

**Report No. 143688-KE**

# **THE INSPECTION PANEL**

## **SECOND REPORT AND RECOMMENDATION ON A REQUEST FOR INSPECTION**

### **KENYA**

#### **TRANSPORT SECTOR SUPPORT PROJECT (P124109) AND ITS ADDITIONAL FINANCING (P146630)**

**NOVEMBER 19, 2019**



**THE WORLD BANK**  
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**The Inspection Panel**  
**Second Report and Recommendation**  
**on a**  
**Request for Inspection**  
**Kenya: Transport Sector Support Project (P124109) and its Additional Financing**  
**(P146630)**

**A. Introduction and background**

1. On December 17, 2018, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) from three members of the project-affected community (the “Requesters”) raising concerns about potential harm from activities financed under the Transport Sector Support Project and its Additional Financing (the “Project”) in Kenya. The Requesters alleged harm from the Webuye interchange construction, which is part of the Webuye-Kitale road works financed by the Project.<sup>1</sup> The Requesters asked the Panel to keep their identities confidential.

2. The Transport Sector Support Project was approved on April 21, 2011, in an amount of US\$300 million equivalent. The Additional Financing was approved on March 26, 2014, in an amount of US\$203.50 million equivalent, and became effective on June 20, 2014.<sup>2</sup> Among the Project’s development objectives is increasing “*the efficiency of road transport along the Northern Corridor and the Tanzania-Kenya-Sudan road corridor.*”<sup>3</sup>

3. The Request raises concerns about the environment, community health and safety, livelihoods and labor conditions, as well as a lack of consultation and information disclosure. Some of the alleged impacts relate to the construction phase of the Webuye interchange, while others are of a longer-term nature.

4. The Panel registered the Request on January 17, 2019, and notified the Board of Executive Directors (the “Board”) and Bank Management. Management submitted its Response on February 19, 2019. Management’s Response stated that most of the issues raised in the Request had been resolved since much of the impact was linked to construction and was temporary.<sup>4</sup> Management added that following the submission of the Request it met with community members in January 2019 to discuss their concerns.<sup>5</sup> Newly identified issues were incorporated into a February 2018 Action Plan, which was a result of discussions between the community and the Kenya National Highways Authority (KeNHA) in January 2018. The February 2018 Action Plan remained under

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<sup>1</sup> On March 19, 2019, the Panel received a list of over 70 community members, with signatures, in support of the Request.

<sup>2</sup> World Bank, Management Response to Request for Inspection Panel Review of the Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630), dated February 19, 2019 (the “Management Response”), pp. 1-2, paras. 5-6.

<sup>3</sup> Management Response, p. 2, para. 7.

<sup>4</sup> Management Response, p. vi, paras. vii and viii.

<sup>5</sup> Management Response, p. 11, para. 27.

implementation with most of actions completed, according to the Response.<sup>6</sup> Management committed to its full implementation by March 31, 2019.<sup>7</sup>

5. The Panel determined in its first eligibility report that Request and Requesters met the technical criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification.<sup>8</sup> The Panel noted the willingness of Management and the Borrower to address concerns raised by the community.<sup>9</sup> Concerning the impact on livelihoods, Management informed the Panel that the terms of reference of a Resettlement Action Plan (RAP) Audit were expanded to include identification of mobile traders who were active in the area by the January 2011 cutoff date and business persons who were not appropriately compensated for business disruption.<sup>10</sup> In conclusion, the Panel noted that the February 2018 Action Plan and the expansion of the terms of reference of the RAP Audit, when fully implemented, would address many of the remaining concerns of the community. Based on this, the Panel deferred for six months, until October 2019, its recommendation as to whether an investigation into the Bank's actions or omissions was necessary. On April 5, 2019, the Board approved the Panel's recommendation.<sup>11</sup>

## **B. Developments Since the Panel's First Report and Recommendation**

6. **Management's Update.** On October 1, 2019, Management provided the Panel with an update on its actions. The document was supplemented on October 6, 2019, with information the Panel requested (the "Update" or "Management's Update").<sup>12</sup> Management's Update, attached as Annex 1 to this report, contains the implementation status of the February 2018 Action Plan, an update on the additional actions related to the RAP Audit, and 24 pictures documenting the interchange and its surroundings. The Update also includes a description of the next steps in the implementation of pending actions.

7. **Safe Crossing, Street Lights, Access Point, Drainage.** Management stated it supervised the implementation of the actions agreed with the Borrower.<sup>13</sup> It indicated that most of the impact raised in the Request ceased with completion of construction.<sup>14</sup> It listed several works as completed, including: (i) provision of safe pedestrian access at various crossing points along the interchange and installation of safety measures; (ii) provision of permanent security lights and an additional flood light; (iii) provision of access to homes or businesses; (iv) completion of drainage to manage storm water near the interchange; (v) leveling of the road reserve adjacent to the carriageway; (vi) construction of toilet block/sanitary facilities and a borehole at the interchange;

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<sup>6</sup> Management Response, p. vi, para. xi.

