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**Regional Centre on Groundwater
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OASIS OF GROUNDWATER KNOWLEDGE

**REGIONAL CENTRE ON
GROUNDWATER RESOURCES**

MINISTRY OF WATER, SANITATION AND IRRIGATION

Horn of Africa

Groundwater for Resilience Project– Kenya (P174867)

Labour Management Procedure (Kenya)

February 2023



**MARSABIT COUNTY
GOVERNMENT**



**TURKANA COUNTY
GOVERNMENT**



**GARISSA COUNTY
GOVERNMENT**



**WAJIR COUNTY
GOVERNMENT**



**MANDERA COUNTY
GOVERNMENT**

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ACRONYMS AND ABBREVIATIONS

CAJ	Commission on Administration of Justice
CDDCs	Community Driven Development Committees
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
C-ESMP	Contractor Environmental and Social Management Plan
CESSCO	County Environmental and Social Safeguards Compliance Officer
CIGs	Common Interest Groups
CMP	Contract Management Plans
CoC	Code of Conduct
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CO	Chief Officer
CoC	Code of Conduct
CoK	Constitution of Kenya
Covid-19	Coronavirus Disease – 19
CPC	County Project Coordinator
CPCU	County Project Coordinating Unit
CS	Cabinet Secretary
CSOs	Civil Society Organizations
DAPs	Differently Abled Persons
DOSH	Department of Occupational Safety and Health
EACC	Ethics and Anti- Corruption Commission
EHSGs	Environmental, Health and Safety Guidelines
EMCA	Environmental Management and Coordination Act
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ERPP	Environmental Risk Preparedness Plan
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standard
FLID	Farmer Led Irrigation Development
FPOs	Farmers' Producer Organization
GIIP	Good International Industry Practice
GM	Grievance Mechanism
GoK	Government of Kenya
GRS	Grievances Redress System
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HR	Human Resource
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICRMW	Convention on the Protection of the Rights of all Migrant Workers
ICT	Information Communication and Technology
ID	Identification Card
ILO	International Labour Organization
IPC	Infection Prevention and Control
HoAGW4R	Horn of Africa Ground water for resilience Project
LMP	Labour Management Procedures
M&E	Monitoring and Evaluation
MDA	Ministries, Departments and Agencies
MIS	Management Information System

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MoWSI	Ministry of Water Sanitation and Irrigation
MoH	Ministry of Health
NEDI	North Eastern Development Initiative.
NPC	National Project Coordinator
NPCU	National Project Coordination Unit
NRM	National Resources Management
NVSP	National Value Chain Support Programme
O&M	Operations and Maintenance
OHS	Occupational Health and Safety
PAD	Project Appraisal Document
PC	Project Coordinator
PCU	Project Coordination Unit
PIM	Project Implementation Manual
PPE	Personal Protective Equipment
PS	Principal Secretary
PSC	Public Service Commission
SEAH	Sexual Exploitation, Abuse and Harassment
SEP	Stakeholders Engagement Plan
SMP	Security Management Plan
SMS	Short Message Services
SOPs.	Standard Operating Procedures
SPs	Service Providers
SRC	Salaries and Remuneration Commission
STDs	Sexually Transmitted Diseases
TA	Technical Assistance
ToT	Training of Trainers
VMGF	Vulnerable and Marginalized Group Framework
VMGs	Vulnerable and Marginalized Groups
WB	World Bank.
WHO	World Health Organization.
WIBA	Work Injury Benefits Act

I INTRODUCTION

I.1 Project Background

The Labor-Management Procedure has been prepared as guided by Environmental and Social Standard 2 (ESS 2) on Labor and Working Conditions of the Environmental and Social Framework (ESF) which groups project workers into various categories namely direct workers; contracted workers; community workers; and primary supply workers. The labor category of direct workers is mainly those that belong to the Water Sector Trust Fund (WSTF) and Water Resource Authority (WRA) in the parent Ministry of Water, sanitation and irrigation (MoWSI), staff from other relevant government ministries, departments, and agencies and all the county staff from the five counties Garissa, Wajir, Mandera, Marsabit and Turkana deployed to provide requisite technical support to the Horn Of Africa Groundwater for Resilience Programme (Kenya) project.

The civil servants are governed by the Employment Act of 2007 as well as the requirements of labor laws and regulations and requirements of this LMP and a set of public service regulations and Human Resources Manuals, but the consultants will be governed by a set of mutually agreed guidelines well as the requirements of the LMP provided.

Kenya project's components focus on groundwater management, development, and use contributes to climate change adaptation and co-benefits. The projects will be undertaken in 5 selected North Eastern Development Initiative (NEDI) counties namely; Wajir, Mandera, Garissa, Marsabit and Turkana

Purpose and Specific Objectives of LMP

The purpose of the LMP is to facilitate planning for the HOAGWP and help identify the resources necessary to address the labour issues associated with the project implementation. The LMP also sets out the manner in which project workers will be managed, in accordance with the requirements of National laws and WBG ESS2. Contactors will prepare site-specific Labor Management Plans for their activities with will include in it requirements from other project prepared plans which include:

- a) Requirements of the LMP;
- b) The requirements of the Sexual Exploitation, Abuse and Harassment (SEAH) Response Action Plan.

The specific objectives of this LMP are:

- a) Promote safety and health at work for all categories of workers including casual workers.
- b) Promote the fair treatment, non-discrimination and equal opportunity of project workers
- c) Protect project workers, including vulnerable workers such as women, Differently Abled Persons (DAPs, children (of working age, in accordance with this ESS) and migrant

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workers, contracted workers, community workers and primary supply workers, as appropriate.

- d) Prevent the use of all forms of forced labour, hazardous work, and child labour.
- e) Support the principles of freedom of association and collective bargaining of project workers in a manner consistent with National law.
- f) Provide project workers with accessible means to raise workplace concerns.

6) The project has therefore prepared this LMP to guide the use of the different categories of workers on the project, identify risks and outline OHS requirements for implementation.

1.2 Project Description

The Project Development Objective of the Horn of Africa Ground Water Project for Resilience is “To Increase the sustainable access and management of groundwater in the Horn of Africa borderlands.” HoAGW4RP support will be organized around four key thematic areas: (i) Delivering inclusive groundwater services to priority areas by funding groundwater conservation, infrastructure development and service delivery improvement activities in the five borderland counties of **Turkana, Marsabit, Mandera, Wajir and Garissa**. The component comprises two interrelated subcomponents; (ii) Generating groundwater information and strengthening regional and national groundwater institution by financing activities focused on strengthening the enabling environment for sustainable groundwater development and management (iii) fund operational costs of the National Project Coordination Unit (PCU) at MoWSI and the Project Implementation Units (PIUs) at WRA, WSTF and the Sub-PIUs at the 5 County Governments and their selected Water Service Providers to manage the project efficiently. The PCU and PIUs will apply project funds under component 3 towards the hiring of financial management, procurement, environmental and social experts, M&E and communication experts as necessary to facilitate project delivery (iv) Contingency measures to finance eligible expenditures under the Immediate Response Mechanism (IRM) in case of natural or man-made crises or disasters, severe economic shocks, or other crises and emergencies in the project area.

1.3 Project Components

Component I: Delivering inclusive groundwater services to priority areas

This component will fund groundwater conservation, infrastructure development and service delivery improvement activities in the five borderland counties of Turkana, Marsabit, Mandera, Wajir and Garissa. The component comprises of two interrelated subcomponents:

Subcomponent I.A: Development of nature-based solutions for strengthening groundwater conservation, sustainable use, and recharge of seven selected aquifers in the ASALs of Kenya including (i) Daua Parma aquifer, (ii) Merti aquifer, (iii) Neogene (Lamu Embayment) aquifer system, (iv) Lotikipi Basin aquifer system, (v) Lodwar/Napuu aquifer system, (vi) Walda/Rawana aquifer system, and (vii) the Logologo-Shuur aquifer system.

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Subcomponent 1.B: Rehabilitation of groundwater-based rural water supply schemes, enhancement of the designated drought-response strategic boreholes network (DSBN) and mainstreaming Operations and Maintenance (O&M) of groundwater infrastructure in the five borderland NEDI counties.

Component 2: Generating groundwater information and strengthening regional and national groundwater institutions

This component will finance activities focused on strengthening the enabling environment for sound groundwater development and management through two interlinked subcomponents:

Subcomponent 2.A: Strengthening the enabling environment and the institutional capacity for developing and managing groundwater sustainably. The aim is to support the development of a groundwater management and development Strategy, Guidelines and Regulations; Address institutional gaps in transboundary instruments for the management of shared aquifers through the completion of Transboundary waters Policy, and related Memorandum of Understanding (MoUs) with riparian countries; and (iii) Support towards groundwater management capacity improvements across national and subnational institutions.

Subcomponent 2.B: Groundwater & Drought Information Enhancement: Enhancing the knowledge base of the aquifer systems and the usability of this knowledge for management and development purposes through (i) comprehensive Aquifer assessments, and the preparation of development and management plans for the (i) Daa Parma aquifer, (ii) Merti aquifer, (iii) Neogene (Lamu Embayment) aquifer system, (iv) Lotikipi Basin aquifer system, (v) Lodwar/Napuu aquifer system, (vi) Walda/Rawana aquifer system, and (vii) the Logologo-Shuur aquifer system; and (ii) enhancing groundwater knowledge and information sharing through the upgrade of the existing groundwater database and the development of mobile App to improve users' interface with the database.

Component 3: Project Management Support

This component will fund operational costs of the National Project Coordination Unit (PCU) at MoWSI and the Project Implementation Units (PIUs) at WRA, WSTF and the Sub-PIUs at the 5 County Governments to manage the project efficiently. The PCU and PIUs will apply project funds towards the hiring of financial management, procurement, environmental and social safeguards experts, and communication experts as necessary to facilitate project delivery. The National PCU level will coordinate monitoring and evaluation of the Project, including remote monitoring and geotagging of the assets rehabilitated or built under the Project. Part of the project management funds under this component will be used for operating costs for the participating agencies.

Component 4: Contingent Emergency Response Component

This component is provided as contingency measure to finance eligible expenditures under the

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Immediate Response Mechanism (IRM) in case of natural or man-made crises or disasters, severe economic shocks, or other crises and emergencies in the project area. This contingency facility can be triggered through formal declaration of a national emergency by the government authority and upon a formal request from GoK to the World Bank through the National Treasury. In such cases, funds from other project components will be reallocated to finance emergency response expenditures to meet emergency needs. The emergency response may include mitigation, recovery, and reconstruction following crises and disasters, such as severe droughts, floods, disease outbreaks, and landslides, among others. The use of project funds under this component will follow a detailed Contingent Emergency Response Implementation Plan (CERIP) satisfactory to the World Bank that will be prepared as the case may be for each Eligible Crisis of Emergency.

1.4 World Bank Requirements for Labour Management Procedures

Environmental and Social Standard 2 (ESS2) on labour and working conditions categorizes project labour into direct workers; contracted workers; community workers; and primary supply workers. The labour category of direct workers will be government civil servants (mainly those that belong to the MoWSI at the National and the County levels) and staff from other relevant government Ministries, Departments, and Agencies (MDAs) deployed to provide requisite technical support to the project. While the civil servants are governed by the Employment Act of 2007 and a set of public service regulations and HR manuals, the consultants will be governed by a set of mutually agreed contracts. These consultants will be part of the NPCU that has been established within the MoWSI. The LMP will provide guidance on management of all workers who will be engaged to provide their services in the implementation of HOAGW4R.

1.5 Purpose and Specific Objectives of LMP

The purpose of the LMP is to facilitate planning for the HOAGW4R and help identify the resources necessary to address the labour issues associated with the project implementation. The LMP also sets out the manner in which project workers will be managed, in accordance with the requirements of National laws and ESS2.

The specific objectives of this LMP are:

- a) Promote safety and health at work for all categories of workers.
- b) Promote the fair treatment, non-discrimination and equal opportunity of project workers
- c) Protect project workers, including vulnerable workers such as women, Differently Abled Persons (DAPs, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.
- d) Prevent the use of all forms of forced labour, hazardous work, and child labour.
- e) Support the principles of freedom of association and collective bargaining of project workers in a manner consistent with National law.
- f) Provide project workers with accessible means to raise workplace concerns.

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- I The project has therefore prepared this LMP to guide the use of the different categories of workers on the project, identify risks and outline OHS requirements for implementation

2 OVERVIEW OF LABOUR USE IN HoAGW4R

Employment creation and income generation are important in the pursuit of poverty reduction and inclusive economic growth. Borrowers can promote sound worker-management relationships and enhance the development benefits of projects by providing safe and healthy working conditions. Labour is an active factor of production which makes it distinctly different from other factors of production. Besides, labour is not only a 'means of production' but also an 'end of production'.

2.1 Categories of Workers for HoAGW4R

The project will engage the following types of workers as:

- i. Direct workers
- ii. Contractual workers
- iii. Primary supply workers
- iv. Community workers

Direct Workers: Those who are directly contracted, employed, and are paid directly by the MoWSI, WSTF and WRA both at national and county level for as part of project implementation unit mainly to carry out, Management, ESS issues, design and supervision, monitoring and evaluation, or community engagement in relation to the project. They include

Project Coordination Unit (PCU):

PCU has been set up within the MoWSI to manage the project. The staffing of the PCU will consist, at a minimum, of the following: (i) Project Coordinator/Head of the PCU, (ii) Procurement Specialist, (iii) Environmental Specialist (iv) Social Safeguards Specialists, (v) Financial Management Specialist, (vi) Monitoring and Evaluation. The staffing of the PIUs at WRA and WSTF and County Government Sub-PIUs will consist, at a minimum, of the following: Project Coordinator, Project Accountant/Finance management Officer, Project Procurement Officer, Social safeguards specialist, Environmental safeguards specialist, Gender expert, M&E Officer, Communications specialist, and Project Engineer. The Regional Centre for Groundwater (RCGW) Sub-PIU will consist of sufficient expertise relevant to the execution of Activity 13 - Comprehensive Training and Capacity Building on groundwater management and governance across national and county-level institutions, including senior level Groundwater Governance training and research experts as necessary. Where there is no technical staff such as social, GBV and environmental safeguard specialists at the PCU, PIU and Sub-PIUs, they can be seconded from other ministries or hired as consultants.

Civil Servants: Various other staff at the MOWSI, WRA, WSTF, RCGW and the selected County governments will be involved in the project including directors and managers of various departments and all cadres of workers and support staff.

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Temporary staff: Where need be, the project might hire temporary workers are mainly referred to as casual workers as need arises and are not in the mainstream civil service. (the number, types, skills required and specialization of employees will be determined on need-basis).

Contractual Workers: Are workers 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. There will be contractor workers engaged in the project for various activities in the program including but not limited to the following; drilling of exploratory and monitoring wells, drilling of new and rehabilitation of boreholes, development of MAR infrastructure for WRUAs, development of designs for MAR infrastructure. Unskilled labors from the Community within the project sites and will also be engaged in the project to support the contracted workers during the actual construction activities. In all cases the contractors will be required to prepare a specific site labor management plan.

Consultants: The PCU, PIUs and Sub-PIUs could be supported by national and/or international consultants, who will be hired on needs-basis as per the program activities to support the achievement of the overall goal of the programIt is likely that migrant workers (either domestic or international) are expected to work on the project.. They will be working for the contractors engaged in the project. The Migrant workers will be trained on OHS guidelines, labour rights and expected code of conduct, and OHS systems. They are expected to comply with the Constitution of Kenya (CoK), 2010, Employment Act 2007 and existing Public Service Regulations alongside safety standards according to Occupational Health and Safety Standards of the Country and the requirements of ESS 2 of the WB ESF. Where there are limited language barriers, language skills will be necessary for properly promoted for better understanding.

Primary supply workers: are workers 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. Procurement through Primary supply workers will be undertaken for acquisition of various Groundwater Management equipment under sub-component 2A Guided by a capacity gap assessment, this activity will support office and groundwater management-related equipment for staff in the Transboundary Water and Groundwater departments of MoWSI, the WRA Groundwater Department, both central and sub-catchment offices, and the County Water Departments. There is a requirement that the goods or materials be provided directly to the project for its core functions on an ongoing basis the equipment supported through this activity will be aligned with the overall program objectives. Other items such as vehicles, laptops among other tools and equipment needed under the project will also be procured. Further procurement of primary supply workers for component IB which comprise of firms and agencies will be required to deliver the various supplies e.g. stone and sand collectors, solar panel suppliers for new and rehabilitation of boreholes

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Community workers: The project anticipates the use of community labour only in the case of specific sub projects mainly those related to aquifer protection and certain circumstances, provide labour as a contribution to the project, or where projects are designed and conducted for the purpose of fostering community-driven development, or providing targeted assistance in fragile and conflict-affected. Community workers through the WRUAs, local opinion leaders such as clan leaders and elders will be engaged in the project by mobilizing other community members to participate in projects activities, implementation of CDD activities aimed at conservation of aquifer recharge areas, maintaining infrastructure developed under the project and in some cases giving mutually agreed in-kind contribution during project implementation. community labour will be undertaken through two avenues. The first avenue is when the community clearly puts in labour as their part of the contribution. The second avenue is when the local communities are be paid for their work. For community workers, there may be risk that basic working conditions are not maintained at site, may involve child or forced labor, experience sexual exploitation and harassment, those who may not be providing voluntary labor may get excluded from the benefits of the project or experience situations of discrimination, and those being paid for labor may face issues around wages and terms of employment.

For unremunerated community workers, LMP and ESMF addresses: (i) process to document voluntary participation; (ii) working conditions particularly Occupational Health and Safety (OHS); and (iii) no disadvantage to those who are not able to participate (elderly, Differently Abled Persons (DAPs), women, etc.). These community workers will be given reimbursed travel, lunch and accommodation expenses by the project. For component IB on boreholes drilling and rehabilitation community workers They will be expected to abide by the Occupational Health and Safety Standards of the Country and the WB.

Table 1. Summary of workers for the HoAGW4R

Category	Characteristics	Approximate number of workers	Timing of Labour Requirement
Direct workers	Project staff who are civil servants	18	Continuous (initiation to operation)
	Project staff who are consultants	8	Continuous in the project time as need arises
Contract workers	Design consultant	61	During Project design development/Supervision during construction stage
	Construction contractors	800	Construction stage
	Independent verification agent	5	Periodically as may be required
	Institutionnel support	4	Continuous
	TA PBG support	3	
	Web MIS & DSS consultant	3	
	Unskilled labours from the Community within the project sites	500	Construction stage

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Primary supply workers	Firms and agencies will be required to deliver the various supplies e.g. stone and sand collectors, solar panel suppliers etc	400	Continuous
Community workers	For water catchment protection WRUAs	1200	Construction stage and operation.
Security	Private/National Security	100 (approximately)	Mobilization, Construction
Casual labourers	Unskilled or semi- skilled	5000	Required during implementation of Boreholes

The LMP, which will apply to all project workers, will specify the use and flow of different cadres of workers, before the commencement of project activities. During the implementation of project activities, the respective contractors will prepare OHS plans and the community health management plans, Traffic management plans, HR policy, and Emergency Response Preparedness Plans (ERPP) as part of their Contractor-specific Environmental and Social Management Plans (ESMPs) to manage related risks which have to be inserted in all bidding documents to tie all contractors into implementing them. Contractors will do the following to ensure the health and safety of the workers and communities; Develop a Human Resources Policy, which will outline worker rights to be included in all contracts including restrictions on working hours in line with applicable ILO standards, compensation including consideration of overtime, holidays etc.

