



KENYA ELECTRICITY MODERNIZATION PROJECT (KEMP)

Off-Grid Component

VULNERABLE & MARGINALIZED GROUPS FRAMEWORK

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The Vulnerable & Marginalized Groups Framework (VMGF) has been prepared by Environment & Social Unit, Safety, Health & Environment (SHE) Department, Kenya Power at the request of the Rural Electrification Authority.

ABBREVIATIONS AND ACRONYMS

AMI	Advanced Metering Infrastructure
CoK	Constitution of Kenya
CPS	Country Partnership Strategy
CSO	Civil society organizations
EAC	East African Community (EAC)
EAs	Environmental Assessments
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
EMS	Energy Management System
ERC	Energy Regulatory Commission
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FPIC	Free, Prior and Informed Consultation
FS	Feasibility Study
GDP	Gross Domestic Product
GOK	Government of Kenya
GRM	Grievance Redress Mechanism
HIV/AIDS	Human Immune Deficiency Syndrome
ICT	Information and Communication Technologies
IDA	International Development Association
IE	Impact Evaluation
IPP	Independent Power Producers
IPPF	Indigenous Peoples Planning Framework
KEMP	Kenya Electricity Modernization Project
KNCHR	Kenya National Commission on Human Rights
KPLC	Kenya Power and Lighting Company
Kshs.	Kenyan Shilling
LA	Land Act 2012
LAC	Land Administration Committees
LACT	Land Acquisition Compensation Tribunal
LLM	live-line maintenance
LRA	Land Registration Act 2012
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MEWNR	Ministry of Environment, Water and Natural Resources
MOEP	Ministry of Energy and Petroleum
MOF	Ministry of Finance
MTR	Mid-Term Review
NEMA	National Environment Management Authority
NES	National Electrification Strategy (NES)
NGO	Non-Governmental Organisation
NLC	National Land Commission
NLC	National Land Commission
NLP	National Land Policy
OP	Operational Policy
BP	Bank Policy

PAD	Project Appraisal Document
PAP	Project Affected Persons
PIU	Project Implementation Unit
PDO	Project Development Objective
PIC	Public Information Center
PIM	Participatory Impact Monitoring
PIM	Project Implementation Manual
PPA	Purchase Power Agreement (PPA)
PPP	Public-Private-Partnership
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
REA	Rural Electrification Authority
RPF	Resettlement Policy Framework
RRA	Rapid Rural Appraisal
SA	Social Assessment
SCADA	Supervisory Control and Data Acquisition
UN	United Nations
UNDRP	Declaration on the Rights of Indigenous Peoples
US\$	United States Dollars
VMG	Vulnerable and Marginalized Groups
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
WB	World Bank

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EXECUTIVE SUMMARY

Introduction

Project Description. The Kenya Electricity Modernization project intends to support the Government's initiatives of ensuring increased electricity access to Kenyans, particularly among the low income groups and those in Peri-Urban and off-grid areas. The existing and new distribution transformers shall be exploited to the maximum through extension of the low and medium voltage network to reach households located in the vicinity of these transformers.

The Kenya Electricity Modernization Project is composed of three financing instruments: an IDA credit of \$250 million; a Scaling Up Renewable Energy Grant (SREP) in the amount of \$7.5 million (fully blended with IDA); and IDA Guarantee of \$200 million.

The IDA credit and SREP grant together support four components: (i) Improving service delivery and reliability; (ii) Implementing a revenue protection project (RPP) for sustainable loss reduction in electricity supply; (iii) Electrification Program comprising two sub-components Peri-urban electrification (sub-components C1) and Off-grid electrification (sub-component C2); and (iv) Institutional development, capacity building and project implementation support.

The Project Development Objective (PDO) to increase access to electricity; (b) to improve reliability of electricity service and; (c) to restore KPLC's financial sustainability.

Project Sub Component Off-Grid Electrification (Component C2)

Description Sub-component C 2: Off-grid electrification. This sub-component will support off-grid electrification solutions in areas that cannot be cost effectively served by the national grid. Rural Electrification Authority (REA) will implement this sub component. The off-grid electrification solutions are based on renewable energy hybrid mini-grids using Public-Private-Partnership (PPP) approaches to serve isolated communities of between 200 to 400 households and public, commercial and industrial loads.

This sub-component will be implemented by REA and will support the implementation of off-grid electrification solutions in areas whose connection to the national grid is financially not viable in the short and medium term. Electrification of those areas will be implemented through mini-grids supplied preferably by hybrid generation systems, combining renewable resources (solar or wind) and thermal units running on diesel. This sub-component will test a PPP approach. The private sector (small scale independent power producer) will construct hybrid generation. The selection of sub-component areas is based on the number of potential users and their demand, supported by market sounding, a demand survey and pre-feasibility studies being carried out by REA.

Typically, the schemes will be implemented in villages of 150-400 prospective users and approximate demand of 250-500kVA. This sub-component will be supported by IFC data collection and regulatory analysis for mini-grids.

This Vulnerable and Marginalized Groups Framework (VMGF) has been prepared for the Government of Kenya (GOK), Ministry of Energy and Petroleum (MOEP) under **Kenya Electricity Modernisation Project (KEMP)** because the project has triggered Operational Policy OP 4.10. To ensure compliance to this Bank policy, a VMGF must be prepared in order to comply to this policy that stipulates that in the event, that vulnerable and marginalized groups are likely to be affected by a Bank-supported project then a framework must be prepared.

This VMGF for the **Kenya Electricity Modernization Project** has been prepared based on the OP 4.10 of the World Bank (“Bank”) and the applicable laws and regulations of the Government of Kenya. The OP 4.10 is triggered when it is likely that groups that meet criteria of OP 4.10 “are present in, or have collective attachment to, the project area¹.” It is to guide the preparation of KEMP subprojects that may affect Vulnerable and Marginalised Groups (VMGs) in the proposed project areas.

OP 4.10 ‘contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Vulnerable and Marginalised Groups (VMGs), the Bank requires the borrower to engage in a process of free, prior, and informed consultation leading to broad community support. The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected vulnerable and marginalised groups’. Such Bank-financed projects include measures to:-

1. Avoid potentially adverse effects on the Indigenous Peoples’ communities; or
2. When avoidance is not feasible, minimize, mitigate, or compensate for such effects;
3. Ensure that the vulnerable and marginalised people receive social and economic benefits that are culturally appropriate and gender as well as inter-generationally inclusive; and that the VMGF is based on free, prior and informed consultations with indigenous peoples leading to broad community support.

The objectives of the policy are to avoid adverse impacts on vulnerable and marginalised groups, secure broad community support for the project and to provide Vulnerable and Marginalized Groups (VMGs)² with culturally appropriate benefits.

¹World Bank, Operational Policy (OP) 4.10 Indigenous Peoples, July 2005.

² Given particularities with respect to the term *Indigenous Peoples* in Kenya, the 2010 Constitution of Kenya uses the term “vulnerable groups” and “marginalized communities” Since adoption of the Constitution in 2010, the GoK has requested that project instruments related to the implementation of OP 4.10 use the constitutionally-sanctioned terminology. OP 4.10 contemplates that different terminology may be applied in different countries without affecting the application or substance of the policy. It states:

Reasons for the use of a Vulnerable and Marginalized Groups

Framework

A Vulnerable and Marginalised Groups Framework is developed when a proposed project design is not yet finalised so that it is impossible to identify all of the impacts, as is required to prepare a Vulnerable and Marginalised Groups Plan (VMGP). This situation applies to all the related proposed sub projects under KEMP. At the time of preparation of this VMGF (a) the locations of where the off-grid electrification sub-components will be implemented and the site where the infrastructure will be constructed at these locations have not been finalized (further pre-feasibility work is required in order to confirm the locations and sites). 6 locations have been proposed and these are listed below. These locations include ones where vulnerable and marginalised groups that meet the criteria of OP 4.10 may be present as follows:

Likely Locations (off-Grid Electrification Sub-Component KEMP) with VMGs that may be in Project Area of Influence

County	Locality	VMGs that may be present in the County
Siaya	Mageta Island	--
Homa Bay	Ngodhe Island	--
Homa Bay	Takawiri Island	--
Kwale	Shimoni Island	Mjikenda/Watha
Tana River	Chardende	Sanye, Watha, Boni
Kilifi	Kadaina Island	Bajuni, Watha,

During project preparation, it has become clear that the off-grid electrification sub project investments under KEMP might be undertaken in areas where groups that meet the criteria of OP 4.10 Indigenous Peoples are present in or have collective attachment to the project area. To qualify for funding from the Bank and following best practice documented in the World Bank's policy on Indigenous Peoples (OP 4.10), the Government of Kenya has commissioned the preparation of a Vulnerable and Marginalised Groups Framework (VMGF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of vulnerable and marginalised people and that the KEMP sub projects have broad community support from the affected vulnerable and marginalised people.

In such cases, and when the Bank's screening indicates that VMGs are likely to be present in, or have collective attachment to, the project area, but their presence or

"Indigenous Peoples may be referred to in different countries by such terms as indigenous ethnic minorities; aboriginals, hill tribes, minority nationalities, scheduled tribes, or tribal groups."

KEMP Vulnerable and Marginalized Groups Framework

collective attachment cannot be determined until the programs or investments are identified, the borrower (in this case GOK) prepares a Vulnerable and Marginalized Groups Framework (VMGF). The VMGF provides for the screening and review of the proposed sub projects in a manner consistent with this policy. The KEMP will integrate the VMGF recommendations into the project design of each sub project.

It should be noted that minimal, if any, negative impacts are anticipated as a result of the project. Most of the impacts anticipated will be positive for all communities, including for VMGs. As a result, a key focus of the VMGF and the VMGPs will be to propose proactive steps for such groups to benefit from the project. It is generally envisaged that the Vulnerable and Marginalized Populations do not have access to these services in a similar way to other ethnic communities in Kenya.

The VMGF outlines the processes and principles of screening to determine if a proposed investment impacts on vulnerable communities. The preparation of a VMGP, including the social assessment process, consultation and stakeholder engagement, disclosure procedures, communication and grievances redress mechanism. A detailed VMGP will be prepared for each sub project once a project location is identified and screening conducted and determination via screening is made that VMGs are present in the project investment area.

The VMGF recognizes the distinct circumstances that expose VMGs to different types of risks and impacts from development projects as social groups with identities that are often distinct from dominant groups in their national societies. VMGs are frequently among the most marginalized and vulnerable segments of the population. At the same time, this policy, together with the Resettlement Policy Framework (RPF) and Environmental and Social Management Framework (ESMF) already prepared for this KEMP, recognizes that VMGs should benefit from energy saving/green technology and benefits of lighting up in order to ensure long-term sustainable management of energy resources.

This VMGF describes the policy requirements and planning procedures that KEMP will follow during the preparation and implementation of sub projects especially those identified as occurring in areas where VMGs are present.

This VMGF is to be used by the Rural Electrification Authority (REA) in order to ensure that the World Bank indigenous people's policies, with emphasis on Operational Policy OP 4.10 (Indigenous People) are adequately addressed. The purpose of this VMGF is to ensure that management of issues related to vulnerable and marginalised people is integrated into the development and operation of proposed investments to be financed under the KEMP to ensure effective mitigation of potentially adverse impacts while enhancing accruing benefits.

Vulnerable and Marginalized Groups KEMP Project Areas

The African Commission's Working Group of Experts on Indigenous Populations & Communities affirms *"almost all African states host a rich variety of different ethnic*

groups. All of these groups are indigenous to Africa. However, some are in a structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses.”

Indigenous Peoples (OP 4.10) will be triggered³ by proposed investment projects to be implemented under the KEMP. Since KEMP is countrywide in nature an initial screening indicates the presence of groups that meet the World Bank criteria for indigenous peoples who likely to be present in, or have collective attachment to the sub project areas in the Off-Grid Sub-Component. While the exact sites of the works remain unknown at this point, a preliminary assessment indicates that the project is likely to be implemented in areas where the following VMGs are present Mjikenda/Watha (Kwale), Sanye, Watha, Boni (Tana River) and Bajuni, Watha (Kilifi) who may benefit from the Project. In addition to OP 4.10, screening and profiling marginalized community and marginal groups will be done in line with the interpretation of section 260 of the Kenya Constitution, 2012 which provides a list of those profiled as Marginalized Communities and Marginalized Groups.⁴

This VMGF documents attempts to capture the vulnerable and marginalised groups in Kenya as defined by the Constitution of Kenya (CoK), including those that have previously triggered the Op 4.10 in previous Bank-financed projects as the KEMP is national in scope and since the exact sub project investment locations are not known. During the sub project screening further determination and exclusion will be made.

Although the groups listed are categorised as VMGs under GoK's legislation, they would also need to meet the Bank's criteria for determining whether they are Indigenous Peoples, per the criteria set out in OP 4.10. The framework document describes what groups GoK recognizes as vulnerable and marginalized and also presents the Bank's policy criteria for determining if they are Indigenous Peoples. Through the social assessment process at the subproject level, an evaluation will be made if a VMGP should be prepared and from which groups (It should be noted that some groups, such as the *Ogiek and Sengwer, Ilchamus, Boni and Sanye* have met the criteria for OP 4.10 in other Bank-financed projects, however site specific verification is required given the fast pace of urbanization and social economic change in Kenya). Hence for that reason, the list of sites proposed by GOK for off-grid electrification provided in *annex 7* is indicative.

Vulnerable & Marginalized Groups Requirements

³ See Annex 1 for World Bank Operational Policy (O.P.) 4.10 Indigenous Peoples.

⁴ The Constitution states that a marginalized community/groups is one that meet the following criteria: (a) **A community** that are unable to participate in the integrated social economic life of Kenya as a whole due to (i) relatively small population or (ii) any other reasons; (b) **Traditional Community** that has remained outside the integrated social and economic life of Kenya as a whole; (c) **Indigenous community** that has retained a traditional lifestyle and livelihood based on a hunter-gatherer economy; and (d) **Pastoral persons or communities**, whether: (i) **nomadic or (ii) a settled community** that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya .

The World Bank's Operational and Procedural Policies, specifically OP 4.10 requires the Government of Kenya to prepare a VMGF which establishes a mechanism to determine and assess future potential social impacts of MoEP's planned sub projects under the proposed KEMP on vulnerable and marginalized groups.

Free and Prior Informed Consultation

Projects affecting the vulnerable and marginalized, whether adversely or positively, therefore, need to be prepared with care and with the participation of affected communities. The requirements include social analysis to improve the understanding of the local context and affected communities; a process of free, prior, and informed consultation with the affected vulnerable and marginalized communities leading to broad community support in order to fully identify their views and to obtain their broad community support to the project; and development of project-specific measures to avoid adverse impacts and enhance culturally appropriate benefits.

This Vulnerable and Marginalized Groups Framework (VMGF) sets out:

- *The types of investments likely to be proposed for financing under the project.*
- *The potential positive and adverse effects of such investments on VMGs.*
- *A plan for carrying out the social assessment for such investments.*
- *A framework for ensuring free, prior, and informed consultation with the affected VMGs at each stage of project preparation and implementation.*
- *Institutional arrangements (including capacity building where necessary) for screening project-supported investments, evaluating their effects on VMGs, preparing VMGPs, and addressing any grievances.*
- *Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.*
- *Disclosure arrangements for VMGPs to be prepared under the VMGF.*

OP 4.10 requires that a process of free, prior, and informed consultation leading to broad community support, with the affected vulnerable and marginalized communities, of the potential adverse and positive effects of the project be designed and used in consultation. It is unlikely that the proposed investments will result in significant adverse impacts for vulnerable and marginalized communities, but the VMGs should be informed of project impacts, positive and negative and consulted with prior to project implementation.

Free, prior and informed consultation in relation to activities taking place on indigenous lands, refers to a process whereby affected vulnerable and marginalized communities, freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, of whether and how these activities occur, according to their systems of customary decision making.

This VMGF establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among KEMP, and other local civil society organizations (CSOs) identified by the affected Vulnerable and Marginalized Groups.

Free and prior informed consultation of the vulnerable and marginalized communities leading to broad community support will be conducted at each stage of the project, and

particularly during project preparation, to fully identify their views and ascertain their broad community support for the project.

Screening, Preparation and Implementation of VMGPs

The steps to be undertaken for the preparation of VMGP for each sub project investment will include a screening process, to determine whether VMGs are present in, or have collective attachment to, the project area. This screening will be conducted by the environmental and social specialists within REA/Project Implementation Unit (PIU) in collaboration with private sector (small scale independent power producer) carrying out the specific sub project investment (hybrid generation) under the KEMP and using consultants with expertise on the social and cultural groups in the project area. Ideally the screening for VMGs should consider the GOK's framework for identification of Vulnerable and Marginalized Groups (VMGs) according to the New Constitution of Kenya (CoK) however, the Bank criteria for identification of VMGs as per OP. 4.10 will be used to make a final determination.

If, based on the screening, it is concluded that VMGs are present in, or have collective attachment to, the project area, a social assessment/analysis will be undertaken by executing partner agencies of KEMP, with direct support of the environmental and social specialists in the REA/PIU to evaluate the projects' potential positive and adverse effects on the VMGs, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment will be proportional to the nature and scale of the proposed project's potential effects on the VMGs. Whether such effects are positive or adverse, consultation and participation are required as part of the preparation of the VMGPs which will include engaging in free, prior, and informed consultation with the VMGs.

Preparation of a specific sub project VMGPs will be done in accordance with the requirements of OP 4. 10 and each VMGP will be submitted to the Bank for review before the respective investment is considered eligible for Bank financing under the broader project framework *Annex 3* section of this report outlines the contents of a VMGP.

The need for VMGPs will depend on (a) the presence of VMGs and (b) the nature and scale of the subproject impact groups that meet the OP 4.10 criteria. The VMGPs will capture the nature and scale of the subproject impact and vulnerability of VMGs, including (i) adverse impacts on customary rights of use and access to land and natural resources; (ii) negative effects on the socioeconomic and cultural integrity; (iii) effects on health, education, livelihood, access to the project benefits, and social security status; and (iv) other impacts that may alter or undermine indigenous knowledge and customary institutions. It will also identify ways in which to bring benefits of the project to VMG communities if technically feasible. The social assessment will identify requirements for preparing a VMGP and/or incorporation of VMGP elements in other project design documents such as resettlement plan.

The VMGPs will set out the measures whereby REA/PIU will consult with VMGs and ensure that (i) affected VMGs receives culturally appropriate social and economic benefits; and (ii) when potential adverse impacts on VMGs are identified, these will be avoided to the maximum extent possible. Where this avoidance is proven to be

impossible, VMGP will outline measures to minimize, mitigate, and compensate for the adverse impacts.

The level of detail and comprehensiveness of VMGP will vary depending on the specific subproject and the nature of impacts to be addressed. If the impacts are limited to acquisition of customary land, the elements of VMGP will be combined to the RAP. If VMGs are the sole or overwhelming majority of the subproject beneficiaries, the elements of the VMGP could be integrated into the subproject design or documents such as community development program to ensure that all VMGs participate in and receive culturally appropriate benefits from the subproject.

Consultation and Stakeholder Engagement

This framework seeks to ensure that VMGs are informed, consulted, and mobilized to participate in the relevant subprojects. The PIU to be established by REA for the Off-Grid Sub-Component of the KEMP and Non-Governmental Organizations (NGOs) active in the project area will undertake consultation from the very beginning and will continue till end of the project. The EA will undertake prior consultations with any likely impacted VMGs and those who work with and/or are knowledgeable of VMGs development issues and concerns. To facilitate effective participation, the VMGP will follow a timetable to consult VMGs at different stages of the project program cycle, especially during preparation of the civil works program. Also, the REA/PIU will undertake a social impact assessment (SIA) to gather relevant information on demographic data; (i) social, cultural and economic situation; and (ii) social, cultural and economic impacts — positive and negative — on the indigenous communities in the relevant subproject area.

Grievance Redress Mechanisms

A grievance redress mechanism will be developed for addressing the grievances from the affected VMGs related to subproject implementation. The procedure of grievance redress will be incorporated in the project information pamphlet to be distributed prior to implementation. Participatory consultation with affected households will be undertaken during project planning and implementation stages.

The EA will establish a mechanism to receive and facilitate resolution of affected VMGs concerns, complaints, and grievances about the project's safeguards performance at each subproject having VMGs impacts, with assistance from Non-Governmental Organisations (NGO). Under the Grievance Redress Mechanism (GRM), a Grievance Redress Committee (GRC) will be formed for each sub project with involvement of VMGs representative & local stakeholders. The GRCs are to be formed and activated during the VMGPs implementation process. Assistance to VMGs will be given to document and record the complaint. The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time and at the lowest levels where the PAPs reside for quick resolution.

The traditional dispute resolution structures existing for each of the VMGs will be used as the first step in resolving grievances. The GRM may draw on and be part of that proposed in the Resettlement Policy Framework for the KEMP project. The grievance

mechanisms will include (a) Sub-county Resettlement Compensation Committees (SCRCC), including representatives of the national land commission, the Implementing Agency (IA); county administration representative, sub-country land registrar, and two VMGF PAPs; and (b) Locational Resettlement Compensation Committees (LRCCs) based in each administrative location where sub-projects are located and shall be the voice of the PAPs to include location chief, assistant chiefs, men and women PAPs, youth and vulnerable groups representatives. The participation of local leaders and PAPs in disseminating information and resolving disputes will be important once RAP implementation starts. VMG PAP representatives will participate in the sub-project workshops at mid-term and at the end of RAP implementation. To the extent possible, the RAP should include social accountability tools to assess the quality of RAP implementation, and in some cases, assist the RAP team in tracking expenditures.

All the grievances will be channeled to the existing structures of the project and then to those at a national level, with last recourse being the Kenyan Courts of Law. The VMGF will make the public aware of the GRM through public awareness campaigns.

Marginalized and vulnerable communities will be provided with a variety of options for communicating issues and concerns, including in writing, orally, by telephone, over the internet or through more informal methods as part of the grievance redress mechanism. In the case of marginalized groups (such as women and young people), a more proactive approach may be needed to ensure that their concerns have been identified and articulated. This will be done, for example, by providing for an independent person to meet periodically with such groups and to act as an intermediary. Where a third party mechanism is part of the procedural approach to handling complaints, one option will be to include women or youth as representatives on the body that deals with grievances. It should be made clear that access to the mechanism is without prejudice to the complainant's right to legal recourse. Prior to the approval of individual VMGPs, the affected VMGs will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

Disclosure

This VMGF and sub project VMGPs will be made available to the affected VMGs in an appropriate form, manner, and language. Before project appraisal, the REA/PIU will send the social assessment and draft VMGP to the Bank for review. Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank will make them available to the public in accordance with Bank Policy on Disclosure of Information, and the GOK will also make the documents available to the affected communities in the same manner as the earlier draft documents.

Each subproject VMGP will be disclosed to the affected VMGs with detailed information of the subproject. This will be done through public consultation and made available as brochures, leaflets, or booklets, using local languages. Summary of the VMGP will be made available in hard copies and in language at: (i) Offices of the MoEP; (ii) Sub County or County Office; and (iv) any other local level public offices. Electronic versions of the framework as well as the VMGPs will be placed on the official website of MoEP

and the official website of Bank after approval and endorsement of the VMGF and each VMGP by the Bank.

Capacity Building and Training

Effective implementation of the Vulnerable and Marginalized Groups Framework may require that adequate capacity enhancement within institutions and other stakeholders are undertaken, especially in regard to monitoring and evaluation. There is need for capacity building through training to be conducted for the REA/PIU, the private sector (small scale independent power producer for the hybrid generation investments) and MoEP. In the initial preparatory stages the environmental and social safeguard specialists within the REA/PIU will prepare VMGPs in collaboration with the staff from the executing agencies to learn on the job through pairing is recommended. These will be done in consultation with VMGs.

Monitoring and Evaluation

The implementation of VMGPs will be monitored. REA the executing agency implementing specific sub project investments will establish a monitoring system involving REA/PIU staff, the private sector (small scale independent power producer for the hybrid generation investments, local governments, and VMGs to ensure effective implementation of VMGP. A set of monitoring indicators will be determined during VMGP implementation and will be guided by the indicators contained in the document (*see table 3 section 7*). REA/PIU support consultants will carry out monitoring. Appropriate monitoring formats will be prepared for monitoring and reporting requirements.

For any subproject with significant adverse impacts on VMGPs, external experts/consultants will be engaged by the REA/PIU to verify monitoring information of the VMGP for such subprojects. The NGOs will collect baseline data including qualitative information and analyze the same to assess the impacts of the project on indigenous people. The external experts will advise on compliance issues and if any significant issues are found, REA will prepare a corrective action plan or an update to the approved VMGP. REA will follow up on implementing the corrective actions to ensure their effectiveness.

Several key indicators and topics for monitoring and evaluation of VMGP are (i) process of consultation activities; (ii) appropriateness of affected assets valuation and compensation; (iii) economic status of VMGPs in comparison with pre project condition (iv) status of VMGs as identified in the SA; (v) any disadvantaged conditions to VMGs that was not anticipated during the preparation of VMGPs, that required corrective actions; and (vi) grievance redress issues. The VMGP will collect required data/information and regularly analyze project outputs and impacts considering impact on VMGs, and semi-annually report the results to the Bank.

Annual Reporting and Performance Review Requirements

Annual progress reports will be prepared by the PIU and the preparation of the progress reports will be supported by the environmental and social safeguards specialists in the REA/PIU. These reports will be submitted to the Bank.

Budget

All costs for implementation of VMGP will be financed by KEMP. The costs will be estimated during feasibility based on interviews with community members and relevant government officials. This will be updated after the detailed survey and investigation as well as further consultations with VMGs.