<sup>7</sup> Management Response, p. 22, para. 58.

<sup>8</sup> Report and Recommendation on a Request for Inspection, Kenya: Transport Sector Support Project (P124109) and its Additional Financing (P146630), the Inspection Panel, March 22, 2019 (the "Panel Eligibility Report").

<sup>9</sup> Panel Eligibility Report, p. 11, para. 50, and p. 16, para. 80.

<sup>10</sup> Panel Eligibility Report, pp. 16-17, para. 80, and Management Response, Annex III.

<sup>11</sup> Panel Eligibility Report, p. 17, para. 84.

<sup>12</sup> World Bank, Kenya Transport Sector Support Project (P124109) and its Additional Financing (P146630), Update on Management Actions, dated September 30, 2019 ("Management's Update").

<sup>13</sup> Management's Update, p. 1, para. 2.

<sup>14</sup> Management's Update, p. 1, para. 3.

and (vii) provision of a water kiosk at the interchange.<sup>15</sup> The last two activities mainly benefit mobile traders.

8. **Compensation for Lost Income.** The RAP Audit determined that 52 mobile traders and 13 small-business persons were not counted and compensated during RAP implementation.<sup>16</sup> The Update contains a table with corrective actions, which Management committed to discuss with the Borrower, for adoption and implementation.<sup>17</sup>

9. The Update acknowledged that two main aspects remain outstanding or ongoing to compensate mobile traders and small-business persons. First, securing a plot near the interchange to construct a market place for use by mobile traders, including women traders.<sup>18</sup> On October 1, 2019, Management shared with the Panel information confirming that the Bungoma County Department of Lands had made available a land parcel for construction of a market for mobile traders at the Webuye interchange.<sup>19</sup>

10. The Update specified that the RAP Audit process started on February 11, 2019, entailed consultations with project-affected persons (PAPs) and key stakeholders – such as representatives of the county and national governments and local non-governmental organizations – and satellite imagery from 2010 and 2011 to establish the presence of mobile traders at the Webuye interchange at that time.<sup>20</sup>

11. The actions remaining to be completed in this context, according to the Update, include the development of the market. As planned, within four months KeNHA would finance the work, design and construction of the market. Within four months after construction is completed, the Bungoma County Government would allocate space, a stall or a kiosk to each eligible mobile trader free of charge for at least one to two years. Following that, mobile traders who wish to continue trading at the market would apply for space in accordance with country government procedures. Immediately after relocation of mobile traders to the new market site, the Bungoma County Government will be required to enforce bylaws so that no mobile traders will be allowed to trade in the road reserves.<sup>21</sup>

12. Second, the finalization of the RAP Audit recommendations is ongoing, especially as the recommendations pertain to the compensation to business persons. According to the Update, a draft final report of the Audit was submitted to the Bank, which it shared with KeNHA for comment. The Government of Kenya is expected to adopt the final report by November 2019.<sup>22</sup>

13. According to the Update, the RAP Audit used revenue collection from affected small businesses as one of the primary data sources. Focus group discussions were held with several

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<sup>15</sup> Management's Update, pp. 1-3, paras. 3-4.

<sup>16</sup> Management's Update, p. 5, para. 7(vi).

<sup>17</sup> Management's Update, p. 6, para. 8.

<sup>18</sup> Management's Update, p. 2, para. 3.

<sup>19</sup> Communication dated October 1, 2019.

<sup>20</sup> Management's Update, pp. 3-4, para. 6(i) and (ii).

<sup>21</sup> Management's Update, p. 6, para. 8, Corrective Action Plan/Issues, Issue No. 1.

<sup>22</sup> Management's Update, p. 2, para. 4.

affected businesses to establish, among other things, how the project affected them. Sample data sheets were obtained containing the revenue data collected in 2010.<sup>23</sup>

14. The Update indicates that within four months after the adoption of the RAP Audit report by the Government of Kenya, KeNHA will compensate the identified small-business persons for loss of income and relocation costs. An average figure of three months of net income of similar small businesses is recommended, according to the Update.<sup>24</sup>

15. **Continuous Community and Stakeholder Engagement.** The Update acknowledged the importance of continued stakeholder engagement. In addition to mobile traders and small-business persons, the RAP Audit consultation included officials from Bungoma County, the national government and civil society organizations. The RAP Audit verification process included the area chief, the Grievance Redress Committee, the Dinah Market Committee, KeNHA, the supervising engineer, the contractor and the consultant team members.

16. **Requesters' Update.** For the purposes of this report, the Panel team contacted the Requesters, a mobile trader and three business persons to gather their feedback.

17. **Safe Crossing and Street Lights.** The Requesters expressed to the Panel some concern about safety of the crossings at each end of the overpass. Other affected community members considered that the crossing points generally provide safer crossing than before the construction. Community members pointed out to the Panel that some street lights were no longer working.

