

RP500 v2

Republic of Kenya

Resettlement Policy Framework

Natural Resource Management Project (NRMP)



January 2007 (updated May 2011)

Contents

1 INTRODUCTION	1
1.1 BENEFITS OF THE NRM PROJECT	1
1.2 PURPOSE OF THE RESETTLEMENT POLICY FRAMEWORK.....	1
1.2.1 Possible Types of Resettlement	1
1.2.2 Reasons for the Use of a ‘Resettlement Policy Framework’	2
1.3 PREPARATION OF THE RESETTLEMENT POLICY FRAMEWORK.....	2
2 PROJECT DESCRIPTION	3
2.1 NATURAL RESOURCE MANAGEMENT PROJECT (NRMP)	3
2.1.1 Project Development Objective	3
2.1.2 Components 1 – Water Resource Management and Irrigation	3
2.1.3 Component 2: Management of Forest Resources	4
2.1.4 Component 3: Livelihood Investments in the Upper Tana Catchment	6
2.1.5 Component 4: Management and Monitoring and Evaluation.....	6
2.1.6 Potential Sub-projects	7
2.2 IMPLEMENTATION ARRANGEMENTS	8
3 POTENTIAL IMPACTS OF THE PROJECT.....	9
3.1 DEFINITION OF PROJECT AFFECTED PEOPLE (PAPS)	9
3.2 CATEGORIES OF PAPS.....	9
3.3 APPROXIMATE NUMBERS OF PAPS.....	12
3.4 POTENTIAL RELOCATION AREAS	12
4 PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION	13
4.1 INVOLUNTARY RESETTLEMENT	13
4.2 PHYSICAL DISPLACEMENT	14
4.3 ECONOMIC DISPLACEMENT	15
5 IMPLEMENTATION ARRANGEMENTS	17
5.1 OVERVIEW.....	17
5.2 LOCAL LEVEL PLANNING AND IMPLEMENTATION	17
5.3 SPECIFIC ROLES IN THE COMPENSATION PROCEDURE	18
5.4 COMMUNITY COMPENSATION PAYMENTS.....	19
6 PROCESS FOR SCREENING, PREPARING AND APPROVING RAPs	20
6.1 SCREENING FOR INVOLUNTARY RESETTLEMENT	20
6.1.1 Screening Checklist.....	20
6.1.2 Screening Review Form.....	21
6.1.3 Subproject design	21
6.2 BASELINE AND SOCIO-ECONOMIC DATA	21
6.3 PREPARATION OF A SUBPROJECT RAP	22
6.4 REVIEW OF SUBPROJECT RAPs.....	23
6.4.1 Grievance Mechanism	23
6.4.2 Compensation and Benefits for Displaced Persons.....	23
6.4.3 Consultation.....	23
6.5 APPROVAL OF RESETTLEMENT ACTION PLANS	23
7 ELIGIBILITY CRITERIA FOR VARIOUS CATEGORIES OF AFFECTED PEOPLE	25

7.1 PRINCIPLES	25
7.2 ELIGIBILITY CRITERIA	25
7.2.1 Eligibility for Community Compensation.....	26
7.3 LOSS OF PROPERTY.....	32
7.4 LOSS OF WAGES AND INCOME	32
7.5 CUT-OFF DATE	32
8 LEGAL FRAMEWORK AND COMPARISON OF KENYAN LAWS AND REGULATIONS AND WORLD BANK REQUIREMENTS	34
8.1 OVERVIEW.....	34
8.2 PROCEDURES UNDER CHAPTER 295 OF THE “LAND ACQUISITION ACT”	34
8.3 PROCEDURES UNDER CHAPTER 288 OF THE “TRUST LANDS ACT”	35
8.4 COMPARISON BETWEEN WB OP4.12 AND KENYA LEGAL REQUIREMENTS	36
9 METHODS OF VALUING AFFECTED ASSETS.....	38
9.1 VALUATION PROCEDURE TO BE FOLLOWED.....	38
9.1.1 Use of Standard Valuation Tables	38
9.1.2 Preparation of Asset Inventory	38
9.1.3 Methods of Compensation.....	38
9.2 VALUATION METHODS TO BE ADOPTED	39
9.2.1 Replacement Cost Approach.....	39
9.2.2 Gross Current Replacement Cost.....	39
9.2.3 Other methods	39
9.3 CALCULATION OF COMPENSATION BY ASSET.....	40
9.3.1 Compensation for Land	40
9.3.2 Land Measurement	40
9.3.3 Calculation of Crops Compensation Rate	40
9.3.4 Compensation for Buildings and Structures.....	42
9.3.5 Compensation for Community Assets.....	43
9.3.6 Compensation for Sacred Sites.....	43
9.3.7 Compensation for Vegetable Gardens and Beehives.....	43
9.3.8 Compensation for Horticultural, Floricultural and Fruit trees.....	44
9.3.9 Other Domestic Fruit and Shade Trees	47
10 IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS.....	48
10.1 OVERVIEW.....	48
10.2 PROJECT LAUNCHING	48
10.3 IMPLEMENTATION SCHEDULE	49
11 GRIEVANCES REDRESS MECHANISMS.....	50
11.1 OVERVIEW.....	50
11.2 GRIEVANCE REDRESS PROCESS	50
11.3 PAPS REPRESENTATIVE COMMITTEE.....	51
12 RPF IMPLEMENTATION BUDGET	53
13 MECHANISM FOR CONSULTATIONS WITH, AND PARTICIPATION OF DISPLACED PERSONS IN PLANNING, IMPLEMENTATION, AND MONITORING.....	55
13.1 OVERVIEW.....	55
13.2 DATA COLLECTING PHASE	55
13.4 MONITORING AND EVALUATION PHASE.....	56
14 ARRANGEMENTS FOR MONITORING AND EVALUATION	57

14.1 OVERVIEW.....	57
14.2 MONITORING OF RPF IMPLEMENTATION.....	57
14.2.1 Storage of PAPs Details.....	58
14.2.2 Annual Audit.....	59
14.3 SOCIO-ECONOMIC MONITORING	59
ANNEXES	62

1 INTRODUCTION

The Government of Kenya (GoK) requested financial assistance from the World Bank for the implementation of the *Natural Resource Management Project* (NRMP; USD 68.5 million). The project seeks to improve social welfare, enhance living standards and promote the sustainable use of water, land, forests and other natural resources through support of small-scale initiatives (community-driven development as well as subprojects related to natural resources, forests and water management), construction of small- to medium- scale infrastructure (dams, irrigation schemes etc), policy advice, and institutional development. This Resettlement Policy Framework (RPF) is to be used for the project, in order to ensure full compliance with the standards set out by the World Bank's operational policy on involuntary resettlement (OP4.12), and the requirements of the Government of Kenya.

A joint RPF was prepared and disclosed in 2006 and was originally for NRM and the Western Kenya Community Driven Development and Flood Mitigation Projects. This RPF focuses on the NRMP and is being updated to reflect changes in the NRM project, which is proposed for restructuring.

1.1 BENEFITS OF THE NRM PROJECT

The goals of the NRM project are to improve social welfare and enhance living standards through appropriate environmental resource management. The project has been proposed for restructuring and the revised project development objective is "to improve management of water and forest resources in selected districts." Implementation is expected to have a widespread positive impact on overall socio-economic status and livelihoods of the target communities and the project-affected people (PAPs). However, the individual sub-projects that the NRM project will finance carry some risks of adverse environmental and social impacts. While the general impacts are addressed in the Environmental and Social Management Framework (ESMF), this report addresses the risks, which might arise if a sub-project requires for the economic or physical resettlement of populations. This Resettlement Policy Framework (RPF) provides guidelines on how the projects will avoid, manage or mitigate all these project related displacement risks.

1.2 PURPOSE OF THE RESETTLEMENT POLICY FRAMEWORK

The purpose of the RPF is to establish the resettlement and compensation principles, organizational arrangements, and design criteria to be applied to meet the needs of the people who own or use land or resources, which a subproject need to relocate or displace from their current places of residence or livelihood in order to achieve the project's objectives.

1.2.1 Possible Types of Resettlement

Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that results in displacement. This occurs in cases of: (i) lawful expropriation or restrictions on land use based on eminent domain; and ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. This resettlement policy framework covers direct economic and social impacts that result from the project, and are caused by:

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

1.2.2 Reasons for the Use of a 'Resettlement Policy Framework'

Owing to the community-driven nature of most components of the NRM project, the exact location, nature and magnitude of sub-projects to be financed cannot yet be determined. Therefore it is at this stage neither possible to determine the demography and livelihoods of the PAPs nor the resettlement related impoverishment risks they might face. Consequently it is not yet possible to prepare Resettlement Action Plans (RAPs), which specify the detailed mitigation measures and develop strategies to provide for livelihood restoration. In line with international and World Bank standards (OP 4.12) this RPF has been developed to provide guidelines on how the projects will avoid, manage or mitigate potential risks and the process by which Resettlement Action Plans (RAP) will be prepared and implemented. The preparation of RAPs is likely to be required once the location and scope of individual subprojects is known. For the two protected areas (Tana and Elgon) which fall within the scope of this Project, a RPF was prepared (required under the OP 4.12) prepared before the project became effective in 2008 ⁽¹⁾, as it is likely that the subprojects may lead to a restriction for the access of populations to gazetted and/or protected forests. The process for preparing RAPs and a Process Framework (PF) is outlined in *Chapter 5* of this RPF.

1.3 PREPARATION OF THE RESETTLEMENT POLICY FRAMEWORK

This RPF is the result of a preparation study with the following objectives:

1. To assess the potential areas of environmental and social impact of the NRM Project;
2. To inform the project preparation process of the potential environmental and social impacts of different alternative livelihoods and propose relevant mitigation measures;
3. To establish clear directives and methodologies for the environmental and social screening of project activities that will be supported by the proposed project.

2 PROJECT DESCRIPTION

This chapter sets out descriptions of the NRM project, and the potential sub-projects to be financed under the various components of the projects.

2.1 NATURAL RESOURCE MANAGEMENT PROJECT (NRMP)

2.1.1 Project Development Objective

The objective of the NRM project is *to improve management of water and forest resources in selected districts*. The project operational area includes all districts of the Central Province with a special focus on the middle and lower Tana water catchment and the forested areas in Mt. Elgon, Cherangany Hills, Nandi Hills, and Kakamega forest. The project will be implemented over six years, and became effective in December 2007.

2.1.2 Components 1 – Water Resource Management and Irrigation (US\$ 44.5 million, including US\$38.1 m IDA).

Water is one of Kenya's key natural resources upon which it depends for development and growth. However water resources are under developed as a result of long term under-investment in the sector which makes the economy as a whole and the poor in particular extremely vulnerable to the highly variable climate which Kenya has, both to drought and floods. Over the past several years the Kenya government has undertaken a far-reaching program of reform in the water sector which has resulted in the promulgation of the 2002 Water Act. The project will implement the water act in the project areas.

Subcomponent 1.1 Strengthening the Capacity of the WRMA, with Direct Investments in the Upper Tana Catchment (US\$15.5 million, including US\$14.3 m IDA): The project will strengthen the Water Resource Management Authority (WRMA), established in July 2005, nationally, in its seven Regional Offices and its twenty five sub-regional offices. The support will enable the WRMA to equip its offices and undertake its core business, river and groundwater monitoring, which in turn will enable it to administer and control the use of water by users and begin to reverse the widespread degradation of catchments. Funds for consultation and institutional strengthening are also provided, specifically to ensure the effective functioning of the Authority. In addition, an economic analysis study will be supported, to identify key strategic investments in water resources infrastructure required to underpin the growth of Kenya's economy which will include the identification of water related vulnerability of in sectors such as energy, urban and industrial development, agriculture, fisheries etc. In particular the question of increasing water storage in strategic locations to reduce the vulnerability of the economy will be reviewed in addition to protecting the country's water towers from the impacts of increasing catchment degradation.

The focus will be on management of catchment area of the upper Tana River west of the hydroelectric dams. Activities will include strengthening of the information base, improving decision making to include water users, training and sensitization of farmers to improve land-use and water conservation methods. The WRMA will target micro-catchment 'hotspots' through participatory process, and invest one million dollars per year in catchment protection activities such as erosion control and terracing, changing land use patterns on steep slopes and degraded areas, improvement of on-farm agronomic practices and improved water management including small to medium water storage infrastructure and the rehabilitation of existing structures as well as. The regional WRMA will work closely with the Kenya Forest

Service (KFS) to ensure synergies with their work in the gazetted forest and with neighboring communities.

Livelihood based catchment management by communities will allow these poor communities to realize benefits from their efforts in conserving these catchments. Exposure and dialogue with communities to arrive at the right community interventions will depend on the accelerated involvement of experienced groups among communities who can take advantage of technical training to be provided under the project. Technical support to communities for catchment management will be coordinated and supervised by the WRMA with technical support from relevant government agencies and nongovernment entities. These support teams will work with communities in individual micro-catchments to design and implement micro-catchment management plans.

Subcomponent 1.2 Consolidation of Irrigation Reforms and Investments (US\$29.05.7 million, including US\$23.8 m IDA): The objective of this component is to contribute to sustainable irrigation development through the consolidation of reforms of NIB (national irrigation board) and development of irrigation in the downstream part of Nzoia basin. Achieving these objectives will involve further restructuring of the NIB along the lines that have been identified and in accordance with the Irrigation Policy, and strengthening the role of farmers in scheme management. Upon adoption of the Irrigation Policy, the project will also support preparation of an Irrigation Strategy and Business Plan, and an Irrigation Act. Achievement of the above agenda would trigger investments in irrigation.

