



KENYA OFF-GRID SOLAR ACCESS PROJECT (K-OSAP)

VULNERABLE & MARGINALIZED GROUPS FRAMEWORK

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1 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
K-OSAP	Kenya Off-Grid Solar Access Project
KNCHR	Kenya National Commission on Human Rights
KPLC	Kenya Power and Lighting Company
Ksh	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
NEDI	North and North Eastern Development Initiative
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

1.1 Background to Kenya Off Grid Solar Access Project (K-OSAP)

The Government of Kenya (GoK), in its Vision 2030, aims at transforming “Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens.” Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. In this regard, the GoK has pledged to stimulate economic growth and accelerate job creation to improve the economic wellbeing of Kenyans. Energy is identified as one of the key sectors that form the foundation for socio-political and economic growth. In order to achieve the national target of attaining universal access to electricity by 2020, the GoK now seeks to close the access gap by providing electricity to remote, low density, and traditionally underserved areas of the country.

The Government GoK’s strategy for expanding electricity infrastructure to support the pledge addresses among others, issues including the equity of access to quality energy services at least cost manner. The Government’s target is to reach 70% electrification rate by 2017, with an immediate target to households in the next five years. Furthermore, to implement the strategy, the government has prepared Least Cost Power Development Program (LCPDP) 2009-2029; the Rural Electrification Master Plan and Kenya Investment and Policy Prospectus. The investments included in the program cover all three elements of strategy for electricity development simultaneously capacity expansion, enhanced security and increased connections. Among the many interventions to achieve this is expansion of the new sources of energy to enable more Kenyans to connect to the grid at affordable costs and hence initiate economic activities at the micro-economic level.

Driven by the imperative to provide equal opportunities across the entire Kenyan territory as key to achieving Kenya’s Vision 2030, and the national target of achieving universal access to electricity by 2020, the GoK now seeks to close the access gap by providing electricity services to remote, low density, and traditionally underserved areas of the country. The World Bank’s Country Partnerships Strategy (CPS) for Kenya (2014-18) also recognizes the access to basic electricity, as a key developmental issue. The strategy sets improving core infrastructure as one of the projects the Bank will be engaged in. It also emphasizes the importance of mobilizing concessional funding to expand the sector including electricity generation, transmission and distribution to meet the government’s economic growth targets

The proposed Kenya Off-grid Solar Access Project (K-OSAP) directly promotes the achievement of these objectives by supporting the use of solar technology to drive electrification of households (including host communities around the refugee camps), enterprises, community facilities, and waterpumps in 14 out of 47 counties in Kenya that have been defined as “marginalized areas” by the Commission on Revenue Allocation (CRA). CRA defines these as “communities that have been excluded from social and economic life of Kenya for different reasons” and “geographic location (county or sub-county) where significant populations of underserved communities live” (CRA, 2013).

K-OSAP, to be financed by the World Bank Group to the tune of US\$ 150 Million and Grant from the Carbon Initiative for Development in the amount of US\$5 Million to the Republic of Kenya, aims to support the Government's initiatives of ensuring increased electricity access to Kenya's 14 underserved counties ng the low-income groups. The proposed project is expected to provide electricity to approximately 250,000 households, 1030 community facilities, and 620 boreholes. Additionally, 81,000 efficient cook stoves will be sold and installed in the target counties.

The 14 underserved counties include Mandera, Wajir, Garissa, Tana River, Samburu, Isiolo, Marsabit, Narok, West Pokot, Turkana, Taita Taveta, Kwale, Kilifi and Lamu. They collectively represent 72% of the country's total land area and 20% of the country's population, including historically nomadic societies that even today continue to rely on pastoralism. Their population is highly dispersed, at a density four times lower than the national average. They present profound infrastructure deficits, including lack of access to roads, electricity, water, and social services. There is also significant insecurity in certain areas, giving rise to substantial numbers of displaced persons and livelihood adaptations that further undermine economic prosperity. The Government of Kenya has pledged to stimulate economic growth and accelerate job creation to improve the economic wellbeing of Kenyans. Among the many interventions to achieve this is expansion of the power distribution system to be within reach and thus enable more Kenyans to connect to the grid at affordable cost and hence initiate economic activities at the micro-economic level.

Due to the remoteness and sometimes dispersed nature of the target populations and considering the lifestyles and socio-economic status of those residing in underserved counties, the project will be designed to address high costs of provision of infrastructure services, low affordability of the potential users, and sustainability of service provision. Therefore, sustainability of the proposed approach to energy access expansion beyond the nationally owned power network is predicated on two primary factors - private sector, county Governments, and local community participation; and institutional capacity of KPLC, REA and the Ministry of Energy and Petroleum (MoEP) as the implementing agencies.

1.2 The World Bank's Operational Policy, OP 4.10 (Indigenous Peoples)

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. 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 are prepared in such a manner as to 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.

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)¹ with culturally appropriate benefits.

The policy is triggered when it is likely that groups that meet the policy's criteria "are present or likely to be present in, or have collective attachment to, the project area." It is to guide the preparation of instruments whose implementation would safeguard the rights, dignity and cultures of the VMGs and ensure they access project benefits in culturally appropriate ways.

Due to the presence of IPs in all the 14 counties that are targeted by KOSAP, OP 4.10 has been triggered for the project. Out of the 14 underserved counties that are targeted by KOSAP, eight are pastoralist counties and therefore qualify as overwhelmingly Indigenous Peoples (IPs) counties. For these, a Social Assessment has been undertaken. The other six counties namely: Lamu, Tana River, Taita Taveta, Kilifi, Kwale and West Pokot are hosts to Indigenous Peoples who are in the minority compared to the more dominant communities among whom they live and for these, this Vulnerable and Marginalized Groups Framework (VMGF) has been prepared.

1.3 Purpose, Objectives, and Users of Vulnerable and Marginalized Groups Framework

This Vulnerable and Marginalized Groups Framework (VMGF) has been prepared for use by the Ministry of Energy and Petroleum (MOEP), Kenya Power and Lighting Company (KPLC) and Rural Electrification Authority (REA) as implementing agencies under the **Kenya Off Grid Solar Access Project (K-OSAP)** because the project has triggered OP 4.10. The policy stipulates that in the event that Vulnerable and Marginalized Groups (VMGs) are likely to be affected by a Bank-supported project but the exact project sites have not yet been determined, then a VMGF must be prepared to provide guidance to the implementing agencies on the procedures and processes to be followed in the development of Social Assessment (SA), Vulnerable and Marginalised Groups Plans (VMGPs), Grievance Redress Mechanism (GRM) as well as a monitoring and evaluation framework.

¹ Given particularities with respect to the term *Indigenous Peoples* in Kenya, the 2010 Constitution of Kenya, 2010, 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: "*Indigenous Peoples* may be referred to in different countries by such terms as *indigenous ethnic minorities; aborigines, hill tribes, minority nationalities, scheduled tribes, or tribal groups.*"

In the case of KOSAP, it is known that IPs are present in all the 14 project counties. However, at this stage of project preparation, the exact sub-project sites are not yet identified and the exact impacts of the project on VMGs are not yet completely known. The Government of Kenya (GoK) has therefore prepared this VMGF in order to comply with requirement and provisions of OP 4.10 and in line with the applicable laws and regulations of the Government of Kenya. It describes the policy requirements and planning procedures that during the preparation and implementation of components especially those identified as occurring in areas where VMGs are present. Once the sub-project sites have been established, individual VMGPs will be prepared as set out in this VMGF and further public consultations and stakeholder engagements will be conducted at this stage.

The purpose of this VMGF is to therefore to ensure that management of issues related to vulnerable and marginalised groups is integrated into the development and operation of proposed investments to be financed under the KOSAP to ensure effective mitigation of potentially adverse impacts while enhancing accruing 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.*
- *The process for preparing Vulnerable and Marginalized Peoples Plans (VMGPs)*
- *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.*

1.4 Project Components: Investments Proposed for Financing under KOSAP

The Project Development Objective of KOSAP is to increase access to modern energy services in underserved counties of Kenya. The PDO will be achieved through the implementation of four complementary components. They are discussed below.

Component 1: Mini-grids for Community Facilities, Enterprises, and Households

This component will support the electrification of areas where electricity supply through mini-grids represents the least cost option from a country perspective, as underpinned by the geospatial plan. Depending on the number of users to be supplied, and the service level defined for each type of user (households, enterprises, community facilities, etc.), the generation system of each specific mini-grid will combine solar PV, battery storage and thermal units running on diesel. Mini-grids will be developed under a Public-Private-Partnership (PPP) whereby private investment and public funds co-finance construction of generation facilities, and public funding is used to construct the distribution network. A single private service provider (PSP) will be responsible for construction (and partial

financing) of the generation system and for construction of the distribution network of each mini-grid. The same PSP will sign two long-term contracts with KPLC: (i) a 7-10 year power purchase agreement (PPA) for the operation and maintenance of the generation system, and recovery of the privately financed part of the investment; and (ii) a 7-10 year service contract for operation and maintenance (O&M) of the distribution network, including revenue cycle services (as required). Ultimately, after the recovery of the private investments, all assets (both generation and distribution) will be in GoK ownership. All electricity consumers supplied through mini-grids will be KPLC customers, and pay the same tariff for each category charged to users connected to the national grid, ensuring effective implementation of a national uniform tariff policy.

The component will be implemented in approximately 120 locations throughout the 14 target counties, typically in mini-grids supplying 100-700 prospective users, with approximate total demand of 20-300kW. These potential sites, capturing approximately 27,000 consumers in total, have preliminarily been identified as part of the geospatial plan. Each service territory will comprise 20 or more mini-grids located in geographically contiguous areas, with 2,000 or more serviceable customers. There will be a mix of more densely populated sites and less densely populated sites in each lot, where possible, to enhance their overall commercial attractiveness. PSPs can bid separately for each lot, with multiple lots potentially awarded to the same PSP.

REA and KPLC will jointly implement the component, with the procurement of lots divided among them. This component will be complemented by technical assistance, under sub-component 4.2, to (i) confirm the sites through further feasibility studies and techno-economic analysis (ii) promote productive and efficient use of energy by users (iii) technical, legal, and procurement support to effectively design the bidding documents and supervise the construction of the mini-grid assets.

Component 2: Standalone Solar Systems and Clean Cooking Solutions for Households

Component 2A: Standalone Solar Systems for Households : This component will support off-grid electrification of households in the 14 target counties where a standalone solar system is the most appropriate technology to deliver energy services, leveraging Kenya's unique off-grid solar market dynamics and innovations. The component will provide incentives for solar off-grid companies currently operating in the more densely populated areas of Kenya to expand to underserved counties and provide services to the off-grid households in these counties. These services, provided through portable solar home systems, are well-suited to some of the population in the underserved counties, as households do not always live in permanent structures. In addition, affordability is increased by allowing households to pay for systems over time. Willingness to pay analysis, confirmed by the preliminary results from the MTF surveys shows there to be

over a half-million households that could theoretically afford a Tier 1 level solar home system².

The component will be accomplished via two financing instruments to which eligible solar service providers (SSPs) will have access:

- i. *Grant Facility - Competitively awarded expansion grants*, to compensate SSPs for initial, ongoing incremental, and opportunity costs associated with an expansion of operations in underserved counties. A percentage cap will be set within each lot so that multiple service providers will have the opportunity to operate within the space. A competitive approach will be used, whereby service providers will bid based on a grant amount per household connection, with the lowest grant requirements winning. Results-based financing will specify installment payments based on the achievement of pre-agreed connection milestones and satisfactory after sales service support.
- ii. *Debt Facility - Debt financing to solar service providers*, to support upfront costs associated with getting hardware inventory into the market, and medium-term consumer financing to enable households to pay off the systems over time. Two typologies of business models underpin the majority of solar service providers that operate in the Kenyan market. First are service providers that sell solar products on an over-the-counter (cash sale) basis. These service providers require shorter term debt in USD or other major foreign currency to finance costs associated with hardware manufacture and transit to Kenya (typically from China) until a sale is made. This cycle typically lasts anywhere from 6 to 9 months. A second prevailing business model is pay-as-you-go, whereby customers pay for the systems in monthly installments (typically between 12-36 months), and SSPs carry the default risk during the payback period. These businesses typically require debt financing that is commensurate with the lending terms that they extend to their customers. Given that service providers' revenues are in local currency, the debt instrument will also offer loans in Kenyan Shillings in addition to USD.

The implementation of this component will be under a direct oversight of MoEP. MoEP will competitively select the expansion debt-grant facility manager, which will be a consortium with demonstrated experience with managing similar instruments in Kenya and similar geographies. An OP 10.00 assessment of financial intermediary financing will be carried out for on the debt facility manager.

Component 2B: Clean Cooking Solutions for Households: This sub-component will support a transition from low-efficiency baseline stoves to cleaner, higher efficiency improved stoves. To accomplish this objective, cleaner household cooking appliances and

² Simulations using 2014 FinAccess household survey data show that in a scenario where 7 percent of household expenditures are made on stopgap lighting, over 500,000 of the 1.2 million off-grid households could afford a PAYG SHS offering (assuming a 3-light point system, offered on a monthly cost of KES 500 and paid off over 36 months).

fuels will be promoted. Activities will begin by focusing on four underserved counties in the northwestern part of the country (West Pokot; Turkana; Samburu; and Marsabit).

During project preparation, a Stove-Market Testing Program is being undertaken in the municipal, town, and densely settled parts of Turkana County. The stoves to be included will be determined following a call for Expressions of Interest for stove manufacturers wanting their products to be exposed to these new markets. To be eligible, a woodstove will have to prove that its efficiency tests it as a Tier 2 stove (roughly 30 percent efficient) and a charcoal stove will have to prove that its efficiency tests as a Tier 3 stove (roughly 40 percent efficient) to be eligible for inclusion in the market tests. These tests will involve exposing both consumers and suppliers (retailers, wholesalers, and distributors) in the urban areas of Turkana County to these improved stoves. The results will be shared with the communities and interested parties. Field testing for additional stoves models may be considered during the project implementation.

This sub-component will operate a window in the grant facility established for Component 2A to support sales of eligible stoves in targeted counties. The grant facility will provide the selected distributors with financial support on a matching grant and results-based scheme to enable them to market their stoves locally within the target counties; to increase their inventories of the selected higher quality stoves; to purchase and transport them to the target communities in number; and to sell them to willing buyers in the communities.

Component 3: Standalone Solar Systems and Solar Water Pumps for Community Facilities

The community facilities considered in this component are the existing and upcoming: (i) Health facilities (Levels 2 and 3) (ii) Educational facilities (Secondary schools and Technical training institutes); (iii) Administrative offices (for example, assistant County Commissioner offices).

Component 3A: Standalone Solar Systems for Community Facilities. This component will support the provision of electricity services to community facilities in remote areas in underserved counties. A private sector contractor will be competitively selected for each service territory to supply, install, and maintain standalone solar systems in community facilities. A total of about 1100 facilities could be reached via this component.

KPLC, the implementing agency, would sign two (2) contracts with the contractor in each service territory – one for the supply and installation of the standalone solar systems and the second for the provision of maintenance services for 7-10 year duration. The contract would specify the minimum requirements in terms of quality standards in electricity supply for the community facilities, developed by Ministry of Health, Ministry of Education, and Ministry of Interior. Contracts would stipulate the minimum package acceptable as “basic service”, but allow room for provision of additional services to community facilities. The proposed project will cover the supply and installation costs and KPLC will pay the contractor for fees under the maintenance contract with allocation

or revenues from beneficiary facilities. The costs of maintenance contracts are expected to be passed through into tariff revenues recognized by ERC.

KPLC will take the retail risk of serving these new consumers, for which their payment record for such an arrangement is still unknown. Therefore, a payment risk mechanism would be available to KPLC, to which the proposed project will set aside funds equivalent to 6-12 months of maintenance fees that KPLC can draw upon in case of inadequate revenues to pay the contractor.

Component 3B: Solar Water Pumps for Community Facilities: This component will support financing solar powered pumping systems to increase sustainable access to water supply by equipping new boreholes and retrofitting existing diesel-powered boreholes associated with community facilities within the target counties. A private sector contractor will be competitively selected for each service territory to supply, install, and maintain standalone solar systems in community facilities.

REA, the implementing agency, would sign (2) contracts with the contractor in each service territory to – one for the supply and installation of the standalone solar systems and the second for the provision of maintenance services for 7-10 year duration - similar to the design in Component 2A. The payment for these maintenance services will be recouped on a monthly basis by the community facilities hosting these boreholes.

A payment risk mechanism would be available to REA, to which the proposed project will set aside funds equivalent to 6-12 months of maintenance fees that REA can draw upon in case of inadequate allocation from the beneficiary facilities to pay the contractor.