18. **Access Points and Drainage.** The Requesters expressed their dissatisfaction with various access points from the roadway. They recognized that additional access points were constructed but they shared with the Panel a picture showing concrete blocks installed along the highway and a set of stairs between the elevated road and the slab leading to a house. This design appears to make it difficult for vehicles to access homes, businesses or, at a particular point, a side alley. Additionally, the Requesters expressed concern about the design and capacity of the drainage system to absorb rainfall. They stated that in some instances the drainage system is getting overwhelmed and that water is not flowing well and is flooding nearby structures. A community member stated that the pipes carrying water from the bridge to the road are dislocated and water is flowing where it should not.

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<sup>23</sup> Management's Update, p. 4, para. 6(iii) and (iv).

<sup>24</sup> Management's Update, p. 6, para. 8, Corrective Action Plan/Issues, Issue No. 2.



19. **Compensation for Lost Income and Stakeholder Engagement.** The Panel reached out to a mobile trader listed in the RAP Audit and inquired about the consultation process conducted in early July 2019. The mobile trader explained the process and recounted the questions each mobile trader was asked. Questions included the period of trading, the type of trade and the listing of neighbors. The Panel also inquired with the mobile trader whether they were informed of the outcome from the RAP Audit and whether they believe the provision of space, stalls or kiosks rent-free for a period of a year or two in the to-be-constructed market constitutes fair and adequate compensation. The mobile trader said the group of mobile traders had not been informed of the outcome but believed they would be satisfied with such an outcome, should it materialize.

20. Additionally, the Panel had the opportunity to confer with a business owner and two business tenants separately. The two business tenants are listed among the 13 business persons missed during RAP implementation. One of the two said the process was transparent but neither were happy with the methodology of the RAP Audit. The business owner explained that they were not adequately informed of the timing of the consultation process.

21. The Panel explained to the three the methodology laid out in the RAP Audit and the possibility for the 13 previously missed business persons to receive an average of three months' net income for similar businesses as well as relocation assistance. They expressed concern with the calculation based on an average. They stated that they were not given time to calculate their profit. One stated that he was not asked to provide a figure representing the net profit. Another, when informed she would receive 20,000 Kenya shillings in compensation representing three

months of average income, said she had earned an average of 40,000 shillings as monthly net profit prior to losing her business.

### **C. Panel Observations**

22. For this report the Panel team contacted the Requesters, PAPs, the Bank team and the consultant that conducted the RAP Audit. The Panel notes good progress in the implementation of the previously agreed upon actions to address the Requesters' concerns. The Panel notes that much of the impact has dissipated.

23. **Safe Crossing and Street Lights.** The Panel further notes Management's Update stating some road signs were vandalized soon after installation and that vandalized road signs were replaced. The Panel also observes that, as stated in the Update, new lighting at the Webuye interchange has enhanced security. The Panel considers non-working street lights to be a maintenance issue in need of attention by the relevant authority.

24. **Access Points and Drainage.** The Panel takes note that 18 access points were built beyond the agreed scope of work. Based on the picture received, the Panel concurs that the design appears to make it difficult for vehicles to access homes, businesses or side alleys. The Panel team inquired with Management as to whether community members had raised any concerns about the drainage. Management stated it was not informed of structural problems. It stated the county was expected to maintain the drainage system and added that an upcoming supervision mission would verify this and other aspects of the works.

25. **Quarry Road.** Management's Update did not contain specific information relating to the status of a road leading to the quarry used for the project. Concerns about this road were reported to the Panel, as indicated in its first eligibility report. Following an inquiry by the Panel in early October 2019, Management provided information indicating that the Nabuyore quarry – which is approximately 1.5 kilometers from the Webuye interchange – was still in use. According to Management, the access road to the quarry is to “earth standards” and also is still being used. The contract for the quarry is expected to be fully completed by December 19, 2019. According to Management, there is an agreement with the agency in charge of rural roads to rehabilitate the access road once work is done. Management clarified that the quarry will be also restored as per the Project Environmental and Social Management Plan.<sup>25</sup>

26. **Compensation for Lost Income.** The Panel notes the progress achieved through the RAP Audit including the identification of 65 previously missed PAPs (52 mobile traders and 13 business persons). The Panel also notes that a clear plan is in place to provide compensation to mobile traders in the form of a one to two-year rent-free space, stalls or kiosks in a new market to be constructed.

27. This plan also includes the provision of three months of net income for the identified small-business persons as compensation for lost income and relocation costs. The amount is calculated based on the average of three months of net income of similar small businesses. The highest

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<sup>25</sup> Communication dated October 4, 2019.



monthly average income among the 13 affected business persons was considered adequate by the RAP consultant.