Mwea, the largest public irrigation scheme in Kenya, will benefit from scheme improvement to accommodate the unplanned 4,000ha top-end expansion of the scheme shortly after the events of 1998, as a result of which tail-end areas now suffer from water shortages. Options are currently being identified to improve overall scheme management and achieve equitable allocation of water. This could include, e.g., development of water storage facilities that will stabilize irrigation water supply at the tail ends of Wamumu section, reducing conflicts and sustaining production during critical water scarce periods. Rehabilitation of Mwea will also be conditioned by agreement with Mwea Rice Growers Multipurpose Society on rules, roles, responsibilities and credible enforcement mechanisms to improve governance of the scheme. In preparation of the investments, and in parallel to the institutional reform agenda identified above, the project will in all considered schemes and immediately after project effectiveness start strengthening capacities of IWUAs and conducting rapid feasibility assessments of the proposed schemes.

2.1.3 Component 2: Management of Forest Resources (US\$ 22.4 million, including US\$ 21.1 m IDA)

With the recent passage of the Forest Act, Kenya is advocating a major shift away from exclusive government conservation and management of forest resources. The Act emphasizes joint management by local communities and private sector for the protection and sustainable use of forests, requiring improved forest governance and participation and investment by stakeholders. This is consistent with the wider and ongoing reforms in related sectors such as water resources. To operationalize the Act the Ministry of Forestry and Wildlife (MoFW) and the newly established KFS will require (i) assistance in creating a transparent and accountable regulatory and institutional framework, and (ii) targeted support to implement the Act.

Subcomponent 2.1 Forest Sector Institutional Reforms. (US\$10.1 million, including US\$9.4 m IDA) Activities planned under this sub-component will assist the GoK with the reforms necessary to transform the FD to a semi-autonomous KFS at national level. Inputs will be targeted at activities enabling institutional arrangements to enhance forest governance and improve revenue capture not supported in the GoK budget. The assistance will support formulation and implementation of a strategic plan for KFS for enabling socially and environmentally sound implementation of the Act and improving revenue capture while increasing transparency, accountability and integrity. Emphasis will be given to improving the information base for improved development and management of forest plantations and better protection and management of indigenous forests. To address the lack of reliable data on forest resources, it is envisaged that the project will conduct a phased Forest Resources Assessment (FRA) of forest resources. This will include a rapid assessment of forests and a more detailed inventory of plantations, indigenous forests and farm forests. Necessary investments in training and sensitization, equipment and other infrastructure will be made at different levels with emphasis on the district level to facilitate technical and cultural change required for an effective and accountable KFS. Resources will also be used for technical assistance and training for FD staff likely to be made redundant to offer options for private sector employment and entrepreneurship.

Subcomponent 2.2 - Enabling Community Participation and Benefit Sharing (US\$9.63 million, including cost US\$9.3 m IDA): While the new Forest Act is innovative with respect to the promotion of stakeholder participation, it does not clearly articulate rights and responsibilities of concerned parties, process for developing and approving management plans, or benefit sharing arrangements. The subsidiary legislation of the Forests Act will be critical guiding decision-making, management responsibilities and benefit-sharing. Assistance will be provided to identify and prioritize an array of partnership models to implement the legislative framework and improve benefit sharing.

While not excluding upfront other areas, during project preparation it was agreed to initially focus on Kakamega, Mt. Elgon, the Aberdares and Upper Tana. Bank financing of this subcomponent will emphasize sustainable and participatory forest management. Land-use-conflicts over certain forest areas and the process for reclaiming these areas have aggravated the already tense relationship between the rural populations in and near forests and the GoK. To address this situation, financing will be provided to formulate and implement a coherent and transparent framework to mitigate current and future conflicts over land, customary rights and rights of Indigenous People¹. No resettlement or restricted access to forest resources is put in place before detailed mitigation measures (resettlement action plans and resettlement process frameworks) are put in place.

Subcomponent 2.3 Community and Private Sector Investment in Commercial Forestry (US\$ 2.7 million, including US\$ 2.4 m IDA): The Forest Act aims to revitalize Kenya's forest industries and ensure closer integration between forest products manufacturing, harvesting and forest management objectives as well as to generate increased rural incomes. Assistance will be provided to

¹ In the context of the NRM Project, the term Indigenous People refers to Marginalized and Vulnerable Groups such as Ogiek and Sengwer/Cherangany Communities in project areas.

strengthen institutional support services for the creation of an enabling environment for community and private sector involvement in development and management of production forests. This will be achieved by supporting the establishment and operationalization of a KFS Investment Center. Funding will be provided to ensure transparent systems for concession allocation; valuation and tendering are in place. In addition, Bank financing will assist developing capacity in KFS to motivate and manage private investment in sustainable forest management.

2.1.4 Component 3: Livelihood Investments in the Upper Tana Catchment (US\$ 6.2 million, including US\$ 4.5m IDA)

As the roles and opportunities for communities in implementation of components one and two above are identified, a third, more demand driven window of funding for livelihoods investments in the Upper Tana catchment will be offered. Using a Community Driven Development (CDD) approach, proposals will be sought from communities in the treatment catchments and forest perimeters to invest in livelihood enhancing micro-projects which support the natural resource base. For example, opportunities to establish afforestation schemes in the watersheds, development of private sector/community partnerships for timber, fuelwood and pulp production, production and sale of seedlings, introduction of productivity-enhancing techniques of agro-forestry or conservation farming, and other investments in on farm agriculture development will be considered. The approach will bring different actors from different sectors under a steering committee to vet and prioritize proposals. One million dollars per year would be available for community micro-projects, with additional funds for capacity building and training. A secretariat for the component has been established in the WRMA sub-regional office in Embu, to manage the component. Once proposals are selected, targeted engagement with communities, employing capacity building techniques and technical training will be used to support the communities in implementation of their micro-projects. Arrangements would maximize synergies for capacity building, building on existing Community Based Organizations (CBOs) to support community micro-projects. This would provide an efficient, multi-sectoral delivery mechanism for community based interventions in the catchment.

2.1.5 Component 4: Management and Monitoring and Evaluation (US\$ 4.9 million, of which US\$ 4.8 million IDA)

This component will provide the resources necessary for effective management and monitoring of the project. Management of the tasks undertaken by the two line ministries, Water and Irrigation, and Environment and Natural Resources, and their respective organizations, will be mainstreamed. The ministries will, however, be strengthened in the financial management and procurement functions in order to manage the requirements of IDA credit management. Funds will also be made available for the development and implementation of a communications strategy. In addition, an overarching framework for monitoring and evaluation will be necessary. To accomplish the management of monitoring and evaluation, each ministry will have a M&E expert assigned. Additional resources will be made from other sustainable development projects in Kenya, namely WKCDD/FM Project, Kenya Agricultural Productivity Program (KAPP), Kenya Agricultural Productivity – Sustainable Land Management (KAPSLM) Project and WKIEMP, to establish an overarching management information system (MIS) and impact evaluation system. The projects will have to the extent possible a merged set of

indicators for M&E capturing both the changing status of the natural resources (water, forests, and biodiversity) and the welfare of participating communities.

2.1.6 Potential Sub-projects

The types of sub-projects that are likely to be financed by each component in NRM project are set out in *Table1*.

Table 1. NRM Project: Likely Sub-projects

Component	Sub-Component	Types of sub-projects
Water resource management and Irrigation	Legislation harmonization and identification of priority investments	Harmonization of water related legislation; strategic water investment identification.
	Tana catchment investments	Catchment protection activities such as erosion control and terracing, changing land use patterns on steep slopes and degraded areas, improvement of on-farm agronomic practices and improved water management including small to medium water storage infrastructure and the rehabilitation of existing structures
	Irrigation reform and investments	Extension of the Mwea irrigation scheme. Other existing schemes (Ahero, Bunyala, West Kano and Perkerra) and a new scheme (Bunyala/Budalangi) will receive assistance based on demands
Forest resource management	Forest sector institutional reform	Creation of a human development and business plans to change FD to become the KFS; provision of vehicles and equipment; training and capacity building; development of a forest strategy and a Forest Resources Assessment of all forest resources
	Enabling Community Participation and Benefit Sharing	Reforestation/afforestation in Kakamega, Aberdares, Mt. Kenya and Mt Elgon, Cherangany Hills, Nandi Hills etc.; promotion of partnership management of forests; awareness and capacity building; rehabilitation of livelihoods of previously evicted populations.
	Community and private investment in commercial forestry	Support for concessioning approaches; technical assistance and training; on-farm forestry initiatives; support for improved revenue collection system; plantation initiatives

Component	Sub-Component	Types of sub-projects
Multi-sectoral micro-catchment management		Livelihood support in Upper Tana that promotes natural resource conservation e.g. tree- nurseries, agro-forestry, plantations etc.; social accountability; institutional strengthening.
Management, monitoring and evaluation		Financial management; monitoring and evaluation; communication strategy

2.2 IMPLEMENTATION ARRANGEMENTS

The NRM project will be implemented through the Ministry of Water and Irrigation (MoWI) and the Ministry of Forestry and Wildlife (MoFW). A national project steering committee consisting of permanent secretaries of MOWI, MoFW, Ministry of Environment and Mineral resources (MEMR), Special Programs, Agriculture, Lands and any other relevant institutions to be determined would meet twice a year to discuss the project work program, progress and potential areas of synergy with other programs and projects. The following table outlines the institutional arrangements in place.

Table 2. Institutional Arrangements to Ensure Implementation at Each Level

Institutional Level	Water Resources Management/Irrigation	Forest Resources management	Livelihood investments
National Level	MoWI, WRMA, NIB	MoFW, KFS, (inter-ministerial Taskforce on Land issues	
Sub-national level		KFS (Conservancies)	WRMA, NIB, KFS
Community/sub-catchment Level	WRMA Sub-regional office, WRUA, NIB Scheme, IWUA	KFS (Zones), CFA	WRMA Sub-regional office, NIB Scheme, KFS Forest Zone/Station

3 POTENTIAL IMPACTS OF THE PROJECT

3.1 DEFINITION OF PROJECT AFFECTED PEOPLE (PAPS)

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

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

3.2 CATEGORIES OF PAPS

Land acquisition for sub-projects may result in negative impacts to different categories of PAPS. Until the exact sub-project locations are determined it is not possible to estimate the likely number of people who may be affected, because the technical details of the sub-projects have not yet been developed. However, the likely displaced (economically or physically) persons can be categorized into these 3 groups:

(i) Affected Individual. Individual who risk losing assets, investments, land, property and/or access to natural and/or economical resources as a result of a NRM subproject. This could be a person, who farms on steep slopes or who gather fire wood in gazetted forests.

(ii) Affected Household. A household is affected if one or more of its members are affected by any NRM subproject. This includes:

- (a) Any members in the households, men, women, children, dependent relatives and friends, tenants;
- (b) Vulnerable individuals who may be too old or ill to farm along with the others;
- (c) Members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence. Members of households who may not eat together but provide housekeeping or other activities critical to the family's maintenance; and
- (d) Other vulnerable people who cannot participate, due to being physically challenged or for cultural reasons, in production, consumption, or co-residence. In the local cultures, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular

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

(iii) Vulnerable Households. Vulnerable households may have different land needs from most households, or needs unrelated to the amount of land available to them. Vulnerable households are:

- (a) **Vulnerable and Marginalized Groups** - are often closely tied to their traditional or customary lands and natural resources on these lands, but these lands may not be under legal ownership pursuant to national law. Due to that any form of resettlement embodies for vulnerable and marginalized groups more serious risks than for any other populations and should consequently be avoided. If this is not feasible, the vulnerable and marginalized groups’ land use will be documented by experts in collaboration with the affected households without prejudicing any land claim, the affected vulnerable and marginalized groups will be informed of their rights with respect to these lands under national laws, including any national law recognizing customary rights or use, the project will offer affected vulnerable and marginalized groups at least compensation and due process available to those with full legal title to land in the case of commercial development of their land under national laws, together with culturally appropriate development opportunities; land-based compensation or compensation-in-kind will be offered in lieu of cash compensation where feasible and the project will enter into good faith negotiation with the affected vulnerable and marginalized groups, and document their informed participation and the successful outcome of the negotiation.
- (b) **Unmarried women** - who may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom s/he is linked in dependency as part of the household, resettlement will not sever this link.
- (c) **Elderly** - elderly people farm or work as long as they are able. Their economic viability may depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their kith and kin and neighbors. Losing land will affect their economic viability. What would damage their economic viability even more than losing land is resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.
- (d) **HIV/AIDS afflicted persons** - relatively high percentages of the poor and total population are living with HIV or are terminally ill with AIDS. Many are beneficiaries of numerous health programs from government (central and local), international organizations and the NGO community.
- (e) **Orphans and street children** - due to the impacts of the AIDS crisis that plagues Kenya today, there are a considerable number of orphaned children, whose parents have died from AIDS. These children today fall into three categories of care: (i) those being looked after by an uncle, aunt, grandparents or other close relative, (ii) those being looked after by the government, local authorities or NGOs and (iii) those living alone and providing for themselves and other siblings. These children are more vulnerable since they are often “voiceless” because they have no parents to defend or stand up for them and also because they are considered too young to be heard. Orphaned children engage in any form of

economic activity to provide for themselves and their siblings, by engaging in activities such as manual work at open air markets, transporting of loads for short distances in centers, scavenging for waste paper and metals and other exploitative employment etc. Despite the laws of Kenya and the International Labor Organization (ILO) prohibiting the exploitation of children, it is a reality that street children are either in paid employment or are on the streets in some areas in Kenya. They tend to live in close proximity to large towns and cities. Compensation for these orphans and street children, if they are affected by the projects in a way which requires their physical relocation, cannot be in cash. They will have to be put in a UNICEF program or registered with one of the many children's charities that are operating in Kenya today. Their compensation would take the form of paying for their rehabilitation and training to acquire useful vocational skills.

