



REPUBLIC OF KENYA

**MINISTRY OF LABOR AND SOCIAL PROTECTION
STATE DEPARTMENT OF SOCIAL PROTECTION**

DEPARTMENT OF SOCIAL DEVELOPMENT

LABOR MANAGEMENT PROCEDURES (LMP)

**FOR THE
FINANCING LOCALLY-LED CLIMATE ACTION PROGRAM
(SOCIAL RISK MANAGEMENT)**

NOVEMBER 2020

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ABBREVIATIONS AND ACRONYMS

CCCFs	County Climate Change Funds
CCD	Climate Change Directorate
CoC	Code of Conduct
CoG	Council of Governors
CoK	Constitution of Kenya
DOSH	Directorate of Occupational Safety and Health
DSD	Department for Social Development
ESF	Environmental Social Framework -
ESS	Environment and Social Standard
ESSA	Environment and Social System Assessment
FAQs	Frequently Asked Questions
FFLoCA	Financing Locally-Led Climate Action Program
GBV	Gender-Based violence
GHGs	Greenhouse Gases
GRM	Grievance Redress Mechanism
ILO	International Labor Organization
KSG	Kenya School of Government
LMP	Labour Management Procedures
M&E	Monitoring & Evaluation
MLSP	Ministry of Labour and Social Protection
MSC	Multi-Sectoral Committee
NAP	Kenya's National Adaptation Plan
NDMA	National Drought Management Authority
NEMA	National Environmental Management Authority
NGEC	National Gender and Equality Commission
NLC	National Land Commission
OHS	Occupational Health and Safety
PIU	Program Implementation Unit
PS	Principal Secretary
PSC	Public Service Commission
PWDs	Persons with Disabilities
SDO	Social Development Officer
SEA	Sexual exploitation and abuse
SEP	Stakeholder Engagement Plan
SH	Sexual Harassment
SIA	Social Impact Assessment
SRMU	Social Risk Management Unit
TA	Technical Assistance
TOR	Terms of reference
UNFCCC	United Nations Framework Convention on Climate Change
UON	University of Nairobi
WHO	World Health Organization

1. INTRODUCTION

1.1 Background

1. Kenya has prioritized addressing climate change as a critical challenge to sustainable development in response to the negative effects threatening the livelihoods of individuals and raising food security risks. The country has made specific commitments to reduce Greenhouse Gases (GHGs) under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. On adaptation, Kenya's National Adaptation Plan (NAP, 2015-200) lays out plans to, among other goals, integrate climate change adaptation into national and county level development planning and enhance the resilience of vulnerable populations to climate shocks and natural hazard events.

2. Given the complex and dynamic nature of climate change and its impacts at the local level, there is an opportunity to support strategic coordination among local and national climate stakeholders, and to support local climate action that improves communities' resilience to climate change while promoting collaborative partnerships between communities and county government structures. Locally led climate actions can inform traditional knowledge with the latest climate science to develop innovative solutions that are inclusive, sustainable, and respond directly to the needs and priorities of local communities, with a focus on communities identified as most vulnerable to climate change within each of the 47 counties.

3. It is, however, notable that the implementation of development projects has the potential to affect communities and individuals, both positively and negatively. The Social Risk Management (SRM) component of the project seeks to support the national and county governments to manage social risks such as impoverishment due to physical and economic displacement from land, lack of inclusion in development activities, negative impacts on livelihoods and social exclusion, particularly on vulnerable and marginalized groups (VMGs). SRM seeks to maximize socially sustainable benefits of investments through participatory planning, active risk management and responsive follow-up of community concerns.

4. The project will be implemented by the Social Risk Management Unit (SRMU), which has been established in the Department of Social Development (DSD) in the Ministry of Labour and Social Protection (MLSP). All the staff are civil servants deployed by public service to the Ministry. The Unit will hire consultants, on need basis, to provide technical assistance (TA) with attended terms of reference (TORs).

5. The project will ensure compliance with national law, including occupational health and safety (OHS) as well as World Health Organization (WHO) and World Bank guidance regarding the COVID-19 situation.

1.2 Project components

6. The project comprises of four (4) components as described below.

Component 1: County readiness for supporting locally-led climate action

This support will establish mechanisms, policies, regulations, and capacities at the county level for participatory climate risk planning, implementation and monitoring. The capacities, policies and institutions of county governments to understand, address and support climate action at the local level varies greatly.

Component 2: Locally-led climate action grants

The establishment of County Climate Change Funds (CCCFs) is one of the priorities of the National Climate Change Action Plan (2018–2022). The CCCFs will finance investments that reduce climate and disaster risk while supporting communities to adapt to future climate scenarios. CCCF investments could be used, for example, to support resilience focused on livelihoods, livestock, water, natural resource governance, climate information services among others.

Component 3: Building cross-government team to support local climate action for coordination and reporting

The support will be extended towards strengthening linkages between the Climate Change Directorate (CCD) and other actors who play key roles in coordinating, monitoring, and reporting on climate change and disaster risk management activities in the country. This component will also support the capacity building and training of counties and national government agencies in the identification, mitigation, and management of social risks and impacts for the project activities as identified in the Environment and Social Systems Assessment (ESSA) and guided by the Environmental and Social Implementation Manual (ESIM) for the project. This will ensure that the project meets the six environmental and social principles according to OP 9.00 on Program for Results, the ESSA, and the Environmental and Social Framework (ESF).