The budget for the implementation of the VMGP will mainly include costs for capacity building for REA/PIU and the private sector (small scale independent power producer for the hybrid generation investments) to screen for VMGs and prepare VMGPs; consultation/meetings, information dissemination, NGO/Agency hiring for VMGP implementation & monitoring, GRM etc. Once the subproject has been appraised and finalized in the context of the VMGF, the required budget is to be allocated by the EA for proper implementation of the VMGP. The VMGPs budget will also include costs for implementation of VMGPs, such as salaries and travel costs of the relevant REA/PIU staff. In summary there should be adequate budgetary provisions to implement any VMGP where necessary for the subproject development.

I INTRODUCTION

1.1 Country and sector context/ Project Concept

During the last decade, Kenya has emerged as one of the growing number of success stories in Africa. Kenya has the largest economy in East Africa. Gross Domestic Product (GDP) is projected to grow 4.7 percent a year in 2014 and 2015. Kenya's poverty level is estimated to have declined from 47 percent in 2005, to between 34 to 42 percent in 2013. The population in Kenya doubled over the last 25 years and by 2040, Kenya – with a predicted 75 million people; and a strong emerging middle class – is expected to become the 21st largest economy in the world. Kenya's economy is more diversified than most countries in Sub-Saharan Africa. About 55 percent of Kenya's GDP comes from services, transport, finance, tourism, information and communications technology (ICT) and trade – sectors that critically depend upon reliable power supply. With relatively low levels of debt, a stable exchange rate, and declining inflation, Kenya is able to run higher fiscal deficits to maintain its public investment program, especially in infrastructure.

Vision 2030, Kenya's long-term development strategy, targets expanded infrastructure access as a key element in achieving higher levels of economic growth. *Vision 2030* targets an average annual economic growth rate of 10 percent between 2013 and 2030. This significantly higher economic growth will require modern, efficient infrastructure facilities to expand the productive sectors of the economy and improve access to markets. The upgrade of the infrastructure platform calls for rehabilitating the road network, upgrading the railways, improving urban public transport, and expanding access to electricity and safe water. In an effort to improve equity of opportunity, the overall program gives a special emphasis to expanding the access of the rural and urban poor to basic services such as electricity, water, and sanitation.

Kenya's dynamic private sector faces serious infrastructure constraints. Electricity supply and transport need to be improved if Kenya is to maximize its potential for private sector-led growth. Kenya's vibrant private sector is a major source of economic growth, driven by expanding services in telecommunications and transport. Kenya benefits from its geographical location that is favorable to trade, with the port of Mombasa serving as the most important gateway for imports to the East African Community (EAC) countries, South Sudan and eastern DRC. Considering that affordable and reliable electricity supply is an essential underpinning of Kenya's competitiveness, investment in the T&D infrastructure, along with efficiency in operations and maintenance, remain critical for the country.

Higher levels of electricity service reliability and quality are necessary for stronger economic growth and increased competitiveness. Currently, poor quality and reliability of service imposes high costs on business (including the capital cost of self-generation and loss of production). Enterprises experience frequent electricity service interruption and many have self-power generation on their premises in order to meet their electricity needs.

Approximately 32 percent of the population has access to electricity. Accelerating the pace of electrification in line with the government's target of 70 percent electrification by 2020 can contribute to eliminating extreme poverty and achieving shared prosperity.

1.2 Project Development Objectives

The proposed project development objectives (PDOs) are: (a) to increase access to electricity; (b) to improve reliability of electricity service; and (c) to restore KPLC's financial sustainability.

1.3 Project Components

The Kenya Electricity Modernization Project – to be financed by the World Bank Group through the International Development Association (IDA) - aims to support the Government's initiatives of ensuring increased electricity access to Kenyans, particularly among low income groups in peri-urban and off-grid areas. The existing and new distribution transformers (pole-mounted) shall be optimized through extension of the low and medium voltage network to reach households located in the vicinity of these transformers.

The Kenya Energy Modernization Project has 4 different components as described below. However, this VMGF focuses on sub component C2 which triggers OP. 4.12 and hence the need for this RPF.

Component A- Improvement in Service Delivery and Reliability

Sub-Component A1: Upgrade of the Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS).

Sub- Component A-2: Distribution system enhanced flexibility.

Sub-component A-3: Enhance maintenance practices to improve the quality in electricity supply. .

Component B-Revenue Protection Program

This component will finance implementation by KPLC of a revenue protection program (RPP), based on the application of advanced metering infrastructure (AMI), and the adoption of organizational arrangements (creation of one or more metering control centers (MCCs) aimed to optimize the systematic use of the information provided by the metering system and undertake consistent corrective field action as needed.

Component C-Electrification Program

This component will support the government's objective of 70 percent household connectivity by 2017 by providing financing for the connection of new households in a more cost-effective manner. Payment of a connection fee will not be a pre-requisite for households to be connected. However, households may be required to contribute to the national electrification program in return for connection as it is government policy. The amount of this contribution will however be based on household affordability so that no household remains unconnected due to inability to pay the contribution (during appraisal, the specific principles will be assessed and agreed with KPLC and the regulator).

Sub-component C1: Peri-urban electrification. This sub-component that will be implemented by KPLC will finance the design, materials and construction works required to electrify all households and businesses in some high density peri-urban areas located close to existing electricity networks. Those areas will be defined by the Government and will be distributed across the country. The selection of those areas will in high-density areas, measured through the ratio number of prospective users/km², located close

to existing electricity networks. . It is estimated that 125,000 households will be connected. This sub-component introduces new implementation and procurement arrangements to maximize the resources available and efficiently implement the project.

Sub-component C 2: Off-grid electrification. This sub-component will support off-grid electrification solutions in areas that cannot be cost effectively served by the national grid through pre-feasibility studies, tender preparation, and implementation support. It will be implemented by REA. The off-grid electrification solutions are based on renewable energy hybrid mini-grids using Public-Private-Partnership (PPP) approaches to serve isolated communities of between 200 to 3,000 households and public, commercial and industrial loads.

Electrification of those areas will be implemented through mini-grids supplied preferably by hybrid generation systems, combining renewable resources (solar or wind) and thermal units running on diesel. This sub-component will test a PPP approach. The selection of project areas is based on the number of potential users and their demand, supported by an on-going market sounding, a demand survey and pre-feasibility studies being carried out by REA. Typically, the schemes will be implemented in villages of 150-400 prospective users and approximate demand of 250-500kVA.

Component D: Technical Assistance and Capacity Building

This component will finance consultancy services, feasibility studies for new investments, training actions and other activities to support, among others:

- (i) *Preparation of the National Electrification Strategy (NES).* The NES' objective is to achieve universal access to electricity services meeting applicable standards on quality on a sustainable manner in the shortest possible time and optimizing allocation of resources from a country's perspective.
- (ii) *Detailed national technical specifications and standardization.* This assistance will support the technical and economic optimization of the design and construction of electricity networks needed to supply new users located in currently not served areas, meeting applicable standards on service quality. This will result in the addition of new standardized construction units to those currently applied by KPLC and REA. This sub-component will be implemented by KPLC.
- (iii) *Regulations for enforcing quality on electricity service delivery.* Assistance to ERC to implement a regime on service quality, based on systematic monitoring of key parameters through direct access of the records of the information systems used by KPLC. This will also combined with assessments on KPLC for attention of customers' complaints and KPLC commercial systems. This sub-component will be implemented by MOEP through ERC.
- (iv) *Project preparation support and feasibility studies for new investment projects as required.* This will finance consultancy services, training actions and other activities to support the implementation of the project. This sub-component will be implemented by KPLC.

Project beneficiaries will be spread across the country helping to sustain broad-based support for Project activities. The investments to improve delivery of reliable electricity service will be focused in economic growth poles around the country thus benefiting businesses in all regions. The Component C1, for peri-urban electrification, will be implemented in approximately 50 peri-urban areas across the country. The areas will be firmed up during design of the low voltage networks to serve clusters within the areas. Component C2 (off-grid electrification) will be implemented in approximately 6 locations in a number of regions.

This sub-component will support the implementation of off-grid electrification solutions in villages in rural areas where connection to the national grid is economically unviable in the short and medium term. Electrification of these villages will be through mini-grids, combining renewable resources (solar or wind) and thermal units. This sub-component will pilot Public-Private-Partnership (PPP) arrangements.

An Independent Power Producer (IPP) with a Purchase Power Agreement (PPA) with KPLC will implement the hybrid generation system. The IPP will invest in the fuel-based generation component and SREP and IDA funding will finance the supply and installation of the renewable generation facilities and the mini-grid distribution network. The construction of the distribution infrastructure will be implemented by REA and new users will become KPLC's customers. To ensure sustainability of provision of electricity services to users connected to the mini-grid, a contract between KPLC and a local company providing operation (network and commercial) and maintenance services will be signed. Fees charged by the services contractors will be passed through in KPLC's allowed tariff revenues set by ERC. The selection of project areas is based on the number of potential users and their demand. Communities with 150-400 prospective users and approximate demand of 250-500kVA have been identified.

1.4 Project Implementation

Implementing Agency The main agency involved in implementation of the VMGF will be the Rural Electrification Authority as an overall implementing agency for the Off-Grid Sub-Component of KEMP and will act as the central agency responsible for holding all information relevant to the VMGF and subsequent VMGPs.

1.4.1 Ministry of Energy and Petroleum

The Ministry of Energy and Petroleum (MoEP) will be responsible for overall coordination and oversight of the KEMP project, including (i) definition of areas to be electrified based on technical and policy development priorities; (ii) consolidating information from implementing agencies; (iii) monitoring the implementation of project; and (iv) evaluating the project. MoEP will hire, on a competitive basis, a Project Coordinator to consolidate the information prepared by the implementing agencies and he/she will report to the Principal Secretary, MoEP

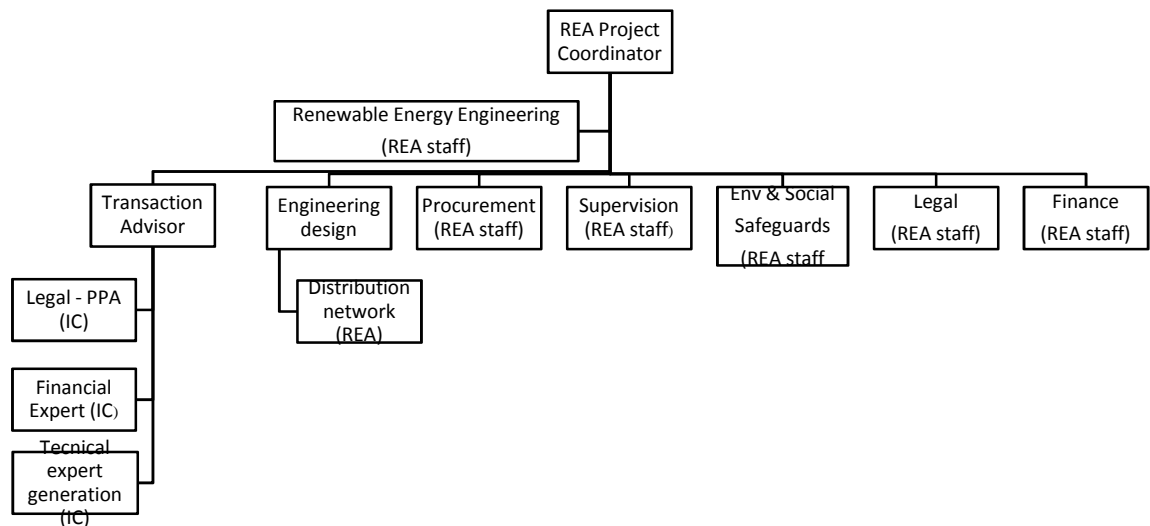
1.4.2 Rural Electrification Authority

REA, an agency of government under the MOEP will implement Component C2 of the Project. Its mandate under the draft Energy Bill is to be expanded to include promotion and development of renewable energy resources (excluding large scale). REA will be supported by a Technical Advisory Service (Consultant) for implementation of component C2 of the project. Private sector (small scale independent power producer) will construct the hybrid generation facility (diesel and renewable energy generation facility).

1.4.3 Project Implementation Unit (PIU) REA

1. **Figure 1: REA PIU** REA’s capacity to implement Component C2 Off-Grid Electrification will be strengthened through deployment of existing specialized REA staff to the existing PIU of the IDA financed KEEP. These will include the following additional staff (a legal specialist, procurement specialist, a social specialist and renewable energy engineer). There is an environmental specialist already in the PIU. The unit will be supported by a transaction adviser (consultant firm) that will provide all the specialized expertise in the areas of structured finance, design of competitive processes for selection of private entities in public private partnership arrangements, contract negotiations with private parties, project supervision, etc.
2. Figure 1 illustrates the implementation arrangements for this component.

Figure 1: REA Project PIU for Off-Grid Electrification Sub-Component KEMP



Environmental and Social Requirements

In order to reduce, minimise and mitigate adverse impacts and undue harm of its development projects to the environment, all bank-financed projects are guided by environmental and social policies and procedures commonly referred to as safeguards instruments.

The KEMP Project has triggered the following environmental and social safeguard policies⁵ of the World Bank. Safeguard OP 4.01, Environmental Assessment; OP 4.04, Natural Habitats; OP 4.11, Physical Cultural Resources; OP 4.10, Indigenous Peoples, and OP 4.12, Involuntary Resettlement. The following safeguard policy instruments have been prepared and publicly disclosed for the different sub-components.

KEMP Project Component	Policy Instrument
A1. Upgrade of the Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS). A2. Distribution system enhanced flexibility.	Environmental and Social Management Plan (ESMP)
C1. Peri-urban electrification	Environmental and Social Management Framework (ESMF) Resettlement Policy Framework (RPF)
C2: Off-grid electrification	Environmental and Social Management Framework (ESMF) Resettlement Policy Framework (RPF) Vulnerable and Marginalized Framework (VMGF)

Sub- component C2 Off grid electrification has triggered the following policies.

- OP 4.01(Environmental Assessment),
- OP 4.10 (Indigenous Peoples),
- OP 4.12 (Involuntary Resettlement),
- OP. 4.04 (Natural Habitats),
- OP. 4.11 (Physical Cultural Resources).

⁵The World Bank Safeguard Operational Policies (OPs) are OP4.01 – Environmental Assessment; OP4.04 – Natural Habitats; OP4.09 – Pest Management; OP4.10 Indigenous Peoples; OP4.11 – Physical Cultural Resources; OP4.12 – Involuntary Resettlement; OP4.36 – Forests; OP4.37 Safety of Dams; OP7.50 – Projects on International Waterways; and OP7.60 – Projects in Disputed Areas. See www.worldbank.org/safeguards for more information.

2 METHODOLOGY AND CONSULTATION

2.1 Detailed and in-depth literature review

Literature material was undertaken and helped in gaining a further and deeper understanding of the project. Among the documents that were reviewed in order to familiarize and deeply understand the project included:

- *World Bank Indigenous Peoples Operational Policy OP 4.10*
- *Technical Mission Aide Memoire*
- *Other relevant VMGF documents prepared in Kenya for bank projects*
- *KEMP Project Appraisal Document*
- *Constitution of Kenya*
- *Land Act 2012*
- *Relevant legislative documents in Kenya on vulnerable and marginalised groups*

2.2 Stakeholder Consultations

Public Consultation with key stakeholders to disclose and deliberate on the draft VMGF was done on 6th January 2015. The objectives of the consultation was to disclose information on KEMP and disclose the draft safeguard documents to relevant stakeholders and to provide opportunity to the stakeholders to voice their opinions and concerns on different aspects of the project. Four safeguards instruments prepared for the KEMP were presented to key stakeholders and discussed. These were: (a) Resettlement Policy for KEMP; (b) Vulnerable and Marginalized Group Framework (VMGF) for KEMP; (c) Environmental and Social Management Framework (ESMF) for Peri Urban Component and the (d) Environmental and Social Management Framework for the Off Grid Component. The feedback was overall positive and stakeholders were supportive of the objectives of the project to increase access to and reliability of electricity services. They were also broadly satisfied with the proposed safeguard instruments and the mitigation measures provided for in the instruments. The main concerns raised were around ensuring the project addressed issues of (a) accessibility to VMGs; (b) reducing the costs of connections to address affordability; (c) ensuring benefits accrue to women and youth; (d) building on existing numerous studies that already exist on exploitation of green energy (wind and solar and other green energy); (e) ensuring that KEMP areas of focus and targets are aligned with county integrated development plans (CIDPs); and (f) targeting investors to come to new areas as well as protecting investor rights and investments.

See table 2.1 which summarizes the main social issues raised.

The opinions and suggestions of the stakeholders will assist in taking appropriate decisions for effective engagement of Vulnerable and Marginalized Groups where the sub-projects will be implemented. The consultations were aimed at fostering an atmosphere of understanding about the project among individuals, groups and organizations, who could affect or be affected by the sub-projects. As a part of project implementation, an effective public consultation and access to information plan will be developed. The VMGF was prepared specifically for the Off Grid Components which will be implemented in rural areas. The exact sub-project locations and sites are not yet identified, but subprojects are likely to be implemented in areas where the following VMGs are present:

Mjikenda, Watha (Kwale), Sanye, Watha, Boni (Tana River) and Bajuni, Watha (Kilifi). These groups are hunter gatherers and or fishing/foraging groups along the coastal areas.

Once they are established individual VMGF will be prepared as required by World Bank guidelines and further public consultations and stakeholder engagements will be conducted at this stage.

Table 2.1 Summarizing Social Issues raised during the Consultations

Comment/Question	Response / Remarks from Kenya Power
<p>Ondieki Evans - Minister Environment and Energy Nairobi County Resettlement Frameworks – I did not see a lot of input on gender. In the case of compensation it is the men who will want to pick the money and the women left out</p>	<p>Gender considerations will be taken especially during consultations in identifying impacts to allow all parties affected including women understand the compensations and voice their concerns. Issues of payment that involves family property disputes will be handled as they arise. The county administrators from the county and national government will be engaged in dealing with such disputes.</p>
<p>Input on other marginalized groups – widows, orphans, single mothers etc. not seen in the VMGF. How they will be protected?</p>	<p>Within Vulnerable and marginalized groups there could be certain groups who are also vulnerable such as; the aged, orphaned children, female headed households, disabled and persons living with HIV/AIDS. During preparation of actual VMGP these groups will be accorded special attention to ensure they do not miss out on the benefits of the project and that they are not negatively impacted by the project.</p>
<p>Vulnerable groups in urban areas – there are truly marginalised groups in slums, need to capture uniqueness of urban areas in terms of marginalized groups.</p>	<p>The KEMP project component of electrifying peri-urban areas does not envisage any resettlement because only low voltage lines will be put in place. Therefore, no adverse impacts will occur in urban areas to disadvantage vulnerable groups further</p>
<p>Simiyu Mabuya– DCG (Contractor) On marginalized groups what about the youth and accessing contracts from these projects?</p>	<p>Marginalized groups (youth) and KPLC contracts: due to type of financing for this type of project there are specific guidelines that ensure competitive bidding and open process. Contractors covering all groups such as youth women are welcome so long as skills exist amongst them. In maintenance and as the systems continue to run contractors will participate actively, and in the supply of spare parts. In the main works there are strict guidelines which will be specified in the tender documents.</p>
<p>Magdelene Kariuki – Manager, Action Aid International Quality of compensation and resettlement – will quality of resource being compensated be retained?</p>	<p>Quality of compensation is well explained in the RPF document pages 32, 33 and chapter 8 on valuation and compensation.</p>
<p>Community land – is there an audit process that will be put in place to mitigate disfranchisement of women and address gender?</p>	<p>Community property is handled differently. The parties concerned are called for a meeting so that there is consensus. If it is land that is held in trust discussions are held first with the trustees and then the members. Deliberate effort will be put to ensure women participate including holding consultative meetings with women only so assess to assess specific impacts and appropriate mitigations</p>
<p>Peter Kihoria – Ministry of Agriculture, Livestock and Fisheries, Kajiado County I work a lot with pastoralist groups in Kajiado concerning social inclusion amongst vulnerable marginalized groups. In pastoral communities you have to coerce women to give their opinions, the usually will not give their comments. Men will not be concerned about water and firewood. When the land is compensated for land women are able to continue to using it.</p>	<p>Consultations will be done on how to loop the women in and have appropriate mitigations. In case of issues involving payments of family property national government (the administration) will be engaged i.e. chiefs to advice.</p> <p>In communities where women are shy to speak in meetings, they will be consulted differently so that</p>

However when its financial compensation women lose out on livelihood as the men take the money.	mitigation measures will be sensitive to their needs.
What is the plan for capacity building for women to utilize electricity for their development and enhance their livelihoods that is, reap benefits of projects?	Women will be sensitized on various ways they can use electricity for economic benefits.
<p>Dr. Pacifica Ogola – Kengen The KEMP project is more of a national project and there is a lot of diversity in social and environmental issues. There isn't a one size fits all, so need to recognize diversity. You need to take lessons learnt from previous projects as well.</p> <p>Caution on social impacts – resettlement was downplayed, presentation mentioned that there would be not mass movements, so what does actually mass mean? It is not just about the numbers.</p> <p>When you go to a place where land adjudication has not been done then other challenges will present. Also need to consider impacts if developing on a world heritage sites. In addition consider the long term sustainability of the Off- Grid component</p>	<p>Comments well taken and issues will be addressed as and when necessary.</p> <p>The ESMF, VMGF and RPF are guidelines and commitments from the proponent that environmental and social issues will be handled. This is because exact locations of the projects are not yet identified. Once site identification is done the specific Environmental Impact Assessment, vulnerable and Marginalized Groups Plans and Resettlement Action plans will be prepared as required.</p>
<p>Kenya Forest Services The purpose of the RPF and VMGF is to ensure public participation and full compensation to the affected farmers through consensus. The services of Kenya Forest Service can be outsourced at gazette rates for forest resource assessment in order to minimize conflicts with land owners and avoid litigation in law courts which are expensive and time consuming (Use of experts and professional bodies can help alienate challenges and compensation and resettlement plans)</p>	Comments well taken and will be considered

KPLC affirmed it would take the concerns into consideration. The consultations were attended by 128 people (113 participants and 15 KPLC staff)⁶. They included 1 County Governor, (Migori); 5 County Ministers of Energy, Water and NRM (Kiambu, Nairobi, Homa Bay, Nyamira, and TaitaTaveta). There were also representatives from the Ministry of Energy, KenGen, 24 representatives from Provincial Administration (Chiefs, Assistant to Sub country Commissioners); KenGen and other agencies working in energy; representatives from the private sector; and NGOs working in marginalized areas with VMGs. See Annex 8 for summary of issues raised in the consultations and attendees list.

2.3 Consultations with representatives of Vulnerable and Marginalized groups in Kenya on the VMGF

Since the VMGF was prepared by Environment & Social Unit, Safety, Health & Environment (SHE) Department of Kenya Power at the request of the Rural Electrification Authority a specific consultation forum for the VMGF with representatives of VMGs was conducted on 12th January 2015 at KPLC's offices in Stima Plaza, Nairobi. The forum was attended by 16 people with 6 of the participants from VMGs from different counties -- Narok (Masaai), Kwale (Mjikenda), Nakuru (Ogiek) and Kajiado (Masaai). Four safeguards instruments prepared for the KEMP were presented during this forum. These were: (a) Resettlement Policy for KEMP; (b) Vulnerable and Marginalized Group Framework (VMGF) for KEMP; (c) Environmental and Social Management Framework (ESMF) for Peri Urban Component and the (d) Environmental and Social Management

⁶Note that while 6 IPOs, two confirmed but did not attend and four did not respond despite follow up emails and telephone calls. REA will hold a follow up consultation with such groups once the specific sites for the off Grid are known and if VMGs are present in the area

Framework for the Off Grid Component. The representatives of the VMGS were appreciative of the initiative by KPLC to involve them during the preparatory stage of KEMP project. They were in particular impressed by the policy documents and the manner in which they addressed their issues of concern. They were overall supportive of the project goal and objectives and proposed interventions. Participants were very resources in discussing and highlighting issues of concern in each of the instruments. The main issues raised included:

- a) What mechanisms were in place to increase affordability of connections by VMGs;
- b) Need to pay particular attention to gender/women;
- c) Ascertaining free, prior and informed consultations
- d) Treatment of VMGs that do not have title deeds
- e) Clear feedback mechanisms
- f) Compensation for sensitive sites
- g) More clarity on principles of compensation for losses;
- h) Clarification on role and responsibilities of government and bank in screening/triggering policy O.P 4.10 and undertaking the social assessment process;
- i) The need to build on local /cultural mechanisms for GRM

However, they cautioned that from their past experiences reality has tended to depart from the paper work and urged KPLC to make all efforts to ensure implementation will be as per the instruments presented.

The Bank and KPLC clarified that the project was guided by principles of the safe guard documents presented and the various Bank operational policies triggered. KPLC welcomed the comments/suggestions and promised to take them into considerations. The detailed responses are in the minutes see annex 9.

