

Republic of Kenya



REPUBLIC OF KENYA

**MINISTRY OF AGRICULTURE AND LIVESTOCK
DEVELOPMENT**

STATE DEPARTMENT FOR CROP DEVELOPMENT

**Vulnerable and Marginalized Groups
Framework (VMGF)
for the
KENYA'S FOOD SYSTEM RESILIENCE
PROJECT (FSRP)**

September 2023

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ACRONYMS

ACHPR	African Commission on the Human and Peoples Rights (ACHPR)
CoC	Code of Conduct
CBO	Community Based Organization
CDD	Community Driven Development
CIGs	Common Interest Groups
CoE	Council of Elders
CoK	Constitution of Kenya
CPSC	County Project Steering Committee
CSO	Civil Society Organizations
CRA	Commission on Revenue Allocation
DAT	Disruptive Agriculture Technology
EAs	Environmental Assessments
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards
FPIC	Free, Prior and Informed Consent
FPO	Farmer Producer Organization
FS	Feasibility Study
FSRP	Food Systems Resilience Project
GDP	Gross Domestic Product
GoK	Government of Kenya
GM	Grievance Mechanism
ICT	Information and Communication Technology
IDA	International Development Association
IP/SSAHUTLC	Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities referred to as VMGs in Kenya
IPM	Integrated Pest Management
IPOs	Indigenous Peoples Organizations
IPV	Intimate Partner Violence.
KAPAP	Kenya Agricultural and Agribusiness Project
KAPSLMP	Kenya Agricultural Productivity and Sustainable Land Management Project
KNCHR	Kenya National Commission on Human Rights
KSh	Kenyan Shilling
KFS	Kenya Forest Service

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LA	Land Act 2012
LAC	Land Administration Committees
LACT	Land Acquisition Compensation Tribunal
LRA	Land Registration Act 2012
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MEWNR	Ministry of Environment, Water and Natural Resources
MSME	Micro, Small and Medium-scale Enterprises
MoALD	Ministry of Agriculture, Livestock, Fisheries, and Cooperatives
MoDP	Ministry of Devolution and Planning
MoE	Ministry of Education,
MoH	Ministry of Health
MOPE	Market-Oriented Producer Enterprise
MoU	Memorandum of Understanding
NARIGP	National Agricultural and Rural Inclusive Growth Project
NCBF	National Capacity Building Framework
NCCAP	National Climate Change Action Plan
NEMA	National Environment Management Authority
NGO	Non-Governmental Organization
NLC	National Land Commission
NLP	National Land Policy
NPCU	National Project Coordination Unit
OP	Operational Policy
PAD	Project Appraisal Document
PAP	Project Affected Persons
PCU	Project Coordinating Unit
PDO	Project Development Objective
PICD	Participatory Integrated Community Development
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SA	Social Assessment
SACCO	Savings and Credit Cooperative Societies
SAIC	Social Accountability and Integrity Committee
SDC	State Department of Crops
SIA	Social Impact Assessment
SLM	Sustainable Land Management
SP	Service Provider
TIMPs	Technologies Innovations and Management Practices
UN	United Nations
UNDRIP	Declaration on the Rights of Indigenous Peoples
US\$	United States Dollars

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VMGs	Vulnerable and Marginalized Groups
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
WB	World Bank

EXECUTIVE SUMMARY

- I. The Government of Kenya has proposed the development of Kenya Food Systems Resilience Project (FSRP) to be implemented in 13 Counties; namely **Baringo, Marsabit, Wajir, Mandera, Garissa, Tana River, Lamu, West Pokot, Laikipia, Isiolo, Turkana, Samburu, and Elgeyo Marakwet**. FSRP will support investments in building resilient food systems in Kenya, through six components. They are:
 - i. (Re-) Building Resilient Agricultural Production Capacity to strengthen the resilience of Kenya's domestic food supply to climate change and other shocks and stressors;
 - ii. Supporting the Sustainable Development of Natural Resources for Resilient Agricultural Landscapes, which aims to enhance the sustainable management of natural resources by investing in water conservation and rangeland management interventions;
 - iii. Getting to the Market which aims to improve physical and economic access to sufficient, safe, and nutritious food by improving crop and livestock farmers' access to domestic and international markets;
 - iv. Promoting a greater focus on Food Systems Resilience in National and Regional Policymaking;
 - v. Contingent Emergency Response Component will finance eligible expenditures in the event of an emergency precipitated by a disaster.
2. The social and environmental risk rating is assessed as **Substantial**. This is mainly due to the vastness of the target area across all the wards in the 13 counties, low capacity of project implementation teams, agro-pastoral activities being vulnerable to child labor and forced labor, existing tensions between communities regarding resources (water, community lands); presence of VMGs; evidence that some sub-projects will require agreement and consent from the communities to use community lands (and if VMGs are present on those lands, free prior and informed consent -FPIC- will be required); some sub project investments may lead to income loss/economic displacement

Project Beneficiaries

3. The primary beneficiaries of the project will be 300,000 crop and livestock farmers and other vulnerable/marginalized persons engaged in agricultural activities. The project will also benefit contractors and extension workers, aggregators, logistics support providers, and services related to Savings and Credit Cooperative Societies (SACCO) and Disruptive Agriculture Technology (DAT). Nearly 5,000 jobs are expected to be created by the creation of SACCOs, expansion of Farmer Producer Organizations (FPOs), agricultural infrastructure operations, and the development of markets and spot repairs
4. This Vulnerable and Marginalized Groups Framework (VMGF) is prepared in recognition that the FSRP will be implemented in counties inhabited by communities who meet the requirements of World Bank Environmental and Social Standard 7 - Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities (ESS7). Broadly, ESS 7 requires that such proposed projects aim at reducing poverty through a sustainable development stemming from enhanced opportunities for Vulnerable and Marginalized Groups (VMGs) to participate in, and benefit from, the development

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process in ways that do not threaten their unique cultural identities and well-being. The Constitution of Kenya 2010 also requires that minority and marginalized groups be mainstreamed in socioeconomic development activities in terms of governance, education and economic empowerment. Therefore, this VMGF is prepared by the Government of Kenya (GoK) in line with the National legal framework and the WB ESS7.

Potential Benefits of the Project to VMGs

5. The project will create opportunities for the VMGs to participate in SACCOs FPOs and value chains neutral activities, and employment during subprojects implementation. The provision of extension technologies through TIMPs and DAT will also improve productivity as well as incomes for them. Culturally appropriate technologies will be adopted for VMGs to practice land management practices and engage in crop or livestock production techniques that are climate smart. The cultural appropriateness of all investments will be a major factor to benefit VMGs both in implementation and final use.

Potential Negative Impacts on VMGs

6. Land or natural resources belonging to VMGs under traditional/customary may be used without the principles of Free, Prior and informed consent (FPIC). The Project may also alter local power structures and relations that may disadvantage the VMGs and lead to SEA/SH incidences at the interface of VMGs and the project and associated actors in the new formal setting. Exclusion of Women and girls' exclusion from spaces of voice, agency and decision-making can lead to decisions that further harm or marginalize women and girls.

Social Risk Management and Disclosure

7. Specific Vulnerable and Marginalized Groups Plans (VMGPs) will be prepared based on the social assessment as prescribed in the ESCP. VMGPs will be prepared and approved along with the county specific E&S instruments and prior to undertaking activities in areas where VMGs are present and implemented throughout the project. Any subproject that may pose risks and impacts described in paragraph 24 of the WB ESS7 will be identified and will not be considered for implementation.

Purpose of the VMGF

8. The objective of this VMG Framework is to set out the requirements of ESS7 about VMGs, specifically on how they will be fully consulted and have the opportunity to actively participate during the design and implementation of FSRP. The identified list of VMGs in the respective project counties will be validated and updated during screening of the various VMGs during the Social Assessment (SA) study specific to each of the 13 counties.

Capacity Building for VMGF Implementation and VMG mobilization

9. The FSRP capacity gap in implementation of the VMGF will be mitigated through further training and mentoring of the all-county teams (social, environmental, community

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institution officers, SACCO and FPO officers). Mobilization Public consultation and Deliberate targeting per benefit per component on VMGs

Institutional arrangement

10. The report discloses the institutional arrangement for delivering the VMGF and the associated documentation such as the VMGP including SA. The institutions include the National Project Coordination Unit (NPCU), Civic Organizations, Non-governmental Organizations (NGOs) and the World Bank.

Grievance Mechanism (GM), and Monitoring and Reporting

11. This FSRP already has GM in place which VMGF recommends adoption into the existing GM developed by the Kenya Climate Smart Agriculture Project (KSCAP) / National Agriculture and Rural Inclusive Growth Project (NARIGP) and Emergency Locust Response Program (ELRP) and the toll-free line developed by ELRP 23771 as formulated. From the lessons learnt VMGs dispute resolution structures, revolve around councils of elders and other culturally appropriate and accessible structures at lower levels. The grievances or feedback from the communities will be channeled through the Social Accountability and Integrity Committee (SAIC) at the community level, then to the County Project Coordinating Unit (CPCU) and the NPCU. The feedback will also be communicated to the community members through the same structures.

Monitoring and Evaluation

12. The monitoring and reporting system will be developed further during VMGP preparation. The main issues to be monitored for the VMGs include number of grievances received and resolved from the VMGs, documentation of the consultations done, number of sub-projects received from the VMGs, the number approved for funding, the number of VMG beneficiaries (men, women and youth) and the TIMPs that have been adopted by the VMGs.

Information, Communication and Disclosure

13. FSRP will endeavor to disclose project information and how it affects or benefits VMGs as transparently as possible and on a continuous basis. Information sharing will happen in two stages. There will be systematic effort to ensure that VMG representatives participate in all consultations including civic organizations such as FPOs, CBOs and NGOs who usually speak for them. Once the VMGPs and other safeguards documents are prepared, they will be submitted to World Bank for approval and disclosed to public before any sub-project is implemented.

Stakeholder engagement and public consultations

14. Initial disclosure was carried out during the 1st stakeholders' meetings that were held on 23rd February 2023 in Machakos. The first day brought together representatives of communities as per the requirements of ESS7. The teams included men, women, female and male youth, and representatives of civil society and People with disabilities in those

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communities. The meeting focused on county line departments and other stakeholders including farmers, line departments, policy makers and other stakeholders including development partners and CSOs. Similar consultations will be continued during site specific-project instruments preparation and implementation. The lists of persons consulted, and minutes of the engagement meetings are in Appendix 6. Stakeholders were identified in line with the Stakeholder Engagement Plan (SEP) already prepared for the project. The document gives a strategy for the participation and consultation and consent of the VMGs on all project activities.

Communication Strategy

15. The VMGPs' communication strategy will focus on:

- Facilitating widespread effective participation of VMGs in culturally appropriate ways with adequate gender and inter-generational representation; with special focus on VMGs that present as minority in a beneficiary ward.
- Providing VMGs with relevant information about value chain plan, associated investments and each sub-project that affects them;
- Documenting in details of all consultation meetings; and
- Providing and explaining grievance mechanisms as additional avenues for VMGs' expression on sub-projects.

Budget for implementation of the VMGF

16. The FSRP project has already prepared an indicative budget of USD 274,200 for the implementation of the VMGF

I INTRODUCTION AND BACKGROUND

I.1 Introduction

- 1) In the World Bank Environmental and Social Framework/Standards, ESS7 constitutes, the term “Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities” referred to as Vulnerable and marginalized Groups ((VMGs) in Kenya in World bank operations) is used in a generic sense to refer exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees: (a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; (b) Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; (c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and (d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside. This ESS also applies to communities or groups who, during the lifetime of members of the community or group, have lost collective attachment to distinct habitats or ancestral territories in the project area because of forced severance, conflict, government resettlement programs, dispossession of their land, natural disasters, or incorporation of such territories into an urban area. This ESS also applies to forest dwellers, hunter-gatherers, pastoralists, or other nomadic groups subject to satisfaction of the criteria in paragraph 8 of ESS7.
- 2) Article 260 of the Constitution of Kenya, 2010, defines “Marginalized Community” as:
 - (a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
 - (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
 - (c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
 - (d) pastoral persons and communities, whether they are—
 - (i) nomadic; or
 - (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole;
- 3) Article 56 of the Constitution of Kenya also refers to the minority and vulnerable communities. It states that “the State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups: (a) participate and are represented in governance and other spheres of life; (b) are provided special opportunities in educational and economic fields; (c) are provided special opportunities for access to

employment; (d) develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure”.

1.2 Project Description

1.2.1 Project Development Objective

- 4) The project development objective (PDO) of the Kenya FSRP is to increase preparedness for food insecurity and improve the resilience of food systems in project areas

Component 1: (Re-) Building Resilient Agricultural Production Capacity

Subcomponent 1.1: Data and Digital Agriculture Systems at the National and County Levels

Subcomponent 1.2: Climate-Smart Agriculture Technologies and Services

Subcomponent 1.3: Community Engagement and Technology Transfer Including through Digitization

Component 2: Supporting the Sustainable Development of Natural Resources for Resilient Agricultural Landscapes

Subcomponent 2.1: Water Availability for Crops and Livestock

Subcomponent 2.2: Rangeland Management for Crops and Livestock

Component 3: Getting to Market

Subcomponent 3.1: Strengthening of Farmer Producer Organizations

Component 3.2: Market Infrastructure and Enterprise Development

Subcomponent 3.3: Creditworthiness of Crop and Livestock Farmers

Component 4: Promoting a Greater Focus on Food Systems Resilience in National and Regional Policymaking

Subcomponent 4.1: Prioritization of Food System Resilience in Public Policy and Spending

Subcomponent 4.2: Institutional Capacity for the Implementation of Resilience-Enhancing Policies

Component 5: Contingent Emergency Response Component (CERC)

Component 6: Project Management

Subcomponent 6.1: Project Coordination (US\$10 million)

Subcomponent 6.2: Project Monitoring, Learning, Knowledge management, and Cross-Cutting Issue.

1.2.2 Project Geography

- 5) The project will make investments at the national, county, and at farm levels. National investments will include capacity building, technical assistance, policy analysis, policy coordination, and targeted market infrastructure upgrades. County- and farmer- level investments will be undertaken in 13 counties: Baringo, Marsabit, Wajir, Mandera, Garissa, Tana River, Lamu, West Pokot, Laikipia, Isiolo, Turkana, Samburu, and Elgeyo-Marakwet.

