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AND THE MINISTRY OF INVESTMENTS, TRADE, AND INDUSTRY (MITI)**

**STATE DEPARTMENT OF MSMES
MICRO AND SMALL ENTERPRISE AUTHORITY (MSEA)
STATE DEPARTMENT FOR INVESTMENT PROMOTION (SDIP)**

**KENYA JOBS AND ECONOMIC TRANSFORMATION (KJET) PROJECT
P179381**

LABOUR MANAGEMENT PROCEDURES (LMP)

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ACRONYMS

BDS	Business Development Services
C-ESMP	Contractor Environmental and Social Management Plan
CIDCs	Constituency Industrial Development Centers
COVID-19	Coronavirus Disease-2019
CPS	Country Partnership Strategy
CPSD	Country Private Sector Diagnostic
DOSHS	Directorate of Occupational Safety and Health Services
E&S	Environmental and Social
EHSG	Environment, Health, and Safety Guidelines
ESF	Environmental and Social Framework
ESIRT	Environmental and Social Incident Reporting Toolkit
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plans
ESSs	Environmental and Social Standards
FDI	Foreign Direct Investment
GBV	Gender Based Violence
GBVAP	Gender-Based Violence Action Plan
GHG	Greenhouse Gases
GIF	Green Investment Fund
GIIP	Good International Industry Practice
GOK	Government of Kenya
GRS	Grievance Redress Service
IPF	Investment Project Financing
KDC	Kenya Development Corporation
KJET	Kenya Jobs and Economic Transformation
LMP	Labor Management Procedures
M&E	Monitoring and Evaluation
MCMSME	Ministry of Co-operatives and Micro, Small & Medium Enterprises
MDA	Ministries, Departments and Agencies

MITI	Ministry of Investments, Trade, and Industries
MSEA	Micro and Small Enterprise Authority
NEMA	National Environment Management Authority
NET	National Environment Tribunal
NGO	Non-Governmental Organization
OHS	Occupational Health and Safety
PIUs	Project Implementation Units
PWD	Persons With Disabilities
SCD	Strategic Country Diagnostic
SDMSME	State Department for Micro, Small & Medium Enterprises
SEP	Stakeholder Engagement Plan
TA	Technical Assistance
VMG	Vulnerable and Marginalized Groups
WB	World Bank
WBG	World Bank Group
WIBA	Work Injury Compensation Benefit Act

1 INTRODUCTION

1.1 Overview

This Labor Management Procedures (LMP) has been developed to identify and manage risks associated with labor and working conditions under the Kenya Jobs and Economic Transformation (KJET) Project. The LMP identifies labor requirements in line with applicable laws, standards and sets out the procedures for addressing labor conditions and risks associated with the KJET in line with the World Bank Environmental and Social Standard 2 (ESS2), Government of Kenya (GOK) legal frameworks, and Good International Industry Practice (GIIP).

KJET aims to address government constraints and market failures that prevent high-quality job creation and adoption of green practices by Micro, Small, and Medium Enterprises (MSMEs), including burdensome regulatory frameworks, inadequate Foreign Direct Investment (FDI) promotion, coordination failures between buyers and suppliers, information asymmetries with respect to capabilities and market requirements, and externalities related to climate change.

The Project will be implemented by a quartet of GOK agencies: (i) Ministry of Investment, Trade, and Industry (MITI); (ii) State Department for MSMEs (SDMSME) in the Ministry of Co-operatives and MSMEs (MCMSME); (iii) Micro and Small Enterprise Authority (MSEA); and (iv) Kenya Development Corporation (KDC).

1.2 Purpose and Objectives of the LMP

The purpose of this LMP is to facilitate the identification of different types of workers that are likely to be involved in the KJET Project and set out the ways in which those workers will be managed in accordance with the requirements ESS2, GIIP and the GOK labor laws.

The LMP will also provide a methodical and coherent approach to dealing with the labor-related issues, impacts and risks likely to emanate from the implementation of this Project whilst facilitating the identification of diverse types of Project workers likely to be involved in the Project.

Consistent with ESS2, this LMP seeks to:

- Promote safety and health at work;
- Promote the fair treatment, non-discrimination and equal opportunity of Project workers;
- Protect Project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS);
- Prevent the use of all forms of forced labor and child labor;
- Support the principles of freedom of association and collective bargaining of Project workers in a manner consistent with respective national law; and
- Provide Project workers with accessible means to raise workplace concerns.

1.3 KJET Project Description

1.3.1 Project Components

- **Component 1: Strengthening Business and Investment Enabling Reforms** – This component will address business regulatory (BR) and FDI environment implementation gaps that limit private sector growth and investment by working on prioritized BR and FDI related reforms.
- **Component 2: Enhancing MSME Cluster Competitiveness** – This component will target market failures that constrain linkages between MSMEs and downstream buyers and MSME firm capabilities.
 - **Subcomponent 2.1: Technical Assistance (TA) on Competitive Cluster Development Initiatives** – This subcomponent will provide technical assistance to build MSEA’s capacity to identify actionable policy reforms and/or common infrastructure or services investments to remove existing policy constraints and market failures for a given cluster.
 - **Subcomponent 2.2: Building Capacities of MSME Clusters** – The subcomponent will provide an integrated package of Business Development Services (BDS) (for all beneficiaries) and targeted co-investment support for productive assets (for a subset of beneficiaries subject to further screening).
- **Component 3: Scaling Up Green Financing and Strengthening Climatic Resilience for SMEs** – This component is meant to mobilize green private capital to support SME’s adoption of green, clean and ecofriendly technologies through setting up an agile, patient financing structure that can crowd in private capital, especially for medium businesses.
 - **Subcomponent 3.1: Scaling Up Green SME Financing** – This sub-component will provide initial risk-adjusted, long-term and patient capital, including equity and/or mezzanine financing, through a dedicated newly established Green Investment Fund (GIF) to finance green enterprises, greening of existing SMEs, and adoption of circular economy processes and practices.
 - **Subcomponent 3.2: Strengthening MSMEs Climatic Resilience** – This will support the removal of constraints related to the climate risk, stimulating a shift from 'conservative' to 'innovative' investments, including the creation of more resilient jobs. As implementer, KDC will make concessional loans readily available for MSMEs based on pre-defined objective climate shock triggers for firms who would have otherwise been viable.
- **Component 4: Project Management and Monitoring and Evaluation** – This component will strengthen the Monitoring and Evaluation (M&E) systems and capacity of national implementing agencies, and finance project management activities with the aim to build sustainable systems that last beyond the lifetime of this project. The project will also aim to link the systems under the project and outside the project for greater efficiencies in identification, tracking and monitoring and evaluation of beneficiaries. The component will finance the overall coordination activities by the implementing agencies, progress reporting, and relevant capacity building in coordination with the relevant government and private sector actors.

1.3.2 Project Beneficiaries

Overall, the project is expected to support Kenyan businesses (particularly MSMEs), foreign investors, and their underlying workers. Component 1 is expected to generate economy-wide impacts, while Components 2 and 3 will generate firm-level impacts for individual beneficiaries. Component 1 will benefit all firms subject to the regulatory procedures addressed by the sub-national pilots through streamlined regulatory procedures. It will also benefit all foreign investors working with KenInvest via improved service delivery from KenInvest (e.g., completion of One Stop Center implementation). Component 2 will benefit MSMEs that participate in subprojects by providing BDS and co-investments to, inter alia, improve business and financial management capacity, establish market linkages, increase productive capacity, and adopt climate smart practices, in turn generating higher sales and profits for firms and higher wages and employment for workers. Component 2 is expected to cover at least 1,500 subprojects with BDS and market access, of which at least 650 will further receive co-investment, ultimately reaching at least 150,000 workers. Component 3 is expected to benefit 100 firms accessing financing through the Green Investment Fund and KDC concessional loans, covering 20,000 workers. Finally, at least four government agencies or institutions are expected to benefit from KJET technical assistance or financial support.