2.4 Preparation of VMGF

This involved;-

- *Collation of baseline data on the Vulnerable and Marginalized Communities in Kenya including lifestyle, livelihood, history;*
- *Identification of positive and negative impacts of the proposed sub projects on the VMGs;*
- *Formulation of monitoring and evaluation plan.*

3 INTERNATIONAL, REGIONAL AND COUNTRY POLICY AND LEGAL FRAMEWORK ON IP/VMGS

3.1 Definition and Treatment by the African Commission on Human and Peoples Rights (ACHPR)

The Africa region has also taken important steps to recognize and apply the concept of Indigenous Peoples: The ACHPR, a sub-body of the African Union, adopted in 2005 the “Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities⁷.” The report recognizes the existence of populations who self-define as Indigenous Peoples, who are distinctly different from other groups within a state, have a special attachment to and use of their traditional land, and who experience subjugation, marginalization, dispossession, exclusion or discrimination because of their cultures, ways of life or modes of production different from those of the dominant society. The ACHPR report concludes that these types of discrimination and marginalization threaten the continuation of Indigenous Peoples’ cultures and ways of life and prevents them from being able to genuinely participate in decisions regarding their own future and forms of development. The report is the ACHPR’s official conceptualization of, and framework for, addressing issues pertaining to VMGs, and as such it is an important instrument for recognizing Indigenous Peoples in Africa, improving their social, cultural, economic and political situation, and for protecting their human rights. The report outlines the following key characteristics, which identify certain social groups as VMGs/IPOs in Africa:

- Their cultures and ways of life differ considerably from the dominant society
- Their cultures are under threat, in some cases to the point of extinction
- The survival of their particular way of life depends on access and rights to their lands and the natural resources thereon
- They suffer from discrimination as they are regarded as less developed and less advanced than other more dominant sectors of society
- They often live in inaccessible regions, often geographically isolated
- They suffer from various forms of marginalization, both politically and socially.

The ACHPR report concludes that these types of discrimination and marginalization threaten the continuation of Indigenous Peoples’ cultures and ways of life and prevents them from being able to genuinely participate in decisions regarding their own future and forms of development. The report is the ACHPR’s official conceptualization of, and framework for, addressing issues pertaining to Indigenous Peoples, and as such it is an important instrument for recognizing Indigenous Peoples in Africa, improving their social, cultural, economic and political situation, and for protecting their human rights. In line with the approach of the United Nations⁸, the ACHPR emphasizes the principle of self-identification, and stresses that the criteria for identifying Indigenous Peoples in Africa is not mainly a question of aboriginality but of the above factors of structural discrimination and marginalization. The concept should be understood as an avenue for the most marginalized to advocate their cause

⁷See ACHPR, *Report of the African Commission’s Working Group of Experts on Indigenous Populations*

⁸E.g. the ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples

and not as an attempt to deny any African his/her rights to their African identity.⁹ The report emphasizes that the African peoples who are applying the concept include mainly hunter-gatherers and pastoralists.

3.2 Definition and Treatment by the World Bank’s Policy

The World has a set of “Do No Harm” safeguard policies that are meant to protect project affected persons (PAPs) from impacts and actions of Bank financed projects: Some of the World Bank’s development activities have significant impacts on the rights and livelihoods of VMGs, who worldwide constitute the “poorest of the poor and continue to suffer from higher rates of poverty, lower levels of education and a greater incidence of disease and discrimination than other groups” (World Bank 2010). Since the early 1980s the World Bank Group (WBG) has adopted a number of policies, designed to mitigate harm to indigenous peoples in WBG-financed projects (Mackay, 2005). These have been referred to as safeguard policies.

The World Bank Operational Policy/Bank Procedures Indigenous Peoples (OP/BP 4.10). The operational policy requirement that Bank-financed projects are designed not only to avoid adverse impacts but equally important to recognize that “the distinct identities and cultures of VMGs remained inextricably linked to the lands they inhabited and the natural resources they depended upon to survive”. The policy provides processing requirements for VMGs that include: (i) screening, (ii) social assessment, in consultations with communities involved, (iii) preparation of Indigenous Peoples Plan (IPP) or Indigenous Peoples Policy Framework (IPPF) and, (iv) disclosure. It also requires the borrower to seek broad community support of VMGs through a process of free, prior and informed consultation before deciding to develop any project that targets or affects VMGs.

The World Bank, like the UN, has no definition of IP: because of the varied and changing contexts, in which VMGs live, and because there is no universally accepted definition of IP (paragraph 3), OP 4.10 does not “define the term.” Instead, it presents a set of characteristics for identifying VMGs. For purposes of this policy, “the term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural groupⁱ possessing the following characteristics in varying degrees:

- self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territoriesⁱⁱ
- customary, cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- an indigenous language, often different from the official language of the country or region.

3.3 Treatment of Indigenous Peoples/VMGs and 2010 Constitution of Kenya Legal and Policy Frameworks

The CoK, 2010, does not specifically use the term IP, it is nevertheless robust in articles that define vulnerability and marginalization, including issues that VMGs cite as the reasons for their self-identification. It also addresses social exclusion in

⁹ See ACHPR, Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities, Banjul & Copenhagen: ACHPR & IWGIA, 2005; and ACHPR, Indigenous Peoples in Africa: the Forgotten Peoples? The African Commission’s work on Indigenous Peoples in Africa, Banjul & Copenhagen: ACHPR & IWGIA, 2006.

general. *Article 260 of the Constitution defines a “marginalized community” as:* (a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;(b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;(c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or (d) pastoral persons and communities, whether they are (i) nomadic; or (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole¹⁰.

Similarly, the COK, 2010, defines ‘marginalized group’ as: a group of people who, because of laws or practices, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4) which prohibits discrimination on the basis of ethnic or social origin, religion, conscience, belief, culture, dress or language. In addition, article 27(6) calls on the state to undertake, ‘legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination’. This article prohibits both direct and indirect discrimination.

Articles 56 and 260 of the Constitution are a clear demonstration of the intentions of the country to deal with the concerns of minority and marginalized groups: The definition of marginalized communities and groups by the COK, 2010, and the provisions for affirmative action programmes for minority and marginalized groups are efforts to provide a legal framework for the inclusion of minority and marginalized groups into mainstream development of the country. These articles present the minority and marginalized groups including groups that fit the OP 4.10 criteria as a unique category of certain segments of the Kenyan population that deserve special attention in order to bring them to par with the rest of the country.

The Constitution of Kenya requires the State to address the needs of vulnerable groups, including “minority or marginalized” and “particular ethnic, religious or cultural communities” (Article 21.3): The Specific provisions of the Constitution include: affirmative action programs and policies for minorities and marginalized groups (Articles 27.6 and 56); rights of “cultural or linguistic” communities to maintain their culture and language (Articles 7, 44.2 and 56); protection of community land, including land that is “lawfully held, managed or used by specific communities as community forests, grazing areas or shrines,” and “ancestral lands and lands traditionally occupied by hunter-gatherer communities” (Article 63); promotion of representation in Parliament of “...(d) ethnic and other minorities; and (e) marginalized communities” (Article 100); and an equalization fund to provide basic services to marginalized areas (Article 204).

¹⁰Ditto

3.4 Other Legal and Policy Provisions that Facilitate Operationalization of OP 4.10 within Kenya's Legal Frameworks

Kenya's legal and regulatory framework has inclusion of several provisions, policies and instruments that if well developed and implemented hold promise for addressing marginalization and inclusion of VMGs. These include:

- a) *The National Land Policy (NLP):* The NLP was endorsed in 2009¹¹ while the Land Act, Land Registration Act and National Land Commission Act were adopted in May 2012.¹² According to the policy, a Community Land Act is scheduled to be adopted within five years of the enactment of the new Constitution, along with a number of other land related laws and regulations. The NLP includes a key policy principle for restitution of land rights of minority communities as a way of restoration and protection of land rights which were violated by colonial and post-colonial governments (articles 3.6.1.2 and 3.6.6 on restitution and land rights of minority communities respectively). The policy calls on the GoK to secure community land and to “document and map existing forms of communal tenure, whether customary or non-customary, in consultation with the affected groups, and incorporate them into broad principles that will facilitate the orderly evolution of community land law” (article 3.3.1.2, paragraph 66).
- b) *The Forest Act of 2005 and Forest Policy of 2007 both provide some provisions for the customary rights of forest communities and community forestry:* The Forest Act states, that “nothing in this Act shall be deemed to prevent any member of a forest community from using, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale” (Article 22), and “...may include activities such as ‘collection of forest produce for community based industries’” (Article 47.2.e) under a license or management agreement. The Act defines a “forest community” as “a group of persons who: (a) have a traditional association with a forest for purposes of livelihood, culture or religion [...] (Article 3). The Forest Policy recognizes the “traditional interests of local communities customarily resident within or around a forest” (paragraph 4.3).
- c) *The National Policy on Culture and Heritage (2009) aims to promote and protect the cultures and cultural diversity among Kenya's ethnic communities.* This includes the protection of indigenous languages, the expression of cultural traditions, knowledge, and practices, traditional medicines, and community rights.
- d) *Ministry of Education's Sessional Paper No. 1 of 2005: A Policy Framework for Education, Training and Research - Meeting the Challenges of Education, Training and Research in Kenya in the 21st Century.* This sessional paper establishes that the language of instruction shall be the mother tongue in lower primary school (classes 1-3) in the rural areas, and that a culturally sensitive approach must be used to address the learning needs of different communities – including the VMGs.

¹¹ Sessional Paper No. 3 of 2009, Ministry of Lands

¹² The Land Act No. 6 of 2012, the Land Registration Act No. 3 of 2012, and the National Land Commission Act No. 5 of 2012

- e) *Policy Framework for Nomadic Education in Kenya (COK, 2010)*: Free and mandatory education was introduced in Kenya in 2003. However, the pastoralist areas have continuously recorded a much lower enrollment and completion rates as compared to the rest of the country. The Government of Kenya formally adopted the Nomadic Education Policy in 2010 to boost education access to Nomadic communities. The policy contemplates education terms based on seasons rather than calendar terms. The policy considers use of an academic calendar that would be flexible and factor in climatic conditions and patterns of nomadic livelihood. The policy provides for the development of curriculum that would be useful to pastoral lifestyle. The policy further proposes creation of a National Council for Nomadic Education.
- f) *National Policy for the Sustainable Development of Northern Kenya and other Arid Lands*. The policy states that the Government will put in place an institutional and legal framework for the development of Northern Kenya and other arid lands. The policy thus calls on the government to establish a range of institutions that will provide long-term continuity in Arid and Semi-Arid Land (ASAL) development, including a National Drought Management Authority and National Drought and Disaster Contingency Fund to increase responsiveness to drought, National Council on Nomadic Education, a Northern Kenya Education Trust, a Livestock Marketing Board, and a Northern Kenya Investment Fund.

Kenya's 2010 Constitution provides a rich and complex array of civil and political rights, socio-economic rights and collective rights that are of relevance to indigenous communities. While important, constitutional provisions alone are not enough. They require a body of enabling laws, regulations and policies to guide and facilitate their effective implementation. In 2011, Kenya's parliament enacted 22 laws. In the main, these laws are of general application and will have a bearing on the way in which the state exercises power in various sectors, some of them of fundamental importance to indigenous communities.

Additionally, the adoption of a law establishing the Environment and Land Court is important for indigenous communities given that the Court will "hear and determine disputes relating to environment and land, including disputes: (a) relating to environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources; (b) relating to compulsory acquisition of land; (c) relating to land administration and management; (d) relating to public, private and community land and contracts, chooses in action or other instruments granting any enforceable interests in land; and (e) any other dispute relating to environment and land

The new Revenue Allocation Commission, mandated by Article 204 of the Constitution to earmark 0.5% of annual state revenue to the development of marginalized areas, in addition to 15% of national revenue for direct transfer to county governments. In implementing Article 59 of the Constitution, the government has created a) the Human Rights Commission b) the Commission on Administrative Justice and c) the Gender Commission.

3.5 Who are the IPs/Vulnerable and Marginalized Groups in Kenya?

The 2010 COK and revised legal frameworks explicitly recognize marginalized, minority and vulnerable groups and provide an opportunity to address such groups. The New Constitution requires the State to address the needs of vulnerable groups, including “minority or marginalized” and “particular ethnic, religious or cultural communities” (Article 21.3). Other provisions include: affirmative action programs and policies for minorities and marginalized groups (Articles 27.6 and 56), rights of “cultural or linguistic” communities to maintain their culture and language (Articles 44.2 and 56), protection of community land, including “ancestral lands and lands traditionally occupied by hunter-gatherer communities” (Article 63), and an equalization fund to provide basic services to marginalized areas (Article 204).¹³

The CRA is tasked with identifying marginalized areas for sharing equalization funds in Kenya to bring marginalized areas to par with others. The primary instrument for identifying marginalized counties by CRA is the County Development Index (CDI), which is a composite index, constructed from indicators measuring the state of health, education, infrastructure and poverty in a county. The CRA also takes into consideration legislated discrimination; geographical location; culture and lifestyles; external domination; land legislation and administration; minority recognition groups; ineffectual political participation; and inequitable government policies. Based on these criteria, the following fourteen (14) counties have been identified by CRA as marginalized: **Turkana, Mandera, Wajir, Marsabit, Samburu, West Pokot, Tana River, Narok, Kwale, Garissa, Kilifi, TaitaTaveta, Isiolo and Lamu.**

Kenya is a country with a rich diversity of cultures and ethnicity: It has 42 officially recognized “ethnic groups,” with the five largest groups – the Kikuyu, Luo, Luhya, Kamba and Kalenjin – making up about 70% of the population. However, many groups are not included in the official list and some estimate that there are 70 ethnic groups in Kenya.¹⁴ Kenya is home to a number of groups who self-identify as Indigenous Peoples. Some of these are hunter-gatherers, others nomadic or semi-nomadic pastoralists and other blacksmiths and fishing foraging communities.¹⁵ In the absence of updated and reliable statistics, it is difficult to give precise demographic data of the various groups. Estimations vary greatly and depend on who one considers as Indigenous Peoples in Kenya. Some experts have put the total population of groups that self-identify as Indigenous Peoples at around 1.5 million.¹⁶

The hunter-gatherer groups are generally found in the forested areas of the central Rift Valley province, in the western part of the country: Moving from south to north, these groups include: the Ogiek (approx. 20,000), who live in the Mau Forests; the Sengwer (30,000) of the Cherangany Hills and Kapolet Forest in Trans Nzoia, Marakwet and West

¹³S. Jensby, G. Kajubi, Country Safeguard Enhancement Review, 2010.

¹⁴ See the East Africa Living Encyclopedia prepared by the African Studies Center, University of Pennsylvania, at <http://www.africa.upenn.edu/NEH/kethnic.htm>.

¹⁵ See the Report of the UN Special Rapporteur on Indigenous Peoples in Kenya, UN Doc. A/HRC/4/32/Add.3, 26 February 2007; the Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities; Banjul & Copenhagen: ACHPR & IWGIA, 2005; and the website of the International Working Group on Indigenous Affairs (IWGIA) at <http://www.iwgia.org/regions/africa/kenya>.

¹⁶Kipuri, Naomi. “Kenya and its Indigenous Peoples” (unpublished paper). This number does not include all pastoral groups in Kenya; all pastoral groups make up about 25% of the Kenyan population.

Pokot Districts;¹⁷ and the Yaaku (less than 1,000) who live in the Mukogodo forest west of Mount Kenya, in the Laikipia District. Two more groups are the WathaWatha (a few thousands) who live dispersed in the southern coastal areas of the Coast region, and the Elmolo (a few hundreds) who are a small fishing community living on the shores of the Lake Turkana, in the northwestern part of the country.

These hunter-gatherers are often derogatorily addressed as Torobbo, Dorobo, Ndorobo, or Wandorobo, which are all Swahili terms deriving from "Il Torobbo," the Maa-term for people without cattle, i.e., in the Maasai understanding "poor people:" In the coastal areas, hunter-gatherers are mostly addressed by the Somali term "Boni", which refers to someone without any possessions, and/or "Sanye", which means in Somali "to gather together to use for a general purpose". The people themselves, however, usually refer to themselves by their own names.

Most of Kenya's pastoralists live in the arid Northern Kenya: They include, moving from east to west, the Somali (500,000) along the border to Somalia; the Borana (150,000) the Rendile (20,000), the Gabra (20,000) and the Turkana (250,000 – 350,000). The Samburu (100,000) live in the southern part of Northern Kenya. Other pastoralists are found in the southern part of the country, along the Rift Valley: the Maasai (155,000), in the southern part in the Narok and Kajiado districts bordering with Tanzania; the Endorois (60,000), near Lake Bogoria; and the Pokot (100,000) in West Pokot district in the central-western part of the country. A small group of Maasai live in Laikipia, in the center of the county, near Dol Dol.

Some of the key factors that continue to affect and maintain the marginalization of some communities in Kenya include:

- *Dispossession of ancestral lands including lack of access and/or no control or legal recognition of such land and other natural resources.*
- *A focus on modern agriculture versus preservation of livelihoods of hunter and gatherers and pastoralist groups.*
- *Limited access to education, resulting in inability to compete for employment opportunities.*
- *Unequal development of health care and other social infrastructure and;*
- *Limited access to justice and increased conflict and a deteriorating security situation and recurrent inter-ethnic conflicts.*

Annex 7 is an indicative list of communities or groups which have or could fit definition of VMGs as per the COK, 2010. Nevertheless, OP 4.10 is not triggered solely on identification of the presence of an ethnic group by name or by livelihoods. Groups need to meet the OP 4.10 criteria.

¹⁷ Rodolfo Stavenhagen, 2006, Mission to Kenya UN Doc. A/HRC/4/32/Add.3, 26 February 2007, para. 39

4 POTENTIAL POSITIVE AND NEGATIVE IMPACTS OF KEMP ON VULNERABLE & MARGINALISED GROUPS

Critical to the determination of potential benefits or adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected vulnerable and marginalized communities.

4.1 Potential Beneficial Impacts of the Off-Grid Sub-Component of the KEMP Project

Component C2 (off-grid electrification) will be implemented in approximately 6 village/communities in a number of regions. This sub-component would finance green-field mini-grid investments in the remote areas unreachable by the national grid in the next decade or so.

This sub-component will support the implementation of off-grid electrification solutions in villages/communities in rural areas where connection to the national grid is economically unviable in the short and medium term.

The selection of project areas will be based on the number of potential users and their demand. Communities with 150-400 prospective users and approximate demand of 250-500kVA will be identified.

The anticipated benefits will include;

- ❖ Electricity Access
- ❖ Employment opportunities and wealth creation
- ❖ Local material supplies
- ❖ Health benefit of the project
- ❖ Benefits to education
- ❖ Improved standard of living
- ❖ Improved Security
- ❖ Improved Communications

4.2 Adverse Impacts

Permanent effects - Permanent effects could result in loss of use of property, vegetation, or land by the affected person as a result of the subproject activities. Such effects are anticipated to affect:

- Vulnerable groups whose land is found suitable for these infrastructures and this can translate into either loss of land, pasture and crop cover or all. The mitigation is for REA (in consultation with the private sector small scale independent power producer carrying out the specific sub project investment of hybrid generation) to avoid the need for land acquisition and displacement of people. Where land acquisition is inevitable, the provisions in the RPF should be followed and if possible, project should consider land owned by GoK to minimize displacement. The above mitigations to minimize the need for new land acquisition should be considered in line with the requirements of the RPF, which has also been prepared for the Off-Grid and Peri-Urban Sub-components of KEMP.

- Increase of infectious diseases like HIV/AIDS due to new interactions of communities, specifically “foreign” workers who will be engaged in the construction activities. Sensitization and awareness about HIV/AIDSs will be carried out as a mitigation measure for reducing incidence of contracting HIV/AIDSs and other sexually transmitted diseases.
- Some of the sites chosen for off-grid electrification may be culturally important or sacred to VMGs. It will be essential to have consultations to address such concerns, and ways to avoid or mitigate adverse cultural impacts.

Temporal impacts - Temporal impacts will result in an interruption in the current use of property or land by the affected communities or individuals as a result of the subproject activities. This is likely to occur during, for instance, construction of wind turbines etc. This is likely to affect:

- Vulnerable Groups that currently use water points and pasturelands meant for rehabilitation and will therefore have to find temporary pastureland;

4.3 Proposed Mitigation Measures

To avoid or minimize adverse impacts and, at the same time, ensure enhancement of benefits and full participation of the vulnerable groups, the PIU at KEMP in collaboration with the partner implementing agencies will apply the following:

- Ensure that vulnerable and marginalized groups in general and their organizations are informed of activities selection, design, and implementation processes to seek input and to provide clarification.
- REA/PIU will carry out analysis of socio economic impacts of proposed sub projects on vulnerable groups as through a transparent process with the free and informed participation of the affected communities. REA/PIU to ensure that the interventions do not unnecessarily and unintentionally exacerbate factors outside the scope of planned impacts;
- REA/PIU will screen the activities of subprojects for a preliminary understanding of the nature and magnitude of potential impacts, and explore alternatives to avoid or minimize any adverse impacts as detailed in the ESMF and RPF;
- The impacts of the project are expected to be few and minimal where they exist. REA will be guided by the ESMF and RPF which spell out the principles of mitigation measures to address such negative impacts. Where alternatives are infeasible and adverse impacts on vulnerable groups are unavoidable, the REA/PIU, together with PAPs knowledgeable of IP culture and concerns will make an assessment of the key impact issues and possible mitigation measures; and
- REA/PIU will undertake the necessary tasks in order to adopt appropriate mitigation measures. The most important in this respect is consultation with the

VMG communities, community elders/leaders, civil society organizations like NGOs and others who have experience working with other vulnerable groups.

A summary of the potential adverse impacts of sub project investments under KEMP on VMGs and possible mitigation actions are highlighted in **Table 4.1** and should be considered as a guideline in the development of investment specific VMGP in terms of mitigation measures and considerations.

Table 4.1. Potential Adverse Project Impacts and Mitigation Measures

Impact	Possible Actions	Responsibilities and Issues
Loss of access to water and pasture as a result of land acquisition	Ensure that adequate benefits and/or compensation be provided based on agreements reached through free, prior and informed consultations leading to broad community support	KEMP’s executing agency for the Off-Grid Component (REA) will implement any agreements reached under this framework. GOK would provide resources to implement these agreements.
Loss of Land	<p>No displacement of VMGs and thus exclude all sub projects screened and determined to trigger displacement of VMGs.</p> <p>Because physical relocation of VMGs is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples’ communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of OP 4.12, Involuntary Resettlement that is compatible with the VMGs cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower</p>	REA PIU

	documents the results of the consultation process. Where possible, the resettlement plan should allow the affected VMGs to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.	
Increased risk of exposure to diseases such as HIV/AIDS and other communicable diseases	Disseminate public health messages and measures to combat spread of diseases	REA PIU
Physical/Economic Displacement of VMGs	No physical displacement of VMGs and thus exclude all sub projects screened and determined to trigger displacement of VMGs Where resettlement is necessary, compensate the VMGs who are economically displaced	REA PIU
Loss of traditional livelihoods	The project impacts will be minimal. Through the benefits of the project communities will gain electricity and lighting that will open up new economic and business opportunities	REA PIU
Encroachment on and degradation of land, territory and natural resources	The project subcomponents will not encroach or degrade land or natural resources. Where temporary impacts occur they will be mitigated through the ESMF and RPF. The RPF requires a census and a cut-off date. Communication with communities is also key.	

	Ensure adherence to the project Resettlement Policy Framework.	
Participation of women and youth	KEMP executing agencies will ensure that consultations and information dissemination is gender- and inter-generationally appropriate	REA/PIU and IA
Increased marginalization and exclusion of the VMGs	Adequate communication framework to ensure VMPs voices are heard, pending issues resolved and grievances heard. The project will ensure there is a functioning Grievance Redress Mechanism.	REA PIU

5 FRAMEWORK FOR ENSURING FREE, PRIOR, AND INFORMED CONSULTATION

OP 4.10 requires that a process of free, prior, and informed consultation leading to broad community support, with the affected vulnerable and marginalized communities, of the potential positive and adverse effects of the project being undertaken. It is unlikely that proposed investments will result in significant adverse impacts for vulnerable and marginalized communities. However, the O.P 4.10 and good practice requires that the VMGs/PAPs be informed of the project and consulted prior to project implementation.

Free, prior and informed consultation (FPIC), refers to a process whereby affected vulnerable and marginalized communities, freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project and how these activities occur.

This VMGF establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation each stage of project preparation and implementation with the affected VMGs.

Free and prior informed consultation of the vulnerable and marginalized communities will be conducted at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project.

5.1 Sub Project Investment Screening

Screening of all the sub-project investments in the Off-Grid Sub Component of the KEMP Project will be a mandatory requirement prior to implementation to determine if vulnerable and marginalized people are present because the sub project investment locations have not yet been identified. Any project investment involving involuntary resettlement, acquisition or physical relocation of VMGs will be avoided at all costs and excluded for consideration.

Early in sub project preparation, screenings to determine whether VMGs are present in, or have collective attachment to, the project area. In conducting this screening, the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area will be sought. Consultations with the VMGs concerned and the executing agency will be undertaken.

Box 1. The Elements of Free, Prior and Informed Consultation

- Free – people are able to freely make decisions without coercion, intimidation or manipulation
- Prior – sufficient time is allocated for people to be involved in the decision-making process before key project decisions are made and impacts occur
- Informed – people are fully informed about the project and its potential impacts and benefits, and the various perspectives regarding the project (both positive and negative)
- Consultation – there are effective uses of consultation methods appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits.

Adapted from UN Permanent Forum on Indigenous Interests (UNPFII), the Tebtebba Foundation, the International Indian Treaty Council and others.

However, the subprojects that are selected may not impact the entire group or it may impact non-vulnerable group living in their midst (several VM groups appear to be dispersed among other ethnic groups). In view of which it is necessary to carefully identify who will be adversely affected by subprojects which may well turn out to be part of a VM group or parts of several different groups only some of which are VM. This will be done during the screening phase of the sub project implementation.

5.1.1 Preparation of Social Screening Form

The REA/PIU Environmental and Social Specialists will prepare the screening forms in collaboration with the executing agency for the specific sub project considered for implementation. A sample screening form is shown in *Annex 1*. The OP 4.10 of the World Bank suggests “using the term ‘indigenous peoples’ in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- *Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;*
- *Collective attachment to geographically distinct habitats or ancestral territories in the operational area and to the natural resources in these habitats and territories;*
- *Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and*
- *An indigenous language, often different from the official language of the country or region.”*

Therefore, during the screening exercise, while referencing the GOK recognition of VMGs, the above stated definition and characteristics of VMGs according to the Bank will be used to screen and determine if the VMGs meet the threshold for O.P 4.10. If the results show that there are VMGs in the zone of influence of the proposed sub-project, a Social Assessment (SA)/analysis will be planned for those areas.