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KENYA - FOOD SYSTEMS RESILIENCE PROJECT (K-FSRP) SELECTED COUNTIES

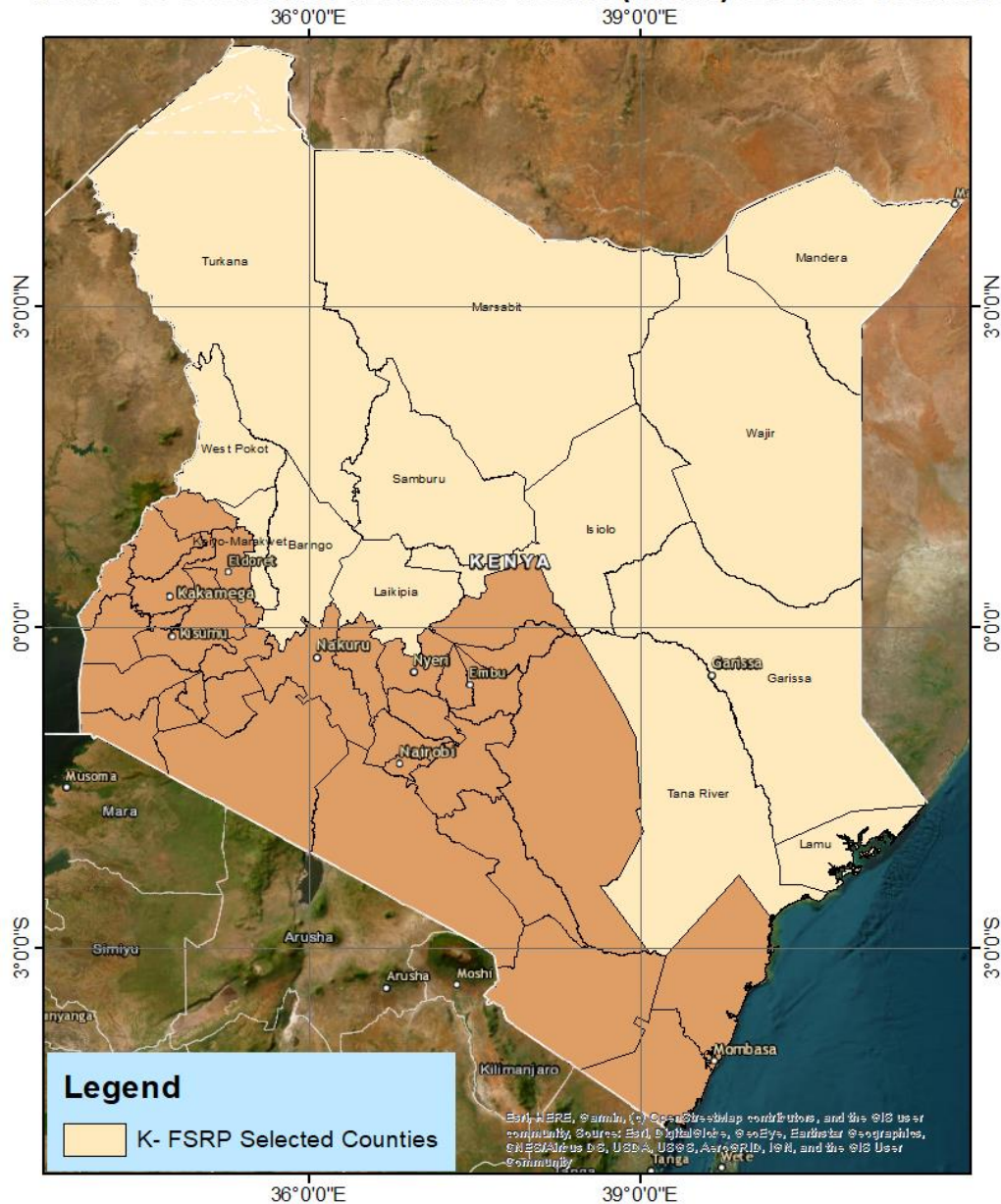


Figure 1: FSRP Counties

1.2.3 Project Beneficiaries

- 6) The project aims to support 300,000 crop and livestock farmers, most of them operating at a small scale. The project will also benefit many other value chain actors including extension workers, aggregators, logistics support providers, and various SMEs. Nearly 5,000 jobs are expected to be created by the expansion of FPO, anchor off-taker, SME, and agritech operations, and the development of agro-entrepreneurship, and market linkages

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Table I: Indicative counties with IPs who may influence the design of the K-FSRP Activities

S/No.	County	IP Community(ies)	Livelihood	Current Collaborative projects/Donor
1	Mandera	Somali, Garre, Degodia, Murule, Waata	Pastoralists: cattle, camels	KCSAP/World Bank
2	Wajir	Somali, Sanye	Pastoralists: cattle, camels	KCSAP/World Bank
3	Marsabit	Gabbara, Turkana, Burji,, Daasanach, Rendille	Pastoralists: cattle, camels	KCSAP/World Bank
4	Garissa	Jareer, Gosha, and Munyoyaya,, Sanye, Boni, Malakote	Pastoralists: cattle, camels	KCSAP/World Bank
5	Samburu	Samburu, Ilkonono, Dorobo, Rendille	Pastoralists: cattle, camels	NARIGP/World Bank
6	Isiolo	Somali, Sakuye	Pastoralists: cattle, camels	KCSAP/World Bank
7	Baringo	Endorois/El Chamus, Dorobo	Fishing, pastoralists, cattle bee keeping	NARIGP/World Bank
8	Turkana	Turkana, Elmolo	Goats, hunting and gathering, fishing	KCSAP/World Bank
9	West Pokot	Sengwer	Cattle keeping	NARIGP/World Bank
10	Laikipia	Yaaku, Ilkunono,	Hunters and gatherers, pastoralists	NARIGP/World Bank
11	Tana River	Munyoyaya, Malakote, Wardei	Pastoralists and Hunters and gatherers	
12	Lamu	Sanye, Boni, Bajuni	Fishing and pastoralists	
13	Elgeyo Mrakwet	Sengwer	Cattle keeping	KSCAP/ELRP/world Bank

1.2.4 Objectives of the VMGF

7) The purpose of this framework is to set out the requirements of ESS7 on VMGs, specifically

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to guide preparation of FSRP interventions that will ensure full access to opportunities and benefits to these communities. Since these communities will be affected by the planned project, the objectives of this VMGF are:

- i. To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of VMGs;
- ii. To avoid negative impacts of sub-projects on VMGs, or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts;
- iii. To promote sustainable development benefits and opportunities for VMGs in a manner that is accessible, culturally appropriate and inclusive;
- iv. To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with PAPs who fit the criteria of VMGs;
- v. To use the principles of FPIC to ensure that the VMGs are not negatively affected by the three situations described in ESS7 par 24 (a) Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation; (b) Cause their relocation from land and natural resources subject to traditional ownership or under customary use or occupation; or (c) Have significant impacts on the cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous; and
- vi. To recognize, respect and preserve the culture, knowledge, and practices of VMGs, and to provide them with an opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them.

1.2.5 VMGF Principles

- 8) The guiding principles of the VMGF include the following.
- i. **Respect for Human Rights** - the framework encapsulates the assurance that FSRP design and implementation process enhances respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of affected VMGs
 - ii. **Addressing adverse impacts of the project** - the framework provides procedures for avoiding FSRP's negative impacts on VMGs, or when avoidance is not possible, to minimize, mitigate, and/or compensate for such impacts.
 - iii. **Promotion of Culturally Appropriate and Sustainable Benefits** - the framework describes procedures for promotion of culturally appropriate and sustainable FSRP benefits and opportunities for affected VMGs.
 - iv. **Improve VMGs Buy-in to the FSRP** - the framework offers suggested procedures for continuous meaningful consultations with affected members to foster positive relationships, buy-in and license to operate from affected VMGs

1.2.6 Approach and Methodology for the VMGF

- 9) The process for preparation of this VMGF followed the following steps.

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- i. Literature and documents review to understand the project and its context. The documents reviewed include anthropological studies of various VMGs, the legal, policy and regulatory instruments in use and relevant to VMGs in Kenya such as the Constitution of Kenya, Vision 2030, and available project documents such as the PAD.
- ii. Predicting the FSRP's potential benefits and negative impacts on the bases of available information on sub-projects and predictable activities. The dimensions and settings of the sub-projects have not yet been determined and thus the prediction of impacts and benefits was at a general level.
- iii. VMGs workshop. This took place on February 2023. The consultations had a total of seventy-four (74) participants including 23 Indigenous People Community Driven Development Committee Members; 40 (County Project Coordinators and County Environmental and Social Safeguards Officers County project officers) from the proposed 13 counties; and 11 (NPOEs, NPCU (KCSAP, ELRP, and NARIGP) and MoALD).
- iv. The stakeholder consultative objective was to: i) sensitize the stakeholders on the proposed FSRP in relation to its development objective, target beneficiaries, and expected outputs and outcomes; ii) sensitize on World Bank guidelines and procedures on grievance mechanisms as well as environmental and social Frameworks in relation to project implementation; and iii) get feedback and inputs towards the improvement of guidelines and procedures that are proposed to guide project implementation especially from the VMGs

2 SCREENING FOR VMGS IN PROJECT COUNTIES

2.1 VMGs characteristics

10) The ESS7 recognizes Vulnerable and Marginalized Groups (VMGs) as per Constitution of Kenya 2010, and identities and aspirations that are distinct from mainstream groups in National societies and often are disadvantaged by traditional models of development. Other VMG characteristics in Kenya are:

- i. Their economic, social, and legal status frequently limits their capacity to defend their rights to, and interests in, land, territories, and natural and cultural resources;
- ii. That status may restrict their ability to participate in, and benefit from development projects;
- iii. They do not receive equitable project benefits and benefits are not designed or delivered in culturally appropriate forms;
- iv. They may not always be adequately consulted on the design or implementation of project that would profoundly affect their lives and communities;
- v. The roles of men and women in indigenous cultures are often different from those in mainstream groups, and women and children suffer double marginalization i.e., in their communities and because of external interventions;
- vi. Livelihoods are inextricably linked to land and natural resources;
- vii. They are particularly vulnerable if their land and resources are transformed, encroached upon, or significantly degraded; and
- viii. Projects may also undermine their language use, cultural practices, institutional arrangements, and religious or spiritual beliefs.
- ix. Historical injustices could also cause discrimination and exclusion

2.2 Step I: Primary Screening

11) The steps to be undertaken for the preparation of VMGF for K-FSRP will include a screening process, to determine whether VMGs are present in, or have collective attachment to, the project area. This screening will be conducted by the social specialists within the Project Coordination Unit in liaison with target counties and communities. Ideally the screening for VMGs communities should consider the GoK's framework for identification of Vulnerable and Marginalized Groups (IP/SSAHUTLC) according to the Constitution of Kenya (CoK) 2010 however, the World Bank criteria for identification of these communities as per ESS7 will be used to make a final determination. Where there is a dispute as to whether a community is VMG or not, the Kenya judicial system has a mechanism of providing a final interpretation and determination. All the 13 FSRP project counties have VMGs who generally include minority groups following traditional livelihoods, generally marginalized, and discriminated against by the wider society. Within the marginalized groups, some segments may also be more vulnerable than others: older persons, persons with disability, women, child and women headed-households, youth, mentally ill persons, and vulnerable children

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The Constitution of Kenya requires the State to address the needs of vulnerable groups, including “minority or marginalized” and “particular ethnic, religious or cultural communities” (Article 21.3): The Specific provisions of the Constitution include: affirmative action programs and policies for minorities and marginalized groups (Articles 27.6 and 56); rights of “cultural or linguistic” communities to maintain their culture and language (Articles 7, 44.2 and 56); protection of community land, including land that is “lawfully held, managed or used by specific communities as community forests, grazing areas or shrines,” and “ancestral lands and lands

2.3 Step 2: Secondary Screening: Social Assessment (SA)

12) If, based on the screening, it is concluded that VMGs are present in, or have collective attachment to, the project area, a social assessment will be undertaken by K-FSRP, with direct support of the social specialists in the NPCU to evaluate: the scale appropriate for the K-FSRP activities, gathering of baseline information on demographic, social, cultural and political characteristics of affected communities, the land and territories that the traditionally owned or customarily used or occupied, and natural resources they depend on; identification of key project stakeholders and elaboration of a culturally appropriate process for consulting with these communities at each stage of the project preparation and implementation; assessment of potential adverse impacts and risks as well as lack of access to opportunities relative to other social groups; and measure to address the adverse impacts and ensure that they receive culturally appropriate benefits under K-FSRP. The breadth, depth, and type of analysis in the social assessment will be proportional to the nature and scale of the proposed activity. The ministry of culture, gender, sports and social services with have a mechanism of resolution.

Table 2: Populations that meet the ESS7 criteria

S/No.	County	IP Community(ies)	Estimated population as per 2019 Kenya Pop and Household Census
1	Mandera	Garre, Degodia	
2	Wajir	Somali, Sanye	
3	Marsabit	Gabbra, /Burji, Dasenach / Geleba	Merille 19,337; Burji 36,938; El Molo
4	Garissa	Jareer, Gosha, Dahalo and Mushunguli, Sanye	Gosha 685; Dahalo 596;
5	Samburu	Samburu, Ilkonono, Dorobo, Rendille	Samburu 237,179
6	Isiolo	Somali	
7	Baringo	Endorois /El Chamus	Elchamus 2,300
8	Turkana	Turkana, Elmolo	El molo 1,104; Turkana 1,016, 174

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9	West Pokot	Sengwer	3000
10	Elgeyo-Marakwet	Sengwer	
11	Laikipia	Yaaku, Ilkunono	
12	Tana River	Munyoyaya, Malakote	
13	Lamu	Boni, Bajuni, Sanye	

- 13) The identified list of VMGs in the respective project counties will be validated during consultations, During the initial consultations on 23rd feb 2023 the VMGs requested for the establishment a framework of defining which specific groups are IPs in counties that are generally referred to as IP and/or when the project Social Assessment (SA) will be done with the various VMGs
- 14) The respective VMGs are not located in one county or even in one sub-county in any of the counties. They are spread across counties, for instance, the Ogiek are found in seven project counties.

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There are a number of groups with self-identify as VMG. Some of these are hunter-gatherers with some transitioning to agro-pastoralism, others nomadic or seminomadic pastoralists and other artisanal blacksmiths and fishing communities. In the absence of updated and reliable statistics, it is difficult to give precise demographic data of the various groups. Estimations vary greatly and depend on personal or institutional judgments of which group is considered as Indigenous Peoples in Kenya..

