULTATION ON RESETTLEMENT POLICY FRAMEWORK**

PUBLIC CONSULTATION WORKSHOP  
HELD AT LODWAR ON 8/11/13

ON PASTORAL LIVELIHOOD RESILIENCE PROGRAMME  
(REGIONAL)

<u>NAME</u>	<u>ORGANISATION OR BUSINESS</u>	<u>TEL.</u>	<u>SIGN</u>
1. Manfred Wafub	Livestock Prod. DIT	0716170348	[Signature]
2. Samuel Njalale	Livestock Prod. Dpt	0703301762	[Signature]
3. John S. Eipa	Livestock Prod. dept	0718176667	[Signature]
4. Evans Kembai	Agricultural Inputs Dev Support Proj	0732446132	[Signature]
5. Amzeze Ernest	Livestock Prod. Dept	0721364335	[Signature]
6. Jacob E. Lotesiro	livestock prod	0714055477	[Signature]
7. William K. Kiliwo	Water 1	0717596134	[Signature]
8. Kiprotich Kiptoi	Livestock	0713828692	[Signature]
9. Chypoo John Amoo	Livestock	0713359228	[Signature]
10. Ronald W. M. Makhatla	Livestock	0735250078	[Signature]
11. David Ng'asike Nankot	Livestock department	0729443430	[Signature]
12. RUBEN M. WUKUNDA	LIVESTOCK DEPT.	0729959613	[Signature]
13. PAUL ALEX WUKUNDA	ADSP	0728051209	[Signature]
14. GILBERT EKAL	PARUCHO C.S.O	0725800781	[Signature]
15. Peter Adir	Share Int.	0727257012	[Signature]
16. MICHAEL SANGA	FISHERIES DEPT.	0724455881	[Signature]
17. Jaemah MISIKO	Fisheries Dept.	0714712846	[Signature]
18. STEPHEN BARASA ANENAI	FISHERIES UNIT	07244011092 0725718269	[Signature]
19. SAMUEL ATINDU	CHAIRMAN NAPOETHA	0725718269	[Signature]
20. LUCAS ELEYO	CHAIRMAN SARDONE	0711904613	[Signature]
21. David Ereague	A.S.D.P.	0712842913	[Signature]
22. Elizabeth LOKOIO	TUPASSO	0726815707	[Signature]
23. Siabei L. K	Veterinary	0722684661	[Signature]
24. STEVE ANYANGU	LIVESTOCK	0728390200	[Signature]
25. SAFANIA ASENSA	LIVESTOCK	0729147494	[Signature]
26. Alfred Onino	Consultant	0723871816	[Signature]
27. Isaac R. Lela	T...	0721292208	[Signature]

PUBLIC CONSULTATION WORKSHOP  
HELD AT LODWAR ON 8/11/13

ON PASTORAL LIVELIHOOD RESILIENCE PROGRAMME  
(REGIONAL)

<u>NAME</u>	<u>ORGANISATION OR BUSINESS</u>	<u>TEL.</u>	<u>SIGN</u>
1. Welfred Wafab	Livestock Prod. DPT	0716170348	[Signature]
2. Samuel Njalale	Livestock Prod. Dpt	0703301762	[Signature]
3. John S. Eipa	Livestock Prod. dept	0718176667	[Signature]
4. Evans Kombai	Agricultural Inputs Dev Support Proj	0722446132	[Signature]
5. Anzeze Ernest	Livestock Prod. Dept	0721364335	[Signature]
6. Jacob E. Lotesiro	livestock prod	0714055477	[Signature]
7. William K Kilimo	Water 1	0717596134	[Signature]
8. KIPROTICH KIPTOI	Livestock	0713828692	[Signature]
9. Chyuo John Amoo	Livestock	0713359228	[Signature]
10. Ronald W. M. Makhaha	Livestock	0735250078	[Signature]
11. David Ng'asike Nguni	Livestock department	0729243430	[Signature]
12. REUBEN M. WERUNDA	LIVESTOCK DEPT.	0729959613	[Signature]
13. PAUL ALEX LUKHVENDA	AJDS P	0728051209	[Signature]
14. GILCHRIST EKAL	MAPUCHO C.S.O	0725800781	[Signature]
15. Peter Adir	Share Int.	0727257012	[Signature]
16. MICHAEL SAMBA	FISHERIES DEPT.	0724455881	[Signature]
17. Jaemah MUKIRO	Fisheries Dept.	0714712846	[Signature]
18. Stephen BARATH ANONAH	FISHERIES NT	07244011692 0725418269	[Signature]
19. SAMUEL ATUNGU	CHAIRMAN NAPOETHA	0725745219	[Signature]
20. LUCAS ELEYO	CHAIRMAN SAPCONE	0711906613	[Signature]
21. David Ereggie	A.S.D.P.	0712842213	[Signature]
22. Elizabeth LOKOIRO	TUPASSO	0726815707	[Signature]
23. Siabei. L. K.	Veterinary	0722684661	[Signature]
24. STEVE ANYANGH	LIVESTOCK	0728390200	[Signature]
25. SAFANIA ASENA	LIVESTOCK	0729147494	[Signature]
26. Alfred Onimo	Consultant	0723871816	[Signature]
27. Isaac R. Kala	T. ...	0721202208	[Signature]