Component 4: Effective climate finance management and program coordination

Support will be provided to meet the costs of the Project Implementation Unit (PIU) within the National Treasury to carry out all fiduciary aspects of implementation of the program, including financial management, procurement, environmental and social risk management, monitoring and evaluation (M&E), sector coordination of investment targeting and policy harmonization, and donor coordination.

1.3 Project activities

7. This project will focus on Component 3 and will support the following activities under the Country's Capacity Building on SRM:
 - i. Support Kenya School of Government (KSG) and University of Nairobi (UoN) in developing programs to train social experts and practitioners on social assessment for VMGs, Social Impact Assessment (SIA) and Gender Based Violence (GBV) in line with international standards;
 - ii. Create awareness, training and capacity building of the social development officers (SDOs) under the DSD on international policies and practice on social risks identification, assessment, mitigation measures and management at national and all the 47 counties;
 - iii. Formalize a multi-stakeholder committee, with representation from institutions responsible for specific aspects of SRM both at national and county levels such as National Environmental Management Authority (NEMA), National Land Commission (NLC), National Gender and Equality Commission (NGEC), Council of Governors (CoG) and others to spearhead stakeholders' engagement and other activities in the process of institutionalizing SRM in National and County Governments;
 - iv. Technical Assistance (TA) for deeper analysis of social risks policy and regulations in Kenya as compared to the World Bank's ESF;
 - v. Based on the outcome of the policy and regulations analysis, undertake a TA for the development of a SRM policy framework consistent to the World Bank's ESF and specific responsibilities of the SRMU including coordination of screening of social risks, review and clearance of SRM assessments; and

- vi. Establish regulations that will guide the registration of social professionals, experts and practitioners to manage their continuous professional development and regulate their professional conduct.

1.4 Objectives of the LMP

8. The Financing Locally-Led Climate Action Program is being prepared under the World Bank's ESF. As per the Environmental and Social Standard (ESS) 2 on Labor and Working Conditions, borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions. The commitments under ESS2 are outlined in this LMP.

9. The purpose of the LMP is to facilitate planning for the project and help identify the resources necessary to address the labor issues associated with the project. The LMP sets out the way in which project workers will be managed, in accordance with the requirements of national laws and ESS2. Specifically, the LMP helps to: (a) identify the different types of project workers that are likely to be involved in the project; and (b) set out the ways of meeting the requirements of ESS2 that apply to the different types of workers.

10. This LMP defines different types of project workers, including national and county government staff, and consultants to be engaged in the project activities. The minimum age for employment by the Government is 18 years, which shall be minimum age for this project. Specifically, the LMP will:

- i. Promote safety and health at work;
- ii. Promote the fair treatment, non-discrimination and equal opportunity of project workers and other stakeholders; and
- iii. Protect project staff, including government staff and consultants.

11. The LMP is a living document, which is initiated early in project preparation, and is reviewed and updated throughout development and implementation of the project. This document may be adjusted as the project advances, and as new stakeholders and categories of workers get involved in the various activities.

2. OVERVIEW OF LABOR USE ON THE PROJECT

12. The ESS 2 categorizes project workers into four broad categories: (i) direct workers; (ii) contractor workers; (iii) primary suppliers; and (iv) community workers. This project will only engage direct workers who will primarily be government employees (both national county) and consultants who will be hired by the SRMU to deliver on specific tasks. The project workers will be those employees assigned to the SRMU at the national level and County and Sub-county officers of the MLSP. Other civil servants could be seconded from other ministries and agencies to serve on the SRMU but they will remain subject to the terms and conditions of their existing public service terms of employment. While the civil servants are governed by the Employment Act of 2007 and a set of public service regulations and Human Resources Manuals, the consultants will be governed by a set of mutually agreed contracts between them and the SRMU and/or contracting agency.

13. This project does not intend to use the services of contractors, primary suppliers or community workers. The project will engage the following types of direct workers.

- i. **SRMU:** The Unit, which is staffed by Government employees, has been established in the State Department for Social Protection with four distinct sections, namely grievance redress mechanism (GRM), Safeguards, Capacity Building, and Communication and Monitoring and Evaluation (M&E). Additional staff will include a Occupational Health and Safety Officer, Communication Officer, among others. The Unit will be headed by a Project Coordinator, who will be supported by deputy Director. Staff may be seconded from other Ministries and government agencies (such as the Department of Occupation Safety and Health) to augment the Unit’s capacity to deliver on the project objectives. The staff have a representation of both men and women and the Unit will endeavor to maintain the one-third gender rule in its operations.
- ii. **Civil Servants from other ministries, agencies and county governments:** All Government staff to be involved in the project (such as Ministry of Devolution Officers) will remain subject to the terms and conditions of their existing public sector employment, which are governed by Constitution of Kenya (CoK), 2010, Employment Act 2007 and existing Public Service Regulations. There will be no legal transfer of their employment or engagement to the project.
- iii. **Consultants:** The SRMU will be supported by national and/or international consultants, who will be hired on needs-basis. The consultants will be assigned to various functions including capacity building, policy formulation, documentation of lessons learnt to inform SRMU programming.