Screening Criteria: The REA/PIU and Consultants responsible for subproject preparation and implementation will visit all VMGs settlements near the selected subproject areas, which may be affected and influenced by the subproject components. Public meetings will be arranged in selected communities by the REA/PIU with the VMGs and their leaders to provide them information about the subproject and take their views on the subproject. The consultant will be a social scientist with knowledge of various VMG in sub project areas.

During this visit, the screening team mentioned above will undertake screening of the VMGs with the help of the community leaders and local authorities. The screening will cover the following aspects:

- 1) Name(s) of VMGs in the area;
- 2) Total number of VMGs in the area;
- 3) Percentage of VMGs to that of total area/locality population
- 4) Number and percentage of VM households along the zone of influence of the proposed subproject.
- 5) Any land acquisition required from any VMGs for the subproject?

- 6) If so, any alternatives to avoid land acquisition?
- 7) Will a VMGPs be required if a subproject passes through any VMG?
- 8) If no, why?

5.2 Social Assessment Process

If, based on the screening, the REA/PIU concludes that VMGs are present in, or have collective attachment to, the project area; the executing agency of that sub project will undertake a social assessment to evaluate the project's potential positive and adverse effects on the VMGs, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis required for the social assessment will be proportional to the nature and scale of the proposed sub project's potential and effects on the Vulnerable and Marginalized Groups present. The REA/PIU will prepare detailed Terms of Reference (ToR) for the social assessment study once it is determined that VMGs are present in the project area. *Annex 4 contains draft sample ToRs for the development of a VMGPs.*

The social assessment will also identify if the proposed investment will involve change in use or management of commonly held properties in the community as well as involving the commercial development of natural and cultural resources on lands or territories that VMGs traditionally owned, or customarily used or occupied. The social assessment will ensure free, prior and informed consultation with the VMGs during project planning and implementation. It will ensure that mitigation of potential adverse impacts, deriving from project activities, will be based on a participatory and consultative process acceptable to the World Bank and the VMGs themselves.

Sub project investments will comply with the following other than social screening namely;-

- *Conserve and sustainably use land and other natural resources that impact on VMGs and other communities*
- *Mitigate any possible adverse impacts*
- *Be socially and culturally acceptable to the VMGs and economically feasible Be institutionally feasible: Local institutionally capacity should be adequate to take up activities*
- *Be environmentally sustainable and avoid detrimental impacts from those activities that cannot be mitigated*
- *Be supported by the VMGs and other communities through participatory consultation*
- *Be supported by training and capacity building if necessary to enhance VMGs and community development*

5.2.1 Steering Committee for sub projects

A sub project steering committee will be established at the project area once it has been determined that VMGs are present in an area and that a VMGP is needed. The steering committee will comprise of the following representatives from the area namely;-

- County Administrator/representative
- District Administrator
- Representative of CBOs/NGOs active in the area
- Representative of the VMGs
- Women representative from the VMGs
- Youth representative from the VMGs

- Government ministries representatives e.g. Ministry of Lands, Ministry of Environment and Mineral Resources, Ministry of Youth and Gender, Ministry Culture and National Heritage etc.
- Consultants (social specialists)
- Representative from the Executing Agency e.g. Social Development Specialist

5.2.2 Role of Sub Project Steering Committee

The sub project steering committee will play the following roles in relation to the development of VMGPs.

- Identification of the VMGs
- Support in undertaking the Social Assessment
- Facilitate meetings with VMGs and consultants
- Recommend mitigation measures for the VMGPs
- Address grievances from VMGs
- Monitor implementation of the VMGPs

5.3 Methodology of Social Assessment

Combined qualitative and quantitative analysis method

Usually social Assessment (SA) is comprehensive and involves complex social issues quantitative analysis is preferred, such as for population structure, educational level and socioeconomic indicators. These indicators are analyzed arithmetically and evaluated objectively. Qualitative indicators that cannot be quantified should be analyzed and evaluated through a combination of qualitative and quantitative analysis, but primarily qualitative analysis. However, in this case the impacts are expected to be minimal and the social assessment/analysis will be in line with the scope of impacts identified and indeed will focus more on how to enhance coverage to more VMGs.

Comparative analysis method

The comparative analysis method is designed to find out the social profile of a project area in the absence of the project, and the impacts of the project on the area after its completion, thereby identifying the natures and degrees of different benefits and impacts.

Stakeholder analysis method

Stakeholders refer to all parties directly or indirectly interested in the Project, and affecting the success of the Project directly or indirectly. The stakeholder analysis method, identifies different stakeholders involved in the Project and prepares a stakeholder table, detailing expectations for the Project roles and responsibilities for successful project implementation.

Participatory assessment

Participatory assessment is a method that involves all stakeholders in SA. The key points include listening to all stakeholders' opinions respecting all participants, showing interests in their knowledge, speeches and behaviors, and encouraging them to share their knowledge and ideas. Through a semi-structured survey and whole-process participation, this method will make compensation and resettlement programs, measures for mitigating social risks, and other programs concerning the affected persons' immediate interests more operable and acceptable.

Other methods

A number of data analysis tools and methods may be used in undertaking SA, including: a) socioeconomic survey; b) institutional analysis; c) social gender analysis; d) social impact analysis; e) poverty analysis; and f) social risk assessment.

5.3.1 Survey/Data Gathering Methods

The process of gathering baseline information on demographic social, cultural, and political characteristics of the affected VMGs, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend will be through a *participatory rural appraisal mapping exercise* involving the VMGs in the proposed project investment area. Mapping the community resources where the project investments are targeted will determine the sphere of influence, how the vulnerable and marginalized communities utilize the said resources so as identify how project can enhance utilization of these resources.

Regarding customary rights of VMGs to use of common resources, the mapping will provide information on (i) location and size of the area and condition of resource, (ii) primary users, including those that belong to VMGs that currently use or depend on these common resources, (iii) secondary users and the types of uses they make, (iv) the effects of these uses on the VMGs, and (vi) mitigation measures of adverse impacts if any.

The following survey methods should be used mainly in SA for sub project investments where a VMGP is required:

Literature review: is intended to learn the history and background of the project, and the social and economic development of each subproject area, which is an important basis for in-depth field survey. The SA team should collect feasibility study reports, plans and other documents related to the Project according to the Bank policies of Indigenous Peoples and Involuntary Resettlement, including:

1. ***Statistics:*** social and economic development statistics of the sub project area; census and sampling population survey data; statistics on social relief.
2. ***Documents:*** documents of construction, traffic on project implementation; provisions of civil affairs authorities on minimum living security; documents of the social security authorities on unemployment and medical insurance
3. ***Research findings:*** existing research findings on construction planning and other findings related to the Project Design documents related to the Project: project proposals, feasibility study reports and relevant documents
4. ***Review of Legal Framework:*** A review, on a scale appropriate to the project, of the legal and institutional framework applicable to VMGs.
5. ***Focus Group Discussions (FGD):*** Should be held with officials and technicians of competent authorities aimed to learn their attitude to, ideas t and suggestions for the project.

5.3.2 Stakeholder Identification

All the interested and affected stakeholders will be identified with specific focus of the vulnerable and marginalized groups and will include an elaboration of a culturally appropriate process for consulting with the VMGs at each stage of project preparation and implementation. A stakeholder mapping exercise will be conducted for each of the proposed sub-projects investment where there is a likelihood of VMGs being affected and the stakeholder mapping process will ensure that all the interested and affected stakeholders are identified and included in the social assessment process including impact identification and mitigation.

5.3.3 Stakeholder Consultation

Once screening has been conducted and an investment found to be located in an area where vulnerable and marginalized groups are present, the existing administrative structures –county and sub county leaders will be used to inform the vulnerable and marginalized communities about the proposed sub project. County leaders in collaboration with REA will facilitate and arrange for consultative meetings with members of the vulnerable and marginalized groups and in these meetings there will be free and prior information about the proposed sub project, the proposed location, and potential adverse impacts of the project on the marginalized and vulnerable groups.

Such consultation will include use of indigenous languages, allowing time for consensus building, and selecting appropriate venues to facilitate the articulation by VMGs of their views and preferences. Representatives of the vulnerable and marginalized groups in collaboration with the local administration in the sub project area will select a venue that is considered by way of mutual consensus as appropriate.

Engagement will be based on honest and open provision of information, and in a form that is accessible to VMGs. Engagement will begin at the earliest possible stage, prior to substantive on-the-ground activity implementation. Engagement, wherever possible, will be undertaken through traditional authorities and structures within communities and with respect for traditional decision-making structures and processes. However, recognition of the limitation these structures sometimes pose for some groups, such as women and young people will be taken into account.

Good practice community engagement, in the context of Vulnerable and Marginalized Groups and projects, will aim to ensure that:

- *Vulnerable and Marginalized Groups have an understanding of their rights*
- *Vulnerable and Marginalized Groups are informed about, and comprehend the full range (short, medium and long-term) of social and environmental impacts – positive and negative – that can result from the proposed investment*
- *Any concerns that Vulnerable and Marginalized Groups have about potentially negative impacts are understood and addressed by the REA/PIU*
- *Traditional knowledge informs the design and implementation of mitigation strategies and is treated respectfully*
- *There is mutual understanding and respect between the KEMP/PIU and the Vulnerable and Marginalized Groups as well as other stakeholders*

- *Vulnerable and Marginalized People aspirations are taken into account in project planning so that people have ownership of, and participate fully in decisions about, community development programs and initiatives*
- *The project has the broad, on-going support of the Vulnerable and Marginalized Groups*
- *The voices of all in the Vulnerable and Marginalized Groups are heard; that is, engagement processes are inclusive.*

5.3.4 Impact Identification Including Long Term

The assessment of each sub project investment beneficial and adverse impacts will be conducted based on free, prior, and informed consultation, with the affected Vulnerable and Marginalized Groups (VMGs), on the potential adverse and positive effects of the investment. In a participatory process the determination of potential adverse impacts will entail an analysis of the relative vulnerability of, and risks to, the affected VMGs given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live.

Another concern is that while projects may consider short-term positive or negative impacts, they usually fail to consider the long-term impacts that project interventions could have on the livelihood, social organization and cultural integrity of VMGs, such as irrigation, dams or road improvement projects that may open up remote areas and increase pressure on indigenous lands and resources. Therefore the identification of impacts should consider the long-term impacts as well.

5.3.5 Determination of Mitigation Measures

- The identification and evaluation, based on free, prior, and informed consultation with the affected VMGs, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that the VMGs receive culturally appropriate benefits under the project will be conducted in a participatory manner. The use of the above mentioned methods in the SA process will be used in determining mitigation measures. Mitigation measures may involve compensation as well and typical mitigation actions or compensations

5.3.6 Development of strategies for participation of Vulnerable and Marginalized Groups

Participation will be through meetings with the different groups of the vulnerable and marginalized communities primarily to ensure that;

- a) The VMGs are aware of the project and its impacts
- b) Aware of any restrictions and negative impacts
- c) Can discuss compensatory measures
- d) Provide support to VMG participation arrangements in the project
- e) Are aware of the GRM and
- f) Provide broad community support

Sub project activities selected should ensure that the VMGs do not:

- *Face further physical and economic displacements from land and other natural resources traditionally utilized by them as source of livelihood and basis for their cultural and social system.*

5.3.7 Strategies for inclusion of women and youth

While it is important to acknowledge the role of elders and other traditional community leaders, it should not automatically be assumed that those who occupy formal leadership positions, whether they be traditional or government appointed, represent all interests in the community. In particular, the REA/PIU and the private sector (small scale independent power producer) carrying out the specific sub project investment (hybrid generation) need to be sensitive to those sections of the community who are frequently excluded from the decision-making process, such as women and young people.

During the Social Assessment, where it is determined that traditional decision-making structures exclude women and younger people, it may be necessary to obtain input from these groups by less direct means (for example, and where possible, via community needs surveys and baseline studies, or through informal discussions with small groups).

Overall KEMP and executing agencies will have to consider and apply the following strategies in order to avoid many of these problems associated with VMGs and specifically the KEMP should;-:

- *Confer with the VMGs at the outset on how they wish to be engaged*
- *Understand and respect local entry protocols as they relate to permission to enter a community and access traditional lands*
- *Commit to open and transparent communication and engagement from the beginning and have a considered approach in place*
- *Ensure that all representatives of the REA PIU staff and the private sector (small scale independent power producer) carrying out the specific sub project investment (hybrid generation) (including third party subcontractors and agents) are well briefed on local customs, history and legal status, and understand the need for cultural sensitivity*
- *Regularly monitor performance in engagement*
- *Enlist the services of reputable advisers with good local knowledge.*

REA and the private sector (small scale independent power producer) carrying out the specific sub project investment (hybrid generation) will be present at initial meetings wherever possible to meet with the traditional heads of communities, to demonstrate respect and to build long-term trust and relationships with communities. These meetings will review;

1. Time frames to make decisions throughout the lifetime of the project, taking into consideration logistics, local customs, and commercial requirements and time needed to build trusting relationships should be pursued. Ensure that it is clear how the timetable for involvement links into when project decisions are made. Ideally VMGs initial involvement should be sought well in advance of commencement or authorization of activities, taking into account VMGs own decision-making processes and structures.

2. Mechanism to resolve disputes or grievances in order to proactively address the likelihood that differences of opinion will arise.
3. Terms and conditions for the provision of any ongoing community support with affected vulnerable and marginalized stakeholders and any associated reciprocal obligations.
4. Record the process and decisions reached where VMGs are involved, including the results of any monitoring or reviews, to provide a record for on who may be affected by the decisions, and to ensure transparency in the decision-making process. Support the communities' capacity to engage indecision-making: for example, by providing access to independent expert advice, capacity building, facilitation and mediation, or involving external observers.

5.3.8 Capacity Building

During the vulnerable and marginalized peoples 'orientation and mobilization process, the interest, capacity and skills of the VMGs and their institutions, CBOs and NGOs for natural resource management, including social screening, will be assessed. If required the VMGF proposes the provision of training for the VMGs in among others resource mapping, record keeping, basic account keeping and monitoring and evaluation.

The staff within the REA/PIU will provide training for the partner executing agencies in social assessment, implementation of the VMGF with special attention to developing their knowledge on VMGF background, history and areas of concern as well as their skills for community orientation, free, prior and informed consultative planning, PRA tools and techniques.

5.3.9 Establish representation of VMGs in relevant organs within KEMP

The REA/PIU will ensure that the VMGs are represented in the county and district steering committees to if and when screening ascertains that VMGs are likely to be affected. VMGs will articulate their needs and priorities with facilitation and guidance from REA/PIU and the partner executing agencies. In so doing, VMGs representatives will take the following into account:

- *Conservation of natural resources by adopting specific, tangible actions that demonstrate sustainable use and management, linked with improving their livelihoods while upholding their rights, culture and dignity.*
- *Social sustainability ensuring that their livelihoods and way of life are not adversely impacted but rather improved*
- *Ensure that measures to mitigate or eliminate adverse impacts, if any, on them are adequate*
- *Environmental sustainability ensuring that detrimental environmental impacts such as depletion of biodiversity are avoided or mitigated.*

5.4 Bank Decision on Sub Project Investments

In deciding whether to proceed with the project, the REA/PIU will then ascertain, on the basis of the social assessment and the free, prior, and informed consultation, whether the affected VMGs' provide their broad support to the project. Where there is such support, the REA/PIU will

prepare and submit to the Bank a detailed report (Vulnerable and Marginalized Groups Plan) that documents:

- 1) The findings of the social assessment/analysis
- 2) The process of free, prior, and informed consultation with the affected VMGs;
- 3) Measures, including project design modification, that may be required to expand access to or address adverse effects on the VMGs' and to provide them with culturally appropriate project benefits;
- 4) Recommendations for free, prior, and informed consultation with and participation by VMGs during project implementation, monitoring, and evaluation; and
- 5) Any formal agreements reached with VMGs' communities and/or the VMGOs.

The Bank reviews the process and the outcome of the consultation carried out to satisfy itself that the affected VMGs have provided their broad support to the project. The Bank will pay particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected VMGs as a basis for ascertaining whether there is such support.

5.4.1 Who Conducts the SA

The social assessment (SA) will be undertaken by the social experts who will be recruited by the REA/PIU. The TOR for the work will be shared with World Bank for clearance. The SA consultants will gather relevant information from separate group meetings: Discussions will focus on sub-Project impacts, positive and negative; and recommendations for design of sub-Project. The social consultants will be responsible for analyzing the SA, and for leading the development of an action plan with the VMGs project engineers and other staff.

6 THE VULNERABLE & MARGINALISED GROUPS PLAN

This Vulnerable and Marginalized Groups Framework contains specific measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of the project implementing agencies and other stakeholders. This VMGF calls for the preparation of a VMGP for each sub projects screened and found to be implemented in areas where VMGs are present or have a collective attachment. The Vulnerable and Marginalized Groups Plan will be prepared in a flexible and pragmatic manner, and its level of detail will vary depending on the specific project and the nature of effects to be addressed.

6.1.1 *Elements of a Vulnerable and Marginalized Groups Plan*

All the VMGPs that will be prepared by REA will include the following elements, as needed:

1. A summary of a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples. Relevant baseline information on the demographic, social, cultural characteristics of the affected Indigenous Peoples' communities, and the natural resources on which they depend within project affected area.
2. A summary of the social assessment findings
3. A summary of the framework and results of the free, prior, and informed consultation with the affected VMGs that was carried out during project preparation and that led to broad community support for the project.
4. An action plan of measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.
5. When potential adverse effects on VMGs are identified, appropriate action plans of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
6. The cost estimates and financing plan for the VMGP. Accessible procedures appropriate to the project to address grievances by the affected VMGs arising from project implementation. When designing the grievance procedures, the borrower takes into account resolution of grievances at lowest levels possible; the availability of judicial recourse and customary dispute settlement mechanisms among the VMGs'.
7. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the VMGP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected VMGs'.

Vulnerable and Marginalized Groups Plan

The action plan will consist of a number of activities and will include mitigation measures of potentially negative impacts, modification of sub-project design, and development assistance. Where there is land acquisition in VMGs, the Project will ensure that their rights will not be violated and that they be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation will follow the Resettlement Policy Framework of the project.

Table 6.1. Vulnerable and Marginalized Groups Framework

Issues	Activity	Responsibility	Indicators
Screening	Carry out an inventory of VMGs in the proposed sub project operation areas	REA PIU /VMGs	
Vulnerable and Marginalized Groups Orientation and Mobilization	Reconnaissance survey Community meetings	REA/PIU / Vulnerable and Marginalized Peoples Organizations/ Elders	Population and dynamics of VMPs in screened areas well understood by key players VMGs in all areas identified give broad support for the project
Consultations with Vulnerable and Marginalized Groups	Participatory Appraisals Rural	REA/PIU	Information from consultations verified by VMGs and VMGOs as correct and a true representation of their needs and priorities
Mapping of community resources critical to VMGs which could benefit from the project e.g. lighting up schools, slaughter houses health centres etc.	Baseline Surveys	REA/PIU and VMGOs	Community transect reports Information from consultations verified by VMGs and VMGOs as correct and a true representation of natural, cultural and social, technical resources critical to their survival
Development of strategies for participation of VMGs and mitigation measures	Social Screening	REA/PIU and executing partner agencies and VMGOs	Activities implemented respect the conditions and do not leave the VMGs

			worse off than they were Activities respect the rights, culture and dignity of the VMGs
Carry out VMGP(s), if the need arises	If the inventory documents that the proposed sub projects might impact on the indigenous peoples: carry out VMGPs Carry out training and provide backstopping	REAPIU and VMGs	The VMGPs are accepted by the GoK, the World Bank and the VMGs
Capacity Building	Trainings/Information dissemination on policy requirements for VMGs and VMPOs	REA/PIU and executing partner agencies and VMGOs	VMGs and VMGOs aware of policy and project requirements.
Representation of VMGs in decision making organs	Ensure Representation of VMGs in relevant project implementation bodies	REA/PIU and executing partner agencies and VMGOs	Active participation of VMGs in forums VMGs and M&E indicate that representation is satisfactory to the VMGs
Participatory M&E with VMGs	Internal M&E External M&E	REA/PIU and executing partner agencies and VMGOs	M&E reports accessible to VMPs and implementing agencies Mechanism for feedback into VMGF in place and implemented
Training and Capacity Building for implementation of VMGPF	Training of staff from partner executing agencies and VMG Organizations	REA/PIU and executing partner agencies	Participants are able to implement VMGF

7 STRATEGY FOR PARTICIPATION AND CONSULTATION WITH VULNERABLE & MARGINALISED GROUPS

Introduction

Participation of VMGs in selection, design and implementation of the subprojects will largely determine the extent to which the VMGP objectives would be achieved. To ensure benefits have as wide a reach as possible and where adverse impacts are likely, the REA/PIU will undertake prior and informed consultations with the likely affected indigenous communities and those who work with and/or are knowledgeable of indigenous people's development issues and concerns. To facilitate effective participation, the VMGP will follow a timetable to consult indigenous people communities at different stages of the Project program cycle, especially during preparation and implementation of the VMGPs. The primary objectives would be to examine the following:

- To seek their inputs/feedback on how to maximize benefits accessibility and how to avoid or minimize the potential adverse impacts associated with the required works;
- Identify culturally appropriate impact mitigation measures; and
- Assess and adopt economic opportunities, which the EA could promote to complement the measures required to mitigate the adverse impacts.

Consultations will be carried out broadly in two stages. First, prior to final selection of any subproject located in an area inhabited by VMGs, the REAPIU will consult the VMGs about the need for, and the probable positive and negative impacts associated with the expansion/renovation works. Second, prior to detailed impact assessment, ascertain how the VMGs in general perceive the need for undertaking physical works for the subproject and gather any inputs/feedback they might offer for better outcomes, which would eventually be addressed in VMGPs and design of the physical works.

The VMGPs communication strategy will;

- Facilitate participation of VMGs with adequate gender and generational representation; customary/traditional VMG organizations; community elders/leaders; and civil society organizations on VMGs development issues and concerns.
- Provide them with relevant information about the subproject, including that on potential adverse impacts, organize and conduct the consultations in manners to ensure free expression of their views and preferences.
- Document details of all consultation meetings, with VMGs perceptions of the proposed works and the associated impacts, especially the adverse ones and any inputs/feedbacks offered by VMGs; and an account of the broad community support by VMGs

The EA will assess the detailed impacts at household and community levels, with a particular focus on the adverse impacts perceived by VMGs and the probable (and feasible) mitigation and community development measures. To ensure continuing informed participation and more focused discussions, the communication strategy will provide affected VMGs with the impact

details of the proposed project works. Consultations will cover topics/areas concerning cultural and socioeconomic characteristics, as well as those VMGs consider important. Consultations will continue throughout the preparation and implementation period, with focus on the households directly affected. Consultation stages, probable participants, methods, and expected outcomes are suggested in the VMGs consultation matrix below.

Table 4. Indicative VMGs Consultation Matrix

Consultation Stages	Consultation Participants		Consultation	Expected
	Project Authority	VMGs Community	Method	Outcome
Reconnaissance & ground verification of existing and location/sites for sub projects	REA/PIU, project consultants (Social Scientist) and other stakeholders	VMGs, including organizations, community leaders/elders	Open meetings & discussions, visit of proposed subproject sites, IP settlements & surroundings	First-hand assessment of VMGs' perception of potential social benefits and risks, and prospect of achieving broad base support for the civil works
Screening of the proposed sub projects	REA/PIU, APs Consultants(Social Scientists) & Other stakeholders	VMGs, including likely affected IPs, IP organizations, community leaders/elders, key informants	Open meetings, focus group discussions, spot interviews, etc.	Identification of major impact issues, feedback from VMGs and would-be affected persons for the civil works
In-depth study of risks and benefits taking into consideration, inter alia the conditions that led to community consensus	REA/PIU, project consultants (Social Scientist), NGOs / CBOs, Other knowledgeable persons	Would-be affected VMGs, VMGs, organizations, Community leaders/elders, key informants	Formal/informal interviews; focus group discussions; hotspot discussion on specific impacts, alternatives, and mitigation; etc.	More concrete view of impact issues & risks, and feedback on possible alternatives and mitigation and development measures
Social Assessment/analysis	REA/PIU, project Consultants(Social Scientist)	Adversely affected Individual VMGs/households	Structured survey questionnaires covering quantitative & qualitative information	Inputs for VMGP, and identification of issues that could be incorporated into the design delivery
Preparation of civil works and VMGP	REA/PIU, project consultants (Social Scientist) and Other stakeholders	VMGs, organizations, Community leaders/elders, adversely affected VMGs	Group consultations, hotspot discussions, etc.	Preparation of VMGP, and incorporation of SA inputs into engineering design to avoid or minimize adverse impacts, and VMGs development programs
Implementation	REA/PIU, APs, Consultants(Social Scientists) & Other stakeholders	Individual VMGs, organizations, community leaders/elders	Implementation Monitoring committees (formal or informal)	Quick resolution of issues, effective implementation of

		&other stakeholders		VMGP
Monitoring & Evaluation	REA/PIU, APs, consultants (Social Scientists), NGOs & CBOs	VMGs organizations/ groups and individuals	Formal participation in review and monitoring	Identification & resolution of implementation issues, effectiveness of VMGP

The following strategies should also be included in the project to support the participation of the VMGs:

1. The project should explore how to accommodate the most vulnerable and destitute members of VMGs, especially those who have been living in the project area.
2. Encourage members of VMGs to be get involved in various development planning, implementation, operation and maintenance (O&M) activities in the project through arranging related training;
3. Assist members of VMGs’ to develop their capacity and capability to enable them to participate in proposed sub projects;
4. Explore avenues for creating employment opportunities for VM women and youth;
5. Ensure adequate resources and technical support for the implementation of the action plan for VMGs’.
6. At all stages culturally appropriate communication methods (verbal and nonverbal, in local language) should be used to ensure meaningful consultation.
7. Provision to ensure involvement of VMG community members in various training activities as part of the project to enhance livelihoods.