Table 3: location of vulnerable and marginalized communities in the implementation counties

County	Ethnic groups	Main area of residence
1. Isiolo	Meru Samburu Turkana Somali Borana	Isiolo town and border area Oldonyiro and Ngaremara wards In and around Isiolo Town, and Ngaremara ward Various and towards borders of Garissa and Wajir Various and are almost exclusive inhabitants in Cherab and Chari wards
2. Wajir	Degodia Ogaden Ajurun	Wajir West, El Das, Tarbaj and Wajir East subcounties Wajir South subcounty Wajir North subcounty
3. Mandera	Murulle Degodia Garre Corner tribes	Mandera East, Lafey subcounties Mandera North and West subcounties Mandera North, South, East (around the town), West and Banisa sub counties Mandera East (around the town), Kalaliyo ward and near Daua river
4. Marsabit	Waata Konso Deis El-molo Turkana Lkunono Gabra Rendille	Ileret North-Horr, Dukana, Marsabit (Dirib-Gombo), Hurri Hills, Maikona, Kalacha, Balessa, el-hadi Garwale Marsabit (Dub gobba, Qachacha, Dakabaricha, Dalachas) Telesgei, Loyangalani and Moite

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County	Ethnic groups	Main area of residence
	Borana Samburu Jaldesa Sakuye Arabs	
5. Garissa	Munyoyaya Boni	Munyoyaya Balich village Boni Bodhai ward (Boni forest), Ijara sub county)
6. Tana river	Waata Munyoyaya Malakote /Ilwana	Waata Sombo Munyoyaya Balambala (TR) Malakote /Ilwana Bura
7. Samburu	Il Kunono Dorobo /Il torobo Boni	Maralal Laisamis Wamba Kipini Coast
8. Baringo	Il-Chamus Endorois Sapor Turkana, Luo Pokot Tugen	Kiserian, Marigat, Mokutani, Sandai, Lobo L. Bogoria Kokwa Island Marigat division (Sapor) Around Lake Baringo

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County	Ethnic groups	Main area of residence
9. Turkana	El Molo Ngikebootok	Kalokol (originally form Loiyangalani), They live in Loyiangelani on Marsabit side, Central Islands and Longech past Kalokol in Turkana Banks of River Turkwel around Kaputir, Nakwamoru, Kapelibok, Juluk, Namakat and Nabeye
10. Lamu	Giriama Somali Boni Orma Pokomo Sanye Watta	Witu, Didewaride, Hindi, Mapenya, Mpeketoni, Langoni, Hongwe, Mkomani, Shella, Matodoni (West) Kiunga (East), Mkomani, Witu, Pandanguo, Baharini (West) Hindi, Witu, Pandanguo (West), Kiunga, Patte, Foza, Basuba (East) Witu, Didewaride, Langoni, Mkomani, Baharini, Matondoni, Mkunubi, Makowe (West) Witu, Hindi, Mkomani, Langoni (West), Patte (East) Mapenya. Ndambwe, Mkunumbi, Witu, Hindi, Baharini (West), Foza, Patte, Siu (East) Witu (West), Dide Waride, Waradhe, Seti.
11. Laikipia	Yiaku Maasai Samburu Turkana Pokot	Doldol, Sieku, East Laikipia, Mkogodo forest Sosian North Laikipia North Laikipia
12. West Pokot	Sengwer Pokot	West Pokot Pokot North Pokot Central
13. Elgeyo Marakwet	Cherangany/Sengwer Ogiek/Ndorobo	Cherangany, Kamoi, Kapterit, Koisungu, Chebororwa, Kondabilet, Kaptiony, sengwer, Rogor, Kapterit, Kamoi, Embotut, Kapcherop Kuserwa – Koisungur, Kabiemit, Tumeyo, Soy, Kokwao, Kapchemutwa Sengwer, Kuserwa, Kamoi, Kapterit, Kipteber, Lelan, Kondabilet, Cheborowa, cherangany

- 15) The VMGs are therefore not homogenous. Nonetheless, a general characterization more in-depth descriptions of a some of the VMGs and their livelihoods and culture is discussed below to contextualize project impacts on them.
- 16) The following Vulnerable and Marginalized Groups described below participated by sending representatives in the first consultative meeting held on 23 feb 2023 in Machakos. Those were represented by Ogiek in the group of Hunters and Gatherers, the Ajuran /Sengwer, in the group of Pastoralist and Nomadic, the Wasanye and Makonde in the group of Fishermen .
- 17) In most cases, Vulnerable and Marginalized Groups fall into one or more of the following categories: Hunters and gatherers, Fishermen, Pastoralist and Nomadic, who are briefly described below.

2.3.1 Ogiek

- 18) Marioshoni ward of Molo constituency is home to the largest proportion of Ogiek people in Kenya. Ogieks are an indigenous minority ethnic group in Kenya comprising about 20,000 members. The land they inhabit was forest land and has been cleared for settlement in the last twenty years. The Ogiek claim this land as their traditional territory as hunters and gatherers over several generations. However, this claim has been contested and a court case has progressed through Kenyan courts over the years and landed in the African Court on Human and People's Rights where it was decided in favor of the Ogiek on May 26th, 2017. The African Court ruled inter alia that the Mau forests are the ancestral home of the Ogiek peoples and stated that the most salient feature of indigenous societies is their unhindered access to and use of their traditional land. Even after the court ruling however, the Ogiek continue to live on the land without title deeds.
- 19) There are Ogiek populations in Kiambu, Nandi, Uasin Gishu, Trans Nzoia, Nakuru, Kericho, and Narok Counties. They are all linked together by Language propagated through an FM Radio that broadcasts 24 hours every day from Marioshoni. The NGO Ogiek Peoples' Development Program (OPDP) speaks for all Ogiek people in Kenya.
- 20) The Ogieks' livelihoods revolve around bee keeping and honey. Honey is critical to their religion and belief systems and is a central item in their rituals and ceremonies. They have placed beehives in the forests around them and on their farms. They sell the surplus honey through cooperatives and self-help groups. They also grow maize, beans, vegetables, and potatoes for domestic consumption and for sale of surpluses to the rest of the country through middlemen who transport it. The Ogiek rear dairy cattle and sell most of the milk in Njoro and Nakuru towns.
- 21) The Ogiek are a patriarchal society. They have a strong council of elders that holds sway in most community-wide decisions. All members of the council are men, but women participate in local community meetings and contribute to discussions without hindrance. Other representative organizations of the Ogiek include churches, self-help groups organized around honey production and sales, the NGO Ogiek Peoples Development

Program (OPDP) and several Community-Based Organizations (CBOs).

2.3.2 Sengwer

22) The Sengwer people mainly reside in Cherangany Hills. It is estimated that the current population of the Sengwer, considered as one of the most marginalized groups, is about 3000. They are divided into clans. Most of them do not own land since they were never invited to the settlement schemes and land redistribution program of the former white settlers' farms. It is noted that even the spaces they occupy which are mostly suitable for agriculture have continued to be under disputes from outsiders. Their livelihoods revolve around agriculture, beekeeping, and honey harvesting, and livestock. Their governance rests on a council of elders that is devolved to the clan level.

2.3.3 Wasanye

23) The Wasanye people live in Lamu County (Lamu West in Mapenya (Shekale), Mkunumbi Witu, Madagoni, Sendemke) and in Kwale County (Kinango-Kilibasi, Silaloni, Busho and Matuga-Mbegani/Mkongani). The Wasanye are about 10,000. The Wasanye society is made up of 7 clans: Walunku, Wamanka, Ebalawa, Ilam, Digilima, Simtumi, and Radhotu – speaking in sharp dialects that can compare to Xhosa in South Africa.

24) The Sanye are focused on the forests and take immense pride in their land. They take much comfort in their forests, spending most of their time there and rely on the forests for medicine as opposed to nearby hospitals. The herbs are used to make beverages and heal people. The neighboring communities refer to them as 'witches' as they actively practice witchcraft and believe in the existence of spirits. Their primary language is Dahalo. Originally, they were hunters and gatherers from the forests but have since adapted to subsistence farming, fishing, and honey harvesting. Waata-speaking Sanye of Kenya, numbering 16,500, are rarely consulted, and are unrepresented in county and national leadership.

2.3.4 Watha/Waata

25) In the literature the names Waata and Watha are used interchangeably and refer to the same people. The difference is in the county where they are located. They live in scattered territorial groups along Tana and Galana rivers. A few of them are still living in thick forests across Kenya. They have a traditional council of elders and headman known as Abagaaza who govern them. Land ownership is communal, and a few have managed to get titles for their land. They were originally hunters and preferred elephants as their target, a factor which led to them being labelled poachers and targeted by the government in wildlife conservation efforts. They live in permanent settlements practicing mixed farming and fishing while those in the forests practice beekeeping.

2.3.5 The Talai

26) The Talai (Orgoik or Laibons) originated from Nandi County in the early 1800s and were

assimilated as one of the Kipsigis clans. They moved to Kipsigis land just before the advent of the British colonialism in early 1890s. Once the colonialists arrived, they played a pivotal role in the resistance to the invasion of Kipsigis land. For their role in continual resistance of British occupation the Talai were deported to Gwassi in South Kavirondo in 1934. The Talai totaling about 698 males and females were rounded up and banished to Gwassi. Their deportation ended in 1962 when they were repatriated to Kericho District. However, to date, the majority of them are eking their living from very difficult situations since upon their return to Kipsigis land they were not allocated any land not even from where they had been deported from. They are largely squatters and keep livestock for a living.

3 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

27) This section presents the policy, legal and institutional framework applicable and relevant to the VMGs and identifies the legal and regulatory regime that undergirds the management of potential project impacts.

3.1 The Constitution of Kenya 2010

28) Article 28 of the Constitution of Kenya states that “every person has inherent dignity and the right to have that respected and protected”. This compels the proponents of the project to respect and protect the dignity of the members of VMGs during the project preparation, implementation including construction, and operation. For instance, the project should carefully examine the extent to which the project potentially affects the livelihoods of VMGs, because dignity - the state or quality of being worthy of honor or respect - is part of a people’s livelihoods. It is notable that VMG livelihoods are usually precarious and liable to disruption if exposed to external factors without care.

29) Article 56 provides that the State shall put in place affirmative action programs designed to ensure that minorities and marginalized groups: (a) Participate and are represented in governance and other spheres of life, (b) Are provided special opportunities in educational and economic fields, (c) Are provided special opportunities for access to employment, (d) Develop their cultural values, languages and practices, and (e) Have reasonable access to water, health services and infrastructure. Article 56 thus compels projects to leave VMGs better not worse off, and to preserve their environment, cultural values, languages, and practices. In the project under review, it is critical to consider and remedy any chance of disrupting VMG culture.

30) Similarly, Article 27 (4) states: “The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth” and fully applies to VMGs.

31) Article 69, 1(d) provides that the state shall - encourage public participation in the management, protection, and conservation of the environment. This includes the environments of VMGs, hence the need for meaningful consultation of the VMGs on how any environmental impacts arising from the proposed project shall be managed.

32) Article 63, 2(d)(i) inter alia recognizes VMG lands as community land consisting of - land that is lawfully held, managed, or used by specific communities as community forests, grazing areas or shrines; ancestral lands and lands traditionally occupied by hunter-gatherer communities. Such land is to be treated cautiously when it potentially falls in a project corridor. This is so because the land is usually collectively owned, often untitled and difficult to determine who to compensate in case of acquisition and what form such compensation should take to be acceptable and useful to VMGs.

33) Article 260 of the Constitution of Kenya, 2010, defines “Marginalized Community” that can be considered parallel to VMG description in ESS7:

“marginalized community” means—

- (a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
- (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
- (c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
- (d) pastoral persons and communities, whether they are—
 - (i) nomadic; or
 - (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole.

3.2 The Policy Framework

3.2.1 The Kenya Vision 2030

34) This is a development blueprint for Kenya negotiated in 2013 by a broad spectrum of actors including government, opposition parties, civil society, and development partners among others and aimed at steering the country into a middle-income status by 2030. Vision 2030’s social pillar envisages efforts at protecting the people from discrimination, and respect for gender, youth, and vulnerable groups. Further, the pillar sets in motion efforts for equity and poverty reduction. These efforts are favorable for the development of VMGs in a just environment. These efforts should also build into project the sustainability of VMG livelihoods.

3.2.2 Gender Policy, 2011

35) The policy operationalizes the aspiration for equality of men and women before the law in their pursuit for economic opportunities including employment and business. The policy is facilitative to law reform to get rid of laws that prevent women’s access to and control over economic resources including land. It also aims at improving vocational and technical skills of disadvantaged groups, notably unemployed youth, differently abled women, poor urban and rural women, and street families with the objective of enhancing their employability. This is critical because women, girls and youth constitute important segments of VMG populations.

3.2.3 National Land Policy, 2009

36) This policy was meant to address the land question in the context of a new liberal democracy. The policy speaks to the fact that women, children, minority groups and people

with disabilities (PWDs) have traditionally suffered inadequate land rights resulting from unfair laws, and customary practices. The policy also attempts to address historical land injustices in VMG territories through recognition of traditional occupancy and user rights as land rights. The project under review should proceed under these premises.

3.2.4 Kenya National Youth Policy, 2006

37) This Policy aspires for a society in which the youth enjoy equal opportunity to usefully engage in social, economic, political, cultural, and religious life. The youth constitute a significant component of VMG populations in Kenya. Any initiatives that address their plight therefore speaks to the needs of VMGs and the disadvantaged.

3.2.5 Forest Policy, 2014

38) The policy attempts to align forest management in Kenya with the Constitution of Kenya, 2010. In this policy the Ministry provides an oversight and regulatory role leaving Kenya Forest Service to manage forests on public land, and county governments to manage forests other than those under KFS. The policy adopts an ecosystem approach to forest management, recognizes customary rights and user rights to support sustainable forest management and conservation. The policy aims to promote sustainable production and utilization of non-wood forest products and recognizes community forests as inter alia ancestral forestland traditionally occupied by hunter-gatherer communities. This is critical when working with VMGs that live in or draw some of their livelihood resources from forests.

3.2.6 National Policy on Culture and Heritage, 2009

39) The policy avers that Kenya adheres to UNESCO's definition of culture as "that whole complex of distinctive, spiritual, material, intellectual and emotional features characterizing a society or social group. This definition encompasses, in addition to art and literature, lifestyles, ways of living together, value accepted systems, traditions and beliefs". The also defines national heritage as the sum of all the creativity in all its forms preserved, enhanced, and handed over to future generations as a record of human experience and aspirations. These broad definitions and the requirement of the policy that both the culture and heritage of Kenya conserved judiciously, implies that projects such as FSRP should proceed in a manner that preserves indigenous biodiversity, promotes, or preserves traditional foods, and anchors on, and respects indigenous knowledge in food production and preparation. The latter being part of national heritage.

3.2.7 Policy Framework on Nomadic Education in Kenya

40) The framework shows that there are three kinds of nomads - hunter-gatherers, pastoral nomads, and peripatetic nomads (fishing nomad). The vision of the framework is a globally competitive Nomadic quality education, training, and research for Kenya's sustainable development. This is to be achieved with the recognition of education as a basic human right

and the Kenya government's commitment to EFA, MDGs and Vision 2030. The framework is to ensure conformity with other government policies on education generally and the development of nomadic areas in general. The framework additionally aims at developing partnerships with CBOs, NGOs, and other actors to promote high quality education for nomadic children in Kenya. The relevance of this framework to FSRP is that the latter adds to efforts to develop nomadic areas by increasing production and incomes that will add to educational development and people's welfare in those areas.