- Put in place policies in line with National legislation and applicable international legislation and Code of Conduct and Policies.
- Put in place a pre-employment medical assessment as a workforce risk management tool to screen individuals for risk factors that may limit their ability to perform a job safely and effectively. This will ensure safer working environment, reduction in workplace injuries, minimized downtime, matching the capacity of the employee with the role, and overall recruitment cost and risk reduction.
- Ensure that training on health and safety measures is provided to all construction workers prior to starting to work on the project and that supervisors have adequate experience to deliver on their responsibilities.
- Implement regular health and safety checks and audits of workers, contractors and subcontractors and implementing sanctions in case of breaches of OHS plans and procedures
- Develop and implement a Workers Grievance Mechanism for the Project workforce including contractors and subcontractor's standards and the Project's specific standards. Such audits to include workplace H&S; worker contracts, working hours, pay and conditions; housing and food standards. Also ensure adequate condoms for both male and females.
- Establish procedure for the recording and analysis of incidents and lessons learned such that additional actions can be implemented to avoid or minimize recurrence of occupational health and safety incidents. Additionally, ensure that facilities and work sites are designed and maintained such that robust barriers are in place to prevent accidents.

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- Ensure that its Code of Conduct is followed to regulate the performance and behaviour of all workers, including provision for disciplinary action for anti-social behaviour and non-compliance with health and safety regulations such as lack of use of PPE.
- In order to address the impacts on community health and safety, the contractors will be expected to develop and monitor the implementation of a Community Health and Safety Management Plan which will include the following measures:
 - Ensure that all workers are housed in accommodation camps rather than in the local settlements in order to minimize interaction with local communities and related health and safety impacts.
 - Ensure all workers including contractors and subcontractors undergo pre-employment screening and regular health screening including voluntary screening for STDs.
 - Ensure any trucking companies employed to work on the Project will have policies around health screening of their workers in line with Project requirements.
 - Ensure all workers including contractors and subcontractors receive education around transmission routes and symptoms of communicable diseases of concern and STDs.
 - Undertake community awareness on HIV/AIDS and other STDs
 - Ensure that COVID-19 protocols and guidelines by GoK's Ministry of Health are adhered to during the construction activities including social distancing, provision of face masks to all workers, provision of sanitizers, establishment of hand washing areas and provision of water and soap, conducting temperature checks for all workers, creating awareness on signs and symptoms of COVID-19, encouraging staff to take COVID-19 tests if symptoms associated with the same are exhibited, liaising with GoK to offer vaccination for workers
 - Provide access to health care for those injured by its activities.
 - Ensure that work sites are fenced and that signs are put up around work fronts and construction sites advising people of the risks associated with trespass.
 - Undertake a programme of stakeholder engagement and consultation to educate local communities of the risks of trespassing onto sites, the meaning of signs, and the dangers of playing on or near equipment or entering fenced areas.

Other stakeholders working in connection with the project: Stakeholders working in connection with the project, other than the above workers, will include staff from other institutions and organizations such as Civil Society Organizations (CSOs), National and county level offices who will support the activities at different levels and with varied time commitments. They will remain subject to the terms and conditions of their existing private 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. They will however be governed under the project OHS requirements.

Each of these categories of workers need a platform to present their grievances or complaints. Therefore, just like in many organizations, where a welfare desk exists; the project will encourage contractors to adopt the same or similar desks so that workers and employees may have

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appropriate channels to put forward issues of dissatisfaction. (Chapter 11 describes the GM at sub project level including workplace). Table 2-2 presents a list of the workers and timing of their engagement in the project. The workers for the project may be migrant in nature but mainly domestic with this determination to be made during specific sub project design.

The terms and conditions for direct workers in NPCU, the consultants will be governed by National labour Laws. Their terms and conditions will be based on a specific assignment to be completed within a specified period at a pay rate per day. These terms and conditions should be discussed at recruitment and at position or vacancy offer level.

3.0 ASSESSMENT OF POTENTIAL LABOUR RISKS

Potential risks related to labor and working conditions, such as work-related discrimination, gender-based violence /sexual exploitation and abuse (GBV/SEA), and occupational safety and health (OHS) risks will be assessed and addressed by the PCU using recruitment guidelines, procedures, and appropriate OHS measures, relevant provisions of the Employment Act 2007, public service regulations and Human Resource (HR) manual. In addition, workers engaged in project activities will be trained on the guidelines and protocols on how to protect themselves and the communities from the spread of COVID-19. The various key labor risks anticipated during the implementation of the HOAGWP project are briefly described below.

a) Occupation health and safety (OHS)

Potential occupational health and safety has can be categorized as Physical hazards; Chemical hazards; Biological hazards; Radiological hazards; Ergonomic hazards; Behavioral hazards.

The HOAGWRP has Potential risks during siting of boreholes and other water related subprojects, electric shock from equipment, manual handling of heavy equipment, sunburns. Mobilization to sites involves moving Plant and machinery to workplaces and working with moving plant or parts create exposure to the risk of injuries. The hazards associated with moving parts of machinery include the risk of crushing, shearing, entangling, trapping, hitting or abrading, or the uncontrolled release of pressure (energy).

Construction phase of the sub-projects (which include drilling of exploration and monitoring wells, drilling of high yielding boreholes and rehabilitation of existing boreholes, construction of sand dams, subsurface dams, water pans/ponds, springs) include slip and falls from manual handling of heavy objects, working near water , accidents during mast set up, snapping of drilling bits and casings may fall on people on site, sanitation facilities at site for ablution, , debris and dust from drilling might cause injury to the eyes and body. Accidents from poor handling of drilling rigs and excavators for digging water pans, risks from drowning from impoundment structures such as water pans which will fill up with rainwater and surface runoff which might cause breaching of the pans or sand dams

Biological hazards which include bacteria, viruses, insects, plants, birds, animals, and humans. can cause a variety of health effects ranging from skin irritation and allergies to infections (e.g., tuberculosis, AIDS), cancer and so on.

Working at heights to install water tanks, risk of fires in the temporary housing and site storage structures is also a major risk., contact with live electric parts causing shock and burns. faults which could cause fires; fire or explosion where electricity could be the source of ignition in a potentially flammable or explosive atmosphere. The intervention descriptions for Work-related musculoskeletal disorders (WMSD) include the public health evidence-base for each intervention, details on designing interventions related to Work-related musculoskeletal disorders (WMSD), and links to examples and resources.

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Other risks pressure extremes (high pressure or vacuum), noise, etc., psychosocial - stress, violence, safety - slipping/tripping hazards, inappropriate machine guarding, equipment malfunctions or breakdowns that may cause lots of harm on the workers.

After using the materials there will be another challenge of waste management which unless well managed are an environmental hazard. WBG Environmental, Health, and Safety (EHS) Guidelines is a reference document with general and industry-specific examples of Good International Industry Practice (GIIP) (Environmental, Health, and Safety (EHS) Guidelines, n.d.). In addition, teams working on the project activities will be required to comply with the International Guidelines on Safety and Environmental Precautions

b) Sexual Abuse, Exploitation, and Harassment:

The five counties where the HoAGW4R will be implemented is Muslim dominated with most community members practicing polygamy, a risk factor for GBV. Some of the factors that contribute to vulnerability of women and girls to SEAH in the project areas include the following: 28) Poverty and power dynamics. GBV is deeply rooted in unequal power relations and negative gender norms. The risk of SEAH is therefore higher in rural pastoral communities where poverty and unemployment disproportionately affecting women and girls is more pronounced. Collectively, these factors are likely to affect not only the vulnerability of women and girls to SEAH, but also the commitment to SEAH prevention as well as the provision and uptake of GBV services. Marsabit, Turkana, Mandera, Wajir and Garissa counties have 65 percent of their population living below the poverty line compared to the national average of 26 percent. 29) Societal norms: Women and girls are at usually high risk of SEAH because of societal norms hinged on patriarchal tendencies that perpetuate power differentials between males and females, and support or condone male violence against women and girls. Social attitudes towards violence against women and girls will also influence the reporting rates and management of SEAH cases by local actors. An important additional risk factor is labor influx. Labor influx and the extent to which a community has capacity to absorb labor influx, as well as the inflow of income to workers, can exacerbate already existing inequities between workers and community members.

Education and literacy: Low levels of education and literacy among girls, that leads to high unemployment rates among women. These factors weaken women's and girls' confidence as they seek menial jobs in project sites. Besides, low confidence means they are most at risk of SEA from project workers who often have higher incomes than usually available to community members.

The project has prepared a SEAH Prevention and Response Action Plan which will guide the mitigation of these risks. The projects SEP will also guide community sensitization of GBV/SEA-SH risks and project instituted prevention and risk mitigation measures. The project contractors are also expected to adopt the SEAH Prevention and Response Action Plan and sign Code of Ethical Conducts (CoC) with clear requirements on prohibition of GBV related issues.

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c) Worker accommodation and transportation:

The project involves some infrastructural construction and rehabilitation activities. And therefore, there is potential for EHS risks associated with worker accommodation and transport, as well as the potential for the spread of diseases such as COVID-19, HIV/AIDs, and other Sexually Transmitted Diseases (STDs).

d) Child labour.

In construction related activities child labour has is a risk due to their vulnerability caused by poor livelihood conditions of children's parents. Child labour is not expected in direct workers (Project implementation teams) or in those contracted to undertake consulting or facilitation services as these sectors are not associated with the presence of child labour. It might take place under contractor or its sub-contractors, e.g. construction of MAR infrastructure and activities related to conservation of vulnerable aquifer recharge areas under component I.

Several laws protect children from child labor in Kenya including the Employment Act 2007. The Children's Act says that children should be protected from economic exploitation, any work that interferes with their education, and work that is harmful to a child's health or social, mental, physical and spiritual development. Kenya has also ratified several international conventions that are aimed at protecting children from exploitation. These include Minimum Age, Worst Forms of Child Labour, Optional Protocol on Armed Conflict, and the Palermo Protocol on Trafficking in Persons. The HoAGWP will not allow child labor in any of the subprojects.

These potential risks will be assessed by undertaking site specific risk and hazard assessments as part of the Environmental and Social Impact Assessments. Mitigation measures for the identified risks will be prepared as per ESS2 and incorporated into the sub-project's ESMP.

e) Labor disputes over terms and conditions of employment.

Likely cause for labor disputes include demand for limited employment opportunities; labor wages/rates and delays of payment; disagreement over working conditions (particularly overtime payments and adequate 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 labor unrest and work stoppage.

f) Discrimination and Exclusion of Vulnerable Groups

This could be a result of lack of culturally appropriate consultations and sensitization of the local vulnerable groups of available job opportunities and how to be included in the recruitment process At statutory level, the Kenyan Employment Act 2007 is equally expansive, prohibiting discrimination in employment on grounds of 'race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status. However vulnerable groups of people as well as communities who meet the requirements of the World Bank ESS7 may be subject to increased risk of exclusion from employment

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opportunities under the project, all the five counties where HOAGWRP will be implemented have mainly pastoral communities of the Somali, Borana, Rendille and Turkana among others. Other vulnerable and marginalized groups include expectant women, female-headed households, single parents, the sick and elderly, persons with disabilities (PWDs), and the nutritionally challenged. Discrimination (Employment and Occupation) (ILO Convention 111) that states in one article that “Article

For the purpose of this Convention the term discrimination includes--

- a. Any distinction, exclusion or preference made based on race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- b. Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.

These limitations include:

- i. Limitation of the freedom of association.
- ii. Limitation of the right to assembly, demonstration, picketing and petition. Limitation of the right to labour relations.
- iii. Limitation of economic and social rights.

g) Workplace security risks:

To provide and maintain a safe physical environment and manage staff activities to reduce the risk of personal injury and property loss during the implementation of the National Agricultural Value Chain Development Project (HoAGW4R). The plan describes how security will be organized to face identified threats and how to be continuously reassessed and reorganized in correlation with security situations and operations being undertaken. Project workers may be subjected to security threats e.g. theft, sabotage, destruction of equipment, conflicts between workers, bandit attacks while on transit, community conflicts and acts of terrorism among others. A county-based security management plan has been prepared and mitigation measures proposed and costed. The contractor will also prepare a contractor security plan to address the security issues under his responsibility. An appropriate, formal agreement will be developed to support service delivery and mitigate the identified security risks and respond to any stakeholder concerns. Table 2 below presents possible mitigation measures for the project’s potential labour related risks

h) Forced labour:

According to the ILO’s Article 2.1 of the Forced labour Convention No. 29, forced labour “shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily”. Forced labour risk is likely in the said sub projects. There may be risks related to construction and civil works/hazardous work, and natural resources management which may manifest itself as forced labour especially where community labour is in question on payment in-kind. Whereas, the

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community investment may be noble, some beneficiaries may feel that their rights are infringed as they offer labour to complete the sub projects. The community rights may include abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, retention of identity documents, abusive working, and living conditions, excessive overtime, and intimidation and threats. The production of farm produce, transportation and marketing activities will require labour and could lead to forced labour.

i) Project within COVID-19 .

The project will minimize the chances of exposure of COVID-19 Infection as follows:

- Any worker showing symptoms of respiratory illness (fever, cold or cough) and has potentially been exposed to COVID-19 will be immediately removed from the site and tested for the virus at the nearest local hospital;
- Close co-workers and those sharing accommodation with such workers will also be removed from the site and tested;
- Project management shall identify the closest hospital with testing facilities, refer workers.
- Persons under investigation for COVID-19 will not return to work at the project site until cleared by test results. During this time, they will continue to be paid daily wages;
- If a worker is found to have COVID-19, wages should continue to be paid during the worker's convalescence (whether at home or in a hospital); and
- If project workers live at home, any worker with a family member who has a confirmed or suspected case of COVID-19 will be quarantined from the project site for 14 days, and continued to be paid daily wages, even if they have no symptoms.

Training of Staff and Precautions

- Train all staff in the signs and symptoms of COVID-19, how it is spread, how to protect themselves and the need to be tested if they have symptoms. Allow questions and answers and dispel any myths.
- Use existing and project-specific grievance procedures to encourage reporting of co-workers if they show outward symptoms, such as ongoing and severe coughing with fever, and do not voluntarily submit to testing.
- Supply face masks and other relevant Personal Protective Equipment (PPE) to all project workers at the entrance to the project site. Any person with signs of respiratory illness that is not accompanied by fever will be mandated to wear a face mask.
- Provide hand wash facilities, hand soap, alcohol-based hand sanitizer and mandate their use on entry and exit of the project site and during breaks, via the use of simple signs with images in local languages.
- Train all workers in respiratory hygiene, cough etiquette and hand hygiene using demonstrations and participatory methods.
- Train cleaning staff in effective cleaning procedures and disposal of rubbish.

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COVID-19 Code of Conduct for all Staff and Project Workers

DOs

1. Wear at all times prescribed and appropriate personal protective equipment on site.
2. Wash hands, always sanitize and observe social distancing and follow WHO and GOK updated guidelines.
3. Seek healthcare if you experience any of the following symptoms (while at home or work): cough, fever, and shortness of breath.
4. Prevent avoidable accidents and report conditions or practices that pose a safety hazard or threaten the environment.
5. Treat women, children and elderly men, vulnerable persons, persons from the indigenous communities and persons with disabilities with respect regardless of race, color, language, religion, or other status.
6. 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.
7. Comply with all Kenya laws.

DON'Ts

1. Expose other people to the risk of infection in any form including risks from use of pesticides application.
2. Leave personal protective equipment lying around. Come to work if you or any of your family members have any symptoms of COVID-19 (cough, fever and shortness of breath). Report immediately to your supervisor if you or a family member has any of these signs.

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Table 2 : Potential Labour Risks and Mitigation Measures

Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
<p>Accident and injuries (safety and health hazards) (OHS)</p> <p>Siting and preparation</p> <p>Electric shock from equipment, Injuries from manual handling of heavy equipment, Sunburns.</p> <p>Moving Plant and machinery to workplaces and working with moving plant or parts create exposure to the risk of injuries. The hazards associated with moving parts of machinery include the risk of crushing, shearing, entangling, trapping, hitting or abrading, or the uncontrolled release of pressure (energy).</p> <p>Construction phase</p> <p>slip and falls from manual handling of heavy objects, working near water, accidents during mast set up, snapping of drilling bits, debris and dust from drilling might cause injury to the eyes and body. Accidents from poor handling of drilling rigs and excavators for digging water pans, risks</p>	<p>All site workers (Skilled, Semi-Skilled and Casual workers)</p>	<p>medium</p>	<ul style="list-style-type: none"> • Reference WBG Environmental, Health, and Safety (EHS) Guidelines is an OHS Management Plans to be developed by contractors according to LMP requirements and in line with WBH EHS Guidelines and other relevant. GIIP reference document with general and industry-specific examples of Good International Industry Practice (GIIP) (Environmental, Health, and Safety (EHS) Guidelines, n.d.). • All teams working on the project activities will be required have a training on how to comply with ESS 2, WBG EHS and OHS and the International Guidelines on Safety. • The supervision engineer to ensure: Incident reporting as recommended by Directorate of Occupational Safety and Health Services (DOHS) within period of 48hrs • Each active work site to have an OHS trained and certified first-aider; • Only workers fit for the roles to be hired. • Code of Conducts (CoC) to be signed by all workers and to prescribe that wearing protective gears is mandatory • Developing incident reporting forms at times of Emergency Response Plan for each of the sub-project; • Installation of warning signs and barricades appropriately at all active worksites; • Labourers to be provided with appropriate PPEs to site workers and visitors • Provision of well stocked first aid kits and first aid training to all site workers; • Contractor shall develop, adopt and sensitize all site workers on Standard Operating Procedures guiding working in heights, lifting operations, driving under the projects, drilling, excavations, hazardous

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
<p>impoundment structures such as water pans which will fill up with rainwater and surface runoff which might cause breaching of the pans or sand dams</p> <p>Biological hazards which include bacteria, viruses, insects, plants, birds, animals, and humans. can cause a variety of health effects ranging from skin irritation and allergies to infections (e.g., tuberculosis, AIDS), cancer and so on.</p> <p>Working at heights to install water tanks, risk of fires in the temporary housing and site storage structures</p> <p>Work-related musculoskeletal disorders (WMSD), health evidence-based from each intervention</p> <p>Other risks pressure extremes (high pressure or vacuum), noise, etc., psychosocial - stress, violence, safety - slipping/tripping hazards, inappropriate machine guarding, equipment malfunctions or breakdowns that may cause lots of harm on the workers</p>			<p>materials, prevention of oil spills, machines and maintenance, health and hygiene (as applicable to the sub-project);</p> <ul style="list-style-type: none"> • Pre and post placement medical examination to be conducted for all workers • Where the Mitigation measures prescribed by the SMP are applicable in the area, workers security while at work remains a major risk that requires explicit incorporation of management measures, as prescribed in the requirements of the SMP at each county and site-specific Sites identified.