Once the VMGs are identified in the project area, the VMGPs will ensure mitigation of any adverse impact of the project. The sub project should ensure benefits to the VMGs by providing, in consultation with the VMGs themselves, opportunity to get them involved in various income earning opportunities and activities;

The following issues need to be addressed during the implementation stage of the Project;

- Provision of an effective mechanism for monitoring implementation of the VMGF and any VMGPs
- Development of accountability mechanism to ensure the planned benefits of the project are received by indigenous people;
- Ensuring appropriate budgetary allocation of resources for the VMGs’ development plans;
- Provision of technical assistance for sustaining the VMGF;
- Ensure that VMGs traditional social organizations, cultural heritage, traditional political and community organizations are protected;

8 GRIEVANCES REDRESS MECHANISM

Introduction

Even with the best-designed social impact assessments, agreements, engagement programs and risk mitigation strategies, conflicts and disagreements can still occur, in some cases with the potential for rapid escalation. Grievance handling procedures are required to ensure that VMGs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. Stakeholders will be informed of the intention to implement the grievance mechanism, and the procedure will be communicated at the time that the VMGPs are finalized.

Vulnerable and marginalized local communities and stakeholders may raise a grievance at all times to the REA/PIU about any issues covered in this framework and the application of the framework. The VMGs should be informed about this possibility and contact information of the respective organizations at relevant levels should be made available. These arrangements should be described in the project-specific frameworks and VMGPs along with the more project-specific grievance and conflict resolution mechanism. Many of the factors that may give rise to conflict between VMGs and proposed project investments can be a source of conflict with non-VMGs as well. These include, for example:

- *Establishing a project investment in the absence of broad community support*
- *Inadequate engagement or decision-making processes*
- *Inadequate or inequitable compensation for land*
- *Inequitable distribution of benefits*
- *Broken promises and unmet expectations of benefits*
- *Failing to generate opportunities for employment, training, supply or community development*
- *Environmental degradation*
- *Disruption to amenities and lifestyle*
- *Loss of livelihood*
- *Violation of human rights*
- *Social dislocation*

In addition, however, there are some contextual factors that have particular salience for vulnerable and marginalized people and their relations with sub project investments. For example, a lack of respect (perceived or actual) for indigenous customary rights or culture, history and spirituality, is likely to trigger a strong reaction. Similarly, issues around access to and control of land and the recognition of sovereignty are very important for many VMGs and can lead to serious conflict if they are not handled sensitively and with due respect for the rights of affected groups.

8.1 Overview

A key element during the development of the sub project investment VMGPs will be the development and implementation of a grievance mechanism. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. A clear time schedule will be defined for resolving grievances, ensuring that they are addressed in an

appropriate and timely manner, with corrective actions being implemented if appropriate and the complainant being informed of the outcome. The grievance procedure will be simple and will be administered as far as possible, at the subproject level by the relevant institutions and partners.

The grievance procedure does not replace existing legal processes. Based on consensus, the procedures will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions. If the grievance procedure fails to provide a result, complainants can still seek legal redress. Grievance Redress Process
All sections of the community where a sub project investment is identified, including those with low levels of literacy, should be able to access the grievances mechanism easily. The REA/PIU should facilitate access by maintaining and publicizing multiple access points to complaint mechanisms, such as at the project site and in key locations within communities, including remote communities.

The procedure of grievance redress will be incorporated in the project information pamphlet to be distributed prior to implementation. Participatory consultation with affected households will be undertaken during project planning and implementation stages.

The VMGP will establish a mechanism to receive and facilitate resolution of affected VMGs concerns, complaints, and grievances about the project's safeguards performance at each subproject having VMGs impacts, with assistance from the REA/PIU and or relevant NGO.

8.1.1 Establishment of Grievance Redress Committee

A Grievance Redress Committee will be established at the project area once it has been determined that VMGs are present in an area and that a VMGP is needed. Under the Grievance Redress Mechanism (GRM), a Grievance Redress Committee (GRC) will be formed for each sub project with involvement of VMGs representative & local stakeholders. The GRC will comprise of the following representatives from the area namely;-

1. County Administrator/representative
2. District Administrator
3. Representative of CBOs/NGOs active in the area
4. Representative of the VMGs
5. Women representative from the VMGs
6. Youth representative from the VMGs
7. Government ministries representatives e.g. Ministry of Lands, Ministry of Environment and Mineral Resources, Ministry of Youth and Gender, Ministry Culture and National Heritage etc.
8. Consultants (social specialists)
9. Representative from the Executing Agency e.g. Social Development Specialist

The GRCs are to be formed and activated during the VMGPs implementation process to allow VMGs sufficient time to lodge complaints and safeguard their recognized interests. Assistance to VMGs will be given to document and record the complaint, and if necessary, provide advocate services to address the grievances. 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 for resolution.

As is normal practice under customary law, attempts will be made to ensure that the traditional leaders via the GRC solve all disputes in communities after a thorough investigation of the facts. The traditional dispute resolution structures existing for each of the VMGs will be used as the first step in resolving grievances.

Marginalized and vulnerable communities will be provided with a variety of options for communicating issues and concerns, including in writing, orally, by telephone, over the internet or through more informal methods as part of the grievance redress mechanism. In the case of certain marginalized groups (such as women and young people), a more proactive approach may be needed to ensure that their concerns have been identified and articulated. This will be done, for example, by providing for an independent person to meet periodically with such groups and to act as an intermediary. Where a third party mechanism is part of the procedural approach to handling complaints, one option will be to include women or youth as representatives on the body that deals with grievances. It should be made clear that access to the mechanism is without prejudice to the complainant's right to legal recourse. Prior to the approval of individual VMGPs, all the affected VMGs will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

How conflicts and disagreements are interpreted and handled is shaped by culture, both indigenous and corporate. For this reason, it is very important that sub project executing partner agencies in the KEMP understand the cultural preferences that VMGs have for dealing with disputes.

Before the approval of individual VMGPs affected VMGs will be informed of the process for expressing dissatisfaction and to seek redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

8.1.2 Use of Alternative Dispute Resettlement Mechanisms

The Land Act, 2012, Part VIII/128 provides for dispute resolution through the Land and Environment Court. However, as is normal practice under customary law, traditional leaders play a leading role in solving disputes in communities through investigation of the facts using the services of local officials. The traditional dispute resolution structures existing for each of the VMGs will be used as the first step in resolving grievances. Those seeking redress and wishing to state grievances would do so by notifying their traditional leader of the VMGs or the appropriate district authority, who will in turn inform and consult with the REA/PIU.

8.1.3 Further Redress-Kenya Courts of Law

All the grievances that will not be resolved by the GRC or which the VMGs are dissatisfied with in terms of resolution will be channeled to the existing structures in Kenya for handling grievances which is the Kenyan Courts of Law as the last resort.

8.1.4 Complaints Pattern

If a complaint pattern emerges, REA, Sub County and County administrations, with the traditional leaders 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. REA, regional and local administrations and the traditional leaders and representatives will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

In selecting a grievance structure, the VMGPs should take into account their customary dispute settlement mechanisms, the availability of judicial recourse and the fact that it should be a structure considered by all stakeholders as an independent and qualified actor.

The aim will be to integrate both indigenous and corporate ways of resolving problems into the complaints mechanism. Systems and procedures must adequately reflect VMGs preferences for direct or indirect interaction, negotiation, debate, dialogue, and application of indigenous traditional management and/or ceremony, with external agents to ensure mutually acceptable processes and outcomes.

Where a sub project is dealing with more than one VMG, there may well be multiple culturally appropriate methods for dealing with problems by different interests. Given the often-marked differences between project and indigenous cultures, it is highly desirable to utilize processes that focus on dialogue, building cross-cultural understanding and through this, finding mutually agreeable solutions. Such approaches are more equitable and, on a practical level, are more likely to facilitate viable, long-term resolution of community issues and concerns.

8.1.5 Grievance Log

Documentation and Recording

Documentation of complaints and grievances is important, including those that are communicated informally and orally. These should be logged, assessed, assigned to an individual for management, tracked and closed out or “signed off” when resolved, ideally with the complainant(s) being consulted, where appropriate, and informed of the resolution. Records provide a way of understanding patterns and trends in complaints, disputes and grievances over time. While transparency should be maintained – for example, through regular reports on issues raised and rates of resolution – provision should also be made for confidentiality of information or anonymity of the complainant(s) whenever necessary.

A grievance log will be established by the REA/PIU and executing partner agencies and copies of the records kept with all the relevant authorities at the County, Sub County and Village level and will be used in monitoring of complaints and grievances.

In each sub project investment, the executing partner agency will appoint a VMGs/Project Liaison Officer (PLO) who will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

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

Responding to complaints

Once parties agree on a path forward – such as an apology, compensation or an adjustment to operations – an action plan should be formalized and implemented. Depending on the issue, responses may vary from a single task to a program of work that involves different parts of the operation. Effective responses will also include engagement with parties involved to ensure that the response continues to be appropriate and understood. Communities should also be advised of the closeout of the issue and what has been done to achieve it. This feedback provides an opportunity for the PIU to demonstrate that it has addressed the issue as well as confirming that the community considers the response satisfactory and the matter closed.

Understanding root causes

As outlined above, there are many factors that can potentially lead to conflict or disagreement between sub projects and communities, both vulnerable and marginalized or otherwise. Although it is not always possible to identify root causes, some issues will warrant deeper analysis in order to better understand the issue and avoid its further escalation. In the absence of a tailored methodology for analyzing community-related disputes and grievances, these methods may be adapted to guide this analysis.

Monitoring Complaints

It is important to collect data on community interactions – from low-level concerns and complaints to ongoing disputes and higher-order grievances – so that patterns can be identified and project management alerted to high-risk issues. Effective monitoring may also help to prevent the escalation of lower-level disputes into more serious conflicts.

Information related to monitoring of the VMGPs will be gathered through various channels, such as formal review, evaluation and analysis or through day-to-day interaction with VMGs. Monitoring will help determine the effectiveness of processes for responding to community concerns; for example, by tracking complaint resolution rates over time. This information can then be used to refine the system and improve the outcomes being achieved. The outcomes of monitoring should be reported formally to the community on a regular basis, in addition to being used for internal management purposes. The VMGs/Project Liaison Officer for each sub project investment will be responsible for:

- *Providing the project investment reports detailing the number and status of complaints;*
- *Any outstanding issues to be addressed; and*
- *Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.*

9 MONITORING AND REPORTING ARRANGEMENTS

9.1 Monitoring and evaluation mechanisms

Monitoring and Evaluation (M&E) are fundamental components of projects involving affected communities. Monitoring should be participatory and include the monitoring of beneficial and adverse impacts on VMGs within project impact areas. M&E should be based on free, prior and informed consultation with the VMGs who should play an integral role in its implementation.

All monitoring activities will principally remain the responsibility of the REA/PIU. REA will be responsible for compiling the data and auditing for completeness of the records, and will be responsible for providing compiled M&E information to the Bank.

The overall goal of the M&E process for the Vulnerable and Marginalized Groups Plan is to ensure that:

- *Effective communication and consultation takes place;*
- *Reporting of any grievances that require resolution;*
- *Document the performance of the KEMP as regards the VMGs; and allow program managers and participants to evaluate whether the affected VMGs have maintained their rights, culture and dignity and that they are not worse off than they were before the project.*

The specific objectives of evaluation will include:

1. An assessment of the compliance of activities undertaken in relation to the objectives and methods identified in the VMGF;
2. An assessment of the consultation procedures that have taken place at the community and individual level;
3. An assessment on whether the affected communities have had access to mitigation activities;
4. The occurrence of grievances and extent of resolution of disputes;
5. An evaluation of the impact of the Project on income and standard of living within the communities; and
6. Identification of actions that can improve the positive impact of the Project and mitigate potential negative impacts.

The VMGPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The KEMP/PIU will institute an administrative reporting system that will:-

- *Provide timely information about all grievances arising as a result of KEMP activities;*
- *Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the REA/PIU;*
- *Document the timely completion of project obligations for all vulnerable and marginalized peoples grievances;*

The M&E reports for each sub project investment will be prepared by REA each year and presented to VMGs for feedback etc., before being handed over to the VMGF-committees at district or county level for discussion and prepare recommendations on how to fine-tune the

VMGP. There will be a sub project steering committee, which will be established for each sub project where VMGs are involved and a representative of the VMGs will sit in this committee. The M and E report will be submitted to this committee for review and then submitted to the World Bank.

Every year an independent external evaluation will be carried out to further cross check the quality and to guarantee that the VMGs dignity, human rights, economies, and cultures are respected by the Project , that all decisions which affect any of these are based on the;

- a) Free, prior, and informed consultation with the VMGs
- b) That the VMGs receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive,
- c) That adverse effects on the VMGs communities are, as much as possible, avoided, and if this was according to the VMGPF sub project committees not feasible, minimize, mitigate, or compensate in a culturally appropriate manner, based on broad support by the VMGs

9.1.1 Participatory Impact Monitoring

The monitoring and evaluation of the VMGF implementation as well as the implementation of the sub projects in the operational areas inhabited by VMGs is an important management tool, which should include arrangements for the free, prior, and informed consultations with the affected VMGs. The implementation of the participatory impact monitoring (PIM) at district or county level will be an important element to assist the various structures to fine-tune their intervention in view to maximize culturally appropriate benefits and provide space for the indigenous peoples' communities to voice their concerns.

The PIM will be based on the data gathered by the screening process/social assessments, the organizations of the VMGs, the relevant governmental structures (lands, forests, development and social) at county or district level etc. The organizations representing the VMGs will play a key role as facilitator of the PIM process and the selection of the facilitators will be in close collaboration the decision of the communities, but it is advised to choose people who are able to elaborate on the basis of the PIM reports, which reflect the situation on the ground in a transparent and plausible way.

Table 9.1. Monitoring and Evaluation Indicators for KEMP/VMGF

Issues	Indicator	Responsibility	Data Sources
Accessibility of project benefits to VMGs	Number of VMG households benefitting from project linked to power.	KEMP/PIU	MoE data reports
Capacity Building for implementation of VMPPF	Number of individuals & institutions trained	REA/PIU	Training workshops reports
Vulnerable and Marginalized Groups Orientation and Mobilization	Number of VMGs meetings; Number of VMGs sensitized	REA/PIU Vulnerable and Marginalized Groups Organizations/Elders	Reconnaissance survey reports Community meeting reports
Consultations with Vulnerable and Marginalized Groups:	Number of PRA/RRA Attendance of PRA/RRA PRA reports acceptable to VMGs	REA/PIU Vulnerable and Marginalized Groups Organizations	RRA reports PRA reports
Mapping of community resources critical to VMGs	Level of VP participation Reports verified and accepted by VMGs	REA/ PIU Vulnerable and Marginalized Groups Organizations	Baseline survey reports Community transect reports
Development of strategies for participation of VMGs and mitigation measures	Number of projects passed by socialscreening Number of sub projects implemented	REA/ PIU Vulnerable and Marginalized Groups Organizations	KEMP/ PIU reports Implementing agencies reports
Capacity Building	Types of training Number of Trainings Attendance by VMGs	REA/PIU Vulnerable and Marginalized Groups Organizations	Training reports
Equitable representation of VMG in decision making organs	Number of meetings attended by VMG representatives Number and types of VMGs issues articulated	REA/PIU Vulnerable and Marginalized Groups Organizations	District Level and National Steering Committee reports VMGO reports
Participatory M&E with VMG	Internal M&E External M&E	REA/PIU Vulnerable and Marginalized Groups Organizations	

10 DISCLOSURE ARRANGEMENTS FOR VMGPS

10.1 Communication Framework

A Project Implementation Unit (PIU) housed in REA will manage the specific arrangements for administering project activities.

In regard to ensuring compliance with the Banks' safeguards, REA will assign or recruit an social safeguard specialist for the PIU. It already has an environmental specialist. These specialists will provide technical support and ensure compliance with the VMGF. This communication framework elaborates principles, strategies and structures on how REA and the affected VMGs should interact at each stage of project preparation and implementation to satisfy the criteria of free, prior and informed consultations.

A sub project steering committee will be formed if a determination is made during the screening that the sub project is likely to be located in an area with VMGs and hence likely to interfere with their livelihood and rights. The committee will comprise of MOEP, REA/PIU representative, County and Sub County representative and a representative from the VMGs. In addition in each affected County, sector ministries including Environment and Mineral Resources, Lands, Gender, Sports, Culture and Social Affairs will also be in this committee. This committee will provide a linkage between KEMP, the VMGs and the County/sub County administration. It should meet once every month and work as focal point for all VMGF related issues at during the implementation of that sub project.

It should be informed about all kinds of KEMP Off-Grid Electrification activities and communicate relevant information through the VMGs representatives to the vulnerable and marginalized communities. It should also gather information and feedback from the vulnerable and marginalized communities to channel them to the relevant governmental structures and the REA/PIU.

The elected representative of the VMGs for a particular sub project will be in charge to facilitate the communication between the VMGs in their area. They will be elected during the pilot phase of the VMGF after a further introduction and general discussion on the VMGF, the communication channels etc. to ensure that the elected representatives have broad community support and are elected on the base of free, prior and informed consultations.

10.2 Disclosure

This VMGF and sub project VMGPs will be made available to the affected VMGs in an appropriate form, manner, and language. Before project appraisal, the draft VMGF will be sent to the Bank for review. Once the Bank accepts the document as providing an adequate basis for project appraisal, the Bank will make it available to the public in accordance with Bank Policy on Disclosure of Information, and the GOK will also make the documents available to the affected communities in the same manner as the earlier draft documents.

Each subproject VMGP will be disclosed to the affected VMG with detailed information of the subproject. This will be done through public consultation and made available as brochures, leaflets, or booklets, using local languages. Summary of the VMGP will be made available in hard copies and in language at: (i) Offices of the EA; (ii) Sub County or County Office; and (iv) any other local level public offices. Electronic versions of the framework as well as the VMGPs will be placed on the official website of MOEP and the official website of Bank after approval and endorsement of the VMGF and each VMGP by the Bank.

10.3 Roles and Responsibilities

10.3.1 REA/PIU

REA/PIU specifically the environment and social safeguard specialists will remain responsible for:

- *Screening for projects affecting Vulnerable and Marginalized Groups;*
- *Review and approve project proposals, ensuring that they adequately apply the World Bank's Indigenous Peoples Policy;*
- *Assess the adequacy of the assessment of project impacts and the proposed measures to address issues pertaining to affected indigenous communities. When doing so project activities, impacts and social risks, circumstances of the affected indigenous communities, and the capacity of the applicant to implement the measures should be assessed. If the risks or complexity of particular issues*
- *Assess the adequacy of the consultation process and the affected indigenous communities' broad support to the project—Monitor project implementation, and include constraints and lessons learned concerning VMGs and the application of this VMGF in its progress and monitoring reports; it should be assured that affected VMGs are included in monitoring and evaluation exercises*

10.3.2 Non-Governmental Organizations

The NGOs present and active in the area will be used during the social assessment studies as well as during the monitoring and evaluation of each sub project. The formation of Grievance Redress Committees and Steering Committees for each sub project investment will also include representation by NGOs.

10.3.3 World Bank

The Bank will receive all the VMGPs prepared and review and provide a No Objection or otherwise prior to sub project implementation. During implementation, the Bank will also conduct field monitoring and evaluation. The Bank will also approve the VMGF.

II VMGF IMPLEMENTATION BUDGET

II.1 Introduction

All costs for implementation of VMGP will be financed by REA. The costs will be estimated during feasibility based on interviews with community members and relevant government officials. This will be updated after the detailed survey and investigation as well as further consultations with VMGs.

The budget for the implementation of the VMGP mainly includes costs for; capacity building / training of the REA PIU staff, VMGs committee members consultation / meetings, information dissemination, NGO / Agency hiring for VMGP implementation & monitoring, GRM etc. Once the subproject has been appraised and finalized in the context of the VMGF, the required budget is to be allocated by REA for proper implementation of the VMGP. The VMGPs budget will also include costs for implementation of VMGPs, such as salaries and travel costs of the relevant REA/PIU staff. In summary there will be adequate budgetary provisions to implement any VMGP where necessary for the subproject development.

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

However, when these locations are known, and after the conclusion of the site-specific socio-economic study, a detailed and accurate budgets for each VMGP will be prepared. Each VMGP will include a detailed budget, using the following template thus facilitating the preparation of a detailed and accurate budget.

Table 11.1: Indicative Budget

	Indicative Budgetary Item	Unit cost (USD)
1.	Stakeholders trainings/ consultation forums on VMGF	50,000
2.	Monitoring and evaluation studies on the implementation of VMGPs under KEMP	50,000
3.	Evaluation of Livelihood empowerment programs under KEMP	100,000
4.	REA/VMGPs training manual	50,000
5.	Annual VMGPs audit	20,000
6.	Contingency	30,000
	Total	300,000.00

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13 ANNEX

13.1 ANNEX 1-SOCIAL SCREENING FORM

To be filled by KEMP/PIU Team

SOCIAL SCREENING FORM FOR KEMPACTIVITIES	
A. BACKGROUND INFORMATION	
A 1. Type/description/justification of proposed activity	
A 2. Location of activity	
A3. Duration of activity	
A 4. Focal point and person for activity	
B. EXPECTED BENEFITS	
B1. Benefits for local people	
B2. Benefits to Vulnerable and Marginalized Groups (VMGs)	
B3. Total Number of expected beneficiaries	
B4. Total Number of expected Vulnerable and Marginalized Peoples beneficiaries	
B5. Ratio of B4 and B5; Are benefits distributed equitably?	<input type="checkbox"/> YES <input type="checkbox"/> NO If NO state remedial measures
C. POTENTIAL ADVERSE SOCIAL IMPACTS	
C1. Will activity entail restriction of access of VMP to lands and related natural resources	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project
C2. Will activity entail commercial development of natural and cultural resources critical to VMGs	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project
C3. Will activity entail physical relocation of Vulnerable and Marginalized Peoples <input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project
D. CONSULTATION WITH IP	
D1. Has VMP orientation to project been done for this group?	<input type="checkbox"/> YES <input type="checkbox"/> NO
D2. Has PRA/RRA been done in this area?	<input type="checkbox"/> YES <input type="checkbox"/> NO
D3. Did the VMP give broad support for project	<input type="checkbox"/> YES <input type="checkbox"/> NO

Prepared by: _____ Verified by: _____

Date: _____ Date: _____

Note: Attach sketch maps, PRA/RRA results and other relevant documents.

**13.2 ANNEX 2- CONTENTS VULNERABLE AND MARGINALIZED GROUPS
FRAMEWORK**

OP 4.10, Indigenous Peoples Planning Framework	These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.
<p>1. The Indigenous Peoples Planning Framework (IPPF) sets out:</p> <p>(a) The types of programs and subprojects likely to be proposed for financing under the project.</p> <p>(b) The potential positive and adverse effects of such programs or subprojects on Indigenous Peoples.</p> <p>(c) A plan for carrying out the social assessment for such programs or subprojects.</p> <p>(d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of project preparation and implementation (see paragraph 10 of this policy).</p> <p>(e) Institutional arrangements (including capacity building where necessary) for screening project-supported activities, evaluating their effects on Indigenous Peoples, preparing IPPs, and addressing any grievances.</p> <p>(f) Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.</p> <p>(g) Disclosure arrangements for IPPs to be prepared under the IPPF</p>	

13.3 ANNEX 3-CONTENTS OF VULNERABLE AND MARGINALIZED GROUPS PLAN (VMGP), OP 4.10

VMGs Development Plan

Prerequisites

Prerequisites of a successful development plan for indigenous peoples are as follows:

(a) The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.

(b) Studies should make all efforts to *anticipate adverse trends* likely to be induced by the project and develop the means to avoid or mitigate harm.

(c) The institutions responsible for government interaction with indigenous peoples should possess the social, technical, and legal skills needed for carrying out the proposed development activities. Implementation arrangements should be kept simple. They should normally involve appropriate existing institutions, local organizations, and nongovernmental organizations (NGOs) with expertise in matters relating to indigenous peoples.

(d) Local patterns of social organization, religious beliefs, and resource use should be taken into account in the plan's design.

(e) Development activities should support production systems that are well adapted to the needs and environment of indigenous peoples, and should help production systems under stress to attain sustainable levels.

(f) The plan should avoid creating or aggravating the dependency of indigenous people on project entities. Planning should encourage early handover of project management to local people. As needed, the plan should include general education and training in management skills for indigenous people from the onset of the project.

(g) Successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up. Remote or neglected areas where little previous experience is available often require additional research and pilot programs to fine-tune development proposals.

(h) Where effective programs are already functioning, Bank support can take the form of incremental funding to strengthen them rather than the development of entirely new programs.

Contents of VMGP

The development plan should be prepared in tandem with the preparation of the main investment. In many cases, proper protection of the rights of indigenous people will require the implementation of special project components that may lie outside the primary project's objectives. These components can include activities related to health and nutrition, productive infrastructure, linguistic and cultural preservation, entitlement to natural resources, and education. The project component for indigenous people's development should include the following elements, as needed:

(a) *Legal Framework.* The plan should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife, and) vital to their subsistence and reproduction.