3.2.8 National Environment Policy (2014)

41) Provides a framework for improved forest governance, resource allocation, partnerships, and collaboration with the state and non-state actors to enable the sector to contribute to meeting the country's growth and poverty alleviation goals within a sustainable environment. The relevance of this policy to FSRP is that some of the VMGs may be residing in forests and will need to negotiate using resources therein for project supported value chains such as apiary.

3.2.9 Arid and Semi-Arid Land Policy 2012

42) Provides for delicate balance between the quest for rapid development and the need to maintain and support the unique livelihoods system that best utilizes the variable ecological conditions of the region. Some of the counties Narok participating in the FSRP are semi-arid and project activities have to align with this policy.

3.2.10 National Museums and Heritage Act Cap 216 Revised Edition 2012 (2006).

43) The issue of shrines mentioned in Article 63 of the Constitution of Kenya is picked up in the National Museums and Heritage Act Cap 216 Revised Edition 2012 (2006). At Section 46(1) the act provides that "all antiquities which are lying in or under the ground, or on the surface of any land already protected under any law as a monument or being objects of archaeological, paleontological or cultural interest that are discovered in a part of Kenya after the commencement of this Act, shall be the property of the Government". These are of great cultural value and are to be protected and preserved if found or expected to be found in the project footprint. Because of their ability for the preservation of the culture, VMGs are likely to be in possession or control of many antiquities. These must be seen and identified through VMG lenses, not external perspectives.

3.2.11 National Cohesion and Integration Act, 2008

44) The Act is meant to promote National cohesion and integration by protecting Kenyans from discrimination on the bases of ethnic or racial backgrounds. It is the basis of aspirations for equitable distribution of public resources in Kenya. It provides that the distribution of public resources should consider Kenya's diverse population and poverty index. The latter points to affirmative actions in favor of VMGs and other peripheral populations to meet their

expressed development needs and aspirations. The project under preparation should adhere to this Act and make specific provisions to reach and benefit VMGs in culturally appropriate ways.

3.2.12 County Governments Act, 2012

45) The Act operationalizes the constitutional provisions on devolution of resources and power to the 47 counties in Kenya. It bestows the power of decision-making on people in the counties through their representatives in the county assemblies and enhances their participation in local development. It attempts the protection of and promotion of the interests and rights of minorities and marginalized communities, through participatory budgeting and representation in the county legislatures deemed to be closer to the people at the grassroots. Agriculture is a devolved function, and the project should reach and involve VMGs in the consultation processes.

3.2.13 The Community Land Act, 2016

46) The Act recognizes collective ownership of traditional commonly used land. Most VMG land is of the foregoing description and is therefore protected under the Act. The Act provides that community groups registered as owners of community land shall receive compensation in the event of compulsory acquisition. Where community land is not registered, the Act requires affected county governments to hold any such compensation in trust for the affected groups until registration of land titles in the community's favor materializes. The Act recognizes customary occupancy as constituting VMGs' land rights to community land and stipulates the said proprietary rights.

3.2.14 The Forest Act, 2005

47) The Forest Act provides that "nothing in this Act shall be deemed to prevent any member of a forest community from using, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale" (Article 22), and according to Article 47.2(e) that may include "collection of forest produce for community-based industries" premised in a license or management agreement. At Article 3, the Act defines a "forest community" as "a group of persons who have a traditional association with a forest for purposes of livelihood, culture or religion. The FSRP must align to this in its activities that touch on VMGs that qualify as forest communities under this Act.

3.3 International Instruments and Policy

3.3.1 The African Charter on Human and People's Rights

48) Article 22(1) states that all peoples shall have the right to their economic, social, and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

- 49) Article 5 provides that every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman, or degrading punishment and treatment shall be prohibited.
- 50) Article 13(2) states that every citizen shall have the right of equal access to the public service of his country. (3) Every individual shall have the right of access to public property and services in strict equality of all persons before the law. The VMGs affected by the project will be treated with the dignity and respect of their members in perspective.

3.3.2 The ILO Convention No. 169 on Indigenous and Tribal Peoples

- 51) ILO Convention No. 169 is an international treaty adopted by the International Labor Conference of the ILO in 1989. It represents a consensus reached by ILO tripartite constituents on the rights of indigenous and tribal peoples within the Nations/states where they live and the responsibilities of Governments to protect these rights.
- 52) Article 6(1) stipulates that Governments should: “Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly”¹. This calls for meaningful consultation of the VMGs regarding any developments that affect them or their ways of life and livelihoods.
- 53) Further, Article 6(2) of the Convention specifies that “consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures”. The Convention particularly emphasizes the need to consult in the following circumstances²:
- 54) **Prior to exploration or exploitation of mineral and sub-surface resources (Article 15(2))**. Prior to relocation, which should take place only with free and informed consent (Article 16).When considering alienation or transmission of indigenous peoples’ lands outside their own communities (Article 17).On the organization and operation of special vocational training programs (Article 22).On literacy and educational programs and measures (Articles 27 and 28).
- 55) The foregoing provisions buttress the VMGs natural resources including land and call on their involvement in the design of social services for them. Development should therefore not be imposed on them, rather they must be afforded opportunities to negotiate and access that development on their own terms.

3.3.3 World Bank Environmental and Social Framework

- 56) The World Bank Environmental and Social Framework (ESF) has 10 Environmental and

¹ILO (2013) Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169) HANDBOOK for ILO Tripartite Constituents. Geneva: ILO, Page 12.

²Ibid, page 12.

Social Standards (ESS) that form a good basis for project sustainability. The most relevant standard to VMGs is ESS7 on Indigenous peoples/sub-Saharan Africa Historically Underserved Traditional Local Communities. ESS10 on stakeholder engagement and information disclosure also applies to the issue of VMGs. These two standards are discussed below.

3.3.3.1 ESS7 Indigenous Peoples/sub-Saharan Africa Historically Underserved Traditional Local Communities (IP/SSAHUTLC)

- 57) This ESS recognizes that Vulnerable and marginalized groups have identities and aspirations that are distinct from mainstream groups in National societies and often are disadvantaged by traditional models of development. Therefore, the proposed project should respect these identities and aspirations, and must strive to ameliorate rather than deepen their disadvantage.
- 58) This ESS applies regardless of whether VMGs are affected positively or negatively, and regardless of the significance of any such impacts. The ESS calls for avoidance of negative impacts on VMGs where possible and where not possible, minimization and/or compensation for these impacts in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected VMGs. This ESS recognizes that the roles of women and men in VMGs are different from those in the larger society, and that women are often marginalized both within their own VMGs communities and because of external development and may have specific needs. Further, the ESS calls for mitigation measures as well as opportunities for culturally appropriate and sustainable development benefits.
- 59) This process should adhere to stakeholder engagement as discussed in ESS10 on stakeholder engagement and information disclosure. However, where VMGs are particularly vulnerable to the loss of, alienation from or exploitation of their land and access to natural and cultural resources, ESS 7 requires that in addition to the foregoing conditions among others, the proponent obtains the Free, Prior, Informed Consent (FPIC) of the affected VMGs. Any subprojects that will need FPIC³ will be excluded.

3.3.3.2 ESS10 Stakeholder Engagement and Information Disclosure

- 60) This ESS 10 that to promote effective project design, to build local project support or ownership, and to reduce the risk of project-related delays or controversies, the borrower

³ Circumstances requiring Free, Prior and informed Consent (FPIC)

- (a) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- (b) cause relocation of IP/ SSAHUTLC from land and natural resources subject to traditional ownership or under customary use or occupation; or
- (c) have significant impacts on IP/ SSAHUTLC's cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IP/ SSAHUTLC's lives

All the investments under FSRPP will be subjected to ESS screening and any of them found to result in any of the above situations will not be approved for funding.

will undertake an engagement process with affected Vulnerable and marginalized groups, as required in ESS10. This engagement process will include stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner. Cultural appropriateness relates to the usual communication channels that VMGs use. For example, in the case of meetings, if men and women usually meet separately, that should be maintained during consultation. Additionally, any written material being shared during consultation should be the in the language commonly understood by VMGs

- 61) A gap analysis on key ESS 7 and 10 concepts that are relevant to VMGs has been carried out and the output is presented in Table 4

Table 4: Gap Analysis of ESS7/10 and Kenya’s Legal Framework

World Bank ESS7 Requirements	Kenyan Legislative Provisions	Gaps	Recommendations
Self-Identification as members of a distinct indigenous social and cultural group and recognition of this identity by others	<p>Article 10(2) (b): “The national values and principles of governance include: human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.”</p> <p>Article 27(4): prohibits discrimination on any grounds: “the state shall not discriminate directly or indirectly against any person on any ground including conscience, belief, culture, dress, language or birth.”</p>	While the constitution protects the indigenous people, it is not specific on the self-identity of these communities. As such they go unnoticed since not many people know that they exist and hence they miss out on opportunities.	Adopt the recognition of identity in ESS7 and the Constitution’s non-discrimination stance.
Collective attachment to geographical distinct habitats and territories and to the natural resources in these areas	<p>Article 66. (1) Indicates that the State may regulate the use of any land, or any interest in or right over and land, in the interest of defense, public safety, public order, public morality, public health, or land use planning.</p> <p>Forest policy, 2014: The policy adopts an ecosystem approach to forest management, recognizes customary rights and user rights to support sustainable forest management and conservation. The policy aims to promote sustainable production and utilization of non-wood forest products and recognizes community forests as inter alia ancestral forestland traditionally occupied by hunter-gatherer communities</p> <p>The National Land Policy, 2009: The policy attempts to address historical land injustices in VMG</p>	In reference to article 66, the government may in the name of project force them out of their habitation not bearing in mind the psychological harm that comes with it.	Adopt ESS7’s recognition of VMGs’ attachment to distinct habitats and thus consider project negative impacts on those habitats accordingly.

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World Bank ESS7 Requirements	Kenyan Legislative Provisions	Gaps	Recommendations
	territories through recognition of traditional occupancy and user rights and land rights.		
Customary cultural, economic, social, or political institutions that are distinct or separate from the rest of the mainstream population	<p>Article 11. (3) (b) Parliament shall enact legislation to recognize and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics, and their use by the communities of Kenya.</p> <p>Article 63, 2(d)(i) inter alia recognizes VMG lands as community land consisting of - land that is lawfully held, managed, or used by specific communities as community forests, grazing areas or shrines; ancestral lands and lands traditionally occupied by hunter-gatherer communities.</p> <p>Kenya National Youth Policy, 2006 This Policy aspires for a society in which the youth (which make up for the vast majority of the VMG) enjoy equal opportunity to usefully engage in social, economic, political, cultural, and religious life.</p>	Parliament is yet to enact the laws required under article 11 of the constitution.	Respect the indigenous institutions of VMGs and undertake to protect them during project design and implementation.
A distinct language or dialect that is different from that spoken by the other people in the country where they live	Article 44(1): “Every person has the right to use the language and to participate in the cultural life of the person’s choice. A person belonging to a cultural or linguistic community has the right with other members of that community – (a) to enjoy the person’s culture and use the person’s language; or (b) to form, join and maintain cultural and linguistic associations and other	The right to a language of choice has not been backed up with institutions to guarantee that right and protect it. VMG languages are under threat from dominant languages even in the context of development projects.	Follow ESS7 in respecting the respective VMGs languages and translating posters and project document summaries into their languages and use of culturally appropriate methods to reach VMGs. Using the trusted elders and

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World Bank Requirements	ESS7 Kenyan Legislative Provisions	Gaps	Recommendations
	<p>and other organs of civil society. A person shall not compel another person to perform, observe or undergo any cultural practice or rite.”</p> <p>National Policy on Culture and Heritage, 2009 The policy also defines national heritage as the sum of all the creativity in all its forms preserved, enhanced, and handed over to future generations as a record of human experience and aspirations.</p>		<p>opinion leaders from the VMGs will critically improve the confidence of inclusion in the projects.</p>
Public Consultation	<p>Article 35. (1) Every person has the right of access to (a) information held by the state; and (b) information held by another person and required for the exercise of protection of any right of fundamental freedom.</p>	<p>Kenya does not have a specific set of laws and guidelines for public consultation and stakeholder engagement.</p>	<p>Follow ESS 7 and 10 to disclose project information and carry out public consultation with VMGs in culturally appropriate ways.</p>

4 POTENTIAL PROJECT IMPACTS

62) This section identifies the positive and negative impacts of FSRP to the VMGs in the various project counties and proposes actions to mitigate them and indicates who will be responsible for the various actions. Besides mitigating the potential negative impacts, the actions suggested also aim at enhancing the participation of VMGs in the FSRP to benefit from it and climb out of poverty and economic isolation in a way that does not threaten their culture and identity.

4.1 Potential Benefits to VMG/IPs per Component

Table 5: IPs/VMGs benefits to VMGs per component

	Component/Subcomponent	Activities to realize benefits to VMGs
1.0	Component 1: (Re-) Building Resilience Agricultural Production Capacity	
1.1	<i>Sub-component 1.1 Data and Digital Agriculture Systems at the National and County Levels</i>	
	<ul style="list-style-type: none"> • Support the development of national and county agricultural information systems for adaptation planning and resilience building • Support Agriculture Statistics Unit (ASU) in the Agriculture Ministry and strengthen the 13 County agricultural Statistical units (CASUs) • Build on the existing Big data platform at the Kenya Agriculture & Livestock Research Organization • Invest on scaling up the existing digital farmer registry farmers under the Big Data platform and the strengthen the existing KIAMIS • Monitor animal and plant health data (such as pest and animal disease outbreaks and management) • Support implementation of Agriculture insurance program 	<ul style="list-style-type: none"> • Registration of VMGs in the big data platform. • Ensure that you that in all registration a percentage of VMGs is monitored and reported in all reports
1.2	<i>Sub-component 1.2 Climate-Smart Agriculture Technologies and Services</i>	

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	Component/Subcomponent	Activities to realize benefits to VMGs
	<ul style="list-style-type: none"> • Support the development and delivery of climate-smart technologies (CST) including seed systems and gender sensitive technologies; • Support to KALRO to strengthen appropriate seed systems (both crop and livestock) towards building resilience and enhancing productivity; • Promote the development of a farmer field school (FFS) curriculum in which training sessions will be conducted “on farmers own farms,” • Support national and regional institutional capacities to prevent and respond to crop and livestock disease outbreaks. • Support promotion of climate smart seeds (crops) and breeds (livestock) that are climate resilient and farming practices and services that support soil health and water conservation, carbon sequestration, and GHG mitigation. 	<ul style="list-style-type: none"> • Ensure information disseminated and other benefits. • Customize information delivered to VMGs • Ensure that VMGs have lead farmers they can identify with (culturally appropriate) • Identify VMGs needs and distribute appropriate seeds and range management technologies that will promote land use and ownership.
1.3	<i>Sub-component 1.3: Community Engagement and Technology Transfer including through digitalization</i>	
	<ul style="list-style-type: none"> • Support Mobilization of farmers, agro-pastoralists and pastoralists into common interest groups (CIGs) as platforms for collective capacity building, with high emphasis on inclusion of women and youth smallholder farmers; • Support mobilization of new Community-Driven Development Committees (CDDCs) and Common Interest Groups (CIGs) as well as the strengthening of the existing CDDCs and CIGs Support Scaling up a hybrid extension architecture consisting of county, sub county and ward level technical teams and lead farmers (best practicing farmers from within the CIGs). 	<ul style="list-style-type: none"> • Ensure and report participation of VMGs in the PICD process and ensure their priorities are clearly identified. • Culturally appropriate site, mobilization techniques be applied and clearly reported on how VMGs were mobilized • Ensure VMGs presence in all CDDC and SACCOs, FPO and value chain neutral activities.