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
Health, and Safety (EHS) risk:	All site workers	Medium	<ul style="list-style-type: none"> • Reference to Environmental, Health, and Safety (EHS) Guidelines is with general and industry-specific examples of Good International Industry Practice (GIIP) • Involve workers, who often have the best understanding of the conditions that create hazards and insights into how they can be controlled. • Hazards needing controls will be listed in order of priority and eliminate the hazard by removing the activity from the work process. Examples include substitution with less hazardous work, controlling the hazard at its source through use of engineering controls. E.g. 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 e.g. 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 on OHS, use, and maintenance of the PPE • Assign responsibility for installing or implementing the controls to a specific person or persons with the power or ability to implement the controls. Identify and evaluate options for controlling hazards, using a "hierarchy of controls." • Use a hazard control plan to guide the selection and implementation of controls, and implement controls according to the plan. • Develop plans with measures to protect workers during emergencies and nonroutine activities. • Evaluate the effectiveness of existing controls to determine whether they continue to provide protection, or whether different controls may be more effective. Review new technologies for their potential to be more protective, more reliable, or less costly

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
Discrimination and Exclusion of Vulnerable Groups	All workers	medium	<ul style="list-style-type: none"> • At statutory level, the Kenyan Employment Act 2007 is equally expansive, prohibiting discrimination in employment on grounds of 'race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status. This will apply to all sub-projects under HoAGWRP. • Contractors to adhere to the above Act plan for the project. • Where project sites are located within the vulnerable groups area meeting ESS7 inclusion of all vulnerable people who have the relevant skills to provide labour. Sensitization will be conducted in culturally appropriate manner and in language understandable by the local communities will be used. • Sensitize women, youth and PwD of available opportunities and ensure that project work environment is made safe for their access; • An inclusive labour selection and participatory identification of community workers and implementation process. • Ensure easy access to the grievance redress mechanism which is tailor made to suit the local needs e.g. culturally appropriate; • Social assessments to be guided by the ESMF will ensure identification of vulnerable groups and recommend appropriate means of their engagement in the projects labour force.

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
Labor disputes over terms and conditions of employment.	Program workers	High	<ul style="list-style-type: none"> • Having collective agreements with workers as provided in the labour and relations act No 14 of 2007 • Provide appropriate GM for the resolution of grievances • The use of alternative dispute resolution methods such as arbitration and mediation (out of court settlement) using trusted local opinion leaders and local administration especially in vulnerable group areas meeting ESS7. • Work with community leaders to avoid conflict related to community differences. Tested community leaders play a role in the fair identification of both contracted workers(local).. • Ensure GRM is accessible to all Workers and that there no impunities for reporting (whistle blower)

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
Likely incidents of child labour	HOAGWP contractors and sub-contractors	Low	<ul style="list-style-type: none"> • All vacancy advertisements should clearly prescribe that child labour is not permitted and persons to be employed must meet the minimum age as prescribed in Employment act 2007 which is 18 years and above • Sensitize beneficiaries on negative impacts of child labour; • Certification of laborers' age and removal of under-age (using National Identification Card, Birth Certificate or affidavit of birth in employment of workers); • Ensure on compliance with the employment act 2007 • Ensure that contractors have and implement a Child Labour protection Policy to deter employment and abuse of children in the project. In the project design, HoAGWP implementation structures will include membership from Children and Labour Departments mandated to address child labour risks, both at national and county levels. • Raise awareness/sensitization of child labour issues, e.g. hazardous work and risks to all project beneficiaries. • In liaison with county relevant officers, support community organizations to formulate children's policies at local level enforced by county officers. • Train and build capacity of communities where most WRUA are located on the supportive legal framework against child labour. • Use existing government structures to address child labour issues: Area Advisory Council in Children (AAC), children services and labour departments, the Ministry of Internal Security (Area Chiefs), Ward Administrators and the National Council Against Child labour. The project will work in collaboration with these structures to ensure that there is no child labour in any project activities. • Involve Children Services Department at the project level from the outset to ensure child labour, risks and mitigation measures are identified and the mitigation measures mainstreamed.

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
			<ul style="list-style-type: none"> • The policy of the Government is to eliminate child labour through awareness creation, training of communities and ToTs. Therefore, it will be prudent for the project at mobilization stage and throughout the implementation phases to identify strategies that will avoid/minimize engagement of child labour. • Structures to address child labour exist in various mandated government ministries, departments and agencies and are multi-sectoral in nature and should be fully engaged by the project to mitigate child labour. • Sensitize and train beneficiary communities to be aware of the drivers (including socio-cultural practices, high income incentives, poverty levels and high cost of living) of child labour and suitable measures to avoid/minimize the same.
Labor influx	Contracted workers	High	<ul style="list-style-type: none"> • Provision of employment for local community members will be a priority; • Contractor to develop and implement Hiring Procedures aiming at reducing labour influx reviewed and found acceptable to the implementing agencies; • Contractors and sub-contractors to use of local leaders, opinion leaders on recruitment of manual/unskilled; workers; • Advertisement on labour recruitment including messages that preference for local employment to be placed on notice board; • Supervision consultant to ensure that the contractor avoids hiring at the gate; • Provide equal employment opportunities for both youth, women, men and disabled; • Preparation, implementation and enforcement of Code of conducts by the contractor; • Trainings for workers on their obligations under the Code of Conduct;

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
			<ul style="list-style-type: none"> • Contractor to have a GBV Action Plan, including a Response and Accountability Mechanism; • Provision of workers accommodation where necessary to reduce impacts of to be considered.
Risks of gender-based violence risks including Sexual Exploitation and Abuse (SEAH)workplace	All workers	High	<ul style="list-style-type: none"> • Apply requirements of the HoAGW4R SEAH Prevention and Response Action Plan to mitigate GBV and SEA risks; • Define SEAH requirements and expectations included in the contractual obligations as well as reinforce CoCs that address SEAH in the project locations to cultivate an environment free from SEAH as well as regular dissemination of the CoC to the workers; as guided in the GBV/SEAH action plan • No sexual or other favours can be requested in exchange for services; • Project staff are prohibited from engaging in SEAH and this information should be clearly spelt out during training and other forms of communication to the staff; • Any case or suspicion of SEAH should be reported to [hotline number, GM or citizen engagement/feedback mechanism]; • Information on protection of whistle-blowers; and • The range of services available for survivors including healthcare, protection and psychosocial care. •

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
HIV/AIDS	Program workers (Skilled, Semi-Skilled and Manual workers)	Medium	<ul style="list-style-type: none"> • Sensitization on HIV/AIDS infection, causes and prevention • Pre and Post Counselling on HIV/AIDS • Sensitization on voluntary testing and provision of the same by a service provider; • Sensitization on the proper use of ARVs; • Provision condoms to project workforce; • Provision of Information Education and Communication Materials (IEC) materials such as posters and fliers with information on HIV/AIDS.
Security related risks	All workers	medium	<ul style="list-style-type: none"> • The county based Security Management Plans (SMP) will provide and maintain a safe physical environment and manage staff activities to reduce the risk of personal injury and property loss during the implementation of the HoAGWP. The plan describes how security will be organized to face identified threats and how to be continuously reassessed and reorganized in correlation with security situations and operations being undertaken. • All PIU, sub-PIUs, supervision consultants and contractors to adopt county specific SMPs and implementing them in the execution of their work. • The Sub-PIU and PIU social specialists and project coordinators to monitor and report on the implementation of the SMPs. • Security personnel provided for works under the project to abide by the provisions in the SMP and sign CoC guiding their relationships with local communities as well as the project workforce. • Adhere to mitigation measures that accompany the security rating of sub projects location as stipulated in the county security management plans prepared under HoAGWRP.

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
Forced labour	Community	Medium	<ul style="list-style-type: none"> • Engage with stakeholders inclusively; let the contractor’s employment code of conduct; • 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 community labour management; set community working hours (Start/End); use the services of community mobilizer (employed by the contractor) as a go-between-the contractor/service provider and community. For the SEAH, it is recommended that this LMP is consulted together with the project SEAH Prevention and Response Plan and also ESMF recommendations.
Exposure to Covid-19	All workers	Medium	<ul style="list-style-type: none"> • Project Implementation within COVID-19 Context. The project will minimize the chances of exposure of COVID-19 Infection as follows: • Adherence to Ministry of Health Infection Prevention and Control (IPC) protocols and requirements under all contracts; • Any worker showing symptoms of respiratory illness (fever, cold or cough) and has potentially been exposed to COVID-19 will be immediately removed from the site and tested for the virus at the nearest local hospital; • Close co-workers and those sharing accommodation with such workers will also be removed from the site and tested; • Project management shall identify the closest hospital with testing facilities, refer workers. • Persons under investigation for COVID-19 will not return to work at the project site until cleared by test results. During this time, they will continue to be paid daily wages; • If a worker is found to have COVID-19, wages should continue to be paid during the worker’s convalescence (whether at home or in a

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Potential Risk as identified in ESS2	Type of Worker Likely to be affected	Magnitude of the Potential Risk	Mitigation measures
			hospital); and •

5. Overview of Labour Institutional Framework

Kenya has a legal framework on matters of labour and working conditions. The CoK 2010 provides relevant clauses including Article 2 which recognizes ratified treaties as part of the laws of Kenya. Article 41 (on labour 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 labour 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 Article 4 (1) states that 'No person shall use or assist any other person in recruiting, trafficking or using forced labour'. Article 5. (1) holds that it shall be the duty of the Minister, labour officers and the Industrial Court— (a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; Article 6. (1) states that an employee is 'sexually harassed if the employer of that employee or a representative of that employer or a co-worker— (a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express; it also guides if one needs to declare and define the fundamental rights of employees, to provide basic conditions of employment of employees, to regulate employment of children, and to provide for matters connected with the foregoing. Again, making it safe for the workers for the law covers them against discrimination, sexual exploitation or forced labour (*EMPLOYMENT ACT CHAPTER 226, 2012; PART II-GENERAL PRINCIPLES 4-Prohibition against Forced labour. 5-Discrimination in Employment. 6-Sexual Harassment, n.d.*).

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.

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). The Act also addresses the issues of the employees' nationality and origin as is the case with migrant workers (referring to those migrating to Kenya specifically for purpose of the employment) and provides the requirements to be met by migrant

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workers before they are employed. 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.

Terms and Conditions

The Employment Act 2007 broadly addresses other issues including the minimum, statutory requirement of any employment arrangement in Part III on Employment Relationship (as read with Part V on Rights and Duties in Employment; and Part VI on Termination and Dismissal). By law, the employee is entitled to pertinent employment information and documentation pursuant to Section 14 on Reasonably Accessible Document or Collective Agreement. Part IV of the Act addresses itself on the Protection of Wages seeks to outline the minimum standards required of all salary policies. The law has expressly restricted the employer's ability to interfere with how the employees dispose of their earnings. Part V focuses on the Rights and Duties in Employment and outlines the employees' entitlements and the employers' responsibilities. Indeed, the provisions of this Part expressly "constitute basic minimum terms and conditions of contract of service". Hours of work are lawfully the employer's prerogative; however, there must be weekly rest day (s). The Act also covers matters of leave for employees.

Part VI of the Act addresses the **Termination and Dismissal matters**. It outlines how employers and employees may terminate their contractual arrangements lawfully. Termination notice (s) are lawfully demanded of the party seeking to end the contractual arrangement in order to avoid ambushing the other party. The party seeking to terminate the employment contract may make a payment in lieu of notice or the employer may simply waiver the employee's obligation to make payment in lieu of notice.

Where the contractual arrangement ends based on alleged employee wrongdoing; then there ought to be due process for the employee to defend his/her case and challenge the allegations. The employer is obligated to show justifiable cause for dismissal and the proof thereof. If the cause (and the proof thereof) is sufficiently grievous to meet the threshold for summary dismissal; then the employer may exercise the option to terminate the employee summarily (after due process). The termination must not amount to an unfair, unlawful and/or unreasonable dismissal for what is otherwise lawful, reasonable and the exercise of the employee's entitlements (such employee's pregnancy). Further, the Act obligates employers to make timely payments of separation and severance- all accrued salary/wages, allowances and benefits, pension and pension contributions and any other employee entitlements will be paid on or before termination of the working relationship.

For this project, the following provisions will inform all management of workers:

- a. **Direct workers:** The terms and conditions for direct workers in PCU, the consultants will be governed by National labour Laws. Workers who are on short-term employment

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will not have maternity or annual leave, etc. Their terms and conditions will be based on a specific assignment to be completed within a specified period at a pay rate per day. These terms and conditions should be discussed at recruitment; and

- b. **Contracted workers:** The Employment Act and associated public service regulations are the guiding legislations on employment terms and conditions for contracted workers. The MoWSI shall therefore follow the provisions related to labour engagements and management.
- c. **Minimum Wage:** The official minimum wage will be governed by the provisions of Salaries and Remuneration Commission (SRC). All efforts will be made to ensure that contractors do not underpay and overwork their workers, more so temporary (casual) workers.
- d. **Hours of Work:** The normal hours of work of a project worker shall not exceed 8 hours a day. Hours worked in excess of the normal hours shall be entitled to relevant allowances and compensation.
- e. **Rest per week:** Every worker shall be entitled to rest on Saturday and Sunday. Workers shall also be entitled to rest on public holidays recognized as such by the Republic of Kenya.
- f. **Annual leave:** Workers (apart from consultants and temporary workers) shall be entitled to 30 days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.
- g. **Maternity and Paternity leaves:** A female worker shall be entitled, on presentation of a medical certificate indicating the expected date of her confinement, to 90-days maternity leave while male workers shall be entitled for paternity leave of 14 days with pay, provided that she/he has been employed by the employer for at least six months without any interruption on her part except for properly certified illness.
- h. **Deductions from remuneration:** No deductions other than those prescribed in labour laws shall be made hereunder or any other law or collective labour agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The employer shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.
- i. **Death benefit:** In case of death of a worker during his/her contract of employment, the employer shall pay to his/her remuneration as death benefits in-line with the provisions of the relevant laws.
- j. **Medical treatment of injured and sick workers:** Contract workers shall on a minimum be expected to be enrolled on Work Injury and Benefits Act (WIBA) by the contractors. All other workers will continue to benefit from medical insurance as arranged by their employers (e.g., for civil servants the civil service insurance scheme).

Occupational Health and Safety (OHS) Act

The Occupational Safety and Health Act¹ is Kenya's codifying law governing 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. These safety and health consequences are more localized to individual workers, by virtue of their presence in the premise, than upon the wider society.

This is an Act of Parliament to provide for the safety, health and welfare of workers and all persons lawfully present at workplaces, to provide for the establishment of the National Council for Occupational Safety and Health and for connected purposes. The Act has the following functions among others:

- *Secures safety and health for people legally in all workplaces by minimization of exposure of workers to hazards (gases, fumes and vapours, energies, dangerous machinery/equipment, temperatures, and biological agents) at their workplaces.*
- *Prevents employment of children in workplaces where their safety and health is at risk.*
- *Encourages entrepreneurs to set achievable safety targets for their enterprises.*
- *Promotes reporting of work-place accidents, dangerous occurrences and ill health with a view to finding out their causes and preventing of similar occurrences in future.*
- *Promotes creation of a safety culture at workplaces through education and training in occupational safety and health.*

Failure to comply with the OHS, 2007 attracts penalties of up to KES 300,000- or 3-months jail term or both or penalties of KES 1,000,000-or 12-months jail term or both for cases where death occurs and is in consequence of the employer. The Occupational Safety and Health Act (OHS) 2007 repealed the Factories and Other Places of Work Act. Anything done under the provisions of the Factories and Other Places of Work Act including subsidiary legislation issued before the commencement of the OHS 2007 shall be deemed to have been done under the provisions of this Act.

The Factories and Other Places of Work Act had over the years passed several subsidiary rules and regulations for effective implementation of the Act. All shall, as long as it is not inconsistent with OHS 2007 remain in force until repealed or revoked by subsidiary legislation under the

¹ OSH Act No 15 of 2007

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provisions of OHS 2007 and shall for all purposes be deemed to have been made under this Act. These regulations include:

- *The Factories (Cellulose Solutions) Rules 1957;*
- *The Factories (Wood Working Machinery) Rules 1959;*
- *The Factories (Dock) Rules 1962;*
- *The Factories (Eye Protection) Rules 1978;*
- *The Factories (Electric Power) (Special) Rules 1978;*
- *The Factories (Building Operations and Works of Engineering Construction) Rules 1984;*
- *The Factories and Other Places of Work (Health & Safety Committees) Rules 2004;*
- *The Factories and Other Places of Work (Medical Examination) Rules 2005;*
- *The Factories and Other Places of Work (Noise Prevention and Control) Rules 2005;*
- *The Factories and Other Places of Work (Fire Risk Reduction) Rules 2007;*
- *The Factories and Other Places of Work (Hazardous Substances) Rules 2007.*

The scope of OHS 2007 has been expanded to cover all workplaces including offices, schools, academic institutions and plantations. It establishes codes of practices to be approved and issued by the Director, Directorate of Occupational Health and Safety (DOHS) for practical guidance of the various provisions of the Act.

Other parameters within the Act relevant to the project include:

1. *Duties of employers, owners or occupiers of workplace;*
2. *Establishment of safety and health committees;*
3. *Annual safety and health audit of workplaces;*
4. *Safety and Health obligations for persons who may come to premises for work and are not employees of that particular workplace;*
5. *Reporting of any accident, dangerous occurrence or occupational poisoning caused in the workplace to the area Occupational Health and Safety Office. These incidents should be entered in the General Register. In case of fatal accident information to the area Safety and Health Office should be within 24 hrs. and a written notice to the same within 7 days;*
6. *The duties of manufactures, designers, importers and suppliers to ensure that all articles and substances for use at workplace are safe and will not cause injury to health and the environment;*
7. *Duties of self-employed persons;*
8. *Duties of employed persons;*
9. *Prohibition of interference or misuse of any appliance, convenience or any other facility provided to secure Safety, Health and Welfare at work by any person (occupier, self-employed person or employed);*
10. *The administration of the Act is the responsibility of a Director and other appointed and gazetted officials (Occupational Health and Safety Officers);*

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11. The registration of all workplaces by the Director Directorate of Occupational Health and Safety (DOHS) forming the basis of his work statistics;

12. Machinery safety to include:

- Safe use of machinery, plant and equipment;
- Prime makers and transmission machines;
- The maintenance, construction of fencing safeguards;
- The statutory requirements of various machines, plants and equipment (hoists and lifts, chains and ropes, cranes, steam receivers and containers, air receivers, cylinders for compressed liquefied and dissolved gases and refrigeration plants).