Table 1: Project workers’ description

Category	Description	Number	Timing
Direct workers	-SRMU staff	10 officers: Director, Deputy Director, Social Safeguards officers, OHS Officer, M&E officer, GRM Officer	At all stages of the project
	-MLSP officers at the national and county levels	290 officers at county and sub-county levels	Operation stage
	Consultants	4 consultants to support the development of policy and capacity building documents	Operation stage

14. This LMP will apply to project workers including fulltime, part-time, temporary and seasonal. The project scope does not provide or anticipate the employment of migrant workers. Although international consultants may be recruited to offer specific services, their conditions of engagement will be as contained in their contracts and TORs.

3. ASSESSMENT OF KEY POTENTIAL LABOR RISKS

15. Potential risks are those related to labor and working conditions, such as work-related discrimination, gender based violence (GBV) and sexual exploitation and abuse (SEA) and OHS. The SRMU will assess and address these risks by developing recruitment guidelines, procedures and appropriate OHS measures and applying relevant provisions of the Employment Act 2007, public service regulations, HR manual, and the ESS2 and ESS4. Table 2 presents a summary of the risks and mitigation measures. There is no possibility of child labor or forced labor since this project shall only engage government and consultants who shall all be over 18 years of age, since this is the minimum age for employment by the Government. Age verification for consultants will be done on recruitment through presentation of a national identity card or a passport.

Table 2: Potential labor risks and mitigation measures

Risk/Impact	Analysis (Magnitude, Extent, Timing, Likelihood, Significance)	Risk Mitigation Measures
ESS2: Labor and working conditions		
1. Terms and conditions of employment	<p>The Employment Act 2007 stipulates that remuneration must be adequate in view of the quality and quantity of the work delivered, and must be non-discriminatory in regards to race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth.</p> <p><i>Violation of workers' rights:</i> There is low risk of workers being forced to work long hours, and not being adequately compensated</p>	<p>-Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. The information and documentation will set out their rights under national labor and employment law (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from the requirements of ESS2. This information and documentation will be provided at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur</p> <p>-All employment will be voluntary. To mitigate the risk of employees or consultants being forced to work overtime, the workers will be provided with accessible means to raise workplace concerns. This will be done through the project grievance mechanism (GM) as well as formation and joining of collective bargaining bodies</p>
2. Occupation health and safety	<p><i>Unsafe work environment:</i> workers may be subjected to poor working conditions, including lack of appropriate personal protective equipment (PPE) where needed and appropriate toilet facilities separate for males and females.</p>	<p>The OHS measures will be designed and implemented to address:</p> <ul style="list-style-type: none"> (i) training of project workers and maintenance of training records; (ii) documentation and reporting of occupational accidents, diseases and incidents; (iii) The MLSP will be compelled to safeguard the interests of women, including gender parity at the workspace, provide appropriate sanitation facilities at the workplace and appropriate PPE for women and persons with disability, as needed
3. Discrimination in relation to recruitment and employment	<p>The risk of discriminating on the basis of on the basis of gender, disability, ethnicity, sexual orientation/identity, or any other personal characteristic unrelated to inherent job requirements exists at all levels of project implementation</p>	<p>Decisions relating to the employment or treatment of project workers will not be made on the basis of personal characteristics unrelated to inherent job requirements. The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices. The Code of Conduct (see template in Annex 1), to be signed by all workers, is aimed at preventing and addressing harassment, intimidation and/or exploitation</p>
ESS4: Community Health and Safety		
1. GBV/SEA	<p>There is a risk of GBV including sexual exploitation and abuse (SEA) and sexual harassment (SH) among the workers at the national, county and sub-county levels</p>	<p>-All workers will be required to sign a CoC -A separate GM structure (from the broad project GRM) will be set up to address GBV/SEA issues at the SRMU -Measures will be put in place to manage GBV/SEA issues in a timely manner using a separate structure for reporting GBV/SEA cases</p>
2. Insecurity	<p>There is potential risk of insecurity for project workers when they travel out of their work stations to different</p>	<p>Workplace processes will be put in place for project workers to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious</p>

Risk/Impact	Analysis (Magnitude, Extent, Timing, Likelihood, Significance)	Risk Mitigation Measures
	counties capacity building and M&E	<p>danger to their life or health. Project workers who remove themselves from such situations will not be required to return to work until necessary remedial action to correct the situation has been taken. Project workers will not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal.</p> <p>-The safety of the workers will be assured through restriction of movement of project vehicles (from 6am to 6pm) and residence in secure hotels across the country while they are on project-related assignments</p> <p>-Although the Project will not hire Security officers to protect project staff, the SRMU will work closely with the Ministry of Interior when staff visit counties with a history of insecurity</p>
3. Spread of diseases in communities, including HIV and COVID-19	The spread of HIV and other communicable diseases including COVID-19 infections	<p>-All project staff will be sensitized on the preventing communicable diseases</p> <p>-Communication on risks of infection with HIV and COVID-19 will be conducted throughout the project.</p> <p>-Posters/flyers on HIV/AIDS and Covid-19 will be developed and distributed at the national and county/sub-county offices)</p> <p>-Implementation of the CoC, to be signed by project workers will also address this risk</p>

4. BRIEF OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

4.1 Terms and conditions

16. Kenya has a very elaborate legal framework on matters of labor and working conditions. The Constitution of Kenya (CoK) 2010 provides a number of relevant clauses including *Article 2* which recognizes ratified treaties as part of the laws of Kenya. *Article 41* (on *Labor Relations*) addresses the entitlements and guarantees afforded to workers, employers and the unions, and exercisable by them within Kenya’s employment regime. These entitlements are anchored on key human rights and freedoms including the right to human dignity in *Article 28*; freedom from all forms of slavery, servitude and forced labor in *Article 30*; and the right of everyone to have their privacy respected as provided for in *Article 31*. *Article 27* on non-discrimination provides for equality and prohibits discrimination on various grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth.