2 OVERVIEW OF LABOR USE ON THE PROJECT

2.1 Number of Project Workers

The total number of workers to be employed on the project is estimated at 46,000. Most of these workers will be in businesses benefitting from project activities. The workers will be in the categories of direct workers, contracted workers and primary supply workers.

2.2 Project Workers Categorization

The project will have the following categories of workers:

- **Direct Workers¹** – The Project will engage the following types of workers as “direct workers”:
 - **PIUs:** GOK will establish two PIUs to oversee the Project. The PIUs will each have a Project Coordinator who oversees the overall success of their Project activities. The PIUs will consist of staff with cross-cutting qualifications (such as procurement officers, project accountants, safeguards officers (Environmental and Social), and M&E), with additional staff with the right skill set being assigned as needed; and
 - **Civil Servants:** The project will involve numerous GOK employees, including directors and staff of various Ministries, Departments and Agencies (MDAs).
 - **Consultants:** national and/or international consultants, who will be hired on part-time basis. The consultants will mainly be involved in the execution of technical tasks/studies across different Project components.

¹ A “direct worker” is a worker with whom the Borrower has a directly contracted employment relationship and specific control over the work, working conditions, and treatment of the project worker. The worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrower’s day-to-day instruction and control.

- **Contracted Workers²** – Contracted workers will be employed or engaged by third parties, such as contractors, subcontractors, and service providers/consultants required for project implementation including in provision of technical assistance and MSME’s facility upgrading. Migrant workers may also be contracted by the Project.
- **Primary supply workers³** – The Project will use primary supply workers in the implementation of subproject activities under Component 2 which will support MSMEs clusters with investment support for common infrastructure to improve agglomeration and downstream market linkages, including co-investment for facility upgrading, and the provision of productive equipment and machinery.
- **Community workers** – The Project will not use community workers.

At least half (23,000) workers in the project will be women. Gender will be mainstreamed into the implementation of the project, especially implementation of Subcomponent 2.2. Beneficiary targeting will include specific quotas for women. Component 1 and Subcomponent 2.1 will target women-specific regulatory barriers and obstacles to market integration. Moreover, the investment strategy for the GIF under sub-component 3.1 and the eligibility criteria for targeting MSMEs to be supported through the climate risk resilience facility under sub-component 3.2 will prioritize support to women-owned businesses. To reflect this, the results framework contains outcome indicators reflecting supported women and women-owned/led enterprises’ access to markets, finance, and new or improved jobs.

No brokers will be used in the project.

2.3 Project Workforce Requirement for KJET

Components 1, 2, 3 and 4, the twin PIUs, KenInvest, KDC, MSEA and other government agencies will assign workers who will provide technical expertise. There would be direct workers such as consultants who would be brought to support the project on specific deliverables. As well, the project will involve the use of contracted workers in the construction works and the use of Government civil servants in the management and supervision of project activities.

Table 2-1 Project Components and Activities

Component	Activities
Component 1: Strengthening Business and Investment Enabling Reforms	Design and rollout of systems to streamline and automate regulatory processes; Targeted changes to laws, regulations, and strategies; Deployment of dedicated toolkits for investors targeting; and/or Capacity-building for key implementation agencies to address gaps (e.g., on investment promotion).

² A “contracted worker” is a worker employed or engaged by a third party to perform work or provide services related to the core functions of the project, where the third party exercises control over the work, working conditions, and treatment of the project worker.

³ A “primary supply worker” is a worker employed or engaged by a primary supplier, providing goods and materials to the project, over whom a primary supplier exercises control for the work, working conditions, and treatment of the person.

Component	Activities
<i>Implemented by SDI and KenInvest within MITI</i>	
Component 2 <i>Implemented by MSEA</i>	Mapping 5 priority value chains to provide a detailed analysis of the distribution and concentration of economic opportunities and value addition across Kenya; Developing analytical frameworks for analyzing cluster competitiveness and binding constraints, and prioritizing interventions; Developing and implementing an integrated package of business development services (BDS); and Targeted co-investment support for productive assets, delivered through clusters in priority value chains.
Component 3 <i>implemented by MITI through the Kenya Development Corporation (KDC</i>	Establishment of Green Investment Fund (GIF); Provision of initial risk-adjusted, long-term and patient capital, including equity and/or mezzanine financing, to finance green enterprises, greening of existing SMEs, and adoption of circular economy processes and practices; Making concessional loans readily available for MSMEs, including beneficiaries of Subcomponent 3.1, to cover liquidity and credit risks in the event of expected shocks.
Component 4 <i>Twin PIUs</i>	Day-to-day project management. The component will finance the overall coordination activities by the two implementing agencies (MCMSME and MITI), progress reporting, and relevant capacity building in coordination with the relevant government and private sector actors.

2.4 Estimated Number of Workers Per Category

2.4.1 Direct workers

- **PIUs** – the two PIUs will have approximately 25 staff recruited nationally and internationally on a fulltime basis.
- **Civil servants** – KenInvest (approximately 91 staff), MSEA (approximately 25 staff), KDC (approximately 100 staff), SDMSME (approximately 100 staff). It is assumed that at least 10% of staff in these institutions will be involved in project implementation.)
- **Consultants** –The PIUs will hire consultants with different expertise and maintain them in an expertise pool of approximately 20.

2.4.2 Contracted workers

Technical studies to be performed by consultants is a core function in the Project and may involve the use of contracted workers. As such, consultants may require the use of contracted workers. It is estimated, as necessary, that each subproject/activity will use between 2-10 contracted workers on a temporary basis.

Table 2-2 Worker Category, Description, Estimated Numbers and Timing

Category	Description	Number	Mode of engagement	Timing
Direct workers	PIU Staff	Over 25 officers: Project Coordinators, Assistant Coordinators, ESHS officers, FM officers, legal officers, Procurement officers, Gender officers, M&E officers, GRM officers, etc.	Fulltime	All Project phases
	Civil servants	Over 200 GOK employees	Part-time	All Project phases
	Consultants	A pool of 20 consultants to conduct various technical studies.	Part-time	Operation phase
Contracted workers	Consultants' support staff	2-10 contracted workers for each subproject/activity (at least 15 subprojects will be implemented) supporting the consultants in technical studies.	Temporary	Operation phase
Primary supply workers	MSEA component 2 subprojects	50-100 workers involved in provision of materials for MSME's facilities upgrading and the provision of productive equipment and machinery.	Temporary	Operation phase

This LMP will apply to all Project workers including fulltime, part-time, migrant, temporary and seasonal. 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

Potential risks are those related to labour and working conditions, such as work-related discrimination, Sexual Exploitation and Abuse/Sexual Harassment (SEAH) and Occupational Health and Safety (OHS) risks. The twin PIUs 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 and HR manual. The following are the key labour risks anticipated during the implementation of the project:

3.1 Occupational Safety and Health (OSH) risks

Some of the OHS risks for subprojects involving civil works are manual handling of large things, falls from heights, burns from hot labor (such as welding), electricity, injuries from moving machinery, and dust from construction vehicles. There are also risks to disease infections for all workers engaged in project activities

and possible mental health disorders/illnesses emanating from project related stress and burn-out. More detailed OHS risks and mitigation measure are presented in Table 3-1. The preparation of Site-specific ESMPs, which will include Occupational Health and Safety (OHS) Management plans that will detail how these risks will be managed for each of the sub-projects and each worksite for review and clearance by the implementing agencies, will be guided by these ESIA and ESMPs as they will be included in the bidding documents for contractors. Contractors will need to prepare and apply a C-ESMP that includes, site specific risks and hazard assessment; and OHS measures. Relevant OHS plans/measures will be developed and applied for construction phase, the operation and maintenance phase and at decommissioning phase of the subprojects.