NAROK		ORGANIZATION/BUSINESS	TELEPHONE
28	JOHN DAMARASA	FARMER	0726897004
29	Ann Kerem	FARMER	0723559649
30	Daniel Partukas	Farmer	0723-095-323
31	Josephine Sarone	Farmer	0722 277528
32	Rosemary Kireo	Farmer	0728154021
33	JONAH KASURA	FARMER	0718636799
34	Janet pnpakwanik	farmer / livestock	0723080060
35	N Kamasi Ewanoor	Farmer	0713013073
36	Alex Kivoria L.	farmer	0705346871
38	Philip Kerem	Farmer	0705984650
37	Denis LERICHA	farmer	07878911700
40	Justus Kantet	Farmer	0718649121
41	JAMES RATA Ole KIPAKA	FARMER	0723-430-880
42	SATOTI JUSTUS BETOYA	FARMER	0729-879-239
43	RICHARD SHONKO	FARMER	0729-457-181
44	JORUM NIGTE	FARMER	0728030780
45	Koruni Philip	Farmer	0712-064-170
46	GUDON GABERA	FARMER	0721-1781653
47	FRANCIS KIGIO	FARMER	0723-451886
48	MARTIN KIGIO	FARMER	0723-030303
49	CALEB SATOTI	FARMER	0715505785
50	JULIUS LIMPASO	FARMER	0729805171
51	OLOKHIKE	FARMER	0702794082
52	Jackline Kigio	FARMER	0718-203510
53	Reagan Sakau	FARMER	0723865562
54	Joseph Ole Kipila	Farmer / Naisonyo	07118347440
55	N Kamasi moser	Farmer	0711657718

CONT PAGE (2)  
 RUMURUTI - LAIKIPIA WORKSHOP

<u>NAME</u>	<u>ORGANISATION/BUSINESS</u>	<u>TELEPHONE</u>
27. GRACE ABACH	FARMER	0720655591
28. PETER GATIMU	FARMER.	0726102855
29. Peter Kiboi	FARMER	0727931301
30. WASHINGTON NGARI	MOA	0725609288
31. WILLIAM M. THIGA	FARMER	0726844726



ISIOLO WORKSHOP 11/11/2013

1	Abdullahi Mohammed	LIVESTOCK TRADER	BERA - Omu	0725 4433 48	(299725790)
2	HABIBA WAKO	CHAIRLADY ISIOLO MARKET	Town Bullapasa	0736 468392	
3	PAULINE KARUCHOE	County Cooperative Office	Town	0711 163754	
4	Esther Kyalo	REGAL - AG.	Town	0721718886	
5	DANIEL N. MUGGI	Min of Ag, Fisheries		0724 517 691	out of town *
6	Douglas Kabaso A.	NEMA - ISIOLO	Town	0722 916328	
7	Jelix Muthomi	Fisheries	Town	072126 9685	
8	John Matiri	Agriculture	Town	0722 896645	
9	Kurimi Stanley	Livestock Dept (Depo G/tele)		0727 570 554	
10	Anne Nyamwaya	MOA PL	Town	0723 576 929	
11	Mohamed Isakata	MOA PL	Town	0723746515	
12	HALIMA S. ADAN	ENUNDA - ISIOLO		0723-742 889	
13	AL BIDU	DLM - ISIOLO		0723263869	
14	Douglas Mwachuku	VSF-Suruse - ISIOLO		0721169846	
15	Mohamed WAKO	District Office - ISIOLO		0723537370	
16	Abdullahi A ALI	Min. of Env. Water & Natural Resour	ISIOLO	0720 872 443	
17	Martin Nyamwaya	SNV - Kenya	ISIOLO	0713436270	
18	JARSO HAKWU	AMELME	ISIOLO	0720664605	
19	STEVEN N. MACHAN	ASDSP - ISIOLO		0725947832	
20	Bro. Augustine Smigu OSB	CDI - Caritas ISIOLO		0722869558	
21	Philemon K. Bwanaway	World vision - ISIOLO		0722 665 101	
22	Ngari Joseph	District Agrar office - ISIOLO		0715491006	
23	KABASO B. SIKI	ISIOLO HQUA - ISIOLO		0721382589	