13. Chemical safety including:

- (i) Handling, transportation and disposal of chemicals and other hazardous substances;
- (ii) Importance of Materials Safety Data Sheets (MSDS);
- (iii) Labelling and marking of chemical substances;
- (iv) Classification of hazardous chemicals and substances;
- (v) Establishment and adoption of exposure limits on hazardous substances in a workplace;
- (vi) Control of air pollution, noise and vibrations;
- (vii) Redeployment on medical advice.

The environmental Management Coordination Act (EMCA) 2006

The EMCA legal notice number 68 provides regulations cornering drinking water, water for agricultural purposes and other water uses. While legal notice number 69 through the legal notice number 121 gives the regulations on the management of all types of waste to avoid any negative impacts to people including work places. Additionally, EMCA 2009 gives regulation on noise and vibration control to safeguard the population and workers from injuries due to excessive noise and vibrations

The Work Injury Benefits Act

The Work Injury Benefits Act² (WIBA) also addresses workplace safety and health and has since 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 are adversely affected by work injuries. Part III (on *Right to Compensation*) addresses the entitlement and guarantee afforded in respect of compensation. This provision could be expanded to cover infection with COVID-19 contracted while at work.

The National Children Policy Kenya 2010

This policy defines a child as any person under the age of 18 years. Children hold a special place in society. Their nurture and wellbeing is the responsibility of key stakeholders who include

²WIBA Act No 13 of 2007

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parents, wider family, the state (national and county governments) and civil society. Kenya, upon recognition that children rights are human rights, has taken great strides in advancing and advocating for them. In this respect, Kenya is a signatory to various international conventions including the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and the Hague Convention on the protection of children and cooperation in respect of inter-country adoption. The country has gone further and domesticated the same instruments by enacting the Children Act 2001 and participated in the various sessions reporting the progress made in implementing the said instruments. The commitment to the Sustainable Development Goals (SDGs) and the articulation of children issues in Kenya's Vision 2030 is a demonstration of this obligation that whoever is working for the people of Kenya must observe.

The Kenya National Action Plan on Women, Peace, and Security 2020-2024

The second National Action Plan will be implemented during the period 2020-2024. Following the development of Kenya's first National Action Plan, the country has established the National Steering Committee which continues to provide advisory support on the implementation of the plan. The country has also developed and launched the first Gender Policy in Defense Docket which aims at ensuring that more women are included in peacekeeping missions, and women are promoted in positions of higher levels, among others.

The second KNAP recognizes that effective conflict prevention and response requires strong and efficient systems, structures, and processes to operationalize the laws, policies, and plans. It therefore provides elaborate implementation strategies and a coordination framework. Resolution 1325 urges all actors to increase the participation of women and incorporate gender perspectives in all United Nations peace and security efforts. It also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict.

5.1 National Prevention and Response Plan on Violence Against Children (VAC) In Kenya 2019 – 2023

The Plan is based on the premise that violence against children is never justifiable, nor is it inevitable; and if its underlying causes are identified and addressed, violence against children is entirely preventable. Moreover, holistic care for child survivors of violence is equally critical for their recovery and development. The Plan aims to accelerate evidence-based multi-sectoral actions to address VAC and will be led and implemented by the Government with the support of development partners, civil society organizations and community members. The vision of the plan is a society where all children live free of all forms of violence. This plan is being implemented from 2019 to 2023 with focus on 6 strategic areas that are aimed at preventing and responding to violence. Protecting children against violence is an obligation shared by many different actors involving both state and non-state actors.

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Relevant International Instruments

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).

The Labour Institutions Act

The Act provides a framework for establishment of government organs charged with administering labour laws and providing for their functions, duties and powers and other matters connected thereto.

National Labour Board

It is established under section 5 of the Act and is at the helm of the administrative structure, just below the Cabinet Secretary (CS) in the Ministry of Labour, Social Security and Services. The role of the board is essentially advisory in nature. It advises the CS on among other things:

- All matters concerning employment and labour;
- Legislations affecting employment and Labour relation and trade unionism issues;
- Matters arising from the ILO or ILO Conventions;
- Codes of good practice;
- Status of Kenya in international and regional affairs; and
- Systems of inspection and administration of labour laws.

Committee of Inquiry

It is appointed by the Cabinet Secretary. It consists of at least 3 people including the chairperson and a secretary and has no quorum for conducting its activities. It conducts inquiries into matters appurtenant to trade disputes, trade disputes generally or trade disputes of any class and reports to the Cabinet Secretary.

Labour Inspection and Administration

To carry out the foregoing functions, the Cabinet Secretary is empowered to appoint the following officers: - 1. Commissioner for Labour 2. Director of Employment 3. Any other officer-labour officer. - Employment officers. - Medical officers. 5. Deputy Registrar of Trade Unions 6. Assistant registrars of Trade Unions and such other officers as may be required by the Act.

Delegation of duties:

The Commissioner for Labour, Director of employment and registrar of trade unions may in writing, delegate duties to their subordinates, Labour officers, employment officers and deputy and assistant registrars of trade unions respectively.

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Powers of the Labour Officer:

To ensure compliance with the labour laws, the labour officer may:

1. Order production, inspect or examine wage sheet and other records of employment kept by the employer.
2. Interview person giving out work or outworkers on information of the person to whom the work is given or vice versa respectively, with respect to remuneration.
3. Inspect and copy any material part of any list of outworkers kept by an employer or other persons giving out work to outworkers.
4. Examine, either alone or in the presence of other persons a matter on remuneration where he has reasonable cause to believe the person to have committed an offence.
5. Enter, inspect and examine any land, building or structure that provides residence to an employee to determine its fitness and compliance with the Act.
6. Examine documents establishing the employment relationship between an employer and an employee. These documents may be sourced from either the employer or employee.
7. Inspection of sanitary conditions and water supply in a business premises.
8. Examine and make copies of documents of employment and seize those that he has reasonable ground to believe contain evidence of an offence under the Act or any other law. In instances where employment records are seized, the labour officer should give the employer or his representative a receipt in respect of the documents seized.
9. Examine food provided by the employer to the employees and where need arises, take samples in duplicate for analysis. This examination has to be carried out in the presence of the employer.
10. Order that clean and sanitary conditions are upheld in buildings and premises where employees are housed.
11. Institute proceedings against employers who are in contravention with labour laws.
12. Institute civil proceedings on behalf of an employee in any cause of action against the employer, arising in the course of employment.
13. Take into custody and return to his parents or guardians any child he reasonably suspects to have been employed in contravention with employment laws.

Section 36:

5.1.1 Power of the medical officer.

Examine and assess the health conditions of an employee and make recommendations for his rapid recovery. He may recommend that the employee goes back to work or proceed to hospital at the earliest opportunity at the expense of the employer.

1. Condemn any food provided by the employer which in his opinion is not fit for human consumption. Such food will be destroyed in the presence of the medical officer.
2. Order at the expense of the employer, such variety of food for an employee as he may deem necessary. However, the cost of the food should not exceed the normal costs of the daily rations ordinarily supplied by employers to the employees.
3. Condemn any building in which an employee is residing or working where in his opinion it is inhabitable or unfit because of its construction, location or condition for the purpose for which it was built. Its use will hence stand suspended until the medical officer subsequently certifies its fitness.
4. Order that the employer provides an employee under a contract of service extra clothing and blankets at the expense of the employee. Such items shall remain the property of

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the employer until the employee fully pays for them. 5. Inspect all drugs and medicine provided for the use of employees.

5.9.7 Wages Council

There are established two wages councils 1. General Wages Council 2. Agriculture Wages Council- which is specific to the agricultural sector and any other sector where no other wages order is applicable Additionally, there are established sectoral wages council on a need basis where: - a) The remuneration and other conditions of employment of any categories of employees in any sector is not adequately regulated by collective agreements. b) It is expedient to set a minimum wage and other conditions of employment in respect of those employees. These sectoral wages councils may operate in the whole sector, part of the sector or for specific categories of employees in a sector, regionally or nationally. Membership of the wages councils include: a chairperson & not more than three independent members (both of whom must be experts in determination of minimum terms and conditions of employment), at most, three members nominated by the board representing trade unions and at most, three members nominated by the board representing employers.

Functions of wages council (a) investigate the remuneration and conditions of employment in any sector (b) invite and consider written and oral representations, in the prescribed manner, from interested parties (c) make recommendations to the Minister on minimum wage remuneration and conditions of employment.

5.10 The constitution of Kenya 2010

The CoK 2010 provides a few relevant clauses including Article 2 which recognizes ratified treaties as part of the laws of Kenya. The 2010 Kenyan Constitution protects every child from violence and abuse, neglect, harmful cultural practices, and hazardous or exploitative labour. Kenya has also ratified the UN Convention on the Rights of the Child, and the ILO Conventions on Minimum Age of Employment and the Worst Forms of Child Labour, 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.

5.11 Employment Act 2007

The Employment Act, 2007 Article 4 (1) states that 'No person shall use or assist any other

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person in recruiting, trafficking or using forced labor'. Article 5. (1) holds that it shall be the duty of the Minister, labor officers and the Industrial Court– (a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; Article 6. (1) states that an employee is 'sexually harassed if the employer of that employee or a representative of that employer or a co-worker— (a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express; it also guides if one needs to declare and define the fundamental rights of employees, to provide basic conditions of employment of employees, to regulate employment of children, and to provide for matters connected with the foregoing. Again, making it safe for the workers for the law covers them against discrimination, sexual exploitation or forced labor 4-Prohibition against Forced Labor. 5-Discrimination in Employment. 6-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.

5.12 The labour relation Act of 2007;

The Act consolidates the law relating to trade unions and trade disputes, to provide for the registration, regulation, management and democratization of trade unions and employers organizations or federations, to promote sound labor relations through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development and for connected purposes. The Act provides for a collective agreement is defined in the Labour Relations. Act as "A collective bargaining process precedes this.

The process of collective bargaining is not specifically provided for in law, but there are prerequisite conditions, which must be fulfilled before parties may proceed with bargaining process. Such conditions are contained in the Labour Relations Act, No. 14 of 2007. In section 54 of the Labour Relations Act, there is a requirement that the trade union must have legal recognition in law that is duly registered by having a constitutional jurisdiction.

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). The Act also addresses the issues of the employees' nationality and origin as is the case with migrant workers (referring to those migrating to Kenya specifically for purpose of the employment) and provides the requirements to be met by migrant workers before they are employed. 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.

5.13 The Industrial Court of Kenya

The industrial court is not mentioned in the Constitution 2010 but was established in 1964 under the Trade Dispute Act (Cap. 234). The Industrial Court has found its current shape in 1971, when the Trade Dispute Act was amended in the light of the experience gained from 6 years of practical application. The purpose of the Court is the settlement of trade disputes. Vide the provisions of section 14, Trade Dispute Act (Cap. 234), the President of the Republic may establish the court, and determine the number of judges (not less than two). Eight members are appointed by the Minister after consultation with the Central Organization of Trade Unions (COTU) and the Federation of Kenyan Employers (FKE). Whenever it appears to be expedient, each judge appoints two assessors, one to represent employees, from a panel of assessors appointed by the Minister, to assist in the determination of any trade dispute before the Court. The jurisdiction of the Court is exercised by the judge and the two other members. Only in the case that they are not able to agree, the matter will be decided by the judge “with the full powers of an umpire” (section 14 (8) Trade Dispute Act (Cap. 234)). This is also a fallback avenue if something is not adding up between a worker and the HoAGWRP implementation agencies.

5.14 The Work Injury Benefits Act (WIBA)

This act of Parliament (2007) provides for compensation to employees for work related injuries and diseases contracted in the course of their employment and for connected purposes.⁵⁷ It also addresses workplace safety and health and has since 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 are adversely affected by work injuries. Part III (on Right to Compensation) addresses the entitlement and guarantee afforded in respect of compensation. This provision could be expanded to cover infection with COVID-19 contracted while at work.

5.15 Relevant international Laws

SDG 8 aims at fostering sustainable and equitable economic growth for all workers, irrespective of their background, race, or gender. More specifically, unit 8.7 **allows all us to take** immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms. HoAGWP will strive to work together with relevant stakeholders: Children Services Department at both levels of Government, and Labour Office at both levels of Government, National Council Against Child Labour, FAO, ILO, and CSOs working Against Child labour. The instruments of the international labour Organization (ILO) applicable in Kenya include the following.

Freedom of Association and Protection of the Right to Organize (ILO Convention 87); in which among many good practices states “Article 8 8. (1) In exercising the rights provided for in this Convention workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land. 8. (2) The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this

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Convention”.

The Right to Organize and Collective Bargaining (ILO Convention 98); Forced labour (ILO Convention 29); stating in some Articles thus “**Article 3** Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organize as defined in the preceding Articles; and **Article 4** Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

The Abolition of Forced labour (ILO Convention 105) provides for ‘Article I Each Member of the International labour Organization which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour- a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; b) as a method of mobilizing and using labour for purposes of economic development; c) as a means of labour discipline; d) as a punishment for having participated in strikes; e) as a means of racial, social, national or religious discrimination.

Minimum Age (of Employment) (ILO Convention 138) in one of the Articles holds that “**Article I** Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons”.

The Worst Forms of Child labour (ILO Convention 182); **Equal Remuneration** (ILO Convention 100); maintains that “**Article I** Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency; and

Discrimination (Employment and Occupation) (ILO Convention 111) that states in one article that “**Article I I**.

For the purpose of this Convention the term **discrimination** includes:

- i. Any distinction, exclusion or preference made based on race, color, sex, religion, political opinion, national extraction, or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- ii. Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies. 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

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Disabilities; (CRPD) and Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW). Other relevant applicable international conventions, and directives for addressing health and safety issues relevant to COVID-19, such as:

- a) ILO Occupational Safety and Health Convention, 1981 (No. 155)
- b) ILO Occupational Health Services Convention, 1985 (No. 161)
- c) ILO Safety and Health in Construction Convention, 1988 (No. 167)
- d) WHO International Health Regulations, 2005
- e) WHO Emergency Response Framework, 2017
- f) EU OHS Framework Directive (Directive 89/391)

5.16 World Bank Group EHS Guidelines

The Environmental Health and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). The EHS Guidelines contain the performance levels and measures that are normally acceptable to the WB Group, and that are generally considered to be achievable in new facilities at reasonable costs by existing technology. The EHS General Guidelines remain relevant to this project and were utilised in the development of the ESMF. General guidelines that are available at www.ifc.org/ehsguidelines.

The LMP shall inform the following key Documents:

Environmental and Social Management Plan (ESMP): The ESF document prepared prior to project approval by the World Bank identifying the activities to be undertaken, key risks (based on ESIA if available), and their mitigation measures.

Contractors Environmental and Social Management Plan (C-ESMP): the plan prepared by the contractor outlining how they will implement the works activities in accordance with the project's environmental and social management plan (ESMP). As shown in Figure c) the C-ESMP also contains a number of management plans, in particular, the OHS Management Plan.

Codes of Conduct: The Codes of Conduct adopted for the project (or individual companies) covering the commitment of the company, and the responsibilities of managers and individuals with regards to ESHS, OHS and GBV.

Key Project Actors:

Consultant: is as any firm, company, organization or other institution that has been awarded a contract to provide consulting services to the project, and has hired managers and/or employees to conduct this work.

Contractor: is any firm, company, organization or other institution that has been awarded a contract to conduct infrastructure development works for the project and has hired managers

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and/or employees to conduct this work. This also includes sub-contractors hired to undertake activities on behalf of the contractor

Manager: is any individual offering labor to the contractor or consultant, on or off the work site, under a formal or informal employment contract and in exchange for a salary, with responsibility to control or direct the activities of a contractor's or consultant's team, unit, division or similar, and to supervise and manage a pre-defined number of employees.

MoWSI: through the PIU the ministry will be offering labor to the contractor or consultant within country on or off the work site, under a formal or informal employment contract or arrangement, typically, but not necessarily (e.g. including unpaid interns and volunteers), in exchange for a salary, with no responsibility to manage or supervise other employees.