3.2 Sexual harassment, exploitation, and abuse, discrimination

There are concerns on the potential for SEAH, increased risk of abuse and exploitation for vulnerable women workers, increased risk of sexual exploitation and violence. Although support to MSMEs will be channeled through clusters, there is a possibility of women being asked for favours by leaders of these clusters to access services. Indirectly, the project might lead to SEAH at the household level depending on who has access to the project benefits such as the green financing.

The PIUs will ensure that all sub-project activities are carried out in accordance with the guiding acts and regulations prohibiting any form of discrimination and/or harassment (directly/indirectly) against an employee to guarantee equal opportunity and non-discrimination among workers employed/engaged under all employment categories. Additionally, contractors and subcontractors must support equal opportunities for women and men, with a focus on equal criteria for selection, compensation, and promotion and equal application of these criteria; put in place measures to prevent harassment of project workers, including sexual harassment in the workplace; and, if migrant workers are employed, implement appropriate measures to prevent any discriminatory treatment towards them following the GBV action plan. PIUs will ensure that there are equal opportunities provided and that there is not any form of discrimination.

3.3 Child and forced labor

Even though the risk is low (given the hiring standards for all government positions), it could still materialize due to contracted labor at construction sites, beneficiary MSMEs and farms. More specifically, in the supported agricultural value chains there is some probability of experiencing child labour because (i) general global child labour statistics point to agriculture sector contributing 70% of engaging child labour in activities (ILO, 2020); (ii) Majority of farmers in Kenya are smallholder who in most cases are not aware of the law on child labour, light work, and hazardous work, etc. In fact, the Kenya Population and Housing Census of 2019 indicate that 1 million children aged between 5-13 years were involved in child labour; and (iii) child labour is within farming households.

The following are the proposed mitigation measures are proposed: for civil works subprojects, contractors, including third parties will be compelled, to commit to not using child or forced labor (code of conduct). In addition, the person in charge of overseeing contractors for project activities will keep track of and report on whether the contractors are abiding by ILO Conventions on the prohibition of child and forced labor, as well as the World Bank ESS 2. To prevent employing or engaging children, there will be documentation and verification of age prior to the employment or engagement of a project worker

and kept on file; capacity building and awareness creation to communities; signing of individual contracts; use the project grievance management; monitoring risks and remedying them; contractors to liaise with Area Chiefs on local labour management.

3.4 Labor disputes over terms and conditions of employment

Labour will be required throughout project implementation. Labour related disputes are likely to occur. The likely cause for labour disputes includes demand for limited employment opportunities; labour wages/rates and delays of payment; discrimination under conditional grant activities, disagreement over working conditions (particularly overtime payments and inadequate rest breaks); and health and safety concerns in the work environment. Further, there is a risk that employers may retaliate against workers for demanding legitimate working conditions or raising concerns regarding unsafe or unhealthy work situations or any grievances raised, and such situations could lead to labour unrest and work stoppage. The PIUs will implement this LMP which outlines how project personnel will be managed in conformity with national legal requirements, ESS2, ESS4, and other applicable WB ESF standards. The procedures specify how the labor laws will be applied to various project worker categories, how the PIUs will expect third parties to manage their workforces, and how employees will be given a formal channel through which to voice complaints about their working conditions and contract terms.

3.5 Discrimination and exclusion of vulnerable groups

Vulnerable groups are likely to be excluded from project job prospects. These include marginalized groups, youth, women, and people with disabilities (PWDs). The safety and wellbeing of the most vulnerable workers and the local populations could also be compromised by sexual harassment and other abusive behavior on the part of employees or management, which would also have a negative impact on the success of the project.

As part of the Environmental and Social Impact Assessments, site-specific risk, and hazard assessments will be conducted to evaluate all the potential threats that have been identified. The subproject's ESMP will be prepared to include mitigation strategies for the identified risks. Possible countermeasures for the Project's potential risks are shown in Table 3-1 below:

This section describes the Project's key potential labor risks and their mitigation.

Table 3-1: Potential Labor Risks and Mitigation Measures

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
1	Non-compliance of employers to terms and conditions of employment	<ul style="list-style-type: none"> • Provide project workers with information and documentation that is clear and understandable regarding their terms and conditions of employment; for illiterate workers simplified language will be used and the officer in-charge will read the terms and conditions to them and request them to specify if they require further clarification. This will be repeated at least twice (during induction and contract period) to ensure clarity. Moreover, all important advice will be provided to all workers, as necessary. • The information and documentation shall 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 shall be provided at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur. • The project shall also have GRMs for project workers (direct workers and contracted workers) to promptly address their workplace grievances and concerns. • All workers will be provided with written contracts.
2	Labor influx related risks (including spread of diseases among workers and the nearby communities, including HIV/AIDS project activities)	<ul style="list-style-type: none"> • Communication on risks of infection with HIV/AIDS shall be conducted through locally appropriate means – targeting workers, learners, and communities at least once during recruitment and thereafter once every month for staff and quarterly for communities to be conducted by Occupational Health and Safety (OHS) staff of the contractor under supervision of the PIUs. • To reduce labour influx, PIUs will require all contractors to employ unskilled and semi-skilled workers at the local level and through the local administrators. • PIUs will ensure that implementation of Individual Code of Conduct (CoC) to be signed by project direct workers and all those contracted; • Workers will be required to use appropriate PPEs (such as helmets, gloves and masks).

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
3	Occupational Health and Safety from construction activities in component 2 and 3, if any.	<p>PIUs will ensure each of the following:</p> <ul style="list-style-type: none"> • The contractor shall provide the workers with the required Personal Protective Equipment (PPEs) and always enforce use while at the work site; • The construction equipment used in the works should be routinely serviced to ensure proper and safe equipment functionality; PIUs will Carry out job risk assessment for all project workers (e.g., analysis of likely hazard and precautions required during project construction, operation and maintenance phase) before executing the assignment; and prepare and implement a Contractor Environmental and Social Management Plan (C-ESMP) that will include among other things the mitigation measures for identified risks, responsibilities and monitoring plan; • Effective construction site management and access control for visitors and intruders (including people trying to use shortcuts, children playing, etc.) by fencing/ barricading, signage, manned posts, etc. • Use of safety signage e.g., “MEN/WOMEN AT WORK” to warn the public and the workers on construction site, and other signages based on types of OHS risks to bother workers and communities for the subprojects; • Provision of adequate signage and communication of risks to workers, contractor's staff and the community; • Hazardous areas must be clearly marked with signs easily understood by workers, visitors and the public, as appropriate; • Electrical works must be performed by trained and qualified experts; • Ensure that electrical equipment is properly connected before switching on sockets; • Use of competent drivers with defensive driving techniques with a valid driver’s license; • Only road worthy (regularly serviced as manufacturer’s specifications) vehicles and trucks shall be used in transportation of materials to avoid frequent breakdowns and risks of road accidents;

