



COUNTY INVESTMENT HANDBOOK

2019

Enhancing Investment in the Counties



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ACRONYMS AND ABBREVIATIONS

AGOA	African Growth and Opportunity Act	ESAF	Enhanced Structural Adjustment Facility
IPA	Investment Promotion Agency	OSS	One Stop Shop
ATI	African Trade Insurance Agency	EU	European Union
IPS	Industrial Promotion Services	PPP	Public Private Partnership
BPO	Business Process Outsourcing	FDI	Foreign Direct Investment
KAM	Kenya Association of Manufacturers	REIT	Real Estate Investment Trust
CMA	Capital Markets Authority	FIPA	Foreign Investment Protection Act
KenInvest	Kenya Investment Authority	SEZ	Special Economic Zone
COMESA	Common Market for Eastern and Southern Africa	FWD	Farm Works Deductions
KEPSA	Kenya Private Sector Alliance	SFIDA	Swedish Fund for Industrial Development of Africa
DBK	Development Bank of Kenya	GDP	Gross Domestic Product
KIPI	Kenya Industrial Property Institute	SME	Small and Medium Enterprise
DDI	Domestic Direct Investment	GoK	Government of Kenya
KIRDI	Kenya Industrial Research and Development Institute	SPX	Subcontracting and Partnership Exchange
DFI	Development Finance Institution	GSP	Generalized System of Preferences
KNBS	Kenya National Bureau of Statistics	TNC	Transnational Corporations
EAC	East African Community	IBA	Industrial Building Allowance
KNCCI	Kenya National Chamber of Commerce and Industry	TREO	Tax Remission for Export Office
EADB	East African Development Bank	ICDC	Industrial and Commercial Development Corporation
KRA	Kenya Revenue Authority	UN	United Nations
EPA	Economic Partnership Agreement	ICF	Investor Compensation Fund
MIGA	Multilateral Investment Guarantee Agency	UNCTAD	United Nations Conference on Trade and Development
EPZ	Export Processing Zone	ICSID	International Centre for Settlement of Investment Disputes
MSME	Micro, Small and Medium Enterprises	USP	Unique Selling Proposition
EPZA	Export Processing Zones Authority	IDB	Industrial Development Bank
MTP	Medium Term Plan	WAIPA	World Association of Investment Promotion Agencies
ERC	Energy Regulatory Commission	ICT	Information and Communication Technology
MUB	Manufacture Under Bond	WTO	World Trade Organization
ERS	Economic Recovery Strategy	IMF	International Monetary Fund
NEMA	National Environment Management Authority		

ACKNOWLEDGMENT

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The first version of this Handbook was developed by the Kenya Investment Authority (KenInvest). The Handbook was subsequently edited and revamped by a World Bank team to include more updated and nuanced approaches to investment policy and promotion.

The World Bank team contributing to this report was led by Aref Adamali (Senior Private Sector Specialist) and Armando Heilbron (Senior Private Sector Specialist) and included Valeria Di Fiori (Consultant) and Joe Lemaron Sadallah (Consultant).

ABOUT KENINVEST

Kenya Investment Authority (KenInvest) is a statutory body established in 2004 through an Act of Parliament (Investment Promotion Act No. 6 of 2004) with the main objective of promoting investments in Kenya for both domestic and foreign investors.

The Core functions of KenInvest include:

- **Investment Promotion**
 - Providing information on investment opportunities or sources of capital; and
 - Promoting the opportunities for investment available in Kenya by organizing forums, workshops and other marketing initiatives.
- **Investment Facilitation**
 - Issuing Investment Certificates;
 - Assisting in obtaining necessary licenses and permits;
 - Assisting in obtaining incentives or exemptions under various Acts of Law and other regulations; and
 - Investor Tracking and providing After Care Services.
- **Policy Advocacy**
 - Reviewing the investment environment and making recommendations to Government and other stakeholders, with respect to changes that would promote and facilitate investment, including changes in licensing requirements.



STATEMENT BY CABINET SECRETARY


Ministry of Industry, Trade & Cooperatives

Devolution is a key contributor to economic development and overall prosperity of our Nation and should be embraced by all. The 2010 Constitution established 47 County Governments with the objective of devolving development driven by local leadership for local needs.

Investment is vital in the realization of the prosperity aspirations of various counties. We require investors to set up companies in partnership with local businesses to teach our young people vital skills, build the economies of the counties and create jobs across the country. Counties have different strengths and potential, and should attract the appropriate investments in order to effectively take advantage of their natural endowment and their competitive and comparative advantages.

However, counties have to package and present themselves well in order to attract and nurture the required investments. Aware of the capacity constraints facing our county governments, my ministry has developed this Handbook to guide the county governments on how to identify and promote the investment opportunities, assist investors to enter and operate with ease and success, and generally support private investment in their counties.

I urge all Governors to make use of this Handbook as a tool to guide them on how to attract into and manage investments in their respective counties. My ministry and its various state corporations are ready to collaborate and cooperate with County Governments in this process.


Hon. Peter Munya, EGH
Cabinet Secretary
Ministry of Industry, Trade & Cooperatives



STATEMENT BY PRINCIPAL SECRETARY
State Department for Industrialization
Ministry of Industry, Trade and Co-operatives

The preparation of the County Investment Handbook has been informed by diverse stakeholder input including from County Government officials, the World Bank Group, and other international and national agencies. The Kenya Investment Authority, the national agency mandated to promote and facilitate investments in the country, coordinated the process.

Under the Kenya Constitution 2010, national and county governments are distinct but interdependent. It is therefore paramount that both levels of government work closely together to maximize the benefits for the country of well managed private investment and avoid or minimize negative competition among counties. However, county governments have to offer good investment environments and other services in order to attract investors into their respective regions.

The role of the national government is to create an overall enabling environment that attracts potential investors and spurs economic growth and development in Kenya as a whole. It is therefore important for the County Governments to adopt best practices in investment promotion and facilitation, as documented in this Handbook.

Ms. Betty Maina, CBS
Principal Secretary
State Department for Industrialization
Ministry of Industry, Trade and Co-operatives



STATEMENT BY CABINET SECRETARY

Ministry of Devolution and ASALs.

The Government of Kenya is committed to setting up of systems at the counties to ensure a seamless transfer of functions and delivery of services to Kenyans. Building capacity of the staff at the counties is inevitable for devolution to be sustained and deepened. This is of great importance to the Ministry of Devolution and ASALs, as it can aid and support the implementation of relevant legislation and policies, and the realization of the national norms and standards and, ultimately, the objectives of devolution itself.

I am therefore pleased by the support offered by the National Government in preparing this Handbook. The Handbook has tools to build the capacity of County Governments in their efforts to attract and facilitate investments, which are critically important for further development of the counties.

The Handbook is the first of its kind; developed to guide county governments on packaging and marketing investment opportunities and facilitating investments in their respective counties.

I would like to acknowledge the support of the World Bank Group and all the other international and national agencies that supported the production of this Handbook. We hope that it will guide counties in the attraction and retention of investments, and maximizing their development impact.

Hon. Eugene Ludovic Wamalwa, EGH
Cabinet Secretary
Ministry of Devolution and ASALs.

STATEMENT BY CHAIRMAN
Council of Governors

This County Investment Handbook is aimed at County Governments who are new to promoting and facilitating foreign direct investment (FDI). Promotion and facilitation of inward FDI is a major source of capital, employment, skills, technology and revenue for the country and it's the responsibility of both National and County Governments to do so. As part of these efforts, counties are now setting up investment promotion boards to promote domestic and foreign investments for economic development, therefore this handbook is an essential tool that must be used.

I wish to acknowledge the World Bank Group, KenInvest and all other stakeholders for preparing this handbook that will guide county governments in attracting investors in their respective counties, how-to tool kits on developing and alignment of strategies in line with national development strategies. The publication is intended to be pragmatic and provides practical advice and case studies of best policy practice for attracting and benefiting from foreign direct investment (FDI).

I urge all County Governments to make use of this Handbook.

A handwritten signature in black ink, which appears to read 'Wycliffe A. Oparanya'. The signature is written in a cursive style and is positioned above the printed name and title.

H.E. Hon. Wycliffe A. Oparanya, EGH, CGJ
Chairman,
Council of Governors



STATEMENT BY CHAIRPERSON Kenya Investment Authority

County governments are the new frontiers of development and play an important role in attracting foreign direct investments into Kenya. Continuous county benchmarking will enhance county competitiveness as desired investment destinations. This will also improve Kenya's future rankings in competitiveness index, ease of doing business and general investment environment.

Development of this Handbook was motivated by the need to guide County Government officials on how to effectively attract and facilitate investors, and also identify and address weaknesses and gaps in their investment environments. For successful investment promotion, attraction and facilitation, a concerted effort by all stakeholders needs to be put in place through continuous dialogue with the Kenya Investment Authority (KenInvest), Export Processing Zones Authority (EPZA), Special Economic Zones Authority (SEZA), county investment units (CIUs), and other institutions charged with the responsibility of facilitating investments in Kenya.

I would like to appreciate and thank my team at KenInvest and the stakeholders involved in the preparation and editing of this Handbook. The contributions of the World Bank Group representatives are particularly appreciated. We hope that the Handbook will guide the county governments in realizing their full investment potential by helping to establish seamless, well-coordinated and dedicated facilitation services to investors across the entire country.

Hon Dennis Waweru
Chairman
Kenya Investment Authority

STATEMENT BY MANAGING DIRECTOR

Kenya Investment Authority



For several decades, Kenya's energetic, creative and innovative spirit has consistently drawn both domestic and foreign investors whose efforts and innovations have created jobs and boosted livelihoods. KenInvest has been at the vanguard of improving Kenya's investment offering at the national and county levels by supporting the development of rational policies, procedures, and investor management practices to maximize the benefits of investment for investors, entrepreneurs, and citizens alike, and capture the dividends of devolution.

This County Investment Handbook, *Enhancing Investment in Kenyan Counties*, takes a comprehensive view of the challenges and opportunities faced by counties in effectively promoting investment. It also helps county structures dealing with investors in establishing priorities and lobbying for proper technical, financial and other forms of support from county and national stakeholders. The Handbook outlines a path forward for county governments to build their capacities and promote themselves as viable investment destinations by providing relevant information, guidance, and hands-on assistance to investors, and essentially building and nurturing a strong relationship with investors.

We will continue to update the Handbook as we interact more and receive more feedback from the users, as regulations and conditions change, and as we progress with our agenda to promote Kenya to investors, assist them in getting established in the county of their choice, and provide various post-establishment services. I would like to acknowledge the tireless effort made by my colleagues at KenInvest since 2013 when we started reflecting on it, the support of the World Bank Group in producing this Handbook, and all the other stakeholders who made an input into it.

A handwritten signature in black ink, appearing to read 'Moses Ikiara', with a horizontal line extending to the right.

Dr. Moses Ikiara, PhD, MBS
Managing Director
Kenya Investment Authority (KenInvest)

1. INTRODUCTION

1.1 Background

Investment, both domestic and foreign, plays a significant role in economic growth and development. In addition to generating job opportunities, it also promotes technological innovation and development of new skills. With an average of 750,000 graduates from mid-level colleges and universities every year and an absorption capacity of the economy of 500,000, there is a need for more innovative ways of expanding the economy and creating new jobs. New investment and expansion of existing investment is crucial for the attainment of the Kenya Vision 2030 goals.

The role of Investment Promotion across the Globe is undertaken by Investment Promotion Agencies (IPAs), which are typically government institutions mandated through legislation to do so. It is estimated that there are over 2,000 IPAs worldwide both at the National and at the Subnational levels. KenInvest is a successor organisation to the former IPC. The 2010 Constitution of Kenya created a Devolved System of Government organized into 47 counties. To promote private investment evenly across the country, structures (county investment units or agencies depending on specific county requirements) should work seamlessly with National IPA.

This Handbook, developed by KenInvest in fulfilment of its mandate, with contributions from the World Bank Group, seeks to support County Governments in developing Investment Promotion programmes and in adopting best practices in areas of investment promotion and facilitation. The combined investment promotion efforts of National and County Governments are expected to stimulate the growth of investment to reach at least 32% of Kenya's Gross Domestic Product (GDP) by 2030, as per Vision 2030 targets.

1.2 Handbook Rationale and Objectives

Kenya has not yet realized its full potential in investment growth, largely because of the weaknesses that exist in investment promotion and facilitation efforts, among other reasons. This could become more challenging with the devolved system because of the associated coordination challenges. The rationale behind the development of this handbook is therefore to build the capacity of County Governments to promote their Counties as viable investment destinations by providing information and guidance on the most relevant aspects of investment promotion.

The handbook could also be used by Counties to identify weaknesses and gaps in their investment promotion capabilities and lobby for technical, financial and other forms of assistance.

Other stakeholders contributing to investment promotion efforts, such as Development Partners, Business Associations, Researchers, Professionals and Investment Consultants will also find the handbook useful for the purposes of packaging investment information, offering investment advice to potential investors, and identifying solutions that could improve the investment environment.

Ultimately, it is expected that the use of this handbook will contribute to the efforts needed to attract the level of investment needed to achieve Vision 2030 objectives and the Big 4 Agenda.

1.3 Investment and Socio-Economic Development

Investment plays a critical role in converting comparative advantages into competitiveness. Recognizing this reality, National Governments often offer an array of incentives to attract Foreign Direct Investment (FDI), with the expectation of obtaining advanced skills, foreign exchange and new technologies. On the other hand, Domestic Direct Investment (DDI) is equally important as FDI in steering economic advancement.

1.4 Domestic Direct Investment (DDI)

DDI refers to investment made in the economy by resident corporate entities and/or individuals. This entails the injection of new capital by starting a new business, acquiring an existing entity, or expanding in the local market.

Domestic investment is both a driver and an engine of growth which is necessary in sustaining growth, creating employment and thus, laying the foundations for poverty reduction. Indeed, increased DDI in a country is important as it reduces the country's reliance on foreign capital and maximizes the utilization of available resources.

Equipped with a better knowledge of the investment climate, Local Investors also play a major role in attracting FDI as, through their actions, they convey important signals about the fundamentals of the country's state of the economy and overall business climate. Consequently, in an environment where there is information asymmetry between domestic and foreign investors, domestic investment can catalyse foreign investment.

1.5 Foreign Direct Investment (FDI)

FDI refers to the injection of capital into a country by individuals or companies residing in other countries, either by acquiring existing enterprises in the target economy, or by starting or expanding a business in that country (re-investment). An FDI relationship arises when an investor or a business from one economy makes an investment that gives it control or a significant degree of influence on the management of an enterprise that is resident in another economy (typically 10 percent or more of the voting power in the direct investment enterprise).¹

The companies involved in FDI are called TransNational Corporations (TNC). They comprise "parent enterprises" and their foreign "affiliates". A foreign affiliate is an enterprise in which an investor, who is a resident in another economy, owns a stake that permits a lasting management interest.

FDI has three components:

- Equity capital is the direct investor's purchase of shares of an enterprise in a foreign country. FDI projects that entail the establishment of new entities (Greenfield FDI), are also part of this component;
- Reinvested earnings are the direct investors share of earnings not distributed as dividends by affiliates, or earnings not remitted to the direct investor;
- Intra-company loans are short or long-term borrowing and lending between direct investors and affiliates.

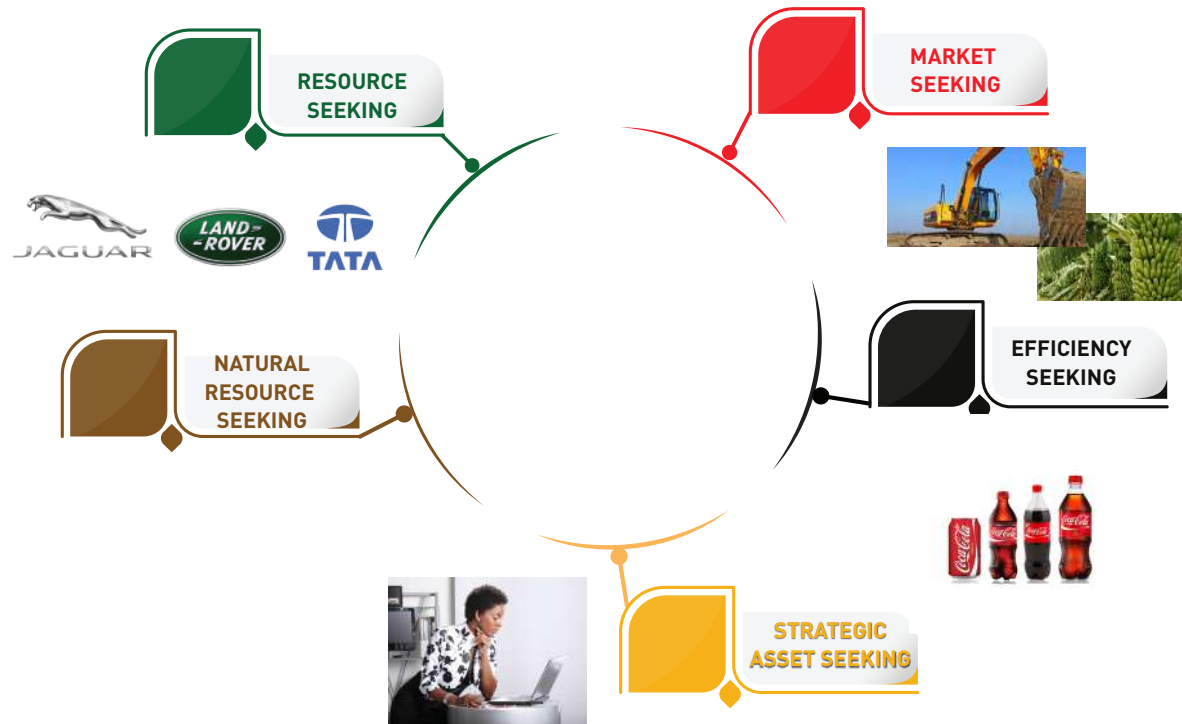
¹ Organization for Economic Cooperation and Development, "OECD Benchmark Definition of Foreign Direct Investment, fourth edition", 2008; and, International Monetary Fund, "Coordinated Direct Investment Survey Guide", October 2015.