Component 4: Implementation Support and Capacity Building

Component 4.1: Consumer Education and Citizen Engagement

This sub-component will support the consumer education and citizen engagement activities for the program's key delivery areas (households, community facilities, water facilities in the underserved counties). Consumers in these areas are unlikely to be aware of the new technologies being presented and have a right to expect clear, thorough information about the advantages of the services and how to access them. The activities supported under this sub-component will provide recurring opportunities for consumers to interact with service providers in order to share their feedback and concerns. For those who have some knowledge of the products, these outreach activities will provide them with the necessary guidance on how to get the best out of the products in the way they use and maintain them. Finally, in these target areas, acceptance and sustained demand is generated when the buy-in of key opinion leaders is obtained. The consumer education and citizen engagement program will employ both Above the Line (mass media tools) and

Below the Line (one on one) channels in reaching out to different target audiences while ensuring opportunities for two-way dialogue.

Component 4.2: Implementation Support and Capacity Building

This sub-component will support all technical studies, implementation support, and capacity building of sector and counties. More specifically, the following are included. First, build capacity and address the skill set requirements in KOSAP Project Coordination Unit in MoEP and KPLC PIU and REA PIU. Second, capacity building activities in the sector and counties, for instance related to solar technology, project management, procurement, environmental and social safeguards for the sector entities, and monitoring and evaluation. As such, funding will be used to cover the investment costs (equipment, software, training, etc.) incurred by ERC to establish a monitoring unit. Third, relevant studies and contracts for the investment components of the proposed projects. Fourth, support MoEP in the development of a Strategic Planning and Program Management (SPPM) unit with the objective of providing effective coordination and oversight in terms of policy development, strategic planning, and project design and implementation.

1.5 Potential Positive and Adverse Effects of the Proposed Investments on VMGs

1.5.1 Potential Positive Benefits

The positive impacts of the project will be realized in the economic, education, social, health, security and environmental sectors of the participating counties. Positive impacts are also anticipated on gender, beliefs and culture. In this regard, it is anticipated that the project will have the following positive benefits:

- Uplift the livelihood and economic strategies of the VMGs due to employment creation, enhanced savings as monies used to purchase kerosene can be channeled for other uses or saved;
- There will be livelihood and economic activities diversification,
- Better academic performance as students will be able to put in longer study hours due to availability of light,
- Improved health services as health facilities will be able to be equipped with laboratories and refrigeration equipment that rely on electricity and enhanced safe delivery of pregnant mothers at any time of the day or night
- The project will create an enabling environment for attaining gender parity among the VMGs by increasing the number of girls attending school, thereby reducing gender inequalities
- The proposed development also represents an investment in infrastructure for the generation of clean, renewable energy, which, given the challenges created by climate change, represents a positive social benefit for society as a whole.
- By installing floodlight masts in areas where the mini-grids will be stationed, there will be reduction in insecurity incidences brought about by tracking the movement of the militants.

1.5.2 Potential Adverse Impacts

Permanent effects will result into an infinite loss of use of property, vegetation, or land by the affected person as a result of the subproject activities. While such impacts are expected to be minimal, they could include:

- Land acquisition: Land that is found to be suitable for some of the proposed infrastructures may need to be acquired, which could translate to loss of land, pasture and crop cover or all.
- Labour influx: Civil works for some of the proposed infrastructure works may attract labour (skilled and unskilled) from outside the project area. This in turn may have such negative social impacts as increase of infectious, child labour, teen pregnancies or girls dropping out of school to take up jobs including provision of food to workers etc.
- Temporal impacts: These may include short term 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, for instance, during 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.

1.6 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 KOSAP in collaboration with the partner implementing agencies will apply the following:

- Avoid the need for land acquisition and displacement of people. Where land acquisition is inevitable, the provisions in the RPF will be followed and if possible, the project will consider land owned by GoK to minimize displacement.
- As much as possible, the project will promote the use of local labour – both skilled and unskilled – but where labour must be “imported from outside the project area”, the project will:
 - Mount a sensitization and awareness to dissuade families from allowing their school children from participating in child labour;
 - Safeguards will be built into the contractors’ contracts to ensure that workers are not engaging in activities or vices that could disrupt the socio-cultural set-ups of the local communities,
 - Ensure that vulnerable groups in general and their organizations are informed of activities selection, design, and implementation processes to seek input and to provide clarification.
- KOSAP/PIU will carry out analysis of socio economic impacts of proposed sub projects on vulnerable groups through a transparent process with the free and informed participation of the affected communities.
- KOSAP /PIU to ensure that the interventions do not unnecessarily and unintentionally exacerbate factors outside the scope of planned impacts;
- KOSAP/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.

1.7 Plan for Carrying out Social Assessment for Subprojects

If, based on the screening, the KOSAP/PIUs concludes that VMGs are present in, or have collective attachment to the subproject site, the implementing agency of that subproject 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 KOSAP/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 Framework for Free, Prior and Informed Consultations with VMGs

Free, prior and informed consultations with VMGs 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.

Projects affecting the vulnerable and marginalized groups that meet the OP 4.10 criteria, whether adversely or positively, need to be prepared with care and with the participation of affected communities. The policy requires that the implementing agencies engages in a process of free, prior, and informed consultation with the affected vulnerable and marginalized communities at every stage of the project in order to fully identify their views concerning the potential impacts of the project on them and to obtain their broad community support for the project. Similarly, the development of project-specific measures to avoid adverse impacts and enhance culturally appropriate benefits should be in consultation with the VMGs.

1.7.1 Consultations with VMGs for the preparation of this VMGF

In order to have the input of VMGs into the preparation of this VMGF, the MoEP, KPLC and REA organized a consultative workshop with representative men, women and youth from the six IP counties in which the VMGs are in the minority and are marginalised in the already marginalised counties. A total of 38 VMGs representatives participated in the consultations, including 15 women and 23 men.

Overall, the VMGs gave their broad support for the project in so far as they determined that the project would have more positive benefits than adverse impacts. They were keen that the project implementation should not be delayed as this would mean that they may not reap the full benefits due to rushed implementation resulting from a late start. Among the concerns they raised were questions such as: (i) whether or not the project sites had been selected; (ii) whether the project could support pumping water from the river for small scale irrigation by farmers who are far from the river to enhance their livelihood strategies; (iii) how they could be sure that the project will reach the VMGs and whether the implementers have the good will to serve the community; (iv) whether or not the VMGs would be represented in the decision-making levels of the project; (v) whether they would be considered for employment opportunities and how they would know when the project is starting to enable them or their youth apply for jobs; (vi) the kind of support that would

be extended to VMGs individuals or families that may not be able to afford installation or connection fee. They also made the following suggestions:

- When the time comes, the project should include women in employment opportunities;
- In case of compensation, the project should ensure right person is compensated and for this, the project should undertake proper due diligence to confirm ownership of assets;
- There would be need for community education/awareness creation to enable them be active participants in the project.
- How compensation for long-term livelihood investments such as coconut trees would be handled to ensure it is adequate, given that coconut is a lifetime livelihood strategy.
- Need for in-depth village level consultations with VMGs in the respective counties to enable all VMG members become actively involved in the project's affairs.

1.7.2 Free, Prior and Informed Consultations During Implementation

This VMGF establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation with VMGs and other local civil society organizations (CSOs) identified by the affected VMGs, at each stage of project preparation and implementation of KOSAP. In this regard, *free, prior and informed consultation of the vulnerable and marginalized communities will be conducted at each stage of the project and especially during implementation. In this regard, the VMGs have been consulted at this stage of project preparation, to fully identify their views and ascertain their broad community support for the project.* The stages in which VMGs will be consulted through the free prior and informed consultations principle are discussed below.

1.7.2.1 Screening, Preparation and Implementation of VMGPs

The steps to be undertaken for the preparation of VMGPs 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 KOSAP/Project Implementation Unit (PIU) in collaboration with the agencies executing the specific sub project investment under the KOSAP and using consultants with expertise on the social and cultural groups in the project area if need be. 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 analysis will be undertaken by the executing partner agencies of KOSAP, with direct support of the environmental and social specialists in the 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 social analysis 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* 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 on 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 plans.

The VMGPs will set out the measures whereby the Executing Agencies (EA) 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, as will be the case in 8 of the project counties, 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.

1.7.2.2 Consultations 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 KPLC and REA for the KOSAP will undertake consultation from the very beginning and will continue till the 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 propose a timetable to be followed to consult VMGs at different stages of the project program cycle, especially during preparation of the civil works program. Also, the 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. Participatory consultation with affected households will be undertaken during project planning and

implementation stages. The consultation for VMGF was undertaken on 16th march 2017 and the participants were on agreement that this project will improve their lives however they called for more consultation to be undertaken at project sites where the KOSAP will be implemented.

1.8 Institutional Arrangements for Project Implementation

The MoEP will provide overall coordination of the Project and lead in the implementation of Component 2, which will include overall responsibility for safeguards due diligence, and compliance monitoring. MoEP will ensure that Terms of Reference (ToR) for hiring the Facility Management Consortium (FMC) contain clauses that relate to safeguards and Occupational Health and Safety (OHS) competencies and specific tasks related to safeguard monitoring and enforcement. The selected FMC (Grant and Debt Managers) will be responsible for coordinating and supporting the implementation of safeguards, and will prepare Facilities Implementation Manual (FIM) that will include checklist for subprojects, their potential threats, and mitigation measures as well as capacity building for safeguards implementation and compliance monitoring. MoEP will submit FIM to the Bank for review and clearance. Thus, solar companies who bid for any of the subprojects under this component will have to indicate their respective bids how they intend to address environmental and social sustainability issues that could be associated with the provisions of those services. The selected solar companies will be responsible for implementing the safeguards on the ground, including ensuring compliance with occupational health and safety imperatives and dealing with de-manufacturing of out-of-use solar devices, e-waste disposal and recycling. The generation of safeguard reports during implementation of project activities will start from the solar companies and through the FMC to MoEP.

KPLC and REA will jointly be responsible for the implementation of Components 1 and 3; Component-1 (Mini-grids for Community Facilities, Enterprises, and Households) will be developed under the Public Private Partnership (PPP) and a single contractor will be responsible for construction of the generation system, the contractor will prepare appropriate safeguards instruments that will be consulted upon, reviewed and cleared by the Bank and locally disclosed. Under Component 3 (Standalone solar systems for community facilities), KPLC and REA have overall responsibility for safeguards due diligence and the private sector contractors hired for supply, installation and maintenance will be responsible for preparing a checklist for subprojects, their potential threats, and mitigation measures as well for safeguards implementation and compliance monitoring. REA will be responsible for managing the carbon finance sub-component from Ci-Dev. KPLC and REA will establish their respective Project Implementation Units (PIUs) to manage their specific components.

Specifically, KOSAP PCU hosted in MoEP will be responsible for the overall coordination of the project implementation and oversight including the following: (i) defining, jointly with the respective county governments, the project areas based on technical and policy

development priorities; (ii) resolving in consultation with the county governments challenges requiring high level intervention facing the project; (iii) monitoring the implementation of the project in consultation of the counties; and (iv) consolidating information.

Capacity building of the PIU and implementing agencies' staff will be a key element of the project, to ensure that the involved staff are able to screen project-supported investments, evaluate their **impacts** on VMGs, prepare **VMGPs**, **address** any grievances that may arise in the course of project implementation **and undertake effective** monitoring and evaluation of **implementation progress**.

1.9 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.

During the consultations with VMGs for input into this VMGF, it was clear that the VMGs prefer to have grievances resolved at the lowest level, through a mixture of the existing socio-cultural grievance redress mechanisms and the community level administrative systems. For all the participating VMGs, the process involves resolution of complaints or conflicts by the Elders system – which is tiered – followed by the resolution by the community level administrative system consisting of Village Headman, Assistant Chief and Chief. Failure to resolve grievances by these community level mechanisms would mean involving a county level grievance redress institution and the PIU. An aggrieved party would be free to go to court, but would be ‘cursed’ by the community for defying the internal project mechanisms.

The PIU will work with the participating VMG communities to establish the grievance redress institutions along the lines proposed during the consultations with them. In addition, the PIU will establish a mechanism to receive and facilitate resolution of affected VMGs concerns, complaints, and grievances about the project's safeguards performance for each subproject having impacts on VMGs, 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 KOSAP implementation process, including implementation of the VMGPs. Assistance to VMGs will be given, to document and record the complaint. The grievance redress mechanisms will be 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 KOSAP. The grievance mechanisms will use the existing local structures in various communities where the VMGs are found and

the existing government structures at the local level in case of not reaching consensus the legal mechanism will prevail. The project implementation agencies 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, grievances 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.

1.10 Disclosure

This VMGF and sub project VMGPs will be made available to the affected VMGs in an appropriate form, manner, and language. To this end, the VMGs suggested that disclosure should consist of public meetings with them followed by placement of relevant documents at central places. Before project appraisal, the KOSAP/PIU will send the Social Assessment and 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 after KPLC and REA have made the documents available to the affected communities and the general public in an accessible manner.

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 understandable to VMG at: (i) Offices of the MoEP, KPLC and REA; (ii) Sub County or County Office; and (iv) any other local level public level that is accessible to VMGs. Electronic versions of the framework as well as the VMGPs will be placed on the official website of KPLC and REA and the official website of Bank after approval and endorsement of the VMGF and each VMGP by the Bank.

1.11 Monitoring and Reporting

The implementation of VMGPs will be monitored. KOSAP/PIUs and the Executing Agency implementing specific sub project investments will establish a monitoring system involving KOSAP/PIU staff, partner implementing agencies, county 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 of this VMGF*). KOSAP/PIU support consultants will carry out monitoring. Appropriate monitoring formats will be prepared for monitoring and reporting requirements.

For sub projects with significant adverse impacts on VMGs, external experts or NGOs may be engaged by the 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, the EA will prepare a corrective action plan or an update to the approved VMGP. The EA will be required to implement the corrective actions and to follow up these 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 PIU 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.

1.11.1 Annual Reporting and Performance Review Requirements

Annual progress reports will be prepared by the project implementing agencies PIUs and the preparation of the progress reports will be supported by the environmental and social safeguards specialists in the PIU. These reports will be submitted to the Bank through MoEP.

1.11.2 Budget

All costs for implementation of VMGP will be financed by KOSAP. The costs will be estimated during feasibility studies 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 PIU and relevant staff 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 PIU staff. In summary, there should be adequate budgetary provisions to implement any VMGP where necessary for the subproject development.

2 INTRODUCTION

The Government of Kenya (GoK), in its Vision 2030, aims at transforming “Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens.” Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. Energy is identified as one of the key sectors that form the foundation for socio-political and economic growth. In order to achieve the national target of attaining universal access to electricity by 2020, the GoK now seeks to close the access gap by providing electricity to remote, low density, and traditionally underserved areas of the country. The proposed Kenya Off-Grid Solar Access Project (KOSAP) directly promotes the objectives by supporting the use of solar technology to drive electrification of households, enterprises, community facilities and water pumps in 14 out of 47 counties in Kenya that have been defined as “marginalized areas” by the Commission on Revenue Allocation (CRA). CRA defines these as “communities that have been excluded from social and economic life of Kenya for different reasons” and “geographic location (county or sub-county) where significant populations of underserved communities live” (CRA, 2013).

The 14 underserved counties which are deemed to be marginalised by CRA - four of which are not part of NEDI - include Mandera, Wajir, Garissa, Tana River, Samburu, Isiolo, Marsabit, Narok, West Pokot, Turkana, Taita Taveta, Kwale, Kilifi and Lamu. They collectively represent 72% of the country’s total land area and 20% of the country’s population, including historically nomadic societies that even today continue to rely on pastoralism. Their population is highly dispersed, at a density four times lower than the national average. They present profound infrastructure deficits, including lack of access to roads, electricity, water, and social services. There is also significant insecurity in certain areas, giving rise to substantial numbers of displaced persons and livelihood adaptations that further undermine economic prosperity.

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 and 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.

2.1 Country and Sector Context/ Project Concept

With a population of 45 million people and a GDP of US\$61 billion, Kenya is one of the largest economies in Sub-Saharan Africa (SSA), achieving, in 2015, middle income country status. In the past several years, the GDP growth rate, hovering above 5 percent in Kenya, has outperformed the average for Sub-Saharan Africa – and was projected to rise to 5.9 percent of GDP in 2016 and 6 percent through to 2017, underpinned by a strong growth of trade and services. Kenya’s coastal location has propelled its emergence as a hub

for trade in East African Community countries. Information, communications and technology (ICT) is playing a large role in the services sector, contributing 4.1 percent of the value added in the country. Mobile phone coverage is 82 percent of the population, with the number of Internet users and mobile money subscriptions on an upward trajectory. Mobile payments have reduced the cost of money transfers, extended access to finance for rural households, and has been a source of employment. Kenya also improved its business environment as the country jumped from 129 in 2014/15 to 92 in 2016/17 in the World Bank's Doing Business Index¹. Kenya combines vibrant economic activity in some of the largest cities together with a continued dependence on agriculture in rural areas and widely heterogeneous access to education, services, productive jobs, and infrastructure services.

The Government of Kenya (GoK)'s Vision 2030 aims to transform "Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens." Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. Energy is identified as one of the key sectors that form the foundation for socio-political and economic growth. Access to competitively-priced, reliable, quality, safe, and sustainable energy is essential for achievement of the vision, that is why the World Bank is willing to finance USD 155 Million for KOSAP targeting the 14 underserved counties.