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	Component/Subcomponent	Activities to realize benefits to VMGs
	<ul style="list-style-type: none"> • Support the scaling up Sustainable landscapes for resilient food systems of partnership with Disruptive Agriculture Technology (DAT) service providers under the existing One Million Farmer Platform including mobilization, technical assistance, training and capacity building and digital equipment. • Develop agri-preneurs that will double up as both the last mile extension service providers and as the human touch point for “bundling” the service. 	
2.0	Component 2: Supporting the Sustainable Development of Natural Resources for Resilient Agricultural Landscapes	
2.1	<i>Sub-component 2.1: Enhancing water availability for crop and livestock:</i>	
	<ul style="list-style-type: none"> • Support water harvesting interventions, development of efficient irrigation and other water use systems, building drought adaptive capacity and climate resilience. • Support farmers to develop and adopt a range of technologies related to water use efficiency that draw on multiple types of equipment and approaches, including drip irrigation, solar pumps, cover, perennial and deep-rooted crops, crop rotation, and reduced tillage, and supporting the efficient use and conservation of productive ground and surface water resources. Support construction or rehabilitation of small farm ponds, multipurpose water pans, and other interventions designed to improve water availability and recharge. 	<ul style="list-style-type: none"> • Ensure VMG priorities are clearly articulated and any impacts on land use taken through the process of Free Prior and informed Consent (FPIC.) • Culturally appropriate technologies be adopted for VMG to practice land management practices and engage in crop or livestock production techniques that are climate smart
2.2	<i>Sub-component 2.2 Strengthening rangeland management for crop and livestock</i>	

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	Component/Subcomponent	Activities to realize benefits to VMGs
	<ul style="list-style-type: none"> • Support sustainable land management (including restoration through soil and water interventions; watershed management/rehabilitation; landscape approach and interventions focused on Land fertility improvement); • Support towards demarcation and restoration of livestock migration routes and common grazing lands; • Development of strategic livestock feed reserves (feed and fodder infrastructure and county-production of hay and fodder. • Support interventions related to animal health (infrastructure for disease surveillance and vaccination, holding grounds, and quarantine yards. • Support to crop-livestock integration including seed multiplication and bulking (crops and pasture) and improved breeding practices. 	<ul style="list-style-type: none"> • Support initiatives that ensure shared use of natural resources among VMGs • Promotion of Peace building conflict resolution with the Communities living with VMGs • Ensure crop livestock/wildlife conflicts that may affect VMGs are resolved and recorded in time.
3.0	Component 3: Getting to Market:	
3.1	<i>Sub-component 3.1 Strengthening of Farmer Producer Organizations</i>	
	<ul style="list-style-type: none"> • Support building capacity of sustainable and inclusive Farmer Producer Organization (FPOs) as anchor institutions that will facilitate aggregation, quality control and marketing of agriculture and livestock produce and products; • Support preparation of inclusion grants to FPOs and bankable business plans and provision of small-scale seed capital and matching grants to FPOs and other SMEs and cooperatives, as well as capital investment support to build their capacity for value addition; 	<ul style="list-style-type: none"> • Promotion of culturally appropriate market channels for all VMGs • Ensure big data information reaches all VMGs appropriately by ensuring their trusted opinion leaders and elders are used • Make a deliberate move to ensure inclusion of VMGs in formation of FPO • Support financing of VMGs in the universalization principle

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	Component/Subcomponent	Activities to realize benefits to VMGs
	<ul style="list-style-type: none"> • Support for long term sustainable formal financing to FPOs and other value chain stakeholders to catalyze opportunities for job creation, and inclusion of women and small-scale producers. • Support assessments of domestic, regional, and global market opportunities, and value chain analyses and development plans and implementation of climate-informed Enterprise Development Plans (EDPs) • Support subscription to climate information services and provision of real-time agrometeorological advisory and decision-support services to members of these EDPs; and training on reducing contamination and GHG emissions in livestock rearing. 	
3.2	<i>Sub-component 3.2 Market Infrastructure and Enterprise Development</i>	
	<ul style="list-style-type: none"> • Support investments in market infrastructure that focus on enabling improved handling of crop and livestock produce, and adherence to sanitary and phytosanitary (SPS) standards (Cold chain infrastructure for livestock produce, grading sorting and processing facilities for crop produce). • Support infrastructure that reduce post-harvest losses, and logistics related investments including up-gradating of feeder roads to improve market access • Support infrastructure investments at market level in the PPP mode to the extent possible and will focus on creating new jobs for local communities 	<ul style="list-style-type: none"> • Cultural appropriateness of all investments will be a major factor so as to benefit VMGs both in implementation and final use, labour, primary supplies, community labour etc.
3.3	<i>Sub-component 3.3 Creditworthiness of Crop and Livestock Farmers</i>	

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	Component/Subcomponent	Activities to realize benefits to VMGs
	<ul style="list-style-type: none"> • Capacity building and training of agri-food producers and other value chain actors to prepare viable business and investment plans; • Training and engagement of financial institutions and service providers to increase participation in the agri-food sector; • Provide training to enhance financial management capacity of CIG member’s farmers, SACCOs/CDDCs and FPOs; • Development of value chain-specific credit information; (viii) the development of agricultural insurance products to mitigate against price and climate risk; • Development and deployment of digital financial services to reduce information asymmetry along the value chain and increase financial inclusion; 	<ul style="list-style-type: none"> • VMGs will benefit from SACCO credit which will be value chain neutral, information benefits on their phones after registration.
6.2	Sub Component 6.2: Project Monitoring, learning, knowledge management, and Cross cutting Issues	
	<ul style="list-style-type: none"> • Finance activities related to communication with all stakeholders including project beneficiaries, all government officials that are part of the project implementation • Finance Environmental and Social Standards implementation, monitoring and compliance • Finance activities related to routine M&E functions (e.g., data collection, analysis, and reporting) and development of an ICT-based Agricultural Information Platform for sharing information 	<p>Reports related to benefits accrued by VMGs becomes a key indicator in all ESS documents from screening to implementation, SACCOs and FPO</p>

- 63) The project will create opportunities for the VMGs to participate in both FPOs and value chain activities, and to sell their produce at higher prices. VMGs often sell their produce at throwaway prices to the middlemen who collect the produce from their farms. Through this project, they will have opportunities to negotiate prices through FPOs and to benefit from higher prices arising from value addition to their produce before selling. Part of the support FSRP will give includes capacity building of the VMGs to be competitive in the market.
- 64) The project will also strengthen links between the VMGs and county government services including the extension and other technical services they provide to support the selected value chains. This will bring them into the county decision-making processes. It will also provide opportunities for VMGs to participate in decision-making about value chain related policy changes at the county and national level.
- 65) The project will also provide job opportunities in better-managed value chains and in small construction works in sub-projects for VMGs farmers and youth. These new income streams will benefit local livelihoods.
- 66) The project will also benefit the VMGs through the implementation of TIMPS and subsidies through the e-voucher system. These will help improve productivity as well as incomes for them. Besides that, the utilization of DAT will equally affect their production systems positively and improve their livelihoods.

4.2 Potential Negative Impacts on VMGs

- 67) Though the major risks of exclusion have been highly reduced in the design by universalization, value chain neutral SACCOs and FPOs, of the project in some cases, the sub projects or land use can be proposed on a land or natural resources under traditional/customary use leading to granting of community lands belonging to VMGs. No land acquisition is anticipated during the FSRP project.
- 68) The project is also likely to alter local power structures and relations that may disadvantage the VMGs. This could lead to SEA/SH incidences at the interface of VMGs and the project and associated actors in the new formal setting. FPOs are likely to become stronger and to broker value addition activities to selected value chains where the VMGs usually participate but from positions of weakness. Well managed inclusive FPOs will listen to VMGs' concerns and to even reach them with inputs and marketing opportunities. This is because VMGs are the on the periphery of decision-making processes. Therefore, any changes and benefits intended by the FSRP for VMGs production and livelihoods, should be carried out at the preferred pace and manner of the VMGs. To achieve this there will be continuous consultations with VMGs during project implementation to ensure that VMGs can process the interventions at their terms.

4.3 Exclusion list that applies also to VMGs

69) The following types of activities will be considered ineligible for financing under the project:

- i. Activities that may cause economic displacement of more than 200 people
- ii. Activities that may lead to physical displacement of PAPs
- iii. Activities that have a high probability of causing serious adverse effects to human health and/or the environment;
- iv. Activities that may adversely affect lands or rights of VMGs or other vulnerable and marginalized groups;
- v. Associated facilities which do not meet the requirements of the ESSs, to the extent that the beneficiaries have control or influence over such associated facilities;
- vi. Activities that may have significant adverse social impacts and/ or may give rise to significant social or community conflict;
- vii. Sub-project/ activity with either adverse impacts on land or natural resources under traditional/customary use or have risks associated with the relocation of VMGs coupled with any negative impact on their cultural sites/heritage;
- viii. Activities that may affect or result in impacts on cultural heritage; and
- ix. Any other excluded activities as set out in the RPF and ESMF for the Project.

5 PROCEDURES FOR PREPARATION OF VULNERABLE AND MARGINALIZED GROUP PLANS (VMGPS)

5.1 Vulnerable and Marginalized Group Plan

- 70) This VMGF is being prepared because the value chain development plans specific to beneficiary counties is yet to be prepared and actual sub-projects of the FSRP have not yet been designed to allow the project team to assess the potential impacts on VMGs.
- 71) Under ESS 7, it is required that after the project is designed, it's scope and intersection with VMGs and its footprint is better understood, a VMGP is prepared in line with procedures provided in the VMGF. The purpose of the VMGP is to spell out how affected VMGs will be consulted throughout the project, identify the impacts of the FSRP on affected VMGs, show how those will be avoided and/or mitigated, and propose measure to ensure that they access FSRP benefits fairly and in culturally appropriate ways (annex 4).
- 72) The VMGPs shall be prepared for each of the 13 counties where VMGs are present at the time of preparation of respective PICD in the first year of the project implementation phase and prior to rollout of activities at the community SACCO and FPO level (Annex 3). The specific VMGPs will be based on the mobilization and identification done during universalization where all wards will be covered for the each of the 13 counties with presence of VMGs. The preparation of specific county VMGPs shall be independent of the respective County Integrated Development Plans (CIDPs), process, and timing. The VMGP includes the following elements, as needed:
- i. A summary of the targeted Social Assessment (SA), including the applicable legal and institutional framework and baseline data.
 - ii. A summary of the results of the meaningful consultation tailored to VMGs, and if the project involves the three circumstances specified in paragraph 24 of ESS7, then the activities will not be approved for implementation.
 - iii. A framework for meaningful consultation tailored to VMGs during project implementation.
 - iv. Measures for ensuring VMGs receive social and economic benefits that are culturally appropriate and gender sensitive and steps for implementing them. If necessary, this may call for measures to enhance the capacity of the project implementing agencies.
 - v. Measures to avoid, minimize, mitigate, or compensate VMGs for any potential negative impacts that were identified in the social assessment, and steps for implementing them.
 - vi. The cost estimates, financing plan, schedule, and roles and responsibilities for implementing the VMGP.
 - vii. Accessible procedures appropriate to the project to address grievances by the affected VMGs arising from project implementation, as described in paragraph 35 of ESS7 and in ESS10.

- viii. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the VMGP, including ways to consider input from project-affected VMGs in such mechanisms.

5.2 Social Assessment (SA)

5.2.1 The Need for Social Assessment

- 73) The assessment should consider differentiated gender impacts of project activities and impacts on potentially disadvantaged or vulnerable groups within the community of VMGs. Therefore, efforts are made to assess the status of women and girls regarding land ownership, labor provisioning and access to returns to their labor in the event of formalization of production and linkages to the market.
- 74) The assessment also evaluates the proponent's capacity to involve VMGs in project design and implementation. Consultations with VMGs can support and strengthen the assessment and help in identifying their development priorities and preferences regarding both project benefits and mitigation measures. Consultations are carried out with VMGs in a manner that is culturally appropriate, and their inputs are considered in project design and VMGPs. Consultations continue throughout project design and implementation.
- 75) In the FSRP, VMGs are heterogeneous as they comprise multiple groups and different social units within these groups (such as individuals, clans, communities, and ethnic groups). In this case, the project is being implemented at the National, Regional, or local level, and issues of cultural identity, geographic access, language, governance structures, cohesion, and priorities differ greatly among groups. The FSRP also has different impacts on different subgroups within the VMGs. For example, land for a project may be identified from one clan, for use in project activities but could impact other clans' traditional access to and use of such land and the resources located on it.

5.2.2 Considerations in Preparing a Social Assessment Report

- 76) The social assessment will include the following elements, as needed.
 - i. A review of the legal and institutional framework applicable to VMGs.
 - ii. Baseline data collection and analysis on the demographic, social, cultural, and political characteristics of the VMGs; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
 - iii. Taking the review and baseline data into account, the identification of project-affected parties and the elaboration of a culturally appropriate process for involving and consulting with the VMGs at each stage of project preparation and implementation.
 - iv. An assessment, based on meaningful consultation tailored to VMGs, of the potential negative and positive effects of the project. Critical to the determination of potential negative impacts is an analysis of the relative vulnerability of, and risks

to, the affected VMGs, given their distinct circumstances and close ties to land and natural resources, as well as their potential lack of access to opportunities relative to other social groups in the communities, regions, or National societies in which they live. The assessment will consider differentiated gender impacts of project activities and impacts on potentially disadvantaged or vulnerable groups within the community of VMGs.

- v. The identification and evaluation of measures necessary to avoid negative impacts, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such impacts, and to ensure that the VMGs receive culturally appropriate benefits under the project. This is based on meaningful consultation tailored to VMGs.