(b) *Baseline Data.* Baseline data should include (i) accurate, up-to-date maps and aerial photographs of the area of project influence and the areas inhabited by indigenous peoples; (ii) analysis of the social structure and income sources of the population; (iii) inventories of the resources that indigenous people use and technical data on their production systems; and (iv) the relationship of indigenous peoples to other local and national groups. It is particularly important that baseline studies capture the full range of production and marketing activities in which indigenous people are engaged. Site visits by qualified social and technical experts should verify and update secondary sources.

(c) *Land Tenure.* When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary or traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples. These steps should be taken before the initiation of other planning steps that may be contingent on recognized land titles.

(d) *Strategy for Local Participation.* Mechanisms should be devised and maintained for participation by indigenous people in decision making throughout project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population. No foolproof methods exist, however, to guarantee full local-level participation. Sociological and technical advice provided through the regional environment divisions (REDs) is often needed to develop mechanisms appropriate for the project area.

(e) *Technical Identification of Development or Mitigation Activities.* Technical proposals should proceed from on-site research by qualified professionals acceptable to the Bank. Detailed descriptions should be prepared and appraised for such proposed services as education, training, health, credit, and legal assistance. Technical descriptions should be included for the planned investments in productive infrastructure. Plans that draw upon indigenous knowledge are often more successful than those introducing entirely new principles and institutions. For example, the potential contribution of traditional health providers should be considered in planning delivery systems for health care.

(f) *Institutional Capacity.* The government institutions assigned responsibility for indigenous peoples are often weak. Assessing the track record, capabilities, and needs of those institutions is a fundamental requirement. Organizational issues that need to be addressed through Bank assistance are the (i) availability of funds for investments and field operations;

(ii) adequacy of experienced professional staff; (iii) ability of Indigenous Peoples' own organizations, local administration authorities, and local NGOs to interact with specialized government institutions; (iv) ability of the executing agency to mobilize other agencies involved in the plan's implementation; and (v) adequacy of field presence.

(g) *Implementation Schedule.* Components should include an implementation schedule with benchmarks by which progress can be measured at appropriate intervals. Pilot programs are often needed to provide planning information for phasing the project component for indigenous peoples with the main investment. The plan should pursue the long-term sustainability of project activities subsequent to completion of disbursement.

(h) *Monitoring and Evaluation.* Independent monitoring capacities are usually needed when the institutions responsible for indigenous populations have weak management histories. Monitoring by representatives of Indigenous Peoples' own organizations can be an efficient way for the project management to absorb the perspectives of indigenous beneficiaries and is encouraged by the Bank. Monitoring units should be staffed by experienced social science professionals, and reporting formats and schedules appropriate to the project's needs should be established. Monitoring and evaluation reports should be reviewed jointly by the senior management of the implementing agency and by the Bank. The evaluation reports should be made available to the public.

(i) *Cost Estimates and Financing Plan.* The plan should include detailed cost estimates for planned activities and investments. The estimates should be broken down into unit costs by project year and linked to a financing plan. Such programs as revolving credit funds that provide indigenous people with investment pools should indicate their accounting procedures and mechanisms for financial transfer and replenishment. It is usually helpful to have as high a share as possible of direct financial participation by the Bank in project components dealing with indigenous peoples.

13.4 ANNEX 4: SAMPLE TERMS OF REFERENCE FOR DEVELOPING A VMGP

Note: the VMGP will be developed in detail commensurate to the impacts. Minimal adverse impacts are anticipated and VMGPs will focus on how to broaden reach of benefits to VMGs.

A. Executive Summary of the Vulnerable and Marginalized Groups Plan

2. This section should concisely describe the critical facts, significant findings, and recommended actions.

B. Description of the Project/Background Information

3. This section provides a general description of the project; discusses project components and activities that may bring impacts on indigenous people; and identify project area.

The ToR should provide pertinent background for preparing the VMGP. This would include a brief description of:

- Statement of the project objectives,
- Implementing agency/sponsor and their requirements for conducting a VMGP,
- Project components, especially those that will finance subprojects;
- Anticipated types of subprojects/components, and what types will not be financed by the project;
- Areas of influence to be assessed (description plus good map)
- Summary of environmental/social setting
- Applicable Bank safeguards policies, and consequent Project preparation requirements.

The ToR should also include a brief history of the project, including alternatives considered, its current status and timetable, and the identities of any associated projects. Also include a description of other project preparation activities underway (e.g., legal analysis, institutional analysis, social assessment, baseline study).

C. Social Impact Assessment

4. This section should among others entail:

(i) Review of the legal and institutional framework applicable to indigenous people in the project context where relevant.

(ii) Provide baseline information on the demographic, social, cultural, and political characteristics of the affected Vulnerable and Marginalized Groups (VMGs); the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.

(iii) Identify key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with VMGs at each stage of project preparation and implementation, taking the review and baseline information into account.

(iv) Assess, based on meaningful consultation with the affected indigenous people's communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected indigenous people's communities given their particular circumstances and close ties to land and natural resources, as well as their lack of

access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.

(v) Include a gender-sensitive assessment of the affected VMGs perceptions about the project and its impact on their social, economic, and cultural status.

(vi) identify and recommend, based on meaningful consultation with the affected indigenous peoples communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the indigenous peoples receive culturally appropriate benefits under the project.

Information Disclosure, Consultation and Participation

5. This section of the ToR should:

(i) Describe the information disclosure, consultation and participation process with the affected VMGs that was carried out during project preparation;

(ii) Summarize their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;

(iii) in the case of project activities requiring broad community support, document the process and outcome of consultations with affected indigenous people's communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;

(iv) Describe consultation and participation mechanisms to be used during implementation to ensure indigenous people's participation during implementation; and

(v) Confirm disclosure of the draft and final VMGP to the affected VMGs.

E. Beneficial Measures

6. This section should describe and specify the measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, and gender responsive.

F. Mitigation Measures

7. This section should specify the measures to avoid adverse impacts on indigenous people; and where the avoidance is impossible, specifies the measures to minimize mitigate and compensate for identified unavoidable adverse impacts for each affected indigenous people groups.

G. Capacity Building

8. This section should provide measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address indigenous people's issues in the project area; and (b) indigenous people's organizations in the project area to enable them to represent the affected indigenous peoples more effectively.

H. Grievance Redress Mechanism

9. This section should describe the procedures to redress grievances by affected indigenous people's communities. It also explains how the procedures are accessible to VMGs and culturally appropriate and gender sensitive.

I. Monitoring, Reporting and Evaluation

10. This section should describe the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the VMGP. It also specifies arrangements for participation of affected indigenous people in the preparation and validation of monitoring, and evaluation reports.

J. Consulting Team

11. The general skills required of VMGP team are: Social Specialist or Anthropologist, Stakeholder engagement specialist, Community Development expert.

K. Services, Facilities and Materials to be provided by the Client

The ToR should specify what services, facilities and materials will be provided to the Consultant by the World Bank and the Borrower, for example:

1. The Project ISDS and draft PAD;
2. Relevant background documentation and studies;
3. Example VMGPs that demonstrate best practice, especially from the region or country;
4. Making all necessary arrangements for facilitating the work of the Consultant and to provide access to government authorities, other Project stakeholders, and Project sites.

L. Schedule and Deliverables

Specify dates for the consultancy deliverables (e.g. detailed work plan within 2 weeks, interim report within 7 weeks, and final draft report within 10 weeks of contract signature), and the overall duration of the consultancy (e.g. 15 weeks from contract signature).

M. Technical Proposal Contents

The ToR should require a technical proposal that at least:

5. Demonstrates that the Consultant understands the overall scope and nature of the VMGP preparation work, and what will be required to respond satisfactorily to each component of the ToR;
6. Demonstrates that the Consultant and his proposed team have relevant and appropriate experience to carry out all components of the ToR. Detailed curriculum vitae for each team member must be included;
7. Describes the overall methodology for carrying out each component of the ToR, including desk and field studies, and data collection and analysis methods; and
8. Provides an initial plan of work, outputs, and staff assignments with levels of effort by task.

N. Budget and Payments

The ToR should indicate if there is a budget ceiling for the consultancy. The ToR should specify the payment schedule (e.g. 10% on contract signature, 10% on delivery of detailed

work plan, 40% on delivery of interim report, 30% on delivery of final draft VMGP, 10% on delivery of final VMGP).

0. Other Information

Include here lists of data sources, project background reports and studies, relevant publications, and other items to which the consultant's attention should be directed.

13.5 ANNEX 5; SAMPLE FACT SHEET FOR VMGPS; VMGP REVIEW – FACT SHEET FOR VMGPS

To be filled by REA/PIU Team and World Bank as part of review and monitoring

[Country] – [Project ID #] – [Project Name]

Last Update: [11/20/ 2008] A.		PROJECT DATA AND RECOMMENDED ACTIONS	
Reviewer:		Date of Mission:	
Country:		Project Loan Amount:	
Project title:		Total Project Cost:	
Project ID:		Appraisal Date:	
IPP #:		Effectiveness Date:	
Task Manager:		Closing Date:	
Environment Spec.		Last PSR/ISR	
Social Spec.			
MTR		Last Aide Memoire	
REVIEW SUMMARY (Based on Desk and Field Review)			
Issues / Observations			
Proposed Actions (short term / long term, for TTL, SD, etc.)			
B. SAFEGUARD IDENTIFICATION AND COMPLIANCE AT PREPARATION			
1 Environmental Safeguard Classification:			
2 Safeguard Policies Triggered at Preparation According to the ISDS, EDS, ESDS, PAD:			
Applicable			
Source			
Environmental Assessment (OP/BP 4.01)			
Natural Habitats (OP/GP 4.04)			
Forestry (OP 4.36)			
Pest Management (OP 4.09)			
Cultural Property (OP 4.11) – OPN 11.03			
Indigenous Peoples (OP 4.10)			
Safety of Dams (OP/BP 4.37)			
Projects in Disputed Areas (OP/BP 7.60)			
Involuntary Resettlement (OP 4.12) – OD 4.30			
Projects on International Waterways (OP/BP 7.50)			
3 Project Objective and Components			
Project Objectives			
Project Description			
4 Social Safeguard Triggers: Are there any social safeguard policies which should have been triggered but were not?			
C. SOCIAL MANAGEMENT PLANS AT PREPARATION			
This review is based on IPP PAD SA RAP ISDS (check all that applies)			
SCREENING			

Have all IP groups in project area been identified (is screening by the Bank adequate)?
SOCIAL ASSESSMENT
Has a social assessment taken place (is baseline data given)? Provide summary of social assessment.
Has the legal framework regarding IPs been described?
Have benefits/ adverse impacts to IP groups been identified?
CONSULTATION, PARTICIPATION, COMMUNITY SUPPORT
Have IPs been involved in free, prior and informed consultation (at the project's preparation stage)? Are there any records of consultations? Is there a description of steps for increasing IPs participation during the project implementation?
Does the project have verifiable broad community support (and how has it dealt with the issue of community representation)?
Is there a framework for consultation with IPs during the project implementation?
INDIGENOUS PEOPLES PLAN
Is there a specific action plan (implementation schedule)?
Does the IPP include activities that benefit IP?
Are activities culturally appropriate?
Have institutional arrangements for IPP been described?
Is there a separate budget earmarked for IPP?
Are there specific monitoring indicators? If yes, are these monitoring indicators disaggregated by ethnicity?
Has a complaint/conflict resolution mechanism been outlined?
Disclosure: Were IPP/IPPF disclosed at the <i>Infoshop</i> ? Y / N
Was IPP/IPPF disclosed in Country and in a form and language accessible to IPs? Y / N
What's missing: _____
SPECIAL CONSIDERATIONS
If applicable, what considerations have been given to the recognition of the rights to lands and natural resources of IPs
If applicable, what considerations have been given to the IP sharing of benefits in the commercial development of natural and cultural resources?
Does the project involve the physical relocation of IPs (and have they formally agreed to it)? If yes, has the project prepared a resettlement instrument (resettlement policy framework, process framework, resettlement action plan)?

D. IMPLEMENTATION AND SUPERVISION (Based on initial desk review and verified by field assessment)
1 Social Safeguards
a. Have issues (anticipated and unexpected) been monitored and reported systematically in Aide Memoires and ISRs? Have appropriate actions been taken?
b. Were social specialists included in supervision missions and how often?
c. What are the project impacts on IPs culture, livelihoods and social organization?
d. In terms of consultation process, are there ongoing consultations with the IP communities? Are there records of carried out consultations?
e. Have any social risks been identified? Have appropriate risk management strategies/actions been recommended to the Borrower?
f. Are IPOs (beyond the community level) actively engaged throughout the life of the project?
g. Does the project contribute to the respect of IP rights as recognized by the country's legal and policy systems?
2. Effectiveness
a. Are IPPF and/or IPP implemented satisfactorily? Are they effective? Is funding adequate?
b. In relation to the implementation of IPPF/ IPP, were problems identified, if any? If yes, how were they resolved by the Borrower?
Effectiveness of Monitoring Program
3.1 Has the monitoring program been adequately supervised? Are performance indicators effective?
3. Effectiveness of Institutional Responsibilities/Training as outlined in the project documents
4. Effectiveness of relevant Legal Covenants: Is compliance with legal covenants being adequately supervised?
E. SITE VISIT(s)
- Date
- Location
1.1 Activity
1.2 Observations
F. OVERALL ASSESSMENT (including desk and field reviews)
1 Overall Assessment and Risk Rating
1.1 To what extent is the OP4.10 relevant in delivering effective development to IP?

1.2 To what extent has OP4.10 (and previously OD4.20) been applied and how?
1.3 To what extent has OP4.10 been efficacious (cost effective) in achieving its objectives?
2 Recommendations
3.1 Project specific
3.2 Country / Program specific
3 List of Attachments - <i>Key People Met</i> - <i>photos</i> -etc.
G. FEEDBACK FROM TTL / SD - Date of feedback received

13.6 ANNEX 6; THREE POINT RANK ORDER SYSTEM FOR VMGPS (SAMPLE)

To be filled by REA/PIU Team and World Bank as part of review and monitoring

Criterion	Points	Explanation
Screening		
1. Have all IP groups in project area been identified (is screening adequate)?	0	Not stated
	0.5	The names of some groups have been mentioned; baseline survey has been proposed; Aggregates all groups together
	1	Detailed description of all indigenous groups is given
Social Assessment		
2. Has a social assessment been done (Is baseline data given)?	0	Not stated
	0.5	Proposed to collect all relevant data - no specifics; data briefly stated; or not updated, data not disaggregated
	1	Disaggregated population data of IP; relevant socio-economic indicators have been stated; data that needs to be collected are listed;
3. Has legal framework been described?	0	Not stated
	0.5	Brief mention of framework given
	1	Constitutional provisions, legal statutes and government programs in relevant sectors related to indigenous peoples stated
Have benefits/ adverse impacts to IP groups been identified?	0	Not Discussed
	0.5	Potential impacts have been briefly discussed
	1	Potential positive and negative impacts identified and discussed
Consultation, Participation, Community Support		
Have IP been involved in free, prior and informed consultation at the project implementation stage? Are there any records of consultation?	0	Not determinable
	0.5	Brief mention that consultations have taken place; no details provided
	1	Detailed description of process given; appropriate methods used, interlocutors are representative
Does project have verifiable broad community support (and how has it dealt with the issue of community representation)?	0	Not stated
	0.5	States that IP groups will be involved in preparing village/community action plans; participation process briefly discussed
	1	Detailed description of participation strategy and action steps given
7. Is there a framework for consultation with IPs during the project implementation?	0	No
	0.5	Passing mention
	1	Detailed arrangements
Indigenous People Plan		

8. Is there a specific plan (implementation schedule)?	0	Not stated
	0.5	Flexible time frame (activities need to be proposed); given activity wise; year-wise distribution; mentioned but integrated into another project document (RAP, etc.); no separate treatment; combined with RAP;
	1	Detailed description given
9. Does the IPP/IPDP include activities that benefit IP	0	Not stated
	0.5	Activities stated but not detailed
	1	Activities clearly specify
10. Are activities culturally appropriate?	0	Not stated
	0.5	Cultural concerns noted but not explicit
	1	Activities support cultural norms
11. Have institutional arrangements for IPP been described?	0	Not stated
	0.5	Mentioned but integrated into another project document RAP, etc.); no separate treatment
	1	Detailed description of agencies involved in implementation of plan, including applicable IPO's or tribal organizations.
12. Is a separate budget earmarked for IPP?	0	Not stated
	0.5	Mentioned but integrated into another project document (RAP, etc.); not broken down activity-wise
	1	Detailed description given
Are there specific monitoring indicators?	0	Not mentioned
	0.5	Proposed that monitoring indicators shall be designed later; Project outcomes that need to be monitored are stated
	1	Monitoring indicators disaggregated by ethnicity
Has a complaint/conflict resolution mechanism been outlined?	0	Not mentioned
	0.5	Passing mention of mechanism in document
	1	Detailed description and few concrete steps of mechanism given
Were the Indigenous Peoples Plan or Framework (IPP/IPPF) disclosed in Infoshop and in Country in an appropriate language?	0	No
	0.5	Disclosed in Infoshop
	1	Detailed Summary in appropriate form, manner and language
Special Considerations		
If applicable, what considerations have been given to the recognition of the rights to lands and natural resources of IPs?	0	None
	0.5	Passing mention
	1	Detailed considerations

17. If applicable, what considerations have been given to the IP sharing of benefits in the commercial development of natural and cultural resources?	0	None
	0.5	Passing mention
	1	Detailed considerations
18. Does the project involve the physical relocation of IPs (and have they formally agreed to it)?	0	No resettlement unless with their prior consent
	0.5	Only within traditional lands or territories
	1	Yes, physical relocation outside their traditional territories with no compensation or consent

13.7 ANNEX 7- PROFILES OF VULNERABLE AND MARGINALIZED GROUPS IN COUNTIES WHERE COMPONENT 3 IS LIKELY TO HAVE SUB-PROJECTS IN KENYA

The exact sub-project sites are not yet identified, but subprojects are likely to be implemented in areas where the following VMGs are present: Mjikenda, Watha (Kwale), Sanye, Watha, Boni (Tana River) and Bajuni, Watha (Kilifi). These groups are hunter gatherers and or fishing/foraging groups along the coastal areas.

Mjikenda Peoples. The Mijikenda ("the Nine Tribes") are nine Bantuethnic groups inhabiting the coast of Kenya¹⁸. , Archaeologist Chapuruka Kusimba contends that the Mijikenda formerly resided in coastal cities, but later settled in Kenya's hinterlands to avoid submission to dominant Portuguese forces that were then in control. Each of the Mijikenda groups has a sacred forest, a kaya, which is a place of prayer. Eleven of the approximately 30 kaya forests have been inscribed together as a UNESCOWorld Heritage Site, the Sacred Mijikenda Kaya Forests. Like other Kenyan tribes today, Mijikenda people have assimilated to modern cultural practices, resulting in the disappearance of many of their traditional customs. Most **Mijikenda people are now either Christians or Muslims**; however, some still practice their traditional culture or a mixture of Christianity or Islam with their traditional religion. Islam is more widespread among the Digo than in the other Mijikenda sub-tribes.

The Sanye. In coastal areas, hunter gatherers are mostly addressed by the Somali term Boni, which refers to someone without any possessions, and/or Sanye, which means "to gather together to use for a general purpose." The Sanye are also referred to as **Dahalo**. **Their language Dahalo** is an endangered Cushitic language spoken by at most 400 Dahalo people on the coast of Kenya, near the mouth of the Tana River. The Dahalo, former elephant hunters, are dispersed among Swahili and other Bantu peoples, with no villages of their own, and are bilingual in those languages.

Watha Community. The Watha (a few thousands) who live dispersed in the southern coastal areas of the Coast region, the people are traditionally hunters and gatherers. In Malinda district a Watha community is found in four divisions (i.e. Malindi, Langobaya, Marafa and Magarini). In Tana River district the Watha are found in Sombo and Laza divisions while in Mandera the Watha are found in Central division. The population of Watha community in the districts is estimated at approximately 30,000 persons (only 2.7% of the entire Malindi, Mandera and Tana River population), however it is difficult to know as they are dispersed across a number of counties... Their main livelihoods used to be hunter gatherers residing in forest but with the protection of forest their survival or coping strategies include peasant agro-pastoral activities, burning and selling of charcoal. Since the government abolished unlicensed hunting of game and wild animals, the Watha people now live in permanent settlements, some of them along the river and where there are forests, mainly in the mixed farming and livestock farming zones. The forests afford them an opportunity to practice bee keeping while those along the river practice crop production.

The land tenure system in the district is communal ownership. Most of the land in the three districts of Malindi, Mandera and Tana River are currently under trust land by the county councils.

¹⁸In the past, the Mijikenda tribe was also referred to as the Nyika tribe, a near-derogatory term implying bush people.

Boni Community The Boni people are found in Northeastern Kenya's district of Ijara and Lamu district. Their population is about 4,000. They are nomadic hunter-gatherer tribe of mainly Cushitic origin with a unique characteristic. The community sources its subsistence from forest products such as honey, wild plants/fruits for consumption and medicinal purposes. They're concentrated mainly in Witu, Hindi and Kiunga divisions. Their population is about 4,000, compared to 25,000 half a century ago.¹⁹ They are nomadic hunter-gatherer tribe of mainly Cushitic origin with a unique characteristic. The community sources their subsistence from forest products such as honey, wild plants/fruits for consumption and medicinal purposes. However, with the gazettelement of all the forest by the government this has become a source of conflict. The Boni people are known for their unique tradition of whistling to birds that guide them to honey.

The Bajuni. The Bajuni are found in the North Eastern Coast of Kenya and principally inhabit the tiny [Bajuni Islands](#) in the [Indian Ocean](#). However, they also traditionally reside in [Kenya](#), mainly in [Mombasa](#) and other towns in that country's [Coast Province](#). The Bajuni people collectively refer to themselves and are known as *Wabajuni*. They speak [Kibajuni](#), a dialect of the [BantuSwahili language](#). They are estimated to be about 69,110.²⁰ The population's members trace their origins to diverse groups; primarily coastal [Bantu](#) and [Khoisanoid](#) hunter-gather groups, as well as later additions such as [Arab](#), [Persian](#) and [Cushitic](#) immigrants. Today many Bajuni are mostly Shafite [Muslims](#). The Bajuni are traditionally fishermen and sailors. Some also pursue other trades such as [metalwork](#)

An indicative list of Vulnerable and Marginalized Groups in Kenya.

Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012

Name	Other Names Usually derogatory	Estimated Population ²¹	Livelihood ²²	Administrative Location Counties ²³
1. Sengwer		50,000	HG/Farmers	Trans-Nzoia; Uasin-Gishu; West Pokot; Keiyo-Marakwet
2. Ogiek	Dorobo	40,000	HG/Farmers	Nakuru; Baringo; Uasin Gishu; Bomet; Kericho; Narok; Nandi
3. Waatha	Wasanye	13,000	HG/Farmers	Kwale; Tana River; Marsabit, Kilifi
4. Aweer	Boni	7,000	HG	Lamu, Tana River
5. Yiaaku	Dorobo	4,000	HG/Farmers	Laikipia
6. El Molo		2,900	Fishing	Marsabit, Samburu
7. Ilchamus		33,000	Fishing/Farmers/ Livestock Keeper	Baringo
8. Endorois	Dorobo	60,000	Fishing/Farmers/ Livestock Keeper	Baringo, Laikipia
9. Borana		136,936	Pastoralists	Marsabit, Wajir
10. Gabra		31,000	Pastoralists	Marsabit, Samburu
11. Rendille		62,000	Pastoralists	Marsabit, Samburu
12. Turkana		1,008,463	Pastoralists	Turkana, Baringo, Laikipia

¹⁹ (Source: Organization for the Development of Lamu Communities (ODLC).

²⁰ 2014. *Ethnologue: Languages of the World, Seventeenth edition*. Dallas, Texas: SIL International. Online version: <http://www.ethnologue.com>.

²¹ Internet based – several sites

²² Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012

²³ Ibid.