In June, 2016, the World Bank committed to supporting a multi-sectoral initiative, called North and North Eastern Development Initiative (NEDI) focusing on counties where geographic inequalities in poverty and service delivery are particularly exacerbated. NEDI brings together a suite of transformative coordinated infrastructure investments in energy, transport, livestock and water that are needed to connect these counties to national and global markets. The proposed project is the energy sector investment of NEDI.

The GoK would like to expand electricity services to underserved areas through mini grids and standalone solar systems as grid penetration remains limited, poverty is rampant, and social exclusion is prevalent. Due to the remoteness and sometimes dispersed nature of the target populations and considering the socio-economic profile and lifestyles of those residing in these counties, the proposed project is designed to address high costs of provision of infrastructure services, low affordability of the potential users, and sustainability of service provision using an abundantly available renewable energy resource.

The proposed project is designed around three core principles: diversification, private sector participation and flexibility. The first principle is ensuring that the project reaches diverse beneficiaries with varied needs including households, community facilities such as health centres, secondary schools, county offices, boreholes. Even then, the economies of scale are such that reaching all of these consumption points together allows a more attractive opportunity for the private sector as well as benefits for the consumers in the form of longer-term reliable and affordable energy services. The second principle centres on maximizing private sector participation in the delivery of off-grid energy services. Leveraging private sector investment will help reach a larger number of beneficiaries, maximize project impact, and support sustainability of service. Kenya is the leading African market when it comes to innovation around off-grid solutions and the

project leverages the private sector dynamics to provide reliable and sustainable services to the population of underserved counties. Third, the project recognizes that achieving these outcomes requires flexibility with respect to market approaches. This spectrum ranges from fully market-delivered approaches to more regulated ones where the government maintains a leading role in service provision. Most often, this necessitates a hybrid approach that leverages the comparative advantages of both public and private sectors. Such flexibility recognizes the complexities associated with delivering energy services in off-grid areas, and seeks to maximize the likelihood of success through tailored approaches to sustainable market development.

K-OSAP to be financed by the World Bank Group up to US\$ 150 Million and Grant from the Carbon Initiative for Development in the amount of US\$5 Million to the Republic of Kenya aims to support the Government's initiatives of ensuring increased electricity access to Kenya's 14 underserved counties and the low-income groups. The proposed project is expected to provide electricity to approximately 250,000 households, 1030 community facilities, and 620 boreholes. Additionally, 81,000 efficient cook stoves will be sold and installed in the target counties.

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.

By virtue of its design, the proposed project brings together strengths of the World Bank Group. It is a collaboration with IFC and WB's Lighting Africa program as well as with Finance and Markets and Water GPs of the World Bank.

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 will be identified.

2.2 Project Development Objectives

The Project Development Objective is to increase access to energy services in underserved counties of Kenya

2.3 Project Beneficiaries

The project beneficiaries are households, businesses, and community and public facilities located in the 14 target counties. These beneficiaries will receive electricity service for the first time and the use of electricity will replace consumption of kerosene, diesel, and dry cell batteries and other alternative fuels.

The total number of households in these counties is about 1.3 million, of which 700,000 are effectively off-grid considering the economic viability of grid expansion in the next five years, based on the preliminary results of the geospatial plan. The beneficiaries are located in counties deemed marginalized by the CRA and consists primarily of relatively cash-poor, remote, indigenous, and pastoralist population. Many of these areas have also experienced significant security disruptions in recent years. Therefore, provision of infrastructure facilities – energy and water, could have a profound impact on these communities.

2.4 Project Components: Investments Proposed for Financing Under KOSAP

KOSAP is to increase access to modern energy services in underserved counties of Kenya. The PDO will be achieved through the implementation of four complementary components. They are discussed below.

Component 1: Mini-grids for Community Facilities, Enterprises, and Households

This component will support the electrification of areas where electricity supply through mini-grids represents the least cost option from a country perspective, as underpinned by the geospatial plan. Depending on the number of users to be supplied, and the service level defined for each type of user (households, enterprises, community facilities, etc.), the generation system of each specific mini-grid will combine solar PV, battery storage and thermal units running on diesel. Mini-grids will be developed under a Public-Private-Partnership (PPP) whereby private investment and public funds co-finance construction of generation facilities, and public funding is used to construct the distribution network. A single private service provider (PSP) will be responsible for construction (and partial financing) of the generation system and for construction of the distribution network of each mini-grid. The same PSP will sign two long-term contracts with KPLC: (i) a 7-10 year power purchase agreement (PPA) for the operation and maintenance of the generation system, and recovery of the privately financed part of the investment; and (ii) a 7-10 year service contract for operation and maintenance (O&M) of the distribution network, including revenue cycle services (as required). Ultimately, after the recovery of the private investments, all assets (both generation and distribution) will be in GoK ownership. All electricity consumers supplied through mini-grids will be KPLC customers, and pay the same tariff for each category charged to users connected to the national grid, ensuring effective implementation of a national uniform tariff policy.

The component will be implemented in approximately 120 locations throughout the 14 target counties, typically in mini-grids supplying 100-700 prospective users, with approximate total demand of 20-300kW. These potential sites, capturing approximately 27,000 consumers in total, have preliminarily been identified as part of the geospatial plan. Each service territory will comprise 20 or more mini-grids located in geographically contiguous areas, with 2,000 or more serviceable customers. There will be a mix of more densely populated sites and less densely populated sites in each lot, where possible, to

enhance their overall commercial attractiveness. PSPs can bid separately for each lot, with multiple lots potentially awarded to the same PSP.

REA and KPLC will jointly implement the component, with the procurement of lots divided among them. This component will be complemented by technical assistance, under sub-component 4.2, to (i) confirm the sites through further feasibility studies and techno-economic analysis (ii) promote productive and efficient use of energy by users (iii) technical, legal, and procurement support to effectively design the bidding documents and supervise the construction of the mini-grid assets.

Component 2: Standalone Solar Systems and Clean Cooking Solutions for Households

Component 2A: Standalone Solar Systems for Households : This component will support off-grid electrification of households in the 14 target counties where a standalone solar system is the most appropriate technology to deliver energy services, leveraging Kenya’s unique off-grid solar market dynamics and innovations. The component will provide incentives for solar off-grid companies currently operating in the more densely populated areas of Kenya to expand to underserved counties and provide services to the off-grid households in these counties. These services, provided through portable solar home systems, are well-suited to some of the population in the underserved counties, as households do not always live in permanent structures. In addition, affordability is increased by allowing households to pay for systems over time. Willingness to pay analysis, confirmed by the preliminary results from the MTF surveys shows there to be over a half-million households that could theoretically afford a Tier 1 level solar home system³.

The component will be accomplished via two financing instruments to which eligible solar service providers (SSPs) will have access:

- i. *Grant Facility - Competitively awarded expansion grants*, to compensate SSPs for initial, ongoing incremental, and opportunity costs associated with an expansion of operations in underserved counties. A percentage cap will be set within each lot so that multiple service providers will have the opportunity to operate within the space. A competitive approach will be used, whereby service providers will bid based on a grant amount per household connection, with the lowest grant requirements winning. Results-based financing will specify installment payments based on the achievement of pre-agreed connection milestones and satisfactory after sales service support.

² Simulations using 2014 FinAccess household survey data show that in a scenario where 7 percent of household expenditures are made on stopgap lighting, over 500,000 of the 1.2 million off-grid households could afford a PAYG SHS offering (assuming a 3-light point system, offered on a monthly cost of KES 500 and paid off over 36 months).

- ii. *Debt Facility - Debt financing to solar service providers*, to support upfront costs associated with getting hardware inventory into the market, and medium-term consumer financing to enable households to pay off the systems over time. Two typologies of business models underpin the majority of solar service providers that operate in the Kenyan market. First are service providers that sell solar products on an over-the-counter (cash sale) basis. These service providers require shorter term debt in USD or other major foreign currency to finance costs associated with hardware manufacture and transit to Kenya (typically from China) until a sale is made. This cycle typically lasts anywhere from 6 to 9 months. A second prevailing business model is pay-as-you-go, whereby customers pay for the systems in monthly installments (typically between 12-36 months), and SSPs carry the default risk during the payback period. These businesses typically require debt financing that is commensurate with the lending terms that they extend to their customers. Given that service providers' revenues are in local currency, the debt instrument will also offer loans in Kenyan Shillings in addition to USD.

The implementation of this component will be under a direct oversight of MoEP. MoEP will competitively select the expansion debt-grant facility manager, which will be a consortium with demonstrated experience with managing similar instruments in Kenya and similar geographies. An OP 10.00 assessment of financial intermediary financing will be carried out for on the debt facility manager.

Component 2B: Clean Cooking Solutions for Households: This sub-component will support a transition from low-efficiency baseline stoves to cleaner, higher efficiency improved stoves. To accomplish this objective, cleaner household cooking appliances and fuels will be promoted. Activities will begin by focusing on four underserved counties in the northwestern part of the country (West Pokot; Turkana; Samburu; and Marsabit).

During project preparation, a Stove-Market Testing Program is being undertaken in the municipal, town, and densely settled parts of Turkana County. The stoves to be included will be determined following a call for Expressions of Interest for stove manufacturers wanting their products to be exposed to these new markets. To be eligible, a woodstove will have to prove that its efficiency tests it as a Tier 2 stove (roughly 30 percent efficient) and a charcoal stove will have to prove that its efficiency tests as a Tier 3 stove (roughly 40 percent efficient) to be eligible for inclusion in the market tests. These tests will involve exposing both consumers and suppliers (retailers, wholesalers, and distributors) in the urban areas of Turkana County to these improved stoves. The results will be shared with the communities and interested parties. Field testing for additional stoves models may be considered during the project implementation.

This sub-component will operate a window in the grant facility established for Component 3A to support sales of eligible stoves in targeted counties. The grant facility will provide

the selected distributors with financial support on a matching grant and results-based scheme to enable them to market their stoves locally within the target counties; to increase their inventories of the selected higher quality stoves; to purchase and transport them to the target communities in number; and to sell them to willing buyers in the communities.

Component 3: Standalone Solar Systems and Solar Water Pumps for Community Facilities

The community facilities considered in this component are the existing and upcoming: (i) Health facilities (Levels 2 and 3) (ii) Educational facilities (Secondary schools and Technical training institutes); (iii) Administrative offices (for example, assistant County Commissioner offices).

Component 3A: Standalone Solar Systems for Community Facilities. This component will support the provision of electricity services to community facilities in remote areas in underserved counties. A private sector contractor will be competitively selected for each service territory to supply, install, and maintain standalone solar systems in community facilities. A total of about 1100 facilities could be reached via this component.

KPLC, the implementing agency, would sign two (2) contracts with the contractor in each service territory – one for the supply and installation of the standalone solar systems and the second for the provision of maintenance services for 7-10 year duration. The contract would specify the minimum requirements in terms of quality standards in electricity supply for the community facilities, developed by Ministry of Health, Ministry of Education, and Ministry of Interior. Contracts would stipulate the minimum package acceptable as “basic service”, but allow room for provision of additional services to community facilities. The proposed project will cover the supply and installation costs and KPLC will pay the contractor for fees under the maintenance contract with allocation or revenues from beneficiary facilities. The costs of maintenance contracts are expected to be passed through into tariff revenues recognized by ERC.

KPLC will take the retail risk of serving these new consumers, for which their payment record for such an arrangement is still unknown. Therefore, a payment risk mechanism would be available to KPLC, to which the proposed project will set aside funds equivalent to 6-12 months of maintenance fees that KPLC can draw upon in case of inadequate revenues to pay the contractor.

Component 3B: Solar Water Pumps for Community Facilities: This component will support financing solar powered pumping systems to increase sustainable access to water supply by equipping new boreholes and retrofitting existing diesel-powered boreholes

associated with community facilities within the target counties. A private sector contractor will be competitively selected for each service territory to supply, install, and maintain standalone solar systems in community facilities.

REA, the implementing agency, would sign (2) contracts with the contractor in each service territory to – one for the supply and installation of the standalone solar systems and the second for the provision of maintenance services for 7-10 year duration - similar to the design in Component 3A. The payment for these maintenance services will be recouped on a monthly basis by the community facilities hosting these boreholes.

A payment risk mechanism would be available to REA, to which the proposed project will set aside funds equivalent to 6-12 months of maintenance fees that REA can draw upon in case of inadequate allocation from the beneficiary facilities to pay the contractor.

Component 4: Implementation Support and Capacity Building

Component 4.1: Consumer Education and Citizen Engagement

This sub-component will support the consumer education and citizen engagement activities for the program's key delivery areas (households, community facilities, water facilities in the underserved counties). Consumers in these areas are unlikely to be aware of the new technologies being presented and have a right to expect clear, thorough information about the advantages of the services and how to access them. The activities supported under this sub-component will provide recurring opportunities for consumers to interact with service providers in order to share their feedback and concerns. For those who have some knowledge of the products, these outreach activities will provide them with the necessary guidance on how to get the best out of the products in the way they use and maintain them. Finally, in these target areas, acceptance and sustained demand is generated when the buy-in of key opinion leaders is obtained. The consumer education and citizen engagement program will employ both Above the Line (mass media tools) and Below the Line (one on one) channels in reaching out to different target audiences while ensuring opportunities for two-way dialogue.

Component 4.2: Implementation Support and Capacity Building

This sub-component will support all technical studies, implementation support, and capacity building of sector and counties. More specifically, the following are included. First, build capacity and address the skill set requirements in KOSAP Project Coordination Unit in MoEP and KPLC PIU and REA PIU. Second, capacity building activities in the sector and counties, for instance related to solar technology, project management,

procurement, environmental and social safeguards for the sector entities, and monitoring and evaluation. As such, funding will be used to cover the investment costs (equipment, software, training, etc.) incurred by ERC to establish a monitoring unit. Third, relevant studies and contracts for the investment components of the proposed projects. Fourth, support MoEP in the development of a Strategic Planning and Program Management (SPPM) unit with the objective of providing effective coordination and oversight in terms of policy development, strategic planning, and project design and implementation.

2.5 Project Implementation and Institutional Arrangements

The MoEP will provide overall coordination of the Project and lead in the implementation of Component 2, which will include overall responsibility for safeguards due diligence, and compliance monitoring. MoEP will ensure that Terms of Reference (ToR) for hiring the Facility Management Consortium (FMC) contain clauses that relate to safeguards and Occupational Health and Safety (OHS) competencies and specific tasks related to safeguard monitoring and enforcement. The selected FMC (Grant and Debt Managers) will be responsible for coordinating and supporting the implementation of safeguards, and will prepare Facilities Implementation Manual (FIM) that will include checklist for subprojects, their potential threats, and mitigation measures as well as capacity building for safeguards implementation and compliance monitoring. MoEP will submit FIM to the Bank for review and clearance. Thus, solar companies who bid for any of the subprojects under this component will have to indicate their respective bids how they intend to address environmental and social sustainability issues that could be associated with the provisions of those services. The selected solar companies will be responsible for implementing the safeguards on the ground, including ensuring compliance with occupational health and safety imperatives and dealing with de-manufacturing of out-of-use solar devices, e-waste disposal and recycling. The generation of safeguard reports during implementation of project activities will start from the solar companies and through the FMC to MoEP.

KPLC and REA will jointly be responsible for the implementation of Components 1 and 3; Component-1 (**Mini-grids for Community Facilities, Enterprises, and Households**) will be developed under the Public Private Partnership (PPP) and a single contractor will be responsible for construction of the generation system , the contractor will prepare appropriate safeguards instruments that will be consulted upon, reviewed and cleared by the Bank and locally disclosed. Under Component 3 (Standalone solar systems for community facilities), KPLC and REA have overall responsibility for safeguards due diligence and the private sector contractors hired for supply, installation and maintenance will be responsible for preparing a checklist for subprojects, their potential threats, and mitigation measures as well for safeguards implementation and compliance monitoring.

REA will be responsible for managing the carbon finance sub-component from Ci-Dev. KPLC and REA will establish their respective Project Implementation Units (PIUs) to manage their specific components.

Specifically, KOSAP PCU hosted in MoEP will be responsible for the overall coordination of the project implementation and oversight including the following: (i) defining, jointly with the respective county governments, the project areas based on technical and policy development priorities; (ii) resolving in consultation with the county governments challenges requiring high level intervention facing the project; (iii) monitoring the implementation of the project in consultation of the counties; and (iv) consolidating information

2.5.1 Ministry of Energy and Petroleum

The main agency involved in implementation of the VMGF will be the Ministry of Energy and Petroleum (MOEP). As the implementing agency, responsible for project coordination, it will have overall responsibility for the implementation of KOSAP and will act as the central agency responsible for holding all information relevant to the VMGF and subsequent VMGPs.