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Gaps of Labor Legislation in Kenya and World Bank ESS

ESS 2 Requirements	National Laws and Requirements	Gaps and recommendation
<p>Labour and Working Conditions (ESS2) recognises that the pursuit of economic growth through employment creation and income generation should be balanced with protection for basic rights of workers.</p> <ul style="list-style-type: none"> • ESS2 provides specific requirements on occupation health and safety, expanding upon the World Bank Group’s Environmental, Health and Safety Guidelines. • It introduces labor management procedures. • It requires non-discrimination and equal opportunity. • ESS2 includes provisions on the treatment of direct, contracted, community, and primary supply workers, and government civil servants. • ESS2 recognizes workers’ organizations. It requires a grievance mechanism for all project workers. • ESS2 includes protection of project workers, including vulnerable workers, such as women, and persons with disabilities. • Prevents the use of all forms of forced labor and child labor 	<p><u>Occupational Safety and Health Act (OSHA), 2007;</u></p> <ul style="list-style-type: none"> • Provides for the safety, health and welfare of workers and all persons lawfully present at workplaces. • Provides for the registration of workplaces. • provides for maintenance of cleanliness of workplaces, adequate lighting and ventilation, provision of sanitary conveniences, • Outlines safety requirements in use of machinery to prevent accidents and injuries. <p><u>The Factories and Other Places of Work (Noise Prevention and Control) Rules, 2005</u></p> <p>Rules provide for the maximum noise exposure levels for workers in places of work and for the provision of protective equipment for those exposed to high noise levels.</p> <p>Provide that an occupier shall also institute noise reduction measures at the source of noise in the workplace.</p> <p><u>Environmental Management and Co-ordination (Noise and Excessive Vibration Pollution) (Control) Regulations 2009</u></p> <ul style="list-style-type: none"> • Prohibits the generation of unreasonable, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment. • Provides for the maximum noise levels permissible in various environmental set ups such as residential areas, places of worship, commercial areas and mixed residential 	<p>No significant gaps between ESS 2 and the various national laws.</p> <p>Where there are gaps between ESS2 and legal and regulatory requirements, the ESS 2 requirements will be used to guide project implementation.</p>

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ESS 2 Requirements	National Laws and Requirements	Gaps and recommendation
<p><i>Working Conditions and Management of Workers Relationship</i> The Borrower will develop and implement written labor management procedures applicable to the project. These procedures will set out the way in which project workers will be managed, in accordance with the requirements of national law and this ESS.9. The procedures address the way in which this ESS will apply to different categories of project workers, including direct workers, and the way in which the Borrower will require third parties to manage their workers.</p> <p><i>Non-Discrimination and Equal Opportunity</i> 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 labor management procedures will set out measures to prevent and address harassment, intimidation, and/or exploitation. Where national law is inconsistent with this requirement, the project will seek to carry out project activities in a manner that is consistent with the requirements to the extent possible. The borrower will take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women. The principles of non-discrimination apply to migrant workers.</p> <p><i>Workers Organisation</i></p>	<p><i>Working Conditions and Management of Workers Relationship</i> Kenya’s employment and labour laws workers are guided by clear labor management procedures.</p> <p><i>Non-Discrimination and Equal Opportunity</i> The constitution of Kenya does not allow discrimination of any form and prohibit discrimination on race, sex, ethnicity, religion, and several other criteria, and further the labor laws also provide for equal opportunity and non-discrimination of any form for workers with respect to employment including any form of intimidation or harassment. However, the laws do not explicitly prohibit discrimination based on sexual orientation or gender identity.”</p>	

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ESS 2 Requirements	National Laws and Requirements	Gaps and recommendation
<p>In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing and to bargain collectively without interference, the project will be implemented in accordance with national law. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner. Where national law restricts workers' organizations, the project will not restrict project workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The Borrower should not seek to influence or control these alternative mechanisms. The Borrower will not discriminate or retaliate against project workers who participate, or seek to participate, in such workers' organizations and collective bargaining or alternative mechanisms.</p> <p>The borrower will provide a grievance mechanism for workers (and their organizations, where they exist) to raise workplace concerns and inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them.</p> <p>Protecting the Work Force Child Labour and Minimum Age A child under the minimum age will not be employed or engaged in connection with the project. The labor management procedures will specify the minimum age for employment or engagement in connection with the project, which will be the age of 14 unless national law specifies a higher age.</p> <p>Forced Labor The borrower will not employ forced labor, which consists of</p>	<p>Workers Organisation Kenya's employment and labour laws fully provide for grievance redress mechanism establishment in all workplaces through freedom to join associations or trade unions and enter into collective bargaining agreements.</p> <p>Child Labour and Minimum Age Employment Act, 2007 defines a "child" to mean a person who has not attained the age of eighteen years. This is the same definition in the children Act, 2001 and the Industrial Act. The law does not prohibit employment of children between the ages of 16-18 per se. It prohibits child labour which occurs when certain factors accompany such employment apply.</p> <p>Forced Labor</p>	

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ESS 2 Requirements	National Laws and Requirements	Gaps and recommendation
<p>any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. The borrower will not employ trafficked persons.</p> <p>Grievance Mechanisms A grievance mechanism will be provided for all direct workers and contracted workers (and, where relevant, their organizations) to raise workplace concerns. Such workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all such project workers.</p> <p>Occupational Health and Safety The borrower to provide a safe and healthy work environment taking into account inherent risks in its particular sector and specific classes of hazards in the work areas. Measures relating to occupational health and safety will be applied to the project. The OHS measures will take into account the General Environmental Health and Safety Guidelines (EHSGs) and, as appropriate, the industry specific EHSGs and other Good International Industry Practice (GIIP). The OHS measures applying to the project will be set out in the legal agreement and the Environmental and Social Commitment Plan (ESCP).</p> <p>Contracted Workers</p>	<p>Any form of forced labour, including trafficking, is prohibited by the labour laws.</p> <p>Grievance Mechanisms Kenya’s employment and labour laws provide for all workers the freedom and to right to join associations and trade unions where they can air their grievances without fear of victimisation.</p> <p>Occupational Health and Safety The Occupational Safety and Health Act has clear provisions and requirements for ensuring health and safety of workers and stipulate the requirements of the employer with respect to the same.</p> <p>Contracted Workers Kenya’s employment and labour laws provide for protection of the rights of all categories of workers, including contracted workers.</p>	

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ESS 2 Requirements	National Laws and Requirements	Gaps and recommendation
<p>The Borrower will make reasonable efforts to ascertain that third parties 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 this ESS.</p> <p>Community Workers Projects may include the use of community workers in a number of different circumstances, including where labor is provided by the community as a contribution to the project, or where projects are designed and conducted for the purpose of fostering community-driven development, providing a social safety net or providing targeted assistance in fragile and conflict-affected situations. Given the nature and objectives of such projects, the application of all requirements of ESS2 may not be appropriate. In all such circumstances, the Borrower will require measures to be implemented to ascertain whether such labor is or will be provided on a voluntary basis as an outcome of individual or community agreement.</p> <p>Primary Supply Workers As part of the environmental and social assessment, the Borrower will identify potential risks of child labor, forced labor, and serious safety issues which may arise in relation to primary suppliers.</p>	<p>Community Workers Kenyan labour laws do not interfere with agreements made between workers and employers for as long as the agreement is in line with the employment act.</p> <p>Primary Supply Workers Kenya’s labour laws provide and ensure that rights of all categories of workers are protected including workers employed by primary suppliers. Child labour, forced labour and workers safety are considered a criminal offence by the labour and employment laws as well as occupational safety and health legislation.</p>	

The legal requirements are largely similar to the ESS 2 requirements. In light of this, where the legal requirements are weak, the requirements and provisions of ESS 2 will prevail and will be applied in management of workers in the project.

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- Protection against possible risks as provided in Section 6 (2) of the OHS Act, 2007 and in view of COVID-19 related risk will be managed through:
- Ensuring that every person employed participates in the application and review of safety and health measures while working on the HOGWP
- Informing all persons employed of: (i) any risks from new technologies; (ii) imminent danger; and (iii) appropriate recourse measures; and
- Maintenance of any workplace (surveillance, reporting, M&E, or study) health facility, quarantine and isolation centres) in conditions that are safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks to any life form or ecosystem; health; and Provision and maintenance of procedures of work that are safe and without risks to health.
- Provision of such information, instructions, training and supervision as is necessary to ensure the safety and health at work of every person employed.

6. Responsible staff

The Project Coordination Unit (PCU) within the MoWSI is responsible for the overall project management and coordination, including compliance with safeguards requirements such as those contained herein <https://waterfund.go.ke/news/general> in conjunction with PIUs within WSTF and WRA and Sub PIUs at county level (the team should contact and work with Labor officers and Directorate of Occupational Safety and Health Services (DOHSS) officers available in most counties countrywide). The PCU is responsible for the following tasks: A total of 18 (full time staff) including 3 ESS experts at PCU, 2 at each PIU and 2 at each sub PIU.

- a) Engage and manage workers, consultants and contractors in accordance with this LMP and the applicable Employment regulations, OHS and world Bank EHS guidelines.
- b) MOWSI, WRA, WSTF, staff will be recruited and deployed in accordance with the MOWSI, WRA, WSTF, human resources policy. But are expected to comply with the ESS 2 requirements while undertaking the HOAGWP activities
- c) Ensure that the GRM for project workers is implemented and that project workers are informed.
- d) Monitor project contractors and workers to ensure their activities are included in the LMP and the applicable Procurement Documents.
- e) Monitor the potential risks of child labour, forced labor and serious safety issues in relation to primary suppliers.

Monitoring the implementation of the Worker Code of Conduct; MOWSI, WRA, WSTF, officers swear to oath of office as prescribed in the MOWSI, WRA, WSTF, Act 2018 and will not be subjected to the worker Code of Conduct. However,

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MOWSI, WRA, WSTF, officers are expected to comply with ESS2 requirements, including the Occupational Health and Safety, grievance mechanism, and will be trained on GBV/SEA/SH requirements.

- f) Provide training on OHS hazards and mitigations using experts from the directorate of OHS.

 - g) Report to the World Bank on labor and OHS performance and key risks and complaints; and
- Undertake the overall implementation of this LMP.

The PCU has recruited senior social development specialist and an environmental safeguards officer, will engage a specialised officer from the directorate of Occupational health and safety (DOSHS) in promoting the implementation of the LMP OHS requirements within the project. The project coordinator and entire PCU have the responsibility to implement all teams are trained and adhere to all OHS guidelines as integral to the project <https://waterfund.go.ke/news/general>. The team is specifically, responsible for the following:

- a) Ensuring Implementation of the GRM for contracted workers by including ensuring that grievances received from the contracted workers are resolved promptly, and report the status of grievances and resolutions regularly to the PCU and World Bank.
- b) Ensure all contractors and subcontractor workers understand and sign the CoC prior to the commencement of works and supervise compliance with the CoC. (Annex 3)
- c) Ensure the abbreviated CoC (one-pager) is displayed in all project supported facilities,
- d) Maintain records of recruitment and employment of contracted workers (including sub-contractors); excluding MOWSI, WRA, WSTF, service officers which has its own recruitment policy).
- e) Provide induction and regular training to contracted workers and MOWSI, WRA, WSTF, officers on ESHS issues.
- f) Report to the PCU on labor and OHS performance.
- g) 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.
- h) Supervise workers' adherence to the LMP.

The county sub PIU will recruit social and environmental safeguards officers who are responsible for promoting implementation of the LMP and OHS requirements within the project. The project coordinator in each of the five counties have the responsibility to implement these components which are integral to the project as tabulated in table 3. The team is specifically, responsible for the following

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- a) Implement the GRM for contracted workers (including MOWSI, WRA, WSTF, service officers), including ensuring that grievances received from the contracted workers are resolved promptly, and report the status of grievances and resolutions regularly to the PCU and World Bank.
- b) Ensure that all key documents of the ESF like ESMP are included in contractual documents and are part of the tendering process
- c) Ensure all contractors and subcontractor workers understand and sign the CoC prior to the commencement of works and supervise compliance with the CoC as annexed (Annex 3)
- d) Ensure the abbreviated CoC (one-pager) is displayed in all project supported facilities,
- e) Maintain records of recruitment and employment of contracted workers (including sub-contractors); excluding MOWSI, WRA, WSTF, service officers which has its own recruitment policy).
- f) Prepare regular reports to the PCU on Labour and OHS performance.
- g) 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.
- h) Supervise workers adherence to the LMP as tabulated in table 3 below..

Table 3; Responsibility for LMP Implementation

10	Activity	Responsibility for LMP implementation		
		PCU/PIU	County Sub PIUs/WSTF	WRUA/WRA
1	Contract Management Plan (CMP),	Procurement unit of PCU / Fiduciary Dept Procurement Unit prepare a guide on CMP and a procurement plan to guide the counties and communities on adequate provision of PPEs	Procurement unit PCU/ PIU county procurement unit - develop a procurement plan to ensure sufficient procurement of PPEs	WRUA as community structure to ensure ecosystem Investments on procurement requirements to ensure purchase, equitable distribution and utilization of the PPEs
2	Contracts listed in the Annual Workplan and Budget	PCU/PIU M&E Expert to guide on budgeting to ensure adequate funding of security teams' welfare and items and PPEs	Sub PIU M&E O – domesticate the Annual workplan and budget to county conditions ensuring E&S activities are listed and PPEs have adequate budget	WRUA Subcommittee in charge of procurement/ finance to planning and ensure that the security is taken for items and PPEs are budgeted for and procured on time for full utilization during project implementation.

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10	Activity	Responsibility for LMP implementation		
		PCU/PIU	County Sub PIUs/WSTF	WRUA/WRA
3	ToR developed	Respective component/ Procurement Officers to include the requirement for compliance to Code of Conduct	Respective PIU and Sub PIUS / Procurement Officer to include the requirement for compliance to Code of Conduct. To follow up on compliance of the same.	-
4	Support teams involved in managing one or more of those categories (works, Goods, etc.)	Experts or consultants appointed by the PCU – train on ESHS, labor laws and child labor. Contracting and E&S clauses to be included in bids	Sub PIU appointed experts to ensure capacity building on child labour, labour laws and EHS and OHS	-
5	Prepare contract implementation documents (i.e. E&S Tools)	ESIA shared with winning contractor by project to prepare contractor’s - ESMP (C-ESMP) Train counties on the due diligence and compliance with labour, EHS and OHs issues.	ESIA shared by sub PIU to allow contractor to customize it by developing a C-ESMP and confirm inclusion of the child labour, labour laws, OHS, EHS and compliance with the same during operation	Work with the contractor to ensure that labour influx is mitigated, ensure that there is no child labour and also equity in allocation of job opportunities.
6	Provide induction and regular training to contracted workers on ESHS issues;	PCU. To ensure that training curriculum addresses the EHS, OHS, child labour and SEAH	Sub PIU- To ensure that training activities on EHS, OHS, child labor and SEAH are regularly carried out.	Contracted workers from the communities to participate in EHS, OHS, child labour and SEAH trainings
7	Maintain records of recruitment and employment of contracted workers (including sub-contractors);	PCU to provide the guidelines to the contractors and Counties	Sub PIU. To regularly follow up on the records keeping by the contractors.	To work with the contractors to ensure record development and keeping.
8	Monitor project contractors and workers to	PCU Environmental Expert; PCU Senior Social Development Specialist,	CPCU Environmental expert, Senior Social Development Specialist,	The project management committee to ensure that the contractor adheres to the

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10	Activity	Responsibility for LMP implementation		
		PCU/PIU	County Sub PIUs/WSTF	WRUA/WRA
	ensure their activities are in accordance with the LMP and drawn contracts. Also monitor OHS Plans that must be prepared as a ESMF requirement for C-ESMPs and as applicable as per procurement bidding documents.	short term SEAH expert, M&E Specialist; to develop M&E schedules to follow up and ensure compliance	County M&E assistant, county works committees to follow up and ensure compliance	EHS.OHS and labour requirements.
9	Managing EHS/OHS risks in Works contracts	PCU senior social development expert and consultants including DOSH to provide guidance	Senior Social Development Specialist and consultants to build the capacity of the communities on EHS/OHS, child labour and SEAH	Key participants from the community to attend trainings and implement the guidelines given on use of PPEs, EHS,OHS, SEAH and child labour
10	Provide training to mitigate social, health and safety risks of project workers	PCU Senior Social Development Specialist, PoEs including DOSH to provide the guidelines and undertake follow ups in the counties.	CPCU Senior Social Development Specialist, PoEs and DOSH to train the communities	Key participants from the community to attend trainings and implement the safety guidelines.
11	Ensure the abbreviated CoC (one-pager) is displayed in all sub projects supported facilities such as in the construction sites for various infrastructures, bulking and sorting centers, milk processing plants etc.	PCU Environmental Expert and DOSH to train (ToTs), draw CoC, and assist in displaying all other safety signage	CPCU Environmental expert to train the communities on the same and help them implement.	Ward Committee chair to coordinate training of members on the COC and follow up on compliance

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10	Activity	Responsibility for LMP implementation		
		PCU/PIU	County Sub PIUs/WSTF	WRUA/WRA
12	Implement the GM for contracted workers including ensuring that grievances received from the contracted workers are resolved promptly, and report the status of grievances and resolutions regularly to the PCU and World Bank;	PCU - National Grievances Management Committee. -Train county GMs committees, and other national stakeholders	Capacity build county technical team; county GM committees	Sub PIUs and WRUA committees to document all the grievances, ensure timely resolution and where necessary promptly escalate to the CPCU any grievances that they are unable to resolve.
13	Ensure that the grievance mechanism (GM) for project workers is implemented and that project workers are informed;	PCU – Environmental and Social Safeguards experts to train counties, coordinate, and make follow-ups	CPCU Environmental and Social Safeguard experts to train the communities, contractors, and make follow-ups	Report any emerging issues as the subprojects are being implemented by contractors
14	Require primary supplier(s) to identify and address risks of child labour, hazardous work, forced labour and serious safety issues, and undertake due diligence to ensure they are minimized/ avoided;	PCU Senior Environmental and Senior Social Development Experts in liaison with relevant stakeholders (ILO, Children Services, Labour Department, FAO, National Council Against Child Labour –(NCACL) identify where these risks are, train Counties on suitable avoidance/ mitigation measures	PIU Environmental and Senior Social Development Specialists in liaison with relevant stakeholders at the County level to train contractors and sub project committee members, and make follow-ups	In liaison with contractors, Area Chiefs to ensure compliance and inform the CPCU any cases of noncompliance for early mitigation
15	Undertake inspection of workers' housing/camp (if	PCU Environmental and Senior Social Development Experts to make regular	Sub PiU Environmental and Senior Social Development Specialists to make routine visits to contractors' sites,	WRUA and PMCs to liaise with Contractors, /project managers to ensure compliance

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10	Activity	Responsibility for LMP implementation		
		PCU/PIU	County Sub PIUs/WSTF	WRUA/WRA
	any) to establish: if workers need housing and whether it is provided if required; where (within community or new facilities need); and potential impacts of such accommodation; mitigation measures; security and grievance mechanism in place.	M&E field visits to check compliance	and all other works sites to ensure compliance to ESHS	Local authority like NGAO can be incorporated to inspect mainly on security issues Third party monitoring as constituted by IGADD will also provide farther inspection and monitoring.
16	Report on labour, EHS and OHS performance and key risks and complaints;	PCU Environmental and Senior Social Development Specialists train Counties on EHS/OHS in liaison with DOSH, Ensure regular M&E, and reporting.	Sub PIU Environmental and Senior Social Development Specialists to train County Technical Teams as ToTs to implement EHS/OHS	Sub-PIUs/WRUA/PMC to liaise with Contractors/project managers to ensure compliance
17	Undertake the overall implementation of this LMP	PCU Social Development expert to oversee implementation of LMP	Sub PIU Senior Social Development Specialist to guide contractors and consultants to implement the LMP (if applicable). County Labour Officers to be involved at this point	Sub-PIU and WRUA at communities to be sensitized to understand labour requirements and rights.
18	Supervise contractors' adherence to the LMP	PCU Senior Social Safeguards and PIU Senior Social Development Specialist to oversee implementation of LMP	Sub PIU Social Safeguards expert – Guide contractors and consultants to implement the LMP (if applicable). County Labour /Children Officers to be involved at this point	Sub PIUs to be sensitized to understand labour requirements and rights. They should also ensure that the contractors comply with the requirements of the LMP and promptly report any noncompliance for mitigation

It is notable that when PCU is fully operational, the LMP protocols developed and to be developed by the Management should clearly assign responsibilities to each of the members for efficient in

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oversight. For instance, the Senior Social Development Specialist and Safeguards officers at MOWSI, WRA and WSTF in place should oversee the implementation of the GM and ensure appropriate stakeholder consultation (ESS10). Other functions would include:

- a. Raising awareness and training of workers during HOAGWP activities
- b. Monitoring, supervising, and reporting on health and safety issues relating to HOAGWP activities and especially those at specific activity sites. Including details of key responsibilities and reporting arrangements against the Project Supervising Team and the main contractor.
- c. Coordinating and reporting arrangements between contractors.
- d. Following up on the feedback mechanisms between the contractors and their workers and flagging out any issues for redress; and
- e. Reporting on a regular basis on the overall project progress.