- (f) **Woman-headed households** – may depend on husbands, sons, brothers, or others for support. However, in other cases too, women are the main breadwinners in their household even where the men have remained with the family. Women therefore need relatively easy access to health service facilities, as mothers and wives. For example, where the land being acquired is used by a woman with no formal rights to it or a woman who is dependent on a man other than her husband for her primary income. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.
- (g) **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 such as ringing trees, clearing or ploughing land. Either male relative in other households help them voluntarily, or they hire men for cash, or food. Land compensation specifically includes the labor costs of preparing a new land, so these women are provided for by the compensation plan.
- (h) **Non-farming females** – these 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. If a building of theirs lies on land needed by a subproject, they will receive replacement cost compensation. If someone on whom they depend is resettled, they are protected because the resettler can name them as part of the household.

These household types are not mutually exclusive, so that a female heading a household may be small-scale farmer or an orphan may be an AIDS afflicted person.

These groups could be identified as being particularly vulnerable to land acquisition activities, and as such the following considerations will be made when project sites are identified and PAPs listed:

- i) Special consideration should be paid to these groups by identifying their needs from the socio-economic and baseline studies undertaken as part of the RAP and PF process;
- ii) The groups should be individually consulted and given opportunities to participate in the resettlement decision-making process, as well as project activities;
- iii) Consultation with these groups should ensure that resulting resettlement and compensation improves their pre-project livelihood;
- iv) The RAPs and PFs should be designed to ensure special attention is paid to the monitoring of the resettlement process in order to ensure that pre-project livelihoods are indeed improved upon;

- v) PAPs and PFs should be given sufficient technical and financial assistance to make use of the grievance mechanisms of the project where required;
- vi) Decisions concerning them should be made in the shortest possible time.

3.3 APPROXIMATE NUMBERS OF PAPs

It is important to underscore that at this stage it is not possible to determine the number of PAPs for several reasons:

- (a) The individual subprojects of the community driven development components (NRM Comp. 1.1. & 3) will be identified during project implementation by the local communities in a participatory process. Due to this, the locations, nature and magnitude of these subprojects cannot be determined before implementation. For each sub-project, which might require physical and/or economic resettlement (this will be assessed through screening processes), the number of PAPs will be established through a RAP, which will be elaborated before project implementation.
- (b) At appraisal stage it was assessed that some of the water management related sub-projects (NRM Comp. 1.2) might require the physical and/or economic resettlement of populations to provide space for the rehabilitation and extension of water storage facilities and/or irrigation schemes. However, project descriptions do not exist for any of these sub-projects that would allow an estimate of the number of PAPs to be made. For each sub-project that is considered during screening to require physical and/or economic resettlement, the number of PAPs will be established through a RAP, which will be elaborated before the sub-project is approved for inclusion in the work program of the project.
- (c) The forest related activities (NRM Comp. 2) might require the physical and/or economic resettlement from protected forests (gazetted forests, etc.) and non-protected forests. As the participatory forest management plans - to be elaborated under this component - will determine the extent to which local forest use will be legalized, it is presently impossible to estimate the number of PAPs nor their exact locations. The guidelines for access to these resources will be established for all protected forests through process frameworks (PFs) to address the issue of restricted access to resources, and through RAPs for actual relocations. All these studies will be put in place before any resettlement or restricted access is put in place. The exact number of people in the operational areas which have been evicted after the new government was sworn in is unknown, but from anecdotal evidence is understood to be in the region of around 20,000 individuals nationally (Kenya Land Alliance).

3.4 POTENTIAL RELOCATION AREAS

The location for resettlement will be identified during the development of individual sub-project RAPs, which will involve consultation with relevant authorities and the PAPs involved.

4 PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION

Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities, as well as environmental damage and social stress in areas to which they have been displaced. For these reasons, the project will avoid involuntary resettlement, or if this is not feasible at least minimize it to the extent possible. However, where it is unavoidable, appropriate measures to mitigate adverse impacts on displaced persons and host communities will be carefully planned and implemented following the general framework outlined in this document.

4.1 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. Indeed, the nine most common impoverishment risks are:

- (a) **Landlessness.** Expropriation of land removes the main foundation on which many people build productive systems, commercial activities and livelihoods. Often land is lost forever; sometimes it is partially replaced, seldom fully replaced or fully compensated. This is the main form of de-capitalization and pauperization of the people who are displaced. Both natural and man-made capital is lost.
- (b) **Joblessness.** Loss of salaried employment occurs both in rural and urban displacement. People losing jobs may be industrial or service workers, landless agricultural laborers, or artisans. Unemployment or underemployment among resettlers may linger long after physical relocation. Creating new jobs for them is difficult and requires substantial investments, new creative approaches, and reliance on sharing project benefits.
- (c) **Homelessness.** Loss of shelter may be only temporary for many people, but for some it remains a chronic condition and is also felt as loss of identity and cultural impoverishment. Loss of housing may have consequences on family cohesion and on mutual help networks if neighboring households of the same kinship group get scattered. Therefore, group relocation of neighbors is usually preferable over dispersed relocation.
- (d) **Marginalization.** Marginalization occurs when relocated families lose economic power and slide down towards lesser socio-economic positions: middle-income farm-households become small landholders; small shopkeepers and craftspeople lose business and fall below poverty thresholds. Economic marginalization tends to be accompanied by social and psychological marginalization, expressed in a drop to a lower social status with its attached stigma, in resettlers' loss of confidence in society and in themselves.
- (e) **Increased morbidity and mortality.** Vulnerability of the poorest people to illness is increased by forced relocation, because it tends to be associated with increased stress, psychological traumas, or the outbreak of parasitic diseases. Decreases in health levels result from unsafe water supply and sewage systems that proliferate epidemic infections, diarrhea, dysentery, etc.
- (f) **Food insecurity.** Forced uprooting diminishes self-sufficiency, dismantles local arrangements for food supply, and thus increases the risk of chronic food insecurity. This is defined as calorie-protein intake levels below the minimum necessary for normal growth and work.

- (g) **Educational loss.** Involuntary displacement disrupts all public services at the departure sites, with heavy effects particularly on schools' functioning. Interruption of school attendance causes prolonged loss of access to education; some children *do not return* to school at all and are prematurely sent by their families to join the labor force.
- (h) **Loss of access to common property.** Poor farmers, particularly those without assets, suffer a loss of access to the common property goods belonging to communities that are relocated (e.g., loss of access to forests, water bodies, grazing lands, cemetery lands, etc.). This represents a form of income loss and livelihood deterioration that is typically overlooked by planners and therefore uncompensated.
- (i) **Social disarticulation.** The dismantling of community structures and social organization, the dispersion of informal and formal networks, local associations, etc. is a massive loss of social capital. Such disarticulation undermines livelihoods in ways usually not recognized and not measured by planners, and is a cause of disempowerment and impoverishment. Because resettlers are non-homogeneous groups, the risks highlighted above differentially affect various categories of people: rural and urban, indigenous and non-indigenous groups, etc. Research shows that women suffer the impacts of displacement more severely than men do. Maximum safeguarding is achieved when involuntary displacement is avoided altogether. Avoidance is the first response to risks that should be considered. Recognizing risks upfront and their financial implications is often a powerful stimulus to search for an alternative that eliminates the need for displacement or cuts down its size. This is technically possible, for instance, by changing the site of a projected dam, or by re-routing an irrigation channel around (rather than through) a dense human settlement; many other technical optimization solutions can be found through creative search.

4.2 PHYSICAL DISPLACEMENT

If people must move to another location due to the implementation of a subproject, the project, which covers this subproject, will:

- i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and
- ii) provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable. Alternative housing and/or cash compensation will be made available prior to relocation. New resettlement sites built for displaced persons will offer improved living conditions. In the case of physically displaced persons with recognized or recognizable rights, the project will offer the choice of replacement property of equal or higher value, equivalent or better characteristics and advantages of location, or cash compensation at full replacement value.

In the case of physically displaced persons without recognizable rights, the projects will offer them a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction.

Where these 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, provided that these people have occupied the project area prior to a disclosed and agreed cut-off date. Compensation in kind will be offered in lieu of cash compensation where feasible. Based on consultation with such displaced persons, the client will

provide relocation assistance sufficient for them to restore their standards of living at an adequate alternative site.

Where communities of vulnerable and marginalized groups are found to be living on land, which a subproject wants to use in a way, which would require the physical displacement of vulnerable and marginalized groups from their communally held traditional or customary lands, the project will explore all options to avoid the physical relocation of vulnerable and marginalized groups (for example from Mt. Elgon), because physical relocation of vulnerable and marginalized groups is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods. The result of this option assessment will need to be cleared by the World Bank before such relocation could be financed under the project.

In exceptional circumstances, when it is not feasible to avoid relocation, the project will not carry out such relocation and/or provide funding for any subproject, which would require such relocations, without obtaining broad support for it from the affected vulnerable and marginalized groups' communities as part of the free, prior, and informed consultation process. If this need arises in the context of the NRM project the project will prepare a RAP and an vulnerable and marginalized groups plan in accordance with the World Bank's operational policy (OP 4.10 Indigenous Peoples) and ensure that is the entire process is compatible with the vulnerable and marginalized groups' cultural preferences, and includes a land-based resettlement strategy. Where possible, the RAP should allow the affected vulnerable and marginalized groups to have access to resources, as defined in the PF, and to sustainably use resources in the lands and territories they traditionally owned, or customarily used

4.3 ECONOMIC DISPLACEMENT

If land acquisition for a subproject causes loss of income or livelihood, regardless of whether or not the affected people are physically displaced, the projects will meet the following requirements:

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

Where communities of vulnerable and marginalized groups are found to be using resources (forests etc.) on which a subproject wants to put restrictions in place, thus would require their economical displacement, the projects will explore all options to avoid the restricted access of vulnerable and marginalized groups. These are described in the PF. Additionally, since they are former hunter-gatherers, they are more dependent on access to forests and other natural resources, compared to other groups. As this situation might arise under the forest component of the NRM project, the NRM project will assist the KFS to explore all options to include the forest use patterns of vulnerable and marginalized groups into the participatory forest management plans. The result of this option assessment will need to be cleared by the World Bank before the enforcement of such restriction could be financed by the NRM project. The Indigenous Peoples Planning Framework (IPPF) developed additional measures to avoid, mitigate and compensate for such economic resettlement of vulnerable and marginalized groups and this framework is translated into Vulnerable and Marginalized Group Plans (VMGPs).

5 IMPLEMENTATION ARRANGEMENTS

5.1 OVERVIEW

The project is implemented through the MoWI and the MoFW. A national Project Steering Committee (PSC) consisting of Permanent Secretaries of MoWI, MoFW, Ministry of Environment and Mineral Resources (MoEMR), Office of the President (OP) Special Programs, Ministry of Agriculture, Lands and any other relevant institutions to be determined would meet twice a year to discuss project work program, progress and potential areas of synergy with other programs and projects. Full time component coordinators have been appointed. WRMA and NIB will appoint full time subcomponent leaders. A Project coordination Office (PCO) has been established in MoWI to facilitate staff from all implementing agencies to prepare the necessary fiduciary and monitoring reports, and for overall project coordination. Table 3 sets out the institutions involved, and their overall role in the RPF implementation process.

Table 3 Overall Institutional Roles in RPF Process

Institution Role	Role
District Authority	Screening of sub-projects and in cases where resettlement is unavoidable, formation of Resettlement Committees.
Resettlement Committees at Sub Project Level (made up of Village elders and selected community representatives, Local Chief and Assistant Chief, Women Representatives, Local Political representative (Councilor), Local District Office)r.	Vetting of PAPs to be resettled through public interviews, after which completed RAPs are submitted to Ministry of Lands and the World Bank
District Steering Groups	Coordinates grievance mechanisms
District and Divisional land committees	Approval of subdivision and transfer of land titles to PAPs at Division and District Levels.
County Councils	Approval of District proposals for relocation Sites
Office of The President (Special Programs)	In control of financing of RAPs. Oversight of all resettlement activities in all sub-projects, and coordinator of links with Ministry of Lands.
Ministry of Environment and Natural Resources, Ministry of Water and Irrigation, National Irrigation Board, Ministry of Forestry and Wildlife, KFS Ministry of Lands	Provision of technical support
	Oversight of land expropriation and resettlement processes at the district and subproject level. Departments of Land at District level will Issue titles to resettled PAPs at district level.

5.2 LOCAL LEVEL PLANNING AND IMPLEMENTATION

At the local level, a work program will be developed for the local development component, through a transparent decision making process. The work program and budget at district level, and progress reports on all aspects of project implementation in each district will be displayed

on a prominent information board at district headquarters. District Development Officers (representing the Ministry of Finance and Planning) will be responsible for coordinating development initiatives alongside the District Commissioners.

The District Councils/authorities shall take responsibility for implementation of the RPF, with assistance from other line local offices of the above mentioned Government ministries.