MoEP will be responsible for the overall coordination of the project implementation and oversight including the following: (i) defining, jointly with the respective county governments, the project areas based on technical and policy development priorities; (ii) resolving in consultation with the county governments challenges requiring high level intervention facing the project; (iii) monitoring the implementation of the project in consultation of the counties; and (iv) consolidating information from implementing agencies on progress of implementation and evaluating the project.

The Ministry will be responsible for ensuring the successful implementation of the safeguards instruments prepared under the project. However, as the day-to-day running of the two financing instruments under the component will be delegated by the MoEP to a consortium of Fund/Facility Managers, the MoEP will ensure that the ToRs for the Fund/Facility Managers include clauses that clearly relate to safeguards and OHS competencies and that related tasks are reflected in the ToRs with regard to safeguards implementation, monitoring and enforcement. In addition, the Facilities Implementation Manual to be prepared by the Fund/Facility Management Consortium will include a checklist of the sub-projects, their potential threats and preventive or mitigation measures, as well as capacity building for safeguard implementation and compliance monitoring.

2.5.2 Rural Electrification Authority

The Rural Electrification Authority an agency of government under the MoEP will implement KOSAP project component 1 and 3, and managing the Carbon Financing. It will be responsible for: (i) Project preparation; (ii) Appraising and approving sub projects, organizing the management resources; (iii) Ensuring adequate and capable management resources; (iv) Conducting appraisals and approval of technical design, total cost estimates

and cost estimates of the sub; (v) Negotiating, signing and supervising the implementation of contracts; (vi) Implementation of safeguards activities; (vii) Mini grids land and way leaves acquisition (if required), and (viii) Signing the on-lending and on-grant agreements with National Treasury for the credit and grant, repaying credit proceeds.

Rural Electrification Authority will be also responsible for the needed safeguards instrument, in this case RAP for the Component 1 and 3, in accordance to the RPF. REA will screen the proposed KOSAP project to determine their viability and feasibility. Once the KOSAP projects is proposed for funding, REA will form a RAP team that will prepare RAP forward to the World Bank for review. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies.

2.5.3 Kenya Power and Lighting Company (KPLC)

Kenya Power and Lighting Company will have the responsibility for implementing component 1-3 which will involve: (i) project preparation; (ii) Appraising and approving sub projects, organizing the management resources; (iii) Ensuring adequate and capable management resources; (iv) conducting appraisals and approval of technical design, total cost estimates and cost estimates of the subproject; (v) negotiating, signing and supervising the implementation of contracts; (vi) implementation of safeguards activities; (vii) Mini-grids land and way leaves acquisition (if required), and (viii) signing the on-lending and on-grant agreements with National Treasury for the credit and grant, repaying credit proceeds.

Kenya Power and Lighting Company will be also responsible for the needed safeguards instrument, in this case RAP for the Component 1 and 3, in accordance to the RPF. KPLC will screen the proposed KOSAP subprojects to determine their viability and feasibility. Once the KOSAP projects is proposed for funding, KPLC will form a RAP team that will prepare RAP forward to the World Bank for review and clearance. The preparation and implementation of individual RAPs is the responsibility of the relevant implementing agencies.

2.5.4 Project Implementation Unit (PIU)

MoEP will establish a PCU reporting to the Director of Renewable Energy, MoEP will establish a PCU reporting to the Director of Renewable Energy, the KPLC, REA will have representatives at the MoEP PCU. This unit is expected to be part of the new Strategic Planning and Program Management Unit to be set up in MoEP, supported by this project and envisaged to possess a broader mandate. All the World Bank funded PIUs in MoEP will be merged into one, responding to the directive by National Treasury. Therefore, the project coordinator of KOSAP PCU will be same as for the ongoing World Bank projects. The PCU will be the secretariat for steering group, technical working group, and county working group. The PCU will be strengthened with a procurement specialist, a FM specialist, a M & E specialist, a communications specialist, an environment and social safeguards specialist, two technical advisors, and fourteen county renewable energy officers. The county renewable energy officers will be located in each county and will be the project liaison person during the project implementation. The county project coordinator will work under the guidance of the PCU Project Coordinator and the county

executive for energy and will be responsible for organizing the county working group meetings.

KPLC, REA, Project Implementation Units (PIUs). Each agency will have specific PIUs for project implementation seconded from their existing staff cadre. The KPLC PIU will be led by Chief Engineer (Rural Electrification) and will include procurement specialist, project economist, project finance specialist, environmental and social safeguards specialists, and project engineers. The REA PIU will be led by a project manager and will include a renewable energy officer, procurement officer, project engineers, and environmental and social safeguards specialist.

Figure 1: KPLC Project Implementation

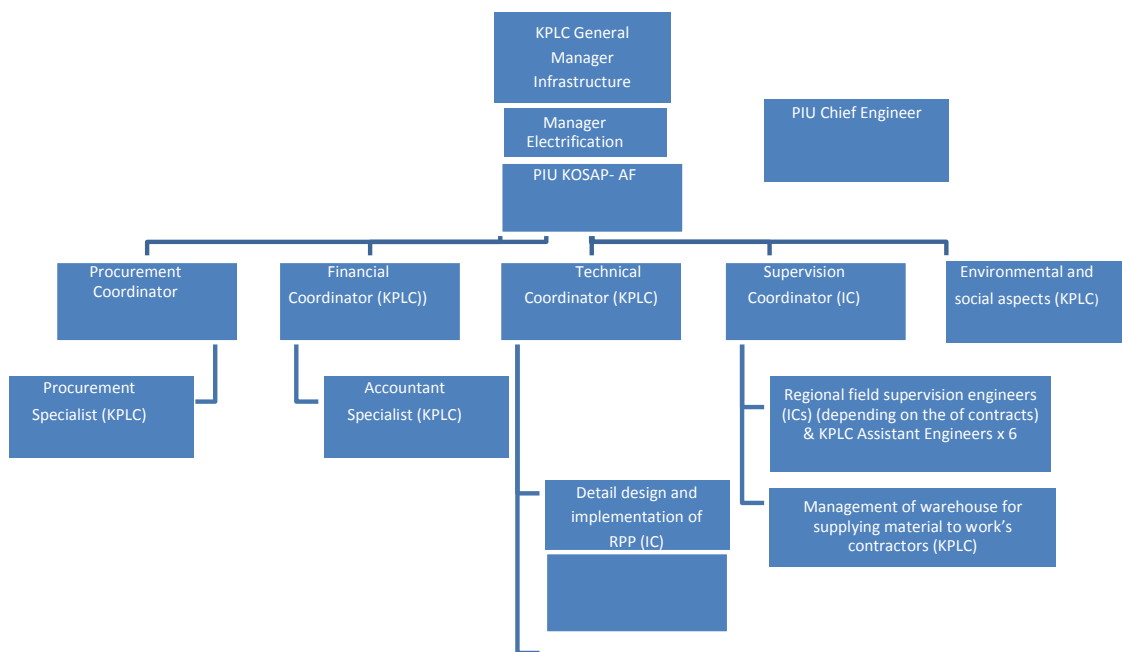


Figure 2: REA Project Implementation

3 JUSTIFICATION FOR VMGF, METHODOLOGY AND CONSULTATIONS

3.1 Justification for a VMGF

A Vulnerable and Marginalised Groups Framework is developed when a proposed project design is not yet finalised and 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 KOSAP components. At the time of preparation of this VMGF, (a) Host sites had not yet been identified; and (b) Those vulnerable and marginalised groups whose rights and livelihoods may be affected by the KOSAP Components have not yet been defined, as the location or alignment of the sub projects are yet to be decided.

During project preparation, it has become clear that the sub project investments under KOSAP will be undertaken in areas where indigenous people are present 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), July 2005, 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 KOSAP 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 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 OP 4.10. The KOSAP 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 pro-active 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 has impacts – positive or negative - on vulnerable communities. This VMGF sets out the procedures and processes for the preparation of a VMGP, including the social assessment process, free, prior and informed consultations and stakeholder engagement, disclosure procedures, communication and grievances redress mechanism. A detailed VMGP will be prepared for each component 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, VMGF, together with the Resettlement Policy Framework (RPF) and Environmental and Social Management Framework (ESMF) already prepared for KOSAP, recognizes that VMGs should benefit from this project's solar energy /green technology and the 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 KOSAP will follow during the preparation and implementation of components especially those identified as occurring in areas where VMGs are present.

3.2 Methodology for the preparation of the VMGF

The process followed in the preparation of this VMGF consisted of:

- *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.*

The process involved two key activities – detailed literature review and consultations with the VMGs as shown below.

3.2.1 Detailed and in-depth literature review

Literature review was undertaken and helped in gaining a further and deeper understanding of the VMGF for 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*
 - *Other relevant VMGF documents prepared in Kenya for bank projects*
 - *KOSAP Project Appraisal Document*
 - *Constitution of Kenya*
 - *Land Act*
 - *National Land Commission Act*
 - *Community Land Act*
- Relevant legislative documents in Kenya on vulnerable and marginalised groups*

3.2.2 Consultations with VMGs from the Six Counties

Public Consultation with key stakeholders to disclose and deliberate on the draft VMGF was done on 16th March 2017. The objectives of the consultation were to disclose information on KOSAP and disclose the draft VMGF to relevant representatives of VMGs from six counties – Tana River, Lamu, Kilifi, Kwale, Taita Taveta and West Pokot – and to provide opportunity to the VMGs to voice their opinions and concerns on different aspects of the project. A total of 38 VMGs representatives from the six counties participated in the consultative workshop. They included 15 women and 23 men and in

both cases, there were representatives of women and youth led community based organizations.

The feedback was overall positive and the VMG representatives were supportive of the project objective of increasing access to electricity for the underserved counties. They were also broadly satisfied with the proposed safeguard instrument 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) to use already existing community grievance redress mechanism; (c) KOSAP to borrow from the project implementation strategies that are existing in the VMG communities; (d) there should be no discrimination of employment among the VMGs during the implementation phase of the project, and, (e) need to undertake a in-depth public consultation in all VMG villages in the respective counties.

The opinions and suggestions aired by the VMGs 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 exact sub-project sites are not yet identified. Once they are established individual VMGPs will be prepared as required by World Bank guidelines and further public consultations and stakeholder engagements will be conducted at this stage. While this VMGF was prepared in consultation with VMGs from the six counties in which VMGs are not the overwhelming majority, its provisions will be applicable to the entire project, particular, the principle of free, prior and informed consultations with the minority groups that are found in the overwhelmingly IP counties that have been identified in the Social Assessment report, as well as in the preparation of VMGPs, the establishment of GRM and in the monitoring of the implementation process.

The table below summarizes the main social issues raised and the responses by MoEP, KPLC and REA to some of them. The list of participants is in Annex 8 this VMGF report.

Overall comments/views on the project and sub-projects (the components)	
a.	<ul style="list-style-type: none"> • Have the project sites been selected? <i>No, which is why we are consulting on the VMGF</i> • Could the project pump water from the river for small scale irrigation by farmers who are far from the river. <i>Since this is related to the project, we will take it up as a recommendation for further consultations</i> • When will the project start and what is the timeframe of the project? <i>The project will start soon and it will run for 5 years</i> • How can we be sure that the project will reach the VMGs? <i>Since it will be implemented in the six counties inhabited by the IPs definitely they will benefit</i> • Will the VMGs be represented in the decision-making levels of the project? <i>Yes, at all levels</i> • Will the implementers have the good will to serve the community? <i>Yes, there is a good will of serving the community through KOSAP</i>

	<ul style="list-style-type: none"> • How will we know when the project is starting to enable us or our youth apply for jobs? <i>We will call you, just we have done for this VMGF consultations, to inform you of the start of the project</i> • When the time comes, do include women in employment opportunities • In case of compensation, ensure you compensate the right person, undertake proper due diligence to confirm ownership of assets • In case of compensation for land, how will this project compensate us (Munyoyaya from Tana River Central) since we don't have titles and our land has not been adjudicated? <i>The land act and the community land act will be followed</i> • Solar uses battery, how will the batteries be maintained? <i>The project will ensure installation/connection fee is affordable. Sustainability costs however will be borne by the household, community or institution as the case may be.</i> • There will be need for community education/awareness creation. • How will compensation for long-term livelihood investments such as coconut trees be handled to ensure it is adequate, given that coconut is a lifetime livelihood strategy? <i>Government compensation rate will be followed</i> • Some people may not be able to afford installation or connection fee, how will they be helped by the project? <i>The KOSAP will take care of it</i> • There will be need for community education/awareness creation
	Comments/views on positive and negative impacts
b.	<ul style="list-style-type: none"> • The project will have positive impacts e.g. employment creation, provision of raw materials, improved health service delivery etc. • Since independence, we are being targeted for the first time through these WB funded projects (KCDP and KOSAP)
	Proposals for free, prior and informed consultations
c.	<ul style="list-style-type: none"> • Use the approach/process that was used under KCDP for the formation of the relevant consultation, implementation, grievance redress and monitoring institutions. This involves coming to the impacted community to confirm if the existing institutions should be used or if new should be established
	Proposals for institutional arrangements for grievance redress
d.	<ul style="list-style-type: none"> • Use existing community grievance redress institutions such as the elders' system, then community level government institutions such as head man, assistant chief, chief, then higher level government institutions and PIU, then court • For Munyoyaya, use the clan system for grievance redress based on the elder system, with the traditional King as the ultimate arbiter. Anybody who goes to court is cursed.
	Proposals for participation in implementation monitoring
e.	<ul style="list-style-type: none"> • See c and d above
	Proposals for disclosure of documents
f.	<ul style="list-style-type: none"> • Get a representative from each community to receive the reports and share with the community • Bring reports to a central place which is accessible to the community

4 LEGAL FRAMEWORK AND VULNERABLE AND MARGINALIZED GROUPS IN KENYA

This section describes the Kenya’s legal and institutional framework with respect to vulnerable and marginalized groups and provides an analysis of the similarities and differences between OP 4.10 and Kenya’s legal frameworks.

4.1 Constitution of Kenya, 2010

The Government of Kenya uses the term “vulnerable and marginalized groups,” which the 2010 Constitution of Kenya recognizes as groups being in a disadvantaged position in relation to dominant communities in the country.

The 2010 Constitution of Kenya (CoK) 2010 does not provide a definition of indigenous peoples but mentions “marginalized groups” and “marginalized communities.” In this regard, *article 260* of the constitution defines “*marginalized group*” as “*a group of people who, because of laws or practices before, on or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4)*.” Article 260 goes on to define 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 identify 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-gatherer economy;
- d) Pastoral persons or 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 whole.*”

The 2010 Constitution of Kenya captures the disadvantaged position of vulnerable and marginalized groups in relation to other dominant communities in Kenya. It “promotes and pledges to protect the diversity of language of the people of Kenya and promotes the development and use of indigenous languages” (Article 7 (3)). It spells out human dignity, equity, social justice, inclusiveness, equality, human rights, nondiscrimination and protection of the marginalized as national values and principles of governance (Article 10 (2)(b)). The Constitution explicitly recognizes marginalized communities, minority, and vulnerable groups and provides the means to address their concerns.

The 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)]. It also provides for: 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).

Article 69(1)(a) compels the State to: “ensure sustainable exploitation, utilization, management, and conservation of the environment and natural resources”, and Article 69(1)(d) requires the state to “encourage public participation in the management, protection and conservation of the environment.”

Article 56 requires the state to “ensure that vulnerable and marginalized groups have reasonable access to water, health services and infrastructure.”

Representation. Exclusion from participation in the governance and political life of the country. Article 56 states that the State “shall put in place affirmative action programs to ensure that minorities and marginalized groups participate and are represented in governance.”

Article 7(b) obligates the State “to promote the development and use of indigenous languages” and Article 11(2)(a) obliges it to promote all forms of cultural heritage.

4.1.1 Constitutional Implementation

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. However, 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.

Laws relating to reform of the judiciary, such as the Supreme Courts Act as well as the Vetting of Judges and Magistrates’ Act, are already transforming the way in which the judiciary is dealing with claims presented to it by local communities. The revamped judiciary is already opening its doors to the poorest and hitherto excluded sectors of Kenyan society.

Additionally, the adoption of a law establishing the Environment and Land Court is important for VMG 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 Revenue Allocation Commission is 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.

Specifically, the its tasks as spelt out in the Constitution include: (i) Recommend on equitable sharing of revenues between National and County Governments; and among Counties, Article 216 (1)(b)); (ii) Recommend on financing and financial management of County Governments (Article 216 (2)); (iii) Define and enhance revenue sources of National Government and County Governments (Art. 216 (3) (b)); (iv) Encourage fiscal responsibility by National and County Governments (Article 216 (3) (c)); and (v) Determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalized areas for the purposes of Article 204 (2) (Article 216 (4)).

The constitution has further established the Equalization *Fund as the instrument with which CRA it to achieve its mandate. The objective of the equalization fund is to eradicate marginalization and other forms of economic inequalities in Kenya* and to bring all groups into mainstream development within 20 years from the date of promulgation of the COK, 2010. There is clear overlap between the counties designated as marginalized by the CRA and the location of marginalized groups.