1.5.1 Motivations for Foreign Direct Investment

Different types of investments have different investor motivations and are characterized by distinct benefits, opportunities and challenges. There are four main types of FDI based on investor motivations:

1. Natural resource-seeking investment: This investment occurs because the investor wishes to access resources that are location-specific (petroleum, natural gas, coal and other mining and mineral resources). While this type of investment can generate significant exports and fiscal revenues, more benefits are secured for the host country if value added processing occurs domestically and if a competitive ecosystem of local suppliers of various goods and services used in extractives can be sustainably created. The impacts of natural resource-seeking investment must be carefully managed, particularly when resources are non-renewable, since job creation, technology transfer and overall linkages to the rest of the economy have historically tended to be spatially limited in many countries. The challenges surrounding resource-seeking investment have at their core the combination of adverse social, environmental and economic impacts that often arise from this type of investment, commonly referred to as the "resource curse".
2. Market-seeking investment: This form of investment is motivated by the potential to deliver goods and services to customers within the host country. It is almost entirely dependent on the size and characteristics of the host country's domestic market. It can be an important source of jobs, particularly of higher-skilled, better-paying, jobs associated with the service sector. Potentially, it represents a more inclusive form of economic activity than resource-seeking investment. Market-seeking investment can help bring international business practices, standards, knowhow and technology to the host country. This type of investment is an important means to industrialize a country and has the potential to make a particularly strong contribution to the development of linkages to the local economy, quality upgrading of local suppliers, as well as transfer of knowhow and spillover effects. Market-seeking investors can help create competition within the domestic economy, increase productivity and lower prices to consumers.
3. Efficiency-seeking investment: This form of investment is always export-oriented, although business viability can often be built on a strong (typically larger) domestic consumer base. Efficiency-seeking investment has the most transformative potential of all types of foreign investment, with its ability to transfer technology and skills and to diversify an economy rapidly by inserting it into global or regional value chains of goods and/or services. Such investment occurs where investors seek to increase the cost efficiency of production by taking advantage of factors that improve firm-level competitiveness. These include, among others, lower labor costs or higher labor productivity, easier or even preferential access to export markets, access to key inputs and components, and more efficient international production and supply patterns. However, efficiency-seeking investment is among the most difficult to attract and retain, not least because so many factors must align to make the host country "competitive" for a particular production process at a particular moment in time. Countries tend to compete aggressively for this type of investment.
4. Strategic asset seeking: Motivated by investor interest in acquiring strategic assets (brands, human capital, distribution networks, etc.) that will enable a firm to compete in each market. This type of FDI takes place through mergers and acquisitions. This applies in Supermarkets, Pharmaceutical and Chemical Companies for instance.

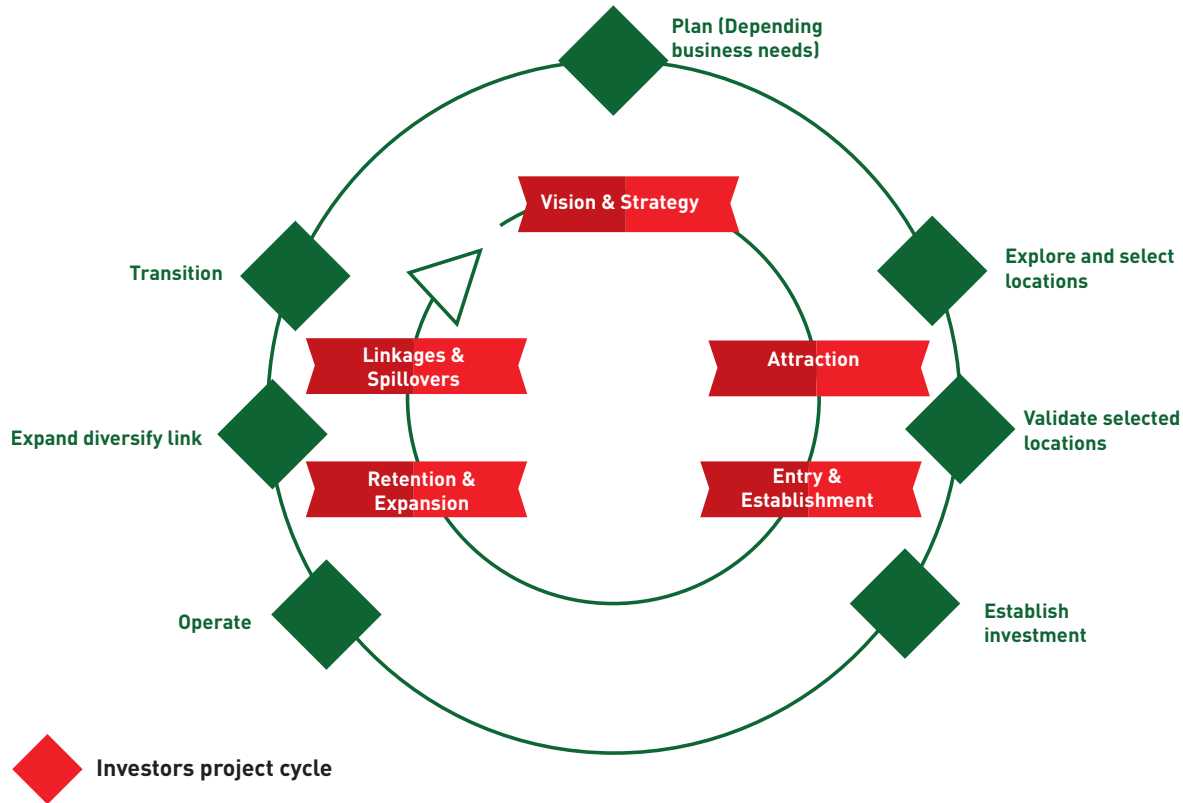
Figure 1: Types of FDI by Motivation



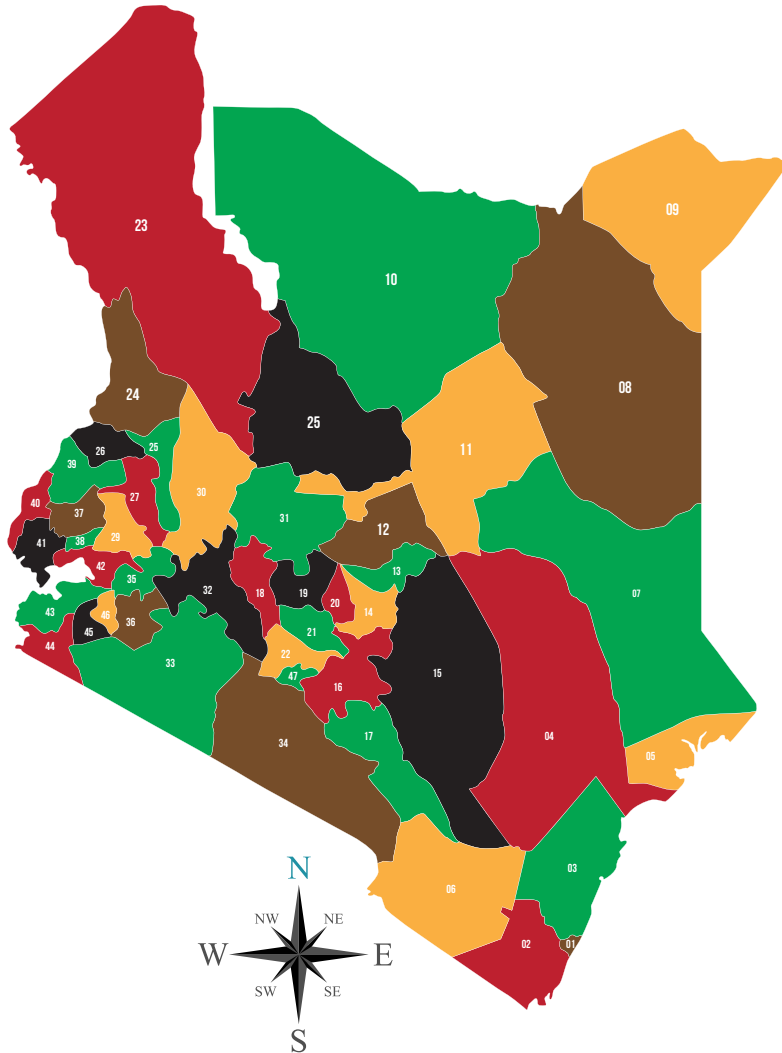
Source: World Bank

Countries need to consider the cycle investors, especially foreign, go through for their projects, in order to determine the most effective services to offer investors.

Figure 2: Investment Cycle from both the Investor and the IPA's Perspective



Source: World Bank



CODE	COUNTY
01	MOMBASA
02	KWALE
03	KILIFI
04	TANA RIVER
05	LAMU
06	TAITA TAVETA
07	GARISSA
08	WAJIR
09	MANDERA
10	MARSABIT
11	ISIOLO
12	MERU
13	THARAKA NITHI
14	EMBU
15	KITUI
16	MACHAKOS
17	MAKUENI
18	NYANDARUA
19	NYERI
20	KIRINYAGA
21	MURANGA

CODE	COUNTY
022	KIAMBU
023	TURKANA
024	WEST POKOT
025	SAMBURU
026	TRANS NZOIA
027	UASIN GISHU
028	ELGEYO MARAKWET
029	NANDI
030	BARINGO
031	LAIKIPIA
032	NAKURU
033	NAROK
034	KAJIADO
035	KERICHO
036	BOMET
037	KAKAMEGA
038	VIHIGA
039	BUNGOMA
040	BUSIA
041	SIAYA

CODE	COUNTY
042	KISUMU
043	HOMABAY
044	MIGORI
045	KISII
046	NYAMIRA
047	NAIROBI

The promulgation of the 2010 Constitution created two tiers of government. The first is the national government and the second is the county government.

The structure of the county government in Kenya provides an anchor for the counties. This delegation of power and services determines who oversees the administrative, policy, and other functions.

THE STRUCTURE OF THE COUNTY GOVERNMENT IN KENYA

The structure of the county government in Kenya comprises three arms. They are the County Executive (Committee), the Legislature (County Assembly), and the Public Service (County Public Service Board).

THE COUNTY EXECUTIVE COMMITTEE

Article 179 of the Constitution provides for the County Executive Committees. The Constitution bestows the executive authority of the county to the county executive committee. The committee also exercises this authority.

The county executive committee consists of—

- The county governor and the deputy county governor; and
- Members the county governor appoints, with the approval of the assembly, from among persons who are not members of the assembly.

The county governor and the deputy county governor are the chief executive and deputy chief executive of the county, respectively.

When the county governor is absent, the deputy county governor acts as the county governor.

Members of a county executive committee are accountable to the county governor while performing their functions and exercising their powers.

These appointed members head the various departments of the county government such as finance, health, agriculture, etc.

If a vacancy arises in the office of the county governor, the members of the county executive committee cease to hold office.

OTHER MEMBERS OF THE COUNTY EXECUTIVE

Other members of the county executive are-

- The County Secretary, who is the secretary to the county executive committee.
- A county chief officer who is responsible to the respective county executive committee member for the administration of a county department.

The governor nominates chief officers from among persons competitively sourced and recommended by the County Public Service Board.

THE COUNTY ASSEMBLY

In the structure of the county government in Kenya, the county assembly is the legislative arm. A county assembly consists of—

- Members elected by the registered voters of the wards (elected MCAs);
- The number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender (nominated MCAs, usually women);
- The number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament (nominated MCAs, six of them according to the County Governments Act); and
- The Speaker, who is an ex officio member.

Political parties nominate members to fill the gender and marginalized groups positions based on the proportion to the seats received in that election in that county by each political party.

Therefore, the more the elected seats a political party has in the Assembly, the more members it can nominate. The opposite applies to political parties with fewer elected members.

The filling of special seats to meet the two-thirds gender rule should occur after the declaration of elected members from each ward.

A county assembly serves a term of five years.

OTHER MEMBERS OF THE COUNTY ASSEMBLY

Other members of the county assembly are-

- The deputy speaker who is nominated from among the elected MCAs, and
- The clerk of the county assembly, whose functions are similar with modifications to those of the national assembly clerk.

THE COUNTY PUBLIC SERVICE

Article 235 of the Constitution contains the provision for the staffing of county governments. According to this law, every county should have its own public service known as the county public service.

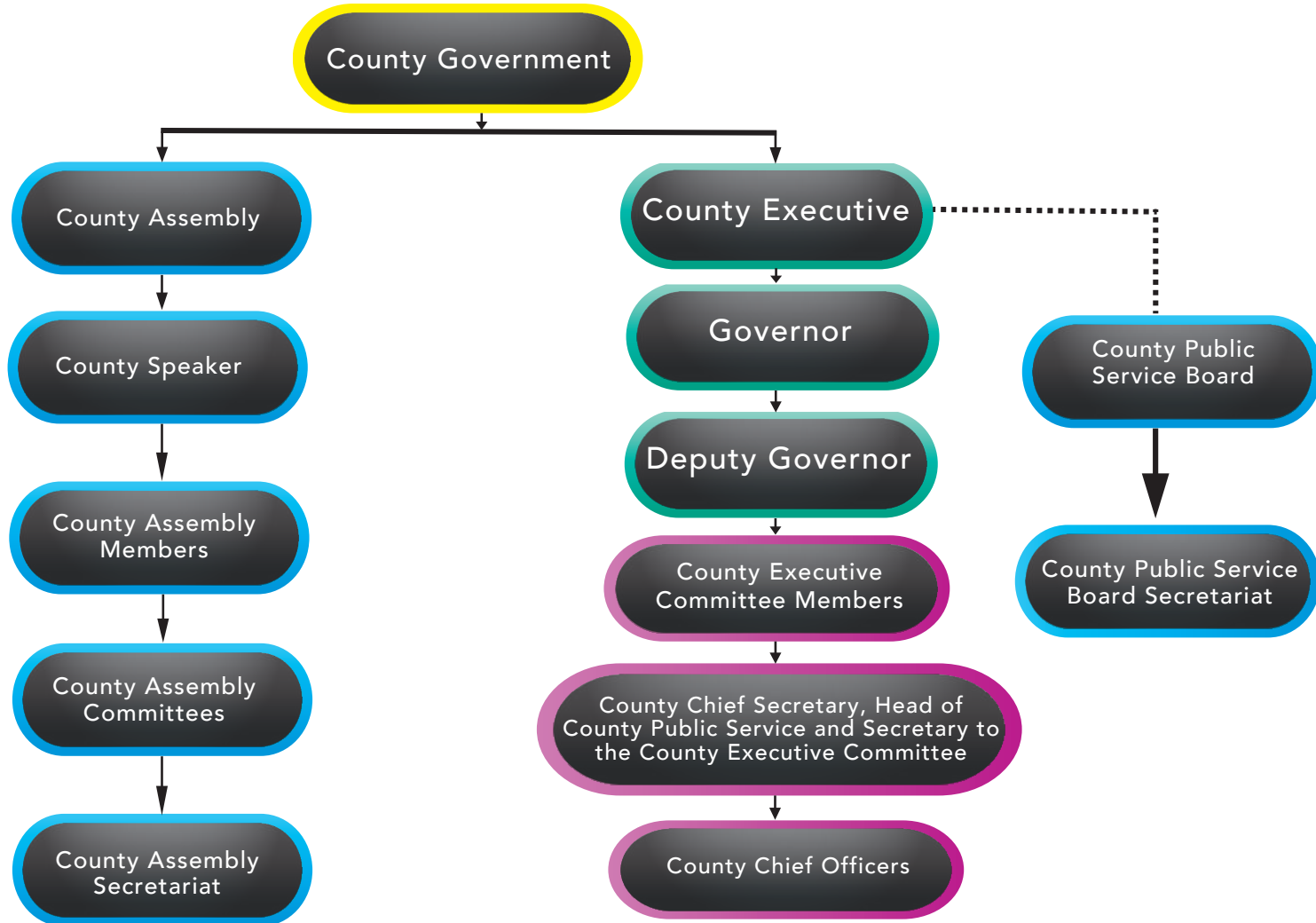
Article 235 stipulates that the county government is responsible for—

- Establishing and abolishing offices in its public service;
- Appointing persons to hold or act in those offices, and confirming appointments; and
- Exercising disciplinary control over and removing persons holding or acting in those offices.

The County **Public Service Board** is in charge of county public service and staffing matters. The County Secretary is the head of the County Public Service.

[Source, Epic Kenya-the arms and structure of the county government in Kenya]

STRUCTURE OF COUNTY GOVERNMENTS



2. FRAMEWORK FOR INVESTMENT PROMOTION AND FACILITATION

County Governments should understand that to create wealth and tackle poverty and unemployment, they must lay a strong foundation to attract Local and Foreign Private Investment to complement County Economic Development Programmes.

Below is the summary of Kenya's national investment framework, which county governments must consider in their day-to-day investment promotion, facilitation, and aftercare activities.