5.3 SPECIFIC ROLES IN THE COMPENSATION PROCEDURE

A. Public Participation with the PAPs would initiate the compensation process as part of an ongoing process that would have started at the planning stages when the technical designs are being developed and at the land selection/screening stage. This process therefore seeks their involvement and wishes to involve PAPs in a participatory approach with the project, from the beginning.

B. Notification of land resource holders – in cases where there is clearly no identified owner/user, the respective local land control boards and the resettlement committee having been involved in identifying the land that the Resettlement Committee's require will notify the community leaders and representatives who will help to identify and locate the land users. These leaders and representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The user(s) will be informed through both a formal notification in writing and, for as many people as are illiterate, by verbal notification delivered in the presence of the Local Chief and representatives of the local Land Control Board, Local Councilor and PAPs and a Community Elder.

C. Documentation of Holdings and Assets – the Representatives of the Local Land Control Board and The area Chief, a Local Elder and other members of the Resettlement Committee will arrange meetings with affected individuals to discuss the compensation process. For each individual or household affected, officials of the Resettlement Committee completes a compensation dossier containing necessary personal information on, the affected party and those that s/he claims as household members, total land holdings, inventory of assets affected, and information for monitoring their future situation. This information is confirmed and witnessed by local land control board Chairman, Local Chief, Area Councillor, a local elder. Dossiers will be kept current and will include documentation of lands surrendered. This is necessary because it is one way in which an individual can be monitored over time. All claims and assets will be documented in writing.

D. Agreement on Compensation and Preparation of Contracts – All types of compensation are to be clearly explained to the individual and households involved. The respective Resettlement Committees draws up a contract listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind compensation has an order form which is signed and witnessed. The compensation contract and the grievance redress mechanisms are read aloud in the presence of the affected party and the representative of the Local Land Control Board, The Local Chief, Local Councilor, a Representative of PAPs and local Community Elder prior to signing.

E. Compensation Payments – All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, the Chairman or

representative of local Land Control Board, Local Councilor, Local Elder, Representative of the PAs and Local Chief.

5.4 COMMUNITY COMPENSATION PAYMENTS

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

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

6 PROCESS FOR SCREENING, PREPARING AND APPROVING RAPs

This section sets out the step by step process that NRM project will take to determine whether the subproject will result in physical or economic displacements, and therefore whether a RAP is required and if so, how to prepare and implement one. *Section 6.1* describes the screening process, while sections thereafter describe the detailed actions required to prepare RAPs. The screening process presented below will ensure that subprojects presented to the NRM project for funding comply with the requirements of OP 4.12 and the Kenyan law under Sections 75, 117 and 118 of the Constitution, and specifically Chapter 295 under the General Land Act relating to land acquisition/use and resettlement.

6.1 SCREENING FOR INVOLUNTARY RESETTLEMENT

Subproject screening is used to identify the types and nature of potential impacts related to the activities proposed under the Project and to provide adequate measures to address the impacts. Screening for resettlement issues shall be part of the environmental and social screening, as is detailed in the ESMF.

Measures to address resettlement shall ensure that PAPs are:

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

Subproject screening will be incorporated into the subproject application form which the District Council must submit as part of their local development plan. The goal is to identify and consider resettlement issues as early as possible.

On the basis of the screening, the DDO will propose which of the following option should be put in place: (a) an option assessment of alternative project designs in view to avoid and/or reduce displacement risks; (b) the elaboration of an open minded option assessment as vulnerable and marginalized groups might be affected and if avoidance is not feasible an vulnerable and marginalized groups plan (this decision will need to be co-signed by the vulnerable and marginalized groups screening structure); (see draft TORs in Annex 9 of the IPPF); (c) The elaboration of a resettlement process framework (PF) where subprojects may lead to a restriction of the access of populations to gazetted and/or protected forests (see draft TORs in *Annex A*); and (d) the elaboration of a resettlement action plan to address all other resettlement risks (see draft TORs in *Annex B*);

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

6.1.1 Screening Checklist

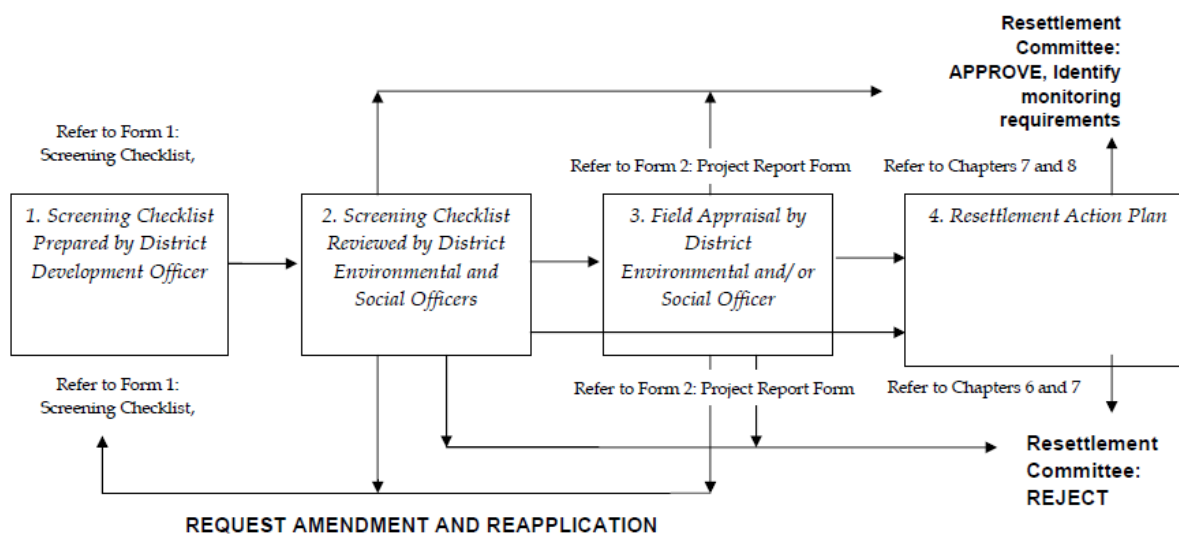
The screening checklist form is shown in *Annex C*, and will be incorporated into the Project's Implementation Manual. The screening checklist will be completed by a District Development Officer and submitted to the Resettlement Committee for a decision. In case that vulnerable and

marginalized groups might be affected, the IPPF provides an additional recommendation whether the justification for a physical and/or economic resettlement and/or whether the proposed option is shared by the affected vulnerable and marginalized groups.

6.1.2 Screening Review Form

The screening form will then need to be reviewed by the DESO and cleared by the Resettlement Committee. The Resettlement Committee will advise whether an additional option assessment should be carried out in view to avoid or reduce the physical or economic displacement or whether the argument of the subproject proposal is providing sufficient evidence for the decision proposed. The checklist review form, presented in *Annex C*, prompts the reviewer to verify the information provided, and confirm the best course of action.

Figure 1 Decision Tree for Sub-project Preparation and Approval



6.1.3 Subproject design

If the screening indicates that an individual subproject requires in its present layout the physical or economic resettlement, the project, which might want to finance this subproject, will advise the relevant structures (communities, WRUAs, IWUAs, KFS etc.) to consider feasible alternative subproject designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social, and financial costs and benefits.

6.2 BASELINE AND SOCIO-ECONOMIC DATA

An important aspect of preparing a RAP is to establish appropriate socio-economic baseline data to identify the persons who will be displaced by the individual subproject, to determine who will be eligible for compensation and assistance, and to discourage inflow of people who are ineligible for these benefits.

The PAPs may be classified into three groups:

- Those who have formal legal rights to the land they occupy;

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

In summary, the census consolidates information that 1) provides initial information on the scale of resettlement to be undertaken; 2) gives an indication of further socioeconomic research needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and 3) establishes indicators that can/be measured at a later date during monitoring and evaluation.

An illustrative example of a census survey form is provided in *Annex F*.

Baseline data for subproject RAPs will include: number of persons; number, type, and area of the houses to be affected; number, category and area of residential plots and agricultural land to be affected; and productive assets to be affected as a percentage of total productive assets. A District Commissioner assigned to the Ministry of Lands and Settlement, from the Resettlement Committee, will decide based on a review of this data the scope of the RAP.

6.3 PREPARATION OF A SUBPROJECT RAP

A RAP shall be prepared by the District Council, preferably with the support of technical service providers or mobile extension teams, for subprojects that have been determined to result in potential involuntary resettlement and/or land acquisition. When a RAP is required, the District Council shall submit completed studies along with their RAP's subproject application to the Resettlement Committee for appraisal, and subsequently to the PCO and World Bank.

Detailed guidelines for preparing a RAP and an abbreviated RAP are available on the World Bank's website (www.worldbank.org) and in the *World Bank's Resettlement and Rehabilitation Guidebook*.

The basic elements of a RAP (in the case where an RPF is in place) are provided in *Box 1*.

Box1 Contents of a RAP (OP 4.12)

- Identification of project impacts and affected populations;
- Particular aspects of the legal framework for land acquisition and compensation, as applied to the sub-project;
- Particular aspects of the compensation framework, as applied to the sub-project;
- Description of resettlement assistance and restoration of-livelihood activities;
- Detailed budget;
- Implementation schedule;
- Particular aspects of the description of organizational responsibilities, as applied to the sub-project;
- Details of public consultation, participation, and planning for the sub-project;
- Particular aspects of the description of provisions for redress of grievances, as applied to the sub-project; and
- Particular aspects of Framework for monitoring, evaluation, and reporting, as applied to the sub-project.

6.4 REVIEW OF SUBPROJECT RAPs

Subprojects to be proposed by the District Council will be approved by the Resettlement Committee. The RC will review eligibility for subprojects based on field appraisals, which includes results of the environmental and social screening used.

The RAP will be submitted once complete to the decentralized decision committees for screening and approval in compliance with the project institutional administrative arrangements. It is anticipated that District Councils will not have the institutional capacity to prepare RAPs or studies during the start of the program and thus will be assisted and supported by local service providers/NGOs. The Ministry of Lands should have representatives at the district level to provide the necessary technical support required at this level.

6.4.1 Grievance Mechanism

As the screening process is mostly carried out by the projects, the projects will establish an independent grievance mechanism, through the District Steering Groups, to inform all PAPs about the project and receive and address specific concerns about compensation and relocation that are raised by displaced persons or members of host communities, including a recourse mechanism designed to resolve disputes in an impartial manner.

6.4.2 Compensation and Benefits for Displaced Persons

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

6.4.3 Consultation

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

6.5 APPROVAL OF RESETTLEMENT ACTION PLANS

After clearance from the Resettlement Committee, the compensation, resettlement and rehabilitation activities of the RAP will be satisfactorily completed and verified by the communities before funds can be disbursed for civil works under the subproject.

The EMPs and RAPs developed for subprojects will also be reviewed by the Implementation Agencies and the World Bank. For quality assurance, it is required that RAPs prepared for

subprojects be submitted to the World Bank for review to ensure that they are produced in line with the OP 4.12. Gaps in quality shall be addressed through training at the district level for relevant service providers and reviewers, funded by the project as part of the budget for capacity building. Subsequent RAPs prepared throughout the rest of the project can then be reviewed by the Land Commissioners, with an annual independent review process led by the PCO.

7 ELIGIBILITY CRITERIA FOR VARIOUS CATEGORIES OF AFFECTED PEOPLE

This chapter sets out eligibility criteria, which are necessary to determine who will be eligible for resettlement and benefits, and to discourage inflow of ineligible people.

7.1 PRINCIPLES

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

- (a) those who have formal rights to land (including customary/communal land , traditional and religious rights, recognized under Kenyan Law);
- (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 national and local laws of Kenya or become recognized through a process identified in the resettlement plan;
- (c) those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from, but are recognized under the World Bank's OP 4.12.

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

7.2 ELIGIBILITY CRITERIA

PAPs may be classified in one of the three groups listed in *Section 7.1*. The process will involve review of tenure documents owned by occupants, interviews with households and groups in the affected area. Local authorities and central government's Ministry of Land concerned with land ownership and management will also hold the consultant. PAPs covered in a) and b) are provided compensation for the land they lose, and other assistance ensuring that they are:

- I. Informed about their options and rights pertaining to resettlement.

- II. Consulted on, or offered choices among, and provided with technically and economically feasible resettlement.
- III. Provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.

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

Eligibility criteria will also be determined by:

- i. Loss of property
- ii. Loss of wages
- iii. Cut off date.

Refer to Table 4 for reference to the types of eligibility criteria which should be used by local officials.

7.2.1 Eligibility for Community Compensation

It is also important to note that the eligibility may be claimed collectively e.g. as a community or religious group and does not necessarily have to be individuals or families.

Communities (on communal lands) that permanently lose land and/or access to assets and or resources under statutory or customary rights will be eligible for compensation. Example of community compensation could be for public toilets, market places, taxi parks, schools and health posts. The rationale for this is to ensure that the pre-project socio-economic status of communities where adversely impacted, is also restored.