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • In case on any spillage for example oil and hazardous substances at working areas, the contractor and operator must clean the spillage immediately, post anti-slip hazard warning should be used when mopping floors to reduce chances of slip and falls; • All visitors shall be required to fill a visitors' form providing all personal details and purpose of the visit. A data file with information regarding visitor will be recorded and kept by project OHS personnel; • Implementation of individual CoC to be signed by project workers and enforced by all contractors. • First aid kits, trainings on first aid and qualified first aiders on site • Developing and implementing emergency response plans (ERP) • Developing, adopting and sensitizing of standard operation procedures and guiding working at heights, lifting operations excavations, etc.
4	Discrimination of employment based on gender, disability or ethnicity	<p>PIUs will ensure that:</p> <ul style="list-style-type: none"> • Hiring of project workers shall be based on the principle of equal opportunity and fair treatment; • 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 Individual CoC containing provisions on discrimination to be signed by all workers aimed at preventing and addressing harassment, intimidation and/or exploitation, including sexual exploitation and harassment (see template in Annex 1); Reasonable sanctions for breach of Individual CoC and related contractual obligations need to be included. • Contractors shall provide appropriate sanitation facilities at the workplace and appropriate PPEs for women and persons with disability

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
5	Risks of Gender-Based Violence (GBV) incidences including Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH)	<p>PIUs will ensure that:</p> <ul style="list-style-type: none"> • The project and the project staff implement GBV/SEAH management plan. • The project’s Social Specialist to work with service providers to mitigate SEA/SH related risks and provision of aftercare services; • Communities are sensitized on GBV/SEA & SH and the referral pathways. For ESS7 communities, these pathways will be aligned to the culturally sensitive GRM described in the stakeholder engagement plan (SEP); • All project personnel should be trained on GBV/SEA & SH; • The CoC containing provisions on GBV/ SEA & SH to be signed by all workers aimed at preventing and addressing harassment, intimidation and/or exploitation (see template in Annex 1). • Violating the CoC can have serious consequences for Project workers, e.g., disciplinary action under Kenya’s employment law, including termination of employment, or claims for compensation by the Project or third parties. If violating this Code of Conduct also constitutes a criminal offence, such violation may also result in criminal proceedings, which could lead to the employee being fined or imprisoned.
6	Likely incidences of Child labor or forced labor at sub-projects	<p>PIUs will ensure:</p> <ul style="list-style-type: none"> • All vacancy advertisements will clearly prescribe that child labor is not permitted and persons to be employed must meet the minimum age as prescribed in Employment Act, 2007. • Sensitize beneficiaries/contractors on child labour policy and on negative impacts of child labor; • Certification of laborers’ age (using National Identification Card, Voters Registration Card, Birth Certificate or affidavit of birth in employment of workers);

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • Ensure that contractors, primary suppliers have and implement a Child Labor Policy to deter employment and abuse of children in the project. Include consequences of breaching the conditions, including the possible termination of the contract. • Engage with labour inspectors/ ministry of labour to ensure effective enforcement national labour legislation, provide advice and information to help meet legal requirements including compliance with the Employment Act, 2007; • Enhanced monitoring of implementation and compliance • See Section 6 Policies and Procedures for handling any cases of child or forced labour.
7	Risks related to occupational health and safety e.g., general facility design and operation.	<p>Preventive and protective measures should be introduced according to the following order of priority:</p> <ul style="list-style-type: none"> • Eliminating the hazard by removing the activity from the work process. Examples include substitution with less hazardous chemicals, using different manufacturing processes, etc; • Controlling the hazard at its source through use of engineering controls. Examples include local exhaust ventilation, isolation rooms, machine guarding, acoustic insulating, etc; • Minimizing the hazard through design of safe work systems and administrative or institutional control measures. Examples include job rotation, training safe work procedures, lock-out and tag-out, workplace monitoring, limiting exposure or work duration, etc. • Providing appropriate personal protective equipment (PPE) in conjunction with training, use, and maintenance of the PPE. <p><i>Integrity of Workplace Structures</i></p> <ul style="list-style-type: none"> • Surfaces, structures, and installations shall be easy to clean and maintain, and not allow for accumulation of hazardous compounds. • Buildings shall be structurally safe, provide appropriate protection against the climate, and have acceptable light and noise conditions. • Fire resistant, noise-absorbing materials shall be used for cladding on ceilings and walls. • Floors should be level, even, and non-skid.

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • Heavy oscillating, rotating or alternating equipment should be in dedicated buildings or structurally isolated sections. <p><i>Severe Weather and Facility Shutdown</i></p> <ul style="list-style-type: none"> • Workplace structures shall be designed and constructed to withstand the expected elements for the region and have an area designated for safe refuge, if appropriate. • Standard Operating Procedures (SOPs) will be developed for project and will include an emergency response plan, evacuation plan to be developed and implemented by PMT and contractors. Drills to practice the procedure and plan should also be undertaken annually. <p><i>Workspace and Exit</i></p> <ul style="list-style-type: none"> • The space provided for each worker, and in total, should be adequate for safe execution of all activities, including transport and interim storage of materials and products. • Passages to emergency exits to always remain unobstructed. Exits will be clearly marked to be visible in total darkness. Provide sufficient number and capacity of emergency exits for safe and orderly evacuation of the greatest number of people present at any time, and ensure a minimum two exits from any work area. • Ensure inclusion in infrastructure design, facilities shall be designed and built considering the needs of disabled persons. <p><i>Fire Precautions</i></p> <ul style="list-style-type: none"> • Ensure workplace design prevents fires through implementation of applicable fire codes to industrial settings. Other essential measures include: <ul style="list-style-type: none"> • Equipping facilities with fire detectors, alarm systems, and fire-fighting equipment. The equipment will be serviced regularly, maintained in good working order and readily accessible. It should be adequate for the dimensions and use of the premises, equipment installed, physical and chemical properties of substances present, and the maximum number of people present. • Provision of manual firefighting equipment that is easily accessible and simple to use.

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • Install fire and emergency alarm systems that are both audible and visible. • Regular fire drills. <p><i>Lavatories and Showers</i></p> <ul style="list-style-type: none"> • Adequate lavatory facilities (toilets and washing areas) provided for the number of people expected to work in the facility and allowances made for segregated facilities, or for indicating whether the toilet facility is “In Use” or “Vacant”. Toilet facilities should also be provided with adequate supplies of running water, soap, and hand drying devices. • Where workers may be exposed to poisonous substances by ingestion and skin contact facilities for showering and changing into and out of street and work clothes will be provided. Standard operation procedures for laboratory testing and waste management plan will be developed and implemented. <p><i>Potable Water Supply</i></p> <ul style="list-style-type: none"> • Adequate supplies of potable drinking water will be provided from a fountain with an upward jet or with a sanitary means of collecting the water for the purposes of drinking. • Water supplied to areas of food preparation or for the purpose of personal hygiene (washing or bathing) shall meet drinking water quality standards. <p><i>Clean Eating Area</i></p> <p>Where there is potential for exposure to substances poisonous by ingestion, suitable arrangements are to be made for provision of clean eating areas where workers are not exposed to the hazardous or noxious substances.</p> <p><i>Lighting</i></p> <ul style="list-style-type: none"> • Workplaces shall be well light with natural light and be supplemented with sufficient artificial illumination to promote workers’ safety and health and enable safe equipment operation. Supplemental ‘task lighting’ may be required where specific visual acuity requirements will be met.