In Article 59 of the Constitution established the Human Rights Commission, the Commission on Administrative Justice and the National Gender Equality Commission which are all tasked with increasing inclusion and equality in accessing services.

4.2 Definition and Treatment by the World Bank's Policy

The World Bank 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.

4.3 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 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 whole⁴.

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

⁴Ditto

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).

4.4 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 2009⁵ while the Land Act, Land Registration Act and National Land Commission Act were adopted in May 2012.⁶ 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’”

⁵ Sessional Paper No. 3 of 2009, Ministry of Lands

⁶ 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

- (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.
 - 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.

These similarities and differences between Kenya's key legal framework (COK) and Bank's OP. 4.10 are reflected in the table below.

4.5 Similarities and Differences between COK and OP. 4.10

Table 2.3. Similarities between the Kenyan Constitution and OP 4.10

OP 4.10	Constitution of Kenya	Similarity
Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others	<ul style="list-style-type: none"> • Article 10(2): "The national values and principles of governance include: Human dignity, equity, social justice, inclusiveness, equality, human rights, nondiscrimination and protection of the marginalized." • Article 27(4) prohibits discrimination on any grounds: "the State shall not discriminate directly or indirectly against any person on any ground, including ... conscience, belief, culture, dress, language or birth." 	The Kenyan Constitution recognizes the existence of diverse and unique cultural communities within its borders, some of whom are marginalized and vulnerable. It does not explicitly mention self-identification of a cultural community as a prerequisite to be considered as vulnerable and marginalized.
Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories	<ul style="list-style-type: none"> • Article 63(1): "Community land shall vest in, and be held by communities identified on the basis of ethnicity, culture or similar community interest." • Article 63(2): "...Community land consists of ... (d) land that is (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities." • Article 63(4) protects community land from arbitrary disposal "except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively." 	The Constitution includes a definition of "community land" which states that such land includes that which is held collectively by communities identified on the basis of ethnicity, culture or similar community of interest and is therefore to be protected.
Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture	<ul style="list-style-type: none"> • Article 44. (1): "Every person has the right to use the language, and to participate in the cultural life, of the person's choice. A person belonging to a cultural or linguistic community has the right, with other members of that community— (a) to enjoy the person's culture and use the person's language; or (b) to form, join and maintain cultural and linguistic associations and other organs of civil society. A person shall not compel another person to perform, observe or undergo any cultural practice or rite." 	The Constitution accepts a person's right to participate in "cultural life." If read broadly, the "cultural life" of an individual may include culturally-specific socio-political institutions.
An indigenous language, often different from the official language of the country or region	<ul style="list-style-type: none"> • Article 7(3) (b): "The State shall—(a) promote the development and use of indigenous languages." 	The Kenyan Constitution upholds the right to speak an indigenous language.

Table 2.3. Continued

OP 4.10	Constitution of Kenya	Similarity
Free, prior and informed consultation leading to broad community support	<ul style="list-style-type: none"> Article 118(1): "Parliament shall— ... (b) facilitate public participation and involvement in the legislative and other business of Parliament and its committees." Article 196(1): "A County shall—(a) conduct its business in an open manner, and hold sittings and those of its committees in public; (b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees." 	The Kenyan Constitution supports public participation and involvement in government business, but does not explicitly mention the concept of Free Prior and Informed Consultations leading to Broad Community Support.
Mitigation of harm to Indigenous Peoples	<ul style="list-style-type: none"> Article 27(6) provides the means for redressing marginalization and other forms of discrimination: "To give full effect to the realization of rights guaranteed under this Article, the State shall take full legislative and other measures, including affirmative action programs and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination." 	The Kenyan Constitution focuses on efforts to redress past marginalization.
Culturally appropriate benefit-sharing	<ul style="list-style-type: none"> Article 69(1): "The State shall—(a) ensure sustainable exploitation, utilization, management, and conservation of the environment and natural resources, and ensure equitable sharing of the accruing benefits." 	The Kenyan Constitution focuses on equitable benefit-sharing and not on culturally appropriate benefit-sharing.
Grievance redress mechanism	<ul style="list-style-type: none"> Article 67 establishes the National Land Commission whose mandate is: "(e) to initiate investigations on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress; (f) to encourage the application of traditional dispute resolution mechanisms in land conflicts." 	The Kenyan Constitution focuses on redressing past grievances. It explicitly encourages the use of traditional dispute resolutions mechanisms in land conflicts.
Recognition and protection of customary land rights of Indigenous Peoples	<ul style="list-style-type: none"> Article 63(4) protects community land from arbitrary disposal "except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively." 	The Constitution provides for mechanisms for the protection of communally held land.

(continued)

Table 2.3. Continued

OP 4.10	Constitution of Kenya	Similarity
Consultation and benefit-sharing related to the commercial development of natural and cultural resources	<ul style="list-style-type: none"> • Article 11(1): "The Constitution recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation." • Article 11(2) (a) obliges the state to: "promote all forms of cultural expression through ... arts, traditional celebrations ... and other cultural heritage. Article 11(2) (c) obliges the State to recognize the role of ... and indigenous technologies in the development of the nation." • Article 11(3): "Parliament shall enact legislation to—(a) ensure communities receive compensation or royalties for the use of their culture and cultural heritage." • Article 69(1) provides for public participation in the management, protection and conservation of the environment: "The State shall— ... (d) encourage public participation in the management, protection and conservation of the environment." 	The Constitution focuses on promoting all forms of cultural expression and benefit sharing mechanisms in case their cultural heritage is commercialized.
Consultation and protections to avoid or mitigate the effects of economic and physical displacement of Indigenous Peoples		This issue is not addressed in the Kenyan Constitution.

4.6 Similarities and Differences

The Constitution of Kenya and other related legislations as shown in the tables above have a lot of similarities with the tenets of OP. 4.10. There is considerable overlap between groups identified by the government of Kenya as vulnerable and marginalized and groups that have triggered OP 4.10. Similarly, the groups identified both by the government and in the context of Bank-supported operations align with some of the groups that have been identified by the African Commission on Human and Peoples’ Rights (ACHPR) in its conceptualization of the notion of indigeneity and what it means in the African context.

Overall, there is no contradiction between the objectives and key principles of the OP 4.10 and the Kenyan Constitution. The implementation of some key Constitutional provisions would create an environment supportive of the application of the application of OP 4.10 in Kenya. Summary Profile of Vulnerable and Marginalized Groups in Kenya which may possibly meet the Criteria of OP.4.10

In Kenya, the peoples who identify with the indigenous movement are mainly pastoralists and hunter-gatherers as well as a number of small farming communities. Pastoralists are estimated to comprise 25% of the national population, while the largest individual community of hunter-gatherers’ number approximately 30,000. Pastoralists mostly occupy the arid and semi-arid lands of northern Kenya and towards the borders between Kenya and Somalia, South Sudan, Ethiopia and Uganda.

5 POTENTIAL POSITIVE AND NEGATIVE IMPACTS OF KOSAP 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.

5.1 Potential Beneficial Impacts

The proposed project aims to support GoK's announced objective of reaching all Kenyan consumers with energy services. About 700,000 households and 27,500 thousand community facilities remain un-electrified and unlikely to be reached by the grid in the immediate future. The project proposes a comprehensive suite of investments to provide electricity services to households, enterprises, community facilities, and boreholes, with pragmatic business models to attract private sector investment, sustainable services, know-how and efficiencies. A substantial technical assistance component is proposed to support a widespread consumer education campaign to inform and engage with citizens; create a new strategic planning and program management unit to coalesce sector planning and NES implementation efforts; launch an inclusive county capacity building program across various dimensions identified through a needs assessment; and establish a pilot for the provision of cooking solutions in the underserved counties.

The anticipated benefits of the proposed KOSAP to the VMGPs will include:

Economic status	<ul style="list-style-type: none"> ➤ The livelihoods of the VMGs will be boosted due to: <ul style="list-style-type: none"> - During the construction of the project, there will be employment opportunities for both professionals and unskilled workers from the community. - Expenses on purchase of kerosene reduced and thus channeling of money to purchase of food staffs - Time devoted to fetching water using hand pumps will be reduced and more time assigned to other economic activities. - Livelihood diversification such as small scale irrigated agriculture, Kitchen gardens. ➤ Solar energy, specifically PV solar energy, provides the underserved counties with an opportunity to diversify its economy in a way that is not dependent on non-renewable resources and will lead to new business sales and economic stimulation for the VMGs
Education	<ul style="list-style-type: none"> ➤ The proposed project will provide light to homes and schools; thus, the school going children will be able to study and hence improve the education standards in the areas where children have been using unreliable lighting from kerosene lamps and firewood. ➤ Availability of time for learners to study in and out of school. ➤ Many school girls will be able to carry out their studies at home and hence there will be reduction in school dropouts as a result of early pregnancies
Social impacts	<ul style="list-style-type: none"> ➤ The level of family cohesion and interaction will increase substantially.

	<ul style="list-style-type: none"> ➤ The amount of time devoted to the vulnerable and marginalized components of the VMGs such as children, PLWDs and the elderly if any will be increased as a result of: <ul style="list-style-type: none"> - More and quality time spend with family. - Increase in community interaction. - Reduction of time spent in fetching water using hand pumps - Queuing for water significantly reduced. - Attendance in community organizations' events.
Health impacts	<ul style="list-style-type: none"> ➤ With the project, there will be availability of drugs in local health centres which require their storage in the fridges, ➤ Reduction of kerosene smoke related diseases, ➤ Safe deliveries for expectant mothers since the health facilities can be equipped with some equipment that require electricity to operate.
Gender	<ul style="list-style-type: none"> ➤ The component will create an enabling environment for attaining gender parity among the VMGs by: <ul style="list-style-type: none"> - Increasing the number of girls attending school, thereby improving gender inequalities in school enrolment. - Improving women's literacy levels. - Increased participation of women and young people in project meetings and activities. - Increased participation of women in non-domestic activities
Beliefs and Culture	<ul style="list-style-type: none"> ➤ Access to energy would increase the use of devices such as television, mobile phones, computers etc. among the VMGs, resulting in improvement in their scope of knowledge. This would mean many people would be exposed to more information from the national level and other happenings in the world. ➤ There will be improved skills base amongst the youth in the community ➤ For long, some community members have believed that having electricity in the house is a health hazard. This is a belief that will slowly be demystified by the universal access to energy even in the rural areas.
Environmental Impacts	<ul style="list-style-type: none"> ➤ The proposed development also represents an investment in infrastructure for the generation of clean, renewable energy, which, given the challenges created by climate change, represents a positive social benefit for society as a whole. ➤ Pollution reduction since community members will no longer be using fossil fuels e.g. kerosene.
Insecurity reduction	<ul style="list-style-type: none"> ➤ By installing floodlight masts in areas where the mini-grids will be stationed, there will be reduction in insecurity incidences brought about by tracking the movement of the militants. The flood masts will also act as a potential deterrent against petty crime.
Equitable resource allocation	<ul style="list-style-type: none"> ➤ Communities living in the underserved counties have historically considered themselves second-rate Kenyan citizens because of the lack of deliberate efforts by the national government to develop these hardship areas to the level of other regions in the country. The KOSAP project has the potential to reassure these historically

	marginalized communities of government's will to address the lack of equity in national resource allocation, while at the same time reassuring the communities that they also belong to this country.
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5.2 Adverse Impacts

Permanent effects - Permanent effects will result into an infinite loss of use of property, vegetation, or land by the affected person as a result of the 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 MOEP 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 proposed 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 KOSAP. In addition, should any activity of the project involve acquisition of land that the VMGs/IPs have traditionally owned or customarily used or occupied, then, in line with the provisions of OP 4.10 (para 17), the VMGP will establish an action plan for the legal recognition of such ownership, occupation, or usage.
- 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/AIDs will be carried out as a mitigation measure for reducing incidence of contracting HIV/AIDs and other sexually transmitted diseases.

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, for instance, during construction of wind turbines etc. This is likely to affect:

- Vulnerable Groups that currently use water points and pasturelands where electricity services facilities are meant for rehabilitation, and will therefore have to find temporary pastureland.

5.3 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 KOSAP in collaboration with the partner implementing agencies will apply the following:

- Ensure that vulnerable groups in general and their organizations are informed of activities selection, design, and implementation processes to seek input and to provide clarification.
- KOSAP/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. KOSAP /PIU to ensure that the interventions do not unnecessarily and unintentionally exacerbate factors outside the scope of planned impacts;

- KOSAP/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. KPLC 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 KOSAP /PIU, together with PAP knowledgeable of IP culture and concerns will make an assessment of the key impact issues and possible mitigation measures; and
- KOSAP /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 KOSAP on VMGs and possible mitigation actions are highlighted in **table.2** below and should be considered as a guideline in the development of investment specific VMGP in terms of mitigation measures and considerations.

Table 2. Potential Adverse Project Impacts and Mitigation Measures

Project component & Activities	Negative Impacts	Proposed Mitigation Measures
1. Mini-grids for Community Facilities, Enterprises, and Households		
<ul style="list-style-type: none"> • Community consultations and mobilization • Site identification • Acquisition of land parcels for setting up mini-grids • Installation and connections 	<ul style="list-style-type: none"> • Loss of land used by the communities for livestock grazing and farming may trigger land disputes • New settlements may arise due to migration of people to the centers near the mini-grid disrupting the existing community settlement patterns 	<ul style="list-style-type: none"> • Involve the County government to help in identifying undisputed sites for installation of KOSAP infrastructure • Undertake a comprehensive stakeholder as well as citizen engagement to ensure that solutions are arrived at in a participative manner • Undertake stakeholder engagement to design compensation schemes
2. Standalone Solar Systems and Clean Cooking Solutions for Household		
<ul style="list-style-type: none"> • Consultations with local communities prior to implementation • Selection of debt and grant facility manager • Disbursement of grants and loans • Installations of solar systems in households • Promotion of cleaner household cooking appliances and fuels • Adoption of cleaner institutional cooking appliances • Educating customers on how to operate and maintain products • Collection of payments 	<ul style="list-style-type: none"> • Household hazards related to electricity use in the households 	<ul style="list-style-type: none"> • Sensitize the community on the dangers of illegal power connections to encourage compliance with the law. • Establish a standby disaster response team responsible for the evacuation and resettlement occasioned by the aftermath fires caused by electrical faults from illegal connections
3. Standalone Solar Systems and Solar Water Pumps for Community Facilities.		
<ul style="list-style-type: none"> • Selection of the existing community facilities for installations • Sourcing for contractors to supply, install, and maintain • Installation of the institutional solar systems and water pumps • Operations and Maintenance 	<ul style="list-style-type: none"> • Institutional hazards related to electricity use in institutions • Possible conflicts over water resource use 	<ul style="list-style-type: none"> • Undertake regular safety audits • Conduct training to the staff on proper use and management of the solar systems • Fair distribution of the water projects • Capacity building for the local peace and conflict resolution committees in conflict prevention

6 FRAMEWORK FOR ENSURING FREE, PRIOR, AND INFORMED CONSULTATIONS WITH VMGS

OP 4.10 requires that a process of free, prior, and informed consultation, 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 IPs/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.

6.1 Consultations during Sub Project Investment Screening

Screening of all the KOSAP project investments 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 at the moment. Any project investment involving involuntary resettlement, land acquisition or physical relocation of VMGs will be dealt with according to the provisions of the RPF that has been prepared for KOSAP.

Prior to sub project preparation, screenings will be undertaken to determine whether VMGs are present in, or have collective attachment to, the project site. 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. However, some subprojects that are selected may not impact the entire group or it may impact non-VMGs living around them (several VMGs appear to be dispersed among other ethnic groups). In view of this, it is necessary to carefully identify who will be adversely

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.

affected by subprojects which may well turn out to be part of a VMGs or parts of several different groups only some of which are VMGs. This will be done during the screening phase of the sub project implementation.

6.1.1 Preparation of Social Screening Form

The KOSAP/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 KOSAP/PIU will be 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 KOSAP/PIU with the VMGs and their leaders to provide them information about the subproject and take their views on the subproject. The KPLC and REA PIU’s social scientists will take the lead on consultation with 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?

6.2 Consultations during Social Assessment of Subprojects

If, based on the screening, the KOSAP/PIUs concludes that VMGs are present in, or have collective attachment to, the proposed project site; the implementing agency of that sub project will undertake a social assessment to evaluate the sub-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 subproject's potential and effects on the VMGs present. The KOSAP/PIU will prepare detailed Terms of Reference (ToR) for the social assessment study once it is determined that VMGs are present in the project site. *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:

- *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*

6.2.1 Who conducts the social Assessment?

The social assessment (SA) will be undertaken by the social experts from respective implementing agencies or recruited by the KOSAP (KPLC and REA)/PIUs. The TOR for the work will be shared with World Bank for clearance. The SA experts 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.

6.2.2 Methodology for 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 socio-economic

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) socio-economic survey; b) institutional analysis; c) social gender analysis; d) social impact analysis; e) poverty analysis; and f) social risk assessment.