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

Table 4. Entitlement and Compensation Matrix

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
AGRICULTURAL LAND	<p>No displacement: Cash compensation for affected land equivalent to market value</p> <p>Less than 50% of land holding affected, The remaining land remains economically viable</p>	Farmer/ title holder	Cash compensation for affected land equivalent to market value
		Tenant/lease holder	Cash compensation for the harvest of the affected land equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/lease agreement, whichever is greater.
	<p>Displacement:</p> <p>More than 50% of land holding lost</p> <p>OR</p> <p>Less than 50% of land holding lost but remaining land not economically viable</p>	Farmer/ title holder	<p>Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice. 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 the PAP. Transfer of the land to the PAP shall be free of taxes, registration & other costs.</p> <p>Relocation assistance (costs of shifting + assistance in reestablishing economic trees + allowance up to a maximum of 12 months while short-term crops mature)</p> <p>Relocation assistance (costs of shifting + assistance in reestablishing economic trees + allowance up to a maximum of 12 months while short-term crops mature)</p>
		Tenant/lease holder	<p>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.</p> <p>Relocation assistance (costs of shifting + allowance).</p>

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
		Agricultural worker	Cash compensation equivalent to local average of 6 months salary Relocation assistance (costs of shifting + allowance) Assistance in getting alternative employment.
COMMERCIAL LAND	No displacement: Land used for business partially affected, limited loss	Title holder/business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or 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)
	Displacement: Premise used for business severely affected, remaining area insufficient for continued use	Title holder/business owner	Land for land replacement or compensation in cash according to 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. Transfer of the land to the PAP shall be free of taxes, registration & other costs. Relocation assistance (costs of shifting + allowance) Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates).
		Business person is lease holder	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance in rental/lease of alternative land/property (for a maximum of 6 months) to re-establish the business.

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
RESIDENTIAL LAND	No displacement: Land used for residence partially affected, limited loss, and the remaining land remains viable for present use	Title holder	Cash compensation for affected land
		Rental/lease holder	Cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement (written or verbal)
		Title holder	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement shall be of minimum plot of acceptable size under the zoning law/s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration & other costs. Relocation assistance (costs of shifting + allowance)
RESIDENTIAL LAND	Displacement: Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s	Rental/lease holder	Refund of any lease/rental fees paid for time/use after date of removal Cash compensation equivalent to 3 months of lease/rental fee Assistance in rental/lease of alternative land/property Relocation assistance (costs of shifting + allowance)
		Owner	Cash compensation for affected building and other fixed assets Cash assistance to cover costs of restoration of the remaining structure
BUILDING AND STRUCTURES	No displacement: Structure partially affected but the remaining structure remains viable for continued use	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant - e.g. a fence) Disturbance compensation equivalent to two months rental costs

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
	<p>Displacement: Entire structure affected OR structure partially affected but the remaining structure is not suitable for continued use</p>	Owner	<p>Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Rental/lease holder	<p>Cash compensation for affected assets (verifiable improvements to the property by the tenant - e.g. a fence)</p> <p>Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)</p> <p>Assistance to help find alternative rental arrangements</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Squatter/ Informal dwellers	<p>Cash compensation for affected structure without depreciation</p> <p>Right to salvage materials without deduction from 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 CBO.</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
		Street vendor (informal without title or lease to the stall or shop)	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. Relocation assistance (costs of shifting) Assistance to obtain alternative site to re-establish the business
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
TREES	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees PLUS 10% premium
TEMPORARY ACQUISITION	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)

7.3 LOSS OF PROPERTY

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

7.4 LOSS OF WAGES AND INCOME

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

7.5 CUT-OFF DATE

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

The entitlement cut-off date refers to the time when the assessment of persons and their property in the identified project areas are carried out, i.e. the time when the sub-project owners/implementers have identified the land sites they would need and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered. Unfinished structures would be identified and secured, and unused materials for individuals' constructions will be gathered at the site so that the cut-off survey can estimate PAPs' investment which should be compensated for in lieu of expenses (including labor) incurred until the cut-off date. Because the time period between the cut-off date and the time that actual productive investments (civil works, etc.) would start, (e.g. likely to be anytime period from six months on), special attention needs to be taken to secure the sites from rush and opportunistic invasion.

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

This process must be in full compliance with the conflict resolution mechanisms in this RPF and this date must be communicated effectively to the potential PAPs and surrounding local

communities. The local community and traditional leaders will play a crucial role in identifying users of land.

8 LEGAL FRAMEWORK AND COMPARISON OF KENYAN LAWS AND REGULATIONS AND WORLD BANK REQUIREMENTS

The chapter sets out the legal framework, the fit between the laws and regulations of Kenya and World Bank policy requirements, and proposed measures to bridge the gaps between them.

8.1 OVERVIEW

In Kenya expropriation is provided for in the **Constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land**. But the constitution only gives general guidelines. The detailed procedures for land acquisition are elaborated under the **“Land acquisition Act” in chapter 295 for private land and chapter 288 for unregistered Trust Lands**. “Trust Land” refers to that land that is still held under African customary tenure. The title to this land is said to vest in the County Council in trust for its inhabitants, hence the term “Trust”.

Expropriation in this context refers to the taking away of private land and landed property for public purpose by the government with or without the owner’s consent subject to laws of eminent domain, which stipulates prompt and adequate compensation among other things. In Kenya “setting apart” for unregistered Trust Land and “Compulsory acquisition” for all registered private lands are the terms commonly used.

Expropriation of land is an important aspect of land management in Kenya since it is a key instrument by which land is made available for various development needs that are deemed to promote public benefit, e.g. infrastructure, housing, dams and irrigation, or certain industrial purposes.

8.2 PROCEDURES UNDER CHAPTER 295 OF THE “LAND ACQUISITION ACT”

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

The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” mentions places and fixed dates when persons interested in the subject land are to submit their claims to the Commissioner of Lands or his appointee (a “Valuation Officer” also known as “Collector of compensation”) according to Section 9.

Meanwhile the Collector of Compensation is supposed to inspect the said land and value it for compensation. After the inquiry the Collector will issue and award depending on his own assessment and the representations of interested parties as submitted at the inquiry (Section 10 and 11).

The award is issued in a prescribed form, together with a statement form. The former indicates the amount of compensation awarded, while the latter gives the landowners option of acceptance or

rejection of the award. If the landowner accepts the award, the collector will issue a cheque in settlement together with a formal “Notice of Taking Possession and Vesting” (section 19).

The notice instructs the landowner to take his title for amendment or cancellation. It is copied to the Government surveyor and the land registrar to make the necessary changes to the affected deed. If the owner rejects the award, the collector deposits the money in court pending the former’s appeal. Compensation is based on the open market value.

8.3 PROCEDURES UNDER CHAPTER 288 OF THE “TRUST LANDS ACT”

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

Other legislation concerning resettlement is described in Table 5.

Table 5. Legal instruments applicable to resettlement

Legal Framework	Functional Relationship to Resettlement
The Land Acquisition Act Chapter 295 Laws of Kenya	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 sub-projects requiring resettlement are under the provision of this Act.
The Registered Land Act Chapter 300 Laws of Kenya	Provides for the absolute proprietorship over land (exclusive rights). Such land can be acquired by the state under the Land Acquisition Act in the project area.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Registered Land Act.
Physical Planning Act No. 6 of 1996	Section 2 of the Act requires that all land intended for any development requires a planning and development permission.

Legal Framework	Functional Relationship to Resettlement
	Section 36 of the Act also requires that development projects, which have substantial alteration of the state of land, must be subjected to an EIA.
The Environmental Management and Co-ordination Act 1999,	The legislation that governs Environmental Impact Assessment (EIA) studies. This resettlement exercise falls under the Second Schedule, which lists the projects required to undergo EIA studies in accordance with section 58 (1-4) of the Act. Resettlement components of the sub-projects may pose potentially negative environmental impacts. Part 3 of this Schedule applies to settlement planning. Therefore according to the above Act, the proposed sub-projects may require EIA studies.
The Local Government Act Chapter 265 Laws of Kenya	Provides for making by- laws and institutions by Councils. By-laws can be made on the governance of a project under the provisions of this Act.
The Traffic Act Chapter 403 Laws of Kenya	The Act also prohibits encroachment on and damage to roads including land reserved for roads by any project or any human settlement or by an exercise of resettlement. The project is under the provision of the Act.
The Wayleaves Act Chapter 292 Laws of Kenya	Provides for certain undertakings to be constructed e.g. pipelines, canals, pathways etc., through or under any lands or settlements. The project is under the provision of the Act.
The Water Act Chapter 372 Laws of Kenya	The Act vests the water in the State and gives the provisions for the water management, including irrigation water, pollution, drainage, flood control and abstraction. It is the main legislation governing the use of water especially through water permit system where special provision for water may be made for settlements or resettlement areas.
The Lakes and River Act Chapter 409 Laws of Kenya	This Act provides for protection of river, lakes and associated flora and fauna. The provisions of this Act may be applied, in the management of the resettlement zones in this project.
The Wildlife Conservation and Management Act, Cap 376	This Act provides for the protection, conservation and management of wildlife in Kenya. The provisions of this Act should be applied in the management of the project.
The Public Health Act Laws of Kenya	Provides for the securing of public health and recognises the importance of water. It provides for prevention of water pollution by any development activity including resettlement by stakeholders.

8.4 COMPARISON BETWEEN WB OP4.12 AND KENYA LEGAL REQUIREMENTS

The laws of Kenya only provide compensation for land that is legally owned by PAPs and no compensation to encroachers for the same. The World Bank OP4.12 provides for compensation for land to both legal owners and encroachers. OP4.12 states that where there is a conflict between the Bank and government frameworks, those of the Bank shall take precedence. A further comparison between the Laws of Kenya and the World Bank OP 4.12 are contained in Table 6.

Table 6. Comparison of Kenyan Law and World Bank OP4.12 Regarding Compensation

Category of PAPS/ Type of Lost Assets	Kenyan Law	World Bank OP4.12
Land Owners	Cash compensation based upon market value. Under statute. Land for Land under Customary Law	Recommends land-for-land compensation. Other compensation is at replacement cost.
Land Tenants	Entitled to compensation based upon the amount of rights they hold upon land under relevant laws.	Are entitled to some form of compensation whatever the legal recognition of their occupancy.
Land Users	In some cases land users have some form of secured tenure extended to them under law regarding easement rights where if a person uses land for 7 consecutive years without a dispute entitles him to a right equivalent to ownership. In other cases land users not entitled to compensation for land, entitled to compensation for crops and any other economic assets.	Entitled to compensation for crops, may be entitled to replacement land and income must be restored to pre-project levels at least.
Owners of "Non permanent" Buildings	Cash compensation based on market value or entitled to new housing on authorized land under government (state or local) housing programs.	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Owners of "Permanent" buildings	Cash Compensation is based on market value.	Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.
Perennial Crops	Cash compensation based upon market rates calculated as an average net agricultural income.	As per section G of this RPF once approved by the Bank and disclosed in Kenya and at the Bank infoshop.

From the point of view of the process of land acquisition and compensation, it is clear that the procedures described in *Sections 8.2 and 8.3* above are likely to be significantly more time consuming and onerous than would be practicable in the event that resettlement issues arise in a significant number of subprojects. It will therefore be necessary to streamline the compensation review process under Kenyan law to ensure that approval timelines are consistent with those required by the Bank for timely sub-project approval and implementation. It is therefore a priority that the PCO develops and agrees (with the Office of the President) a valuation and compensation procedure that allows the delegation of authority and decision making to the local (or district) level in the case of sub-projects that have minimal resettlement impact.

9 METHODS OF VALUING AFFECTED ASSETS

This chapter sets out the detailed requirements for determining the value of affected assets.

9.1 VALUATION PROCEDURE TO BE FOLLOWED

9.1.1 Use of Standard Valuation Tables

Due to the large number and very localized nature of the majority of subproject 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 project. It would therefore be unwieldy and inefficient to deploy an individual valuation expert in each and every case.

It is therefore proposed that an evaluation expert is contracted by the Implementation Agency at the project outset to develop a standardized procedure for asset valuation, which can then be applied by a project representative at the local and/or district level (e.g. the Implementation Agency Social Development Officer or District Environment and Social Officer). This standardized procedure would include a series of 'look-up' tables for estimating asset value by type according to the approximate size and condition of the existing asset.

The tables would necessarily be developed using legally acceptable valuation procedures accepted by both the Government of Kenya and World Bank for purposes of fairness and consistency. The approach will consider replacement costs and types and levels of compensation under the Kenya law, and valuation of lost assets will be made at their replacement cost (see Section 8.2). The calculation methods to be adopted for the different types of assets are discussed in Section 8.3.

9.1.2 Preparation of Asset Inventory

In order to prepare an inventory of assets for a sub-project, a field team would visit the affected area to carry out an asset valuation survey. The team would be led by an appropriate project representative², and would include the Local Chief, a representative of the PAPs, a representative of the Local Land Control Board County/Town Council, and a village representative (collectively referred to as the Compensation Committee).

During the survey, 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. The document will say when the affected person will be notified, and that the inventory will not be official until a second signed copy, verified by project supervisory staff, is returned to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism.

An example of a land asset and physical inventory survey form is provided in *Annex G*.

9.1.3 Methods of Compensation

Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice. Table 7 describes the forms of compensation.

² For the majority of small-scale sub-projects the asset valuation would be led by the local (or district) project representative (e.g. the IA SDO or DESO, using the standardized approach described in the previous section. For larger projects that are judged (under the ESMF process) to have significant impacts the process may require an IA-appointed Resettlement Expert

Table 7. Forms of Compensation

Cash Payments	Compensation will be calculated in Kenya Shillings. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
Assistance	Assistance may include moving allowance, transportation and labor

Making compensation payments raises some issues regarding inflation, security and timing that must be considered. One purpose of providing in-kind compensation is to reduce inflationary pressures on the costs of goods and services. Local inflation may still occur, thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The question of security, especially for people who will be receiving cash compensation payments needs to be addressed by the local administration. Local banks and micro finance institutions should work closely with the local administration at this level to encourage the use of their facilities, which will positively impact the growth of the local economies. The time and place for in-kind compensation payments will be decided upon by each recipient in consultation with the Compensation Committee. Monetary payments should be paid at a time in relation to the seasonal calendar.