Table 4. Project staff and Key responsibilities

Responsibility area	Direct and contracted workers	Primary supply workers
Security of all workers/staff including facilities	PCU/PIU will ensure security is maintained in liaison with the relevant security agencies and ensure implementation of the SMPs	PCU/PIU will take the lead in assessing the risks with respect to staff, facilities, and workers and initiate the right security measures including reporting accordingly.
Hiring and managing individual project workers	PCU will oversee the work of consultants and contractors hired to support project related activities	Contractor
OHS	Direct workers and contractors will follow OHS measures	The PCU/PIU will assess the risk of serious safety issues by primary suppliers and as needed require them to develop procedures to address these risks
EHS	All workers and beneficiaries will adhere to the EHS measures/guidelines	The PCU/PIU will take lead in assessing impacts and risks related to the activities and thereof prescribing strategic solutions
Child labour and forced labour	The contract does not allow child and forced labour Community labor agreements to adhere to child labor and forced labor requirements are signed and verified time to time.	Contractors to adhere to child labour requirements. The project safeguards team at PCU/PIU will inspect work sites to ensure that contractors are complying with the minimum age and other labour requirements.
Training	PCU/contractors	Contractor
Code of conduct	The contract for direct workers and contractors will address relevant risks.	
Grievance mechanism	PCU/Contractors	
Monitoring and reporting	PCU/consultants to monitor and report to World Bank	Relevant PCU to monitor and report to PCU Coordinator

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Responsibility area	Direct and contracted workers	Primary supply workers
		PCU to report to World Bank.

7. Policies and Procedures

A summary of procedures to develop and implement the LMP policies is provided below: The procedure and steps to be followed for a risk assessment are, (i) identification of the hazards; (ii) identify the people who might be harmed and how; (iii) Evaluate the risk and decide on precautions; (iv) Record the significant findings and implement them; and (v) Review and update if necessary.

93. Occupational health and safety (OHS): Based on the relevant provisions of the Occupational Safety and Health Act (OHS) 2007, the Employment Act, ESS2 (including WBG Environmental, Health, and Safety Guidelines (EHSGs), and WB standard procurement documents, the Water Sector Trust Fund(WSTF) and Water Resource Authority(WRA)in the MoWSI will manage the project in such a way to ensure that all the HOAGWP project workers are properly protected against possible OHS risks. The PCU will assess the risk of serious safety issues by primary suppliers and proved leadership in assessing the adverse impacts and risks associated with the project activities and thereby prescribe appropriate interventions. The key elements of the OHS measures will comprise of measures including: (i) identification of potential hazards to the workers (ii) provision of preventive and protective measures (ii) training of all workers and maintenance of training records (iv) documentation and reporting of occupational accidents and incidents (v) emergency preparedness and (vi) remedy for occupational injuries and fatalities.

Child labor: The minimum age of project workers for the project and in Kenya according to the employment act is set at 18 years and above. The 2010 Kenyan Constitution protects every child from violence and abuse, neglect, harmful cultural practices, and hazardous or exploitative labour. Kenya has also ratified the UN Convention on the Rights of the Child, and the ILO Conventions on Minimum Age of Employment and the Worst Forms of Child Labour. Where the risk is high the Project shall engage the department of social to have a, social protection programmes that provide cash transfers to some of the most vulnerable families To prevent the engagement of under-aged labor, all contracts shall have contractual provisions to comply with the national minimum age requirements including penalties for non-compliance in-line with the relevant national laws. The PCU is required to maintain a labor registry of all contracted workers with age verification of national Identity card in addition to the following.

The following measures are proposed to mitigate use of child labour risk.

- a) In the project design, HoAGWP implementation structures will include membership

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- from Children and Labour Departments mandated to address child labour, both at national and county levels.
- b) Raise awareness/sensitization of child labour issues, e.g. hazardous work and risks to all project beneficiaries.
 - c) In liaison with county relevant officers, support WRUAs and other community organization to formulate children's policies at local level enforced by county officers.
 - d) Use existing government structures to address child labour issues: Area Advisory Council in Children (AAC), children services and labour departments, the Ministry of Internal Security (Area Chiefs), Ward Administrators and the National Council Against Child labour. The project will work in collaboration with these structures to ensure that there is no child labour in any project activities. The structures will also be and involved to address any child labour issues arising in the communities implementing HoAGWP.
 - e) Involve Children Services Department at the project level from the outset to ensure child labour, risks and mitigation measures are identified and the mitigation measures mainstreamed.
 - f) The policy of the Government is to eliminate child labour through awareness creation, training of communities and ToTs. Therefore, it will be prudent for the project at mobilization stage and throughout the implementation phases to identify strategies that will avoid/minimize engagement of child labour.
 - g) Structures to address child labour exist in various mandated government ministries, departments and agencies and are multi-sectoral in nature and should be fully engaged by the project to mitigate child labour.
 - h) Sensitize and train beneficiary communities to be aware of the drivers (including socio-cultural practices, high income incentives, poverty levels and high cost of living) of child labour and suitable measures to avoid/minimize the same.

Labor influx: To minimize labor influx, the project will contractually require the contractors to **preferentially** recruit labor from the local communities and nearby areas. All contracted workers will be required to sign the Code of Conduct prior to the commencement of work, which includes a provision to address the risk of GBV and SEA.

Labor disputes over terms and conditions of employment: To avoid labor disputes, fair terms and conditions will be applied for project workers. The project will also have GRMs for project workers to promptly **address** their workplace grievances. Further, the project will respect the workers' rights of labor unions and freedom of association, as set out in the Employment Act 2007.

Discrimination and exclusion of vulnerable groups and/or persons from communities who meet the requirements of the WB ESS7: If unmitigated, vulnerable groups of people

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as well as communities who meet the requirements of the World Bank ESS7 may be subject to increased risk of exclusion from employment opportunities under the project. Such disadvantaged and vulnerable individuals and groups include women, female headed households, single parents, the elderly and sick, expectant mothers, DAPs and nutritionally challenged. Also, those communities who meet requirements of the World Bank ESS 7 will also be targeted to benefit from the activities of the HOAGWRP in line with the requirement documented in the inclusion principle. 99. 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, terms of employment (including wages and benefits), termination and access to training. The project shall comply with the Employment Act, 2007 on gender equality in the workplace, which will include the provision of maternity and sick leave. There will also be enough and suitable toilet and washing facilities, separate from men and women workers, male youths and female youths as the community cultures demand.

Security risks: Some of the counties would experience security issues and so the PCU and PIUs will formulate and implement Security Management Plans, initially at each county level, then cascaded to each project site, and work closely with the Ministry of Interior and Coordination of National Government to ensure the security of the workers and the facilities involved are responsive. The security workers or those providing security (Both private and national police service to be involved in the project activities will be sensitized and trained on GBV/SEA/SH requirements. Contractors and sub-PIUs will adopt country specific SMPs under their contracts and delivery of their work to mitigate the risks of terrorism as well as tribal conflicts in their activity. All workers will be sensitized of security risks and their responsibilities related to safety. The Project Coordinators at the PIU and sub-PIU with the assistance of the social development specialist at the PIU will be responsible in ensuring that the requirements for compliance with the SMPs is included in the contractors contracts and its implemented and reported on. **Gender-based violence (GBV) and sexual exploitation and abuse (SEAH):** Given the implementation context, sexual harassment, exploitation, and abuse of co-workers is a likely risk. Thus, all staff and contracted workers shall sign the code of conduct as outlined in annex 2 3, 4 expected standards of behavior in this regard and attend an awareness session on the same including the consequences of such actions. The Ministry will identify and recruit a qualified trainer/consultant to offer training in GBV and SEA. All contractors will adopt and implement the project prepared Sexual Exploitation, Abuse and Harassment Prevention Action Plan in the implementation of their activities. This will form part of the Labour Management Plans they will prepare and subject to the review and clearance for implementation by the PIUs.

Monitoring and reporting: The PCU shall report on the status of implementation of the above policies and procedures on a quarterly basis. The PCU will closely monitor labor and OHS performance of the project and report to the World Bank on a quarterly basis

Fatality and serious incidents This are well covered under the Occupational Safety and Health Act (OHS) 2007. Under this Act, the duties of the Occupier are provided thus in Section 6: Every

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occupier shall ensure the safety, health, and welfare at work of all persons working in his workplace. Among others, the duty of the occupier includes:

- The provision and maintenance of plant and systems and procedures of work that are safe and without risks to health;
- Arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- The provision of such information, instruction, training and supervision as is necessary to ensure the safety and health at work of every person employed
- The maintenance of any workplace under the occupier's control, in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks to health; The provision and maintenance of a working environment for every person employed that is, safe, without risks to health, and adequate as regards facilities and arrangements for the employee's welfare at work;
- Informing all persons employed of any risks from new technologies; and imminent danger; and ensuring that every person employed participates in the application and review of safety and health measures.

SEAH incidents: The HoAGW4R will abide to the provisions of the SEAH action plan, SEAH GM as provided for in all the ESF documents prepared for this project, the ESMF and SEP. The GBV expert will provide further guidance on the handling of SEAH/GBV incidents and the available services including confidential appropriate medical and psychological support, emergency accommodation, and any other necessary services as appropriate including legal assistance.

8. Age at Employment

This project shall not hire anyone less than 18 years of age.

The process of age verification of employees shall be undertaken prior to the engagement of labor and be documented. The National Identification Card (ID) or Passport will be used as a means of verifying the age. For VMGs/IPs who may not have ID cards and/or passports, verification by a recognized local leader will support those to intent engage them. The prescribed procedures to be used in the recruitment of the workers will include: (i) Above 18 years (ii) have a national identity card (iii) undergo medical checkup with the Ministry of Health (iv) have a Certificate of Good Conduct

Household Level and Child labour: At the household level, there is potential that beneficiaries may engage children in activities including land cultivation, planting, harvesting, livestock husbandry among others. Children's participation in their own family farm activities helps them learn valuable skills and contribute to the generation of household income, which has a positive impact on their livelihoods. Such participation is important for children and builds their self-

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esteem. However, to prevent and mitigate child labour at household level because of the HoAGWP, awareness creation and sensitization will be undertaken by the project on the distinction between child labour and child work including a clear elaboration on implication of child labour on the part of the households found to have subjected children to forced labour.

9. Terms and Conditions of Employment

Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. The Employment Act 2007 broadly addresses other issues including the minimum, statutory requirement of 18 years and above for any employment arrangement in Part III on Employment Relationship. By law, the employee is entitled to pertinent employment information and documentation pursuant to *Section 14* on Reasonably Accessible Document or Collective Agreement. Part IV of the Act addresses itself on the Protection of Wages seeks to outline the minimum standards required of all salary policies. The law has expressly restricted the employer's ability to interfere with how the employees dispose of their earnings. Part V focuses on the Rights and Duties in Employment and outlines the employees' entitlements and the employers' responsibilities. Indeed, the provisions of this Part expressly "constitute basic minimum terms and conditions of the contract of service".

Hours of work are lawfully the employer's prerogative; however, there must be a weekly rest day(s). The Act also covers matters of leave for employees. Part VI of the Act addresses the Termination and Dismissal matters and outlines how employers and employees may terminate their contractual arrangements lawfully. The party seeking to terminate the employment contract may make a payment in lieu of notice or the employer may simply waiver the employee's obligation to make payment in lieu of notice. Where the contractual arrangement ends based on alleged employee wrongdoing; then there ought to be due process for the employee to defend his/her case and challenge the allegations. The employer is obligated to show justifiable cause for dismissal and the proof thereof. If the cause is sufficiently grievous to meet the threshold for summary dismissal; the employer may exercise the option to terminate the employee summarily following due process. The Act further obligates employers to make timely payments of separation and severance- all accrued salary/wages, allowances and benefits, pension and pension contributions and any other employee entitlements will be paid on or before termination of the working relationship.

For the HOAGWP project, the various provisions that will inform all management of workers include:

Contracted workers: The Employment Act and associated public service regulations are the guiding legislation on employment terms and conditions for contracted workers. The MoWSI shall therefore follow the provisions related to labor engagements and management.

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Minimum Wages: The official minimum wage will be governed by the provisions of the Salaries and Remuneration Commission (SRC) and every effort should be made to ensure that contractors follow the guidelines as provided by the ministry of labour on minimum wages and ensure that contractors do not underpay and overwork their workers especially those on temporary and casual terms.

Hours of Work: The normal hours of work of a project work shall not exceed 8 hours a day. Hours worked in excess of the normal hours shall be entitled to relevant allowances.

Rest per week: Every worker shall be entitled to rest on both days of the weekend (that is Saturday and Sunday). Workers shall also be entitled to rest on public holidays recognized as such by the Republic of Kenya.

Annual leave: According to section 28 of the Kenyan employment Act clause 7, 8, and 9 Workers (apart from consultants and temporary workers) shall be entitled to 21 days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.

Maternity and Paternity leaves: According to section 29 of the constitution of Kenya, female workers are entitled to fully paid three months' maternity leave while male workers get 14 days paternity leave. Additionally, maternity or paternity leave does not take away the employees' entitlement to annual leave according to section 28.

Deductions from remuneration: No deductions other than those prescribed in labor laws shall be made hereunder or any other law or collective labor agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The employer shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.

Death benefit: In case of death of a worker during their contract of employment, the employer shall pay to their remuneration as death benefits in line with the provisions of the relevant laws and any other as guided by WBG ESS2.

Medical treatment of injured and sick workers: Contract workers shall on a minimum be expected to be enrolled on WIBA-compliant insurance by the contractors. Appointed contractors will be required to maintain a valid WIBA compliant insurance cover throughout their contract duration. All other workers will continue to benefit from medical insurance as arranged by their respective employers. Direct workers who are mainly civil servants and

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temporary workers have a contributory national hospital insurance fund.

10. Grievance Mechanism for labour related issues

General Principles

The objective of labour grievance handling systems and procedure is to establish for the workers a mechanism for raising diverse complaints related to the sub project activities during the sub project phases and having such complaints resolved as amicably as possible through acceptable and binding corrective actions.

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 GM focal point at the workplace annex 6. 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.

Handling of grievances will be objective, prompt, and responsive to the needs and concerns of the aggrieved workers. The mechanism shall also allow for anonymous complaints to be raised and addressed. Individuals who submit their complaints or grievances may request that their name be kept confidential, and this will be respected.

Direct workers: These will mainly be government employees at the MoWSI, WRA, WSTF and sub PIUs. The staff will utilize the current grievance system set up by public service to address workers' grievances (Public Service Commission, 2016) annexed as annex 4 in this LMP. Each unit engaging direct workers (national, PIU, county sub PIU) 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.

10.2 labour Related Grievances

Grievances from workers (direct workers, community workers, contract workers, consultants, casual workers) during the implementation of the project may include:

- Complaints pertaining to wage rates, salary, other remuneration or benefits as per Company's HR policy
- Gender discrimination

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- Workplace sexual harassment
- Issues related to workers' organization
- Labour accommodation.
- Health and safety issues;
- Extended working hours.

10.3 Project Level Grievance Management

Direct workers: These will mainly be National and county government employees at the and consultants. The staff will utilize the current grievance system set up by public service to address workers' grievances (Public Service Commission, 2016). 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 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, 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;
- 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. 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

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World Bank Task Team or use the Project GM.

National appeal process. The labour 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.

Community Workers: The contractors for community workers will need to show evidence (signed documentation) indicating that the worker has voluntarily signed up for the work. In addition, the community workers will be oriented on the project GM and encouraged to use the system to report any complaints. All OHS measures implemented by the project on the other category of workers will also apply to the community workers.

The following actions will be used for managing complaints for this project:

1. Complaints will be sent to the GM focal point at the workplace by email, text, phone, letter or in person. The complaints will be registered in the form, collated onto a register (Annex 5) and reported using the format provided in Annex 6 (lodgment form). The email address and phone number will be made available to all workers during recruitment inductions. The project complaints handling email at the PCU level is and the telephone contacts once operational, the free hotline number will be disseminated widely to stakeholders including county level and should be displayed on the all MoWSI, WRA and WSTF website.
2. Each entity engaging direct workers (PCU, PIU and the consultants) will hold periodic team meetings to discuss any workplace concerns. Complaints will be reviewed by the PCU and PIU on biweekly basis upon receipt. Grievance committee will be established at the workplace. The team will review the complaints and provide guidance on the course of action and ensure follow-up on previous complaints. Any preliminary investigation will take place within 5 working days of the committee meeting. Feedback will be given to the complainant within 10 working days.
3. For informal complaints i.e., those raised through social media, print media or not formally lodged, the committee will deliberate upon them to decide whether to investigate based on the substance and potential impact/reputational risk.
4. If the complaint is referred to the main project GM and government's legal complaints structures ((Ethics and Anti-Corruption Commission (EACC), Commission on Administration of Justice (CA, etc.)), the World Bank will be notified.
5. Complaints regarding SEA shall be kept confidential, the name of the complainant will not be recorded, only the age and gender of the complainant, and whether a project

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worker was involved and will be sent directly to the project coordinator who will immediately inform the World Bank.

- No disciplinary or legal action will be taken against anyone raising a complaint in good faith.
- A monthly report of complaints resolution will be provided to the PCU and the World Bank.

The summary of grievance cases will be reported to the World Bank as part of the regular report. Where the aggrieved direct workers wish to escalate their issues or raise their concerns anonymously and/or to a person other than their immediate supervisor/hiring unit, the workers may raise the issues with the World Bank task team. Where consultants/contractors have an existing grievance system, their direct workers will be expected to use such mechanism.

11.2 Contractor Labour Grievance HR

Contractor labour grievance policy will entail mechanisms and procedures for labour related grievance management that will include awareness sensitization and SEAH incidents:

Contractual workers; The HOAGWRP requires contractors to have a grievance redress mechanism for their work force including sub-contractors to address workplace concerns. Prior of beginning civil works, contractors as well as sub-contractors are be required to prepare and submit a detailed description of the workers' grievance mechanism as a prerequisite for tender document Among other things, the contractors as well as sub-contractors' workers' grievance mechanism will include Formal channels for submission and receipt of grievances, such as comment/complaint form, suggestion boxes, email, toll free telephone hotline, face to face communication;

- a) Stipulated timeframes to respond to grievances;
- b) Register and procedures to record and track the timely resolution of grievances;
- c) Responsible focal person to receive, record and track resolution of grievances, and to communicate with workers who submit grievances.

The HOAGWRP or the Supervision Engineer/ Consultant will monitor the contractors' recording and resolution of grievances, and report a summary on a monthly basis. The contractor/ sub-contractor will assign a focal person to oversee and implement the grievance redress mechanism, overseen by the site project engineer.

The workers grievance mechanism will be described in staff induction training, which will be provided to all project workers, and proper explanation done orally on what the CoC and the grievance form Annex 5. contains Worker's Code of Conduct is signed. The contractor will be required to prove that each employee has been inducted and signed that they have been inducted on the GRM procedure.

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Furthermore, as part of contractor's human resources policies, there should be a procedure for workers involved in project works to report cases of sexual harassment and procedures to address these kinds of cases as prescribed in the SEAH/GBV action plan.