6.2.3 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 (ii) condition of resource, (iii) primary users, including those that belong to VMGs that currently use or depend on these common resources, (iv) secondary users and the types of uses they make, (v) 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 and suggestions for the project.

6.3 Consultations during VMGP Preparation

6.3.1 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
- Sub County Commissioner
- 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

6.3.2 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

6.4 Stakeholder Identification and Consultation

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 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.

6.4.1 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 offices in collaboration with the implementing agencies within KOSAP executing the investments 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 executing agency for KOSAP*

- *Traditional knowledge informs the design and implementation of mitigation strategies and is treated respectfully*
- *There is mutual understanding and respect between the KOSAP/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.*

6.5 Impact Identification

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.

6.5.1 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

6.5.2 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 if any;
- d) Provide support to VMG participation arrangements in the project;
- e) Are aware of the GRM; and,
- f) Provide broad community support.

6.5.3 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 KOSAP/PIU and its executing partners 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 KOSAP and executing agencies will have to consider and apply the following strategies in order to avoid many of the problems associated with VMGs. Specifically, the KOSAP 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 KOSAP and executing partner agencies (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; and,*
- *Enlist the services of reputable advisers with good local knowledge.*

KOSAP executing partner agencies 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, 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.

6.6 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 MoEP/PIU will organize and provided training for the KPLC and REA/PIUs 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.

6.7 Establish representation of VMGs in relevant organs within KOSAP

The KOSAP/PIU will ensure that the VMGs are represented in the county and sub county steering committees if and when screening ascertains that VMGs are likely to be affected. VMGs will articulate their needs and priorities with facilitation and guidance from KOSAP/PIUs 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.*

6.8 Bank Decision on Sub Project Investments

In deciding whether to proceed with the project, the KOSAP 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 KOSAP/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 by the KOSAP 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.

7 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.

7.1.1 Elements of a Vulnerable and Marginalized Groups Plan

All the VMGPs that will be prepared under the KOSAP 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'.

7.1.2 Vulnerable and Marginalized Groups Plan

The action plan will consist of a number of sub-projects 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 3. Vulnerable and Marginalized Groups Plan

Issues	Activity	Responsibility	Indicators
Screening	Carry out an inventory of VMGs in the proposed sub project operation areas	KOSAP/PIU and executing partner executing agencies/VMGs	
Vulnerable and Marginalized Groups Orientation and Mobilization	Reconnaissance survey Community meetings	KOSAP /PIU and partner executing agencies/ 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 Rural Appraisals	KOSAP /PIU and executing partner executing agencies	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 e.t.c.	Baseline Surveys	KOSAP /PIU and executing partner executing agencies 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	Social Screening	KOSAP /PIU and executing partner executing agencies VMGOs	Activities implemented respect the conditions and do not leave the

mitigation measures			VMGs worse off than they were Activities respect the rights, culture and dignity of the VMGs
Prepare VMGP(s), if the need arises	If the inventory documents that the proposed sub projects might impact on the indigenous peoples: prepare VMGPs Carry out training and provide backstopping	KOSAP /PIU and VMGs	The VMGPs are accepted by the GoK, the World Bank and the VMGs
Capacity Building of VMGs	Trainings/Information dissemination on policy requirements for VMGs and VMPOs	KOSAP /PIU and executing partner executing agencies 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	KOSAP /PIU and executing partner executing agencies 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	KOSAP /PIU and executing partner executing agencies 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	KOSAP /PIU and executing partner executing agencies	Participants are able to implement VMGF

8 STRATEGY FOR PARTICIPATION AND CONSULTATION WITH VULNERABLE & MARGINALISED GROUPS

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 KOSAP /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 KOSAP /PIU 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 Method	Expected Outcome
Reconnaissance & ground verification of existing and location/sites for sub projects	Project Authority KOSAP /PIUs, project consultants (Social Scientist) and other stakeholders	VMGs Community VMGs, including organizations, community leaders/elders	Method Open meetings & discussions, visit of proposed subproject sites, IP settlements & surroundings	Outcome 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	KOSAP /PIUs, 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	KOSAP /PIUs, 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	KOSAP /PIUs, 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	KOSAP /PIU, project consultants	VMGs, organizations,	Group consultations,	Preparation of VMGP, and incorporation of

	(Social Scientist) and Other stakeholders	Community leaders/elders, adversely affected VMGs	hotspot discussions, etc.	SA inputs into engineering design to avoid or minimize adverse impacts, and VMGs development programs
Implementation	KOSAP /PIU, APs, Consultants (Social Scientists) & Other stakeholders	Individual VMGs, organizations, community leaders/elders & other stakeholders	Implementation Monitoring committees (formal or informal)	Quick resolution of issues, effective implementation of VMGP
Monitoring & Evaluation	KOSAP /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 non-verbal, 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;

9 GRIEVANCES REDRESS MECHANISM

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 KOSAP/PIU and the executing agencies 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.

9.1 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 KOSAP/PIU and executing partner agencies 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 PIU and or relevant NGO.

9.1.1 Establishment of Grievance Redress Structures

A Grievance Redress mechanism 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 GRM will be established in consultation with the respective VMG communities in line with the suggestions made by the VMGs representatives who gave input for the development of this framework. In this regard, the project will seek to support the establishment of culturally appropriate yet robust, inclusive, accessible and time-bound GRMs with socio-cultural grievance redress systems as the first and lowest level followed with the community level administrative system as the second level of grievance redress. The third level will be established at the sub-county level and should be composed of relevant sub-county officials, representatives of relevant NGOs/CBOs, representatives of the PIU and representatives of VMGs with the sub-county.

Decisions on the composition of the respective levels of the GRM will be reached in consultation with the relevant stakeholders at each level.

The grievance redress systems 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 have the first opportunity to resolve 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 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 KOSAP 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.

9.1.2 Further Redress-Kenya Courts of Law

All the grievances that will not be resolved by the agreed internal levels described in 9.1.1 above 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.

9.1.3 Complaints Pattern

If a complaint pattern emerges, KOSAP, 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. KOSAP, 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 VMGs 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.

9.1.4 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 KOSAP (KPLC and REA)/PIUs 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.*

10 MONITORING AND REPORTING ARRANGEMENTS

10.1 Monitoring and Reporting 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 KOSAP/PIU. Each executing partner agency of the KOSAP will be responsible for compiling the data and auditing for completeness of the records, and they will be responsible for providing compiled M&E information to the KOSAP/PIU.

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 KOSAP 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 VMGFs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The KOSAP (KPLC and REA) /PIU will institute an administrative reporting system that will: -

- *Provide timely information about all grievances arising as a result of KOSAP activities;*
- *Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the KOSAP (KPLC and 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 each sub project executing partner agencies of the KOSAP each year and presented to VMGs for feedback etc., before being handed over to the VMGF-committees at sub-county 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 KOSAP (KPLC and REA) /PIUs and 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 KOSAP, that all decisions which affect any of these are based on the

- Free, prior, and informed consultation with the VMGs
- That the VMGs receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive,
- 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

10.1.1 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 Sub County 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 sub county 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 5. Monitoring and Evaluation Indicators for KOSAP/VMGF

Issues	Indicator	Responsibility	Data Sources
Capacity Building for implementation of VMPPF	Number of individuals & institutions trained	KOSAP (KPLC and REA) /PIUs	Training workshops reports
Vulnerable and Marginalized Groups Orientation and Mobilization	Number of VMGs meetings; Number of VMGs sensitized	KOSAP (KPLC and REA) /PIUs 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	KOSAP (KPLC and REA) /PIUs 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	KOSAP (KPLC and REA) /PIUs 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 social screening Number of sub projects implemented	KOSAP (KPLC and REA) /PIUs Vulnerable and Marginalized Groups Organizations	KOSAP/ PIU reports Implementing agencies reports
Capacity Building	Types of training Number of Trainings Attendance by VMGs	KOSAP (KPLC and REA) /PIUs 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	KOSAP (KPLC and REA) /PIUs Vulnerable and Marginalized Groups Organizations	County Level and National Steering Committee reports VMGO reports
Participatory M&E with VMG	Internal M&E External M&E	KOSAP (KPLC and REA) /PIUs Vulnerable and Marginalized Groups Organizations	

11 DISCLOSURE ARRANGEMENTS FOR VMGPS

11.1 Communication Framework

A Project Implementation Unit (PIU) housed in the KPLC and REA will manage the KOSAP and specific arrangements for administering project activities by the PMU at other levels will be established during project design.

In regard to ensuring compliance with the Banks' safeguards, the KOSAP/PIU will recruit or retain the current environmental and social safeguard specialists. These specialists will provide technical support and ensure compliance with the VMGF by coordinating and working with the executing institutions in the KOSAP. This communication framework elaborates principles, strategies and structures on how the KOSAP 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, KOSAP/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 KOSAP, 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 KOSAP 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 KOSAP/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.

11.2 Disclosure

This VMGF and subproject VMGPs will be made available to the affected VMGs in an appropriate and accessible form, manner, and language. Before project appraisal, the KOSAP/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 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.

11.3 Roles and Responsibilities

11.3.1 KOSAP/PIU

KOSAP/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*

11.3.2 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.

11.3.3 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 for the KOSAP.

12 VMGP IMPLEMENTATION BUDGET

All costs for implementation of VMGP will be financed by the KOSAP. 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 PIU/GoK 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 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 KOSAP/PIU staff. In summary, there will be adequate budgetary provisions to implement any VMGP where necessary for the subproject development. The Government of Kenya will finance all the cost of the VMGP.

At this stage, it is not possible to estimate the exact number of VMGs who may be affected under KOSAP 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 KOSAP implementation. However, when these locations are known, and after the conclusion of the site-specific socio-economic study, a detailed and accurate budget for each VMGP will be prepared. Each VMGP will include a detailed budget, using the following template as a guide.

Table 6: Indicative Budget

	Indicative Budgetary Item	Indicative Unit cost (USD)
1.	Stakeholders trainings/ consultation forums on VMGF	200,000
2.	Monitoring and evaluation studies on the implementation of VMGPs under KOSAP	50,000
3.	Evaluation of Livelihood empowerment programs under KOSAP	100,000
4.	KOSAP/VMGPs training manual	50,000
5.	Annual VMGPs audit	20,000
	Total	420,000.00

13 ANNEXES

ANNEX 1-SOCIAL SCREENING FORM

To be filled by KOSAP/PIU Team

SOCIAL SCREENING FORM FOR KOSAPACTIVITIES	
A. BACKGROUND INFORMATION	
A1. 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	<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.

**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>	

ANNEX 3: CONTENTS OF VULNERABLE AND MARGINALIZED GROUPS PLAN (VMGP)

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.

ANNEX 4: SAMPLE TERMS OF REFERENCE FOR DEVELOPING A VMGP

Note: the VMGP will be developed in detail consume rate 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) (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 group.

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.

ANNEX 5: SAMPLE FACT SHEET FOR VMGPS: VMGP REVIEW – FACT SHEET

To be filled by KOSAP/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

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

To be filled by KOSAP/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 Info shop and in Country in an appropriate language?	0	No
	0.5	Disclosed in Info shop
	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

ANNEX 7- PROFILE OF VULNERABLE AND MARGINALIZED GROUPS IN KENYA

Sengwer

The Sengwer live in the three administrative Counties of Marakwet, West Pokot and Trans Nzoia in and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora).

Livelihood

Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Masai some adopted small scale agriculture (shifting cultivation) and/or livestock rearing, but hunting remained their main source of livelihood until the 1920s. The elders reported collective as well as individual hunting techniques. Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. Millet and Sorghum are the “traditional” crops, which were inherited from the Arab traders and mostly planted in the lowlands.

The current status of Indigenous Sengwer

The Sengwer have increasingly settled and now practice agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The forest dwelling Sengwer (Emboul) have been/are being moved out of gazette forests and as a result face restriction on access to natural resources- especially forests and which have further increased their sedentarization.

Turkana

The Turkana people are the second largest of the pastoral people of Kenya with a population of 1,034,000

They occupy the far northwest corner of the nation, an area of about 67,000 square kilometers. This nomadic community moved to Kenya from Karamojong in eastern Uganda from around 1700. The Turkana tribe occupies the semi Desert Turkana County in the Rift valley region of Kenya. Turkana warriors today still take pride in their reputation as the most fearless fighters in East Africa.

Location in the Country - Rift Valley region, Turkana, Samburu, Trans-Nzoia, Laikipia, Isiolo Counties, west and south of Lake Turkana; Turkwel and Kerio rivers

Livelihood: Like the Masai Turkana people keep herds of **cattle, goats and Camel**. Livestock is a very important part of the Turkana people. Their animals are the main source of income and food. Turkana’s have also pursued other non-pastoral income-earning activity in both urban and rural environments. This includes various forms of wholesale and retail trade (e.g. selling livestock, milk, hides and skins, honey, and artisan goods etc.), traditional rental property ownership and sales, waged employment (local and non-local, including working as a hired herder, farm worker, and migrant laborer), farming (subsistence and commercial), and the gathering and selling of wild products (e.g. gum arabic, firewood, or medicinal plants). Fishing in Lake Turkana is another, long standing form of diversification. Fishermen along Lake Turkana migrate to follow the patterns of fish movement. Many of them have also taken up weaving mats and baskets

particularly near the lake where weaving material is readily available from the Doum Palm. Other natural resource-based livelihood diversification activities have included the collection and sale of aloe, gum Arabic, honey, wild fruits, firewood, and the production and sale of charcoal and alcohol.

Rendille

The Rendille are a Cushitic tribe that inhabits the climatically harsh region between Marsabit hills and Lake Turkana in Northern Kenya where they neighbor the Borana, Gabbra, Samburu and Turkana tribes. The (Rendille) are culturally similar to the Gabbra, having adopted some Borana customs and being related to the Somali people to the east. Rendille are semi-nomadic pastoralists whose most important animal is the camel. The original home of the Rendille people was in Ethiopia. They were forced to migrate southwards into Kenya due to frequent conflicts with the Oromo tribe over pasture and water for their animals. There are about eight or nine sub clans including the Urowen, Dispahai, Rongumo, Lukumai (Nahgan), Tupsha, Garteilan, Matarbah, Otol, and Saale with an estimated population of 63,000.

Location in country

The Rendille are located in Eastern region, Marsabit County, between Lake Turkana and Marsabit Mountain. The primary towns include Marsabet, Laisamis, Merille, Logologo, Loyangalani, Korr, Kamboi, Ngurunit, and Kargi.

Livelihood: The Rendille people are traditionally pastoralists keeping goats, sheep, cattle, donkeys, and camels. Being pastoralists, the lifestyle of the Rendille revolves around their livestock. In the northerly areas, camels are their main source of livelihood. are best adapted to the desert conditions that prevail in the northern Kenya. The camels are an important source of milk and meat. Their nomadic lifestyle is become more prominent in the areas exposed to little urbanization and modernization. In the recent past though, their livelihood has experienced constant competing interests from the Samburu and Gabra leading them to conflicts over land and water resources particularly at the borderline of the boundary Counties.

Gabbra

The Gabbra are an Oromo people who live as camel-herding nomads, mainly in the Chalbi desert of northern Kenya and the highlands of southern Ethiopia. They are closely associated with other Oromo, especially their non-nomadic neighbors, the Borana. The Gabra speak the Borana dialect of Oromo, which belongs to the Cushitic branch of the Afro-Asiatic language family and have a population of about 3,000. They are located in Samburu County, Lake Baringo south and east shores; and in Rift Valley region (Chamus), Baringo County.

Livelihood: Gabra are pastoralists who keep and depend on cattle, sheep, goats, donkey, and camels. They solely rely on access to water and pastures for the survival of their livestock. Cattle provide the majority of income from livestock production followed by goats, sheep, and camels. –The bulk of the grain consumed by Gabra household in this zone is purchased. This includes maize, rice, and sugar. Households also rely on the wild food including fruits and berries, honey, roots, and tubers. Climate change has had an impact on new weather patterns and prolonged drought pushing the Gabra community to frequent water shortages. They have a conglomerate of peoples

living north of the Tana River in Kenya, the area around Lake Turkana and the highlands of southern Ethiopia.

Ajuran

The Ajuran are ethnically Somalis. They are descendants of a kingdom that ruled Somalia before the advent of Europeans into Africa. The Ajuran live in the NorthEastern Kenya and Eastern part of Ethiopia. Some of those who settled in present day Kenya eventually adopted the language and customs of their neighbors and hosts, the Borana. The Ajuran are best known in Somali history for establishing the Gareen dynasty based in Qalaafo (now part of Ethiopia). The Gareen dynasty ruled parts of East Africa from the 16th to the 20th century. Among the Kenyan Ajuran people, the majority speak the Borana language as their first language while others speak the Somali language as their first language especially those from Wajir North Sub County in the areas of Wakhe and Garren. The link between the Garreh and Ajuran is their primary language, which is Borana and not Somali. Population: 59,000.

Location in the Country: Eastern region of Kenya, Marsabit County, Isiolo County and Moyale sub county, Wajir North.