13. Pokot	62,000	Pastoralists	West Pokot /Baringo
14. Maasai	666,000	Pastoralists	Narok, Kajiado

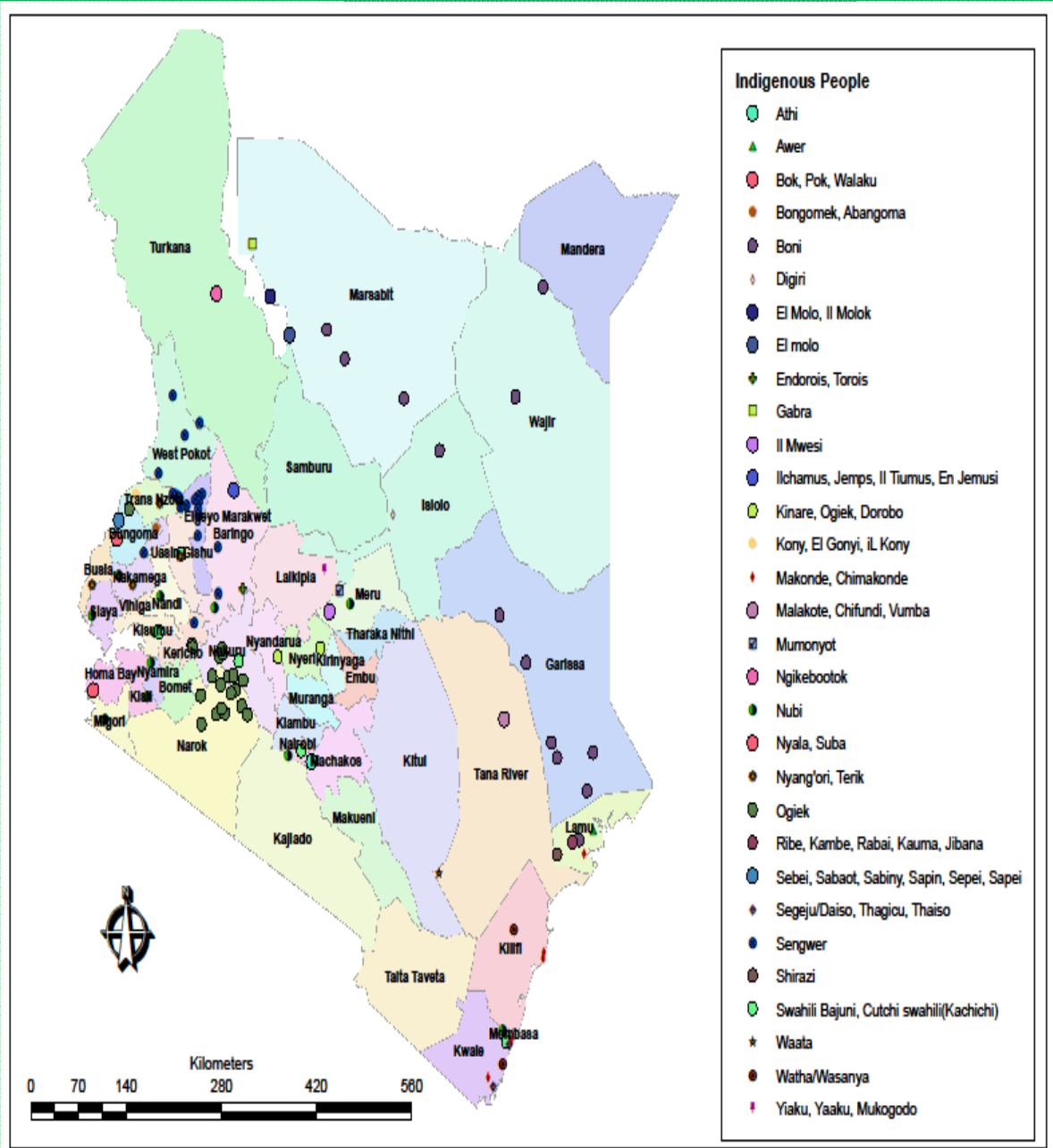


Figure 4. Map showing locations of and Marginalized Groups /IPs in Kenya.

13.8 ANNEX 8 MINUTES AND LIST OF STAKEHOLDERS CONSULTED

MINUTES OF KEMP STAKEHOLDER CONSULTATION FORUM ORGANISED BY KENYA POWER

DATE: 6/01/2015

VENUE: THE SAFARI PARK HOTEL, NAIROBI,

TIME: 9:00 AM – 1:30 PM

Agenda:

Disclosure and consultation on Kenya Electricity Modernization Project (KEMP) safeguard documents.

MIN 01/01/2015 – Preliminaries

Samuel Abaya of Kenya Power called the meeting to attention, he welcomed guests and thanked them for coming.

The meeting was opened by a word of Prayer from Mercy Towett of Kenya Power.

Samuel Abaya then invited John Guda, the Manager - Safety Health & Environment, KPLC.

John Guda officially welcomed guests on behalf of the Ministry of Energy & Petroleum and Kenya Power. He informed participants that the main purpose of this stakeholder forum was to deliberate concerning electrification programs and disclose safeguard documents to be applied in **Kenya Electricity Modernization Project (KEMP)**. Kenya Power plans to connect over 1 million new customers in the FY 2014/2015 and to facilitate in achieving the government's target of moving the current electricity access rate of 30-32 percent to 70 percent by 2017 through various projects some of which may have environmental and/or social challenges. These potential environmental and social impacts would be the subject of this particular meeting.

John Guda then introduced the Kenya Power team, representatives from the Ministry of Energy & Petroleum, Rural Electrification Authority, Energy Regulatory Commission and the World Bank personnel present.

MIN 02/1/2015 – Welcoming Speech

Eng. Michael Adhiambo, the Manager – Projects at Kenya Power, delivered the welcoming speech on behalf of Eng. Stanley Mutwiri, General Manager - Infrastructure Development at Kenya Power.

Eng. Adhiambo welcomed guests to the meeting and thanked them for availing themselves. He informed participants that the Kenya Electricity Modernization Project (KEMP) which would be the subject of this meeting was part of a range of other projects funded by the World Bank. Such projects form part of the Kenya Energy Expansion Project (KEEP). The

main purpose of this workshop was therefore to bring all stakeholders on board as KEMP would be undertaken all over the country.

KEMP is aimed at improving access to electricity as currently household access is 30-32 percent and Kenya Power would like to increase this to over 70 percent by 2017. He noted that as electricity access increases there would therefore be need to improve the system. Therefore he informed participants that KEMP consist of 4 major components:

- Component A - Improvement in Service Delivery and Reliability
- Component B - Revenue Protection Program
- Component C - Electrification Program. This was aimed at increased electricity access to unreached areas, through the Off – Grid Component and Peri- Urban Component. The Off - Grid component would cover sparsely populated areas not covered by main national grid and would be implemented through mini grid areas. The Peri-Urban Component would target areas of lower income groups in towns and cities.
- Component D - Technical Assistance and Capacity Building

Therefore, Eng. Adhiambo noted that all those that will be affected by the projects need to be made aware of impacts to environment and social issues hence the purpose of the meeting. In addition, he informed participants that such public consultations are a key requirement for the National Environment and Management Authority (NEMA). This meeting would also enable people to raise any issues they may have concerning KEMP.

MIN 03/01/2015 Forum Objectives and Frameworks Overview: John Guda

Participants were informed that the main objectives of KEMP were:

1. To increase access to electricity
2. To improve reliability of electricity service
3. To restore KPLC'S financial sustainability

The KEMP components were as follows:

- A – Improvement in Service Delivery and Reliability
- B – Revenue Protection Program
- C – Electrification Program - Peri-Urban electrification and Off-grid electrification
- D – Technical Assistance and Capacity Building

John Guda informed participants that this meeting was concerned with the third component that is the **electrification program**. Thus Kenya Power had prepared various safeguard documents with regards to the electrification component. These documents included *Environmental Social Management Frameworks* (ESMF) for Off-Grid and Peri-Urban Components, the *Resettlement Policy Framework* (RPF) and the *Vulnerable & Marginalised Groups Framework* (VMGF) for the Off-Grid Component. It is these safeguards that would be disclosed during this meeting and inputs from participants collected concerning these.

MIN 04/01/2015 – Presentations on ESMFs – Peri Urban and Off Grid Components

Wilfred Koech of Kenya Power took the participants through two presentations to disclose the Environmental Social Management Frameworks for the Peri-Urban Component and the Off-Grid Component respectively. He informed the participants that the exact sub-project sites were not known yet. When they are identified Environmental Impact Assessments (EIAs) and/or Environmental Management Frameworks (EMPs) will be prepared as needed in accordance with National Environment Management Authority (NEMA) and World Bank guidelines.

The presentations included the background information of Peri-Urban and Off-Grid Components respectively and their objectives; the purpose of the ESMF; the methodology used in preparing the two ESMFs; policy and regulatory frameworks; World Bank Operational Safeguard Policies that would be triggered by each component respectively; public consultation; the potential beneficial and adverse impacts of each of the components respectively and subsequent mitigation measures.

The Environmental and Social Management Frameworks (ESMFs) would ensure that the KEMP would be implemented in a socially and environmentally sustainable manner. The ESMFs will support capturing of environmental and social issues in decision making.

MIN 05/01/2015 – Presentations on RPF and VMGF – Off Grid Component

Roseline Njeru of Kenya Power took the participants through two presentations namely; the Resettlement Policy Framework (RPF) and the Vulnerable Marginalised Groups Framework (VMGF) for the Off Grid component. These two safeguards were necessary to ensure that KEMP takes care of the social impacts of the project.

The RPF is concerned with social impacts that require resettlement. The RPF is a form of commitment by Kenya Power indicating how it shall handle resettlement in the event it is found necessary. The framework set out principles of how resettlement will be done. However it was noted that Kenya Power was not anticipating major movements of people, however the RPF would cater for resettlement if it were to occur, keeping in line with World Bank's Operational Policy 4.12 on Involuntary Resettlement.

The presentation on the RPF included its purpose and objectives; methodology used in preparing the RPF, potential impacts and mitigation measures; compensation; public participation and consultation; RPF monitoring during implementation and the grievance redress mechanisms.

The VMGF would ensure that if vulnerable or marginalised groups would be present in any of the Off- Grid project sites that they are given special attention as such groups are unable to voice and claim their rights as compared to the rest of society. Therefore in case

indigenous People are found where the projects will be implemented the World Bank Operational Policy 4.10 on Indigenous People would be triggered.

The VMGF was prepared in anticipation of Vulnerable & Marginalised Groups (VMGs), however it was noted that exact locations of the project were not yet conclusive. Therefore it was not yet known if VMGs are present on any of the Off-Grid Sites. Once locations were known screening would be done to identify the VMGF. If they are present a specific Vulnerable Marginalised Group Plan (VMGP) would be prepared specific for that group.

Further consultations would therefore take place as the Off-Grid Component of KEMP progresses, such consultations are important as they would enable identification together with VMGs the impacts of the project and culturally sensitive mitigation measures. It was also noted that the aim was to enhance project benefits to VMGs and avoid or mitigate any adverse impacts on them. The presentation on the VMGF included the purpose of the VMGF, methodology used to prepare the document, social assessment of VMGs, the potential beneficial and adverse impacts of the project, public participation and consultation Vulnerable and Marginalised Groups Plan, the grievance redress mechanisms, monitoring and reporting arrangements and disclosure arrangements.

MIN 06/01/2015 – Presentations on RPF and VMGF – Off Grid Component

John Guda – Manager, Safety, Health and Environment at Kenya Power thanked participants for availing themselves for the meeting and for all their contributions. He reiterated that the inputs from participants have been noted and would help improve the safeguards documents. He reminded participants that the presentations from the meeting would be sent them via email.

MIN 07/01/2015 – Plenary Session

Comment/Question	Response / Remarks from Kenya Power
<p>Okoth Obado – Governor Migori County Main challenge in Migori is inadequate power supply and power outages. Therefore I am pleased to be part of this forum and I hope it will aid in generating solutions to address these issues in Migori.</p> <p>Concerning Power Reliability (one of the objectives on KEMP) – what is happening with the current transformers that are burning out so easily?</p>	<p>Concerning distribution transformers one the greatest challenges is vandalism. It is not that the transformers have become worse. Technology has modernised. It is vandalism, taking components of the transformers and accessories that degrade the life of the transformers. It is a challenge not only for Kenya Power but for the whole country. If there are opportunities to work together maybe through initiatives such as community policing then this issue can be addressed.</p> <p>Initially power to the whole Nyanza area was fed through a substation in Kericho (Chemosit Substation). But to address shortages in Nyanza region another transmission line was extended from Kericho to Kisumu. But this is still not adequate for Migori, Kuria and Homa Bay. Therefore there is another substation being done in Migori County behind Sony Sugar factory gate in order to address issue of power outages being experienced in Migori. Out of that substation there will be lines to supply Gogo, Homa Bay, a special line to Migori town another line going to Kuria, Isebania and Ogembo. Transmission towers are also being erected in that area under KEEP (implemented by KPLC/KETRACO)</p> <p>In addition for other areas Kenya Power is aware that Homa Bay has the same problems. To address this there is a KETRACO line from Sondu Miriu substation to Homa Bay. A third alternate line will be constructed. The line is to run from Olkaria through Narok to join current Line from Kericho to Kisii.</p> <p>The Governor was welcomed to visit the Substation site behind Sony Sugar factory.</p>
<p>To increase accessibility high tariffs are charged. Are there cheaper ways to connect people to electricity?</p>	<p>Connection charges - One of the challenges to accessibility is charges. The Governor challenged Kenya Power to come up with new and innovative ways. This project will explore such new and innovative ways. There are also a number of projects Kenya Power is running that can have people being connected without necessarily paying fully initial charges, and instead can pay through instalments.</p> <p>Clarification on tariffs: New connections – There are many avenues through</p>

Comment/Question	Response / Remarks from Kenya Power
	<p>which customers can be connected. Customers (within 600 metres from transformers) that can be connected for KES. 35,000.</p> <p>ERC is conducting studies on tariffs and will advise Kenya Power in due course.</p> <p>There are also various financing arrangements such as <i>Stima Loan</i>, which is available through Kenya Power, Equity Bank, Jamii Bora. This can be paid via instalments.</p> <p>The Global Partnership on Output Based Aid (GPOBA) Project funded by World Bank to electrify slums is very affordable. The KES 1000 cost can be paid in instalments after connection. Participants were urged to notify Kenya Power of any slums in their areas and Kenya Power will arrange a study and see how to provide a solution to electrify these areas.</p> <p>If there is a line passing through a community it is possible to connect people around that area so participants were urged to mobilize people to be connected. At Kenya Power, marketing officers are also actively engaged all over the country meeting potential customers. Communities can organise themselves in groups and follow up connections.</p> <p>More information could be found on the Kenya Power website or by visiting any Kenya Power office and asking for a marketing officer who will assist concerning connectivity.</p>
<p>Off grid systems – along the lake there are strong winds and sunshine, can I be assisted to have a study done in my area on harnessing wind and solar energy?</p>	<p>It was agreed that wind power is a potential avenue because of strong winds along lake shore, and that potential can be explored. Wind and solar options will be explored especially in areas such as the islands on Lake Victoria that are off grid.</p>
<p>In my county I host a small sub-station Gogo, it generates about 1-2MW but it has potential to generate up to 50MW. Can we confirm if potential to increase power is there?</p>	<p>Gogo Substation – old substation currently generates just about 1.5 MW, it was agreed that there is potential to produce more energy. Nevertheless it may not be economical to develop a full substation at this point but the lines mentioned should be able to stabilize the power in Migori and adjoining areas. Concrete answers concerning increased generation could not be given because that was under KenGen’s mandate.</p>

Comment/Question	Response / Remarks from Kenya Power
<p>Ruben Sinange – Minister Energy & Environment, Nyamira County Nyamira suffers the same situation as Migori: What does Peri- Urban mean in very small towns? What is classified as peri-urban and how are you going to select Peri-Urban areas in smaller towns? Will they be left out and focus be only on big cities?</p>	<p>The definition of Peri-Urban does not discriminate whether the towns are major or smaller towns. It is if there is sufficient density to get many people on the grid, which qualifies an area for this Peri-Urban electrification. It was agreed that it is difficult to distinguish between Peri-Urban and Rural areas but Kenya Power will use existing County development plans to help with this.</p>
<p>Concerning Off grid electrification already some of us have been in contact with investors and have made some preparations. How can we coordinate with you on this? Kenya Power has mentioned it will be a public private partnership, How can we move forward on this?</p>	<p>It was noted that some counties have taken it upon themselves to establish some Off-Grid sites. So there is need to coordinate with these efforts to avoid duplication. It was agreed that there is need to share what plans Kenya Power and the Counties have. Kenya Power is also aware that a number of counties have taken initiative to establish public-private partnerships to supplement public funding. Whatever generation stations the counties have established through such public-private partnerships ideally should be able to feed into main grid.</p>
<p>Is Peri–Urban electrification different from the Global Partnership on Output Based Aid (GPOBA) Project or is it an extension? How will connection charges be different with Peri-Urban?</p>	<p>The difference is that Peri-Urban is the next level up from GPOBA, it is not as a result of haphazard development. Peri-Urban areas are more organised better planned with infrastructure. Facilities can be run in a more organised and structured manner.</p>
<p>Rural areas want to be connected but population is not in high density, and the connection charges are too high. How can we help them? Is there any Funding?</p>	<p>There are other ongoing projects that are intended to improve supply. They are being funded by other donors such as the African Development Bank and other donors in addition to initiatives taken by KPLC under Boresha Stima Projects.</p> <p>If there is a line passing through a community it is possible to connect people around that area so participants were urged to mobilize people to be connected. However at Kenya Power, marketing officers are actively engaged all over the country meeting and sourcing potential customers.</p> <p>Communities can organise themselves in groups and</p>

Comment/Question	Response / Remarks from Kenya Power
	<p>follow up connections.</p> <p>More information can be found on the Kenya Power website by visiting any Kenya Power office and asking for a marketing officer who will assist concerning connectivity.</p>
<p>I would like to appreciate Kenya Power work specifically Boresha which has reached Homa-Bay. Will KEMP be a continuation of Boresha since it is aimed at improving reliability?</p>	<p>No. As noted earlier it is an electrification program with Peri-Urban and Off-Grid components. Boresha Stima Projects were being done was to upgrade the existing infrastructure.</p>
<p>Anne Kariuki – Kenya Association of Manufactures (KAM) You mentioned households in the presentations. Is there any focus on industries to enable them to move to Peri-Urban and off grid areas?</p>	<p>Concerning industries Kenya Power is also putting up new substations to boost supply in Peri-Urban areas to encourage investors and this has been funded under a separate cover. KETRACO is also doing a number of upgrades. In total there are 70 new substations that are being implemented.</p>
<p>When you say increasing connectivity what exactly does it entail? For example is it 100 metres to the nearest transformer or pole?</p>	<p>Distribution distance to connect households is 600m from the transformer. The rate is currently KES 35,000. This is being reviewed and could become lower. The Last Mile Connectivity Project will enable those within 600 Metres to be connected immediately and money can be recovered over time.</p> <p>As part of improving electricity access; Peri-Urban component funded by World Bank goes beyond Last Mile Connectivity.</p>
<p>Eunice Karoki – Minister of Environment, Kiambu County For the Peri-Urban component will you consult counties and our development plans since we have already planned and identified Peri-Urban areas and industries?</p>	<p>New Kenya Power County Managers were being established. So each of the Counties can provide information on their plans so we can streamline with ours and improve coordination</p>
<p>Data – it is challenging as we cannot access data on power</p>	<p>Kenya power does not work in a vacuum, the company works hand in hand with development partners. Kenya</p>

Comment/Question	Response / Remarks from Kenya Power
from Kenya Power, this hampers development plans.	Power is interested in knowing what the County's plans are in order to enable collaboration. County Managers will work closely with Counties to know their plans. Kenya Power is generous with sharing data. Most Kenya Power maps at the moment are in hard copy hence the challenge in accessing them could come from there. This will become easier once the company concludes on a GIS project that will digitize data. The company is willing to share technical data. The data that might be sensitive; is that which infringes on rights of a third party.
Will land acquisition be compulsory?	No
<p>Ondieki Evans - Minister Environment and Energy Nairobi County</p> <p>During presentation on ESMF I did not see a proper framework on how hazardous waste will be handled.</p>	The ESMF for the Off-Grid component contains a section on electronic waste, this on Chapter 7, pages 88 - 91. Concerning the ESMF for the Peri-Urban component not much electronic waste is expected for this component. However in the event of any this has been taken care of in the ESMF for the Peri-Urban Component under Chapter 7, from page 69.
Resettlement Frameworks – I did not see a lot of input on gender. In the case of compensation it is the men who will want to pick the money and the women left out	Gender considerations will be taken especially during consultations in identifying impacts to allow all parties affected including women understand the compensations and voice their concerns. Issues of payment that involves family property disputes will be handled as they arise. The county administrators from the county and national government will be engaged in dealing with such disputes.
Input on other marginalized groups – widows, orphans, single mothers etc. not seen in the VMGF. How they will be protected?	Within Vulnerable and marginalized groups there could be certain groups who are also vulnerable such as; the aged, orphaned children, female headed households, disabled and persons living with HIV/AIDs. During preparation of actual VMGP these groups will be accorded special attention to ensure they do not miss out on the benefits of the project and that they are not negatively impacted by the project.
Vulnerable groups in urban areas – there are truly marginalised groups in slums, need to capture uniqueness of urban areas in terms of marginalized groups.	The KEMP project component of electrifying Peri-Urban areas does not envisage any resettlement because only low voltage lines will be put in place. Therefore, no adverse impacts will occur in urban areas to disadvantage vulnerable groups further

Comment/Question	Response / Remarks from Kenya Power
Energy from renewable resources – why should electricity from a free resource be so expensive? You need to explain to the public why this is.	Kenya Power is getting raw energy, harnessing and distributing it involves costs. This is from initial capital outlay and also systems and infrastructure that are put in place to distribute energy and make it consumable. In addition to maintenance of infrastructure That is why the renewable energy comes at a cost. Biggest component that has been escalating costs is the thermal component. But diversification is being carried out include forms renewable energy and this should help reduce costs.
Suggestion - can World Bank extend this concept such that issue revolves around empowering all people? (not just in terms of those falling under definitions of Peri-Urban, VMGs. Green energy – we need an to move towards implementation	Comments noted
Daniel Theuri – Que Energy Ltd There are technologies on solar thermal that can be used. There are new technologies where opportunities for dual systems that Kenya Power should look into.	Comments well taken and will be considered
1 st Presentation - environmental compliance, who is responsible for enforcing this?	Environment and Social Unit in partnership with implementing departments within Kenya Power, in other incidences REA will be involved especially in the off-grid areas in liaison with NEMA.
2 nd presentation - emphasis on community; what about the investor? Need to come up with mechanism to cover other stakeholders like investors.	Tenders will be floated and competitive bidding will be done to select contractors based on set evaluation criteria.
World Bank policy on International Waterways – Does this cover trans boundary rivers?	World Bank Operational Policy on international waterways will not be triggered in KEMP
Information sharing and Data - come up with a protocol for formal sharing of information. Establishing a Liaison person at Ministry of Energy is a suggestion	Data is available following studies done by the Government in partnership with UNEP, NASA and such data is available from the ministry of Energy

Comment/Question	Response / Remarks from Kenya Power
<p>Gibwa Kajubi– World Bank To plenary - what did people think of the social frameworks, the RPF and VMG? What is the feeling of the participants on this</p>	No remarks from participants
<p>Simiyu Mabuya– DCG (Contractor) As a contractor in off grid and hybrid generations – what will be the expectation from the contractor?</p>	Tenders will be floated and competitive bidding will be done to select contractors based on set evaluation criteria.
Concerning Information 2 years ago Ministry of Energy and Petroleum commissioned a feasibility study on renewable energy. So are we going by the same study?	Yes in addition to other studies done in collaboration with UNEP and NASA, in some specific incidences further site specific studies will be conducted.
On marginalized groups what about the youth and accessing contracts from these projects?	Marginalized groups (youth) and KPLC contracts: due to type of financing for this type of project there are specific guidelines that ensure competitive bidding and open process. Contractors covering all groups such as youth women are welcome so long as skills exist amongst them. In maintenance and as the systems continue to run contractors will participate actively, and in the supply of spare parts. In the main works there are strict guidelines which will be specified in the tender documents.
<p>Magdelene Kariuki – Manager, Action Aid International Quality of compensation and resettlement – will quality of resource being compensated be retained?</p>	Quality of compensation is well explained in the RPF document pages 32, 33 and chapter 8 on valuation and compensation.
Community land – is there an audit process that will be put in place to mitigate disfranchisement of women and address gender?	Community property is handled differently. The parties concerned are called for a meeting so that there is consensus. If it is land that is held in trust discussions are held first with the trustees and then the members. Deliberate effort will be put to ensure women participate including holding consultative meetings with women only so assess to assess specific impacts and appropriate mitigations
<p>Peter Kihoria – Ministry of Agriculture, Livestock and Fisheries, Kajiado County</p>	Consultations will be done on how to loop the women in

Comment/Question	Response / Remarks from Kenya Power
<p>I work a lot with pastoralist groups in Kajiado concerning social inclusion amongst vulnerable marginalized groups. In pastoral communities you have to coerce women to give their opinions, the usually will not give their comments. Men will not be concerned about water and firewood. When the land is compensated for land women are able to continue to using it. However when its financial compensation women lose out on livelihood as the men take the money.</p>	<p>and have appropriate mitigations. In case of issues involving payments of family property national government (the administration) will be engaged i.e. chiefs to advice.</p> <p>In communities where women are shy to speak in meetings, they will be consulted differently so that mitigation measures will be sensitive to their needs.</p>
<p>What is the plan for capacity building for women to utilize electricity for their development and enhance their livelihoods that is, reap benefits of projects?</p>	<p>Women will be sensitized on various ways they can use electricity for economic benefits.</p>
<p>Dr. Pacifica Ogola – Kengen The KEMP project is more of a national project and there is a lot of diversity in social and environmental issues. There isn't a one size fits all, so need to recognize diversity. You need to take lessons learnt from previous projects as well.</p> <p>Caution on social impacts – resettlement was downplayed, presentation mentioned that there would be not mass movements, so what does actually mass mean? It is not just about the numbers.</p> <p>When you go to a place where land adjudication has not been done then other challenges will present. Also need to consider</p>	<p>Comments well taken and issues will be addressed as and when necessary.</p> <p>The ESMF, VMGF and RPF are guidelines and commitments from the proponent that environmental and social issues will be handled. This is because exact locations of the projects are not yet identified. Once site identification is done the specific Environmental Impact Assessment, vulnerable and Marginalized Groups Plans and Resettlement Action plans will be prepared as required.</p>

Comment/Question	Response / Remarks from Kenya Power
impacts if developing on a world heritage sites. In addition consider the long term sustainability of the Off- Grid component	
<p>Asman Owiti - Chief Kasarani Kindly what is KPLC doing on the mitigation issue barring people on encroaching on way leaves since the same is issued by County Governments through issuance of TOL (Temporary Occupation Licence) to people? How will this conflict be resolved between KPLC and County Governments?</p>	Kenya Power will work with the County Governments to ensure Way Leaves are respected and encroachment is not allowed.
<p>Bernard Osawa –WinPower Ltd What is the criterion for selection of PPP partners/ Investors for Off- Grid sites?</p>	Competitive bidding based on set evaluation criteria after tenders are floated. Process will be public and transparent.
What ESMF, RPP and VMGF standards will apply in this case?	The investors should observe the guidelines provided in the safeguard documents
<p>John N Ikinya- Chief, Kirigiti Location-Kiambu Sub County Early last year, there was plan to construct a substation at Thathi-Ini village within my location to address constant power outages, considering the growing and ever increasing population in Kiambu town. However the land turned out to be registered under private individual though an okay had been given by County Government. Now, what option is there to implement the same project in this area? Probably can you consider purchasing a private land for the same purpose?</p>	There were challenges in getting a site for the sub-station and this has caused delays.
Criterion for selection of Peri-Urban centers to be included in the project. This should be reflected in the methodology for ESMF.	Peri-Urban areas will be determined based on population density