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • Emergency lighting of adequate intensity shall be installed and automatically activated upon failure of the principal artificial light source to ensure safe shut-down, evacuation, etc. <p><i>Safe Access</i></p> <ul style="list-style-type: none"> • Passageways for pedestrians and vehicles within and outside buildings shall be segregated and provide for easy, safe, and appropriate access. • Equipment and installations requiring servicing, inspection, and/or cleaning shall have unobstructed, unrestricted, and ready access. • Hand, knee and foot railings will be installed on stairs, fixed ladders, platforms, permanent and interim floor openings, loading bays, ramps, etc. • Openings will be sealed by gates or removable chains. • Covers will be installed to protect against falling items. • Ensure adequate measures to prevent unauthorized access to dangerous areas are in place and implemented. <p><i>First Aid</i></p> <ul style="list-style-type: none"> • Ensure qualified first aid can be always provided. Appropriately equipped first-aid stations will be established and made accessible throughout the place of work. • Eye-wash stations and/or emergency showers will be provided close to all workstations where immediate flushing with water is the recommended first-aid response. • Where the scale of work or the type of activity being carried out so requires, dedicated and appropriately equipped first- aid room(s) will be provided. First aid stations and rooms will be equipped with gloves, gowns, and masks for protection against direct contact with blood and other body fluids. • Remote sites will have documented emergency procedures for dealing with cases of trauma or serious illness up to the point at which patient care can be transferred to an appropriate medical facility. <p><i>Work Environment Temperature</i></p>

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		The temperature in work, rest room and other welfare facilities will, during service hours, be maintained at a level appropriate for the purpose of the facility.
	Operations Phase E&S Risks and Impacts	
8	Other OHS impacts and risks from operations of beneficiary enterprises or businesses.	<p><i>Exposure to hazardous materials and waste</i></p> <ul style="list-style-type: none"> • Replacement of the hazardous substance with a less hazardous substitute • Implementation of engineering and administrative control measures to avoid or minimize the release of hazardous substances into the work environment keeping the level of exposure below internationally established or recognized limits. • Keeping the number of employees exposed, or likely to become exposed, to a minimum. • Communicating chemical hazards to workers through labeling and marking according to national and internationally recognized requirements and standards, including the International Chemical Safety Cards (ICSC), Materials Safety Data Sheets (MSDS), or equivalent. Any means of written communication should be in an easily understood language and be readily available to exposed workers and first-aid personnel. • Training workers in the use of the available information (such as MSDSs), safe work practices, and appropriate use of PPE <p><i>Fire and explosions</i></p> <ul style="list-style-type: none"> • Storing flammables away from ignition sources and oxidizing materials. Further, flammables storage area should be: <ul style="list-style-type: none"> ○ Remote from entry and exit points into buildings. ○ Away from facility ventilation intakes or vents ○ Have natural or passive floor and ceiling level ventilation and explosion venting. ○ Use spark-proof fixtures. ○ Be equipped with fire extinguishing devices and self- closing doors and constructed of materials made to withstand flame impingement for a moderate period.

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<ul style="list-style-type: none"> • Providing bonding and grounding of, and between, containers and additional mechanical floor level ventilation if materials are being, or could be, dispensed in the storage area. • Where the flammable material is mainly comprised of dust, providing electrical grounding, spark detection, and, if needed, quenching systems • Defining and labeling fire hazards areas to warn of special rules (e.g., prohibition in use of smoking materials, cellular phones, or other potential spark generating equipment) • Providing specific worker training in handling of flammable materials, and in fire prevention or suppression • Installation of smoke alarms and sprinkler systems; • Maintenance of all fire safety systems in proper working order, including self-closing doors in escape routes and ventilation ducts with fire safety flaps; • Training of staff for operation of fire extinguishers and evacuation procedures; • Development of facility fire prevention or emergency response and evacuation plans with adequate guest information. • Regular fire safety audits • Regular fire drills. <p><i>Ergonomics, Repetitive Motion, Manual Handling</i></p> <ul style="list-style-type: none"> • Facility and workstation design with 5th to 95th percentile operational and maintenance workers in mind. • Use of mechanical assists to eliminate or reduce exertions required to lift materials, hold tools and work objects, and requiring multi-person lifts if weights exceed thresholds. • Selecting and designing tools that reduce force requirements and holding times and improve postures. • Providing user adjustable workstations. • Incorporating rest and stretch breaks into work processes and conducting job rotation. • Implementing quality control and maintenance programs that reduce unnecessary forces and exertions. • Taking into consideration additional special conditions such as left-handed persons.

Item	Description of the risk/impact as identified in ESS2	Proposed risk mitigation measures
		<p><i>Personal Protective Equipment (PPE)</i></p> <ul style="list-style-type: none"> • Ensure access and active use of PPE to reduce hazards or exposure. • Identification and provision of appropriate PPE that offers adequate protection to the worker, co-workers, and occasional visitors. • Proper maintenance of PPE, including cleaning when dirty and replacement when damaged or worn out. Proper use of PPE should be part of the recurrent training programs for employees. • Selection of PPEs based on the hazard and risk ranking, and according to established criteria on performance and testing.

4 BRIEF OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

4.1 Terms and Conditions

Kenya has a very elaborate legal framework on matters of labor and working conditions. The constitution of Kenya provides several 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.

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 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*.

The *Employment Act, 2007*, 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.

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.

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).

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

- a. Freedom of Association and Protection of the Right to Organize (ILO Convention 87);
- b. The Right to Organize and Collective Bargaining (ILO Convention 98);
- c. Forced Labor (ILO Convention 29);
- d. The Abolition of Forced Labor (ILO Convention 105);
- e. Minimum Age (of Employment) (ILO Convention 138); and
- f. Discrimination (Employment and Occupation) (ILO Convention 111).

4.2 Occupational Health and Safety

The Occupational Safety and Health Act (OSHA)⁴ 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.

The Work Injury Benefits Act⁵ (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 dependents, who may be adversely affected by the work injuries. Part III (on Right to Compensation) addresses the entitlements and guarantees afforded in respect of compensation.

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:

- a. The National Occupational Safety and Health Policy, 2012;
- b. Occupational Safety and Health Act, 2007;
- c. Work Injury Benefits Act, 2007;
- d. HIV/AIDS Prevention and Control Act, 2006;
- e. WBG ESF; and
- f. WBG General EHS Guidelines.

The PIUs will also refer to applicable international conventions, and directives for addressing health and safety issues. This includes:

- a. [ILO Occupational Safety and Health Convention, 1981 \(No. 155\);](#)
- b. [ILO Occupational Health Services Convention, 1985 \(No. 161\);](#)

⁴ OSH Act No 15 of 2007

⁵ WIBA Act No 13 of 2007

- c. [ILO Safety and Health in Construction Convention, 1988 \(No. 167\)](#);
- d. [WHO International Health Regulations, 2005](#);
- e. [WHO Emergency Response Framework, 2017](#); and
- f. [EU OSH Framework Directive \(Directive 89/391\)](#).

Table 4-1 provides a summary of the key regulations in Kenya and their relevance to this project.

Table 4-1 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.	Project activities may expose the workers to diseases, such as COVID-19, HIV/AIDS, etc. The PIUs 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	PIUs shall comply with part II of this Act about 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 and Control Act, 2006	Part 11 Section 7 requires HIV and AIDS education in workplaces; specifically, provision of basic information and instruction on HIV/AIDS prevention and control	The PIUs will create awareness to the employees on issues related to HIV/AIDS. It will produce posters/flyers to be shared with all employees and pasted at workplaces.