17. The *Employment Act 2007* is Kenya’s codifying legislative enactment on the laws governing employment. It addresses itself to regulating the tripartite relationship that exists between the employers, employees and the government including the State’s mediator-role in safeguarding the entitlements of both parties. The *Act*, which has been amended several times; defines the fundamental rights of employees, and provides basic conditions of employment for employees, including the regulation of employment of children. As such, this *Act* most closely aligns with essential imperatives that are evident in the ESS2 Standard of the World Bank. The *Act* has a single subsidiary legislation titled the *Employment (General) Rules, 2014* that largely expounds on the terms and conditions of work - aside from other procedural aspects; with an entire schedule outlining the minimum rights bestowed upon employees, and another dedicated to the requisite elements of the *Policy Statement on Sexual Harassment*.

18. The *Employment Act* addresses the employer-employee power-dynamic, focusing on the employer-employee engagement from the insular perspective of a direct contractual arrangement between the two parties. The assumption is that all persons who fit the descriptions of ‘employer’ and ‘employee’ are governed by this law including those implementing development projects.

19. The law has different approaches to defining the categories of employees, such as: by nature, and length of the employee-engagements. The categories include casual employees (who are not engaged for a longer period than *24 hours* at a time), part-time, full-time employees, piece work (where the focus is the amount of work performed irrespective of the time occupied in its performance) and employees with probationary contracts (which address the formalities and length of the probationary period). In addition, the Act provides for the minimum terms and conditions of employment of an employee and grounds upon which a contract may be nullified. This is intended to discourage any arrangements that seek to undermine the statutory standards. It is notable that the national laws are aligned to the requirements of ESS2.

20. The applicable international instruments in Kenya include: *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965 (ICERD); *Convention on the Rights of the Child*, 1990, (CRC); *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, 1990 (ICRMW); *Convention on the Rights of Persons with Disabilities*; (CRPD) and *Convention on the Elimination of All Forms of Discrimination against Women*, 1979 (CEDAW).

21. The instruments of the International Labor Organization (ILO) applicable in Kenya include:

- i. *Freedom of Association and Protection of the Right to Organize* (ILO Convention 87);
- ii. *The Right to Organize and Collective Bargaining* (ILO Convention 98); *Forced Labor* (ILO Convention 29);
- iii. *The Abolition of Forced Labor* (ILO Convention 105);
- iv. *Minimum Age (of Employment)* (ILO Convention 138); and
- v. *Discrimination (Employment and Occupation)* (ILO Convention 111).

4.2 Occupational Health and Safety

22. The Occupational Safety and Health (OSH) Act¹ governs workplace safety and health. The law provides for “*the safety, health and welfare of workers and all persons lawfully present at workplaces, and establishes the National Council for Occupational Safety and Health*”. This law is broadly concerned with potential hazards to persons in the workplace. These concerns would likely remain the same, if there’s only one individual likely to be affected; and thus, the standards set under the Act are largely focused upon the environmental risks to persons at the workplace. Part VI (on Health-General Provisions), Part VII (on Machinery Safety), Part VIII (on Safety-General Provisions), Part IX (on Chemical Safety), Part XI (on Health, Safety and Welfare – Special Provisions) and Part XII (on Special Applications) provide for different occupational safety and health scenarios (in detail), with the intent of allowing for the management of the intended and unintended safety and health consequences that may be wrought by potential hazards.

23. The Work Injury Benefits Act² (WIBA) also addresses workplace health and safety, and has been amended several times. It provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment. The Act provides for the compensation of ‘injured’ employees as well as their dependants, who may be adversely affected by the work injuries. Part III (on

¹ OSH Act No 15 of 2007

²WIBA Act No 13 of 2007

Right to Compensation) addresses the entitlements and guarantees afforded in respect of compensation. This provision could be expanded to cover infection with COVID-19 for project workers while engaged in project-related activities.

24. Project implementation processes will adhere to the relevant OHS legislation requirements in Kenya, including the relevant requirements of interested parties that have been identified in the ESMF and SEP. A check for legal compliance shall be undertaken to ensure that this project is compliant with the legal and other requirements, including:

- i. The National Occupational Safety and Health Policy, 2012;
- ii. Work Injury Benefits Act, 2007;
- iii. HIV/AIDS Prevention and Control Act, 2006;
- iv. WB ESF;
- v. WBG EHS Guidelines; and
- vi. COVID-19 prevention guidelines.

25. The SRMU will also make reference to applicable international conventions, and directives for addressing health and safety issues relevant to COVID-19. This include:

- i. ILO Occupational Safety and Health Convention, 1981 (No. 155);
- ii. ILO Occupational Health Services Convention, 1985 (No. 161);
- iii. ILO Safety and Health in Construction Convention, 1988 (No. 167);
- iv. WHO International Health Regulations, 2005;
- v. WHO Emergency Response Framework, 2017; and
- vi. EU OSH Framework Directive (Directive 89/391).