2.1 Incentive Regime

Investment incentives are measurable economic advantages that Governments provide to specific sectors, with the goal of steering investments into favoured sectors or regions or of influencing the character of such investments.

Broadly, investment incentives can be broken down into two main types:

- i) Tax (or fiscal) incentives, which entail government revenue contribution exemptions. Tax incentives include also economic advantages on Customs Duties. Examples of tax incentives are tax holidays, special deductions, credits, and deferrals.
- ii) Financial incentives, which are direct or indirect (contingent or explicit) transfers of funds/liabilities to benefit a business/ activity/sector; or advantageous provisions of goods and services, or specific payments-in-kind. Examples of financial incentives are matching grants, reduced interest rate loans, and reduced prices on land.

2.2. Kenya's Incentives

2.2.1 National Government Incentives

Kenya provides several investment incentives through various laws and formal documents, in addition to its standard taxation. Among the main incentives:

- Newly listed companies in all sectors can enjoy a reduced Corporate Income Tax (CIT) rate for 3-5 years following the year of listing (20-27%) depending on the percentage of capital listed (more than 20%).
- Companies in all sectors can carry forward their LOSCs to be offset against future taxable profit.

2.2.2 General Provisions

- Companies in industry, hotel and education sectors can enjoy an annual investment allowance for industrial, hotel, educational and commercial buildings, with different rates depending on the type of building.
- Companies in the industry and hotel sectors can enjoy a "once-and-for-all" investment deduction allowance for capital expenditure based on the cost of buildings and machinery, with different rates depending on the year, location, and the type of product.

- Companies in the agriculture sector can enjoy a 100% investment allowance of the expenditure incurred for farm-works.
- Companies in all sectors can enjoy an investment allowance for wear-and-tear on plant, equipment, and machinery, with different rates depending on the type of product.
- Companies in all sectors can enjoy an investment deduction allowance on machineries and equipment, with different rates depending on the location.
- Companies in all sectors are exempted from Value Added Tax (VAT) on the exports of goods and services.
- Companies in the financial services and agriculture sectors are exempted from VAT (financial services provided by banks and most agricultural products in its unprocessed or preserved state).
- Customs duty remissions are available for goods imported for the manufacturing of export products, to produce raw materials to be used in the manufacturing of export products, or to produce duty-free items for domestic sale.

2.2.2 Export Processing Zones Authority (EPZA) Incentives

- Companies in Export Processing Zones (EPZs) are exempted from CIT for a period of ten years. For the subsequent ten years, they are subject to CIT of 25% (instead of the statutory (30%).
- Companies in Export Processing Zones (EPZs) enjoy perpetual exemption from VAT and customs duties on the import of inputs of production and raw materials.
- Companies in Export Processing Zones (EPZs) enjoy a 10-year withholding tax (WHT) holiday on dividends and other remittances to non-resident parties.
- Companies in Export Processing Zones (EPZs) enjoy 100% investment deduction on new investment in EPZ buildings and machinery, applicable over 20 years.

2.2.4 Special Economic Zones (SEZA) Incentives

- 10 year tax holiday;
- 15% corporate tax for another 10 years;
- Duty & VAT exemption;
- Single license;
- Exemption from stamp duty; and
- Exemption for withholding tax

2.2.5 Capital Market Incentives

- Issuance of at least 40% of share capital- 20% tax for 5 years
- Issuance of at least 30% of share capital of share- 25% take rate for 5 years
- Issuance of at least 20% of share capital- 27% tax rate for 3 years

For a more comprehensive review of investment incentives available to investors in Kenya, please refer to the Appendix 1. For a description of good practices in the design and administration of incentives, please refer to the World Bank's Incentives toolkit available at: <http://globalpractices.worldbank.org/trade/Pages/SitePages/IPP-Toolkit-Incentives.aspx>

2.3 Tax Structure

The Kenyan tax system is composed of Corporate Income Tax (CIT), Value Added Tax (VAT), customs and excise duties, and stamp duty. Article 209 of the Constitution of Kenya 2010 outlines powers to impose taxes or raise revenue for both the national government and the county government. The Constitution in Article 209 (3) empowers the County Governments to impose property taxes, entertainment taxes, and any other tax as authorized by an Act of parliament. In addition, County Government may impose charges on services provided at the local level. The corporate tax structure is summarized in the table below:



Table 1: Standard Business Taxation in Kenya

Corporate Income Tax (CIT)	Value Added Tax (VAT)	Capital Gains Tax (CGT)	Withholding Taxes (WHTs)	Other Taxes	
30% (residents); 37.5% (non-residents)	16%	0%	Dividends: 5% (residents), 5/10% (non-residents). Interest: 10/15/25%. Royalties: 5% (residents), 20% (non-residents). Management/professional fees: 5% (residents), 20% (non-residents). Entertainment and sporting fees: 20% (non-residents). Rental payments: 30% (non-residents). Consultancy/agency fee: 5% (residents), 20% (non-residents). Contractual: 3% (residents), 20% (non-residents). Presumptive income tax: 2%. Insurance commissions: 5/10% (residents), 20% (non-residents). Equipment hire: 15% (non-residents). Telecommunication: 5% (residents). Retirement annuities: 5% (non-residents). Pension-payment withdrawal: 5% (non-residents). Winning and betting: 20%. Sales of property in or shares of oil, mining or mineral: 10% (residents), 20% (non-residents).	Standard levy: 0.2% (net sales). Employer paid contributions: 5% (grOSC salary). Land rates: 0.6% (land value).	38.10%

Sources: Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", pages 146-163, 2015. World Bank Group, "Doing Business. Paying Taxes Indicator", 2015 2.4 Procedures and Requirements to Invest in Kenya

2.4 Procedures and Requirements to Invest in Kenya

The following is a summary of the steps companies need to follow to invest in Kenya:

STEP 1:

Any investor in Kenya, local or foreign, is required by law to register a company in Kenya. This can take the following forms:

- Registration of business name in Kenya;
- Incorporation and registration of a company in Kenya;
- Registration of a foreign-incorporated company as a branch office in Kenya.

STEP 2:

The investor requires the approval of the project from competent authorities in health, environment and security, as deemed necessary.

STEP 3:

After the approval of the National Environment Management Authority (NEMA), Health, and Security vetting has been received, KenInvest issues the investor with an Investment Certificate.

STEP 4:

Immigration

- Special passes, work permits and dependants passes from the Ministry of Immigration;

STEP 5:

General requirements:

- Registration with KRA to obtain a personal identification number and VAT number;
- Registration with the Nation Social Security Fund and the National Hospital Insurance Fund;
- Single business permit from the relevant county government;
- A business premises occupation license from the county government, for any building to be used for any commercial purpose.

STEP 6:

Special sector-specific licenses:

- Agricultural production and distribution:
 - Food and cash crops license;

- Fisheries license;
- Livestock license;
- Animal breeding license;
- Plant breeding license.
- Mining:
 - Exploration license;
 - Land lease;
 - Mining license;
 - Mining lease;
 - Dealers license;
 - Mining royalty fees agreement.
- Energy:
 - Letter of known refusal from the Ministry of Energy;
 - Power generation license from the Energy Regulatory Commission (ERC);
 - Power purchase agreement form Kenya Power and Lightening (for known off-grid generation).
- Tourism:
 - Regulated tourism license from the Ministry of Tourism;
 - Hotels and Restaurant license from the Ministry of Tourism;
 - Clearance certificate from the Tourism Regulatory Authority;
 - License to operate lodges and tented camps;
 - Tour operator license;
 - Travel agency license.
- ICT:
 - License from the Communication Authority of Kenya to operate postal and telecommunication and broadcasting services;
 - License for the allocation of frequencies to telecom operators and broadcasting stations;
 - Specific licenses for specific telecommunication services like broadband, wireless, installation of plant trans-receiver stations, etc.

- Financial services:
 - License for investors operating bank services by Central Bank of Kenya;
 - License for foreign exchange dealers from the Central Bank of Kenya;
 - License for investors operating insurances services from the Insurance Regulatory Authority;
 - License for investors offering pension and fund management services;
 - License for investors in asset management and stock broking from the Capital Markets Authority (CMA).

- Manufacturing:
 - Licenses, as required depending on the nature of the product being produced. All products require certification by the Kenya Bureau of Standards (KEBS) to ensure product quality.

Companies and Investors can get in touch with KenInvest for more details and updates on any changes.

2.5 Market Access

County governments should take advantage of expanded market access opportunities for businesses. As discussed earlier, access to markets can be an important investment driver. Below are some of these key market access schemes.

2.5.1 Intra-African Market Access

- East African Community (EAC) with a population of over 161,4 million² (excluding South Sudan), a combined GDP of USD 146,98 billion³, and comprising Burundi, Kenya, Rwanda, Tanzania, and Uganda backed by a Customs Union Protocol.
- Common Market for Eastern and Southern Africa (COMESA), with a population of over 505.4 million⁴, a combined GDP of USD 669,8 billion⁵ (2015), and comprising 19 Member States (Burundi, Comoros, DR Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe).
- Tripartite Free Trade Area (TFTA) – in process of ratification, with a population of 673,3 million, a combined GDP of USD 1,240.5 billion (2015), and comprising 26 Member States (Angola, Botswana, Burundi, Comoros, DR Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Sudan, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe).

United Nations Population Division, Department of Economic and Social Affairs. World Bank, World Development Indicators 2016.

2.5.2 International Market Access

- African Growth and Opportunity Act (AGOA) allowing duty and quota-free access to the U.S. market under certain conditions.
- US – COMESA Trade and Investment Framework Agreement and US – EAC Trade and Investment Framework Agreement being negotiated.
- EU-East African Community EPA and EU-Eastern and Southern Africa EPA, two WTO compatible Economic Partnership Agreement (EPAs) with the European Union (EU) being negotiated to improve access to European Union markets,
- Generalized System of Preferences (GSP) granting access to various markets in the developed world through preferential treatment applied a wide range of products.



3. WHAT WILL ATTRACT INVESTORS TO COUNTIES

County Governments should strive to improve the local investment environment and their services to investors to ensure the retention and expansion of existing investment, as well as the attraction of new projects.

Some of the key issues and milestones that county governments should consider are presented below.

3.1 Clear Investment Policy

The National Government will be expected to formulate policies which will guide counties on the issues related to investment in their regions. In turn, county governments must have well-coordinated regulations and be able to guide investors through the latter during project implementation and expansion via the County Investment Units.

3.2 Comprehensive Masterplan and Land/Property Database

County governments must prepare a comprehensive master plan showing land use and the locations of various key investments the county will require to drive its development. The master plan should incorporate a physical scope plan that should show the requirements in terms of settlements, physical infrastructure, utilities, social amenities, and earmarked sites for various development projects, including public and private investments. County governments must prepare a special plan as provided for in the County Government ACT.

Well-planned and well-constructed buildings will attract investors and can give county governments a competitive edge, acting as a pull factor because of the ease of project implementation they offer – especially in the case of investors that are not ready to finance building and construction at the initial stage of the project, and hence require a facility that is ready.

There is also a need for county governments to plan and set aside land for industrial use. County governments with land already set aside for industrial investment will have a better chance of attracting a project compared to those counties which do not. Also important is a database that includes all land and building facilities available for purchase or rent in the county, with relevant details (location, size, vocation) to facilitate the investment decision.

3.3 Secure and Predictable Investment Environment

Investment and development can only thrive in a secure environment, a key factor considered by investors during the investment decision-making process. A secure investment environment means having a serious approach towards combating crime, and ensuring that rules are respected consistently through good governance.

3.4 Serviceable Infrastructure and Utilities

County governments must ensure that there is adequate power, transport infrastructure, water supply and sanitation, telecommunication services, and buildings in their counties. Private sector-led business will thrive, and eventually lead to the creation of employment, economic growth, and development upon these building blocks.

County Governments must devote an adequate share of their budget towards providing a well-maintained road network in their regions. In addition, railways provide one of the cheapest, safest and most reliable means of transport for inland transport

– both to transport bulky exports to ports, and for moving import products from ports to inland destinations, so county governments must take full advantage of it by ensuring its rehabilitation and proper maintenance, and by working closely with Kenya Railways Corporation.

County governments must also work in collaboration with the Kenya Power and Lighting Company to provide a speedy connection to electricity for new projects, while ensuring that power is both affordable and reliable.

Finally, water is also a key component in majority of manufacturing processes and Kenya is a water scarce country, with per capita water availability expected to continue declining. It is therefore imperative for County Governments to develop creative ways of conserving water.

3.5 Simplified Procedures for Investment and Business Operations

Investors need a single point of access to all information and facilitation services that pertains to investing in Kenya, starting a business, and obtaining relevant approvals and licenses. They also need simplified resources and solutions to help them determine which county and national regulations apply to their projects.

To improve the business environment and reduce the cost of doing business, counties that deal with investors on a regular basis should consider setting up county investment Units to act as a focal point and deliver investment promotion services to both prospective and already established investors. This initially basic structure could eventually evolve towards a more specialized and proactive investment promotion unit over time. The counties should work closely with KenInvest and the One Stop Centre for investors for effective coordination and harmony. In addition, County Governments should improve liveability of the counties in order to attract skilled human resources. For recommendations on how to set up a simple Investment Promotion Unit in counties, please refer to Appendix 7.

3.6 Access to Affordable Financing

Financial institutions help investors with good business proposals to concretize their projects. County Governments should identify innovative and creative ways to improve the access to finance, especially for SMEs. This may include signing Memorandums of Understanding (MOUs) with banks to finance certain investments, encouraging and supporting the formation of cooperatives, seeking guarantees from the National Government, and using a joint approach to project financing. County Governments also need to encourage financial institutions to open branches in their regions to improve access to finance. Those with proper credit facilities will motivate investors to implement projects, especially DDI. For a more detailed discussion of types and sources of finance in Kenya, including examples, please refer to Appendix 2.

3.7 Investment Incentives

As discussed in section 2.2, County Governments could also put together attractive investment packages by offering incentives in accordance with the law and following good international practices. For good practices in the design and administration of incentives, please refer to the World Bank's Investment Incentives Toolkit available at: <http://globalpractices.worldbank.org/trade/Pages/SitePages/IPP-Toolkit-Incentives.aspx>

3.8 Availability of Developed Human Resources

County governments must be able to provide a clear foundation for the development of the Human Resources required to drive private sector investment. Counties should work with the Ministry of Education to develop centres of excellence in education and training, which can provide the human resources needed within the county in technology development, production and distribution of goods and services, and other areas, per the country's development plan. This will progressively ensure the availability of the required skills for the private sector.

3.9 Well-Packaged Information on Investment Opportunities

One way of winning an investor is by having the right information available and by providing the information when required. County Governments with well-packaged, accurate and up-to-date investment information are in a better position to attract more investors than the rest (see further details in Chapter 4).

3.10 Availability of Technical Support

County Governments should be able to assist local SMEs in obtaining technical support for enterprise creation and development. Designing a production process, a product, services, and quality improvement can be successfully done when technical support is available. County governments may need to consider the possibility of signing MOUs with the Kenya Intellectual Property Institute (KIPI), the Kenya Bureau of Standards (KEBS), the Kenya Industrial Research and Development Institute (KIRDI), and universities to offer technical support to enterprises (especially SMEs). This will ensure there is faster growth of SMEs with higher success rates and less business failures.



Great Rift Valley Lodge & Golf Resort
Image Courtesy: Kenya Golf Union

4. HOW TO PROMOTE AND FACILITATE INVESTMENTS IN COUNTIES

The devolved system of Government has created a new platform and structures that influence the way investors interface with regulators and facilitators of investment. Given that investment projects are implemented in the Counties themselves, it is imperative that counties put in place a well-designed framework to ensure smooth investor engagement.

Competition of investments with over 2000 national & regional investment promotion agencies competing for a limited pool of FDI. DDI is also being lured by both subnational and foreign IPAs. It is therefore paramount for County Governments to be strategic about investment. With County development priorities clear, County Governments must understand what the various investors will be looking for, and the County's level of competitiveness, in order to identify best niches for investment attraction, retention, expansion and linkage.

The critical steps that a county must take to deliver effective services to investors include, among others, conducting a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis and identifying target sectors; developing an investment promotion strategy; and developing the tools for effective provision of investment services.

4.1 SWOT Analysis

The SWOT analysis will enable county governments to identify the areas with most potential to attract new investments. The SWOT analysis can also be used to compare counties to competing locations, and to identify weaknesses in the investment environment that can, in turn, become the basis for advocating policy and regulatory changes. For details on how to conduct a SWOT Analysis, please refer to Appendix 3.

4.2 Identifying Target Sectors

Identifying the sectors the counties should target for investment is key to developing an effective investment promotion strategy.

When a County is considering a list of potential sectors to target for investment, it is important that it does not only focus on its industries, but also on business activities. For example, call centres, coordination, and regional headquarters are all business activities that can be used by various companies from different industries, at the same time.

There are four main methods to identify target sectors and activities:

The leading sectors in a County

The SWOT analysis should help identify the county's dominant and most promising sectors for investment. Other ways of identifying leading sectors include:

- Identifying the top 5 to 10 sectors in the county, ranked by size of the sector, in terms of capital and employment, for example;
- Identifying the top 5 to 10 sectors that have already attracted investment, or that contain the largest, fastest-growing and most successful firms, as well as those with the most potential for investment;
- Identifying SMEs with potential for growth.

Sectors that align with the strengths of the investment location

The SWOT analysis provides the main strengths of a County, which can also be matched against sectors in which these factors are very important in determining an investment decision. Key tasks include:

- Listing the key strengths of the County resulting from the analysis;
- Identifying the 5 to 10 sectors that would be attracted to these strengths.