21

13/11/2013

ACK

RESOURCE

CENTRE

## KASIAADO

NAME	ORGANIZATION/BUSINESS	SIGN	TELEPHONE
DAVID G. MURITHI	Ngong Stakeholders Forum		0722775476 (Ka)
DANIEL NYAGAKA	M.O.A   COUNTY OF KASIAADO		0725837182 (Ka)
Kenny Matampash	NIA-Neighbours Initiative Alliance (Local NGo).		0721234315 (Ka)
Joyce Saiko	NIA		0721-324194 (Ka)
Peter K. NANGA	FISHERIES (C/D)		0726542316 (Ka)
Marion Joseph	NDMA		0720794042 (Kye)
EMMILY KWAMBANI	DEVOLUTION & PLANNING		0725822884 (Ka)
Halima Nenkari	ASDSP-Kajiado		0722851327
Jenipher Kereto	Tawanga F.B.O		0722673098
Daniel Chemropot	Mohd - Kajiado central		072322922
Patrick M. Maundu	Maundy Water Ringstead		0710282908
JAMES NYAGA	K.W.S KASIAADO		0722799148
DR JAMONIC Y. ACHKA	VETERINARY		0725247611
Jane Karanja	Cooperative Department		072604320
S.S. Terrot	Dupoto-e-Mara		0726056855
Duncan Swiwa	Livestock Production		0718727889.
S.S. RAMPFI	K2MC Kajiado		0722556822.
S.M.L. YIARI	K2CLMC Kajiado		0722837154
Jimmy Outhi	NEMA - Kajiado		0724097178
JORCAS NJOROGE	WATER OFFICE		0720846290

**LIST OF PARTICIPANT ON  
ENVIRONMENTAL SOCIAL MANAGEMENT  
FRAMEWORK HELD AT NDMA HALL  
ON 12<sup>TH</sup> NOVEMBER, 2013.**

<u>NAME:</u>	<u>ORGANIZATION</u>	<u>ID/NO</u>	<u>Cell phone NO</u>
1. QEM SAMOW HUSSEIN	DLMC	8761495	0720982905
2. MUKTAR SHEIKU ABDI	chairman	005498	020240837
3. Adan Mohamed	Desert Bloom	0012242	072770980
4. Ismail Ali Gacicha	Velemang	2783755	07238476
5. Hussein Hake	Kampu-hospital	26325485	0727458
6. Abdulkar S Adam	Min of water	5492357	072167708
7. Ibrahim M. Ali	EPAC	2421902	0724247290
8. Abdurizau I. Adan	COOP	23014022	0722588565
9. Abdurwahid Adan	-YFP 80	10028607	0722904976
10. Jamaludin Hussein-K.	-YFP 80	23022497	0724322224
11. Oscar Ngasi	-Livestock	20309848	0726154463
12. Mohamed M. Ismail	-Livestock	0795427	072174252
13. Ali Wabro smawie	-KLES	4090471	07237092
14. Abdille Sheikh	Billow KCA	0015597	07221583
15. Fadi Hassan	practical	22684493	07203504
16. Abdi Mohamed	LAM chair	6410102	920773
17. Abdiladit Haj	Jussud DLMC	0720684925	
18. Adow I. Hassan	MICVUN	072354342	

(IDNO 2111409)

(24)

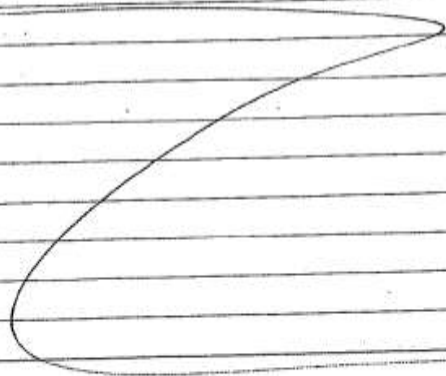
WEST POKOT DISTRICT DEVELOPMENT OFFICER'S  
BOARD KAPENGURIA.