28. As indicated in Management's Update, the securing of land for the construction of a market with free space for a limited period of time as a compensation measure for the mobile traders is under way but requires more time. The compensation measures for small-business persons are also yet to be finalized and disclosed to them.

29. **Continuous Community and Stakeholder Engagement.** The Panel notes Management's commitment to continue engagement with the mobile traders and the Bungoma County Government during the implementation of the RAP Audit's recommendations. Management informed the Panel that a disclosure meeting with the small-business persons to inform them of the results of the RAP Audit is being planned.

#### **D. Recommendation**

30. The Panel has reviewed the progress achieved so far in the implementation of the various actions to which Management has committed. The Panel is satisfied that these actions are on track, including notably with regards to redress for the mobile traders. The Panel understands, however, that the land transfer for the market, the disclosure of the RAP Audit results and compensation related to the mobile traders and small-business persons have not yet been finalized and will require additional time for completion.

31. In light of the foregoing and taking into account paragraph 5 of the 1999 Clarifications,<sup>26</sup> the Panel is recommending a second deferral of its recommendation and will report back to the Board within four months from the date of this report after assessing the progress in the implementation of the remaining actions. At that time, it will make a recommendation as to whether an investigation into the Bank's actions or omissions is warranted.

32. If the Board of Executive Directors concurs with the foregoing, the Inspection Panel will advise the Requesters and Management accordingly.

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<sup>26</sup> The 1999 Clarifications, para. 5, provides that "the Inspection Panel will satisfy itself as to whether the Bank's compliance or evidence of intention to comply is adequate, and reflect this assessment in its reporting to the Board."



# **ANNEX I**

## **UPDATE ON MANAGEMENT ACTIONS**



## KENYA

### TRANSPORT SECTOR SUPPORT PROJECT (P124109) AND ITS ADDITIONAL FINANCING (P146630)

#### UPDATE ON MANAGEMENT ACTIONS

September 30, 2019

1. Management is providing this update to its [Response](#) to the Request for Inspection to inform the Board and Panel of the most recent developments regarding the actions to which Bank Management committed in its Response (paragraphs 59-60).
2. Management has supervised the implementation of the actions agreed closely with the Borrower. The Task Team, including safeguard team members, intensified supervision of the project with specific attention to contracts with incomplete works, such as the Webuye Interchange, by fielding site visits each month from January through June 2019 and again in August 2019. The Transport Global Practice Manager and Program Leader also visited the Webuye Interchange in January, February and March 2019.

#### A. Status of Webuye Action Plan Items

3. Most of the impacts raised in the Request ceased with completion of works or were being addressed through the Webuye Interchange Action Plan that was already in place prior to the Request. Outstanding items at the time of the Request and their current status are discussed below. Annex 1 provides the status of all the actions in more detail.

##### Construction Works

- **Completed** - Provision of permanent security lights around the interchange.
- **Completed** - Completion of drainage to manage storm water near the interchange.
- **Completed/Additional** - Provision of access to homes / business premises (slabs across drainage): new demands from the community continued to be received beyond the scope of works and project area; eighteen (18) such requests were reviewed and approved by the Resident Engineer and Kenya National Highways Authority (KeNHA) on a case-by-case basis and the access was provided.
- **Completed** - Preference was to be given to local community members for employment. By February 2019, the Contractor had 125 Kenyan employees of which 94 (75 percent) were from Webuye town and surrounding areas.

##### Pedestrian Safety

- **Completed** - Provision of safe pedestrian access at various crossing points along the interchange, and installation of other safety measures. Some road signs were vandalized soon after installation; the vandalized road signs have been replaced.

### Mobile Traders

- **Completed** - Construction of toilet block/sanitary facilities at the interchange.
- **Completed** - Provision of water kiosk at the interchange.
- **Outstanding** - Management is working with KeNHA to reassess the availability of a small plot near the interchange to establish a market place for use by mobile traders including women traders. Following a letter sent by Management on April 25, 2019 on this matter, the County of Bungoma replied on May 2, 2019, stating that it would make available a small plot within the vicinity of the Webuye Interchange. The County Government has yet to provide the land it promised and has been encouraged by Management and the Borrower to fast track the process. Land acquisition is a protracted process in Kenya and Management understands that the land is to be made available by end September 2019.

### Stakeholder Engagement

- **Ongoing** - Support for continuous stakeholder engagement. The construction of the Webuye Interchange is completed and has been handed over to KeNHA. However, it is noted that there will be continuous engagement with the mobile traders and the County Government of Bungoma, during the implementation of the recommendations of the Resettlement Action Plan (RAP) audit.