Sectors with the best prospects for FDI

It is essential to consider which sectors have the highest volume of FDI that a county could potentially compete for. Key tasks include:

- Identifying the 5 to 10 largest and fastest growing sectors for Greenfield FDI in the county.

Sectors that can make the highest contribution to the county's economy

It is necessary to consider which sectors can have the highest positive economic impact on a County's economy. The impact of FDI depends on the sector and type of project. Generally:

- Larger projects make a bigger contribution than smaller projects. However, if a smaller project helps to further develop an existing sector in the county economy, it could generate greater economic benefits;
- Investment projects that address key bottlenecks in the economy and thus improve the underlying competitiveness of a county are very important to its development.

4.3 Developing a County Investment Promotion Strategy and Tools

The investment promotion strategy will help counties to determine what types of investment they should focus on in their promotional efforts, and what types of promotional activities should be undertaken. In developing an effective promotional strategy, it is paramount for counties to answer the following questions:

- What is the County trying to achieve by attracting DDI and FDI and what type of investment will best serve those needs?
- What are the current DDI and FDI trends and how do they affect the County's ability to attract investment?
- What are the County's location characteristics and what are its strengths and weaknesses as an investment location?
- What are the characteristics of competitors' investment environments and how does my location compare?

When developing an investment promotion strategy, Counties must keep in mind the connection between County activities and the Country's National Development Plan (Vision 2030). A given location is not seeking to attract FDI and DDI simply because other counties are doing so, but rather because it will bring associated benefits that will help the location achieve certain development goals such as expanded employment, technology transfers or increased foreign exchange earnings. These goals establish the framework for the county's strategy. If a County has a strategy that is solidly linked to Vision 2030, promotional efforts will produce better returns for the location.

Figure 3:
Aligning Counties' Investment Promotion Strategies with the National Development Strategy



As part of their investment promotion strategies, counties should research, identify, develop and package investment opportunities in a standard and effective format. This should be a well-coordinated process that includes researching, identifying, developing, packaging and presenting investment opportunities in a standard and effective format. The goal is to provide the right information to the investors in order to accelerate their decision-making process. For a description of steps that should be followed, please refer to Appendix 4.

Investor Targeting

As part of their investment promotion efforts, county governments should target carefully identified investors in specific sectors and proactively reach out to them. Through relationship-building and effective provision of investor services, counties can secure a greater quantity and quality of investment.

Table 2: Best Practices in Investor Targeting

Focus	Focus on a small number of business sectors or activities and develop a compelling value proposition for each based on the locations competitive advantages.
Identify managers	Use up-to-date databases, complemented by market research, to pinpoint the relevant managers to contact in targeted companies.
Small number of firms	Concentrate on a small number of carefully targeted companies.
Qualifying criteria	Apply stringent qualifying criteria to identify companies to target.
Develop unique angle	Develop a carefully defined "angle" to approach individual companies.
Sustained approach	Develop a sustainable approach with targeted companies involving a combination of business and social activities.
New and existing firms	Target both new potential investors and existing investors.
Not just investors	Target brokers that play a role in FDI decisions (such as site selection consultants). Also, target FDI ambassadors, the diaspora, and expatriate networks.
Monitoring	Monitor the investor community to obtain feedback, develop knowledge management techniques, and advocate for changes needed to meet market and county needs.

[Sources: Adaptation from Vale Columbia Centre on Sustainable International Investment, Handbook for Promoting FDI in Medium-Size, Low-Budget Cities in Emerging Markets", Millennium Cities Initiatives (MCI), The Earth Institute at Columbia University, November 2009.]

County Investment Guide

Another element of a County's Investment Promotion Strategy is the development of a detailed document containing information on how to do business at the county level. Key components of a County Investment Guide include:

- Kenya and County Economy and Trends;
- Population and Demographics;
- Education and Human Resources;
- Labour Situation Analysis;
- Wages and Salaries;
- Natural Resources and Geographic Profile;
- Legal Framework and Investment Regime;
- Doing Business Procedures and Costs;
- Market Access;
- Infrastructure and Transport;
- Banking and Financial Services;
- Quality of Life;
- Business Opportunities;
- Important Contacts.

COUNTY BRANDING

A County "brand" generally refers to the common images, perceptions and associations, people have in relation to the County and is an important tool to mass communicate the county's identity. Therefore, it is important that a County's Brand be strategically managed to challenge existing negative stereotypes, promote positive messages, and close the gap between perception and reality. A strong brand strategy should reflect a realistic, competitive, and compelling strategic vision for the county, and should be done in cooperation with KenInvest and the national and county-level tourism boards and tourism promotion authorities.

WEBSITE

A website is critical for a County Government's Investment Promotion efforts as it is its shop window to the outside world and a key marketing tool.² To be effective at attracting investment, the county's website should:

² According to a 2014 survey of 356 large American MNCs, the most effective marketing technique of an economic development organization is its website. Source: "Winning Strategies in Economic Development marketing - A View from Corporate America, 2014. Development Counsellors International, available at www.aboutdci.com

- Present the county as a viable investment destination;
- By focusing on competitive sectors, directly promote the county to potential investors and persuade them to undertake site visits;
- Explain how the County's Government will assist new and existing investors through;
- Providing detailed and sector-specific information and data;
- Informing on regulations and procedures needed to establish and operate a business in the county;
- Providing clear contact information for a Unit or Department in the county tasked with assisting investors throughout the investment process.

Box 1: What is a best-practice investment promotion website?

Ideally the website should:

- Be prominently located on common global search engines (such as Google and Yahoo) and be fast to download.
- Be immediately recognizable as offering services for companies; ideally it should indicate which sort of sectors are being targeted.
- Be well organized with information provided in a consistent manner, and with sections relating to major key location factors.
- Be easy to read, and written in a web-friendly scanning format that is in common international business languages.
- Have the organization's contact details prominently located, which include specialist contact telephone numbers and email addresses by sector or service line, as well as office addresses clearly visible
- Have a focus on key sectors that are being promoted. A judicious use of key statistics and financial data will enhance the credibility of any claims made.
- Have content about key sectors structured in such a way that relates to the aspects of most importance to investors.
- Identify existing investors or use testimonials, ideally reiterating the advantages of the location and the excellent services provided by the investment promotion organization.
- Provide current news stories, with the aim of demonstrating the ease of doing business or the positive benefits of the location for investment.
- Outline the services available for investors in a way that documents the value added that the organization brings.
- Promote the location and make a business case for companies to invest by summarizing the key reasons why the location is a good match for the sector.

Source: World Bank

Monitoring and Evaluation (M&E)

As county governments embark on investment promotion efforts, it is important to put in place mechanisms to monitor results and to ensure that objectives are met. A series of indicators need to be developed and used to measure efficiency and effectiveness of planned activities, outputs, and outcomes. An effective M&E system can play a crucial role in keeping projects and programmes on track, issue early warnings if they go off-track, create the basis for reassessing priorities and create an evidence-based strategy for current and future projects and programmes through the systematic collection and analysis of information on the implementation of a project.



The table below suggests relevant data that counties should systematically collect concerning its investment promotion activities:

Table 3: Indicative data that counties should collect for M&E purposes	
Activities and Outputs	No. of investor events held
	No. of investor participants in events
	No. of individual investor meetings held
	No. of meetings held with investors in county's target (priority) sectors
	No. of aftercare meetings held
	No. of promotional materials prepared
	No. of investor inquiries received
	No. of investor inquiries responded to
	No. of investor presentations made
	No. of sector benchmark studies completed
Intermediate Outcomes	No. of site visits by investors organized by the county
	Investment decisions announced
	Feedback from investors on county's services and assistance during the investment.
Final Impacts	Value of new investment commenced
	No. of jobs created by new investments
	Value of reinvestments made
	No. of jobs created in reinvestments
	No. of grievances resolved to satisfaction of investor
	Value of investments retained (at risk of being lost)
	No. of jobs saved in retained reinvestments

Sources: World Bank

Benchmarking County Competitiveness

Another way of evaluating county's efforts at becoming attractive for investment is through benchmarking. For example, the World Bank's Doing Business reports provide objective measures of business regulations and their enforcement across 189 economies, ranking them across several important dimensions on their ease of doing business, from one to 189. Kenya's overall ranking improved to 92 out of 189 in 2017, compared to 108 out of 189 in 2016 and 129 in 2015.³

In addition to the national-level Doing Business ranking issued every year, the World Bank has issued three sub-national Doing Business reports for Kenya (in 2016, 2012 and 2013) which benchmark the ease of doing business of 10 Kenyan counties.⁹

Going forward, KenInvest aims to develop a County Investment Index to be able to compare the investment climate situation across the different counties.

4.4 Effective services to investors during the attraction phase

Good investment services (also called facilitation) are essential to ensure a seamless exploration and entry of investors into the county. The counties need to provide marketing, information and assistance services to investors, for them to make their investment decision.

A cornerstone of good investment services is the inquiry handling mechanism or system to ensure that all investment inquiries will be responded to; this requires establishing Standard Operating Procedures (SOPs) or protocols, an Investor Information

System (IIS) to store relevant information, and an Investor Relationship Management System (IRMS) to keep track of and effectively manage communications with investors.

Establishing a mechanism for handling investment inquiries

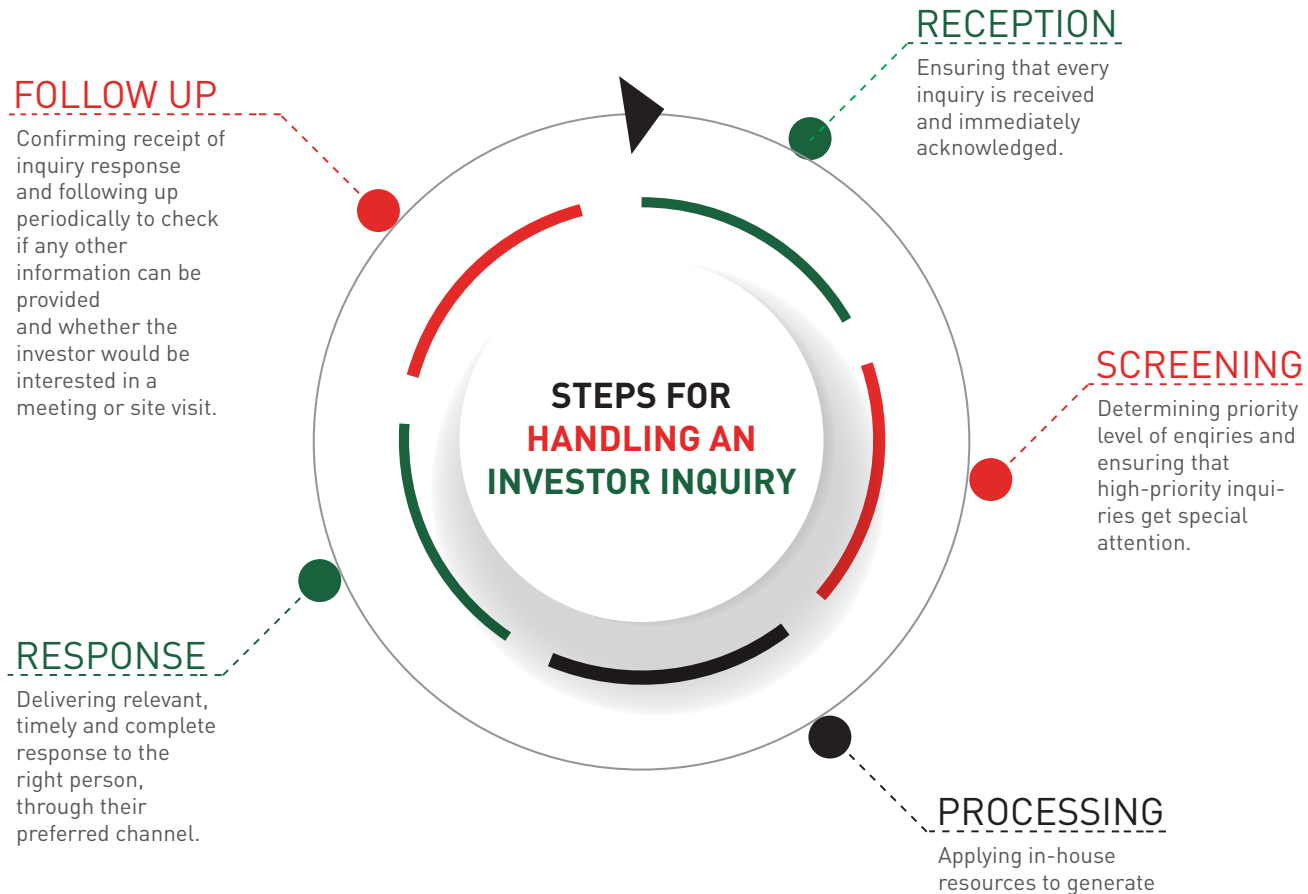
A good inquiry handling mechanism ensures provision of timely and relevant information to investors. Every investor inquiry should be acknowledged immediately, and a full response should be sent within a few days (typically within 5 to 10 depending on its complexity). Importantly, all inquiries should be followed up on consistently with the goal of transforming the initial interest into a more solid lead and to persuade investors to make a site visit.

To ensure a seamless process, best practice Investment Promotion Organizations develop inquiry handling SOPs/protocols explaining what needs to be done by whom at every stage of the inquiry handling process: reception, screening, processing, response and follow up (see figure below). Box 2 below provides an example of an inquiry handling protocol developed by Nicaragua's investment promotion agency.

³ World Bank, Doing Business, 2016.

Reports available at <http://www.doingbusiness.org/Reports/Subnational-Reports/kenya>

Figure 4: Steps for Handling an Investor Inquiry



Box 2: PRO Nicaragua Inquiry Handling System

Nicaragua was the top country in a World Bank assessment of 189 national investment promotion agencies (IPAs) carried out in 2012. The assessment evaluated IPAs' websites and their handling of two investor inquiries.

Nicaragua is a small, lower-middle-income economy that has experienced armed domestic conflict less than a generation ago. Yet its national investment promotion agency, PRONicaragua, achieved a performance level that eludes even the world's most seasoned IPAs.

To do so the agency undertook a complete reassessment of its operations between 2009 and 2011. With the help of a team of students from a renowned local MBA program, the IPA reviewed and revised its internal systems. It also subjected sector personnel to inquiry-handling tests, using its own mystery shopper methodology. With what it learned from those efforts, PRONicaragua created a five-step response protocol designed to ensure great customer service and convert investor interest into project leads. According to Javier Chamorro, CEO of PRONicaragua, once you have good systems in place "all you need is creative, capable, committed people."

- PRONicaragua staff keep this facilitation protocol posted by their desks:
- Acknowledge receipt of inquiry by email within 24 hours.
- Give a full or near-full response within 7 calendar days.
- Provide any missing or more detailed information within another 7 calendar days, or simply follow up to confirm receipt of response and receive additional questions.
- In another 15 days, try to arrange a conference call to hear project status, answer questions, and propose a country visit.
- In another 30 days, inquire about project status, offering a conference call or country visit.

Source: World Bank

Build an Investor Information System (IIS)

To provide timely and relevant responses to investors' inquiries, counties should build a "virtual library" where all investment-relevant documents are kept. This library, called by most investment promotion agencies an Investor Information System (IIS), should be kept in an electronic platform to ensure that all staff responding to investor inquiries can easily access it. An IIS should also include a formal process by which assigned staff is responsible for updating materials at predetermined intervals from predetermined contacts to keep the information current.

Below is a checklist of the typical documents that should be part of an IIS:

Box 3: Checklist for counties' IIS

General Information on the County:

- Politics
- Economy
- Market access, trade regimes, & membership in international orgs
- Population/demographics
- Geography
- Quality of life

Information On County's Factors Production/Resources

- Human resources/Education
- Labour situation analysis
- Wages/salaries
- Natural resources

Information on County's Infrastructure:

- Transportation
- Utilities
- Banking/financial services
- Free zones/industrial parks/land

Information on Doing Business in the County:

- Licensing & permitting
- Legal framework
- Taxes and incentives

Information on County's Key Sectors:

- Costs
- Investment Opportuniti
- Quality
- Players
- Comparative advantages

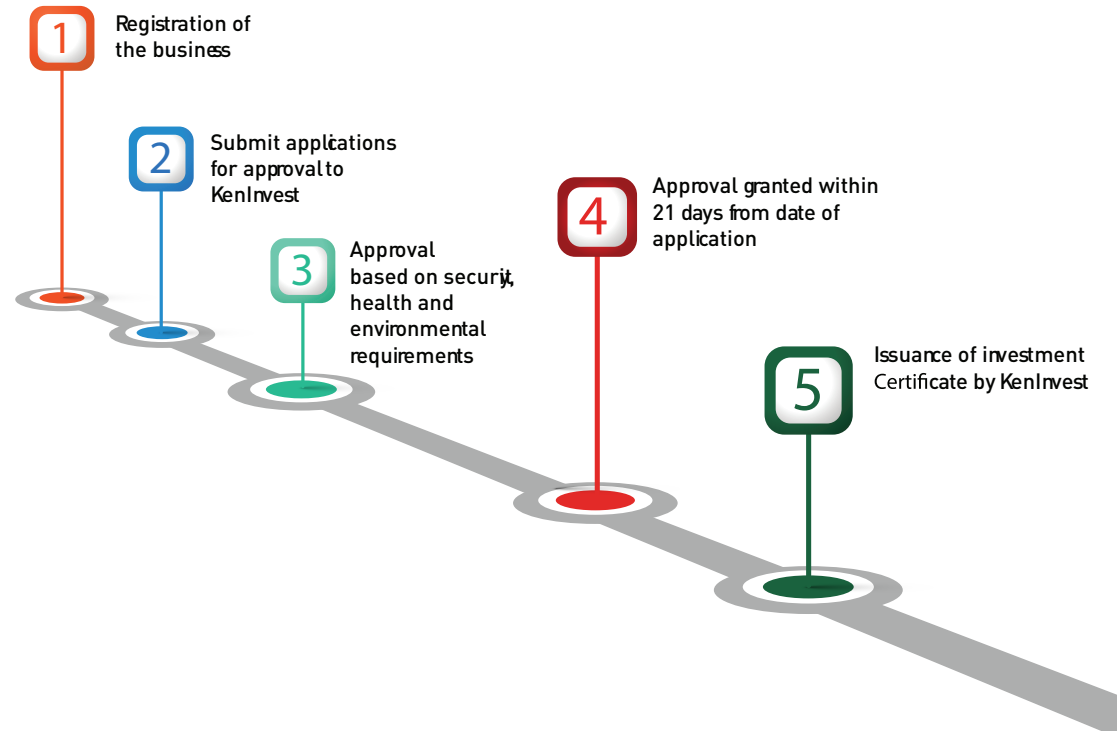
Source: World Bank

It is important to highlight that national-level information should be obtained in collaboration with KenInvest to avoid duplication of efforts. A list of possible online sources of information for the IIS is included in Appendix 6.