NAME	ORGANIZATION	BUSINESS	SIGNATURE	TELEPHONE
1. ANDREW KAPITALA	LIVESTOCK			0722337236
2. SAMOET KASGET	FISHERIES			0717836266
3. PETER O. ONOKO	ASDSP			0710904320
4. L.W. WEPUKHUKU	ASDSP			0725338222
5. GAREN NASIAKI K.	WATER (Land Reclamation)			0726761561
6. LOSENGE KODIC	NDMA			0720963703
7. LEONARD OFULA	NEMA			0724990855
8. Beatrice Thuita ✓	Action Aid Intl. Kenya ✓			0714099633 0758521501 0726644518
9. MUSA K. LELTERIT ✓	LIVESTOCK ✓			0727939111
10. Dr Charles Kibet ✓	Veterinary Dpt ✓			0725367888
11. Monica Mbiti	Veterinary Dpt			0712561126
12. PAUL LORUCHONGAR ✓	LIVESTOCK ✓			0711590308
13. JOHN NGIMOR	NETHERLANDS HARB. F. GO HEALTH			0728022509
14. MICHAEL AREKOW ✓	PAAO ORG! ✓			0727024640
15. BEN M. SURE	COOPERATIVES			0727525087
16. Maurice K. Wanjaka	MOA			0726600341
17. Elizabeth Pkwal	Tangat			0723444330
18. JAMES M. GITONGA	MOA (IRRIGATION)			0721915804
19. WELIFFE AMALAT	IKAPAP			0726296125
20. MUSE S. ALIWAJ	MOCDGM			0721860144
21. RICHARD ✓ SIRE	C.S.H.F. CTIWA ✓			0723783001
22. JANE ✓ SIRMA	KENFAP ✓			0719224427
23. JOSEPH KALICHECHE	LIVESTOCK ✓			0735895416
24. Paul Kosute	CHBEST			



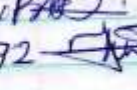
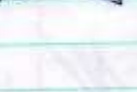
Name or	ORGANIZATION	DND	Tell NO
19.	Ibrahim Mohamed Ali DLMC	2461747	0724340209
20.	Asli Hassan Ali KRS	11192581	0721-1102402
21.	Asli Ismail Ali KCA	13330739	0720-282884
22.	Dali Ibrahim Hassan Koche	2110847	0726-170033
23.	MUSLIME USAA Yusuf JUA KAL	9311299	0720-397133
24.	Amina Mohamed Yusif DABALLA WG		-0705-388000
25.	Habiba Mohamed Adan Hangi W.G	6410443	-0725-15856
26.	Fatuma Ali Abdille		-0710-116822
27.	Mohamed DIs Abdullahi EFder		0720534064
28.	Naima Ibrahim womenamp		0722855443
29.	Saadia mohamed sheikh invit 4 piece		072285412
30.	Adan Mohamed Hassan Chairin F		-07287772 0728727203
31.	Seinas Mohamed Hassan Kaldjira WG	9221808	0723-024032
32.	ABDI MOHAMED HI		-4620831
33.	Sowda Maalin Gedi		-22864630
34.	Ubah Adow Gedow		-23288458
35.	Fartan Ibrahim		-
36.	Hussein Hamud Idris		-7875273
37.	Mohamed Hussein Haji		-22708660
38.	Saadia Sheikh		-14650365

ID No.


- 39. Halima Issak Dima — 1128931
- 40. ASUKAR ALI ALLO — 12428726
- 41. Habiba mohamed Korahim — 22432576
- 42. NORR mohamed fomo — 26889230
- 43. Abdurastid Abdinour Bahir — 21455078
- 44. Adan Osmail Sheikh — 26653657
- 45. Hassan Abdurahman Ilyass — 2665529  
26655292



ON PASTORAL ORGANIZATION RESOURCES

26	JOSEPH LOSURU	TELMO CHAIRMAN	0914408393	
27	Abdikadir Mohamed	KLMC	0723555145	
28	DAVID KAKIR	CHAIRMAN LMA	0705348054	
29	Francis Kobot	TELMO Member	0711459472	