#	Legislation	Provision	Relevance/Measures
5.	Gender-based violence and SEA/SH	<ul style="list-style-type: none"> • Abuse by workers, normalization of GBV stigma led to non-reporting, poverty forces women/girls to engage in transactional sex. • There is lack of access to services to address SEA/SH, stigma, corruption. • Several Acts exist that provide protection against GBV/ SEA/SH including: <ul style="list-style-type: none"> ○ 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 workplace and other forms of GBV. The PIUs 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 Labour Inspectorate

Kenya's Ministry of Labour and Social Protection oversees a dual system of inspection covering general labour inspection (Labour Department) and occupational safety and health [Directorate of Occupational Safety and Health Services (DOSHS)]. The DOSHS is responsible for enforcing two pieces of legislation: (i) the OSHA, 2007, and (ii) the WIBA, 2007. The monitoring and enforcement of the Employment Act and the Industrial Relations Act (2007) is the responsibility of the Labour Department. The Employment Act applies to all employees employed by any employer under a contract of service and excludes the armed forces, police, prisons service, the National Youth Service and family undertakings. The OSHA applies to all workplaces where any person is at work, whether temporarily or permanently. All labour officers within the Ministry have the capacity of labour inspectors and to resolve labour disputes.

5 RESPONSIBLE STAFF

The PIUs will be responsible for the overall project management and the implementation of this LMP. The Units will work with various stakeholders including NEMA and DOSHS to implement the LMP in compliance with national laws. The PIUs will be responsible for the following tasks:

- a. Undertake the overall implementation of this LMP;
- b. Engage and manage all project workers in accordance with this LMP and the applicable Procurement Documents;
- c. Monitor project contractors and workers to ensure their activities are included in the LMP and the applicable Procurement Documents;
- d. Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary suppliers;
- e. Provide training to mitigate social risks including SEA/SH of project workers;
- f. Ensure that the GRM for project workers is established and implemented and that project workers are informed about it;
- g. Monitoring the implementation of the worker CoC; and
- h. Report to the World Bank on labor and OHS performance and key risks and complaints. In case any serious OHS incident in connection with the project, the PIUs, should notify the World Bank within 48 hours of becoming aware of such incident. A fatality is automatically classified as a serious incident, as are incidents of forced or child labor, abuses of community members by project workers (including gender-based violence incidents), violent community protests, or kidnappings. PIUs should ensure that the incident report is in line with the Bank's Environmental and Social Incident Reporting Toolkit (ESIRT). The Bank should then process the incident report in accordance with the ESIRT. Moreover, a fatality should be reported to DOSHS and the World Bank within 24 hours of occurrence.

Table 5-1 presents a summary of the key LMP commitments and the project staff/entity responsible for the various key responsibility areas.

Table 5-1 Commitments and responsible persons

#	Officers responsible	Key responsibilities
1.	Project Coordinators	<ul style="list-style-type: none"> • Overall oversight of all project activities • Link to the World Bank
2.	Deputy Project Coordinator	Deputize the Project Coordinator in performance of his/her roles
3.	Environmental & Social Safeguards Officer	<ul style="list-style-type: none"> • Supervise workers' adherence to the LMP; • Prepare, review, approve the various OHS measures and plans. • Maintain records of recruitment and employment of contracted workers (including sub-contractors); • Provide induction training to heads of contracted workers organizations or EHS officers on environmental, social and OHS issues. This will include SEA/SH;

#	Officers responsible	Key responsibilities
		<ul style="list-style-type: none"> • Require primary supplier(s) to identify and address risks of child labor, forced labor and serious safety issues and undertake due diligence to ensure this is done; • Develop and implement the GRM for contracted workers, including ensuring that grievances received from the contracted workers are resolved promptly, and report the status of grievances including grievances related to SEA/SH and resolutions regularly to the PIUs and World Bank. Also, the PIUs should ensure that a GRM is outlined in contractor C-ESMP • Ensure all contractor and subcontractor workers understand and sign the CoC prior to the commencement of works and supervise compliance with the CoC; • Ensure the abbreviated CoC (one-pager) is displayed in all project supported facilities; and • Report to the PIU on labor and OHS performance.
4.	OHS focal point	<ul style="list-style-type: none"> • Assess the risk of serious safety issues. • Develop protocols for the workplace and for individual staff including disease prevention. • Link with NEMA and DOSHS on all OHS related issues. • Monitor, document and report on all OHS matters
5.	GRM focal point	<ul style="list-style-type: none"> • 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.	Labour officers and OHS officers from the Department of Labour and DOSHS	<ul style="list-style-type: none"> • Registration and renewal of workplaces and plants, • Workplace inspection & audits • Examination & testing of plants to guarantee that they are in a good working condition. • Accident investigation & WIBA processing.
7.	Contractors	<ul style="list-style-type: none"> • Prepare the C-ESMP and undertake the overall implementation of OSH in compliance with the C-ESMP, ESS2. • Engage and manage employees in accordance with labour laws and ESS2 standards. • Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary suppliers. • Sensitize own staff on OSH and SEAH/SH risk mitigation measures and sanctions for violating the CoC. • Ensure that workers are aware and understand the Project workers GRM and how they can report their grievances.

#	Officers responsible	Key responsibilities
		<ul style="list-style-type: none"> • Ensure own workers sign the CoC and monitor compliance. • Report to the PIUs on labor and OHS performance and key risks and complaints.

Table 5-2 presents a summary of the project staff/entity responsible for various key responsibility areas.

Table 5-2 Summary of the Project Staff/Entity Responsible for Various Key Responsibility Areas

Responsibility area	Direct and contracted workers	Primary supply workers
Hiring and managing individual project workers	PIUs – PIUs will oversee the work of consultants hired for project activities.	Contractors will be responsible for these workers but will be managed according to this LMP.
OSH	PIUs, Contractor All workers (long-term and casuals) will follow OHS measures	The PIUs will assess the risk levels/safety issues of primary suppliers and as needed require them to develop procedures to address these risks.
Child labor and forced labor	Contractor PIUs to ensure the contract does not allow child and forced labor and age verification procedures are maintained.	Primary supplier to adhere to child labor requirements. PIUs to review
Training	PIUs/ contractors/ implementing entities	Contractors are responsible
Code of conduct	PIUs, Contractor The contract to commit workers to comply with a code of conduct through signing.	
Grievance mechanism	PIUs/Contractors/ implementing entities CEOs	
Monitoring and reporting	PIUs/Contractors/implementing entities to monitor and report World Bank	PIUs to monitor compliance. PIUs to report to World Bank.

6 POLICIES AND PROCEDURES

6.1 Procedures to Develop and Implement LMP Policies

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

- a. **OHS:** The PIUs will manage the project in accordance with OSHA, 2007, Employment Act, 2007, ESS2 (including WBG Environmental, Health and Safety Guidelines (EHSGs) – General, and WB standard procurement documents, so that project workers are adequately protected against potential OHS risks. Additionally, the contractors and operators will be expected to develop policies and practices that adhere to these rules. Identification of potential workplace hazards, provision of protective measures, training of employees, maintenance of training records, documentation and reporting of occupational accidents and incidents, emergency preparedness, and remedies for workplace injuries and fatalities are all important components of OSH measures.
- b. **Child labor:** The project has a stated minimum age requirement of 18 years of age or older for project workers. All contracts must include clauses requiring compliance with the minimum age requirements, including penalties for non-compliance in accordance with the applicable legislation, to prevent the hiring of workers who are underage. The PIUs are obligated to keep an age-verified labor registration of all employed individuals. [Section 7](#) gives more information.
- c. **Labor influx:** The contract for the project will include that the contractors must prioritize hiring unskilled workers from the subproject neighborhood and adjacent towns to reduce labor influx. Prior to the start of employment, all contractual workers will be asked to sign the CoC, which contains a clause to address the risk of Gender Based Violence (GBV) (see [Annex 1](#) on the Guideline on CoC).
- d. **Labor disputes over terms and conditions of employment:** Fair terms and conditions shall be imposed for project workers (directed by pertinent regulations) to prevent labor disputes. Additionally, the project will have GRMs for workers (both direct employees and contracted employees) to swiftly resolve any workplace complaints (further information is provided in Section 10). Additionally, the project will adhere to the Employment Act, 2007's provisions regarding workers' freedom of association and the right to form labor unions.
- e. **Discrimination and exclusion of vulnerable groups:** There will be no discrimination in any aspect of the employment relationship, including recruitment and hiring, terms of employment (including pay and benefits), termination, and access to training. The employment of project workers will be based on the principles of inclusion, equal opportunity, and fair treatment. The project must adhere to the Employment Act, 2007, which mandates gender equality at work and includes maternity, paternity and sick leave, non-discrimination, equal pay, right to organize and industrial action. Additionally, there will be adequate and suitable restroom and laundry facilities, with separate areas for male and female workers. There will be adequate provisions for other vulnerable groups including persons with disabilities (PWDs). These conditions, which are also a part of the monitoring system, will be included in the contracts with third parties.
- f. **GBV and SEA/SH:** Given the implementation setting, there is a risk of sexual harassment, coworker exploitation, and abuse. Therefore, all employees and contractors are required to sign the CoC, which outlines the expected standards of conduct in this regard, and to