As part of their IIS, counties should develop Sector Investment Roadmaps, to act as guidelines for investor in different sectors. These should include information on processes and procedures to invest in each sector, key and mandatory steps, facilitating institutions and departments, the time required to complete a procedure or obtaining an approval, and total costs associated with each process until a final approval is obtained. In best practice cases, such road maps offer information on prerequisites and checklists, either as readily available attachments or even through the website.

Figure 5: Example of an Approval Process

Figure 5: Example of an Approval Process



Develop and Use an Investor Relationship Management System

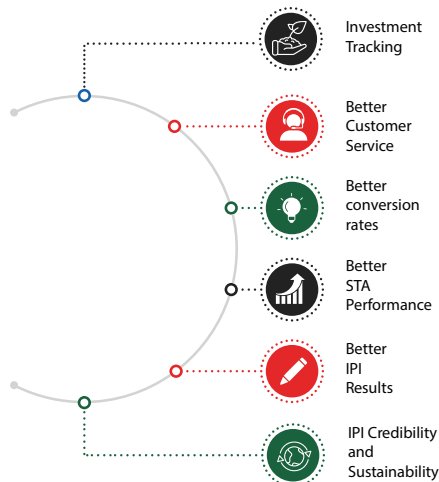
Given that several decision makers often make important company decisions over several months if not years, and that counties will be expected to provide support to these companies throughout these long periods (including exploration, decision, establishment, operation, expansion and perhaps exit). Developing a system that will help counties concentrate, organize, and manage the relationships with investors efficiently and effectively is extremely important.

Agencies need an Investor Relationship Management System (IRMS), a platform or framework including staff, protocols, and software to help manage the relationship with investors. The software at its core could be as simple as an Excel file or as complex as a sophisticated program especially designed to manage relationships with customers (known as Customer Relationship Management or CRM software).

By keeping a written record of all interactions with existing and potential investors in a single system or file, an IRMS helps counties:

- Provide consistent, professional, on time service to investors.
- Build the relationship with the investor throughout the investment cycle.
- Access and share real-time information about investors.
- Monitor, analyse, and report performance and results.
- Retain institutional memory.

Figure 6: An IRMS can help Counties Provide Excellent Services to Investors, Achieve Better Results and Increase their Sustainability Long Term





Fourteen Falls- Thika
Image Courtesy: Mutua Matheka

Box 4: Checklist of Information Fields that an IRMS should cover:

Company Information:

- Company name
- Company address and country
- Sector or industry
- Sales amount worldwide or other information that allows to gauge company’s size and value

Contact Information:

- Name
- Designation or job title
- Email and telephone numbers
- Source of contact

Project/Opportunity:

- Project description
- Sector of project
- Planned/Announced Investment
- Actual Investment
- Planned/Announced Employment
- Actual Employment
- Project requirements (e.g. land, facilities, raw materials, utilities)
- Type of investment
- Project priority
- Status

County Service Provision:

- Service requested from the county
- Responsible staff within county to provide service
- Date request was made
- Date service was provided
- Log of all communications held with investor
- Future activity / To do
- Person responsible for future activity / To do
- Deadline for future activity / To do

Source: World Bank

4.5 One Stop Centers (OSC)

Long delays, complex and costly procedures to establish a business, and multiple points of contact are some of the major obstacles to new investment and entrepreneurial activity in Kenya. Best practice shows that many governments around the world have had to introduce reforms to simplify the process of starting a business. A common approach has been the establishment of one-stop shops (OSC), which bring together the various Government Regulators, Facilitators, and Business support institutions under a single point of contact, and in a streamlined and coordinated manner. This can be done in a physical (office) or virtual manner, or a combination of the two. Increasingly, OSCs are electronic, with a single web portal containing the necessary information and a system of data exchange among institutions.

Where in operation, OSCs usually strengthen Investment Promotion efforts by reducing delays experienced by investors in starting, implementing and operating their investments, and by creating a transparent and predictable approval process. Some of the anticipated benefits associated to OSCs include:

- Reduced costs of establishing new investment;
- Reduced burden of dealing with multiple agencies;
- Improved efficiency and effectiveness in granting approvals, licenses, and permits;
- Removing over-bureaucratization in procedures and processes;
- Improved service delivery and transparency;
- Improved data capture and recording of investment statistics;
- Improved attitude concerning investor facilitation by regulatory agencies.

There are different OSC models around the world, as shown in Table 4 below.

Many countries have encountered challenges in setting up and sustaining a one-stop shop. It is necessary to have strong political will over and above the agencies to be involved (a decree is a good instrument to establish the OSC. The appointment of a steering committee composed of leaders of the institutions involved) and the interest and support of the agencies themselves (inter-relationships among institutions can be officially adopted through Memoranda of Understanding). Technical staff with sufficient training and outreach or are empowered to take decisions (requires training and good relationships with the institutions involved) and standard operating procedures among the institutions involved (for example, through diagrammed workflows).

Table 4: Types of OSC Models

Type of OSC	Description
Account executive model	Each “account executive” is assigned a portfolio of investors, for whom they act as the single contact point for all needed facilitation and servicing, including obtaining all approvals and licenses from public sector authorities, e.g. Ireland.
Approving model	Key agencies are brought under one roof in a single location, where offices and officers have sufficient seniority to grant approvals. Best practice examples include Egypt, Rwanda, Tanzania, and Uganda.
Facilitating model	Acts as a collection point to forward applications to various authorities. An example of a facilitating OSC is Kenya Investment Authority. This type of OSC may include the mandate to follow up on the status of applications.
Empowered model	Where authority is completely delegated from issuing agencies to the OSC, such as in Singapore.

Box 5: Best Practice OSC in Egypt

Before the establishment of its OSC, starting a new investment in Egypt could involve as many as 22 ministries and 78 governmental entities. Administrative procedures were far too numerous and time consuming. Many were redundant and some were inconsistent with each other. Investors require about 349 services (including approvals, permits and licenses, both in the establishment and operating phases) and there were 200 regulations for business licensing. These inevitably stagnated the investment attraction efforts of the country.

The establishment of an OSC in Egypt in 2005 at the General Authority for Investment and Free Zones (GAFI), Egypt’s investment promotion agency, has contributed to achievement of a remarkable change in performance and bureaucratic culture and prompted an attitude change. This reform among others, combined with favourable economic factors, worked to sharply increase investment in Egypt. FDI figures rose from USD 2.1 billion in FY 2003/04 to USD 3.9 billion in FY 2004/05 and USD 6.1 billion in FY 2005/06 respectively. Portfolio investment also jumped forward. Market capitalization of the listed companies in the Egyptian Stock Exchange increased from 33% of GDP in 2004 to more than 85% in 2006. Moreover, as a final indication of success, in FY 2005/06 the Egyptian economy recorded a growth rate of 6.9% compared to 3.5% in the two previous years.



Windsor Golf Hotel and Country Club.
Image Courtesy: Kenya Golf Union

4.6 Effective services to investors during the establishment and expansion phases

Also called Aftercare services, they are offered by investment promotion organizations to companies once they have decided to invest, or when they are ready to expand. It includes supporting investors with registration, establishment, and successful start-up of operations, avoiding any possible project cancellations. Aftercare also assists and encourages strategic investors to expand, diversify, and link to local suppliers, in view of maximizing their contribution to the local economic development and ensuring the success and sustainability of the company's investment.

Objectives of Aftercare Services include:

- Conversion from investment decision to operation;
- Expansion, diversification, and reinvestment of the existing investor base;
- Supporting foreign affiliates to win new investments from corporate headquarters;
- Identification and removal of key barriers to increased reinvestment by existing investors;
- Retention of established investors in all regions;
- Increased employment because of reinvestment.

A strong case can be made for IPAs and counties alike to engage in aftercare as one of their core functions for the following reasons:

- It is a good way of making efficient use of county resources, since focusing on the established investors is less costly than marketing the location to new ones abroad (lower sales, marketing, and travelling costs).
- Aftercare services may help to maximize the potential benefits from inward FDI, such as technology transfers, local supply chain development, and further job creation.
- Satisfied foreign investors can also be good promoters of a host location through their testimonials.

According to research from the United Nations Conference on Trade and Development (UNCTAD), in developed countries up to 70% of investment is linked to the existing investment base, while an average of 32% of inward FDI in developing countries comes from reinvestments.

The steps for designing and operating Aftercare services in the counties include:

- Identifying the investor base and its needs (i.e., who are the investors already operating in the county and what are their issues and needs).
- Segmenting the existing investment base and prioritizing companies (for example, based on sector and size of investment).
- Setting up goals (for example, how many investors/companies to visit, how much reinvestment and new jobs does the county seek to achieve through its aftercare activities).
- Designing the activities and assigning specific staff to carry them out (for example, company visits; invitations to a roundtable with county officials to discuss issues; commitment to fast track any necessary procedures; commitment to elevate issues to have them solved quickly and effectively, etc.).
- Mobilizing partners who may need to play a role in aftercare such as other county departments, private sector associations and so on.

5. ACQUIRING LAND FOR INVESTMENT PURPOSES

Land is a key factor of production and therefore its proper management is essential to the success of any investment project.

Land administration in Kenya is regulated by the Land Act, 2012; Land Registration Act, 2012; National Land Commission Act, 2012; Community land Act, 2016; Land Laws (Amendment) Act, 2016; and National Land Use Policy (2016).

The main idea behind enacting these new laws was to consolidate the Kenyan land registration system under one registry, where title documents are now referred to as Certificates of Title or Certificates of Lease. The laws classify land into three main categories:

- Public land.
- Community land; and
- Private land.

5.1 Public Land

The allocation of public land to private persons is now managed and supervised by the National Land Commission to ensure independence and transparency in the process. Furthermore, any land that is made available by the Government for allocation is now “gazetted” and notices are published in at least two local dailies, prior to the commencement of the allocation process.

Acquisition of Public Land for Investment

Investors interested in acquiring public land should keep in mind that the Government must have expressed its interest. This is usually done through a bidding process to ensure there is competition in the process and that the Government sets a value for the land.

Investors can express interest in being allocated land by the Government and they can negotiate with the government the terms of such allocation. The government can also use the land as equity contribution in a private investment where the government has an interest. This can be negotiated in a public-private partnership.

5.2 Community Land

Registered community land is administered and managed by community land management committees on behalf of the respective community.

Acquisition of Community Land

A registered community may, on its own motion or at the request of the County Government, submit to the County Government a plan for the development, management and use of the community land administered by the registered community for approval.

For the purposes of the Community Land Act, contracts and transfers over community land shall be carried out in a manner similar to transactions over private land as provided in the Land Act, 2012 (No. 6 of 2012) and registered as provided in the Land Registration Act, 2012 (No. 3 of 2012).

A lease over community land shall be based on an agreement between the community and the lessee and subject to such implied conditions, restrictions and covenants as may be contained in any other written law.

5.3 Private Land

This is defined in the Constitution 2010 as registered land held by any person under any freehold or leasehold tenure and any land declared private under an Act of Parliament.⁴The Constitution restricts landholding by non-citizens, including corporations, who can only own leasehold land for a maximum of 99 years. As such, any freehold land owned by a non-citizen has been converted into a 99-year leasehold after the promulgation of the Constitution of Kenya 2010 and any leasehold interest with an unexpired term of over 99 years is to be converted into a 99-year leasehold interest. Section 12(6) of the Land Act states that on expiry or extinction of a lease granted to a non-citizen, reversion of interest or rights in or over land shall be conferred to national or county governments. After the expiry of the leasehold tenure, the Commission shall offer to the immediate past holder of the leasehold interest.

Acquisition of Private Land

Purchase of private land is entirely negotiated between the investor and the landowner.

The following steps should be followed:

- Identify suitable land for investment.
- Confirm the legal ownership of the land.
- Draw up the sale agreement.
- Comply with all required procedures before the final transfer of ownership.
- If the investor desires to change the land use, an application for Change of User must be made to and approved by the Local Authority.
- The Registrar of Lands must approve consolidation or sub-division of land.

For more details on a rigorous process of verifying private land targeted for acquisition, visit the website in charge of land (www.lands.go.ke) or that of KenInvest (www.invest.go.ke).

5.4 Land Ownership by Non-Citizens for Investment

Laws on Non-Citizen of Kenya

The Kenya Citizenship and Immigration Act 2011, under Section 2, describes a foreign national as “any person who is not a citizen of Kenya” with a focus on natural persons rather than corporations, which play a key role in terms of FDI through registered companies. Nonetheless, the nationality of a foreign corporation could still be determined based on the citizenship of the natural person who holds decision-making control over it. The Constitution is clear on the terms for foreigners holding freehold land and leasehold land exceeding 99 years.

The Constitution stipulates that a company must be locally incorporated to be treated as a corporate citizen. A company that has Kenyan shareholders but has foreign directors would still be considered a local company capable of holding a freehold or leasehold interest for more than 99 years.

As anticipated in Section. 12(3) and (4) of the Land Act, 2012⁵ it is necessary to develop guidelines to determine the various lengths, uses and other conditions for grants of leasehold land to non-citizen investors (with lengths not exceeding 99 years). This will ensure equitable land allocation, economic

⁴ Government of Kenya, “The Constitution of Kenya, 2010 – Article 64”, 2010.

⁵ Dr. Kibugi, R. and Makathimo, M., “Non-Citizens and Land Tenure in Kenya: Land Acquisition for Investment in a New Constitutional Era”, July 2012.

soundness of investments, adherence to environmental sustainability and climate change laws, and respect of the rights of local communities.

Mechanisms for land acquisition by foreign investors include:

- Contractual agreements with private landholders: a person holding private land has the right to grant leases to other people. These may be short-term leases, sub-leases or fixed-term leases that are non-renewable provided that they do not exceed 99 years.
- Periodic licensing of public land: Under Sec. 23 of the Land Act, the National Land Commission is empowered to issue short term and periodic grants (licenses and leases) of public land, on behalf of national and county governments. However, the Land Act exempts some public land from being allocated, such as land subject to erosion or floods, public lands within forests, wildlife reserves or wetlands, public land reserved for security, education, and other strategic functions, and natural or historical features of national value as stated in Sec. 12(2) of the Land Act.



Great Rift Valley Lodge & Golf Resort
Image Courtesy: Kenya Golf Union

6. INVESTMENT PROTECTION AND GUARANTEES

Protection of all investors in Kenya is governed primarily by the Kenya Constitution (2010), including contracts and domestic legislation. These instruments provide substantive protections and allow private enterprises to freely establish, acquire, and dispose of interest in business enterprises. These instruments provide foreign investors with key guarantees in their relationship with the Kenyan national and county governments: Currency conversion and transfer restrictions; expropriation which is not for a public policy purpose (public safety or public interest) and not fairly compensated; breach of contract and arbitrary state action including discrimination and denying basic procedural fairness/treatment.

Foreign investors have international law-based rights granted to them under international investment agreements to which Kenya is a party, or other special provisions of domestic law such as the Foreign Investor Protection Act. Additionally, there exist procedural avenues to enforce protections accorded to foreign investors, such as recourse to the International Centre for Settlement of Investment Disputes (ICSID), ICSID Additional Facility and, UNCITRAL as Kenya is a member. Only foreign investors who are granted this right pursuant to a specific IIA (i.e. “covered” investors), a specific contract, or relevant law. Kenya is also a member of the public multilateral system, Multilateral Investment Guarantee Agency (MIGA), which allows foreign investors to seek cover for currency transfer risks, expropriation, breach of contract or war and civil disturbance, among other risks, and a member of Africa Trade Insurance Agency, that insures against commercial and non-commercial risks. Other avenues also include liberalization commitments through the GATS and bilateral public systems like OPIC.

6.1 Right to Property and Life under the Constitution of Kenya

The Constitution of Kenya, under its Bill of Rights, guarantees the safety of life and property. The Bill of Rights asserts that:

- Every person has the right to life;

Section 40(1), subject to Article 65, stipulates that every person has the right either individually or in association with others, to acquire and own property of any description and in any part of Kenya.⁶ Parliament shall not enact a law that permits the State or any person:

- To arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description;
- To deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation:
- Results from an acquisition of land, or an interest in land, or a conversion of an interest in land, or title to land, in accordance with chapter 5;
- Is for public purpose or in the public’s interest and is carried out in accordance with the Constitution and any Act of Parliament that requires prompt payment in full, of just compensation to the person, and allows any person who has an interest in or right over that property a right of access to a court of law.