## B. Status of Additional Actions

4. In response to the Request for Inspection, the Bank met the Webuye Interchange community and the Requesters on January 23 and 24, 2019 to discuss additional, time-bound items, which were included in the Action Plan, such as additional flood lights and a borehole. KeNHA, the supervision consultant, the contractor and the community have worked to ensure implementation of the agreed action plan. The status of these items is as follows:

- **Completed** - Erecting of an additional flood light at the turnoff to Webuye town 500m from the Interchange on the Webuye-Kitale road (A1). Handed over to the County of Bungoma for management.
- **Completed** – Provision of a borehole at Webuye Interchange. Handed over to the County of Bungoma for management.
- **Ongoing** - Carrying out a RAP audit. A consultant to carry out the RAP audit was engaged and has submitted a Draft Final Report to the Bank. The Bank has shared the report with KeNHA for comments. KeNHA was involved in finalizing the methodology and collecting data in the field; it also provided comments on the initial draft report. The final report is expected by October 2019. The Government of Kenya is expected to adopt the report by November 2019.

The RAP audit is discussed in more detail in paragraphs 6-8 below.

- **Completed** - Enhanced road safety awareness through sensitization campaigns targeting schools.

- **Not undertaken** - Repair of two structures allegedly cracked due to vibrations from construction - KeNHA together with the consultant and the contractor carried out an assessment of the cracks. The assessment of the cracks showed that they were not caused by road construction activities. Furthermore, the consultant and contractor indicated that no complaints on cracking of houses was reported at the time when works were going on. In view of the above, the cracks have not been repaired.
- **Completed** - Leveling of the road reserve adjacent to the carriageway.
- **No longer applicable** - Restoration of land use at contractor sub-camp. The Contractor commenced decommissioning the camp and removed the equipment and waste materials from the site as required under the Environmental and Social Management Plan (ESMP). During the decommissioning process the land owner and his family wrote to the Contractor on February 28, 2019 requesting that the camp and some materials be left intact for use of the site as commercial land, including temporary structures, water and power connections, and materials for construction. On March 2, 2019, the land owner signed a legal agreement with the contractor, which was witnessed by an Advocate & Commissioner for Oaths and others, including a member of the owner's family; and he took responsibility for the land based on the requests he submitted to the Contractor. The land owner has since commenced some construction work on the property.

5. Representative photos of the various actions taken are provided in Annex 3 to this document.

6. **RAP audit.** The Request for Inspection included claims that some mobile traders were left out of the resettlement process as well as allegations that some small business traders suffered loss of income during the construction of the Webuye interchange. As part of the Response to the Request, Management requested that a RAP audit be carried out to ensure that all affected parties were appropriately identified in the 2011 RAP and compensated per Bank policy requirements. The RAP audit process started on February 11, 2019. The methodology used for the audit entailed accessing both primary and secondary sources of data and included the following:

- **Primary data sources:**

- (i) **Consultations with project-affected persons (PAPs) and key stakeholders:** Consultations were carried out with the County Government, National Government, Project Affected Communities (PACs), local nongovernmental organizations and PAPs, especially focusing on the affected people, businesses and mobile traders operating at the Webuye Interchange and those PAPs whose names appeared on the list of complainants. At government level, the audit team visited Bungoma County and held discussions with County Government and National Government officials both in Bungoma and Webuye towns. The list of officers and organizations met is in Annex 2.
- (ii) **Evaluation of satellite imagery data of the project area:** The verification process involved the use of satellite imagery over a period of time to determine transitions at the Webuye Interchange area of the A1/A104 Eldoret-Malaba Road and A1 Kitale-Kakamega Road. This imagery provided information on how the area looked before and after the construction of the Webuye Interchange. Satellite images from 2010 and 2011 were obtained for the purposes of establishing the existence or

otherwise of mobile traders at the Webuye Interchange. The evaluation further considered four satellite images sourced from Google Earth over a time series from 2010 to 2014, as well as aerial images taken by Ramani Geosystems Kenya in May and July 2010.

- (iii) *Verification of compensation amounts paid:* The lumpsum amounts/data relating to land compensation was reviewed. The breakdown of the items in the lumpsum amount of compensation was not provided by the National Land Commission, which was in the process of changing Commissioners during the audit period.
- (iv) *Audit of revenue collection from affected businesses:* Focus group discussions were held with several affected business people to establish how the project affected their businesses and how mobile traders interacted with the Bungoma County Government in terms of revenue collection before and during the construction period. Sample data sheets were obtained containing the revenue data collected in 2010 by the then Bungoma Municipality now under the County of Bungoma.
- (v) *Verification interviews with complainants:* A list of complaints was compiled from grievances submitted by local nongovernmental organizations through the Grievance Committee at Webuye Interchange and through letters of complaint received by KeNHA. This list included names of affected mobile and small-scale traders. A verification committee comprising key stakeholders (see Annex 2 for list) planned and executed a verification exercise that was conducted from July 1 to July 3, 2019 at the Minata Hotel near Webuye Interchange.

The verification covered, among others, names of the complainants; the type of business the complainants were carrying out; the year when these traders started carrying out their businesses at the former Webuye Junction (now Webuye Interchange); their estimated daily income in 2010/2011 and current income; the names of the immediate neighbors of the traders; their opinions regarding the impacts of the Webuye Interchange; and the exact position where they were carrying out their businesses.