9.2 VALUATION METHODS TO BE ADOPTED

9.2.1 Replacement Cost Approach

The replacement cost approach is based on the premise that the costs of replacing productive assets is based on damages caused by project operations. These costs are taken as a minimum estimate of the value of measures that will reduce the damage or improve on on-site management practices and thereby prevent damage. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs.

9.2.2 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.

9.2.3 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 can be used for calculating replacement costs. In projects offering the options of cash compensation or alternative accommodation, the construction cost estimates for alternative accommodation could be used for calculating cash compensation payable.

Schedule of rates from Ministry of Roads and Public Services and Ministry of Lands.

The Materials Departments have a schedule of rates for preparing estimates for construction projects, which the consultant can use to assess costs for construction materials and labor. When applied to calculation of replacement cost (see above), rates current for the period of actual replacement must be used.

9.3 CALCULATION OF COMPENSATION BY ASSET

The following methods of calculation should 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 projects that have significant impacts.

9.3.1 Compensation for Land

Compensation for land is aimed at providing a farmer whose land is acquired and used for project purposes with compensation for land labor and crop loss. For this reason, and for transparency, "Land" is defined as an area or homestead:

- In cultivation
- Being prepared for cultivation, or
- Cultivated during the last agricultural season.

This definition recognizes that the biggest investment a farmer makes in producing a crop is his or her labor. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labor put into the land each year by the farmer. As a result, compensation relating to land will cover the market price of labor invested as well as the market price of the crop lost.

9.3.2 Land Measurement

For the purposes of measuring land, the unit of measurement would be that which is used and understood by the affected farmers. Therefore, in rural areas if a traditional unit of measurement exists, that unit should 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 meters 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 for him/herself, the size of land that is being lost. Ensuring that this occurs maintains transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. For instance, a farmer losing a certain piece of land should know exactly 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, determinable by the farmer, and confirmed by an agricultural expert or expert in other land uses being replaced.

9.3.3 Calculation of Crops Compensation Rate

The current prices for cash crops will be determined. All crops will be valued using a single rate regardless of the crop grown. This rate incorporates the value of crops and the value of the labor invested in preparing a new land. Determining compensation using a single rate creates transparency because anyone can measure the area of land for which compensation is due and multiply that by a single rate known to all. This approach also allows assignment of values to previous year's land (land in which a farmer has already invested labor) and land that have been planted but have not yet sprouted. Further, it avoids contention over crop density and quality of mixed cropping. The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time. The rate used for land compensation is to be updated to reflect values at the time compensation is paid. The following table, which is based on 2004 data, derives a total value for a one hectare land from the value of the crops on the land and the value of labor invested in preparing a replacement land.

Table 8. Examples of the Method to be used to determine a Monetary Compensation Rate for Crops

Item Compensated	Basis of Value	Kenya Shillings/ha
Value of Crops	Average of the highest 2005 official and market survey land prices per ha of staple food crops (maize, rice etc.), plus cash crops (e.g. sugar cane, Coffee, Tea).	
Labor Invested	Labor costs of preparing a replacement land.	
Total	Replacement value of crops plus labor.	

* Based on 2004 data. KENYA Shillings payments will be revised to reflect crop values and labor rates in effect at the time of compensation) Note: This example assumes a one-hectare land

Crop values will be determined on:

- I. A combination of staple foods and cash crops. Specifically, the 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances s/he would lose food crop rather than a cash crop income;
- II. The value of stable crops to be taken as the highest market price (over 3 years) reached during the year, in recognition of the following factors:
 - (a) Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
 - (b) Farmers most often purchase cereals when they have run out, during the “hungry season” when prices are high. Compensating at a lower value might put the individual or household at risk.
 - (c) Averaging the highest price of stable foods yields a high per ha value that reimburses for the vegetables and other foods that are commonly inter-cropped with staples, but are almost impossible to measure for compensation.
- III. 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, plowing, sowing, weeding twice, and harvesting the crop. Labor costs will be paid in Kenya Shillings at the prevailing market rates.

The following table presents an example of a compensation schedule for a one-hectare land. The Kenya Shillings values are based on arbitrary labor rates, which will need to be validated at the time when payments are made.

Table 9. Example of Land Compensation Schedule of Payments

Activity	Month Paid (generic, may be different depending on climate zones either in Central or West Kenya)	Labor in Kenya Shillings/ha Rate Cost/day x no. of days
Clear	February	
Plough	March	
Sow	April	
Weed	May/June	
Harvest	August	
Total		

All agricultural labor activities are included for two reasons. First, because of the need for transparency, all land labor will be compensated for at the same rate. Second, it is difficult to forecast when during the growing season a farmer might need to give up his/her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may be provided to land users in addition to compensation payments, for example, if the farmer is notified that his/her land is needed after the agriculturally critical date of March (generic date, may be different in Kenya and across climate zones) when s/he will no longer have enough time to prepare another land without help. Assistance 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 so that /s/he can pay for sowing, weeding and harvesting.

9.3.4 Compensation for Buildings and Structures.

Compensation will be paid by replacing structures such as huts, houses, farm outbuildings, latrines and fences. Any homes lost will be rebuilt on acquired replacement land, however cash compensation would be available as a preferred option for structures (i.e. extra buildings) lost, that are not the main house or house in which someone is living. The going market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure.

The project will survey these prices for administrative purposes on an ongoing basis.

Compensation will be made for structures that are:

- I. Abandoned because of relocation or resettlement of an individual or household, or
- II. Directly damaged by subproject activities.

Replacement values will be based on:

- I. Drawings of individual's house and all its related structures and support services,
- II. 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. bricks, rafters, bundles of straw, doors etc.),
- III. Prices of these items collected in different local markets,
- IV. Costs for transportation and delivery of these items to acquired/replacement land or building site,
- V. Estimates of construction of new buildings including labor required.

Table 10 Compensation for Buildings and Structures

Buildings and structures will be replaced by an equivalent structure or, on an exception basis, cash and/or credits will be paid based on replacement costs.	
Item	Example
House	Raw or Baked brick Straw or tin roof Varying sizes (small, medium large)
Kitchen	Open, closed
Stables/sheds/pens	Cattle, goat, donkey, sheep, other
Coops	Chicken, duck, other
Fence	Straw/poles (per unit poles & mat), raw and/or baked brick/cement blocks (per 1-m length)
Private Bathing	.
Latrine	Replacement latrines will be similar to those currently operational and financed by the bank or other donor agencies at health centers, schools.
Open well	Internally lined with concrete rings and provided with a hand driven pump.
Storage building	Cement/sand block walls with thatched roof on z-profiled metal sheets.
Sun Screen open huts/shades	Similar to those replaced, on thatched roof on wood poles.

9.3.5 Compensation for Community Assets

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

9.3.6 Compensation for Sacred Sites

This policy does not permit the use of land that is defined to be cultural property by the Banks Safeguards OP 4.11. Sacred sites include but not restricted only to; altars, initiation centers, ritual sites, tombs and cemeteries. It includes other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/Local government the use of sacred sites for any project activity is not permitted under this project.

9.3.7 Compensation for Vegetable Gardens and Beehives

These are planted with vegetable and ingredients for daily use. Until a replacement garden starts to bear, the family displaced (economically or physically) as a result of the project land needs will have to purchase these items in the market. 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 some individuals that specialize in honey gathering. If such hives would be disturbed by the project activities, or access to hives is denied, beekeepers can move them, and the bees will adapt to the new locations. Beekeepers would be

compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

9.3.8 Compensation for Horticultural, Floricultural and Fruit trees

Kenya has a variable weather patterns, but suitable for growing of fruits especially in the Western and Central parts of Kenya where the NRM subprojects will be implemented. Where fruits exist on affected land the following example, on Mango, which is one of the common fruit trees in the project regions for instance, will serve as a guide on how to value fruit trees and other trees of nutritional, medicinal and other significant economic value.

They are primarily important as a source of:

- I. Subsistence food for families
- II. Cash produce that contribute to the local and export economy
- III. Petty market income in some areas, and
- IV. Shade (in the case of mango and some guava trees).
- V. Traditional medicinal value.

Given their significance to the local subsistence economy, which this project intends to positively impact, fruit trees will be compensated on a combined replacement/market value. Fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labor invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they formally lived and, in some cases, to continue to harvest fruit from those trees for subsistence purposes and/or sale to traders. If a household/individual chooses to transfer ownership of the trees, transfer costs will be paid in addition to labor costs. The compensation rate will be based on information obtained from the socio-economic information. Based on the information, a compensation schedule for guava and mango trees can be developed incorporating the following goals:

- I. Replace subsistence Fruit (e.g. guava/mango) production yields as quickly as possible.
- II. Provide subsistence farmers with trees to extend the number of months of the year during which the fruit (e.g. guavas/mangoes) are produced and can be harvested as a supplemental source of food for their families during their "hungry season".
- III. Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits at offseason periods.
- IV. Provide cash payments to farmers to replace pre-project income derived from the sale of excess guava or mango production until replacement trees produce the equivalent (or more) in projected cash income.

The compensation schedule is based on providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income. The schedule could assume the following:

Table 11 Compensation for Fruit Trees

Local Fruit Trees, e.g. Guava/ Mangoes	
Estimated Avg. Fruit Yield (kg) of Mature tree	800 to 1,300 kg/year
Estimated Yield used	Ten sacks (1,000kg)/tree/year
Market Price, <ul style="list-style-type: none"> ▪ Height of harvest season (March/ April) ▪ End of season (late May) 	KSH/kg KSH/kg
Price used as basis of this estimate	80% height of season; 20% end of season
Years to Production	Six to seven
Years to Maximum Production	Twenty
Costs of Sapling	KSH, locally available.
Grafted Fruit Trees, e.g. Mangoes	
Estimated Avg. Fruit Yield (kg) of Mature tree	800 to 1,300 kg/year
Estimated Yield used	Almost entire yield due to market value
Market Price, (varies according to variety) <ul style="list-style-type: none"> ▪ Height of harvest season (June/September) 	KSH/kg
Price used as basis of this estimate	Price per fruit or sac (100kg) as quoted by growers
Years to Production	Four to five
Years to Maximum Production	Eight
Costs of Sapling	KSH, not locally available.

Table 12 Proposed Schedule for Fruit (eg Guava or Mango) Trees Cut Down

Type/Age of Tree	Est. Years	In-kind replacement for Local Guava and Mangoes	Credits/Financial Support.
Sapling Trees planted after project cut-off date in area will not be eligible for compensation	0-1	Deliver to Farmer: i. Choice of two guava or mango trees ii. (local and/or improved grafted) iii. Supplies: fencing to protect iv. Tree, a bucket for watering, and a spade.	KSH
Sapling/Young Tree First minor production 12-50 fruits occurs about age 4-5	1-6	Deliver to farmer: i. Choice of two guava or mango trees ii. (local and/or improved grafted) iii. Supplies: fencing to protect Tree, a bucket for watering, and a Spade	Equivalent of X no. KSH in credits or other financial support for labor invested in planting, fencing, and watering, made in one payment. Equivalent of X no. KSH in credits or other financial support, representing 2 years, (2 years x 10 sacks x X KSH/sack) lost income/subsistence until replacement trees begin production.
Guava/Mango Trees Fruit Producing	6-30+	Deliver to farmer: i. Choice of two guava or mango trees ii. (local and/or improved grafted) iii. Supplies: fencing to protect Tree, a bucket for watering, and a spade	Equivalent of X no. KSH in credits or other financial support for labor invested in planting, fencing, and watering, made in one payment. Equivalent of X no. KSH in credits or other financial support, representing eight years, (8 years x 10 sacks x X KSH/sack) lost income/subsistence until replacement trees begin production. This rate to be agreed by farmers. Total: Equivalent of X no. KSH in cash or equivalent financial support to be paid in one instalment.
Mature Trees – Low or Non- Fruit Producing	30+	Same as for mature trees above	Same as above

No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated on the basis of the number of square meters of surface area removed. The total surface area of the tree will be calculated using the following formula: $(\frac{1}{2} \text{ diameter of canopy})^2 \times 3.14$.

9.3.9 Other Domestic Fruit and Shade Trees

These trees have recognized local market values, depending upon the species and age. Individual compensation for wild trees “owned” by individuals, which are located in lands as defined in this policy will be paid. Note that wild, productive trees belong to the community when they occur in the true bush as opposed to a fallow land. These trees will be compensated for under the umbrella of the community compensation.

10 IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

10.1 OVERVIEW

Before any project activity is implemented, PAPs will need to be compensated in accordance with the resettlement policy framework. 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 and provision of resettlement sites with adequate facilities, where required. In particular, the 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 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 individual RAPs.

The measures to ensure compliance with this RPF would be included in the RAPs that would be prepared for each land involving resettlement or compensation.

The schedule for the implementation of activities must be agreed to between the Resettlement Committee and the PAPs, such as target dates for start and completion of civil works, timetables for transfers of completed civil works to PAPs, dates of possession of land that PAPs are using (this date must be after transfer date for completed civil works to PAPs and payments of all compensation), and how these activities are linked to the implementation of the overall sub project.

The screening process must ensure that RAPs contain acceptable measures that link resettlement activity to civil works in compliance with this policy. The timing mechanism of these measures would 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 the RAP is approved by the local and national authorities, the RAP should be sent to the World Bank for final review and approval.