Furthermore:

- Provision may be made for a compensation to be paid to occupants in good faith, for land acquired under clause (3), who may not hold title to the land;
- The State shall support, promote, and protect the intellectual property rights of the people of Kenya;
- The rights under this article do not extend to any property that has been unlawfully acquired.

⁶ *Ibid*

6.2 Foreign Investment Protection Act (FIPA) Rev.2016.

The Government of Kenya passed an Act of Parliament for the protection from deprivation of property. No property shall be compulsorily taken pOSCession of except where:

- The acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilization of any property in such manner as to promote the public benefit; and
- The necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- Prompt payment of full compensation is made.

Every person having an interest or right in or over property which is compulsorily taken pOSCession of or whose interest in or right over any property is compulsorily acquired has the right of direct access to the High Court for the determination of his interest or right, the legality of the action and the amount of compensation to which he is entitled.

6.3 Investment Guarantees and Dispute Settlement Mechanisms

Investment Promotion and Protection Agreements (IPPAs)/Bilateral Investment Treaties (BITs)

BITs/IPPAs provide a reciprocal arrangement for protection and promotion of investments and are intended to provide investors of one state investing into the territory of the other state with special protections under international law. As a measure of strengthening investor confidence, Kenya has negotiated and signed various BITs with a number of countries. Some of the key provisions covered by these BITs include: Expropriation; Convertibility and repatriation; National treatment; Treatment of Investors and Dispute resolution. Kenya negotiates these agreements through an ad hoc negotiating committee chaired by the National Treasury, and comprising of representatives from the Ministry of Foreign Affairs, Attorney General's Office and Kenya Investment Authority. Kenya has signed and ratified BITS with the Burundi, Finland, French, Italian, Netherlands, Korea, Kuwait, Qatar, Swiss Confederation, United Kingdom of the Great Britain, Ireland governments and republics and the OPEC Fund. Other BITs have been negotiated and signed but not yet ratified.

There is an emerging concern based on the exposures posed to states by the BITs (which have also affected Kenya) by virtue of the dispute resolution mechanism inherent in BITs as well as the interpretation of commitments by tribunals. Furthermore, a number of studies has determined that there is no clear data demonstrating that being a party to BITs and FTAs leads to greater investment, let alone desirable investment that will promote sustainable development. In this regard therefore, Kenya is currently looking at reforming the treaties regime in order to align treaties based on the changing international investment agreements arena, especially the investor state dispute resolution mechanism and international arbitration in order to safeguard Kenya's development agenda and goals and establish clauses that will protect both the investor and the state from any arbitration threat. Counties should also consult National Government when signing contacts with investors where the Kenyan government has already signed BITs.

Multilateral Investment Guarantee Agency (MIGA)⁷

Kenya is a signatory to the Multilateral Investment Guarantee Agency (MIGA), which insures private investment against non-commercial risks. MIGA helps investors and lenders deal with political risks by insuring eligible projects against IOSCes relating to:

- Currency inconvertibility and transfer restriction;
- Breach of contract;
- Non-honouring of sovereign financial obligations.

MIGA also benefits investors and lenders by:

- Deterring harmful actions: MIGA's status as a member of the World Bank Group and its relationship with shareholder governments provides additional leverage in protecting investments;
- Resolving disputes: As an honest broker, MIGA intervenes at the first sign of trouble to resolve potential investment disputes before they reach claim status, helping to maintain investments and keep revenues flowing;
- Providing environmental and social expertise: MIGA helps investors and lenders ensure that projects comply with what are considered to be the world's best social and environmental safeguards;
- Accessing funding: MIGA guarantees can help investors obtain project finance from banks and equity partners;
- Lowering borrowing;
- Increasing tenors: The agency can provide insurance coverage for up to 15 years (in some cases 20), which may increase the tenor of loans available to investors. Providing extensive country knowledge - MIGA applies decades of experience, global reach, and knowledge of developing countries to each transaction.

African Trade Insurance Agency⁸

Kenya is a member of ATI. The African Trade Insurance Agency (ATI) is Africa's export credit agency. ATI provides political risk and trade credit risk insurance products with the objective of reducing the business risk and cost of doing business in Africa.

International Centre for Settlement of Investment Disputes (ICSID)⁹

Kenya is also a member of the International Centre for Settlement of Investment Disputes (ICSID) that guarantees arbitration of disputes between government and investors in a third party country. ICSID is an autonomous international institution with over one hundred and forty member States. Today, ICSID is considered the leading international arbitration institution devoted to investor-State dispute settlement.

⁷ [Multilateral Investment Guarantee Agency Online Portal.](#)

⁸ [African Trade Insurance Agency Online Portal](#)

⁹ [International Centre for Settlement of Investment Disputes Online Portal.](#)

Other Mechanisms

Industrial Court

In pursuance of Article 162(2) (a) of the Constitution, the Kenyan Government established the Industrial Court for settling employment and industrial relations.



Mombasa Port- Mombasa Kenya

7. KENINVEST SUPPORT TO COUNTY GOVERNMENTS

The mandate of KenInvest, which is to promote and facilitate both local and foreign investments, cuts across the two levels of government: national and county governments. Therefore, national-county collaboration is essential to provide a single point of contact and excellent services to investors. This requires strong teamwork and institutional alignment, and will derive in cost and time savings for investors, making Kenya a more competitive location for investment.

KenInvest and counties need to collaborate on a smooth delivery of services to investors (marketing, information, assistance and advocacy) around the investment cycle (attraction, entry/establishment, retention/expansion and linkages/spill overs), and packaged under programs or functions such as investment promotion (including image building and outreach), facilitation, advocacy and aftercare. Global experience suggests the following lessons on national-subnational cooperation for investment promotion:

- On a National level KenInvest will get Information from other Ministries, Departments & Agencies, Embassies & other stakeholders
- Facilitation services are most effective when provided in close collaboration between national and County levels, as counties need to support investors during exploration, entry, and establishment.
- Once the investor is established and operating, aftercare services are more efficiently provided at the county level, because counties are in a stronger position to help companies solve any issues that may arise during operations, and support their expansion processes. This does not mean that the KenInvest will not play a role and support as well, but much of the work naturally falls at the county level.
- The advocacy effort to improve the investment ecosystem (including the investment climate) is a shared responsibility of all stakeholders: KenInvest, the county governments, business associations, chambers of commerce, and so on will need to work closely. National-subnational coordination works best where the role distribution, protocols, and levels of service to investors are established through formal agreements.

For more information visit:

www.invest.go.ke

<https://eregulations.invest.go.ke>

<https://eopportunities.invest.go.ke>

Figure 7: Example of Role Split



From another perspective, in terms of investor services, national agencies like KenInvest are best placed for 1) advocating for national policy reforms (while counties advocate for improvements at a local level) and 2) marketing the country and providing information and assistance to new investors during the attraction phase (while counties would market mostly to existing investors). Counties are best placed for 1) providing specific entry and start-up information and assistance, all the way to offering fuller support with One Stop Centers and/or handholding until investment is operational, and 2) providing information and assistance during operation and expansion.

7.1 KenInvest’s Support

Kenya Investment Authority will:

- Create linkages with international bodies (e.g. WAIPA) and act as a bridge between international agencies and the counties;
- Act as a bridge between national ministries and the counties in investment matters;
- Examine the potential of proposed investments against various counties, linking investors to investment opportunities in specific counties;

- Develop appropriate instruments to monitor the investment climate in the counties in collaboration with county governments;
- Develop, in collaboration with counties, appropriate mechanisms for collection, updating and dissemination of investment statistics in the counties;
- Support the counties to develop data banks on investment opportunities, project profiling and investor targeting;
- Support counties in the establishment of one-stop-shops to fast-track investor facilitation;
- Offer support in training county officials in investment matters with focus on: technical assistance in research and product profiling; One Stop Center; competitiveness; building capacity for shared resources among counties, among others;
- Collaborate with county governments and other stakeholders for the preparation of incoming and outgoing business missions and site visits, organization of conferences, exhibitions and business match-making and sharing information on the same;
- Offer support in profiling, packaging, and marketing public projects in the following sectors to secure strategic public-private partnerships:
 - Agriculture;
 - County health services;
 - Cultural activities, public entertainment, and public amenities;
 - County transport;
 - County planning and development;
 - Implementation of specific national government policies on natural resources and environmental conservation;
 - County public works and services;
 - Firefighting services and disaster management.

7.2 Business Development Support

To enhance the development of Domestic Direct Investments (DDIs) and enterprise creation in the counties, KenInvest will support local enterprises to develop markets, acquire and improve technology through innovation, and will provide a platform for business linkages with multinational and large firms. This will result in increased market access locally and globally while facilitating the enterprises to enter the national and global supply/value chain.

7.3 Building Effective Partnerships

Partnerships with relevant stakeholders will complement efforts by the county in marketing itself as an investment destination. In addition to collaborating with KenInvest, counties should strive to establish partnerships with chambers and other private sector associations, as well as leading investors in various sectors who can act as advocates for the county as an attractive investment destination.

In addition, counties need to develop comprehensive frameworks for public-private partnerships to attract private investment in key county development projects such as utilities, infrastructure, agriculture, and so on. In these projects, the private sector becomes the strategic investor and provides leadership in the design, implementation, and management of these investments. For the investment facilitation function, counties need to collaborate with facilitators, regulators, and service providers to ensure that the licenses, permits, certificates, and authorizations required by investors to implement and operate their

business are issued in a timely manner and with minimal costs. This will result in ease of business entry, operations, and exit and in reducing the cost of doing business. The concept of One Stop Center can only be embraced through this kind of partnerships.

Advocacy can only succeed if counties collaborate with stakeholders with similar interest. Hence, counties will need to collaborate with business associations such as Kenya Association of Manufacturers (KAM), Kenya Private sector Alliance (KEPSA), and Kenya National Chamber of Commerce (KNCCI) etc. to push through the agenda of formulating proper policies that can assist in creating a conducive policy environment for investment and business. In addition, close working relationships with policy makers in government (Parliament, Senate, and County Assembly) will facilitate a faster adoption of policy recommendations, which in turn, should increase investments in counties.

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Tea Farming, Limuru

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APPENDICES

Appendix 1: Incentives in Kenya

Table A1: Simplified Inventory of Investment Incentives in Kenya

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Reduced CIT rate for newly listed companies	Newly listed companies enjoy a reduced CIT rate for 3-5 years following the year of listing (20-27%) depending on the percentage of capital listed (more than 20%)	CIT	Tax reduction	Economy-wide		N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 150, 2015
Reduced CIT rate for newly listed companies	Newly listed companies enjoy a reduced CIT rate for 3-5 years following the year of listing (20-27%) depending on the percentage of capital listed (more than 20%).	CIT	Tax reduction	Economy-wide		N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 150, 2015
VAT exemption on	Exemption from VAT on the exports of goods and taxable services	VAT	Tax exemption	Economy-wide		N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 155, 2015

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Investment allowance for farm works	100% allowance of the expenditure incurred for farm works	CIT	Allowance	Sector-specific	Farming	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015
WHT reduction for extractives	For petroleum and mining: payments to non-residents for services will be liable to WHT at the rate of 5.625% for contractors and 20% for licensees. However, this will not apply where the non-resident person has a Permanent Establishment (PE) in Kenya, in which case the PE will be liable to CIT at the non-resident rate of 37.5%.						

<p>The following rates will apply for other payments to non-residents: Dividends 10%. Interest 15%. Royalties or natural resource income 20%. Management or professional fees 12.5%.</p>	<p>WHT</p>	<p>Tax reduction</p>	<p>Sector-specific</p>	<p>Extractives</p>		<p>Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 161, 2015</p>	
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Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
<p>Investment allowance for industrial buildings</p>	<p>Annual allowance computed on the straight-line method at 10% per annum on the cost from Jan1, 2010. The rate for hotels is also 10%. For commercial buildings, it is 25%. A 50% industrial building allowance can be claimed on a hostel or educational and training buildings from Jan 1,2010.</p>	<p>CIT</p>	<p>Allowance</p>	<p>Sector-specific</p>	<p>Industry; Hotels; Education</p>	<p>N</p>	<p>Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 159, 2015</p>

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Investment allowance for wear-and-tear on plant and machinery	37.5% – Tractors, combine harvesters, lorries over three tons, and similar heavy self-propelled vehicles. 30% – Computer hardware, calculators, copiers, and duplicating machines.- 25% – Other vehicles and aircraft. - 20% – From 1 January 2010, telecommunication equipment purchased and used by a telecommunication operator						
- 20% – From 1 January 2010, software purchased. - 2.5% – All other machinery, including ships.	CIT	Allowance			N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 159, 2015	

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Investment deduction allowance	37.5% – Tractors, combine harvesters, lorries over three tons, and similar heavy self-propelled vehicles. - 30% – Computer hardware, calculators, copiers, and duplicating machines. - 25% – Other vehicles and aircraft. - 20% – From 1 January 2010, telecommunication equipment purchased and used by a telecommunication operator. - 20% – From 1 January 2010, software purchased. - 12.5% – All other machinery, including ships.	CIT	Allowance	Economic-specific	Industry; Hotels; Education	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015



<p>Investment deduction allowance</p>	<p>“Once-and-for-all” claim based on the cost of buildings and machinery installed therein. Claims can only be made by manufacturing concerns and hotels on expenditure of eligible assets as follows: where the year of first use is any year of income or accounting year, commencing on or after: 1 July 2000 – 100%. - 1 January 2002 – 85%. - 1 January 2003 – 70%. - 1 January 2004 – 100%. - 1 January 2005 – 100%. - 1 January 2006 – 100%. - 1 January 2007 – 100%. - 1 January 2008 – 100%. However, where capital expenditure is incurred on the construction of a building or purchase and installation of machinery outside the city of Nairobi, or the municipalities of Mombasa or Kisumu, whereof the value of the investment is not less than KShs200 million, investment deduction shall be claimed at the rate of 150%. For assets used for purposes of manufacture under bond</p>							
<p>Shipping investment deduction</p>	<p>A shipping investment deduction equal to 40% is claimable in the year of first use on capital expenditure incurred on</p>							

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
the purchase or on purchase and refitting of a power-driven ship of more than 495 tons. Not more than one investment deduction is claimable for the same ship and use of a ship must continue for no less than five years for the deduction to be retained.	CIT	Tax deduction	Sector-specific	Shipping	N		Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015
Duty remission for exports and duty-free items	Materials imported for use in the manufacture of exports, to produce raw materials for use						

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
in export manufacture, or to produce duty-free items for domestic sale, are eligible for duty remission.	Customs duty	Duty remission	Economy-wide				
CIT exemption for EPZ investors	Exploration expenditures incurred by a contractor are allowable to be deducted in the year in which they were incurred.	CIT	Tax deduction	Sector-specific	Ex-tractives	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 162, 2015
Investment allowance for machinery in extractives	Machinery used for prospecting/ exploration is subject						

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
to wear-and-tear allowance at the rate of 100%.	CIT	Allowance	Sector-specific	Extractives	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015	
LOSC carry forward for extractives	LOSCes incurred in the license/contract area can be carried forward indefinitely until utilized against income derived from the same license/contract area.	CIT	LOSC carry forward	Sector-specific	Ex-tractives	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
CIT deduction for extraction/ development expenditures in extractives	A deduction for extraction/ development expenditure can be claimed in the year of income when the expenditure is incurred and in the following years until fully deducted at 20% on a straight- line basis. Expenditure incurred before commercial production commences, will be treated as incurred at commencement of commercial production	CIT	Tax deduction	Sector-specific	Ex-tractives	N	Deloitte, "Guide to Fiscal Information. Key Economies in Africa 2014/15", page 160, 2015
Exemption from VAT for companies in EPZs	Perpetual exemption from VAT and customs import duty on inputs – raw materials, machinery, office equipment, certain petroleum fuel for boilers and generators, building materials, other supplies. VAT exemption also applies on local purchases of goods and services supplied by companies in the Kenyan customs territory or domestic market. Motor vehicles that do not remain within the zone are not eligible for tax exemption.	VAT	Tax exemption	Economy-wide		Y	EPZA Kenya

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Customs duty exemption for companies in EPZs	Perpetual exemption from VAT and customs import duty on inputs – raw materials, machinery, office equipment, certain petroleum fuel for boilers and generators, building materials, other supplies. VAT exemption also applies on local purchases of goods and services supplied by companies in the Kenyan customs territory or domestic market. Motor vehicles that do not remain within the zone are not eligible for tax exemption.	Customs	Duty exemption	Economy-wide		Y	EPZA Kenya

Incentive Name and Type	Brief Description	Applicable Tax	Modality of incentive	Economy-wide/ Sector-specific	Sector	SEZ/EPZ specific (Y/N)	Sources
Manufacturing Under Bond Program	The Manufacturing Under Bond (MUB) program is meant to encourage manufacturing for export by exempting participating enterprises from import duties and VAT on imported plant, machinery, equipment, raw materials, and other imported inputs. The program also provides a 100 percent investment allowance on plant, machinery, equipment, and buildings. Participating companies must export goods produced under the MUB system. If not exported, the goods are subject to a surcharge of 2.5 percent and imported inputs used in their production are subject to all other tariffs and other import charges.	Tax	Tax exemption	Sector-specific	Manufacturing		
CIT reduction in SEZs	Reduction in CIT to 10% from 30% for a period of 10 years of operation, and 15% for the next 10 years for companies in SEZs.	Tax	Tax reduction	Sector-specific		Y	SEZ Law of 2015
VAT exemption in SEZs	VAT exemption on all supplies of goods and services to enterprises in SEZs.	Tax	Tax reduction	Sector-specific		Y	SEZ Law of 2015
Sector Specific Incentives							

Appendix 2: Types and Sources of Finance

When seeking funding for a project or business there are several major questions that should be answered. How much money is needed? How exactly will it be used? Which funding sources will be targeted? Will a fund-raising agent or advisor be hired? What type of funding (debt/equity or other) best suits the nature of the project? The answers to some of these questions will likely determine the others, as they are all interrelated. The landscape is dynamic and investors can and do change their preferences over time with respect to region, appetite for deal size and diversification, or target sector. Therefore, instead of trying to provide an exhaustive list of all the types of intermediaries and types and sources of funding, the section below will present actual examples of an investment for each topic.