Over the three-day period, 121 complainants were interviewed on an individual basis and/or visited. After being shown the project area on a satellite image map, affected people were given an opportunity to indicate the location where they claimed to have carried out their businesses in 2010.

Where necessary, a committee member who spoke the local language and was familiar with the Webuye Interchange area provided guidance. The complainants were also interviewed by an enumerator to obtain post-resettlement household-level socio-economic data.





Mobile trader pinpointing her locations before and after construction of the Webuye Interchange commenced

- **Secondary data sources:** The main reports that were provided by KeNHA and reviewed by the consultant included: (a) the original and updated RAP (2011 and 2013 respectively) for the Webuye-Kitale Road; (b) the Inspection Panel Report; (c) the 2018 RAP Implementation Completion Report for Webuye-Kitale road; (d) the Environmental and Social Impact Assessment (ESIA) Report of 2011 for Webuye-Kitale road; and (e) the RAP valuation and compensation reports, 2013.

7. **The RAP audit outcome.** The following are the main findings:

- (i) The lighting provided at the Webuye Interchange enhanced security and the traders are able to conduct business up to 8:00 pm. This has promoted businesses and incomes.
- (ii) KeNHA has provided a modern toilet together with a borehole to supply water to the facility as requested by the Dinah Market community.
- (iii) When issues arose during construction of the Webuye Interchange, KeNHA was quick to call for a consultation meeting with the community in February 2018. KeNHA set up a specific Grievance Redress Committee (GRC) for the Webuye Interchange following the consultation.
- (iv) Whereas a number of traders lamented the disruption of business due to the construction of the interchange, community members are happy that the number of accidents has significantly decreased.
- (v) The community expressed satisfaction that the Contractor was able to offer job opportunities to 94 residents from Webuye town and surrounding areas to work at Webuye interchange.
- (vi) There were 52 mobile traders who were missed in the RAP and thus not compensated during RAP implementation. Also missed and not compensated were 13 small business traders (tenants).

## Next Steps

8. The RAP audit consultant has recommended the actions tabulated below. Management will discuss them with the Borrower for adoption and implementation. Success of implementation of the key recommendations hinges on the County of Bungoma providing land within a reasonable period of time.

No.	Issue	Corrective Action Plan/Issues	Time Frame
1	Relocation of the remaining 52 Mobile Traders from the Webuye Interchange Area	<ul style="list-style-type: none"> <li>Bungoma County Government to identify a suitable plot close to the Webuye Interchange for the development of an appropriate market stalls (closed + open shops).</li> </ul>	<ul style="list-style-type: none"> <li>Suitable plot(s) identified and negotiation ongoing. The Bungoma County Government has yet to provide the land it promised and has been encouraged by Bank Management and the State Department of Infrastructure to fast track the process of making land available. The land is anticipated to be available by end-September 2019. The process of land acquisition in Kenya is lengthy.</li> </ul>
		<ul style="list-style-type: none"> <li>KeNHA will provide funds and work with the County Government to design, construct and provide entrance to the market</li> </ul>	<ul style="list-style-type: none"> <li>Within 4 months after land is made available</li> </ul>
		<ul style="list-style-type: none"> <li>Bungoma County Government to allocate space/stall/kiosk to the eligible mobile traders for at least one to two years at no charge. Thereafter the respective mobile traders if interested in continuing with trading at this location will apply for the space in accordance with procedures of the County Government of Bungoma.</li> </ul>	<ul style="list-style-type: none"> <li>Within 4 months upon completing construction of the market.</li> </ul>
		<ul style="list-style-type: none"> <li>Bungoma County Government Bungoma will be required to enforce bylaws so that no mobile traders will be allowed in the road reserves after the construction of the modern market and relocation of the traders.</li> </ul>	<ul style="list-style-type: none"> <li>Immediately after relocation of mobile traders to the new market site.</li> </ul>
2	Compensation of 13 Small Business Traders	KeNHA to compensate the Small Business Traders for loss of income and relocation cost (disturbance allowance). An average figure of three months of net income of similar small businesses is recommended.	<ul style="list-style-type: none"> <li>Within 4 months from the adoption of the RAP audit report by the Government of Kenya.</li> </ul>