26. Table 3 provides a summary of the key regulations in Kenya and their relevance to this project.

Table 3: Regulatory Framework

#	Legislation	Provision	Relevance/Measures
1.	Public Health Act (Cap 242) revised 2012	Part III of the Public Health Act provides for the protection of human health through prevention and guarding against introduction of infectious diseases into Kenya from outside, to promote public health and prevention, limitation or suppression of infectious, communicable or preventable disease within Kenya. The Public Health - Prevention, Control and Suppression of Covid-19 Rules, 2020 provide additional regulatory requirements to this part.	The project activities may expose the workers to diseases, such as COVID-19 and HIV/AIDS. The MLSP will develop protocols to educate the staff on risks of infection and the control measures. It will also make provisions for support for workers who get infected while on duty.
2.	Work Injury Benefits Act, 2007	This Act provides for compensation to employees for work related injuries and diseases contracted in the course of their employment and for connected purposes	MLSP shall comply with part II of this Act with regard to obligations of the employer including compensation for temporary, total or partial disablement, treatment as well as provision of first Aid Services to workers.
3.	Occupational Safety and Health Act, 2007	This is an Act of Parliament to provide for the safety, health and welfare of all workers and all persons lawfully present at workplaces. It applies to all workplaces where any person is at work, whether temporarily or permanently	All safety and health measures will be put in place to ensure workers are not exposed to safety and health risks during both project planning and operational phases.
4.	HIV/AIDS Prevention	Part 11 Section 7 requires HIV and AIDS education in work places; specifically provision of basic	The MLSP will create awareness to the employees on issues related to HIV/AIDS. It

#	Legislation	Provision	Relevance/Measures
	and Control Act, 2006	information and instruction on HIV/AIDS prevention and control	will produce posters/flyers to be shared with all employees and pasted at workplaces.
5.	Gender-based violence and SEA	<ul style="list-style-type: none"> -Abuse by workers, normalization of GBV stigma lead to non-reporting, poverty forces women/girls to engage in transactional sex -There is lack of access to services to address SEA, stigma, corruption -Several acts exist that provide protection against GBV/SEA including: -Sexual Offences Act, 2006 -Penal Code -HIV/AIDS Prevention and Control Act 2000 -Protection Against Domestic Violence Act, 2015 -Prohibition of Genital Mutilation Act, 2011 -National Gender and Equality Act, 2011 	<p>The project activities may expose workers to sexual harassment at the work place and other forms of GBV. The SRMU will ensure that:</p> <ul style="list-style-type: none"> -All workers sign the CoC -All workers are trained on GBV/SEA -All workers are informed about the workplace GRM and the Project GRM
6.	Grievance redress mechanism	<p>Issues to do with grievances are addressed in various legal documents including:</p> <ul style="list-style-type: none"> -Employment Act in Part XII -Employment and Labour Relations Court Act -Labour Relations Act 	<ul style="list-style-type: none"> -The project will establish a workplace GRM that will address all matters related to the project -Information on the GRM will be part of the induction process

4.3 Protection against COVID-19

27. Protection against possible risks as provided for in Section 6 (2) of the OSH Act, 2007 in view of COVID-19 related risk will be managed through several means. These will include:
- i. Provision and maintenance of procedures of work that are safe and without risks to health (including social distancing and access to handwashing facilities);
 - ii. Arrangements for ensuring safety and absence of risks to COVID-19 in connection with the use, handling, storage and transportation of project materials;
 - iii. Provision of such information, instructions, training and supervision as is necessary on COVID-19 to ensure the safety and health at work of every person engaged in project activities;
 - iv. Informing all persons employed of: (a) any risks from new technologies; (b) imminent danger; and (c) appropriate recourse measures;
 - v. Ensuring that every person engaged in project activities participates in the application and review of safety and health measures;
 - vi. Ensuring that all workers have adequate and updated information on COVID-19; and
 - vii. Establishing measures and a referral pathway if any worker is infected with COVID-19 including establishing linkages with the Ministry of Health (MoH).

5. RESPONSIBLE STAFF

28. The SRMU will be responsible for the overall project management and the implementation of this LMP. The Unit will work with various stakeholders including National Environment Management Authority (NEMA) and Department of Safety and Health (DOSH) to implement the LMP in compliance with national laws. The SRMU will be responsible for the following tasks:
- i. Undertake the overall implementation of this LMP;
 - ii. Engage and manage consultants in accordance with this LMP and the applicable Government procurement procedures;

- iii. Monitor project consultants to ensure their activities are included in the LMP and the applicable procurement documents;
- iv. Provide training to mitigate risks to project workers;
- v. Ensure that the Ministry's GRM for staff and consultants is enforced; and
- vi. Ensure that all the workers are informed about the broader Project GRM and how to report a grievance.

29. Table 4 presents a summary of the key LMP commitments and the project staff/entity responsible for the various key responsibility areas.

Table 4: Commitments and responsible persons

#	Officers responsible	Key responsibilities
1.	Project Coordinator	-Overall oversight of all project activities -Link to the MLSP management -Link to the National Treasury Project Team -Link to the World Bank Team -Support the functions of the Multi-stakeholder SRM Committee
2.	Deputy Project Coordinator	-Deputize the Project Coordinator in performance of her roles
3.	Social Safeguards Officer	-Oversee the development of the project protocols -Oversee the implementation of the SEP and LMP -Assess the risk of serious safety issues -Develop protocols for the workplace and for individual staff including COVID-19 guidelines -Link with NEMA and DOSH on all labor related issues -Monitor, document and report on all OHS matters, and provide training on codes of conduct and other relevant OHS matters.
4.	OHS focal point	-Assess the risk of serious safety issues -Develop protocols for the workplace and for individual staff including COVID-19 guidelines -Receive and coordinate all matters related to COVID-19 -Link with NEMA and DOSH on all OHS related issues -Monitor, document and report on all OHS matters
5.	GRM focal point	-Support the development of a GRM structure for the workplaces -Be the GRM focal point for the project -Monitor, document and report on the GRM
6.	Capacity building Officer	-Engage with training institutions on developing the SRM capacity building framework -Monitor, document and report on all capacity building activities
7.	M&E Officer	-Develop the project monitoring framework -Train staff and partners on the framework -Monitor, document and report on the overall M&E framework

30. The OHS Focal Point will also be the link person for COVID-19 related issues. He/she will monitor the evolution of COVID-19 and any changes in protocol with an impact on the project workers.