A reference source for a wide range of funding institutions can be found at <http://www.afp-africa.com/>

The Agricultural Finance Corporation (AFC)

A wholly owned Government Development Finance Institution (DFI), established in 1963 initially as a subsidiary of the Land and Agricultural Bank. In 1969, it was incorporated as a full – fledged financial institution under the Agricultural Finance Corporation Act, Cap 323 of the laws of Kenya.

AFC is tasked with assisting in the effective and peaceful transfer of land to indigenous farmers, as well as injecting new capital to farm owners to spur development. After successful implementation of this task, AFC was further reconstituted in 1969 to assume a wider mandate by taking over the functions of the Land and Agricultural Bank of Kenya.

AFC is the leading Government Credit institution mandated to provide credit for the sole purpose of developing agriculture. This role is crucial given that Agriculture is the mainstay of the Kenyan economy where 80% of the Kenyan population which is rural based relies on agriculture as their main support system.

Industrial and Commercial Development Corporation (ICDC)

Industrial and Commercial Development Corporation (ICDC) is one of the leading financial institutions in Kenya. It is the pioneer development finance institution established in 1954 through an Act of Parliament to facilitate industrial and economic growth.

As an investment arm of the Government, ICDC with local and foreign private investors – has played a leading role in providing investment capital to industrial and commercial ventures. The corporation has adopted modern business techniques and is well equipped to provide financial services that meet customer needs efficiently and with flexibility.

ICDC supports industrial development through the provision of medium and long term finance to enterprises. Its financial services include corporate loans offered to medium and large enterprises for financing working capital and business expansion. It gives loans of up to Sh 150 million (\$ 1 .875 million), whose repayment period is up to 10 years, with a grace period of six months.

Kenya Industrial Estates (KIE)

Kenya Industrial Estates Ltd was established in 1967 to champion the development of Micro Small and Medium Enterprises (MSMEs) throughout the country with specific focus on clustering of industries, rural industrialization and value addition to locally available raw materials.

KIE provides affordable medium to long-term finance to MSMEs for the purchase of machinery, equipment and working capital, either for start-ups, expansion, modernization or rehabilitation focusing on priority sectors identified in Vision 2030.

KIE offers special credit facilities for marginalized areas. This product is available in marginalized areas with favourable terms and conditions. They offer top up loan facilities targeting the existing KIE clients (loanees, mortgages and tenants) who have/had good credit record and have potential for growth and wish to acquire additional capital or financial assistance.

A bid bond is issued as part of a bidding process by the surety to the project owner, to guarantee that the winning bidder will undertake the contract under the terms at which they bid. KIE charges for this service at a negotiable rate.

Performance bond facility-For this product, KIE has set aside funds in a commercial bank to facilitate performance bid bond facility to its 'A' Rated Clients.

Industrial Development Bank

DBK is a medium-sized financial institution providing an array of financial services to both individuals and businesses. DBK is mandated with the provision of medium and long term finance and accompanying financial and corporate advisory services to medium and large scale industrial enterprises and the provision of working capital, machinery, finance and export related banking.

With over 40 years experience in financing of industries in Kenya, IDB offers a wide range of products tailored to suit specific customer needs. Products and services are available to the general public including persons living with disabilities.

IDB recognizes the importance of a dynamic private sector in securing and stimulating rapid and sustainable economic growth, creating employment and reducing poverty.

IDB has developed high competence in project selection, appraisal and management. It endeavors to assist: Small, medium and large enterprises in any sector of the economy, New or existing companies, seeking expansion, modernization or diversification, Credit worthy borrowers who will be required to prove their commitment to the project by contributing at least 20-40% of the project cost, Borrowers with proven management capability and good reputation, IDB lends on a fully secured basis.

Tourism Finance Corporation (TFC)

Tourism Finance Corporation (TFC) is a corporate body established in 1965 through an Act of Parliament, Cap 382 of the Laws of Kenya. The Corporation is a specialized Development Financial Institution (DFI) with the mandate of facilitating and providing affordable development funding and advisory services for long-term investment in Kenya's tourism industry.

In fulfillment of this mandate, the Corporation has continued to provide project and loan funding to prospective investors besides offering business advisory services, in the form of consultancy services, market valuations, business plans and feasibility studies.

The Corporation, under the Vision 2030, was tasked with the development of 3,000 (three thousand) additional beds within the medium term plan, 2008 - 2012, in order to meet the growing demand for the Kenyan Tourism product, and a further development of 65,000 beds by 2030. It is envisaged, this will be achieved through credit funding to potential investors, for rehabilitation and upgrading of existing lodging facilities and investing in new 4 & 5 star hotels.

International Finance Corporation (IFC)

IFC provides investment, advice, and asset management. Their investment and advice can be tailored to a client's specific needs, and in ways that add value.

IFC's offerings are designed to meet the needs of clients in different industries, with a special focus on infrastructure, manufacturing, agribusiness, services, and financial markets.

IFC's financial products enable companies to manage risk and broaden their access to foreign and domestic capital markets. Our advice helps unlock private sector investment, which is essential for expanding businesses, creating jobs, and growing economies.

IFC work with the private sector to encourage entrepreneurship and build sustainable businesses—advising them on a wide range of issues, including environmental, social and governance standards, energy and resource efficiency, and supply chains. They help expand access to critical finance for individuals and micro, small, and medium enterprises through their work with financial intermediary clients.

Cooperatives

The vibrant and dynamic cooperative movement in Kenya – the strongest in Africa – is a key player in the economy, controlling about 43 per cent of Kenya's grOSC domestic product (GDP). The Cooperative Societies provide opportunities for self-employment to many more.

Cooperatives offer banking services. They invest members' savings in tangible assets. Members of cooperatives boast of the ease of loan acquisition. Agricultural cooperatives help in purchasing inputs at reduced rates, processing and marketing farmers' produce. Members of cooperatives are educated and advised through seminars.

We have 15,000 registered societies with 12 million members providing a total of two million jobs. Out of this, 70 percent of Kenyans depend either directly or indirectly on cooperatives. Kenya has 15,000 registered cooperative societies with 12 million members. Out of the 15,000 registered societies.

Savings and credit societies (SACCO's), the fastest growing sub-sector in the movement, have mobilized savings of more than Ksh 230 billion. The cooperative movement commands 67 and 62 per cent of the total assets and deposits/savings, respectively.

Commercial Banks

A bank is an institute, which is established for the depositing, withdrawing and borrowing money.

Kenya has a variety of commercial banks – both small and large. Being the hub of commerce in Eastern Africa, Nairobi also houses branches of foreign banks, making it easy for foreign investors wanting to continue relations with their home countries. We have about 42 commercial banks licensed by CBK. Commercial banks drive the economy in various ways ranging from money safekeeping, money transfer, foreign exchange services, and trusteeship and used as collateral in securing international deals.

Investment banking is a special segment of banking operation that helps individuals or organizations raise capital and provide financial consultancy services to them.

Since the rollout of the agency banking model in May 2010, commercial banks have continued to contract varied retail entities to offer basic banking services on their behalf.

The contracted entities include security companies, courier services, pharmacies, supermarkets and post offices who act as third party agents to provide cash-in-cash-out transactions and other services in compliance with the laid down guidelines. Other services offered under the model includes loan

payments, allows one to pay for mortgage, bills, and social payments to the elderly people. In counties such as Nakuru, the government uses agents to collect revenue.

“The uptake of this new system is overwhelming among the pastoralist communities, they are for instance able to sell their cattle and easily deposit the money with agents reducing chances of losing their sales to raiders,” says Edwin Otieno, Head of Agent Banking at Kenya Commercial Bank. Since the launch of agency banking banks have been able to reach out to the unbanked population across the country.

Micro-Finance Institutions (MFI's)

Poverty is the main cause of concern in improving the economic status of developing countries. A microfinance institution is an organization that offers financial services to low income populations. Almost all give loans to their members, and many offer insurance, deposit and other services.

A great scale of organizations is regarded as microfinance institutes. They are those that offer credits and other financial services to the representatives of poor strata of population (except for extremely poor strata).

The Financial Sector Deepening Kenya programme (FSDK), was established with support from UK's Department for International Development (DFID) in 2005 to stimulate wealth creation and reduce poverty by expanding access to financial services for lower income households and small scale enterprises. MFIs access financial resources from the Banks and other mainstream Financial Institutions and provide financial and support services to the poor. MFIs extend affordable loans. Micro financing is based on the philosophy that even small amounts of credit can help end the cycle of poverty. They also offer better loan repayment rates, tending to target women borrowers, who are statistically less likely to default on their loans than men. These loans help empower women, and they are often safer investments for those loaning the funds.



Textile Industry. Some of Items on display at Kenya Trade Week and Exposition 2018

Image Courtesy: Brand Kenya Board

Appendix 3: How to Conduct a SWOT Analysis

A SWOT analysis is based on data collection and insights from individuals knowledgeable on the county – for example, investors themselves. SWOT assessments should include interviews with existing investors and investment multipliers (such as consultants, accountants, lawyers, developers, etc.).

A SWOT analysis can be relatively cost-effective and quick to carry out. A carefully designed questionnaire, which is used to interview 20 to 30 of the main investors and multipliers in the county, could be sufficient to gain considerable insight into the strengths, weaknesses, opportunities, and threats facing a location, as well as into the sectors in which investors see the best opportunities for inward investment. Such a questionnaire should be as concise as possible, and the interviewer should be listening and recording in detail the opinions of investors, rather than just ticking boxes.

The answers to the questionnaire should be complemented with insights from experts and with additional data research such as county statistics, Doing Business indicators and so on, to produce the SWOT analysis.

The table below summarizes some of the areas considered by a SWOT analysis at county level, and the following one provides an example of the questions the SWOT analysis should answer.

Strengths	Weaknesses
<p>Strengths are those resources, skills, experiences, or other factors within a county that an objective analysis suggests are superior to similar features in competitor counties. Examples of competitive strengths are:</p> <ul style="list-style-type: none"> • Access to a large and growing consumer market; • A large and readily available skilled workforce; • Low-cost energy; • Education facilities; • Multi-lingual language skills; • High quality transportation and ICT infrastructure (e.g. internet bandwidth); • Availability of suitable industrial land, sites, or office space; • Strong industrial clusters in specific sectors; • A good track record in attracting large investors in specific sectors; • Major reserves of valuable minerals, oil, and gas close by; • A pro-business government offering high levels of support to inward investors; • Cultural and natural attractions and a good climate, which are conducive to tourism and the expatriate lifestyle. 	<p>Weaknesses are features of a county (or features of the national policy context) that compare unfavourably to competitor counties. Examples of competitive weaknesses are:</p> <ul style="list-style-type: none"> • An underdeveloped or poorly maintained transport and ICT infrastructure; • An unreliable energy supply; • A corrupt and/or unpredictable county government or legal system; • A weak base of domestic companies or poor track record of inward investors; • A small, uneducated, or unreliable workforce; • High-cost energy, property, and sites, or labour force; • Civil unrest or high crime levels.

Opportunities	Threats
<p>Opportunities are the positive external business, market and economic changes that can be pursued by a county, which have the potential to generate new inward investment in the county.</p> <p>Examples of comparative opportunities are:</p> <ul style="list-style-type: none"> • Technological innovations of direct relevance for the county and aligned with the county's strengths (for example in solar power); • New flight routes from wealthy countries, providing new avenues for tourism and FDI; • Major projects in the county, such as a new port, free zone, university, or new property development, which can act as powerful catalysts for inward investment; • Rapid economic growth in neighbouring counties and in the country where the county is located or in countries near or with close economic, cultural, or historical ties; • Major international events taking place in the county or neighbouring counties that are likely to attract international businesses; • An increase in long-term demand for the counties near-by natural resources. 	<p>Threats or challenges are the potentially negative external developments that might reduce a county's international the potential to generate new inward investment in the county. Competitiveness and / or visibility to investors, or developments that remove existing important sources of competitiveness or economic and business growth. Examples of such threats are:</p> <ul style="list-style-type: none"> • A significant and prolonged slowdown in economic growth and outward FDI in the key sources of inward investment into the county; • The emergence of new, better-resourced competitor countries or counties in the same region.

Table A3: Questions the SWOT Analysis Should Answer	
Strengths of the County	What do you consider the main strengths of the county as an investment location compared to other counties in the country and the region? (at least 3 strengths should be cited)
Weaknesses of the County	What do you consider the main weaknesses of the county as an investment location compared to other counties in the country and the region? (at least 3 strengths should be cited)
Opportunities for the County	What do you consider the main opportunities arising from external changes or events that could help the county attract inward investment?
Threats facing the County	What do you consider the main threats arising from external changes or events that could prevent the county from attracting inward investment?



Appendix 4: Profiling Investment Opportunities

As part of their investment promotion strategies, counties should research, identify, develop and package investment opportunities in a standard and effective format. The steps to do so are:

Step 1: Identification of county needs

In line with national and county-level master plans and identified targeted sectors, the following documents must be prepared and compiled to facilitate the identification of investment opportunities:

- County integrated development plan;
- County sectoral plans;
- County spatial plan;
- Cities and urban area plans as provided for under the Urban Areas and Cities Act.
- Equipped with the latter and with clear information on who can invest, when, and how (derived from the county's investment policy), it will be possible to effectively develop information on investment opportunities and project profiles which meet county and market needs.

Step 2: Classifying investment opportunities and projects by type of funding

Not all investment opportunities and projects are attractive to all funding entities. Some will be more attractive to the private sector while others, which typically offer lower returns but which are essential to the community, for example, will need to be undertaken mainly by the Government. Others can be done through public private partnerships (PPP) arrangements.

Source	Funding Strategies	Risk Holder (Rh)/ Capital Source (Cs)
Public	Treasury grant; Development partners; Treasury backed bond and other debt instruments; Asset backed bond and other debt instruments.	Rh: GoK Cs: GoK
PPP	Build Operate Transfer (BOT); Build Operate Own Transfer (BOOT); Build Operate Own (BOO); Build Operate Lease (BOL).	Rh: GoK Cs: Private sector
Private	Concessions, franchises, lease, sale, tax increment, pay as you go, Government trading, enterprises, grants & incentives.	Rh: Private sector Cs: Private sector

Step 3: Package investment opportunities

- County governments will need to complete and make available the following to be able to effectively promote their investment opportunities and projects:
- Feasibility studies and impact assessments of identified investment projects, as and when required;
- Project profiles, especially for projects which require private sector participation (template in Appendix 5)
- Present the investment opportunities in an attractive and professional format, with succinct and clear messages stating why the investor should consider that opportunity.



Nairobi- Kenya

Appendix 5: Project Profile Template

PROJECT SNAPSHOT SECTOR

Private Sector engagement required

Cost estimate of the project

Stage of project readiness

Organisation Name

Street address

City

Telephone

Fax

E-mail

Website

Type of Organisation

Contact Person

Title

Name

Position

Telephone

Mobile

E-mail

Working languages

PROJECT INFORMATION

Overview of the Project

Summary /Key highlights of the project including a brief description of the economic and social benefits Project:

Appendix 6: Useful Sources of Investment-Relevant Information

Type of information	Useful source	Notes
General information on the investment climate	http://www.state.gov/e/eb/rls/othr/ics/investmentclimatestatements/index.htm#wrappe	Annual investment climate statements for 170 countries around the world prepared by US embassies overseas. Allows users to create their own customized reports on specific topics, across regions and countries and economies.
Comprehensive set of global statistics on a range of sectors and indicators	data.worldbank.org	This is a very useful source of data with indicators ranging from GDP growth figures through to % of arable land. Advisable to spend time familiarising yourself with all indicators that could be useful for NIC in the future.
CrOSC-country business environment data	http://rru.worldbank.org/BESnapshots www.doingbusiness.org http://iab.worldbank.org/Data	In addition to Doing Business data the snapshots also provide results from entrepreneur surveys and other business related information
Global agriculture production data	http://faostat.fao.org/	Go-to source for agriculture data (production, trade, food supply etc.)
Fish production, consumption data	http://www.fao.org/fishery/statistics/software/fishstat/en	You need to download FISHSTAT software from website to access data (this is free)
World Merchandise Trade, Tariff, Non-Tariff (NTM) database	http://wits.worldbank.org/	You need to register but the data is free to users in developing countries. Before using this website make sure you know the specific product codes (Liberia Customs Tariff contains this information)
WTO global commodity tariff data	http://stat.wto.org/Home/WSDBHome.aspx?Language=	Similar to the above, before using this resource make sure you know specific product codes

Type of information	Useful source	Notes
Global trade, investment and market analysis tools developed by the International Trade Centre (ITC)	www.trademap.org/ www.intracen.org/tradstat www.standardsmap.org www.investmentmap.org http://www.macmap.org/ http://legacy.intracen.org/appli1/tradecom/TPIC.aspx	You need to register but the data is free to users in developing countries. Website contains helpful user guide that you can download.
WEF Global Competitiveness Index	www.weforum.org/issues/competitiveness-0/gci2012-data-platform	Comprehensive source of information to allow you to benchmark countries across a range of indicators
World Bank Logistics Performance Index	http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/TRADE/0,,contentMDK:23188613~pagePK:210058~piPK:210062~theSitePK:239071,00.html	Good source of CrOSC-country comparable data on infrastructure, and other trade logistics
Global sea freight/air freight times	www.globalshippingcosts.com	Need to register (but this is free). Allows you to estimate shipping times between destinations
CrOSC-country climate data	http://sdwebx.worldbank.org/climateportal/index.cfm	Good source of temperature and rainfall information
AfDB Africa Infrastructure Data	http://infrastructureafrica.afdb.org	Comprehensive set of Africa data on specific infrastructure indicators (energy tariffs, km of roads paved etc.)