**Annex 1**  
**Webuye Interchange Action Plan (as at September 19, 2019)**

No	Issue	Action	Responsibility	Agreed Timeline	Status as at September 19, 2019
1	No security lights provided – area around the interchange is not lit during the night.	(a) Provide temporary security lights to improve lighting and security at Webuye interchange location during construction; and (b) Install permanent security lights in the form of street lighting and flood lights upon completion of construction works.	Contractor	(a) March 30, 2018	Completed
				(b) August 2018	Completed. Handed over to the Bungoma County Government for management.
2	Poor drainage – flooding from storm water on certain sections near the interchange.	KeNHA to construct drains to improve the drainage.	KeNHA	March 15, 2018	Completed.
		Contractor to complete construction of storm water drains.		June 30, 2018	Completed.
3	Inadequate pedestrian access across the retaining walls/crossing points through construction of an underground tunnel across the bridge structure.	(a) During construction: Temporary crossing signs and bumps to be provided. (b) After completion: Alternative crossing points to be provided for within the existing design to enable safe crossing. These include four crossing points, two at the roundabout and two at either end of the interchange. Also, humps and zebra crossings will be provided at the four points as speed calming measures. Request by the community for tunnel cross through the bridge was deemed unsafe.	KeNHA RE / Contractor	(a) March 15, 2018	Completed.
				(b) March 2019	Completed. However, some of the road signs were vandalized and the matter was brought to the attention of KeNHA, Bungoma County Government and the National Transport and Safety Authority (NTSA). Vandalism of road signs is a national problem that is being addressed at the national level.

No	Issue	Action	Responsibility	Agreed Timeline	Status as at September 19, 2019
					The vandalized road signs have been replaced.
4	Support to business at the interchange.	Construction of a market at Webuye was not provided for in the contract. Moreover, there is no land near the interchange for construction of a market (see Note 1).  It was agreed therefore that;  (a) The contractor shall level the ground surface where the women traders placed their wares; and (b) County Government to provide alternative place for women traders away from the road reserve.	KeNHA/ RE / Contractor	(a) January 31, 2019	(a) Completed.
			County Government of Bungoma	(b) March 30, 2019	(b) The Bungoma County Government has yet to provide the land it promised and has been encouraged by Bank Management and the State Department of Infrastructure to fast track the process of making land available. The land is anticipated to be made available by end-September 2019.
5	Lack of Communication and Liaison Persons between the Community and KeNHA.	Form a GRC and appoint a GRC Chairperson. KeNHA assigned the RE as KeNHA's representative.	GRC/ Community RE/Contractor	Feb 20, 2018	Completed.
6	Dust emissions (see Note 2)	To monitor dust emission levels and continuously water as appropriate.	Contractor/RE	Continuous	Completed.
7	Provision of access to homes / business premises.	Construction of access slabs over culverts.	Contractor/RE	March 15, 2018	Completed. In addition, 18 new requests were approved by KeNHA and access was provided.
8	Poor hygiene and sanitation - Fill materials that were stored next to the interchange that was encouraging unhygienic practices was removed/ levelled.	Removal of barriers that were encouraging unhygienic toilet practices by the local community members.	Contractor	May 31, 2018	Completed.

*Update on Management Actions*

No	Issue	Action	Responsibility	Agreed Timeline	Status as at September 19, 2019
9	Local Employment – request by local community members for employment opportunities.	Employment of local community members would be given preference.	GRC/ Contractor/RE	Continuous	Completed.
10	Concerns that project would close on December 31, 2018 before Water Kiosk and Toilet Block were constructed created anxiety (see Note 4).	Reassurance that there is adequate time to complete the social amenities that were requested and agreed with the community.	RE/Social Safeguards Expert / GRC	January 14-18, 2019	Completed.
11	No toilet/sanitary facilities at the interchange.	To construct Public Toilet Block as part of corporate social responsibility provided the County Government makes available land without any encumbrances.	County Government/ Community/ KeNHA/RE/Contractor	Feb 28, 2019	Completed. Construction of the public toilet block is complete. Drilling of the borehole and construction of the elevated water tank is also complete. These facilities have officially been handed over to the Bungoma County Government for management.
12	No water available for traders at the interchange.	To set up Water Kiosk as part of community social responsibility provided the County Government makes available land without any encumbrances.	Contractor/ Community/ RE/KeNHA	Feb 28, 2019	Completed. The facility has been handed over to the Bungoma County Government for management.
13	Continuous Stakeholder Engagement Meetings.	Stakeholders to have access to contract information and engagement with the supervision consultant through liaison persons	Community/ RE/Contractor	Immediate	Completed.
14	Drilling of Borehole at Webuye Interchange.	To drill borehole and supply water to the public toilet and the water kiosk to mitigate scarcity in the main water supply system as requested by the Webuye Interchange Community.	Contractor / Community / Resident Engineer / KeNHA	April 25, 2019	Completed. Handed over to the County of Bungoma for management.

No	Issue	Action	Responsibility	Agreed Timeline	Status as at September 19, 2019
15	Installation of additional high mast streetlight.	To install one additional 30m high mast streetlight at km 0+760 (RHS of A1 Road) as per the request of Webuye Interchange Community.	Contractor / Community / Resident Engineer / KeNHA	April 30, 2019	Completed.
16	Enhancing road safety awareness within the vicinity of the Webuye interchange.	Carry out a sensitization campaign on road safety targeting road users around Webuye interchange including schools.	Resident Engineer	February 20 - May 2, 2019	Completed.
17	Possibility of loss of livelihood by mobile traders and small businesses.	Carrying out of a Resettlement Action Plan (RAP) audit for Webuye interchange.	World Bank	August 26, 2019	A consultant to carry out the RAP audit was engaged and has submitted to the Bank a Draft Final report. The Bank has shared the report with KeNHA for comments. The final report is expected by October 2019. The Government of Kenya is expected to adopt the report by November 2019.