6. POLICIES AND PROCEDURES

31. A summary of indicative procedures to develop and implement the LMP policies is provided below.

- i. **OHS:** The relevant provisions of the national OSH Act, Employment Act, ESS2 (including WBG Environmental, Health and Safety Guidelines (EHSGs), and WB standard procurement documents, the MLSP will ensure that the provisions in the national law and ESS2 is implemented through developing, monitoring and enforcing OHS as indicated in Table 3 above.
- ii. **Discrimination and exclusion of vulnerable groups:** The recruitment of project workers and their engagement will be on the basis of equal opportunity and fair treatment, and there will be no discrimination on any aspects of the project. Recruitment protocols will be developed and monitored.
- iii. **Security risks:** Some counties across the country have a history of insecurity in the form of banditry and resource-based conflict. Protocols on staff members' movement when out of their work stations will be developed by the OHS Focal Point. The MLSP will work closely with the Ministry of Interior to ensure the security of the project staff when on work assignments in areas that have a history of insecurity. The Project will not hire armed security as part of this project.
- iv. **GBV/SEA/SH:** A separate procedure will be developed to address GBV/SEA complaints as may arise during project implementation. The MLSP will identify a qualified trainer/consultant to offer training on GBV to all the workers involved in the project. Special provisions will be made in the GRM to address GBV complaints as described below. The Social Safeguards Officer will be responsible for ensuring the operation of the GBV/SEA complaints channels.

To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, the GRM will have a sensitive approach to GBV-related cases and will be dealt with according to the complainant's informed consent. Where such a case is reported, the complainant will be provided with information about the available services including: confidential appropriate medical and psychological support; emergency accommodation; and any other necessary services as appropriate including legal assistance. Staff will immediately inform the survivor/complainant to go to a health center which specializes in free post-GBV health support (within 72 hours of the incident). All staff and GRM focal point (in this case the social safeguards officer) will be informed that if a case of GBV is reported to them, the only information they will establish is if the incident involves a worker on the project, the nature of the incident, the age and sex of the complainant and if the survivor/complainant was referred to service provision. If a worker on the project is involved, the incident will be immediately reported to the Program Manager who will provide further guidance after consulting with the World Bank.

- v. **Fatality and serious incidents:** In the event of an occupational fatality or serious injury, the SRMU shall report to the World Bank as soon as it becomes aware of such incidents and inform the MLSP in accordance with national reporting requirements. Corrective actions shall be implemented in a timely manner in response to project-related incidents or accidents. The

SRMU or, where relevant a consultant, may conduct a root cause analysis for designing and implementing further corrective actions.

- vi. **COVID-19:** the SRMU shall ensure that institutions participating in the project provide an environment that is protective of COVID-19 including social distancing; accessible wash areas with water, soap and sanitizers; and emergency lines for any worker who needs to report a COVID-19 related issue. The SRMU will assign OHS officer to be the COVID-19 focal point, who will be responsible for ensuring that the measures are implemented. In case of a COVID-19 infection at a workplace, the SRMU Project Coordinator will need to be informed immediately and all other preventive measures put in place immediately to contain the spread of the virus. All workers will be provided with appropriate care and support if exposed to the virus at the workplace.
- vii. **Monitoring and reporting:** The SRMU shall report on the status of implementation of the above policies and procedures on a quarterly basis. The SRMU will closely monitor labor and OHS performance of the project and report to the World Bank on a quarterly basis.

7. GRIEVANCE REDRESS MECHANISM

32. **General Principles:** Typical work place grievances include demand for employment opportunities; labor wage rates; delays of payment; disagreement over working conditions; and health and safety concerns in the work environment. Although GBV occurs in workplaces, it is not always reported for fear of victimization. Therefore, a separate grievance structure will be established for project workers, as required in ESS2.

33. The workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all such project workers including providing the name and telephone contacts of the GRM focal point at the workplace. Communication could also be done on email (the email address will also be shared) and in-person reports. Handling of grievances will be objective, prompt and responsive to the needs and concerns of the aggrieved workers. The mechanism will also allow for anonymous complaints to be raised and addressed through providing options for people reporting a grievance to not mention their names, positions or place or work station. Individuals who submit their complaints or grievances may request that their names be kept confidential and this must be respected.

34. **Direct workers:** These will mainly be government employees at the MLSP and consultants. The staff will utilize the current grievance system set up by public service to address workers' grievances (Public Service Commission, 2016).³ Each unit engaging direct workers (national, county staff, consultants) will hold periodic team meetings to discuss any general workplace concerns. The grievances raised by workers will be recorded and requisite actions taken. The summary of grievances will be reported to the World Bank as part of regular project reporting.