Appendix 7: Recommendations for counties on developing an investment promotion unit

Immediate, short-term recommendations

County governments could set up a simple Investment Promotion Unit to deliver best practice receptive investment promotion services to both prospective investors and already established investors. This initially simple but functional structure could eventually evolve towards a more specialized and proactive investment promotion unit over time.

Global experience suggests that the Investment Promotion Unit should be an autonomous or semi-autonomous organization. Very long cycles characterize the investment promotion function: Investors explore, decide, implement, and operate often over several political cycles. A high degree of autonomy over planning, budget and operations will isolate the Unit from politicization and from any changes resulting from electoral processes. This would ensure the Unit's continuity over time, keeping the relationship with investors active, and allow for higher investment and organizational learning. In addition, the Unit needs high visibility and political support to coordinate the various actors and promote the county to prospective investors.

At the outset, the Investment Promotion Unit should be focused only on providing basic facilitation and aftercare services to investors, and some research and intelligence. This results in a simple organizational structure of just two sub-units or functions, as follows:

1. Investor Services (Facilitation & Aftercare)
2. Research & Intelligence

The Investor Services sub-unit will provide facilitation and aftercare services by interacting directly with investors, while another sub-unit will carry out research and generate information for investor inquiries in support of the Investor Services sub-unit. This Research & Intelligence sub-unit will also provide the information to populate the Investment Promotion section of the county's website as well as generate documentation for the county's investor information system (IIS).

Investor Services would oversee Facilitation & Aftercare as follows:

Facilitation:

- Inquiry handling, mainly for those inquiries that come straight to the Investment Promotion Unit, or through any county department, the Governor is Office, KenInvest or referred by external partners. The Investor Services officer within the Investment Promotion Unit will answer investors' requests for information and follow up as needed until the investor makes a final decision.
- Providing KenInvest with specific information on the county for potential investors at the inquiry stage when the investors have contacted KenInvest directly.
- Organizing and confirming agendas for site visits for prospective investors, accompanying such investors during site visits and following up after such visits, in close collaboration with KenInvest for those referred by KenInvest.

- Providing further information after the investor's site visit to complete investors' information needs and to encourage a follow up site visit if necessary.
- Keeping careful and up-to-date records of interaction and information provision with investors in the investor relationship management system (IRMS).
- Providing investors with guidance on what are the steps necessary to establish a business in Kenya and in the county.

Aftercare:

- Accompanying and facilitating as much as pOSCible, investor's acquisition of necessary permits and licenses as well as any contacts with service providers such as real estate companies, law firms, accountants, auditors, consultants, and recruiters among others.
- Maintaining a solid and long-term relationship with both potential and already established investors through periodic follow-up and support on issues investors may face.
- Keeping KenInvest informed of investor grievances that are directed at national investment climate issues.
- Advocating for reform of county-level laws or regulations to improve the county investment climate or ecosystem when county-level issues are affecting many investors.

Research and Intelligence will oversee:

- Collecting information on the county: macroeconomic data, imports, and exports (through Chamber of Commerce, for example), available infrastructure and real estate (e.g. zones), main sectors data (can be obtained from local corporate/ sector associations), specific opportunities, local taxes, and county permits and licenses, among others. Uploading finished documents to the IIS (set of folders created in a shared drive or cloud).
- Collaborating with KenInvest to gather national-level information and data of relevance to investors, and uploading this information to the IIS.
- Benchmarking the county with other competing locations nationally and internationally.
- Collecting intelligence on potential investors before they visit the county, to be well prepared with a strong value proposition.
- If pOSCible and with the assistance of the Investor Services sub-unit, conducting specific sectoral surveys when and if necessary and issue reports on reforms needed to improve competitiveness of those sectors. Work closely with Investor Services to support the advocacy effort for such reforms.
- Collaborating with the Investor Services sub-unit and the county's marketing and communications staff to produce and update website and other marketing materials.

These two sub-units report to a Unit Director. The Unit Director will also have some specific responsibilities beyond the management of the Unit and these are:

- Establishing and strengthening the collaboration agreement with KenInvest
- Discussing with the different county CECs as well as other county stakeholders how to take advantage of synergies and establish clear means for collaboration to service investors well.

- Creating an investment promotion strategy.¹⁰
- Providing support to the Investor Services and Research and Information units in the development of any marketing materials and the website.
- Meeting with prospective investors and accompanying them to see county government officials (along with the investor services officer responsible for managing the investment lead).
- Creating and nurturing relationships with partner stakeholders and service providers.
- Meeting with authorities to persuade them about the need to reform/improve the county's investment climate or ecosystem.

As the number of investment projects serviced by the Unit increases, the initial structure should evolve into a more specialized, proactive, and full-service investment promotion entity focused on specific sectors (here called A, B, C, D) as shown in the diagram below.

Taking the step to actively promote the county through sector targeting and outreach is key to maximize the success of investment promotion efforts. The Investment Promotion Unit should focus on those industries or sectors in which counties have a competitive advantage and concentrate the promotion and attraction activities on those sectors. As this more active function evolves within the Unit, the investment officers will take on one or two of the identified competitive sectors and begin building a proposition or business case for prospective investors on the advantages of investing in those sectors in the specific county. Through this proposition and other newly created sector-specific promotional materials, the sector investment officers can target proactively national and international companies within those sectors.

Sector targeting and outreach is not only a sign of a sophisticated investment promotion organization, but more importantly, a clear indication that the county knows what it should offer investors. At this stage, a Marketing and Communications sub-unit will be necessary given the specialization and maturity of the Unit. At some point in time, counties need to consider this important move towards more sophisticated investment promotion.

Staffing levels

The proposed structures for counties' Investment Promotion Units will require specific staffing skills and numbers. Staff numbers will depend on the average number of investment projects being handled by the county per month. If the county handles more than, say, 6 investment projects every month, it would be desirable that the Unit begins with 1 full-time Investor Services Officer (who would be the client-facing officer) and 1 full-time Research and Intelligence Officer (who could also handle investor calls and walk-ins when the Investor Services officer is out of the office visiting investors).

If, however, the average number of projects handled by the county is less than 4-6 per month, then the dedication of the Investor Services Officer and of the Research and Intelligence Officer could be part-time (i.e., their dedication to investment promotion work would not need to be exclusive and they could be tasked with other responsibilities as well). To ensure, however, that enough attention is given to the attraction and facilitation of investment, these part-time officers would need to have clear objectives and targets concerning the attraction and facilitation of domestic and foreign investment.

¹⁰ At first, this will be mainly a receptive strategy – based on some initial marketing activities focused on 2-3 target sectors, including a website and a brochure or two and some aftercare activities. The strategy will also need to include the establishment of some measures - at first, mainly based on expectations of numbers of serviced investors, new investment projects materializing, jobs created, and number of visits to already established investors.

The Unit Director should be an existing high-level officer within the county's Trade Department and his/her dedication to the Unit will not need to be exclusive in the beginning. Over the next year, depending on the volume of investors being serviced, one more Investor Services Officer could be recruited if needed to provide additional support.

As the Unit starts to deal with more investors, an additional Investor Services Officer could be added to provide more support. Over time, these Investor Services Officers should start to focus on two or three of the county's priority sectors each and begin to build expertise to provide a more specialized and better service to investors. This does not mean that Investor Services Officers should not provide services to investors from other sectors, but rather that they should focus primarily on the county's priority sectors. This will mark the transition to a new organizational structure for the Investment Promotion Unit, which will be focused on sectors and the proactive promotion of these. As the Unit becomes more sophisticated, the role of Unit Director may need to become a full-time position.

The table below shows current and proposed staff up to the end of each Calendar Year 2016 and 2017 but also on an on-going basis:

Table A6: Illustrative Staff Numbers

Position	End CY 2016	End CY 2017	On Going
Investment Promotion Unit Director	1 (not full-time)	1 (not full time)	1 (pOSCibly full-time)
Investor Services Officer	1	1-2	2
Communications PR Officer			1
Research and Intelligence Officer	1	1	1-2
TOTAL HEADCOUNT (full time)	2*	2-3	5-6

* If the county receives less than 4-6 investment projects a month, these two officials could be part-time.

Appendix 8: Useful Contacts

<p>Ministry of Interior and Coordination of National Government Harambee House, Harambee Avenue P.O. Box 3501000 (00100) Nairobi Tel: (+254) 20 22274411 Email: psi.interior@kenya.go.ke ps.pais@kenya.go.ke Website: www.interior.go.ke</p>	<p>Kenya Plant Health Inspectorate Services (KEPHIS) P.O. Box 49592 - 00200 Nairobi PH: (+254) 020-3597201/2/3, 3536171/2 Cell: 0722-209505, 0734-330017 Fax: (+254) 020-3536175 VOIP-YELLO 7730594/5 Email: director@kephis.org Website: www.kephis.org</p>	<p>Export Processing Zones Authority (EPZA) Administration Building, Viwanda Road, off Nairobi-Namanga Highway, Athi River, Kenya P.O. Box 50563 (00200) Nairobi, Kenya Tel: (+254) 45 6626421/2-6 Fax: (+254) 45 6626427 ISDN (+254) 45-6621000 Wireless: 020-2511969 VoIP Lines: 020-7606042/3 Email: info@epzakenya.com Website: www.epzakenya.com</p>
<p>Ministry of Devolution and ASALs Treasury Building, 10th Flr Harambee Avenue P.O. Box 3004-00100, Nairobi Tel: (+254) 20 225 22 99 Email: info@devolution.go.ke Website: www.devolutionasals.go.ke</p>	<p>Office of the Attorney General and State Department of Justice Sheria House, Harambee Avenue P.O. Box 40112-00100 Nairobi; Kenya Tel: (+254) 2 2227461/2251355 07119445555 / 0732 529995 Email: communications@ag.go.ke Website: www.statelaw.go.ke</p>	<p>Export Promotion Council 1st and 16th Floor Anniversary Towers, University Way P.O. Box 40247 (00100) Nairobi, Kenya Tel: (+254) 20 222 8534-8 Cell phone: (+254) 722 205 875 or 734 228 534 Fax: (+254) 20 222 8539 or 221 8013 Website: www.epc.go.ke</p>
<p>Ministry of Defence Ulinzi House, Lenana Road P.O. Box 40668 (00100) Nairobi Tel: (+254) 20 2721100 Fax: (+254) 2737322 Email: publicaffairs@mod.go.ke Website: www.mod.go.ke</p>	<p>Judiciary Supreme Court Building, City Hall Way P.O. Box 30041 (00100) Nairobi, Kenya Tel: (+254) 20 2221 221 Email: info@judiciary.go.ke Website: www.judiciary.go.ke</p>	<p>Kenya Bureau of Standards Popo Road, Off Mombasa Road Behind Bellevue cinema P.O. Box 54974 (00200) Nairobi, Kenya Tel: (+254) 020 6948000, Cell phone: +254 722202137/0734 600471 PVoC : +254724 255242 Fax: (+254 020) 6948575 Email: info@kebs.org Website: www.kebs.org</p>

<p>Ministry of Foreign Affairs Old Treasury Building, Harambee Avenue, P.O. Box 30551 (00100) Nairobi, Kenya Tel: (+254) 20 331 88 88 Fax: (+254) 20 341935 / 344 333 Email: info@mfa.go.ke Website: www.mfa.go.ke</p>	<p>Judicial Service Commission P.O. Box 40048 (00100) Nairobi Re-insurance Plaza; Podium floor, Taifa Rd. in th CBD Tel: (+254) 020 2739180/2221221 Email: jscsecretariat@jsc.go.ke secretariat@jsc.go.ke Website: www.judiciary.go.ke/portal/the-judicialservice-commission.html (020) 2221 221</p>	<p>Retirement Benefits Authority Rahimtulla Tower, 13th Floor, Upper Hill Road, Opp UK High Commission Tel: (+254) 20 2809000 Fax :(+254) 20 2710330 Email: info@rba.go.ke Website: www.rba.go.ke</p>
<p>Ministry of Education, Science and Technology P.O. Box 9583-00200, Nairobi, Kenya Tel: (+254) 020 3318581 Fax: (+254) 020 251991 Email: info@scienceandtechnology.go.ke Website: www.education.go.ke</p>	<p>Capital Markets Authority Embankment Plaza, 3rd Floor Longonot Road, off Kilimanjaro Avenue, Upperhill P.O Box 74800 (00200) Nairobi, Kenya Tel: (+254) 20 2264400/ 2264900 / 2221910/ 2221869/ 2226225 Cell: + 722 207767 Fax: (+254) 20 2228254 Email: corporate@cma.or.ke Website: www.cma.or.ke</p>	<p>Ministry of Energy Nyayo House 23rd floor, Kenyatta Avenue P.O. Box 30582 - 00100, Nairobi Tel: (+254) 020 310112 Cell: 0726 993 292, Fax: (+254) 020 2228314 Email: info@energy.go.ke Website: www.energy.go.ke</p>
<p>Office of the Auditor-General Aniversary Towers, University way ISDN NO. +254-020-321 4000 P.O. Box 30084-00100 Nairobi Fax: +254-20-311482 Email: oag@oagkenya.go.ke</p>	<p>Ministry of Environment and Forestry NHIF Building, Ragati Road, Upperhill P. O. Box 30126 (00100) Nairobi Tel: (+254) 020 2730808/9 Fax: (+254) 020 273422 - 275586 Email: psoffice@environment.go.ke Website: www.environment.go.ke The Principal Secretary</p>	<p>Ministry of Tourism and Wildlife State Department of Tourism NSSF Building, Block A, 15th Floor, Eastern Wing P.O Box 30027 (00100) Nairobi Tel: (+254) 020 3313010 Email: ps@tourism.go.ke Website: www.tourism.go.ke</p>

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Ministry of Public service, Youth, and
Gender Affairs
Harambee House, Harambee Avenue
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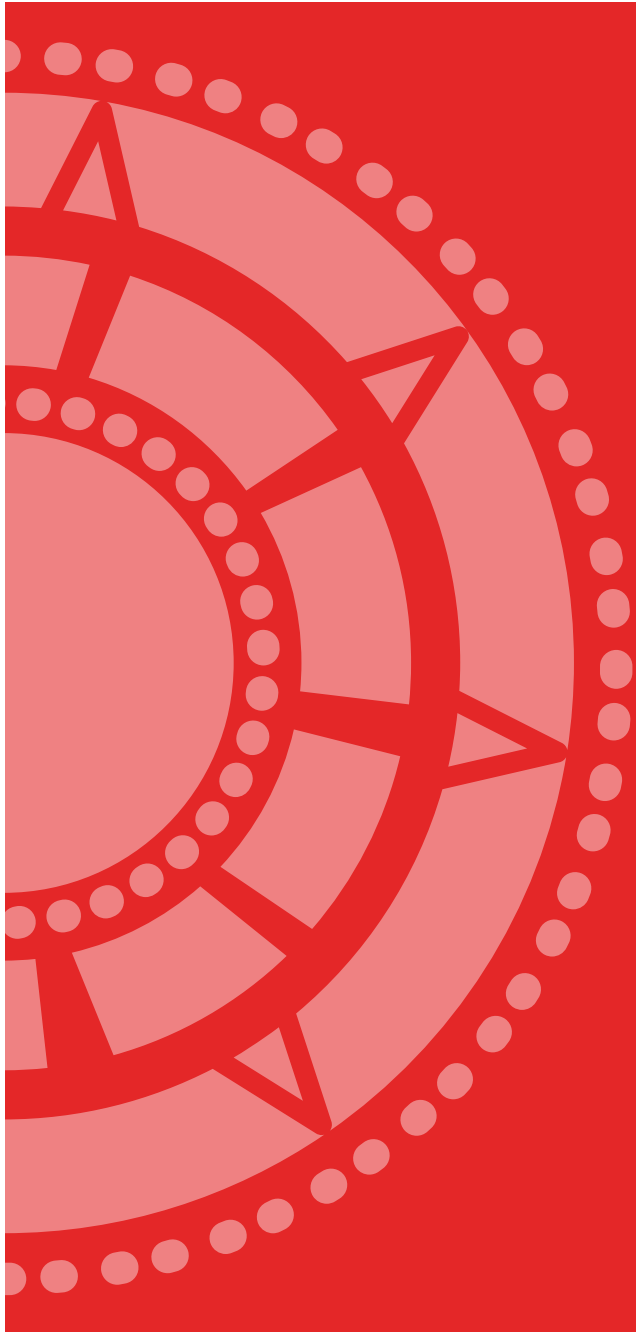
Some of the tea on display during the Kenya Trade Week and Exposition 2018
Image Courtesy: Brand Kenya Board





Flower Farming-Magana Flowers
Image Courtesy: Brand Kenya Board





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