The mechanism will be based on the following principles:

- a) The process will be transparent and allow workers to express their concerns and file grievances;
- b) There will be no discrimination against those who express grievances;
- c) Grievances will be treated confidentially, except anonymous ones;
- d) Anonymous grievances will be treated equally as other grievances, whose origin is known;
- e) Workers will be informed of how their grievances are resolved;
- f) Resolution of anonymous grievances will be announced to the wider workforce; and
- g) Management will treat grievances seriously and take timely and appropriate action in response.
- h) Information about the existence of the grievance mechanism will be readily available to all project workers (direct and contracted) through notice boards, the presence of "suggestion/complaint boxes", and other means as needed.

10.4 Project Level Grievance Management

Direct workers: These will mainly be National, WRA, WSTF and county government employees at the HoAGWP and consultants. The staff will utilize the current grievance system set up by public service to address workers' grievances (Public Service Commission, 2016) (annex 5) Each unit engaging direct workers (National, WSTF, WRA, 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 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, 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;

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- 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;
- 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. 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 GM.

National appeal process. The labour 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.

Community Workers: The contractors for community workers will need to show evidence (signed documentation) indicating that the worker has voluntarily signed up for the work. In addition, the community workers will be oriented on the project GM and encouraged to use the system to report any complaints. A worker can log in grievances by filling a form annex 6 All OHS measures implemented by the project on the other category of workers will also apply to the community workers.

The summary of grievance cases will be reported to the World Bank as part of the regular report. Where the aggrieved direct workers wish to escalate their issues or raise their concerns anonymously and/or to a person other than their immediate supervisor/hiring unit, the workers may raise the issues with the World Bank task team. Where consultants/contractors have an existing grievance system, their direct workers will be expected to use such mechanism.

Contractor Labour Grievance HR

Contractor labour grievance will entail mechanisms and procedures for labour related grievance management that will include awareness sensitization and SEAH incidents:

Awareness Sensitization: All 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

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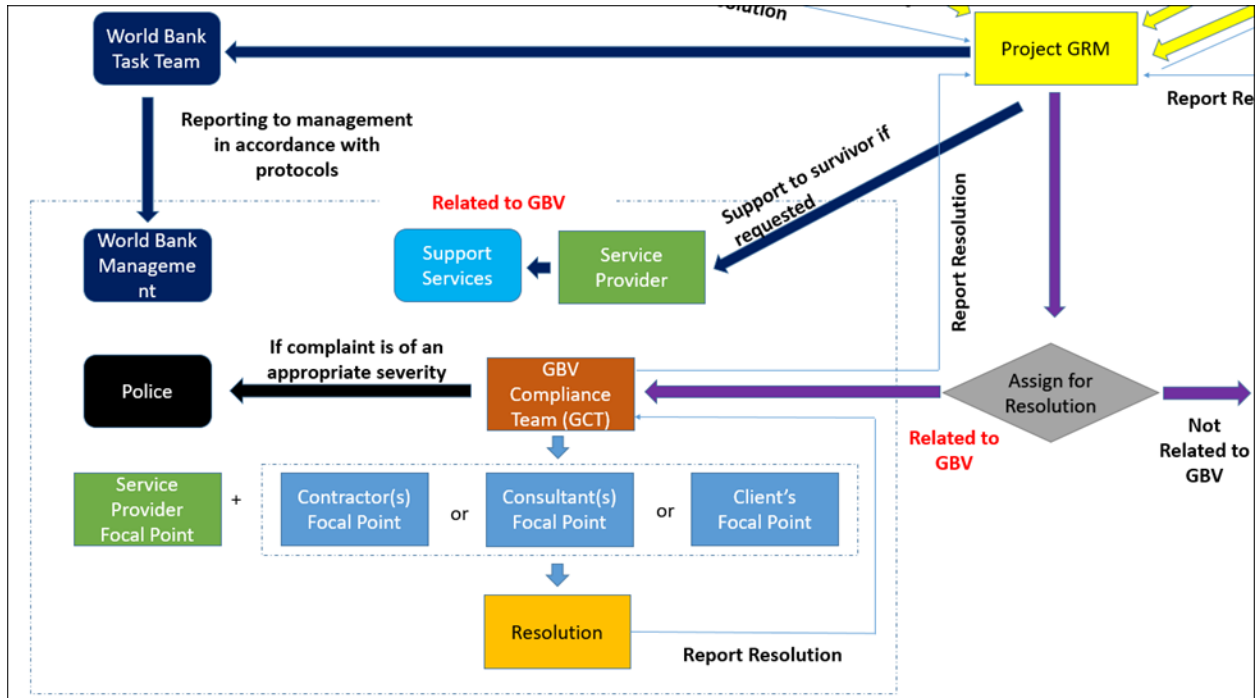
use. Measures will be put in place to make the grievance mechanism easily accessible to all such project workers including providing the name and telephone contacts of the GM focal point at the workplace. Communication could also be done on email (the email address will also be shared) and in-person 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 workstation. Individuals who submit their complaints or grievances may request that their names be kept confidential, and this must be respected.

SEAH Incidents

SEAH incidents: To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, there is a separate grievance with a different and sensitive approach to SEAH-related cases and requires that SEAH complaints 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. The survivor will be provided support to access these services. Staff will immediately inform the survivor/complainant to go to a health center which specializes in free post-SEA health support (within 72 hours of the incident). All staff and GM focal persons will continue to be informed that if a case of SEAH is reported to them, the 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 should be immediately reported to the Project Coordinator who will provide further guidance after consulting with the World Bank.

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Figure 1; Below shows stepwise procedure for management of GBV cases.



11. Contractor Management Procedures

Recruitments and evaluations of contractors will be done at the sub PIUs and apart from the procurement laws are required to consider social and environmental standards in line with the national instruments alongside the world bank requirements and will be done by the sub PIUs.

Each contractor engaged by the Project to provide services must sign the CoC as annex 3 and 4 and individual workers CoC as annexed in 2 (such as construction of water pans, sand dams, small scale irrigation canals, market centers, bulking and sorting centers etc.) will be expected to adopt the protective measures outlined in this document. The contracts drawn by the Government 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:

- i. As part of the bidding/tendering process, specific requirements for certain types of contractors, and specific selection criteria (e.g., certifications, previous experience),
- ii. Specific procedures relating to the workplace and the conduct of the work (e.g., creating at least 6 feet between workers by staging/staggering work, limiting the number of workers present),
- iii. Specific procedures and measures dealing with specific risks. For example, The contractor will prepare a LMP, ESMP, Align to SEAH prevention and response and

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- iv. Appointing a COVID-19 focal point with responsibility for monitoring and reporting on COVID-19 issues and liaising with other relevant parties; and
- v. Including contractual provisions and procedures for managing and monitoring the performance of contractors, considering changes in circumstances prompted by COVID-19.

Contractors will be required to identify focal points and communication channels (for example, WhatsApp, SMS and email) within the company to address workers' concerns on an ongoing basis and ensure that such channels are adequately resourced (for example, 24-hour staffing of the emergency response call line). Workers shall not be victimized in any way for reporting a grievance.

12. Community Workers

The project will use community workers who will be engaged by the FPOs and CIGs for farm level community-based activities. There will be two types of community workers: (i) community workers that will provide labour as in kind contribution to the sub-projects to ensure ownership and sustainability; and (ii) youths employed under the multi-community investment window that will work in restoration of degraded lands, construction of water pans and other water storage structures, establishment of small-scale irrigation canals, and other sustainable land management activities, the latter group of community workers will be remunerated as per the National laws and will sign code of conduct. The potential subprojects and number of community workers have not been identified. For unremunerated community workers, documentation will be undertaken including signed forms on voluntary participation; 2) working conditions particularly OHS; and 3) no disadvantage to those who are not able to participate (elderly, DAPs, women, etc.). The project will have a standardized and comprehensive community agreement (in cases where the community is contributing voluntarily) to ensure that there is no risk of any negative impact on the community. Similarly, the project will also have standardized terms of engagement when the community will be paid for their labour.

HOAGWP will capture the potential risks for both the above types of engagement of community labour. The project will endeavor to ensure that there are no negative impacts.

HOAGWP will formulate mechanisms to address child labour, forced labour, hazardous work, the roles and responsibilities for monitoring of community workers, and the grievance mechanism in the LMP, amongst various communities. The department of labour will provide guidance to the County teams to ensure that any community work is undertaken according to the labour laws in Kenya.

Potential security risks will also be identified, analyzed and the necessary measures taken to reduce chances of occurrence and mitigation of negative impacts.

Recruitment and Selection: Procedures

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All project activities requiring the use of community workers will need to follow a clear pathway when recruiting and selecting for any position in their organization. It should include the following stages.

- *Initial contact with local community:* including preparing or revising a job specification, job description, proposed intervention and sharing this with the local community leadership. This will be to inform and agree if the tasks can be undertaken by the community workers and how labour will be identified;
- *Community meetings:* Organization of community meeting by project implementing entities through the community leadership to share the proposed activities, consult on approach to selection of workers within the community. Agree on gender balance and how the whole community will be represented;
- *Community proposing, Screening and Shortlisting:* weeding out clearly unsuitable applicants and, where there is competition, deciding on who are the most suitable people from whom to choose. A process driven by the community and its leadership.
- *Selecting:* by developing and using the most effective methods to find the right persons for the post. And the names of the proposed community workers presented back to the community in an open meeting where they deliberate and agree. Minutes of meeting and endorsement signed by both community leadership and representatives.
- *Appointment by the sub-project and implementing agency:* usually depending on a number of factors that have to be considered or decided, for example, pay, terms and conditions, periods of notice and starting dates.
- *Training and capacity building:* Training of the community workers on ethical expectations, GBV/SEA-SH and occupational health and safety risks and how to mitigate them. This will be undertaken by the Social Specialist of the PIUs and sub-PIUs as well as the technical team on issues related with technical requirements.

13. Primary Supply Workers

Selection of primary suppliers will be done by contractors in consultation with the implementing agencies who have county representation in the county sub PIUs who form the key procurement entity. When sourcing for primary suppliers, the project will require such suppliers to identify the risk of child labor/force labor and serious safety risks. The Environmental and Senior Social Development Specialists at the national level (PCU) will review and monitor from time to time this risk as identified and will be required to include specific requirements on child labor, forced labor and work safety issues in all purchase orders and contracts with primary suppliers. The ESS team at the PCU, MoWSI, PIU WRA, and PIU WSTF will, as part of its monitoring, include indicators for assessing the functions of primary supply workers.

This LMP require that, under the HoAGWP, any primary supplier maintains records related to ensuring procedures and the identified mitigation measures are adhered to.

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14. Budget for the implementation of the LMP

The overall coordination and implementation of the HoAGW4R components will be led by the National Project coordinator (NPC) responsible HoAGWP at the MoWSI the primary

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
Training on OHS guidelines	8	5,000	40,000	Ensure all contractors are fully trained on OHS guidelines on both WBG and Country guidelines
Travel expenses of staff on LMP activities (supervision missions by the ESS 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 by PCU, PIU teams	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%)				To cater for unforeseen costs that might emerge
Total			224,400	Estimated total cost

responsibility for efficient and effective implementation of the components for achievement of the stated HoAGW4R objectives. The PCU will provide leadership in priority actions for capacity building activities parameters for the review and monitoring of social risks in the HoAGW4R sub-

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projects across the five counties, stakeholders, identification and management of challenges and risks. The project has set aside funds to ensure that the planned LMP activities are implemented and monitored effectively.

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15. ANNEXES

Annex 1 HOAGWP CONSULTATIONS LABOUR MANAGEMENT PROCEDURE & SEXUAL EXPLOITATION, ABUSE AND HARASSMENT & RESPONSE PLAN IN MANDERA

Participants Lists

	Name of the Participants	Organization	Designation
1.	Waes Adbullahi Abdinoor	Mandera County Government	Senior superintendent Engineer
2.	Siyad Ahmed Maalim	Mandera County Government	Environmental Expert
3.	Tajudin Abdi Kadir	Mandera County Government	Superintendent Water Officer
4.	Issac Salad Ibrahim	Mandera County Government	Assistant Director Supply Chain
5.	Hassan Huessein	Mandera County Government	SSE Water
6.	Yahya Ali Noor	Mandera County Government	Hydrogeologist
7.	Ahmed Mohammed	Mandera County Government	Principal Accountant
8.	Johson Ndolo	Water Sector Trust Fund	Senior Social Specialist
9.	Maryian Abdi Adan	Mandera County Government	Senior Water Inspector
10.	Lawrence P. Ondusi	Ministry of Interior	AOI County Commissioner Office
11.	Ahmed Adan	Mandera County Government	County Director Water Services
12.	Stella Warue	Water Sector Trust Fund	Social Specialist
13.	Yasmin Mohammed Noor	Mandera County Government	Senior Inspector Water
14.	Kuresho Ali Noor	Mandera County Government	Gender Officer
15.	Issack Salad Ibrahim	Mandera County Government	Assistant Director Security CM
16.	Onesmus Kyaka	Ministry of Interior	County Commissioner
17.	Benedict Kigen	Directorate of Criminal Investigation	County CID officer
18.	Thuku Ngaruiya Dickson	National Intelligence Service (NIS)	D/CIC
19.	Eric Kipkoech	Kenya Police Service	SCPC
20.	Abdi B. Chote	Kenya Wildlife Service	Warden
21.	Edwin M Ileri	General Service Unit	D/OC
22.	Major Fred P. Lukada	Kenya Defence Forces	OC KDF Mandera
23.	Fatuma Maalim	Women Education and Health for Development (WOHED)	Project Manager
24.	Hudson Mwangu	SDFGA	County Director
25.	Moses Ouma	National Council for Population Development	Regional Project Coordinator
26.	Sarah Muasya	Refugee Consortium of Kenya	Manager
27.	Fesal Warsame	The Kesho Alliance	Programme officer
28.	Abdishukri Jelle	Muslims for Human Rights (MUHURI)	Programme Officer
29.	John K. Marete	National Government of Administration officers (NGAO)	AOI
30.	Mulibo Idle	Girl Concern organization	Founder
31.	Amran Ali Gabow	Activista	Coordinator

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32.	Francis M. Maina	Garissa Rural Water and Sanitation Company	Hydrologist
33.	Victor A. Asenga	OPPP	SPPC
34.	Adan Hassan	Ministry of Labour	Labour Officer
35.	Bare Adan	Haki na Sheria Initiative (HIS)	Programme Officer
36.	Yussuf Abdi	Action Aid	Coordinator
37.	Sarah Kerubo Meshack	NACADA	Programme Officer
38.	Ahmed M. Abdi	Gender Department	Deputy Director
39.	Abdiwahal Ibrahim	National Gender Equality Commission (NGEC)	Principal Programme Officer
40.	Abdihakim S. Mohammed	County Government of Garissa	Director Water
41.	Mohammed Bullo	Ministry of Interior	Officer
42.	Zeitun Aden Hassan	County Government of Garissa	GBV Officer
43.	Rashid K Siyat	County Government of Garissa	Monitoring and Evaluation Officer
44.	Kombe Genya	D/SCPC	NPS
45.	Stella Warue	Water Fund	Social Safeguard Expert
46.	Johnson Ndolo	Water Fund	Senior Social Safeguard Expert
47.	Dickson K. Mutuma	County Water Department	DSSWE
48.	David N. Sariswi	Interior	Deputy county commissioner
49.	Denge Fayo	Marsabit Water and Sewerage Company	Chief Executive Officer
50.	Zephaniah Kiboi	Interior	DDP
51.	Katelo B. Dido	Marsabit County water Department	CSCMO
52.	Clara Orgo	Culture, gender and social services	Culture officer
53.	John Halkano	Marsabit Water and Sewerage Company	O.C Water Supply
54.	Joshua Leitoro	Department of gender and Social services	P.O
55.	Janet Ahotho	Department of Environment and water	Director Environment
56.	Dondol Arude	Kenya Forest Service	CFC
57.	Collins Omondi	Kenya Wildlife Service	County Senior Warden
58.	Charles Mutuma	NPS/APS	County AP Commander
59.	Gabriel Kamute	NPS (DCI)	SGT

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Deliberations on the Documents

A	LABOUR MANAGEMENT PROCEDURE (LMP)		
	Area of discussion	Issues	Response
1	Community workers	Will there be representatives from all the communities involved. (The community leaderships is comprised of all the clans. In the clans, there also sub clans with their leadership).	All the members of the community should be represented. Guidance should be given on how the representation can be done.
		Elite capture is likely to happen where there is biasness in the selection of the representation, e.g. overlooking some clans. Biasness is mainly on contracted works while for voluntary work everyone is expected to be involved.	The village leaders should assist in assigning the community work.
		Voluntary Community contribution is not very common in Mandera, most of the work is contracted out. Eg. One project where the chief oversees the unskilled work from the community eg. for planting of trees.	Once the community workers are being paid, they move from community workers to contracted workers.
		Religion is more respected in the Somali culture. If community work can be linked to religion, it can assist in ensuring participation.	Involve the elders and chief (entry onto the village) to mobilize community workers. To also include the Sheikh in the mobilization of the community work
		Different clans in the county but some clans taking more work than other clans. How to ensure that some clans are not doing more community work than others. These may cause conflicts	The village elders, opinion leaders etc will develop a criteria for selection of community work without involving child labour or forced labour.
		Who choose the community workers? Especially with the gender stereotyping on some work being for others and not for anyone.	The community should be given options for them to choose.
		How to allocate community work without it being taken as forced labour.	When local administration is involved community work is taken with some seriousness.

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2	Contracted workers	<p>The village elders and the chiefs should help in choosing the contracted workers.</p> <p>The Elderly people in Mandera rarely participate in leadership (community elders) and especially the women.</p>	<p>Guidelines should be given on how to ensure everyone participates and their decisions taken into consideration.</p> <p>Women and the marginalized should be encouraged to participate.</p>
		For people without ID cards, how can one verify that they are not underage.	<p>The chiefs and village elders can ascertain that the people of are age. Also they can be requested to provide birth certificate.</p> <p>For those people with no birth certificate or ID, age assessment can be done by the medical practitioners.</p>
		How to ensure inclusivity in contracted workers	Inclusivity should start from the clan that is selecting the contracted workers. In Mandera all clans involved in the project should be involved
		How to deal with contractors who come with all the workers (non locals)	Contractual documents for the contractors should include the involvement of the local workers so that he can adhere to it
		Who will be monitoring the contractor on the implementation of the ESMP	<p>The sub PIU should be able to monitor the implementation of the ESMP.</p> <p>Clearance for payment will be done by the community so as to ascertain that work was done.</p>
		How to ensure that contracts for works are implemented.	To ensure that the local contractors also participate in the bidding of works and execution. This will ensure completion and sustainability of the projects

Consultation photos

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LMP Consultations in Mandera



Participants in LMP consultation in Mandera

A			
LABOUR MANAGEMENT PROCEDURE			
	Area of discussion	Issues	Response
1	Community workers	How contractual workers are selected	Use of local leaders to identify the community workers. The leaders are informed about the requirement of the work and he assists to select accordingly and also use of gate keepers by Bare of HIS
		Will the programme come up with community participatory tools	Stakeholders consultation will be done widely and community participation tool will be available.