35. For individual grievances, the Public Service Commission (PSC) provides for a process that guides how these are addressed, thus: "PSC of Kenya advocates settling of a grievance as quickly as possible to its point of origin and encourages staff and their superiors/managers to resolve grievances informally." However,

³Public Service Commission (2016). Human Resource Policies and Procedures Manual for the Public Service May, 2016.

the following three (3) stages are set to address the situations where this is not possible. A Grievance Form (PSC GF) has been designed for ease of application of the procedure.

- i. An officer who has any grievance or complaint should raise it with his/her Head of Department in writing by completing the Grievance Form (attached in Annex 2). The Head of the Department will give an answer as soon as possible and within a maximum of seven (7) working days;
- ii. If the matter is unresolved at stage II the aggrieved officer can appeal in writing to the Senior Deputy Secretary, Administration. The Senior Deputy Secretary Administration will at his/her discretion arrange a personal interview with the aggrieved officer and will give a written reply to the latter within fourteen (14) working days; and
- iii. It is expected that most of the cases will be solved at Stage II but in exceptional circumstances where this is not possible and the matter remains unresolved, the aggrieved officer may present it in writing to the Secretary, Public Service Commission who will handle the matter and give a written reply within a further fourteen (14) working days.

36. Where an aggrieved direct worker wishes to escalate his/her issues or raise concerns anonymously and/or to a person other than his/her immediate supervisor/hiring unit, the worker may raise the issues with the World Bank Task Team or use the Project GRM (refer to the SEP).

37. **National appeal process.** The labor laws provide for the national appeals process that could be utilized by any aggrieved staff if they consider the process established by the project to be ineffective and/or unfair. The grievance mechanism will therefore not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

8. RESOURCES FOR THE IMPLEMENTATION OF THE LMP

8.1 Coordination of the SRM activities

38. The overall coordination and implementation of the SRM components will be led by the Principal Secretary (PS) responsible for Social Protection who is also the accounting officer. He/she will have the primary responsibility for efficient and effective implementation of the IPF component for achievement of the stated development objectives. All the key decisions, including financial and procurement, related to the project implementation will be vested with the PS.

39. The project will set up a SRM Multi-Sectoral Committee (MSC) that will draw participation from key stakeholders such as relevant ministries, Council of Governors (COG), constitutional agencies and academic institutions to provide leadership on this area of work. The Director for Social Development is a member of this committee. The Committee shall be chaired by the PS, State Department for Social Protection and will meet quarterly. The Ministry may revise the TORs as the SRM activities and requirements as the project evolves.

40. The SRM MSC will provide leadership in priority actions for institutionalizing SRM; capacity building activities; parameters for the review and monitoring of social risks in development projects across the country; potential partnerships with global stakeholders; identification and management of challenges and risks.

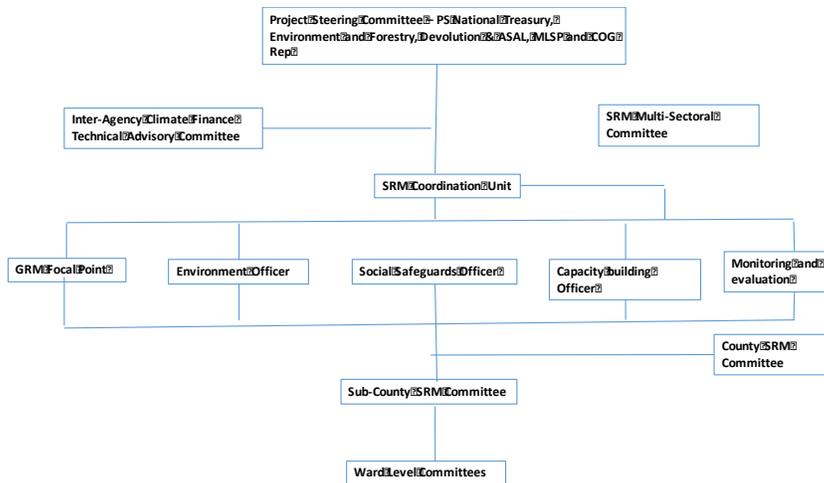
41. A SRMU has recently been established and is located within the DSD. The Unit will be responsible for the implementation of Component 3 of the project. The main responsibilities will include:

- i. Coordinate SRM activities in development projects, including the conduct and review of social impacts assessments;
- ii. Oversee, monitor and enforce compliance of social risk measures; and
- iii. Coordinate development and delivery of curriculum on SRM standards in conjunction with relevant Government and institutions of higher learning, and facilitate the establishment of a certification process for SRM experts.

42. The Deputy Director in charge of SRM Unit will coordinate implementation of the day-to-day administration of the project activities. The Unit will also provide the Secretariat to the SRM MSC. There shall be established SRM multi-sectoral committees at the County, sub-county and ward levels.

43. The SRMU is will be responsible for providing technical oversight, establishing networks with partners, financial and administrative management, program activity monitoring and reporting. The Unit will be responsible for day-to-day project management activities, including monitoring and reporting on project progress to the SRM MSC and all the relevant stakeholders. The management structure is presented in Figure 1.

Figure 1: Management structure for the SRMU



8.2 Resources for the implementation of the LMP

44. The project has set aside funds to ensure that the planned LMP activities are implemented and monitored effectively. The summary budget is presented in Table 4.