1

Michael Prod. desk 0718176667 

ATTENDANCE LIST FOR THE REGIONAL PASTORIST  
LIVELIHOOD RESILIENCE PROGRAMME WORKSHOP HELD  
AT MARIGATI, BARINGO COUNTY ON 13/11/13

<u>NAME</u>	<u>BUSINESS/ ORGANISATION</u>	<u>TEL.</u>	<u>SIGN</u>
✓1. SAMUEL CHEPKUTO	MARI COMMUNITY INTEG. DEV. PROGRAMME	0721964724	
✓2. Richard Bunduchi	Livestock Mogotio	0722285297	
✓3. AMOS D. NYAKEYO	NDMA - BARINGO	0770348855	
✓4. EVANS M. AYAYE	MIN OF AGRIC. LIV. AND FISHERIES DEVELOPMENT	0729975618	
✓5. PETER KIMATHI NJERU	NDMA - BARINGO M. WATER	0725065632	
✓6. PHILIP NANDWA	LAND RECLAMATION BEST	0720848953	
✓7. Ronald Tamu	Livestock Production	0724871571	
✓8. Dr. Kabba MKA	M.O. ALF	0723844244	
✓9. Nicholas K. Tator	Kimose Sheep & Goat station	0722575534	
✓10. JOSEPH K. NUESTIA	BUBA	0724299155	
✓11. ANNE C. ARUBE	CHURCH ANIMAL PRODUCTION SHEP	0725729722	
✓12. Michael Wakutu	Kolsan COPP	072634761	
✓13. MICHAEL K. CHEBII	LORUK PASTURE & BULKING STATION CHSIRMAN	0728634806	
✓14. LABAN C. LABATT	M.O. ALF	0722364449	
✓15. JOHN LEMLEM	M.O. ALF	0724401378	
✓16. RENSON LENOIKI	MARETOI YOUTH GROUP	0725174778	
✓17. DAVID K. BIWOT	K.V.D.A	0722897162	
✓18. Joseph K. Mairu	MOAKF	0724873623	
✓19. Alice Karanjis	K.V.D.A	0720534300	
✓20. Renson Kakima	MARIAN SHGT	0723073058	
✓21. Istifina Longochila	"	0723503544	
✓22. Denson Ngochila	"	0726387683	
✓23. JACKSON CHEBET	Mesuri Group	0711484264	
✓24. Joseph K. Siteney	KARI	072442075	
✓25. David K. Kasgei	Mogotio Livestock Improvement Centre (LIC)	0722468864	



17/11/2013

RUMURUTI - KAIKIPIA WORKSHOP (BUFFULO HOTEL)

1. D.K. KIGERA	Livestock Dept	0722-995-289
2. G.K. NDONYE	Livestock Dept.	0721 418 623
3. DR. D.N. THUD	Vet. Dept.	0722696191
4. DR. PETUA M. MWAL	VET DEPT	0726919989
5. DR. KIGURU MWANUKA	VET DEPT	0718473676
6. DR. FAITH W. GAKURA	VET DEPT	0720942555
7. AMBROSE LONGOOD	VET DEPT	0712864269
8. GEORGE MAKATAE	OOP	0706134734
9. ERICK NGELESHE	FARMER	0722560687
10. ALSIP KENAMOKIE	FARMER	0722-560687
11. JOSEPH KENYALWA	REOMTI	0722 899407
12. JOSEPH MAINA	LIVESTOCK	0723472821
13. CHARLES H. WUKUBA	LIVESTOCK	0716974371
14. JESON EEMANHIRO	ME NIEMI	0729542025
15. GEOFFREY ADALLA	D.L.P OFFICER	0721249283
16. ALEX W. KABENI		0728889707
17. JOHN GITHAMBO GATHY	FARMER	0722489846
18. ISAAC WANUCU	FARMER	0714872955
19. D.T.N. MWANGI	LIVESTOCK DEPT	0721443424
20. Jane N. Kagema	farmer	0722750655
21. Geshon maku	farmer	0726164388
22. SCOLASTICA W.N. MWANGI	LIVESTOCK DEPT.	0722-414113
23. ANDREW NIKIGOTHO	Farmer	0726942432
24. WILLIAM LETITIYA	Livestock Prod.	0727416131
25. Dr. Peter M. Njiru	Veterinary	0722 328343
26. STEPHEN G. GAI	VETERINARY	0725007546