participate in a session on the topic, which also covers the repercussions of such actions. To provide training in GBV and SEA/SH, the MoH will find a certified trainer or consultant (the development partners may be contacted for assistance). For handling GBV and SEA complaints, a separate GRM will be established, as detailed below. A GBV Action Plan has been developed to accompany the implementation of the project. The Plan is based on existing protection, prevention and mitigation strategies and measures developed by the WB and coordinated through the PIUs. The grievance procedure shall have a particular and sensitive approach to GBV-related situations and should be handled according to the complainant's informed permission to avoid the risk of stigmatization, amplification of the mental/psychological injury, and potential reprisals. When a case like this is reported, the complainant should be informed of the services that are available, such as confidential, suitable medical and psychological support, emergency housing, and any other services that may be required, including legal assistance. Support for using these services should be given to the survivor. Within 72 hours of the occurrence, staff should advise the victim/complainant to see a medical facility that offers free post-SEA health support. The only information that should be determined if a case of GBV is reported to staff or GRM focal points is whether the incident involves a project worker, the nature of the incident, the complainant's age, and sex, and whether the survivor/complainant was referred to service provision. If a project employee is involved, the issue should be reported right away to the head of PIUs.

- g. **Monitoring and reporting:** The PIUs are required to provide a monthly report on the progress of the policies and processes. The PIUs will keep a close eye on the project's labor and OHS performance and provide a quarterly report to the World Bank. However, in the case of accidents or incidents, PIUs is required to notify the World Bank within 48 hours. In response to mishaps or accidents connected to the project, corrective measures must be taken. For creating and implementing additional remedial actions, the PIUs, or, as appropriate, a consultant, may perform a root cause analysis.

6.2 Contractor's Responsibilities

Contractors will be expected to develop policies and practices that adhere to these rules in accordance with the contracts and C-ESMP that includes OHS. Summarily, they will identify potential workplace hazards, provide protective measures, train employees, maintain training records, document and report occupational accidents and incidents, develop emergency preparedness procedures, and provide remedies for workplace injuries and fatalities. Contractors and supervising firms will submit monthly reports to the World Bank upon request as annexes to the reports to be submitted under the PIUs. However, any fatalities must be reported within 24 hours.

6.3 Whistleblowing and Protection Against Retaliation

The Project will provide protection against retaliation for all workers who become whistleblowers. Whistleblowers are Project workers who report, in good faith, suspected wrongdoing to the PIUs and may be subject to retaliatory action as a result. A whistleblowing policy rooted in the following underlying approach will be developed by the PIUs at the Project onset:

- Project workers have an obligation to report wrongdoing;
- the Project has a duty to protect whistleblowers against retaliation;
- the Project has a duty to address wrongdoing by instituting remedies and taking disciplinary action as appropriate; and

- and retaliation constitutes misconduct.

Primary supply workers are also encouraged to report any suspicious wrongdoing to PIUs.

The identity of a whistleblower that comes forward for advice regarding the reporting of suspected wrongdoing is protected. Confidentiality will only be waived with their express consent.

7 AGE OF EMPLOYMENT

The minimum employment/work age set by the implementing agencies as required by law is 18 years old, and it will be one of the conditions of the contracts involving child labor. Employees' ages must be verified and documented prior to being hired. The National ID Card (ID) or the passport will be used as a general method of age verification. To engage VMGs such as persons with disability, women and youth, who might not have ID cards or passports, a verification from a reputable local leader is sufficient.

Violation or breach of implementing agencies' standard on child labor may result into termination of contractor's contract.

8 GRIEVANCE MECHANISM

8.1 General Principles

Workplace grievances commonly involve interest in employment opportunities, labor wage rates, payment delays, disagreements about working conditions, and health and safety problems in the workplace. Even though SEA/SH/GBV is an occurrence at workplaces, it isn't always reported for fear of victimization. As required by ESS2, a unique grievance procedure will be designed for project employees (direct employees, contractual and casual employees). Grievances should be handled in a culturally sensitive manner (for ESS7 communities), objectively, quickly, and with consideration for the needs and concerns of the offended employees. The system will also cater for anonymous complaints. When submitting complaints or concerns, individuals may ask that their identity remain anonymous; this request should be honored. Workers will be adequately sensitized on the GRM to enhance awareness and enable effective use.

8.2 Direct Workers GM

8.2.1 Public Service Commission (PSC) Option

These will mainly be government employees at MITI, SDMSME, MSEA, and KDC, and consultants. The GOK staff will utilize the current grievance system set up by public service to address workers' grievances [Public Service Commission (PSC), 2016].⁶ 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.

For individual grievances, the 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, the

⁶ Public Service Commission (2016). Human Resource Policies and Procedures Manual for the Public Service May 2016.

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.

- a. 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 3). The Head of the Department will give an answer as soon as possible and within a maximum of seven (7) working days;
- b. 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
- c. 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.

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 through the Project's GRM (refer to the SEP) and thereafter, if not satisfied, with the World Bank's Grievance Redress Service (GRS).

8.2.2 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.

8.3 GBV and SEA/SH GM

Mitigation measures against GBV and SEA/SH shall be addressed through the existing legal procedures and process in place including police, courts and prosecution, labor officers and probation officers. The procedure shall include:

- **Step One** – Documentation of the incident and provision of psycho-social support to the victim by the Sociologist/GBV incident or service providers.
- **Step Two** – Handling of the incident by Police and other criminal justice system authorities for redress.

8.4 World Bank Grievance Redress System

Communities and individuals who believe that they are adversely affected by a WB supported project may submit complaints to existing project-level grievance redress mechanisms or the WB's GRS (when not satisfied with the project-level GRM since the goal is to solve the grievance at the lowest (most local) level before going on to higher levels of appeal/grievance management, if the issue is not resolved). The GRS ensures that complaints received are promptly reviewed to address project-related concerns. Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, because of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after

concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate Grievance Redress Service (GRS), please visit, <http://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service>. For information on how to submit complaints to the World Bank Inspection Panel, please visit, www.inspectionpanel.org.

9 CONTRACTOR MANAGEMENT

The PIUs will make reasonable efforts to ascertain that contractors who engage contracted workers are legitimate and reliable entities and have in place labor management procedures applicable to the project that will allow them to operate in accordance with the requirements of ESS2. As such, each contractor engaged by the Project to provide services will be expected to adopt the protective measures outlined in this LMP. The contracts drawn by the PIUs will include provisions, measures, and procedures to be put in place by the contractors to manage and monitor relevant OHS issues. Measures required of Contractors will include As part of the bidding/tendering process, specific requirements for certain types of contractors, and specific selection criteria (e.g., certifications, previous experience); Specific procedures relating to the workplace and the conduct of the work; and Specific procedures and measures dealing with specific risks.