5.2.3 Consultations with VMGs for the Preparation of This VMGF

- 77) Consultation with VMGs during the preparation of this VMGF was carried in compliance with Ministry of Health protocols. This entailed conducting a one-day on workshop February 23rd, 2023 where ten FSRP participating counties sent VMGs representatives including men, women, female and male youth, CBO representatives, and persons abled differently. The workshop used Kiswahili and vernacular languages to reach every participant effectively and to facilitate him or her to participate in the workshop actively and express their opinions.
- 78) The VMGs suggested that they should not be lumped together with dominant communities during project design and implementation. They also requested to be involved and consulted on the project beyond the design period into implementation and to ensure that sensitive ecosystems that VMGs occupy are not interfered with using pesticides that may for instance affect bee keeping.

6 STRATEGY FOR PARTICIPATION & CONSULTATION WITH VMGS

6.1 Introduction

79) Participation of VMGs, and VMGs representatives, NGOs and CBOs that represent VMGS will be form the basis of mobilization and consultation. The consultation and feedback will guide in selection, design and implementation of the subprojects, registration during universalization where all wards will be covered, registration into a SACCO which are value chain neutral and acquisition of credit will largely determine the extent to which the VMGP objectives would be achieved. To facilitate effective participation, the VMGP will follow a timetable to consult VMGs at various stages of the project cycle especially during preparation and implementation of the VMGPs for the screened and identified VMGs. (Table 2-1). The primary objectives would be to achieve the following:

- i. FSRP get consent of the community(ies) – VMGs before they are involved;
- ii. Allow these communities who meet the requirements of ESS7 (paragraph 8 and 9) to get full opportunity to fully participate in the project;
- iii. Get VMGs full access to accruing project benefits;
- iv. Seek their inputs/feedback on how to maximize benefits accessibility and how to avoid or minimize the potential negative impacts associated with the required works;
- v. Identify culturally appropriate impact mitigation measures; and
- vi. Assess and adopt economic opportunities, which the project team could promote to complement the measures required to mitigate the negative impacts.

80) Consultations will be carried out broadly in two stages. First, prior to final selection of any subproject located in an area inhabited by VMGs, the project team will consult them about the need for, and the probable positive and negative impacts associated with the value chain project and attendant infrastructure development. Second, prior to detailed impact assessment, ascertain how the VMGs in general perceive the need for the project and gather any inputs/feedback they might offer for better outcomes, which would eventually be addressed in VMGPs and design of the physical works.

6.2 Broad Decision Areas for VMGP Preparation

81) To ensure that VMGs are fully consulted about and have opportunities to actively participate in project design and the determination of project implementation arrangements: the scope and scale of consultation, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential project risks and impacts as they may affect vulnerable and marginalized groups. The implementers at the county and community level need to have the following information at hand (decision areas):

82) The consultations and data collection will focus on some of the aspects such as the design of the project, The communities targeted, physical location of the VMGs, (ward, sub county,

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County) the prioritized value chains, the feedback channels necessary and available, the stakeholders capacity needs, types of trainings to be organized and the target trainees, , the key decision makers in the community etc. After doing this and more, the output is the VMGP that needs to be accepted, adopted, and monitored, and reported on during the M&E.

- 83) The information above demonstrates some of the activities that VMGs must be included, involved, and consulted in a manner consistent with their collective attachment to the project area, with a view to help them access full project opportunities and benefits throughout FSRP cycle. The VMGPs shall be prepared for each county at the time of preparation of respective value chain development plans in the first year of the project implementation phase and prior to rollout of activities at the community and FPO level.
- 84) The VMGPs' communication strategy will:
- i. Facilitate participation of VMGs with adequate gender and generational representation; customary/traditional IPOs, community elders/leaders, and CSOs on VMGs development issues and concerns;
 - ii. conduct the consultations in a manner to ensure free expression of their views and preferences; and
 - iii. Facilitating widespread participation of VMGs in culturally appropriate ways with special focus on VMGs that are present as minority in a beneficiary ward.
 - iv. Providing VMGs with relevant information about value chain plan, associated investments and each sub-project that affects them including expected positive and negative impacts,;
 - v. Providing and explaining grievance mechanisms as additional avenues for VMGs' expression on sub-projects.
 - vi. Document details of all consultation meetings with VMGs including perceptions of the proposed interventions and the associated impacts, especially the negative ones and any inputs/feedback offered by the VMGs.
- 85) The SA will assess the detailed impacts at household and community levels, with a particular focus on the negative impacts perceived by VMGs and the probable (and feasible) mitigation and community development measures. To ensure informed participation and more focused discussions, the communication strategy will provide affected VMGs with the impact details of the proposed project activities. Consultations will cover topics/areas concerning cultural and socioeconomic characteristics, as well as those VMGs consider important. Consultations will continue throughout the preparation and implementation period, with a focus on the households directly affected. Consultation stages, probable participants, methods, and expected outcomes are suggested in the VMGs consultation matrix presented in Table 6.

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Table 6: Indicative VMGs Consultation Matrix

Consultation Stages	Consultation Participants		Consultation Method	Expected Outcome
	Project Authority	VMG Community		
Reconnaissance & ground verification of existing location/sites for subprojects	Project team, project consultants (Social Scientist) and other stakeholders	VMGs, NGOs, CBOs VMG representatives and opinion/elders including organizations, community leaders /elders, youth group leaders, religious leaders	Open meetings & discussions, visits to proposed subproject sites, VMG settlements & surroundings, key informant interviews with VMG leaders	First-hand assessment of VMGs' perception of potential social benefits and risks, and prospect of achieving broad base support for the project activities
Screening of the proposed subprojects	PCU, consultants, and respective county representatives	VMGs, NGOs, CBOs VMG representatives and opinion/elders VMGs including organizations, community leaders /elders, youth group leaders, religious leaders	Open meetings & discussions, visits to proposed subproject sites, VMG settlements & surroundings, key informant interviews with VMG leaders	Assessment and documentation of the subprojects' impacts on VMGs, appropriate mitigation measures for negative impacts and decisions on which subprojects to align and implement, and which ones to discontinue based on VMGs needs and preferences.
In-depth study of risks and benefits taking into consideration, inter alia the conditions that led to community consensus	NPCU, consultants, and respective county representatives	VMGs, NGOs, CBOs VMG representatives and opinion/elders VMGs, including organizations, community leaders /elders, youth group leaders, religious leaders	Open meetings & discussions, visits to proposed subproject sites, VMGs settlements & surroundings, key informant interviews with VMG leaders	Assessment of VMGs' perception of potential social benefits and risks, and prospect of achieving broad base support for the project activities. Understanding of activity adjustments to align with VMGs needs and aspirations.
Social Assessment/analysis	PCU, consultants, and respective county representatives	VMGs, NGOs, CBOs VMG representatives and opinion/elders VMGs,	Open meetings & discussions, visits to proposed subproject sites, IP settlements &	Assessment and documentation of the subprojects' impacts on VMGs, appropriate mitigation measures for

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Consultation Stages	Consultation Participants		Consultation Method	Expected Outcome
	Project Authority	VMG Community		
		including organizations, community leaders /elders, youth group leaders, religious leaders	surroundings, key informant interviews with VMGs leaders	negative impacts and decisions on which subprojects to align and implement, and additional ones to enhance VMGs participation and benefits from the FSRP.
Preparation of VMGPs	PCU, consultants and respective county representatives	VMGs, NGOs, CBOs VMG representatives and opinion/elders VMGs including organizations, community leaders/elders, youth group leaders, religious leaders	Open meetings & discussions, visits to proposed subproject sites, IP settlements & surroundings, key informant interviews with VMGs leaders	Development of County specific VMGPs to guide the investments for IP communities in FSRP
Implementation	PCU, consultants, and respective county representatives	VMGs, NGOs, CBOs VMG representatives and opinion/elders VMGs, including organizations, community leaders/elders, youth group leaders, religious leaders	Open meetings & discussions, visits to proposed subproject sites, VMGs settlements & surroundings, key informant interviews with VMGs leaders	Based on county specific VMGPs, the IP communities will participate and support the various sub-projects and activities, and ensure that benefits flow to VMGs.
Monitoring & Evaluation	PCU, consultants, and respective county representatives	A few VMG representatives from organizations, community leaders/elders, youth group leaders, religious leaders	Project level focused meetings and field level meetings with VMGs and representatives active in the value chains	VMGs' appreciation of the project processes and outputs, and the remedial actions suggested to better reach them with the subprojects and activities.

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Consultation Stages	Consultation Participants		Consultation Method	Expected Outcome
	Project Authority	VMG Community		
Further consultations	CARE International, Save the Children, World Vision, Catholic Relief Services, UNICEF, Islamic Relief, African Development Solutions, Kenya Red Cross Society, among others.			

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86) The following strategies should also be included in the project to support the participation of the VMGs:

- i. The project should explore how to accommodate the most vulnerable and destitute members of VMGs, especially older persons, People with Disability, (PWD) child/female headed households and more so those who have been living in the project area for many years.
- ii. Encourage members of VMGs to get involved in various development planning, implementation, operation, and maintenance (O&M) activities in the project through arranging related training.
- iii. Assist members of VMGs to develop their capacity and capability to enable them to participate in the proposed subprojects.
- iv. Explore avenues for creating employment opportunities for VMGs women and youth.
- v. Ensure adequate resources and technical support for the implementation of the action plan for VMGs.
- vi. At all stages, culturally appropriate communication methods (verbal and non-verbal, in local language) should be used to ensure meaningful consultation; and
- vii. Provision to ensure involvement of VMGs community members in various training activities as part of the subproject to enhance livelihoods.

87) The VMGPs with support from the project will ensure mitigation of any negative impact of the subproject. The subproject should ensure benefits to the VMGs by providing, in consultation with them, an opportunity to get them involved in various income earning opportunities and activities.

88) The following issues will be addressed during the implementation stage of the project:

- i. Provision of an effective mechanism for monitoring implementation of the VMGF and any VMGPs.
- ii. Development of accountability mechanisms to ensure the planned benefits of the project are received by VMGs.
- iii. Ensuring appropriate budgetary allocation of resources for the VMGPs; and
- iv. Provision of technical assistance for sustaining the VMGF; and
- v. Ensuring that VMGs traditional social organizations, cultural heritage, traditional political and community organizations are protected.
- vi. Ensuring that VMGs' traditional production systems are preserved and enhanced.

7 INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

89) This chapter provides the institutional arrangements at play in delivering and operationalizing this VMGF and associated documentation such as the VMGP and SA as appropriate. The responsibility for the tasks rests with the project coordination unit (PCU) and the safeguards team therein.

7.1 Capacity Building for the VMGF Implementation

90) The operationalization of the VMGF will require competent social safeguards staff at the NPCU and CPCU. They will require further sensitization on the planned activities under FSRP, the World bank ESS including ESS7. These teams will then build the capacity of the other staff and stakeholders in FSRP. They will also be expected to build the capacity of the key stakeholders in the project including the VMGs, the IPOs, CIGs, FPOs, CBOs and also the NGOs.

7.2 Capacity Assessment

91) The assessment of the FSRP is to identify any capacity gaps and recommend capacity development and mentorship efforts. Initial assessment shows that the FSRP has a capacity gap in social risk management. Once the assessment is complete, recommendations will be made in relation to the capacity gaps and officers who have excellently supported ELRP/KSCAP/NARIG on E&S will be deployed to FSRP NPCU. The capacity assessment for the VMGF implementation will focus on the requirements provided in Table 7.

Table 7: Capacity Building Needs

#	Domain	Relevant Expertise Available	Qualifications	Remarks
1	FSRP	Inadequate social safeguards expertise available to the project	Needs a Sociologist /Anthropologist with at least two years' experience in similar work.	The person deployed will require further training and mentorship.
2	County Government	Social Experts	These are available and will need further capacity building in specific safeguards subjects	Training can be provided in-house
3	National Level	Social Experts	These are available and will need further capacity building in specific safeguards subjects	Training can be provided in-house

7.2.1 The NPCU and Safeguards Team

- 92) For all Project activities the MoALD shall maintain an organizational structure with qualified and experienced staff, and resources to support management of environment and social risks of the Project; including expediting the appointment and/or hiring and deployment of qualified and experienced Environmental Specialists, GBV expert, Social Safeguards Specialists/anthropologist, Communications Specialist to support the National Project Coordination Unit (NPCU).
- 93) Similarly, for all Project activities the participating counties shall each maintain an organizational structure with qualified staff and resources to support management of environment and social risks of the Project; including the hiring and deployment of qualified and experienced Environmental Specialist and Social Safeguards Specialist to support the County Project Coordination unit (CPCU) on this Project to complement the staff at post.
- 94) The safeguard specialists in FSRP, with support from a panel of experts as appropriate, will be responsible for the following:
- i. Screening for sub-projects affecting VMGs;
 - ii. Reviewing, tweaking, and approving sub-projects, while ensuring their compliance and benefit from ESS7 and attendant guidance notes;
 - iii. Assessing the adequacy of screening and reviews of sub-project impacts and the attendant mitigation measures for affected VMGs;
 - iv. Assessing the adequacy of stakeholder identification, consultation, and involvement of the affected VMGs communities' broad support to the sub-projects;
 - v. Monitoring sub-project implementation, to draw and document constraints and lessons learned concerning VMGs and the application of this VMGF in the progress and monitoring reports; and
 - vi. Ensuring that the affected VMGs participate actively in the monitoring and evaluation exercises of all sub-projects that affect them, and that their feedback is included in future sub-project actions.
- 95) The role of the NPCU will also include responsibility of guiding identification of VMGs and other project investments at county level; guiding on screening; guiding preparation of VMGPs and other investment proposals; guiding vetting at County level; reviewing VMGPs; and other investments at National level through the National technical committee; obtaining clearance from World Bank; disclosure of the VMGPs; and other related documents; and monitoring of implementation of VMGPs. Review and screening of county annual investment plans and budgets, as necessary and as guided by the county Safeguards Focal Officers and the relevant county committees. Between 12 months to 18 months after launch of FSRP, both the VMGPs and other community proposed, screened, and approved investments

should have been presented to the NPCU for review and approval.

7.2.2 Civil Society Organizations (CSOs)

- 96) The CIGs, CDDCs and FPOs which represent the VMGs within their communities will be involved in all stakeholder and community engagements and will be responsible for mobilizing VMGs feedback and involvement in sub-projects that affect them. They will also be responsible for funneling VMGs to participate in value chains as appropriate.
- 97) The various VMGs have their local and traditional CSOs who will be critical for mobilization for the project. Among the Ogiek of Nakuru, for example, Sogoot FM Radio, CBOs Marioshoni Lawina Ndoswa (MALANDO), Marioshoni Community Development (MACODEV), and the Council of Elders are crucial. The Sengwer have a council of elders, the Wasanye also have a council of elders made up of the 7 clan elders, and the Watha have a council of elders, and strong headmen at grassroots known as *Abagaaza*.