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		<p>and also do transect walk to confirm the areas. Work with structures within the community /local structures Come up with a committee within the community for implementation and monitoring of the project. By Yusuf Ahmed (Action Aid)</p>	<p>GIS coordinates will be collected to ensure that the projects areas can be confirmed and also monitored even remotely.</p> <p>There will be an implementation committee that will assist in programme monitoring</p>
		<p>How to involve the community through unskilled workers</p>	<p>The project implementation committee will come in hardy (A multi stakeholders committee) when selecting the people to be involved.</p>
		<p>The start of the project is implemented is very key and how the project will ensure that the project starts well by Yusuf Action Aid</p>	<p>Community engagement is very key and should be done very well otherwise the the project may not take up well.</p>
2	Contracted workers	<p>How contractual workers are selected Each and every community there intrinsic and extrinsic factor that influence. These factors should be analyzed before the works are advertised. By Ouma of NCPD</p>	<p>Systems will be put in place to ensure proper selection of the team. In order to be inclusive, the advert can include a disclaimer that “contractors from that areas are encouraged to apply” By Yusuf Ahmed</p>

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		How to deal with people who are not of the working age.	Analysis should be done of the people been involved. Eg Interns can be engaged in a project but not below 18.
		Previous grievances with the Labour office in the county on WB contractors especially on delayed payment - Labour office	The labour office tried to solve the issues amicably
	Casual workers	The process used in choosing the contracted workers will be followed.	

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Annex 2: Terms and Conditions for Employment

Terms and Conditions.

Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. Below is the list of relevant provisions of the Employment Act, 2007 and ESS 2 (WBG) mainstreamed to MoWSI, PIU WRA, PIU WSTF Human Resources Manual regarding terms and conditions of work.

Content of individual contract in-line with Employment Act 2007 (Section 10) Subject to the provision of this Act or regulations made hereunder, a written individual contract of employment shall specify the following: (a) name and father's name of workers; (b) address, occupation, age and sex of workers; (c) employer's name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract.

1) Notice for termination of contract in-line with Employment Act, 2007 (Part VI; Sections 35 - 51). Either of the contracting parties may terminate a contract of employment by giving written notice in-line with the provisions of employment Act, 2007:

(a) Not less than ten days in the case of manual workers.

(b) Not less than 30 days in the case of non-manual workers: Provided that no notice need be given in case the duration of contract does not exceed one month.

2) Protection of wages in-line with Employment Act, 2007 (Part IV; Sections 17 - 25)

Taking into consideration the economic and social conditions of the country (and in consistence with the provisions of Employment Act, 2007 and Human Resources Manual, meeting the minimum wages for any category of workers,

Hours of work – Employment Act, 2007 (Article 85, 86): The normal hours of work of a worker shall not exceed eight a day or 48 a week.

3) Weekly rest

Every worker shall be entitled to one day's rest each week, which should normally fall on Friday. It shall consist of at least 24 consecutive hours each week. Workers shall also be entitled to a rest day on public holidays recognized as such by the State.

4) Annual leave (Employment Act, 2007)

Workers shall be entitled to 30days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year.

5) Fringe benefits (Employment Act 2007)

Any employer shall provide (a) accommodation when a worker is required to be away from his normal residence; (b) free food to workers, or subsistence allowance in place thereof; (c) free transport to and from the place of work, when a worker is required to work in a town or locality away from his normal residence.

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6) Deductions from remuneration (Employment Act 2007)

No deductions other than those prescribed by the Code or regulations made hereunder or any other law or collective labor agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing.

7) Death benefit (Employment Act 2007)

In case of death of a worker during his contract of employment, the employer shall pay to his heirs an amount not less than 15 days' remuneration as death benefit for funeral.

8) Maternity and Paternity Leaves (Employment Act, 2007)

A woman worker shall be entitled for maternity leave with pay for 90 days and male workers 14 days in-line with the provision's employment Act, 2007 and MoWSI, WRA, WSTF, Human Resources manual.

1.9 Information Disclosure

The HOAGWRP Component 1 A and B , ESMFs and respective plans shall be publicly disclosed in-country on the MoWSI, WRA, and WSTF Website. Subsequently, site specific implementation plans prepared shall be reviewed and approved by the World Bank and then disclosed appropriately where the target communities and stakeholders will adequately access this information including the use of ICT platforms in line with the Technical Note: Public Consultations and Stakeholder Engagement in WB-supported operations when there are constraints on conducting public meetings.

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Annex 3: Individual Code of Conduct

Implementing ESHS and OHS Standards
Preventing Gender Based Violence

I, _____, acknowledge that adhering to environmental, social, health and safety (ESHS) standards, following the project's occupational health and safety (OHS) requirements, and preventing Gender Based Violence (GBV) is important.

The Company considers that failure to follow ESHS and OHS standards, or to partake in activities constituting GBV—be it on the work site, the work site surroundings, at workers' camps, or the surrounding communities—constitute acts of gross misconduct and are therefore grounds for sanctions, penalties or potential termination of employment. Prosecution by the Police of those who commit GBV may be pursued if appropriate.

I agree that while working on the project I will:

1. Consent to Police background check.
2. Attend and actively partake in training courses related to ESHS, OHS, and GBV as requested by my employer.
3. Will wear my personal protective equipment (PPE) at all times when at the work site or engaged in project related activities.
4. Take all practical steps to implement the contractor's environmental and social management plan (C-ESMP).
5. Implement the OHS Management Plan.
6. Adhere to a zero-alcohol policy during work activities, and refrain from the use of narcotics or other substances which can impair faculties at all times.
7. Treat women, children (persons under the age of 18), and men with respect regardless of race, color, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
8. Not use language or behavior towards women, children or men that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate.
9. Not sexually exploit or abuse project beneficiaries and members of the surrounding communities.
10. Not engage in sexual harassment of work personnel and staff—for instance, making unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is prohibited. E.g. looking somebody up and down; kissing, howling or smacking sounds; hanging around somebody; whistling and catcalls; in some instances, giving personal gifts.
11. Not engage in sexual favors—for instance, making promises of favorable treatment (e.g. promotion), threats of unfavorable treatment (e.g. loss of job) or payments in kind or in cash, dependent on sexual acts—or other forms of humiliating, degrading or exploitative behavior.
12. Not use prostitution in any form at any time.
13. Not participate in sexual contact or activity with children under the age of 18—including grooming, or contact through digital media. Mistaken belief regarding the age of a child is not a defense. Consent from the child is also not a defense or excuse.

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14. Unless there is the full consent³ by all parties involved, I will not have sexual interactions with members of the surrounding communities. This includes relationships involving the withholding or promise of actual provision of benefit (monetary or non-monetary) to community members in exchange for sex (including prostitution). Such sexual activity is considered “non-consensual” within the scope of this Code.
15. Consider reporting through the GRM or to my manager any suspected or actual GBV by a fellow worker, whether employed by my company or not, or any breaches of this Code of Conduct.

With regard to children under the age of 18:

16. Bring to the attention of my manager the presence of any children on the construction site or engaged in hazardous activities.
17. Wherever possible, ensure that another adult is present when working in the proximity of children.
18. Not invite unaccompanied children unrelated to my family into my home, unless they are at immediate risk of injury or in physical danger.
19. 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).
20. Refrain from physical punishment or discipline of children.
21. Refrain from hiring children for domestic or other labor below the minimum age of 14 unless national law specifies a higher age, or which places them at significant risk of injury.
22. Comply with all relevant local legislation, including labor laws in relation to child labor and World Bank’s safeguard policies on child labor and minimum age.
23. Take appropriate caution when photographing or filming children (See Annex 2 for details).

Use of children's images for work related purposes

When photographing or filming a child for work related purposes, I must:

24. Before photographing or filming a child, assess and endeavor to comply with local traditions or restrictions for reproducing personal images.
25. Before photographing or filming a child, obtain informed consent from the child and a parent or guardian of the child. As part of this I must explain how the photograph or film will be used.
26. Ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive.
27. Ensure images are honest representations of the context and the facts.
28. Ensure file labels do not reveal identifying information about a child when sending images electronically.

Sanctions

³ **Consent** is defined as the informed choice underlying an individual’s free and voluntary intention, acceptance or agreement to do something. No consent can be found when such acceptance or agreement is obtained using threats, force or other forms of coercion, abduction, fraud, deception, or misrepresentation. In accordance with the United Nations Convention on the Rights of the Child, the World Bank considers that consent cannot be given by children under the age of 18, even if national legislation of the country into which the Code of Conduct is introduced has a lower age. Mistaken belief regarding the age of the child and consent from the child is not a defense.

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

1. Informal warning.
2. Formal warning.
3. Additional Training.
4. Loss of up to one week's salary.
5. Suspension of employment (without payment of salary), for a minimum period of 1 month up to a maximum of 6 months.
6. Termination of employment.
7. Report to the Police if warranted.

I understand that it is my responsibility to ensure that the environmental, social, health and safety standards are met. That I will adhere to the occupational health and safety management plan. That I will avoid actions or behaviors that could be construed as GBV. 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 ESHS, OHS, GBV 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: _____

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Annex 4 Sample Company Code of Conduct

Company Code of Conduct

Implementing ESHS and OHS Standards
Preventing Gender Based Violence

The company is committed to ensuring that the project is implemented in such a way which minimizes any negative impacts on the local environment, communities, and its workers. This will be done by respecting the environmental, social, health and safety (ESHS) standards, and ensuring appropriate occupational health and safety (OHS) standards are met. The company is also committed to creating and maintaining an environment where children under the age of 18 will be protected, and where Sexual Exploitation and Abuse (SEA) and sexual harassment have no place. Improper actions towards children, SEA and sexual harassment are acts of Gender Based Violence (GBV) and as such will not be tolerated by any employee, sub-contractors, supplier, associate, or representative of the company.

Therefore, to ensure that all those engaged in the project are aware of this commitment, the company commits to the following core principles and minimum standards of behavior that will apply to all company employees, associates, and representatives, including sub-contractors and suppliers, without exception:

General

1. The company—and therefore all employees, associates, representatives, sub-contractors and suppliers—commits to complying with all relevant national laws, rules and regulations.
2. The company commits to full implementing its ‘Contractors Environmental and Social Management Plan’ (C-ESMP) as approved by the client.
3. The company commits to treating women, children (persons under the age of 18), and men with respect regardless of race, color, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Acts of GBV are in violation of this commitment.
4. The company shall ensure that interactions with local community members are done with respect and non-discrimination.
5. Demeaning, threatening, harassing, abusive, culturally inappropriate, or sexually provocative language and behavior are prohibited among all company employees, associates, and its representatives, including sub-contractors and suppliers.
6. The company will follow all reasonable work instructions (including regarding environmental and social norms).
7. The company will protect and ensure proper use of property (for example, to prohibit theft, carelessness or waste).

Health and Safety

8. The company will ensure that the project’s OHS Management Plan is effectively implemented by company’s staff, as well as sub-contractors and suppliers.
9. The company will ensure that all persons on-site wear prescribed and appropriate personal protective equipment, preventing avoidable accidents, and reporting conditions or practices that pose a safety hazard or threaten the environment without fear of reprisal.

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10. The company will:
 - i. prohibit the use of alcohol during work activities.
 - ii. prohibit the use of narcotics or other substances which can impair faculties at all times.
11. The company will ensure that adequate sanitation facilities are available on site and at any worker accommodations provided to those working on the project.
12. The company will not hire children under the age of 18 for construction work, or allow them on the work site, due to the hazardous nature of construction sites.

Gender Based Violence

13. Acts of GBV constitute gross misconduct and are therefore grounds for sanctions, which may include penalties and/or termination of employment and, if appropriate, referral to the Police for further action.
14. All forms of GBV, are unacceptable, regardless of whether they take place on the work site, the work site surroundings, at worker’s camps or within the local community.
15. Sexual harassment of work personnel and staff (e.g. making unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature) are acts of GBV and are prohibited.
16. Sexual favors (e.g. making promises of favorable treatment such as promotions, threats of unfavorable treatment such as losing a job, payments in kind or in cash dependent on sexual acts) and any form of humiliating, degrading or exploitative behavior are prohibited.
17. The use of prostitution in any form at any time is strictly prohibited.
18. Sexual contact or activity with children under 18—including through digital media—is prohibited. Mistaken belief regarding the age of a child is not a defense. Consent from the child is also not a defense or excuse.
19. Unless there is full consent⁴ by all parties involved in the sexual act, sexual interactions between the company’s employees (at any level) and members of the communities surrounding the work place are prohibited. This includes relationships involving the withholding/promise of actual provision of benefit (monetary or non-monetary) to community members in exchange for sex (including prostitution). Such sexual activity is considered “non-consensual” within the scope of this Code.
20. In addition to company sanctions, legal prosecution of those who commit acts of GBV will be pursued if appropriate.
21. All employees, including volunteers and sub-contractors are highly encouraged to report suspected or actual acts of GBV by a fellow worker, whether in the same company or not. Reports must be made in accordance with project’s GBV Allegation Procedures.

⁴ **Consent:** refers to when an adult makes an informed choice to agree freely and voluntarily to do something. There is **no** consent when agreement is obtained through the use of threats, force or other forms of coercion, abduction, fraud, manipulation, deception, or misrepresentation; the use of a threat to withhold a benefit to which the person is already entitled, or; a promise made to the person to provide a benefit. In accordance with the United Nations Convention on the Rights of the Child, the World Bank considers that consent cannot be given by children under the age of 18, even if national legislation of the country into which the Code of Conduct is introduced has a lower age. Mistaken belief regarding the age of the child and consent from the child is not a defense.

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22. Managers are required to report and act to address suspected or actual acts of GBV as they have a responsibility to uphold company commitments and hold their direct reports responsible.

Implementation

To ensure that the above principles are implemented effectively the company commits to:

23. Ensuring that all managers sign the project's 'Manager's Code of Conduct' detailing their responsibilities for implementing the company's commitments and enforcing the responsibilities in the 'Individual Code of Conduct'.
24. Ensuring that all employees sign the project's 'Individual Code of Conduct' confirming their agreement to comply with ESHS and OHS standards, and not to engage in activities resulting in GBV, child endangerment or abuse, or sexual harassment.
25. Displaying the Company and Individual Codes of Conduct prominently and in clear view at workers' camps, offices, and in public areas of the work space. Examples of areas include waiting, rest and lobby areas of sites, canteen areas and health clinics.
26. Ensuring that posted and distributed copies of the Company and Individual Codes of Conduct are translated into the appropriate language of use in the work site areas as well as for any international staff in their native language.
27. Ensuring that an appropriate person is nominated as the company's 'Focal Point' for addressing GBV issues, including representing the company on the GBV Compliance Team (GCT) which is comprised of representatives from the client, contractor(s), the supervision consultant, and local SEA Service Provider.
28. Ensuring that an effective GBV Action Plan is developed in consultation with the GCT which includes as a minimum:
 - i. **GBV Allegation Procedure** to report GBV issues through the project Grievance Redress Mechanism (Section 4.3 Action Plan);
 - ii. **Accountability Measures** to protect confidentiality of all involved (Section 4.4 Action Plan); and,
 - iii. **Response Protocol** applicable to GBV survivors and perpetrators (Section 4.7 Action Plan).
29. Ensuring that the company effectively implements the agreed final GBV Action Plan, providing feedback to the GCT for improvements and updates as appropriate.
30. Ensuring that all employees attend an induction training course prior to commencing work on site to ensure they are familiar with the company's commitments to ESHS and OHS standards, and the project's GBV Codes of Conduct.
31. Ensuring that all employees attend a mandatory training course once a month for the duration of the contract starting from the first induction training prior to commencement of work to reinforce the understanding of the project's ESHS and OHS standards and the GBV Code of Conduct.

I do hereby acknowledge that I have read the foregoing Company Code of Conduct, and on behalf of the company agree to comply with the standards contained therein. I understand my role and responsibilities to support the project's OHS and ESHS standards, and to prevent and respond to GBV. I understand that any action inconsistent with this Company Code of Conduct or failure to act mandated by this Company Code of Conduct may result in disciplinary action.

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Company name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

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Annex 5. Public Service Grievance Form

PUBLIC SERVICE COMMISSION GRIEVANCE PROCEDURE GRIEVANCE FORM
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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:		

<p>Response/Action taken:</p> <p>Respondent's Name</p> <p>Designation.....</p> <p>Signature:Date.....</p> <p>Employee's response</p>
--

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<ul style="list-style-type: none">● 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. <p>SignatureDate.....</p>
--

Stage II
Submitted to:.....
Name:Senior Deputy Secretary (Administration)
Date:
Date Received:
Response/Action taken:.....
Respondent's Name Designation
Signature: Date
Employee's Response <ul style="list-style-type: none">● 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

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Annex 6. Grievance Lodgement Form

		Comment/Grievance Number	
Name of Organization (if applicable)			
Address and Position			
Telephone/Fax			
Email Address			
Method of Grievance Placement	Mail Email Phone Walk In (Face to Face)		
Most effective means to send a response	Mail	Email	Phone
Date and Time of Comment/Grievance	Date	Time	
Nature and location of Comment/Grievance	Please provide details of grievance.		
What outcome are you seeking?			
Additional Information			
Any Supporting Documents Attached	Yes	No	
Initial Response details			
Date of initial response:			
Resolved/Addressed by			
Nature of Resolution:			
Date of Resolution:			

Claimant Signature (if applicable):Date:

HoAGWP Representative Signature:Date:

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Annex 7. Complaints Register Form

Date Received	Name and Address of the complainant	Contact of the Complainant	Complainant Issue	Complaint Channel	Date acknowledged	Action Taken	Complaint status

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Annex 8. Complaints Reporting Template

Complaints Category/type (e.g. service related, SEAH, OSH, etc)	Name and Address of the complainant	Main mode of complaint lodged	No. of complaints resolved	No. of complaints pending	Comments
<p>Recommendations for system improvement</p> <p>1.....</p> <p>2.....</p> <p>3.....</p>					

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Annex 8. Documentation of Community Work

Sub Project Name...	Name of County...	Name of Ward ...
<p>Name of community worker (individual, Group/ Organization/WRUA)</p> <p>Number of workers(if group)</p> <p>M/F</p> <p>Age</p>		
Start time...	End Time...	Date of Activity...
<p>Brief description of activity/Sub Project:</p>		
<p>Nature of Community work provided (type of work, paid/voluntary, working hours). Terms and conditions of work</p>		
<p>Code of conduct signed</p>		
<p>Signature ...</p> <p>(Of community worker at only end of day's community work)</p>	<p>Phone:</p>	
<p>Code of conduct signed:</p> <p>Age verified:</p>	<p>Phone:</p>	

HoAGW4R Project
Labour Management Procedures

Terms of employment explained: Payments made: Signature: ... (Community work Supervisor/Assigned Person)	
Remarks:	