10.2 PROJECT LAUNCHING

At each sub-project launching, an assessment of the social impacts of each subproject will be conducted. Particularly for subprojects presumed to induce extensive adverse social impacts. The assessment will help to: (a) Determine which mitigation measures to be taken; (b) Establish whether or not detailed RAPs with timetables and budgets should be prepared.

Terms of reference (TOR) for the assessments will be drafted by the IAs in consultation with the World Bank. Issues to be addressed by the screening process will include: demography, land tenure and socio-economic structures (for larger subprojects involving more than 20 households, as needed); and consultations with local authorities and with the PAPs (for all sub-projects). A key task to be conducted under this process is a household survey describing the extent of the social impacts. At this stage, all PAPs will be listed in order to avoid an influx of people trying to take advantage of the compensation and rehabilitation. A cut-off date is proclaimed. That means, a date from which eligibility for compensation will be terminated. New inhabitants coming to the project affected areas will not be considered for compensation. The principles of compensation/rehabilitation will be triggered wherever there will be land acquisition and adverse social impacts.

10.3 IMPLEMENTATION SCHEDULE

The timing of the resettlement will be coordinated with the implementation of the main investment component of the project requiring resettlement. 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 should include a target date when the expected benefits for resettlers and hosts would be achieved. Arrangements for monitoring implementation of resettlement and evaluating its impact will be developed during project preparation and used during supervision. Monitoring provides both a warning system for project managers and a channel for the resettlers to make known their needs and their reactions to resettlement execution.

Environmental and social impact assessments, if deemed necessary through the application of the ESMF, will be conducted parallel with the design of the sub-projects, and will determine the number of PAPs and to assess demand of needs of the displaced persons. The needs are such as, housing, water, health facilities and sanitation.

Target dates for achievements of expected benefits to resettled persons and hosts are to be set. Disseminating various forms of assistance to them will be done. Planning and coordination of the tasks of the various actors is key to successful implementation. To achieve this goal, workshops will be organized with the stakeholders and other relevant government agencies, at project launching and at the commencement of every subproject identified to have adverse social impacts.

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

The workshops will focus on:

- Taking stock of the legal framework for compensation.
- Settling institutional arrangements and mechanisms for payment of compensation.
- Defining tasks and responsibilities of each stakeholder and
- Establishing a work plan.

A month-wise implementation schedule of activities is to be undertaken and will be a topic of discussion at the next workshop. This way, they will be able to feed back on the implementation process, any curative measures or improvements. The project staff /local authorities/consultants will conduct this under the leadership of a resettlement expert.

11 GRIEVANCES REDRESS MECHANISMS

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

This chapter sets out the measures to be used to manage grievances.

11.1 OVERVIEW

The overall process of grievance is as follows:

- I. Compensation committees including representatives of PAPs will establish the compensation rates.
- II. During the initial stages of the valuation process, the affected persons are given copies of grievance procedures as a guide on how to handle the grievances.
- III. The process of grievance redress will start with registration of the grievances to be addressed for reference, and to enable progress updates of the cases. An example of a grievance redress form is provided in *Annex H*.
- IV. The project will use a local mechanism, which includes peers and local leaders of the affected people. These will ensure equity across cases; they eliminate nuisance claims and satisfy legitimate claimants at low cost.
- V. The response time will depend on the issue to be addressed but it should be addressed with efficiency.
- VI. Compensation will be paid to individual PAPs only after a written consent of the PAPs, including both husband and wife.
- VII. Should a PAP refuse the compensation suggested, he/she could appeal to the District Steering Group and local Land Control Board.
- VIII. A Compensation Committee and local Land Control Board at the local level will first revise his/her case.
- IX. Then the CC will draft its inclusions and submit them to the IAs for deliberation in the aim of settling the differences.
- X. And when these have failed the individual PAP has the right to take his case to the civil courts for litigation.

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

11.2 GRIEVANCE REDRESS PROCESS

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

The Resettlement Committee being a party to the contract would not be the best office to receive, handle and rule on disputes. Therefore, taking these concerns into account, all grievances concerning non-fulfillment of contracts, levels of compensation, or seizure of assets without

compensation should be addressed to the District Lands Officer, assisted by the local Land Control Board.

If the verdict rendered by the chief is not acceptable to either the individual affected or the management committee, then the parties in their compensation contract would have agreed that the matter would be appealed to a Court of Law as provided for by law.

Notwithstanding that the grievance redress mechanism accepts that the compensation and resettlement plans will be (contracts) binding under the laws of Kenya.

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

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

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

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

11.3 PAPS REPRESENTATIVE COMMITTEE

PAPs Representative Committee shall carry out the following as regard to redressing grievances:

- I. Hear the grievances of the PAPs, and provide an early solution to those they able to;
- II. Immediately bring any serious matters to the attention of the GSG;
- III. Inform the aggrieved parties about the progress of their grievances and the decisions of the IAs and Resettlement Committee.

A Grievance Redress Committee will be constituted to register the grievance raised by the PAPs and address the grievance forwarded by the PAPs representative committee.

The Grievance Redress Committee will try as much as possible to arrive at a compromise for the complaints raised. This may be obtained through series of conciliations, mediations and

negotiations exercises conducted with the PAPs. If PAPs accept the recommendations made by the committee, the committee along with PAPs who are willing to take part in these proceedings may hold mediations at the appointed places. In situations where PAPs are not satisfied with the decision of Grievance Redress committee, the PAPs can approach the court of law.

The response time for cases handled in both committees will depend on the issues addressed but it should be as short as it is possible.

12 RPF IMPLEMENTATION BUDGET

Resettlement activities in Kenya can be financed through a number of arrangements, namely: government budget; loans borrowed from the domestic market by governments; loans borrowed from development partners; and grants.

In the case of the NRM project, the resettlement budget will be financed through a credit finance advanced to the Government of Kenya by the World Bank under the NRM project. The overall cost of the NRM Project is an estimated US\$68.5million, covering all project activities including resettlement.

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

Each RAP will include a detailed budget, using the following template.

Table 13 Illustrative budget template for a RAP

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

The IAs will manage and monitor the resettlement budget and will finance this budget through the administrative and financial management rules and manuals as for any other activity eligible for payment under the NRM project. This budget will be subject to the approval by OP-SP. At this stage, all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features that the budget must contain. This is shown in *Table 14*.

Table 14 Indicative Costs for RPF Implementation

Item	Estimated Cost (US\$)	Comments
Resettlement compensation for sub-projects	1,000,000	Assumes of approximately 1000 sub-projects, 50% will involve resettlement @ 2k per project (average)
Compensation for forest communities evicted since 30 th December 2002	3,600,000	Assumes approximately 60% of 20,000 evictees will be in project area, at average compensation of 300/person
Preparation of full RAP studies for new sub-projects	200,000	Assumes external assistance required for 10 full RAP studies @ 20k per study (average)
Preparation of limited RAP studies for new sub-projects	420,000	Assumes external assistance required for 50 limited scale RAP studies @ 4k per study, and 440 studies @ 0.5k per study
Preparation of process frameworks for protected/ gazetted areas	40,000	Assumes external assistance required for 2 PFs required @ 20k per study
Monitoring and evaluation costs	40,000	Assumes external expert costs of 5k per year over full eight year period
TOTAL INDICATIVE COST	5,300,000	

Notes:

- *The above study/M&E costs are estimated as incremental costs over and above normal project staff (e.g. for expert consultancy support)*
- *It is assumed that training and capacity building for district/local level staff will be undertaken either on-the-job, or from the existing project training budgets*

13 MECHANISM FOR CONSULTATIONS WITH, AND PARTICIPATION OF DISPLACED PERSONS IN PLANNING, IMPLEMENTATION, AND MONITORING.

13.1 OVERVIEW

The involvement of involuntary resettlers and hosts in planning prior to the move is critical. Initial resistance to the idea of involuntary resettlement is to be expected. To obtain cooperation, participation, and feedback, the affected hosts and resettlers will be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention must be given to vulnerable groups such as vulnerable and marginalized groups, ethnic minorities, the landless, and women to ensure that they are represented adequately in such arrangements. A comprehensive process of free, prior, and informed consultations should be completed for indigenous communities.

The plan should address and mitigate the resettlement's impact on host populations. Host communities and local governments should be informed and consulted. Any payments due to the hosts for land or other assets provided to resettlers should be promptly rendered.

Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, forests, services etc., or if the resettlers are provided services and housing superior to that of the hosts. Conditions and services in host communities should improve, or at least not deteriorate. Providing improved education, water, health and production services to both groups fosters 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 resettlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

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

- I. Data collecting
- II. Preparation and collecting operation
- III. Implementation of operation
- IV. Monitoring and evaluation.

The project will coordinate all four operations.

13.2 DATA COLLECTING PHASE

After familiarizing themselves with the project area through reading and consultations with the Ministries of Environment and Natural Resources and Office of the President officials, the consultants will design appropriate questionnaires intended for data collection at project location levels. The levels will vary from households to community groups, based on the TOR. The consultant will design questionnaires for data collection from various households, organizations

and institutions such as women groups, farmers' associations, individual farm units, primary and/or secondary schools, health centers and agricultural cooperative unions or individual farm units, depending on the nature of information source.

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

- Those directly affected by physical works
- Scientifically accepted number of respondent households for each subproject location.

The PAPs will be consulted through "town hall" meetings at municipalities and other local government facilities to share information about the project, discuss social impacts of project operations and the mitigation measures suggested. The contribution of the PAPs will be integrated into the subproject implementation process, from planning to evaluation. Furthermore, data about socio-impacts of the subprojects and the mitigation measures suggested will be provided to local newspapers and radio stations.

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

13.3 IMPLEMENTATION OPERATION

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

13.4 MONITORING AND EVALUATION PHASE

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

14 ARRANGEMENTS FOR MONITORING AND EVALUATION

This chapter sets out requirements for the monitoring of the implementation of the RPF. In addition, monitoring of social indicators will be mainstreamed into the overall monitoring and evaluation system for both projects.

14.1 OVERVIEW

The arrangements for monitoring will fit the overall monitoring plan of the entire NRM project, which will be through the PCO of the Project, housed at the Ministry of water and Irrigation. . All RAPs will set the following major socio-economic goals by which to evaluate their success:

- Affected individuals, households, and communities are able to maintain their pre-project standard of living, and even improve on it; and
- The local communities remain supportive of the project.
- The absence or prevalence of conflicts.

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

The PCO and IAs will institute an administrative reporting system that:

- Provides timely information about all resettlement arising as a result of NRM project activities;
- Identifies any grievances that have not been resolved at a local level and require resolution through the involvement of the PCO; and
- Documents the timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses;
- Evaluates whether all PAPs have been compensated in accordance with the requirements of this RPF, and that PAPs have higher living standards in comparison to their living standards before physical or economic displacement.

Consistent with the Environmental and Social Management Framework, the Subproject Committees and DSG would be responsible for periodically transferring the information compiled “on the ground” to the PCO, so that it is alerted in a timely manner to any difficulties arising at the local level.

14.2 MONITORING OF RPF IMPLEMENTATION

District Development Officers will compile basic information on all physical or economic displacement arising from the NRM project, and convey this information to the PCO, on a quarterly basis. They will compile the following statistics:

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

- No. of unresolved grievances.

The social mitigation officer in the PCO will scrutinize these statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. They will alert the NRM project coordinators, and the Ministry of Lands, if there appears to be any discrepancies. The financial unit under the PCO will directly monitor compensation and loss of wages.

Financial records will be maintained by the Subprojects and the PCO, to permit calculation of the final cost of resettlement and compensation per individual or household.

The statistics will also be provided to an independent consultant that will be contracted on an annual basis, in coordination with the Environmental Audit (as described in the ESMF). The following indicators will be used to monitor implementation of the RPF.

Table 15 Verifiable Indicators

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

14.2.1 Storage of PAPs Details

Each PAP household will be provided with a signed dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received. The Resettlement Committee and PCO will maintain a complete database on every individual impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages.

Each individual receiving compensation will have a dossier containing:

- I. Individual biological information
- II. Number of people s/he claims as household/homestead dependents
- III. Amount of land available to the individual or household when the dossier is opened.

- IV. Additional information will be acquired for individuals eligible for resettlement and/or compensation:
- V. Level of income and of production
- VI. Inventory of material assets and improvements in land, and
- VII. Debts.

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

14.2.2 Annual Audit

The annual audit of RPF implementation will include:

- A summary of the performance of each sub-project vis-à-vis its RAP;
- A summary of compliance and progress in implementation of the process frameworks for gazetted forests;
- A presentation of compliance and progress in the implementation of the RPF.

The audit will:

- Verify results of internal monitoring ;
- Assess whether resettlement objectives have been met; specifically, whether livelihood and living standards have been restored or enhanced;
- Assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation;
- Ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs conditions.

Annual audit reports will be submitted for scrutiny to the World Bank.

14.3 SOCIO-ECONOMIC MONITORING

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

A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many children in school compared to before, health standards, etc). Proposals are set out in *Table 14.2*. The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance.

For each subproject with adverse social impacts, a monitoring and evaluation plan of the mitigation measures will be established. As part of the preparation of each RAP, a household survey will be conducted of all PAPs, prior to physical or economic displacement, and this will provide baseline data against which to monitor the performance of the RAP.

Following the completion of all expropriation/compensation operations, a household survey will be conducted. The aim of the survey is to assess the impacts of the social mitigation and measures implemented. In addition, local authorities and PAPs will be consulted to provide their assessments of the impacts of social mitigation measures applied.