7.2.3 Non-Governmental Organizations

- 98) The NGOs present and active in the area, and which speak for the respective VMGs will be engaged during the SA studies and VMGP preparation, as well as during the M&E of each sub-project. The FSRP project will also ensure that direct feedback from the representatives of the VMGs is collected. The formation of GM for each sub-project will also include representation of the appropriate NGO. For instance, the NGO Ogiek Peoples' Development Program (OPDP) will be good to involve in Ogiek areas. Similar NGOs that work with or speak for other VMGs will be determined during subsequent consultations.

7.2.4 World Bank

- 99) The WB will review, approve and disclose the VMGF and all the VMGPs for FSRP. During implementation, the WB will also conduct field monitoring and evaluation.

8 GRIEVANCE MECHANISM

8.1 Overview

100) A GM will be required during the implementation of sub-projects in the respective VMG host counties. The current GM tools and processes under NARIGP and KCSAP/ELRP which also include a toll-free line will be customized for use in the FSRP from the VMGs community level up to the National level to build on the skills and competencies acquired. From the experience in NARIGP, ELRP, and KSCAP on GM for VMGs(Women, poor and marginalized communities) faced numerous barriers in complaining such as Illiteracy, Lack of knowledge about their rights, Local culture and traditions (including powerful interests) ,mistrust in government and fear of retribution, Lack of access to technology, Perceived hassle in complaining, and belief that project authorities will not act upon their grievances however with multiple grievance uptake locations and multiple channels for receiving grievances, fixed service standards for grievance resolution, prompt and clear processing guidelines (including reviewing procedures and monitoring systems) and an effective and timely grievance response system to inform complainants of the action taken there is need for more capacity building in order to ensure the following.

- Promptness - grievances usually relate to the welfare of complainants and should be resolved as quickly and completely as possible. Time is of the essence in this GM process involving the VMGs.
- Transparency - the GM system and process should be as open as possible. GM process outcomes should as much as possible be disclosed to VMGs to build confidence in the system.
- Fair and effective - the system should be fair, treating the same issues in the same manner regardless of who the complainant is. Committees involved should aim to deal with matters comprehensively and to the satisfaction of parties.
- Non-retributive to complainant - the system should ensure that complainants are protected throughout the process and project. They should not suffer any loss or injury from the contractor or VMG community merely for raising their complaint with the GM system. This assurance should be the preamble of any grievance process.
- Appropriateness to custom the GM strives to conclude the resolution of grievances at the lowest level of the mechanism namely, the elders council(This mainly consists of trusted key elders and opinion leaders and sometimes the local administration) This relates to the kind of dispute resolution process that VMGs members are familiar with, and which they consider simple and fair. The GM process developed for the project may not be trusted considered fair by the VMGs.

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- Simplicity - the procedure for launching a grievance will be simple enough to be understood and followed by ordinary members of VMGs. They can thus report their grievances or concerns orally, by telephone, in writing or in any other way appropriate to their circumstances.
- Documentation - the grievances or feedback will be recorded as received and the resolution process and outcomes will be documented judiciously. The aim is to keep records just in case the same grievances are mischievously raised up the GM ladder and for learning purposes.

8.2 Grievances Resolution process

8.2.1 Grievance Investigation and Resolution Process

101) The GM at the Project level will be maintained during the entire period of Project implementation. The GM will ensure that all stakeholders can effectively be engaged in the Project design, implementation, provide project staff with practical suggestions/feedback on Project activities allowing them to be more accountable, transparent, and responsive.

102) This mechanism will follow the following principles:

- Grievances will be treated confidentially, assessed impartially, and handled transparently.
- The submitting and readdressing of the grievances will be free of charge for complainants.
- State department of crops (SDC) through the FSRP will ensure that all project-affected parties will have equal opportunity to submit their grievance in accessible way. The Project beneficiaries may use a range of contact options (telephone number, e-mail address and postal address, etc.). The GM is accessible to all stakeholders.
- The channels for filling in grievance form should be disclosed on official sources.
- FSRP will provide an opportunity to submit a grievance anonymously.
- Affected persons may raise a complaint at any time of project related activity.
- The GM is designed to be responsive to the needs of all complainants, including anonymous ones.
- All grievances, simple or complex, will be addressed and resolved as quickly as possible. The action taken on the grievance will be swift, decisive, and constructive.
- In cases where the aggrieved individuals or group is not satisfied with the outcome of the amicable mechanism, they will always be able to file to the court at any stage in the resolution process.
- All grievances will be registered and documented, and each grievance resolution process and communication will be systematically tracked.
- The channels for filing complaints will be listed in SEP and communicated to the public during the consultations.

8.2.2 Internal Grievances

103) Grievances from Employees (including both direct and indirect employees, including local workers and migrant workers through contractors):

- Complaints pertaining to amount of wage, salary, other remuneration or benefits as per Company's Human Resource policy
- Gender discrimination
- Workplace Sexual harassment
- Violence against children e.g., child labour.
- Issues related to worker's organization
- Labour Accommodation.
- Health and Safety issues; and
- Extended working hours.

8.2.3 External Grievances

104) Grievances from community members:

- Issues related to sexual exploitation and abuse by project workers against community members;
- Issues related to gender-based violence at the community-level e.g., domestic violence;
- Issues related to child labour and protection;
- Issues related to transportation and traffic;
- Increase in environment pollution;
- Impact on community health;
- Disturbances to locals due to influx of migrant workers in the area;
- Issues arising out of sharing of employment and business opportunity; and
- Concerns over the impact on local cultures and customs.

105) The list of grievances will be regularly updated as and when a new one arises.

8.2.4 Grievance Management and Reporting Levels

106) There are 5 levels of grievances management proposed in this ESMF, but which will be revised and elaborated further following the completion of project wide GM within the first 6 months of project effectiveness.

8.2.4.1 Level I. Project Grievance Management Committees

107) All project sites/locations will establish Site Project Level Grievance Management Committees. These committees will be responsible for handling and resolving all environmental and social issues related to the sub projects, SACCOs, FPOs and any activities that are targeted on VMGs like digitalization, information dissemination and all FLIP

technologies. The composition of the committees will include:

- Office of National Government (represented by chief and or assistant chief).
- Community representatives (youth, women, men).
- Representative from a Civil Society Organization (active in the area in the field of public health, agriculture, water) etc.

8.2.4.2 Level 2. Sub County Grievance Management Committees

108) In each of the Counties, a Sub County Grievance Management Committees will be established. Grievances that cannot be resolved by the site Grievance Management Committees, will be escalated to the Sub County Grievance Management Committees. The composition of the Sub County Grievance Management Committee will include:

- Sub County Technical Team
- Office of Sub County Commissioner representative
- Community representatives (youth, women, men)
- Representative from a Civil Society Organization (CBO, NGO, FBO) (active in the area in the field of public health, agriculture, water) etc.

8.2.4.3 Level 3. County Grievance Management Committees

109) In each of the Counties, a County Grievance Management Committee will be established and will be coordinated by the already established County Project Coordinating Unit. Grievances that cannot be resolved by the Sub County Technical Teams, will be escalated to the County Grievance Management Committee where the environmental and social specialist of the CPCU will double up as the GRM expert and focal point. The composition of the County Grievance Management Committee will include:

- CPCU
- County Commissioner representative
- Community representative
- Representative from a Civil Society Organization (active in the area in field of public health, agriculture, water etc)

8.2.4.4 Level 4. National Project Coordinating Unit

110) The national grievance management committee will be established and will be coordinated by the already established **National Project Coordinating Unit**. A GM expert will be stationed at the NPCU and will handle all the grievances that are escalated by the CPCU for resolution. The GM expert will be the main focal point for GM handling but will be supported by a team of experts.

8.2.4.5 Level 5. Judicial Recourse

111) In case the FSRP GM will not allow an amicable agreement to be reached, the

complainant can resort to justice within Kenya’s legal system (and could at any time even without going through the established committees) at their own cost.

8.2.5 Publicizing and Disclosure of the GM

112) The project wide GM will be disclosed to the stakeholders through written and verbal communication. The mediums to be used for this purpose are public meetings, group discussions, electronic media (radio) etc. and will be elaborated in the project wide GM being set up. The project wide GM disclosure will be done along with the disclosure of other plans

8.2.6 Receiving and Recording Grievances

113) As part of the GM, the grievances from the stakeholder may be communicated verbally (in person or over a telephonic conversation) or in written form (in the format given below). A sample grievance form is in annex (4) but will be elaborated further upon completion of project wide Grievance Redress Mechanism.

8.2.7 Maintaining a Grievance Register

114) Each grievance thus received, shall be recorded in a grievance register. The format for the grievance register shall be as outlined in annex (5). The grievance register shall be updated at each stage of the grievance redress.

8.2.8 Acknowledgment of Grievance

115) Upon the completion of the recording of the grievance, the stakeholder will be provided with an acknowledgment of the receipt, along with a summary of the grievance (Box 9.1).

Box 9.1 Sample Acknowledgement Receipt for Claimant

<p>Dear (enter name of the aggrieved)</p> <p>Date:.....</p> <p>RE: <u>Grievance (Enter Subject Matter)</u></p> <p>The Grievance Management Committee (mention level) is writing to you regarding the grievance received on (enter date) with the issue/subject being (summarize the grievance/complaint/concern).</p> <p>Grievance Management Committee will begin investigating this grievance and intend to revert back to you not later than 14 working days from the date of receipt of the complaint.</p>
--

Grievance Management Committee (Grievance Coordinator) will serve as the point of contact for this case and will update you as necessary. In the meantime, please do not hesitate to contact him should you have any questions.

Kind Regards

Signature:.....

Enter name:.....

Grievance Coordinator

N/B

Medium of initial grievance response by Grievance Management Committee could be through (a) Email (b) Telephone (c) Face to Face (d) Letter (with the above content communicated).

116) In case the grievance is assessed to be out of the scope of the GM, a communication towards the same shall be made to the complainant, and an alternative mode of redressal shall be suggested.

Table 8: Applicable Timeframes

Action	Timeframe
Register grievance in database	Within 2 working day
Acknowledge grievance	Within 2 working days
Issue grievance feedback explaining time required for resolution and on-going progress if not yet resolved	Within 14 working days
Issue grievance feedback when mitigation established within the assigned timeframes	14 days
Approve and issue/implement redress action as per the agreement and related conditions/options.	14 days after agreeing to resolution

8.3 SEAH GM

117) There will be a separate reporting mechanism for SEAH cases that are discrete from standard GM and the mechanism are outlined in the SEAH Prevention and Response Plan that will be prepared for the project.

8.4 GM Monitoring and Implementation

118) It is important to monitor GM to ensure that the grievances are addressed and resolved. The monitoring of the GM implementation will be undertaken on a periodic basis by the NPCU and CPCU teams. Monitoring aspects will be elaborated in the project wide GM that will be set up and will include the following indicators:

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- Number of cases requesting external review or alternative third-party arbitration
- Number of stakeholders satisfied with solution
- Number and percentage of grievances received per categories
- Number and percentage of grievances received per severity level
- Number and percentage of grievances resolved versus rejected
- Number and percentage of grievances per operation site/location
- Type of grievances received according to the categories,
- Severity of grievance
- Qualitative indicators shall be reported monthly and include root cause analysis, specific case examples and lessons learned.
- Number of grievances received, logged, acknowledged, processed, resolved and closed within a set time frame.

8.5 GM Reporting

119) The performance of the GM will be reviewed on a quarterly basis during the implementation period. For the purpose of review, the quarterly reports will be considered for analysis and discussion. Based on these reports, a Grievance Redressal Report will be prepared. Reports will be periodically shared by each agency on complaints and grievance logs with the NPCU for monitoring purposes.

120) The NPCU will maintain a documented record of stakeholder engagement and GM, including a description of the stakeholders consulted, a summary of the feedback/grievances received and a brief explanation of how the feedback was considered, or the reasons why the issue could not be resolved. For complaints related to SEAH, reporting and response protocol including identification of SEAH-sensitive channels to be integrated into the grievance mechanism, and requirements for enabling survivor-centered care.

8.5.1 National Environment Complaints Committee

121) The National Environmental Complaints Committee (NECC) was established under Section 31 of the Environmental Management and Co-ordination Act, 1999. It was formerly known as the Public Complaints Committee (PCC) but its name changed in the EMCA (Amendment) No. 5 of 2015). It is an important institution in the assessment of the condition of the environment in Kenya. It plays an important role in the facilitation of alternative dispute resolution mechanisms relating to environmental matters. The NECC makes recommendations to the Cabinet Secretary and thus contribute significantly to the formulation and development of environmental policy.

8.5.2 National Environment Tribunal

122) The NET is established under Section 125 of EMCA for the purpose of hearing appeals from administrative decisions by organs responsible for enforcement of environmental standards. An appeal may be lodged by a project proponent upon denial of an ESIA license

or by a local community upon the grant of an ESIA license to a project proponent. NEMA may also refer any matter that involves a point of law or is of unusual importance or complexity to NET for direction. The proceedings of NET are not as stringent as those in a court of law and NET shall not be bound by the rules of evidence as set out in the Evidence Act. Upon the making of an award, NET's mandate ends there as it does not have the power to enforce its awards. EMCA provides that any person aggrieved by a decision or award of NET may within 30 days appeal to the High Court.

8.5.3 Environment and Land Court

123) The Constitution of Kenya (CoK) has further provided for specific courts to deal with land and environment (Environment and Land Court) that are charged with playing a vital role in reconciling environmental related disputes and these courts will serve as the ultimate stop in the event of disputes or complaints that cannot be resolved through other alternative means.

8.5.4 World Bank's Grievance Redress

8.5.4.1 Grievances Redress Service

124) The Grievance Redress Service (GRS) is an avenue for individuals and communities to submit complaints directly to the World Bank if they believe that a World Bank-supported project has or is likely to have adverse effects on them, their community, or their environment. The GRS enhances the World Bank's responsiveness and accountability to project-affected communities by ensuring that grievances are promptly reviewed and addressed. Complaints must be in writing and addressed to the GRS and sent through the following methods namely: Online by accessing the online form; Email to grievance@worldbank.org; Letter or hand delivery to World Bank Headquarters in Washington D.C., United States or World Bank Kenya County Office.

8.5.5 The Inspection Panel

125) This is an independent complaints mechanism for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project. The Panel is an impartial fact-finding body, independent from the World Bank management and staff, reporting directly to the Board. The Inspection Panel process aims to promote accountability at the World Bank, give affected people a greater voice in activities supported by the World Bank that affect their rights and interests, and foster redress when warranted. In September 2020, the Board updated the resolution that created the Panel and added to the Panel functions. At the same time, the Board approved a resolution establishing the World Bank Accountability Mechanism (AM). The new AM began operations in early 2021 and houses the Panel to carry out compliance reviews and a new Dispute Resolution Service (DRS), which will give complainants another way to have their concerns addressed. Contacts for registration of complaints to the IP are listed below. Tel: +1 202 458 5200:

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Email: ipanel@worldbank.org

9 MONITORING AND REPORTING

126) The Monitoring and Evaluation (M&E) system is meant to track activities, outputs, outcomes, and processes in the interaction of the FSRP with the identified and affected VMGs. The monitoring of beneficial and negative impacts of the project on the affected VMG should be participatory. This means that the process should be both qualitatively, delving into the opinions, understandings, and aspirations of VMG members, and quantitatively, pursuing the metrics of outputs including benefits to, and consultations with VMGs.