Livelihood: The Ajurans, like the rest of other Somali tribes of Northern Kenya have traditionally lived a nomadic life. This way of life is dictated by the climate, which is semi-arid with two seasonal rains. They follow water and pasture for the animals they keep such as cattle, camels, goats, sheep, donkeys and mules that provide them their livelihood. Where the land is good for farming, there are settled populations growing corn, millet, sorghum and some fruits and vegetables. The Ajuran live in an area with relatively high rainfall and good pasture for their animals. The intrusion by others has periodically resulted in clashes. Today, the Ajuran allow others to live and pasture their animals in their communal land. Some of the main causes of their vulnerability include the following: erosion of assets due to armed conflict during intermittent inter/intra-clan conflict, resulting in poverty; protracted conflict and insecurity; Poor access to economic/employment opportunities.

Maasai

Kenya's most well-known ethnic tribe, the Maasai is semi-nomadic people located primarily in Kenya and northern Tanzania. They are considered to be part of the Nilotic family of African tribal groups. The Maasai probably migrated from the Nile valley in Ethiopia and Sudan to Maasai land (central and south-western Kenya and northern Tanzania) sometime around 1600 AD, along the route of lakes Chew Bahir and Turkana bringing their domesticated cattle with them. The Maasai speak the Maasai language, an Eastern Nilotic language closely related to Samburu (or Sampur), the language of the Samburu people of central Kenya, and Camus spoken south and southeast of Lake Baringo. Maasai's population is about 684,000 and is located in the Rift Valley region, Kajiado and Narok County.

Livelihood: The Maasai are cattle and goat herders, their economy almost exclusively based on their animal stock, from which they take most of their food: meat, milk, and even blood, as certain sacred rituals involve the drinking of cow blood.

Ilchamus

They are originally a pastoralist people who used to live on the mainland but due to clashes they have been forced to migrate to an island in Lake Baringo. It is a very traditional and culturally bound society, hierarchical and male-dominated. Many are uneducated and illiterate. They communicate mainly in their local language. They have a population of 34,000 and are located in Southeast and south shore of Lake Baringo, and southwest shore as far north as Kampiya Samaki. ***Livelihood:*** The majority of the Ilchamus practice both livestock rearing and agriculture, but on the islands in Lake Baringo there are about 800 Ilchamus who live nearly entirely from fishing. They live from fishing in small boats made of balsam tree that dates back maybe a thousand years. They also do some souvenirs and they have some livestock. The mainland Ilchamus are semi-pastoralists with a long history of small scale agriculture. The main types of livestock owned by the Ilchamus are cattle (zebus), sheep (red Masaai and dopper cross) and goats (small east African), but their herds are significantly smaller than those of their neighbours. The key problems they face are insufficient security against aggressions from their neighbours, access to water and encroachment on their land due to the non-existence of land titles. The nearest markets are at Marigat and Kiserian.

Aweer

The Aweer are a remnant hunter-gatherer group living along the Kenyan coast in Lamu County on the mainland. In the last 30 years, the Aweer have faced very difficult times. In 1967, their homeland was severely affected by the war between Kenya and Somalia. Traditionally they depend on their elders for leadership and do not normally meet for village discussion. They practice polygamy and each wife has her own house in which she lives with her children. The husband does not have his own home but lives with each wife periodically. The Aweer have a population of 8,000 and are located in the Coast region, behind Lamu, and Tana River Counties in forests; North-Eastern region, Garissa County.

Livelihood: They are indigenous hunter/gatherers famous for their longbows and poison arrows. The Aweer are often referred to - and even sometimes refer to themselves - as the "Boni". Considered by some as pejorative, Boni is based on the swahili word "kubuni" which means 'to move', in reference to their proclivity, historically, to move around in pursuit of their livelihoods, rather than settle in one place. The lives of the Aweer were drastically changed when the Kenyan government curtailed their traditional way of life as a response to the insecurity of the region after the Shifita War (1963–1967), forcing them to settle in villages along the Hindi-Kiunga Road on Government Land between the Boni National Reserve and the Dodori National Reserve while adopting slash and burn agriculture.

Pokot

They speak Pökoot, language of the Southern Nilotic language family, which is close to the Marakwet, Nandi, Tugen and other members of the Kalenjin grouping. Kenya's 2009 census puts the total number of Pokot speakers at about 620,000 in Kenya. They are considered part of the Kalenjin people who were highland Nilotic people who originated in southern Ethiopia and migrated southward into Kenya as early as 2,000 years ago. Though the Pokot consider themselves to be one people, they are basically divided into two sub-groups based on livelihood. Population: 662,000. The Pokot are located in the Rift Valley region of Kenya, Baringo and West Pokot Counties.

Livelihood: Currently, Pokot are semi-nomadic, semi-pastoralists who live in the lowlands west and north of Kapenguria and throughout Kacheliba Division and Nginyang Division, Baringo County. These people herd cattle, sheep, and goats and live off the products of their stock. The other half of the Pokot are agriculturalists. Mixed farming is practiced in the areas of Kapenguria, Lelan and parts of Chepararia. These areas have recorded rainfall between 120mm to 160mm while pastoral areas include Kiwawa, Kasei, Alale and parts of Sigor receiving 80mm and 120mm. The livelihood of the Pokot has led to constant conflict between them and other pastoral communities – the Turkana, Matheniko and the Pokot of Uganda. Over access to semi-arid savannah and wooded grassland terrain that cuts along the habitation area. Resources such as land, pasture, water points are communally owned and they are no specific individual rights.

Endorois

Endorois community is a minority community that was living adjacent to Lake Baringo and has a population of about 20,000. However, the Government of Kenya forcibly removed the Endorois from their ancestral lands around the Lake Bogoria area of the Baringo County and Koibatek Sub County, as well as in the Nakuru and Laikipia Administrative Counties within the Rift Valley region in Kenya. Endorois are a community of approximately 60,000 people who, for centuries, have lived in the Lake Bogoria area. They claim that prior to the dispossession of Endorois land through the creation of the Lake Hannington Game Reserve in 1973, and a subsequent re-gazetting of the Lake Bogoria Game Reserve in 1978 by the Government of Kenya, the Endorois had established, and, for centuries, practiced a sustainable way of life which was inextricably linked to their ancestral land.

The British claimed title to the land in the name of the British Crown. At independence in 1963, the British Crown's claim to Endorois land was passed on to the respective County Councils. However, under Section 115 of the Kenyan Constitution, the Country Councils held this land in trust, on behalf of the Endorois community, who remained on the land and continued to hold, use and enjoy it. The Endorois' customary rights over the Lake Bogoria region were not challenged until the 1973 gazetting of the land by the Government of Kenya. The act of gazetting and, therefore, dispossession of the land is central to their current predicament.

The area surrounding Lake Bogoria is fertile land, providing green pasture and medicinal salt licks, which help raise healthy cattle. Lake Bogoria is central to the Endorois religious and traditional practices. The community's historical prayer sites, places for circumcision rituals, and other cultural ceremonies are around Lake Bogoria. These sites were used on a weekly or monthly basis for smaller local ceremonies, and on an annual basis for cultural festivities involving Endorois from the whole region. The Endorois believe that the spirits of all Endorois, no matter where they are buried, live in the Lake, with annual festivals taking place at the Lake. They believe that the Monchongoi forest is considered the birthplace of the Endorois and the settlement of the first Endorois community.

Livelihood: Dependent on land and fishing from Lake Bogoria. Critically, land for the Endorois is held in very high esteem, since tribal land, in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the cultural integrity of the community and its traditional way of life.

Boni

The Boni people are known for their unique tradition of whistling to birds that guide them to honey. They are found in Northeastern Kenya's sub county of Ijara and Lamu County. They are concentrated mainly in Witu, Hindi and Kiunga divisions. The community is located in villages of Bargoni (Hindi Division), Milimani, Bodhei, Basuba, Mangai, Mararani, Kiangwe and Kiunga (Kiunga division), Pandanguo and Jima (Witu Division). Their population is about 4,000, compared to 25,000 half a century ago (Source: Organization for the Development of Lamu Communities (ODLC)). 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.

The Boni live in forested areas of the Ijara Sub County and Lamu County i.e. within the Witu and Boni forests. They live deep into the forest and only come out to the periphery when there is hardship or hunger. They perceive the forest in the Boni inhabited areas as communally theirs. However, with the gazettement of all the forest by the government this has become a source of conflict.

Watha

The Watha people are mostly found in the rural arid and semi-arid lands of the country. The people are traditionally hunters and gatherers. In Malindi, the Watha community is found in four divisions (i.e. Malindi, Langobaya, Marafa and Magarini). In Tana River County, 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 Kenya is estimated at approximately 30,000 persons. This is only 2.7% of the entire Malindi, Mandera and Tana River population.

The Watha people are traditionally hunters and gatherers. However, 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 County is communal ownership. Most of the land in the three Counties of Malindi, Mandera and Tana River are currently under trust land by the County Governments.

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 Population⁷	Livelihood⁸	Administrative Location Counties⁹
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
13. Pokot		62,000	Pastoralists	West Pokot /Baringo
14. Maasai		666,000	Pastoralists	Narok, Kajiado

⁷ Internet based – several sites

⁸ Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012

⁹ Ibid.

ANNEX 8 MINUTES AND LIST OF VMGs CONSULTED

MINUTES FOR THE VULNERABLE AND MARGINALISED GROUPS CONSULTATIONS

Date. Wednesday, 15 March 2017

Venue. Kenyatta University North Coast Beach Hotel

List of participants attached.

The meeting was called to order by Peninah Karomo (REA) at 10.00 am she requested the participants to introduce themselves and a prayer was offered by one of the participants. A total of 38 participants representing VMGs from Tana River, Kilifi, Lamu, Kwale, Taita Taveta and West Pokot. Of these, there were 15 women. Participants included representatives of six VMG communities: the Watha, Munyoyaya, Wailwana, Sanye, Wakifundi and Sengwer. Tana River county had 3 VMG communities: Munyoyaya, Wailwana and Watha. Kwale County had Wakifundi, Taita Taveta County had Watha, Lamu had Sanye and West Pokot County had Sengwer.

MIN 1/15/17. Opening Remarks

Mr. John Guda Manager (SHE) gave an overview of the KOSAP (Kenya Off Grid and Solar Access Project). He further noted that the Government of Kenya (GoK), in its Vision 2030, aims at transforming “Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens.” KOSAP is primarily to enhance the electricity connectivity in the remote areas. Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. He noted that the energy has been identified as one of the key sectors that form the foundation for socio-political and economic growth. He went further and said that In order to achieve the national target of attaining universal access to electricity by 2020, the GoK now seeks to close the accesses gap by providing electricity to remote, low density, and traditionally underserved areas of the country.

The government has been implementing other projects geared towards increase of electricity connectivity to the Kenyan population which include but not limited to GPOBA and Last Mile Connectivity so as to serve the underserved in the country. He further noted that various frameworks have been developed to capture and address the various Grievances Redress Mechanism for the Vulnerable and Marginalised Groups. He finally literated that the Kenya Constitution recognises the existence of VMG and appreciates that they have their rights. He wished the members present fruitful deliberations on the VMGF

Min/2/15/17 Project Description

Abaya started by stating Kenya Off-Grid Solar Access Project (KOSAP) directly promotes and supports the use of solar technology to drive electrification of households, enterprises, community facilities and water pumps in 14 out of 47 counties in Kenya that have been defined as “marginalized areas” by the Commission on Revenue Allocation (CRA). The 14 underserved counties include Mandera, Wajir, Garissa, Tana River, Samburu, Isiolo, Marsabit, Narok, West Pokot, Turkana, Taita Taveta, Kwale, Kilifi and Lamu. He further noted that the 14 counties

collectively represent 72% of the country's total land area and 20% of the country's population, including historically nomadic societies that even today continue to rely on pastoralism.

Samuel Abaya noted that the main objective of the project will be to increase electricity accessibility to the local communities that will benefit 250,000 households, 1030 public facilities and 620 community boreholes. The Project Beneficiaries will be Households, Businesses, Community and Public facilities;

The project components include:

Component 1: Mini-grids for Community Facilities, Enterprises, and Households

This component will support the electrification of areas where electricity supply through mini-grids represents the least cost option from a country perspective, as underpinned by the geospatial plan. Depending on the number of users to be supplied, and the service level defined for each type of user (households, businesses, community facilities, etc.), the generation system of each specific mini-grid will combine solar PV, battery storage and thermal units running on diesel. Mini-grids will be developed under a Public-Private-Partnership (PPP) whereby private investment and public funds co-finance construction of generation facilities, and public funding is used to construct the distribution network. A single contractor will be responsible for construction (and partial financing) of the generation system and for construction of the distribution network of each mini-grid. Ultimately, after the recovery of the private investments, all assets (both generation and distribution) will be in GoK ownership. All electricity consumers supplied through mini-grids will be KPLC customers, and pay the same tariff for each category charged to users connected to the national grid, ensuring effective implementation of a national uniform tariff policy.

The component will be implemented in approximately 120 locations throughout the 14 target counties, typically in mini-grids supplying 100-700 prospective users, with approximate total demand of 20-300kW. These potential sites, capturing approximately 27,000 consumers in total, have preliminarily been identified as part of the geospatial plan.

REA and KPLC will jointly implement the component, with the procurement of lots divided among them.

The Ci-Dev funds will be used to subsidize payment of connection fees to consumers in the mini-grids. Private sector is expected to finance up to US\$7.5million of capital costs for construction of generation facilities of the mini-grids, although the final amount will be determined through the tendering process.

Component 2: Standalone Solar Systems and Cooking Solutions for Households

Component 2A: Standalone Solar Systems for Households: This component will support off-grid electrification of households in the 14 target counties where a standalone solar system is the most appropriate technology to deliver energy services, leveraging Kenya's unique off-grid solar market dynamics and innovations. The component will provide incentives for solar off-grid companies currently operating in the more densely populated areas of Kenya to expand to underserved counties and provide services to the off-grid households in these counties. These services, provided through portable solar home systems, are well-suited to some of the population in the underserved counties, as households do not always live in permanent structures. In addition, affordability is increased by allowing households to pay for systems over time

The component will be accomplished via two financing instruments to which eligible solar companies will have access:

- i. *Grant Facility - Competitively awarded expansion grants*, to compensate solar companies for initial, ongoing incremental, and opportunity costs associated with an expansion of operations in underserved counties. A percentage cap will be set within each lot so that multiple companies will have the opportunity to operate within the space. A competitive approach will be used, whereby companies will bid based on a grant amount per household connection, with the lowest grant requirements winning. Results-based financing will specify installment payments based on the achievement of pre-agreed connection milestones and satisfactory after sales service support.
- ii. *Debt Facility - Debt financing to solar companies*, to support upfront costs associated with getting hardware inventory into the market, and medium-term consumer financing to enable households to pay off the systems over time. Two typologies of business models underpin the majority of solar companies that operate in the Kenyan market. First are companies that sell solar products on an over-the-counter (cash sale) basis. These companies require shorter term debt in USD or other major foreign currency to finance costs associated with hardware manufacture and transit to Kenya (typically from China) until a sale is made. This cycle typically lasts anywhere from 6 to 9 months. A second prevailing business model is pay-as-you-go, whereby customers pay for the systems in monthly installments (typically between 12-36 months), and solar companies carry the default risk during the payback period. These businesses typically require debt financing that is commensurate with the lending terms that they extend to their customers. Given that companies' revenues are in local currency, the debt instrument will also offer loans in Kenyan Shillings in addition to USD.

The implementation of this component will be under a direct oversight of MoEP. MoEP will competitively select the expansion grant facility and the debt facility managers, which will be entities with demonstrated experience with managing similar instruments in Kenya and similar geographies.

Carbon finance from Ci-Dev will be used to incentivize after sales service and increase sustainability of the component by annual payments, based on the number of functioning SHSs.

Component 2A: Standalone Cooking Solutions for Households: This sub-component will support a transition from low-efficiency baseline stoves to cleaner, higher efficiency improved stoves. To accomplish this objective, two sets of activities will be undertaken: the first focusing on the promotion of cleaner household cooking appliances and fuels and the second focusing on adoption of cleaner institutional cooking appliances. Activities will begin by focusing on four underserved counties in the northwestern part of the country (West Pokot; Turkana; Samburu; and Marsabit).

During project preparation, a Stove-Market Testing Program is being undertaken in the municipal, town, and densely settled parts of Turkana County. The stoves to be included will be determined following a call for Expressions of Interest for stove manufacturers wanting their products to be exposed to these new markets

This sub-component will operate a window in the grant facility established for solar home systems to support sales of eligible stoves in targeted counties. A Call for Proposals will be issued to distributors to

develop business plans and commit to selling a large number of the stoves in the targeted counties. The grant facility will provide the winning distributors with financial support on a matching grant and results-based scheme to enable them to market their stoves locally within the target counties; to increase their inventories of the selected higher quality stoves; to purchase and transport them to the target communities in number; and to sell them to willing buyers in the communities. The exact details of the support will be determined based upon the final market evaluation of the selected counties and the results of the Stove-Market Testing Program.