Table 16 Possible indicators for social monitoring of the NRM project

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

Indicator	Target
LIVELIHOODS	
Number of new enterprises registered	Net increases in types and numbers of enterprises operating in project area
Numbers of new groups registered	Net increases in types and numbers of groups operating in project area
Number of unemployed and underemployed	Reduction in both formal and informal unemployment and underemployment persons to average international levels
Numbers of young people unemployed (age 16-25)	Reduction in both formal and informal unemployment and underemployment of young people (age 16-25)
WELFARE	
% HH with toilets	100% HH with toilet and sanitation facilities
% HH with access to safe water	100% HH with access to safe water
Average time taken to collect water	Reduce average collection times to average international levels
GENDER EQUALITY	
% Of women participating in decision making and consultative fora (50% women representation)	Full participation of women in decision making and consultative process
% Of women accessing extension services and controlling livelihood benefits	Full access of extension services to women.

ANNEXES

Draft TORs for Elaboration of a Resettlement Process Framework (PF)

A process framework is prepared when Bank-supported projects may cause restrictions in access to natural resources in legally designated protected areas such as gazetted forests. The purpose of the process framework is to establish a process by which members of potentially affected communities participate in design of project components, determination of measures necessary to achieve resettlement policy objectives, and implementation and monitoring of relevant project activities. Specifically, the process framework describes participatory processes by which the following activities will be accomplished.

(a) *Project components will be prepared and implemented.* The document should briefly describe the project and components or activities that may involve new or more stringent restrictions on natural resource use. It should also describe the process by which potentially displaced persons participate in project design.

(b) *Criteria for eligibility of affected persons will be determined.* The document should establish that potentially affected communities will be involved in identifying any adverse impacts, assessing of the significance of impacts, and establishing of the criteria for eligibility for any mitigating or compensating measures necessary.

(c) *Measures to assist affected persons in their efforts to improve their livelihoods or restore them, in real terms, to pre-displacement levels, while maintaining the sustainability of the park or protected area will be identified.* The document should describe methods and procedures by which communities will identify and choose potential mitigating or compensating measures to be provided to those adversely affected, and procedures by which adversely affected community members will decide among the options available to them.

(d) *Potential conflicts or grievances within or between affected communities will be resolved.* The document should describe the process for resolving disputes relating to resource use restrictions that may arise between or among affected communities, and grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation.

Additionally, the process framework should describe arrangements relating to the following:

(e) *Administrative and legal procedures.* The document should review agreements reached regarding the process approach with relevant administrative jurisdictions and line ministries (including clear delineation for administrative and financial responsibilities under the project).

(f) *Monitoring arrangements.* The document should review arrangements for participatory monitoring of project activities as they relate to (beneficial and adverse) impacts on persons within the project impact area, and for monitoring the effectiveness of measures taken to improve (or at minimum restore) incomes and living standards.

Draft TORs for Elaboration of Resettlement Action Plan (RAP)

This template is extracted from OP 4.12 Annex A which can also be found on the Bank's website at www.worldbank.org.

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

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

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

Objectives: The main objectives of the resettlement program.

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

(a) the results of a census survey covering;

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

(b) Other studies describing the following;

- land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local

recognized land allocation mechanisms, and any issues raised by different tenure systems in the sub project area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Annex C
Screening Checklists

SCREENING CHECKLIST

Sub-project name	[type here]
Location	[type here]
Estimated cost (KSh)	[type here]

TYPE OF PROJECT OR ACTIVITY

CATEGORY A	<input type="checkbox"/>	Policy, legal or strategy document
	<input type="checkbox"/>	Dam project greater than 15m in height
	<input type="checkbox"/>	Medium-scale irrigation scheme
	<input type="checkbox"/>	Medium-scale water storage structure
	<input type="checkbox"/>	Rehabilitation of medium-scale water storage structure
	<input type="checkbox"/>	Forestry concession with the private sector
	<input type="checkbox"/>	Construction of roads, bridges

CATEGORY B	<input type="checkbox"/>	Farm forestry or agroforestry, small-scale woodlots and tree nurseries
	<input type="checkbox"/>	Small-scale irrigation scheme
	<input type="checkbox"/>	Small-scale water storage facility
	<input type="checkbox"/>	Spring capping or rural water supply scheme
	<input type="checkbox"/>	Small-scale dam (less than 15 m in height)
	<input type="checkbox"/>	Check-dam
	<input type="checkbox"/>	Forest infrastructure
	<input type="checkbox"/>	Participatory forest management or reforestation
	<input type="checkbox"/>	Dykes
	<input type="checkbox"/>	Riverbank stabilisation
	<input type="checkbox"/>	Terracing of farmland
	<input type="checkbox"/>	Agricultural interventions Please give more details: [type here]
	<input type="checkbox"/>	Support to income generating initiatives Please give more details: [type here]
	<input type="checkbox"/>	Other Please give more details: [type here]

CATEGORY A PROJECTS

For all Category A projects, an Environmental and Social Management Plan (ESMP) will be required.

In addition, the following studies may be required:

	Yes	No
Will this Category A project affect Indigenous People? If yes, an Indigenous People's Plan will be required.	<input type="checkbox"/>	<input type="checkbox"/>
Will this Category A project require land for its development, and therefore displace individuals, families or businesses from land that is currently occupied, or restrict people's access to crops, pasture, fisheries or forests, even, whether on a permanent or temporary basis. If yes, a Resettlement Action Plan will be required.	<input type="checkbox"/>	<input type="checkbox"/>
Will this Category A project involve the use of pesticides? If yes, a pest management plan will be required.	<input type="checkbox"/>	<input type="checkbox"/>

CATEGORY B PROJECTS

Please describe how the project complies [type here]
with the most relevant planning
document, for example the District
Development Plan or the Microcatchment
Plan:

Will the project:	Yes	No
Adversely affect natural habitats nearby, including forests, rivers or wetlands?	<input type="checkbox"/>	<input type="checkbox"/>
Require large volumes of construction materials (eg gravel, stones, water, timber, firewood)?	<input type="checkbox"/>	<input type="checkbox"/>
Use water during or after construction, which will reduce the local availability of groundwater and surface water?	<input type="checkbox"/>	<input type="checkbox"/>
Lead to soil degradation, soil erosion or soil salinity in the area?	<input type="checkbox"/>	<input type="checkbox"/>
Create waste that could adversely affect local soils, vegetation, rivers and streams or groundwater?	<input type="checkbox"/>	<input type="checkbox"/>
Create pools of water that provide breeding grounds for disease vectors (for example malaria or bilharzia)?	<input type="checkbox"/>	<input type="checkbox"/>
Involve significant excavations, demolition, movement of earth, flooding, or other environmental changes?	<input type="checkbox"/>	<input type="checkbox"/>
Affect historically-important or culturally-important sites nearby?	<input type="checkbox"/>	<input type="checkbox"/>
Require land for its development, and therefore displace individuals, families or businesses from land that is currently occupied, or restrict people's access to crops, pasture, fisheries, forests or cultural resources, whether on a permanent or temporary basis?	<input type="checkbox"/>	<input type="checkbox"/>
Result in human health or safety risks during construction or later?	<input type="checkbox"/>	<input type="checkbox"/>
Involve inward migration of people from outside the area for employment or other purposes?	<input type="checkbox"/>	<input type="checkbox"/>
Result in conflict or disputes among communities?	<input type="checkbox"/>	<input type="checkbox"/>
Affect indigenous people, or be located in an area occupied by indigenous people?	<input type="checkbox"/>	<input type="checkbox"/>
Involve the construction of a dam or weir, or depend on water supplied from an existing dam?	<input type="checkbox"/>	<input type="checkbox"/>
Result in a significant change/ loss in livelihood of individuals?	<input type="checkbox"/>	<input type="checkbox"/>
Adversely affect the livelihoods and/or the rights of women?	<input type="checkbox"/>	<input type="checkbox"/>

If you have answered Yes to any of the [type here]
above, please describe the measures that
the project will take to avoid or mitigate
environmental and social impacts (note
that appropriate measures may include
the preparation of a RAP).

What measures will the project take to [type here]
ensure that it is technically and financially
sustainable?

CONCLUSION

Category B:

- There are no environmental or social risks
- Community to be given full responsibility to mitigate environmental risks
- MCAs to provide detailed guidance on mitigation of risks to the community
- Specific advice is required from District Officers in the following area(s):

[type here]

- People will be physically or economically displaced, and therefore a RAP is required

Completed by: [type here]

Name: [type here]

Position / Community: [type here]

Date: [type here]

SCREENING CHECKLIST REVIEW FORM

	Yes	No
Has the project proponent selected the correct type and category for this project?	<input type="checkbox"/>	<input type="checkbox"/>

If 'No', please select the correct type of project or activity below:

CATEGORY A	<input type="checkbox"/>	Policy, legal or strategy document
	<input type="checkbox"/>	Dam project greater than 15m in height
	<input type="checkbox"/>	Medium-scale irrigation scheme
	<input type="checkbox"/>	Medium-scale water storage structure
	<input type="checkbox"/>	Rehabilitation of water storage structure
	<input type="checkbox"/>	Forestry concession with the private sector
	<input type="checkbox"/>	Construction of roads, bridges

CATEGORY B	<input type="checkbox"/>	Farm forestry or agroforestry, small-scale woodlots and tree nurseries
	<input type="checkbox"/>	Small-scale irrigation scheme
	<input type="checkbox"/>	Small-scale water storage facility
	<input type="checkbox"/>	Spring capping or rural water supply scheme
	<input type="checkbox"/>	Small-scale dam (less than 15 m in height)
	<input type="checkbox"/>	Check-dam
	<input type="checkbox"/>	Forest infrastructure
	<input type="checkbox"/>	Participatory forest management or reafforestation
	<input type="checkbox"/>	Dykes
	<input type="checkbox"/>	Riverbank stabilisation
	<input type="checkbox"/>	Terracing of farmland
	<input type="checkbox"/>	Agricultural interventions
	<input type="checkbox"/>	Please give more details: [type here]
	<input type="checkbox"/>	Support to Income generating initiatives
	<input type="checkbox"/>	Please give more details: [type here]
	<input type="checkbox"/>	Other
	<input type="checkbox"/>	Please give more details: [type here]

CATEGORY B PROJECTS

Based on the location and the type of project, please explain whether the Proponent's responses are satisfactory:

	Yes	No
Their description of the compliance of the project with relevant planning documents	<input type="checkbox"/>	<input type="checkbox"/>
If 'No', please explain: [type here]		
Their responses to the questions on environmental and social impacts	<input type="checkbox"/>	<input type="checkbox"/>
If 'No', please explain: [type here]		
Their proposed mitigation measures	<input type="checkbox"/>	<input type="checkbox"/>
If 'No', please explain: [type here]		
Their proposed measures to ensure sustainability	<input type="checkbox"/>	<input type="checkbox"/>
If 'No', please explain: [type here]		

REVIEWER'S CONCLUSION

Which course of action do you recommend?

Category A:

ESMP; IPP; RAP; PMP

Category B:

- There are no environmental or social risks
- Community to be given full responsibility to mitigate environmental and social risks, as set out in the screening checklist
- MCAs to provide detailed guidance on mitigation of risks to the community
- Specific advice is required from District Officers in the following area(s):

[type here]

People will be physically or economically displaced, and therefore a RAP is required

If this differs from the Proponent's recommended course of action, please explain:

[type here]

Preparation of a Project Report, based on field appraisal by District Officer, is required to investigate further, specifically to investigate:

[type here]

Reject

Review form completed by: [type here]

Name: [type here]

Position / Community: [type here]

Date: [type here]

Annex D

Sample Census Survey Form

1 A 1 Socio-economic Household Datasheet of PAPs

Name of Interviewer		Signature
ID Code		
Name of Supervisor		(after verification of interview)
ID Code		

Village Name	
ID Code	
Number of Concession in Village	
(GPS Coordinates)	

Date:2006....
 Day Month Year

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

1 A 2 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 Activites	
		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 Shepard; 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 (literate in Arabic) ; 0 No Answer

Religion : 1 Muslim ; 2 Christian (specify denomination); 3 Animist. 9 Other (specify) ; 0 No Answer

Annex E

Sample Asset Valuation Survey Form

Annex x: Land asset inventory for Project Affected People

District: _____
 Village: _____

Date: _____

Survey no.	Name of Head of Household	No. of Persons in household	Total land holding of Hhold (m ²)	Land to be acquired (m ²)	Land Use Type *	Loss of % total	Loss of assets			Loss of crops			Loss of other assests	Other losses	
							Structures Permanent (m ²)	Structures temporary (m ²)	Area of residential land lost (m ²)	Fruit trees lost type and number	Agricultural land lost (m ²)	Other (specify)	e.g. graveyard s, wells, etc. (type and no.)	Residence (rented)	Business lost

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

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

Annex F

Sample Grievance Procedure Form

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

Grievance Closeout Form		
Grievance closeout number:		
Define immediate action required:		
Define long term action required (if necessary):		
Compensation Required <input type="checkbox"/> YES <input type="checkbox"/> NO		
Verification of Corrective Action and Sign Off		
Corrective Action Steps to Carry Out Corrective Action		Due Date
1		
2		
3		
4		
5		
6		
7		
Responsible Party		
COMPENATION ACTION AND SIGN OFF		
<p>This part will be filled in and signed by the complainant when he/she receives the compensation or file is closed-out</p>		
Notes:		
Date: .../.../.....		
Complainant	Representative of Responsible Party	
Name-Surname and Signature	Title-Name-Surname and Signature	