Comment/Question	Response / Remarks from Kenya Power
<p>The selection/ Sampling criterion should ensure geographical equity</p>	<p>KEMP is a nationwide project</p>
<p>Engineer Philemon Kachila - County Chief officer, Infrastructure, Taita Taveta County</p> <p>Taita taveta has enormous potential for off-grid installations such as:</p> <ul style="list-style-type: none"> i) Large tracks of government controlled ranches that have potential for both solar and wind farms. ii) Enormous sisal estates and factories that have potential for biomass/biomass installations. iii) Rivers flowing from the highlands to the lowlands which have high altitude ranges. These have potential for micro HEP <p>The market for power is readily available from hotels spread in the Tsavo East and West National Parks and planned livestock abattoirs.</p> <p>On behalf of the county executive we would like to partner with KP/WB to carry out feasibility studies to map out the exact potential (resources) with a bid to invite investors.</p> <p>We would like to partner with KP/WB in selection of projects within the county. Kindly let us know whether we can be considered as partners in this KEMP.</p>	<p>Comments well taken and will be considered</p>

Comment/Question	Response / Remarks from Kenya Power
<p>Kenya Forest Service The purpose of the ESMF is to ensure full integration of environmental and social concerns in the KEMP planning process: At what stage will Kenya power integrate environmental and social concerns during project implementation? (route alignment survey and project design vis-à-vis environmental and social integration)</p>	<p>Environmental and Social considerations are being integrated as early as possible from the planning phase, through implementation to decommissioning phases.</p>
<p>The purpose of the RPF and VMGF is to ensure public participation and full compensation to the affected farmers through consensus. The services of Kenya Forest Service can be outsourced at gazette rates for forest resource assessment in order to minimize conflicts with land owners and avoid litigation in law courts which are expensive and time consuming (Use of experts and professional bodies can help alienate challenges and compensation and resettlement plans)</p>	<p>Comments well taken and will be considered</p>
<p>Peter Munyao – Kenya Civil Aviation Authority (KCAA) Kenya power to continue working with Kenya Civil Aviation Authority in order to ensure aerodromes, airports, airstrips and heliports are safeguarded from power lines and associated facilities. Currently there is massive development of energy in which KCAA is participating in: - power lines - wind turbines - solar panel areas (new) among other infrastructures challenging</p>	<p>Comments well taken and will be considered</p>

Comment/Question	Response / Remarks from Kenya Power
<p>aviation. It is important to note they are current and planned infrastructure</p>	
<p>S. C Muraguri – Chief Mukuru-Kaiyaba What programs do you have for the slums of Nairobi? Do you know cartels (power men) are selling electricity at KES 500 per cubicle per month? Do you know Mukuru Kaiyaba with 19,621 cubicles gives KES 9,810,500 to cartels? Why can't Kenya power use chiefs, DCs and DOs (National Government) to give power metres to cubicle owners directly than through cartels?</p>	<p>GPOBA projects is under implementation to ensure that consumers pay for what they use and minimize on revenue loss and safety challenges in the slum areas.</p>

KEMP STAKEHOLDERS FORUM IN PICTURES



KEMP Consultative meeting in progress



John Guda- Manager SHE – KPLC, addressing the consultative forum



ENG. Michael Adhiambo (KPLC) responding to questions



Migori Governor, Okoth Obado making his contribution



Minister of Energy, Water and Environment
–
Homa Bay county making his contribution



A participant asking a question

LIST OF PARTICIPANTS –KEMP STAKEHOLDERS CONSULTATION FORUM ORGANISED BY KENYA POWER
DATE: 06.01.2015
VENUE: SAFARI PARK HOTEL

NO.	NAME	ORGANIZATION	TITLE	COUNTY
1.	MwendeNjiraini	Communications Authority of Kenya - Headquarters		Nairobi
2.	Bernard O. Mboda	Kenya Wildlife Service - Headquarters		Nairobi
3.	Mohamed Siyaid Adan	Afrimark S. Ltd.		Nairobi
4.	Alice NjokiKago	Office of the President	Chief – Kilimabogo Location	Kiambu
5.	Daniel Theuri	Que Energy Ltd.		Nairobi
6.	Robert N. Kamau	NgongJua Kali		Kajiado
7.	Moses Mpesha	Office of the President	Chief - Oloolua	Kajiado
8.	PeninahKaromo	Rural Electrification Authority Headquarters		Nairobi
9.	MayabiBaxton	Office of the President		
10.	Agnes Wachira	Energy Regulatory Commission Headquarters		
11.	Magdalene Kariuki	Action Aid Kenya	High Value Fundraising Manager	Nairobi
12.	GibwaKajubi	World Bank	Senior Social Devel. Specialist	Nairobi
13.	Peter Otieno			Homa Bay
14.	Benedict Omondi	Kenya Forest Service Headquarters		
15.	Nassur Mohamed	Ministry of Interior		
16.	Sarah W. Waigwe	Office of the President	Chief Kalimoni	Kiambu
17.	MuchuiMuiruri	Office of the President	Chief Komo	Kiambu
18.	Silas Miriti	Office of the President	Chief Savannah	Nairobi
19.	PhareshRatego	County Government	Minister of Environment	Homa Bay
20.	Stephen Mwigai	Nairobi Metrological Department		Nairobi

NO.	NAME	ORGANIZATION	TITLE	COUNTY
21.	OumaNaukal	Office of the President	Chief Sovir	
22.	Lambert K. Nyaagweso			Bungoma
23.	EliudMunene	Kenya National Highways Authority Headquarters		Nairobi
24.	Hillary C. Chumo	Office of the President	Senior Chief	
25.	Dr. Micah Makworo	Jomo Kenyatta University of Agriculture & Technology		
26.	Sylvester Wanyulu	Office of the President	Assistant Chief Kihingo	Kiambu
27.	Henry Gichungi	SMA Sunbelt		Nairobi
28.	Christine Dembah	Office of the President	Chief	Nairobi
29.	Abdiwahad Ahmed	Office of the President	Chief	Nairobi
30.	George Kibugi	Office of the President	Chief	Nairobi
31.	Elsbeth Njeri	Office of the President	Chief	Nairobi
32.	David Omendo	Office of the President	Chief	Nairobi
33.	Anne Kariuki	Kenya Association of Manufacturers Headquarters		Nairobi
34.	Nahashon K Opiyo	Office of the president	Chief	Nairobi
35.	HanspRaeber	WinPower Limited		Nairobi
36.	Simiyu P Mabaya	D.C.G		Nairobi
37.	Vincent K Abuga	Office of the President	Chief	Nairobi
38.	Solomon Muraguri	Office of the President	Chief	Nairobi
39.	James Gitau	Office of the President	Chief	Nairobi
40.	Patrick Adila	Office of the President	Chief	Nairobi
41.	Patrick W. Njoroge	Office of the President	Chief	Kiambu
42.	Nancy W Kiboro	Office of the President	Chief	Kiambu
43.	Peter M Njuguna	Office of the President	Chief	Kiambu
44.	Eng. Kennedy Makudioh	Ministry of Agriculture Livestock & Fisheries - SDA		
45.	Peter Kihoria	Ministry of Agriculture Livestock and Fisheries	District Agriculture officer	Kajiado
46.	Charles C. Gacibu	Office of the President	Chief-juja	Kiambu

NO.	NAME	ORGANIZATION	TITLE	COUNTY
47.	Barrack Goho	County Government		Kisii
48.	Malik Issa	Rural Electrification Authority Headquarters		Nairobi
49.	Mbirro Jack	Office of the President	Chief	Nairobi
50.	Charles Maina	Salwan Energy Limited		Nairobi
51.	HesbonKayesi	Office of the President	chief	Kiambu
52.	Fredrick Egondi	Office of the President	chief	Nairobi
53.	Judith Kimeu	Rural Electrification Authority Headquarters		Nairobi
54.	John N Ikinya	Office of the president	chief	Kiambu
55.	Michael Mwangi	Office of the president	chief	Kiambu
56.	MungaiKihara	Ministry of Energy & Petroleum Headquarters		Nairobi
57.	Dr. Patricia Ogola	Kenya Electricity Generating Company		Nairobi
58.	Jonathan Kirorio	Office of the president	Chief - NgongSubcounty	Kajiado
59.	Amar Devgun	Win Power Ltd		Nairobi
60.	George Kato	Kenya National Highways Authority		Nairobi
61.	Christopher Gathuma	Office of the President	Chief	Nairobi
62.	Eng. Benson Mwakire	Min. of Energy and petroleum		Nairobi
63.	JosphineMwegi	ACC Municipality		
64.	George Kimemia	Office of the President	Chief	Kajiado
65.	Paul Kapaito	Office of the President	Chief	Kajiado
66.	J N Kariuki	Office of the President	Chief	Kajiado
67.	Mahmoud Dida	Office of the President	Chief	Kajiado
68.	ChritineMakiimei	Office of the President	Chief	Kiambu
69.	Peter M Kamau	Office of the President	Chief	Kiambu
70.	Salome K Muthomi	NGAO		
71.	Asman Owiti	Office of the President	Chief	Nairobi
72.	HumphreyKamau	Office of the President	Chief	Nairobi

NO.	NAME	ORGANIZATION	TITLE	COUNTY
73.	Richard Mavisi	MEST		
74.	George Ogago	Office of the President	Ass. Chief	Nairobi
75.	Henry K Naman	Office of the President	Chief	Nairobi
76.	AlphonaVata	Office of the President	Personal Assistant	Nairobi
77.	Rose M Kibocha	Office of the President	Chief	Nairobi
78.	Reuben Sinange	County Government	Minister of Energy and Environment	Nyamira
79.	Boniface Muduku	County Government		Kiambu
80.	Bernard Osawa	Wind for Prosperity		Nairobi
81.	MwaiGicheru	NGAO		
82.	F N Mworoa	Office of the President		
83.	S M Kamau	Office of the President		
84.	D I Waiguru	Office of the President		
85.	Benadeccalrungu	Office of the President		
86.	Francis Ndukui	Office of the President	Chief	Kiambu
87.	Eunice Kaloki	County Government		Kiambu
88.	ObadoOkoth	County Government	Governor	Migori
89.	Peter s Kyale	Office of the President		
90.	AnfrewAtandi	Office of the President		
91.	Elizabeth Omondi	Office of the President		
92.	Millicent A Okoko	Office of the President		
93.	Martin Kinoti	Gem-cm Construction Ltd		Nairobi
94.	Richard Juma	Office of the President		
95.	Evans Ondieki	County Government	Minister Energy and Environment	Nairobi
96.	Charles Kombe	County Government		
97.	Moses Ngamia	Office of the President		
98.	Richard K Soy	Office of the President		

NO.	NAME	ORGANIZATION	TITLE	COUNTY
99.	Angeline Oduor	Office of the President		
100.	John K Mang`uri	Office of the President		
101.	Philemon Kachila	County Government	Chief of Staff	TaitaTaveta
102.	Joel Kavingio	Office of the President		
103.	Jorum Midiwo	Office of the President		
104.	Philip Ndegwa	Office of the President		
105.	Joseph N Wangai	Office of the President		
106.	Peter M Munyao	Kenya Civil Aviation Authority (KCCA)		Nairobi
107.	Peter Ngugi	Office of the President		
108.	Joseph Kinuthia	Office of the President		
109.	Josiah Mwangi	Kenya Urban Roads Authority		Nairobi
110.	LaurenciaNjagi	World Bank	Senior Energy Specialist	Nairobi
111.	Mmbetsa O. Beja	Office of the President		
112.	David Sarun	Office of the President	Chief Starehe	Nairobi
113.	Kyran O'Sullivan	World Bank	Head Energy Specialist	Nairobi

13.9 ANNEX 9: MINUTES Of The Meeting With Representatives of VMGs.
MINUTES OF KEMP STAKEHOLDER CONSULTATION MEETING
DATE: 12TH JANUARY 2015
VENUE: STIMA PLAZA

The Vulnerable and Marginalised Groups representatives were overall supportive of the project goals and objectives and the proposed interventions. Main issues raised included (a) What mechanisms were in place for affordability of connections by VMGs; (b) Need to pay attention to gender/women; (c) More clarity on the principles of compensation for losses; (d) clarification of role and responsibilities of government and the bank in screening/triggering the policy OP 4.10 and undertaking Social Assessment process and (e) need to build on local/cultural mechanisms for GRM.

The Bank and KPLC clarified that the project was guided by the principles in the safeguard documents presented and the various bank operational policies triggered. KPLC work on the comments/suggestions and promised to take them into consideration. KPLC welcomed comments/suggestions and will take them into consideration. Specific responses are as in the minutes below:

MIN 01/01/2015 - Preliminaries

John Guda, Manager – Safety Health and Environment - Kenya Power, welcomed participants to the meeting on behalf of the Ministry of Energy and Petroleum and Kenya Power.

The meeting was opened by word of prayer from Mercy Towett of Kenya Power.

KPLC shared that the Kenyan Government planned to increase electricity to increase electricity access from approximately 30% to 70% by 2017. Therefore to increase electricity access some initiatives have been undertaken by Kenya Power with financing from various donors such as the World Bank. The Kenya Electricity Modernization Project was such an initiative. Therefore it was necessary to create awareness to key stakeholders on this. To do this Kenya Power had organized a Stakeholder Consultation Forum on the 6th of January 2015. However key stakeholders were not well represented resulting in the organization of the days meeting.

He then invited the participants to introduce themselves.

Participants were informed that KEMP would comprise of four components:

- a) Delivery Enhancement – working with existing substations to enhance quality and reliability
- b) Revenue protection
- c) Electrification programme – would entail Peri- Urban and Off- Grid Components
- d) Building capacity

This particular meeting would concern Component C, this component would be financed by the World Bank. One of the World Bank requirements was the preparation of certain documents, thus Kenya Power had prepared four documents that were to be disclosed. These documents were the Environmental Social Management Framework (ESMF) for the Peri – Urban Component, Environmental Social Management Framework (ESMF) for the Off Grid Component, the Resettlement Policy Framework (RPF) for the Off Grid Component and the Vulnerable Marginalised Groups Framework (VMGF) for Off-grid Component. The meeting was to disclose these documents to the participants.

Therefore presentations on the safeguard documents would be shared and views and inputs from the participants were highly welcome. All presentations would be shared via email.

MIN 02/1/2015 – Presentation on Environmental Social Management Framework – KEMP Peri-Urban Component

Simon Mwangangi took the participants through the Environmental Social Management Framework for the Peri - Urban Component of KEMP. He informed participants that this presentation was the same one that was shared during the stakeholders meeting that took place of the 6th of January 2015. In addition he informed the participants that the actual sites for the project were not yet established and when known site specific Environmental Social Impact Assessments would be undertaken as and when necessary.

The presentation included a background on the KEMP project and its objectives; the Peri-Urban component; the purpose of the ESMF; scope of the Peri-Urban component, World Bank Safeguard instruments that might be triggered; potential positive and negative impacts of the project; mitigation measures; stakeholder involvement and public consultations and avenues for grievance redress.

MIN 03/02/2015 – Presentation on Environmental Social Management Framework – KEMP Off-Grid Component

Simon Mwangangi took the participants through the Environmental SMF for the off grid components. He informed the participants that ‘Off-Grid’ would entail those areas that had not been penetrated by the national grid. As feasibility studies had shown these areas could not be cost effectively served by the national grid. Currently those sites had not yet been conclusively identified. He informed the participants that major environmental impacts were not anticipated as the Off-Grid component would entail green energy.

The presentation included a background on the Off-Grid component; the purpose and objectives of the ESMF; World Bank Operational Safeguard Policies that might be triggered; potential environmental and social impacts; mitigation measures; public consultation and participation and the grievance redress mechanism.

Major social and environmental impacts for both components were not expected, as the Peri-Urban component would entail extension of existing lines. As for the Off-grid it would depend on number of households and densities of those specific areas, thus site locations had not been identified.

MIN 04/02/2015 – Presentation on KEMP Resettlement Policy Framework (RPF) – Off-Grid Component

Samuel Abayaof Kenya Powertook the participants through the Resettlement Policy Framework, the participants were informed that resettlement was not expected as land acquisition would be done on a willing seller willing buyer basis. However this framework had been prepared in the event any resettlement was to occur. Site specific Resettlement Action Plans (RAPs) would be prepared as and when necessary. The framework was in line with the World Bank Operational Policy 4.12.

The presentation included the purpose of the RPF, objectives of the RPF, methodology for RPF preparation; potential impacts; eligibility for compensation; valuation methods for compensation; resettlement action plans (RAP); stakeholder consultation and participation; RPF implementation; RPF implementation and monitoring; implementation budget and the grievance redress mechanism

The participants were informed that the specific budget had not been established as all the sites had not been identified.

MIN 04/02/2015 – Presentation on KEMP Vulnerable Marginalised Groups Framework (VMGF)

Roseline Njeru of Kenya Power made a presentation on the Vulnerable Marginalised Groups Framework (VMGF). She informed the participants that the VMGF was a requirement of the World Bank and it would ensure that the rights of such groups are protected. It was emphasized that the main idea was to enhance project benefits to Vulnerable Marginalised Groups (VMGs) and avoid potential adverse impacts and increased marginalization.

The framework was prepared because the specific project sites had not yet been conclusively identified. Hence the framework would act as a guideline for Kenya Power in the event that such communities were found when project sites had been identified. Specific Vulnerable Marginalised Groups Plan (VMGP) would be prepared as and when necessary. The VMGF was in line with the World Bank's Operation Policy 4.10 on Indigenous People, the policy stated indigenous people however in this framework the term VMG was used in reference to the same.

The presentation included the purpose of the VMGF, screening of VMGF, Social assessment of the vulnerable & marginalised groups; policy and legal framework; methodology and consultation in preparation of VMGF; potential positive and negative impacts of KEMP on

VMGs; free, prior and informed consultations; vulnerable and marginalised groups plan (VMGP); strategy for participation and consultation with VMGs; grievance redress mechanism; monitoring and reporting arrangements and disclosure arrangements for VMGPs was discussed.

The main issues raised included

- a) What mechanisms were in place to improve affordability by VMGs?
- b) The need to pay particular attention to gender/women
- c) More clarity on the principle for compensation for losses;
- d) Clarification on role and responsibilities of Government and Bank in screening / triggering the OP 4.10 policy and undertaking the social assessment process;
- e) The need to build on local/cultural mechanisms for GRM

The bank and KPLC clarified that the project was guided by the principles in the safeguard documents presented and the various bank operational policies triggered. KPLC work on the comments/suggestions and promised to take them into consideration. The specific responses are in detailed in the minutes below:

MIN 05/01/2015 – Plenary Session

The following issues emerged from the plenary discussions

No.	Comments / Issues Raised	Response
1.	Affordability Some of the participants wondered how the project would ensure access to marginalised people given that the costs in the past have been prohibitive and beyond reach of the VMGs	Kenya Power had put in place mechanisms to enhance access for the lower income groups including: Stima Loan – where payments can be made through instalments after connection The move towards renewable energy would see costs reduce and enable more connections even for the lower income groups.
2.	Gender and youth Participants suggested that special attention be given to women and youth during consultations. The challenge of how connection would be done in semi-permanent structures was raised.	The process would ensure inclusive consultations during the meeting. Representatives of women and youth would be part of the team overseeing the implementation of the project. Connections to semi-permanent houses (grass thatched) could be done.

<p>3.</p>	<p>Ascertaining Free, prior and informed consultations / participation Participants raised the concern of how the project implementing agency would conduct free, prior and informed consultations had been done, and which institutional framework would be used to ensure this.</p> <p>It was suggested that the IPOs were now moving towards consent rather than consultations.</p> <p>The representatives of VMGs suggested that VMG participation should go beyond engaging them as casual labourers on sites, to tapping on their expertise and enhancing livelihoods.</p>	<p>There would be use of broad based consultations involving community leaders, Indigenous Peoples Organisations (IPOs), women, youth and the VMGs and triangulation of information collected.</p> <p>It was acknowledged that the World Bank Safeguard Policies were under review however the present policy on consultation would apply to the project until the review process was completed</p> <p>Giving people power would expand their opportunities towards improving their livelihoods.</p>
<p>4.</p>	<p>Treatment of VMGs that do not have title deeds Participants raised the issue of those VMGs that do not have title deeds, therefore how would they access electricity through this project as connection was attached to title deed, and in addition how they would be compensated for land.</p> <p>The participants raised the issue of land acquisition through ‘the willing buyer willing seller’ which may still compromise rights of VMGs.</p>	<p>If land is to be acquired it will be guided by willing buyer willing seller basis and compensation funds would be place into escrow until land disputes are clarified. For those VMGs living in the periphery of the forest, connection consent would have to be secured by Kenya Power from Kenya Forest Service, before household connections could be done.</p> <p>Kenya Power will use certified valuers and the principles of the RPF require compensation at current market value.</p>
<p>5.</p>	<p>Clear feedback mechanisms Participants suggested that there was need for clear mechanisms for feedback in the entire process.</p>	<p>The entire process would involve inclusive consultations where input by stakeholders would progressively inform the project.</p>
<p>6.</p>	<p>Compensation for sensitive cultural sites The challenge of compensating for sensitive socio-cultural sites and artefacts such as sacred places, graves etc.</p>	<p>The project did not foresee resettlement however if it occurred, every attempt would be made to avoid such sites. They would be dealt with in accordance with the World</p>

	The participants raised the issue of how adverse impacts such as loss of livelihoods would be compensated	Bank's Operational Policy 4.11. Consultation with community elders could also be done in such cases. The RPF clearly stipulates how various losses would be compensated such as land, structures, business, crops trees etc.
7.	Clarification on the roles and responsibilities of the borrower and the Bank in screening and triggering OP 4.10 and undertaking Social assessment The issue of conflict of interest arising from the borrower undertaking social assessment was raised.	The initial screening is undertaken by the World Bank to determine whether to trigger OP 4.10 and the borrower carries on the social assessment guided by Terms of Reference (TOR) as per OP 4.10.
8.	The need to build on local / cultural mechanisms for Grievance Redress Mechanism Emphasis was placed on the need to explore local/cultural mechanisms for grievance redress before resorting to the courts.	The entire process would involve free, prior, informed consultation and participation of all stakeholders.

MIN 06/01/2015 – Wrap Up and Way Forward

John Guda, Manager Safety Health and Environment – Kenya Power – reiterated that Kenya Power was doing its level best to increase electricity access across the country. He thanked the participants for their attendance and inputs, he also informed them that their inputs would be incorporated. Further consultations would follow as the project is developed and urged them to be part and parcel of the project in their respective regions.

VMGS PHOTOS





KPLC consultations with Representatives of Indigenous peoples Organizations on the KEMP Safeguards Instruments -- List of Participants - January 12, 2014, Stima Plaza, Nairobi, KENYA

	Name	Organization	Designation	County	Phone No	Email Address
A. Representatives from indigenous Peoples Organizations						
1.	Daniel ole Sapit	CRDC	Managing trustee	Narok	07220644	Dolesapit?
2.	Edna Kaptoyo	Indigenous Information Network	Programme officer	Nairobi, West Pokot	0721845096	ednakaptoyo@yahoo.com
3.	Salim Juma Changani	MSDWatch	Programme Officer	Kwale	0724854027	salimchangani@yahoo.com
4.	John Samorai	OPDP	Programs	Nakuru	0710212956	Samurai.john@gmail.com
5.	Eliza Meriabe	FAHANU	Program officer	Kajiado	0720374777	marybeliz@yahoo.com
6.	Riamit S.K	ILEPA	Director	Narok	0722300540	kimaren@yahoo.com
B. World Bank						
7.	Suzanne Kiamba	World Bank	Social Scientist	Nairobi	0721244739	kiammba@pdcentre.org
8.	Gibwa Kajubi	World Bank	Snr Social Dev. Spec.	Nairobi	020 234 6331	gkajubi@worldbank.org
C. Kenya Power and Lighting Company Ltd						
9.	Roseline Njeru	KPLC	Soc. Economist	Nairobi	0720571017	rnjeru@kplc.co.ke
10	Simon Mwangangi	KPLC	Env. Social Specialist	Nairobi		

11	John Guda	KPLC	Manager, Safety, Health and Environmental Department (SHE)	Nairobi	0717770913	jguda@kplc.co.ke
12	Samuel Abaya	KPLC	Soc. Economist	Nairobi	0723492692	sabaya@kplc.co.ke
13	Sharon Ng'etich	KPLC	Environmentalist	Nairobi	0708182225	sharonnetich@kplc.ke
14	Mercy Towet	KPLC	Socio Economist	Nairobi	0720850952	towetmercy@yahoo.com
15	Samuel Mbugua	KPLC	Environmentalist	Nairobi	0720956314	SGMbugua@KPLC.co.ke
16	David Murage	KPLC	Environmentalist	Nairobi	0721409818	Dmurage@KPLC.co.ke

ⁱ OP 4.10 Footnote 6: The policy does not set an *a priori* minimum numerical threshold since groups of Indigenous Peoples may be very small in number and their size may make them more vulnerable.

ⁱⁱ OP 4.10 Footnote 7: ‘Collective attachment’ means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. ‘Collective attachment’ also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.