Table 5: Estimated budget for implementing the LMP

Labor Management Activities	Q-ty/per years	Unit Cost, USD	Total cost (USD)	Observations
Development of the protocols (OHS at the workplace, CoC, etc.) including retreats for finalization	4	5,000	20,000	These should be done during year one of the project
Travel expenses of staff on LMP activities (supervision missions by the safeguards officers and SRMU leadership)	12	5,000	60,000	This is quarterly for 3 years
Training (contract management, CoC, Grievance management, GBV, etc.) for SRMU and counties	2	20,000	40,000	To be conducted in the first 6 months of the project
Cost of managing the workers GRM	12	4,000	48,000	The costs will include supporting the development of the GM and implementation
Monitoring and evaluation	12	3,000	36,000	This will be the cost of setting up the system, monitoring, documenting and reporting
Sub-total			204,000	
Contingency (10%)			20,400	To cater for unforeseen costs that might emerge
Total			224,400	Estimated total cost

REFERENCES

1. Constitution of Kenya 2010
2. National Volunteerism policy
3. Older Persons Policy 2018
4. Occupational Safety and Health Act, 2017
5. Persons with disability Act, 2017
6. Sexual offences Act, 2016
7. The Employment Act, No. 11 of 2007
8. UN conventions-CEDAW, ILO

ANNEXES

ANNEX 1: CODE OF CONDUCT – TEMPLATE

The **Employee Code of Conduct (CoC)** outlines the expectations regarding employees' behavior towards their colleagues, supervisors, communities where they work and the overall organizational set-up. The CoC should promote freedom of expression and open communication. Employees should avoid offending, participating in serious disputes and disrupting our workplace. They are also expected to foster a well-organized, respectful and collaborative environment at the workplace and in the communities where they work. The following should inform the CoC.

1. A satisfactory CoC will contain obligations on all project workers that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the location and the project sector and/or to specific project requirements.
2. The CoC should be written in plain language (it may need to be translated into various languages based on the needs of the workers) and signed by each worker to indicate that they have:
 - received a copy of the code;
 - had the code explained to them;
 - acknowledged that adherence to this CoC is a condition of employment; and
 - understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.
3. The employer should conduct continuous awareness raising and training activities to ensure that workers abide by the CoC (such as through toolbox talks and training sessions). The employer should also ensure that local communities are aware of the CoC and enable them to report any concerns or non-compliance.
4. The issues to be addressed include:
 - i. Compliance with applicable laws, rules, and regulations of the jurisdiction;
 - ii. Compliance with applicable health and safety requirements (including wearing prescribed personal protective equipment (PPE), preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment;
 - iii. The use of illegal substances (such as alcohol and narcotics during working hours);
 - iv. Non-Discrimination (e.g. on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction);
 - v. Interactions with community members (e.g. to convey an attitude of respect and non-discrimination);
 - vi. Sexual harassment (e.g. to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate);
 - vii. Violence or exploitation (e.g. the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior);
 - viii. Protection of children (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas);

- ix. Sanitation requirements (e.g., to ensure workers use specified sanitary facilities provided by their employer and not open areas);
- x. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection);
- xi. Respecting reasonable work instructions (including regarding environmental and social norms);
- xii. Protection and proper use of property (e.g., to prohibit theft, carelessness or waste);
- xiii. Duty to report violations of this Code; and
- xiv. No retaliation against workers who report violations of the Code, if that report is made in good faith.

COVID-19 related inclusions in the CoC:

- Washing hands, sanitize and observing social distancing at all times and follow WHO and GOK updated guidelines;
- Taking care of PPEs and materials used for protection (including gloves, masks) and ensuring their safe disposal;
- Seeking healthcare if they experience any of the following symptoms (while at home or work): cough, fever and shortness of breath; and
- Staying at home and reporting immediately to the supervisor if their family members or the employee comes into contact with someone who has been reported to have COVID-19.

6. All staff should understand the disciplinary actions that can be taken against those who repeatedly or intentionally fail to follow the CoC. Disciplinary actions will vary depending on the violation. Possible consequences include: demotion; reprimand; suspension or termination for more serious offenses; and deduction of benefits for a definite or indefinite time.

7. The employer may take legal action in cases of corruption, theft, embezzlement or other unlawful behavior (for example, the diversion of food meant for the SMP or the school equipment).

ANNEX 2: PUBLIC SERVICE GRIEVANCE FORM

<p>PUBLIC SERVICE COMMISSION GRIEVANCE PROCEDURE</p> <p>GRIEVANCE FORM – PSC GF</p>

Officer's Full Name	P/No.	Designation & Grade
Department		Section
Office Tel. No.	Official E-mail Address:	Mobile Telephone No.
Stage I		
<p>Grievance Statement/Issues (Use attachments if necessary):</p> <p>Submitted to:</p> <p>Name:..... Head/Officer in ChargeDept/Section</p> <p>Date</p>		
Date Received:		

Response/Action taken:

Respondent's Name
 Designation.....

Signature: Date

Employee's response

I conclude my grievance and am returning the form to the Human Resource Office

I request that my grievance be taken to the next stage.

Signature Date

Stage II
Submitted to:.....
Name: Senior Deputy Secretary (Administration)
Date:
Date Received:
Response/Action taken:.....
Respondent's Name Designation
Signature: Date
Employee's Response
<input type="checkbox"/> I have documented my grievance and am returning the form to the Human Resource Office
<input type="checkbox"/> I request that my grievance be taken to the next stage
Stage III
Submitted to the Secretary PSCK