The PIUs will ensure that the contractors comply with the ESHS specifications of their respective contracts, including SEA/SH aspects through periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by third parties. Contractor labor management records and reports may include: (a) a representative sample of employment contracts or arrangements between third parties and contracted workers; (b) records relating to grievances received and their resolution; (c) reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions; (d) records relating to incidents of noncompliance with national law; and (e) records of training provided for contracted workers to explain labor and working conditions and OHS for the project.

10 PRIMARY SUPPLY WORKERS

To mitigate/manage the risk of forced and child labour, human rights abuse, health and safety concerns among primary supply workers, the PIUs through procurement documents will require: (i) forced and/or forced labour declarations; (ii) qualification requirements, and (iii) mandatory prior review/No-objection by the Bank. Effective screening and due diligence at selection of primary suppliers will be undertaken to identify and detect potential risks related to labour and human rights abuse including child labor, forced labor and major safety concerns. The PIUs will not approve the purchase of supplies from primary suppliers associated with such abuses or non-compliance with labour laws. All purchase orders and contracts by the project will have specific provisions for child protection, non-involvement in forced labor and worker safety. Metrics for evaluation of compliance with the requirements of the ESS2 will be developed by the environmental and social specialists and used during selection of suppliers and contracting under the project. Monitoring of compliance will be done through regular review/assessment of project documentation (specific reports from contractors) as well as project site visits. In the event of non-compliance, the PIUs, will invoke contractual provisions in the supplier contract to manage and provide corrective measures as required.

11 REFERENCES

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ANNEXES

Annex 1: Notarized Individual Code of Conduct (KJET Sample)

I, _____, acknowledge that it is important adhering to KJET Project environmental, social, health and safety (ESHS) standards and requirements, preventing sexual exploitation and abuse and sexual harassment (SEA/SH), and violence against children (VAC), and chance finds procedure.

KJET considers that failure to follow ESHS standards, or to commit acts of SEA/SH or VAC or chance finds procedure—be it on the work site, the work site surroundings, or the surrounding communities—constitute acts of gross misconduct and are therefore grounds for sanctions, penalties, or potential termination of employment. Prosecution of those who commit SEA/SH or VAC by law enforcement authorities may be pursued if appropriate, and only upon informed survivor consent, or in the case of a minor, with appropriate caregiver consent.

I agree that while working on the Project I will:

Regarding Occupational Health and Safety

- Comply with legislation and other applicable requirements relating to occupational health and safety risks.
- Attend occupational health and safety trainings as requested by employer or the Project.
- Identify the potential risks associated with each activity and workstation.
- Make recommendations regarding safety and health issues affecting employees
- Wear prescribed and appropriate personal protective equipment (PPE) all times on Project site.
- Prevent avoidable accidents and report conditions or practices that pose a safety hazard or threaten the environment.
- Report any violations of this code of conduct to workers' representative, HR, or grievance redress committee. No employee who reports a violation of this code of conduct in good faith will be punished in any way.

Regarding Sexual Exploitation and Abuse and Sexual Harassment

- Attend and actively partake in training courses related to SEA/SH and VAC as requested by the Project.
- Treat women, children (persons under the age of 18), and men with respect regardless of race, color, language, religion, political or other affiliation, nationality, ethnicity, or social origin, property, disability, birth or nationality, sexual orientation, gender identity, or other status.
- Not use language or behavior towards women, children or men that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate (especially among ESS7 communities).
- Not engage in sexual exploitation, which is defined as any actual or attempted abuse of position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another.
- Not engage in sexual abuse, which is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

- Not engage in sexual harassment, which is defined as any unwelcome sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature, or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation to another, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment.
- Not participate in sexual contact or activity with children—including grooming or contact through digital media (community members married to minors, even if legally done, will not be hired). Mistaken belief regarding the age of a child is not a defense. Consent from the child is also not a defense or excuse.
- Not have sexual interactions with members of the host communities (NB: an exception applies to a locally hired worker already married to an adult member of the community). This includes relationships involving the withholding or promise of actual provision of benefit (monetary or non-monetary) to community members in exchange for sex—such sexual activity is considered “non-consensual” within the scope of this Code.
- Consider reporting through the Grievance Mechanism or to my manager any suspected or actual SEA/SH or VAC by a fellow worker, whether employed by my company or not, or any breaches of this Code of Conduct.

Regarding children under the age of 18:

- Wherever possible, ensure that another adult is present when working in the proximity of children.
- Not invite unaccompanied children unrelated to my family into my home unless they are at immediate risk of injury or in physical danger.
- Not use any computers, mobile phones, video, and digital cameras or any other medium to exploit or harass children or to access child pornography (see also “Use of children's images for work related purposes” below).
- Refrain from physical punishment or discipline of children.
- Refrain from hiring children below the minimum age of 15, for domestic or other labor which places them at significant risk of injury, as specified by the national law
- Comply with all relevant local legislation, including labor laws in relation to child labor and World Bank’s E&S standards on child labor and minimum age.
- Take appropriate caution when photographing or filming children (see details below).

Regarding chance finds procedure:

Whenever I encounter a physical cultural heritage at a work site, I should immediately stop work and henceforth manage the site in accordance with the chance finds procedure contained in the ESMF.

Sanctions

I understand that if I breach this Individual Code of Conduct, KJET will take disciplinary action which could include:

- Informal warning.
- Formal warning.
- Additional Training.
- Loss of up to one week’s salary.

- Suspension of employment (without payment of salary/contract fees), for a minimum period of 1 month up to a maximum of 6 months.
- Termination of employment.
- Reporting to the police if warranted.

I understand that it is my responsibility to ensure that the environmental, social, health and safety standards are met. I will adhere to the occupational health and safety management requirements and avoid actions or behaviors that could be construed as SEA/SH or VAC. Any such actions will be a breach this Individual Code of Conduct. I do hereby acknowledge that I have read the foregoing Individual Code of Conduct, do agree to comply with the standards contained therein and understand my roles and responsibilities to prevent and respond to OHS, SEA/SH and VAC issues. I understand that any action inconsistent with this Individual Code of Conduct or failure to act mandated by this Individual Code of Conduct may result in disciplinary action and may affect my ongoing employment.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Annex 2: Incident Investigation Form

OHS Incident Investigation Form

Classification of Accident (Indicative, Serious, Severe)

Description of the accident:.....

.....

Date and Time of Accident:

Location of the accident:

Source of accident alert:

Investigation

Date and Time of Investigation:

Names and Status of Investigating Team

Name..... Position.....Sign.....

Name.....Position.....Sign.....

Name.....Position.....Sign.....

Complete accident investigation questionnaire and attach copies to Incident Investigation Form.

Findings of Investigation Team

Team's description of events leading up to the accident

Team's Description of the accident itself

Team's view on the causes of the accident

Recommendation to reduce potential accident (immediate fix)

Date.....No.....Section.....

1. Root causes.....

2. Preventive Action taken.....

3. Further Recommendation Preventive actions.....

Project coordinator: Comments and Actions to be taken or recommended to higher authority:

Signature..... Date.....

Annex 3: Public Service Grievance Form

**PUBLIC SERVICE COMMISSION GRIEVANCE PROCEDURE
GRIEVANCE FORM – PSC GF**

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

[] I have documented my grievance and am returning the form to the Human Resource Office

[] I request that my grievance be taken to the next stage

Stage III

Submitted to the Secretary PSCK