Component 3: Standalone Solar Systems and Solar Water Pumps for Community Facilities

The community facilities considered in this component are the existing and upcoming: (i) Health facilities (Levels 2 and 3) (ii) Educational facilities (Secondary schools and Technical training institutes); (iii) Administrative offices (for example, assistant County Commissioner offices).

Component 3A: Standalone Solar Systems for Community Facilities (\$25 million IDA). This component will support the provision of electricity services to community facilities in remote areas in underserved counties. A private sector contractor (contractor) will be competitively selected for each service territory to supply, install, and maintain SHS in community facilities in each lot.

Preliminary estimates of total un-electrified community facilities in the 14 underserved counties include 202 secondary schools, 756 health facilities (of which 615 are Level 2 and 141 are Level 3), and around 72 Assistant County Commissioner offices. It is expected that 100 schools and 100 health facilities will be electrified under Component 1 via mini-grids; the remainder will be reached via this component.

The community facilities will pay KPLC a regulated tariff. The proposed project will cover the supply and installation costs and KPLC will pay the contractor for fees under the maintenance contract with tariff revenues (costs of maintenance contracts passed through into tariff revenues by ERC) recognized by ERC.

Component 3B: Solar Water Pumping for Community Facilities (\$20 million IDA): This component will support financing solar powered pumping systems to increase sustainable access to water supply by equipping new boreholes and retrofitting existing diesel-powered boreholes associated with community facilities within the target counties. This component will be implemented by the REA, who will sign a contract with a private contractor to perform supply, install, and maintenance services, similar to the design in Component 3. The payment for these maintenance services will be recouped on a monthly basis by the community facilities hosting these boreholes.

Component 4: Implementation Support and Capacity Building

Sub-Component 4.1: Consumer Education and Citizen Engagement

This sub-component will support the consumer education and citizen engagement activities for the program's key delivery areas (households, community facilities, water facilities in the underserved counties). Consumers in these areas are unlikely to be aware of the new technologies being presented and have a right to expect clear, thorough information about the advantages of the services and how to access them. The consumer education and citizen engagement activities supported under this sub-component will also provide recurring opportunities for consumers to interact with service providers in order to share their feedback and concerns. For those who have some knowledge of the products, these outreach activities will provide them with the necessary guidance on how to get the best out of the products in the way they use and maintain them. Finally, in these target areas, acceptance and sustained demand is generated when the buy-in of key opinion leaders is obtained. The consumer education and citizen engagement program will employ both Above the Line (mass media tools) and Below the Line (one on one) channels in reaching out to different target audiences while ensuring opportunities for two-way dialogue.

Sub-component 4.2: Implementation Support and Strategic Planning and Program Management Unit (US\$8million)

This sub-component will support the implementation arrangements for the proposed project (KOSAP PCU) including building relevant capacity in KOSAP PCU.

It will also support capacity building activities, for instance related to solar technology, project management, and procurement, environmental and social safeguards for the sector entities, and monitoring and evaluation. As such, funding will be used to cover the investment costs (equipment, software, training, etc.) incurred by ERC to establish a monitoring unit.

This sub-component will support MoEP in the development of a Strategic Planning and Program Management (SPPM) unit with the objective of providing effective coordination and oversight in terms of policy development, strategic planning, and project design and implementation. Creation of such a unit is a recommendation from the NES. The unit will (i) set strategic direction of the sector, including preparation of 5-year investment prospectuses and coordinate donor and GoK funded studies (ii) regularly update sector key performance indicators and be a depository of sector data and studies (ii) coordinate NES implementation, including hosting and updating the geospatial platform. During the course of project

implementation, the host PCUs of donor funded programs, including for KOSAP PCU, are expected to be brought into the SPPM unit.

Sub-component 4.3: Capacity Building of County Governments

This sub-component will support the counties to build and strengthen their capacity to undertake the shared energy mandate (with the national Government) effectively. The counties stand to benefit from the capacity and experience already existing at the Ministry of Energy, ERC, KenGen, KPLC, KETRACO, and REA on the energy functions newly devolved to the counties. The capacity building will therefore prioritize areas like county energy planning including resource mapping, energy regulation, distribution network design and construction; supervising the quality of borehole drilling; project management and financing and development options, generation and distribution system operations and maintenance, the promotion of productive uses of electricity and energy efficient appliances; customer orientation and understanding of consumer rights and responsibilities; and environmental and social management

He further noted that KOSAP will come up with both positive and negative impact which include;

Potential Positive Impacts

- ❖ 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

Potential Adverse Impacts

- ❖ Loss of access resources
- ❖ Loss of Land
- ❖ Limitation of land use
- ❖ Increased risk of exposure to diseases such as HIV/AIDS and other communicable diseases
- ❖ Loss of traditional livelihoods
- ❖ Encroachment on and degradation of land, territory and natural resources
- ❖ Increased marginalization and exclusion of the VMGs

He further noted that KOSAP will be implemented by; Kenya Power and Lighting Company, Rural Electrification Authority and Ministry of Energy and Petroleum. KOSAP is estimated to cost 155 Million USDs.

Questions and comments for the forum.

- What is the definition of REA?
REA means Rural Electrification Authority
- Have the beneficiaries been identified especially for the public facilities?
The identification process of the sites and beneficiaries have not been done.

- How will the Vulnerable and Marginalised Groups benefit from the implementation of KOSAP project e.g tenders?
Special consideration will be given to this groups during the implementation of KOSAP especially during the construction phases where they will secure meaningful employments. More benefits will also be achieved during the operation of the project.
- Was the invitation and participation for the presentation workshop per marginalised counties or marginalised groups?
The groups present are representation of the vulnerable and marginalised groups for the underserved counties.
- Will there be other benefits like setting up of small businesses apart from the solar system?
Such recommendations will be considered during the project design if viable in the sense that they are related with KOSAP

It was noted that there is need to visit all the vulnerable and marginalised groups in these underserved counties

Min/3/15/17-OP.4.10 Indigenous People

Margaret (World Bank) emphasized that the loan given by the World Bank to the Kenyan Government should benefit all people including the Vulnerable and Marginalised. According to the contractual engagement between Kenya Government and the World Bank, views from the Marginalised and Vulnerable Groups should be captured and incorporated. This is captured in World Bank OP 4.10. No project should be implemented that adversely affect the Indigenous People, Vulnerable and Marginalised Groups. If such happens, proper compensation should be done.

A clear definition for the Indigenous People was done in respect to Resource Availability, Self-Identification, Collective Attachment, Customary/ Economic Value and Indigenous Language. She further emphasized that before any project implementation, the bank does screening to assess whether there are any Vulnerable and Marginalised groups in the project area. If any such group exists, Social Assessments are done by the borrower (Government). The Vulnerable and Marginalised groups need to adequately consulted for the purpose of giving their opinion and views concerning the project during organized forums. Social Assessment is geared towards; identifying the positive and negative impacts of the project and understand issues that should be captured in the project design. The main essence of the discussion is to capture views of the Vulnerable and Marginalised groups in the Vulnerable and Marginalised Group Framework (VMGF). The disclosure of the framework will later be done in the agreed mode.

Min/4/15/17-OP.410- Vulnerable and Marginalised Group Framework (VMGF)

Mr Abaya presented the VMGF and emphasized that the VMGF is a requirement for World Bank funded projects of this nature. This will ensure that the Vulnerable and Marginalised groups are cushioned against adverse impacts of the project. The process of developing VGMF entails screening and social assessments. Discussions to enrich and incorporate the views of marginalised groups in VGMF are important to share the information on the project and seek their inputs. He further pointed out the potential impacts of the project include; electricity access; employment opportunities; local material supply; health benefits; benefits on education; improved security,

improved communications. He further enumerated the Adverse impacts include; loss of access to resources; loss of land, limitation of land use, increased risk of exposure to diseases etc.

He further noted that the VMGF should address the Grievance Redress Mechanism. Grievance Redress Committee-wide inclusion. He further noted that the GRM must borrow heavily from customary/existing dispute settlement mechanisms. The Grievance Redress Mechanism should be;

- ❖ Known to all
- ❖ Accessible
- ❖ Without cost
- ❖ With the assurance of a timely and satisfactory resolution of the issue.
- ❖ Prepared through consultations
- ❖ Documented
- ❖ Final Redress of disputes through the Kenyan Courts

Mr. Abaya noted monitoring and evaluation of this project is important to ensure effective communication and consultation are taking place, grievances are resolved, impacts of the project on the VMGs and progress of project implementation are assessed. He further acknowledged that there will be both Internal and external monitoring. The Internal monitoring by KOSAP implementing agency i.e. Project implementing unit (PIU). The PIU will be composed of KPLC staff from key departments involved in the project and other representatives including representatives of the VMG and sub county administrators from county and national government. The external monitoring will be undertaken by WB

Discussions on VGMF (Plenary)

	Participation: A total of 38 participants representing VMGs from Tana River, Kilifi, Lamu, Kwale, Taita Taveta and West Pokot. Of these, there were 15 women. (See list of participants in Annex...)
	Overall comments/views on the project and sub-projects (the components)
g.	<ul style="list-style-type: none"> • Have the project sites been selected? <i>No, which is why we are consulting on the VMGF</i> • Could the project pump water from the river for small scale irrigation by farmers who are far from the river. <i>Since this is related to the project, we will take up as a recommendation for further consultations</i> • When will the project start and what is the timeframe of the project? <i>The project will start soon and it will run for 5 years</i> • How can we be sure that the project will reach the VMGs? <i>Since it will be implemented in the six counties inhabited by the IPs definitely they will benefit</i> • Will the VMGs be represented in the decision-making levels of the project? <i>Yes, at all levels</i> • Will the implementers have the good will to serve the community? <i>Yes, there is a good will of serving the community through KOSAP</i> • How will we know when the project is starting to enable us or our youth apply for jobs?

	<p><i>We will call you, just we have done for this VMGF consultations, to inform you of the start of the project</i></p> <ul style="list-style-type: none"> • When the time comes, do include women in employment opportunities • In case of compensation, ensure you compensate the right person, undertake proper due diligence to confirm ownership of assets • In case of compensation for land, how will this project compensate us (Munyoyaya from Tana River Central) since we don't have titles and our land has not been adjudicated? <p><i>The land act and community land will be followed</i></p> <ul style="list-style-type: none"> • Solar uses battery, how will the batteries be maintained? <p><i>The project will ensure installation/connection fee is affordable. Sustainability costs however will be borne by the household, community or institution as the case may be.</i></p> <ul style="list-style-type: none"> • There will be need for community education/awareness creation. • How will compensation for long-term livelihood investments such as coconut trees be handled to ensure it is adequate, given that coconut is a lifetime livelihood strategy? <p><i>Government compensation rate will be followed</i></p> <p>Some people may not be able to afford installation or connection fee, how will they be helped by the project?</p> <p><i>The KOSAP will take care of it</i></p> <ul style="list-style-type: none"> • There will be need for community education/awareness creation
	Comments/views on positive and negative impacts
h.	<ul style="list-style-type: none"> • The project will have positive impacts e.g. employment creation, provision of raw materials, improved health service delivery etc. • Since independence, we are being targeted for the first time through these WB funded projects (KCDP and KOSAP)
	Proposals for free, prior and informed consultations
i.	<ul style="list-style-type: none"> • Use the approach/process that was used under KCDP for the formation of the relevant consultation, implementation, grievance redress and monitoring institutions. This involves coming to the impacted community to confirm if the existing institutions should be used or if new should be established
	Proposals for institutional arrangements for grievance redress
j.	<ul style="list-style-type: none"> • Use existing community grievance redress institutions such as the elders' system, then community level government institutions such as head man, assistant chief, chief, then higher level government institutions and PIU, then court • For Munyoyaya, use the clan system for grievance redress based on the elder system, with the traditional King as the ultimate arbiter. Anybody who goes to court is cursed.
	Proposals for participation in implementation monitoring
k.	<ul style="list-style-type: none"> • See c and d above
	Proposals for disclosure of documents
l.	<ul style="list-style-type: none"> • Get a representative from each community to receive the reports and share with the community • Bring reports to a central place which is accessible to the community

LIST OF PARTICIPANTS

See next page.

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) FOR UNDERSERVED COUNTIES

Date: 15/3/2017

Venue: North Coast Beach Hotel

VMG Consultative meeting

#	Name	VM Group	Village	County	Phone No.	Signature
1.	BICKSON ROYICH	SENGWER	CHEPROFI	WEST POKOT	0726230888	[Signature]
2.	Elizabeth Kabony	WATHA	BIRIKANI VOI	TANA RIVER	0727890185	[Signature]
3.	Halatu Kambi	WATHA	VOI BIRIKANI	Taita Taveta	0727414588	[Signature]
4.	Pamela Shola	WATHA	VOI BIRIKANI	Taita Taveta	0704276557	[Signature]
5.	Ralia Hassan	munyoyaya	TR/county makutano	TANA RIVER	0712375837	[Signature]
6.	Godwin H. Juma	WATHA	HAMESA	TANA RIVER	0712437244	[Signature]
7.	ISMAIL HALKHO	WATHA	KALALE	TANA RIVER	071246299	[Signature]
8.	JACOB B. DADI	WATHA	BIRIKANI	TANA RIVER	0721244041	[Signature]
9.	SAMON GALALO	WATHA	BIRIKANI	TIT	071621470	[Signature]
10.	NGENYO DEVIHA	WATHA	BIRIKANI	T. RIVER	072702003	[Signature]

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) FOR UNDERSERVED COUNTIES

VMG Consultative meeting

Venue: North Coast Beach Hotel

Date: 15/3/2017

#	Name	VM Group	Village	County	Phone No.	Signature
1.	Abadia Shakwa	WATHA	Birikani	TANA	0706746152	BABA
2.	Mwamin Kombo Boson	WAKIFUNDI	Shimoni	KWAO	0726873521	[Signature]
3.	HASSAN ROPA	WAKIFUNDI	Shimoni	KWAO	0720842773	[Signature]
4.	Hassan Jama Chemia	WAKIFUNDI	Shimoni	KWAO	0705858285	[Signature]
5.	Saddam Hassan	TANA RIVER MUMONYA	Hadhama	TANA RIVER	0722160738	Saba
6.	EVER O TUNTO	SENSUR	KIPIT	W. POKO RIVER	0720901050	[Signature]
7.	FATEH HASSAN SAID	WAILWANA	CHEWELI	TANA RIVER	0724822445	[Signature]
8.	JUMA BAGANA	WAILWANA	NANIGHI	TANA RIVER	0720733559	[Signature]
9.	HADJA NAWARIO GULU	WAILWANA	SALA	TANA RIVER	0728248061	[Signature]
10.	IBRAHIM WARE	WATTA	BILI	TANA RIVER	0724340725	[Signature]

KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) FOR UNDERSERVED COUNTIES

VMG Consultative meeting **Venue:** North Coast Beach Hotel **Date:** 15/3/2017

#	Name	VM Group	Village	County	Phone No.	Signature
1.	ITAKIMA I. JUKSD	MUTHYATA	MORORO	I/RIVER	0729771413	[Signature]
2.	GARBO WARIO SILE	MUTHYATA	SOMBO	I/RIVER	072772824	[Signature]
3.	ABNALA N. BABABA	WATIA	HAMESA VILL. HOLE (R. COUNTY)	I/RIVER	-	[Signature]
4.	MWARIBOJE F. MURLAGO	KIFUNDI	CHAGICAT	KWALE	0701797474	[Signature]
5.	SALID YUSUF AGI	SANYE	SHEKALE	LAMU	0703433230	[Signature]
6.	ALI MOHAMED	SANYE	DAE	LAMU	07121017589	[Signature]
7.	MUHAMMED NOKLU	KISTIFUNDI	AMZU ADU	KWALE	0717449821	[Signature]
8.	ABDUC HAMISI				0780159315	[Signature]
9.	MWANAKOMBO KUFAN	SI:	SHIMONI		-	[Signature]
10.	FATIUMA KICOLE	WATITA	HOLA	T-RIVER	071181144	[Signature]



KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP) FOR UNDERSERVED COUNTIES

VMG Consultative meeting **Venue:** North Coast Beach Hotel **Date:** 15/3/2017

#	Name	VM Group	Village	County	Phone No.	Signature
1.	FATUMA HASOYA ABDI	WAILWANA	CHWABE HOLA	TANA RIVER	0726914112	FHM
2.	SOFIA & IGU	WAILWANA	HOLA	TANA RIVER	0725914160	SE
3.	Kambi Codang	WATHA	GEDI	KILIFI	0711383733	SKA
4.	STEPHEN S. SARA	WATHA	GEDI	KILIFI	0721750574	SP
5.	RACHEAL H. GUYO	WATHA	GEDI	KILIFI	0718156271	RE
6.	NELSON BASTORA SIDI	WATHA	GEDI	KILIFI	0727954560	SK
7.	Grodana Amari Galyab	WATHA	GEDI	KILIFI	0729699129	AM
8.	Geoffrey Guyo Maswani	WATHA	GEDI	KILIFI	0701880713	GM
9.						
10.						

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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.