## Notes:

1. The request for construction of a market and/or market stalls by the traders was mainly to cater for the women traders. It is important to note that these women traders moved in to the project area after the cut-off date and hence were not included in the RAP. Other traders were captured in the RAP and market stalls were provided.
2. The project area receives heavy rains throughout the year except between December and February.
3. Construction of an interchange requires mainly skilled personnel (carpenters, masons; etc.) who could not be found in the local community.
4. This concern was raised later in June 2018 when it became apparent to the community that the project was closing in December 2018.

**Annex 2**  
**RAP Audit Team Lists**

**List 1: Key Stakeholders and Organizations Consulted by the RAP Audit Team**

**County of Bungoma Officials**

1. The Deputy County Secretary - Bungoma Town, Bungoma County;
2. The Director of Finance - Bungoma County, Bungoma Town;
3. Webuye West Sub-County Administrator - Webuye Town;
4. Webuye West Sub-County Revenue Officer - Webuye Town; and
5. Webuye East Sub-County Revenue Officer - Webuye Town.

**National Government Officials**

6. Deputy County Commissioner of Bungoma Sub-County - Bungoma Town;
7. Deputy County Commissioner of Webuye West Sub-County - Webuye Town;
8. Senior Assistant County Commissioner of Webuye West Ward;
9. Commission on Administration of Justice (CAJ) - Bungoma Town;
10. Kenya National Commission on Human Rights (KNCHR) - Kitale Town; and
11. National Land Commission (NLC) office in Bungoma

**Civil Society Organizations**



12. Aids Orphans Education Trust (AOET) - Webuye Town; and
13. Emonyo Yefwe - Webuye Town.

**List 2 : Organizations and Officers on the Verification Committee**

1. Deputy County Commissioner of Webuye West Sub-County - National Government;
2. Webuye West Sub-County Administrator - County Government;
3. Area Chief - National Government;
4. Kenya National Commission on Human Rights (KNHCR) - Kitale;
5. Emonyo Yefwe - NGO in Webuye Town;
6. AOET - NGO in Webuye Town;
7. Grievance Redress Committee (GRC) - Chairman;
8. Dinah Market Committee - Vice Chairlady;
9. NLC;
10. KeNHA;
11. Supervising Engineer - Egis International;
12. Contractor - Jiangxi Zhongmei Eng. Constr. Co. Ltd. (JZEC); and
13. Consultant Team members.

### Annex 3

#### Photos


No	Photo	Date	Description
1.		Before construction	Existing T-Junction at Webuye before commencement of works
2.		Before construction	Section of existing A104 road towards Malaba (Border with Uganda) (before commencement of works)






<b>3.</b>		<b>28 – Aug - 2019</b>	Street lighting along the main Highway (at dusk)
<b>4.</b>		<b>28 – Aug - 2019</b>	Street lighting along the main Highway (at dusk)

5.		28 – Aug - 2019	Lighting beneath the bridge (at dusk)
6.		28 – Aug - 2019	Lighting along the service roads (at dusk)

<b>7.</b>		<b>28 – Aug - 2019</b>	Approach to the elevated section of the interchange.
<b>8.</b>		<b>28 – Aug - 2019</b>	Lighting beneath the bridge (at daylight)
<b>9.</b>		<b>4-March-2019</b>	Completed drainage works


10.		4-March-2019	Road Safety awareness campaign at a nearby school
11.		4-March-2019	Road Safety awareness campaign at a nearby school
12.		22 – Aug - 2019	Public Toilets for the community

13.		22 – Aug - 2019	Water Kiosk
14.		22 – Aug - 2019	Elevated water tank

15.		22 – Aug - 2019	Elevated Water Tank,  Water Kiosk,  Public Toilets
16.			Toilets and water tank
17.			Toilets, water tank and water kiosk



			
<p>18.</p>			<p>Handing over ceremony of water and sanitation facilities to Bungoma County Government. On the right (in ties) are Bungoma County Ministers for Trade and Health.</p>

19.			KeNHA handing over keys for the facilities.
20.		4-March-2019	Completed pedestrian crossing
21.		4-March-2019	Completed pedestrian crossing



<b>22.</b>		<b>4-March-2019</b>	Completed pedestrian crossing
<b>23.</b>		<b>4-March-2019</b>	Pedestrian Crossing beneath the bridge
<b>24.</b>		<b>4-March-2019</b>	School children using the pedestrian crossing