9.1 Objectives for monitoring

127) All monitoring activities will principally remain the responsibility of FSRP. The overall goal of the M&E process for the VMGP is to ensure that:

- i. Effective communication and consultation take place.
- ii. Reporting of any grievances that require resolution; and
- iii. Documenting the performance of FSRP as regards to the VMGs; and allow program managers and participants to evaluate whether the affected VMGs have maintained their rights, culture, and dignity and that they are not worse off than they were before the project.
- iv. Lessons are drawn and appropriate remedial actions taken.

128) The specific objectives of evaluation will include:

- i. An assessment of the compliance of activities undertaken in relation to the objectives and methods identified in the VMGF.
- ii. An assessment of the consultation procedures that have taken place at the community and individual levels.
- iii. An assessment on whether the affected communities have had access to mitigation activities.
- iv. The occurrence of grievances and extent of resolution of disputes.
- v. An evaluation of the impact of the project on income and standard of living within the communities.
- vi. Analysis of the impacts to get the various types and levels of vulnerability to the communities.
- vii. An assessment of the impacts on the vulnerable persons within the community especially the women and youth.
- viii. Collection of data clearly indicating the impacts of project activities disaggregated by gender and the appropriate mitigation actions to address the impacts.
- ix. Identification of actions that can improve the positive impact of the project and mitigate potential negative impacts.
- x. Ensure that VMGs have benefitted under the project as intended/targeted. Also monitoring and evaluation should be against both VMGF and respective VMGPS.

129) Monitoring and evaluation will be on both VMGF and respective VMGPs. Regular

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monitoring reports will be done quarterly while evaluation reports will be annually. The VMGPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

- I 30) The FSRP PCU will institute an administrative reporting system that will:
- i. Provide timely information about all grievances arising because of FSRP activities.
 - ii. Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the FSRP team; and
 - iii. Document the timely completion of project obligations for all vulnerable and marginalized peoples' grievances.
 - iv. Capture the process and outputs of all stakeholder engagement activities including VMGs consultations. The indicators to track will include number of meetings, participants by gender and age, actions from meetings, and number of brochures issued by subject.
 - v. Document progress and outcomes of mitigation measures and benefit enhancing initiatives for VMGs.
- I 31) The FSRP is expected to establish a monitoring system involving the project implementation team, key stakeholders, county governments as well as representatives of the VMGs to ensure effective implementation of the VMGP once it is prepared. The project safeguard experts will undertake identification of impact indicators for monitoring and evaluation of the VMGP. Some of the monitoring indicators will include among others (a). Consultation processes (b). Grievance redress issues, (c). Capacity building, (d). Status of the VMGs in comparison with pre-project phase, among other indicators.

10 INFORMATION DISCLOSURE ARRANGEMENTS

I32) The FSRP will endeavor to disclose project information on the project and how it affects or benefits the VMGs as transparently as possible and on a continuous basis. This approach respects the human rights of VMGs and speaks to their fundamental constitutional right to access information on matters that affect them. The information will be availed to them in culturally appropriate forms, manner, and language to enhance VMGs' participation in project decisions and activities.

10.1 Stakeholder Engagement

I33) This was carried out from February 23rd 2023 during the preparation of the VMGF and will be continued to the end of the process. The lists of persons consulted, and minutes of the engagement meetings are in Appendix 4. Stakeholders were identified in line with ESS 10 on stakeholder engagement and information disclosure. Each stakeholder was assessed in terms of their interest, influence and information needs from the project. They were engaged and informed in a culturally appropriate manner to reach women, persons with disability, and youth among the VMGs.

10.1.1 Information and Communication

I34) Information sharing will happen in two stages. First, before the final selection of any sub-projects sited in VMGs areas, the FSRP team will consult them about their perception of need for sub-project, opinions on potential positive and negative impacts associated with the sub-projects. Second, prior to detailed impact assessment, engagements will be carried out to ascertain how the VMGs perceive the need for undertaking physical works for the subproject and gather any inputs/feedback they might have for better outcomes, which would eventually be addressed in VMGPs and design of the sub-projects and any required physical works.

I35) The VMGPs' communication strategy aims to:

- i. Facilitate participation of VMGs in culturally appropriate ways with adequate gender and generational representation; customary/traditional IPOs; community elders/leaders; and CSOs on VMGs development issues, fears, concerns, preferences, and aspirations.
- ii. Provide them with relevant information about the sub-project in question, including that on potential negative impacts, organize and conduct consultations in a manner that is open, relevant, and accessible to all sectors of the population to ensure unhindered expression of their views and preferences.
- iii. Document details of all consultation meetings including details on VMGs' perceptions of the proposed works and the associated impacts, especially the negative ones and any inputs/feedback offered by the VMGs, and an account of the broad community support by VMGs.

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- iv. Provide and explain Grievance Mechanisms as additional avenues for VMGs and their representatives to express themselves and provide further feedback to the FSRP on any issue that concerns them, and which may help improve their experience of the project.
- v. The communication strategy will not only focus on potential negative impacts but also project benefits that will flow to VMGs in a timely manner.

10.1.2 Disclosure of VMGF

136) This VMGF, once prepared and cleared will be disclosed in the Ministry of Agriculture, and Livestock development website, other related project websites like ELRP/NAVCDP and World Bank internal and external websites. For a start the draft VMGF draft report was disclosed to the VMGs’ representatives at a workshop on 23rd Feb 2023.

10.1.3 Budget for VMGF Implementation

137) All costs for implementation of this VMGF, including preparation and implementation of VMGPs Plans will be financed by FSRP budget.

138) More accurate costs will be estimated during sub-project selection, design and feasibility studies owing to the views of relevant project officials and based on more concrete sub-project requirements including where they affect VMGs. Therefore, the indicative budget provided below will be updated at the time and subsequently as the need for the plans take better shape.

139) The budget for the implementation of the VMGP mainly includes costs for capacity building, training of the PCU staff and VMG committee members, stakeholder meetings, information packaging and dissemination, consultancy support for VMGP implementation and monitoring, GM, any livelihood assistance to the most vulnerable groups and interventions to make the sub-project more accessible to VMGs.

140) Once a subproject has been appraised and finalized in the context of the VMGF, the required budget is to be allocated by FSRP for preparation and implementation of the VMGP. The VMGPs’ budget will also include costs for travel of the relevant FSRP PCU members and other participating actors as appropriate. Scenarios like the foregoing make it very difficult to provide any accurate budget for VMGPs and their implementation. Hence, what is provided below in Table 9 is an indicative budget.

Table 9: Indicative Budget for VMGF Implementation

No.	Indicative Budget Item	Cost in USD
1	VMGF implementation including stakeholder engagement plan actions	27,500
2	Preparation of Social Assessment reports and development of the VMGPs	63,000
3	VMGP implementation M&E activities	7,700
4	Additional measures/ interventions for the VMGs	55,000

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5	Stakeholder and Community Consultations during VMGP preparation and implementation	77,000
6	Annual VMGP Audits (11 No. @ 2000 each)	22,000
7	Preparation and Implementation of GM including training of GMC and PCU members on GM operations.	22,000
Total		274,200

II ANNEXES

Annex I: Checklist for Vulnerable & Marginalized Groups (VMGs) Consultation

This checklist is being used by facilitators of FGDs and Consultation Meetings with VMGs in the FSRP Selected counties that have VMGs. A separate list of those counties and an interim listing of VMGs therein is provided.

The aim of these consultations is to characterize the VMGs in terms of livelihoods, culture, governance, and natural resource use, identify points of intersection with the FSRP, discuss how the project may affect them both negatively and positively and how the project can effectively respond to their unique needs. The facilitator will briefly describe/explain the FSRP to the participants.

1. Name of Facilitator: _____ Name of Note Taker:

2. County: _____ Sub-county: _____ Ward:
3. Date: _____
4. Name of VMG:

5. VMGs presence is in dominance or minority?
6. Is there any other VMG sub groups present in minority in the area?
7. What are the dominant types of houses VMG members live in?

LIVELIHOODS

8. Which food production activities do the VMG members engage in regularly?
9. What are the main regular income generating activities undertaken by the VMG members?
10. Which Farmer Producer Groups (FPOs) serve the VMG members? What have been the outcomes of the services offered?
11. What are the main challenges in access to finance and investment in farming?

LAND TENURE and NATURAL RESOURCES

12. How do the VMG members access land and water in their territory?
13. Do the VMG individuals or community have title to land? How is land managed in their territory?
14. Which challenges do they experience in accessing and using land and other natural resources that they need?
15. What the typical social tension or conflict issues with respect to land and natural resources VMG experience?

GOVERNANCE

16. What are the main leadership structures in the VMG and how do they function?
17. Which dispute resolution structures exist in the VMG?

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18. How do women participate in decision making in the VMG?
19. Which CBOs and NGOs work with and/or represent the VMG interests? Have they been effective?
20. What forms of Gender-based Violence do VMG members normally experience? How these reported and handled?

FSRP OR OTHER GOVERNMENT PROJECTS

21. What are the likely impacts (both negative and positive) of the project on the VMG? How can negative impacts, if any, be mitigated in culturally appropriate ways?
22. How in their opinion can the project be adjusted to better serve their agricultural needs?
23. What benefits are women likely to draw from FSRP and how can those be enhanced?
24. What are the preferred channels of receiving project information and making complaints/feedbacks?

END

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Annex 2: Sample Grievances Log

	Name of Complainant	Gender	Brief Description of Grievance	Date of Receipt	Grievance Status and Brief Description of Response	Date of resolution	Date of Response	Remarks	Closure of complaint

Annex 3: Terms of Reference for Preparation of VMGP

The TOR describes the overall methodology for carrying out each component of the VMGP including desk and field studies, and data collection and analysis methods; and to provide an initial detailed plan of work, outputs, and staff assignments with levels of effort by task.

- a) Identify the types of sub-projects likely to be in VMG areas.
- b) Outline the procedure for conducting the primary screening of the VMGs within the project areas and likely to be affected by identified sub-project interventions.
- c) Identify potential positive and negative effects of for the beneficiary county or sub- projects on VMGs.
- d) Develop a plan for carrying out the secondary screening (detailed social assessment in line with ESS7) for each of the identified VMGs in the projects' operational area including but not limited to the following:
 - A review of the legal and institutional framework applicable to VMGs in the project context.
 - Provision for baseline information on the demographic, social, cultural, and political characteristics of the affected VMGs, the land they traditionally or customarily owned and accessed and the natural resources they depend on.
 - Process of identifying key stakeholders and elaboration of a culturally appropriate and gender – sensitive process for meaningful consultation with VMGs at each stage of project preparation and implementation, taking the review and baseline information into account.
 - Process of assessing potential negative and positive effects of the sub-project based on meaningful consultations with the affected VMGs.
 - Inclusion of a gender sensitive assessment of the affected VMGs perceptions about the sub-project and its impact on their social, economic, and cultural status

Qualification and Experience of the Consultant

- i) Type: Individual Consultant
- ii) Qualifications: The Consultant must be a Social Specialist or Anthropologist with demonstrated skills in Stakeholder Engagement and community Development.
- iii) Experience: The expert is required to:

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- have demonstrated experience in undertaking similar engagements either locally or internationally (successively undertaken at least two (2) similar assignments).
- knowledge and/or familiarity with the social dynamics in Kenya and/or of VMG communities such as those where the sub-projects may be located.
- Knowledge of the Kiswahili language.
- Ability to work well with National and County Government officials and community personnel; and
- Demonstrate experience and understanding of the World Bank's Environmental and Social Standards 7 on VMG is considered critical.

The consultant will:

- a) Develop a plan for ensuring free, prior, informed, and accessible consultation with the affected VMG communities at each stage of project preparation and implementation.
- b) Outline considerations and indicators for assessing broad community support
- c) Identify the main actors/stakeholders (formal and informal) for screening project supported activities, evaluating their effects on VMG and recommendation for strengthening their capacity.
- d) Describe measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address VMG issues in the project area and (b) VMG organizations in the project area to enable them to represent the VMGs more effectively.
- e) Describe the procedures to redress grievances by affected VMG communities and how these procedures are accessible to VMGs, their cultural appropriateness and gender sensitivity.
- f) Clearly outline the monitoring and reporting arrangements, that ensure the participation of the affected VMGs and confirm that VMG benefit equally compared to other dominant groups
- g) Describe the disclosure arrangements for VMG to be prepared under the VMGP including but not limited to:
 - The process of participation, information disclosure and consultation with the affected VMGs.
 - Consultation and participation mechanisms to be used during project implementation ensuring participation of the VMGs.

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- The process of capturing and documentation of VMGs concerns with regards to the social impact assessment results and how these will be addressed in the project design.
- The disclosure of the SA report and the VMGP – both draft and final.

Reporting

The consultant will be reporting to the National Project Coordinator (or equivalent appointed by the FSRP) during this assignment, who will also be coordinating the process of the consultancy.

Services, Facilities and Materials to be provided by the Client

The FSRP will make available relevant project documents, background documentation and studies; sample VMGPs that have been developed for similar projects in Kenya. The client will also make all necessary arrangements including logistics for facilitating the work of the Consultant and to provide access to government authorities, other Project stakeholders, and Project sites.

The Content of the Social Assessment Report will among others include the following:

1. Executive Summary
2. Introduction
3. Methodology
4. Policy, Legal and Institutional Framework
5. Socio-economic Baseline
6. Stakeholder and Community Engagement Process and Outcomes
7. Potential Sub-projects' Benefits to VMGs
8. Potential Sub-project Impacts on VMGs and Mitigation Measures
9. Grievance Mechanism for the SA Process and Implementation
10. Process for Ascertaining Broad Support for the Sub-projects
11. Livelihood Support Initiatives for VMGs
12. The Vulnerable and Marginalized Plans (VMGPs)
13. Conclusions and Recommendations

The consultancy deliverables

- (1) An Inception report – 7 days after contract signing
- (2) Draft FSRP Social Assessment - 30 days after contract signing
- (3) Final FSRP Social Assessment - 45 days after contract signing

[done soon after project launch (1st 3 months) to enable counties adopt it before commencement of mobilization process]⁴

- (4) Clear guidelines on preparation of county specific VMGPs (Annex in the SA Report)- 45 days after contract signing.

Proposed Payment Schedule

⁴ Preparation VMGP for each relevant county

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This consultancy is expected to cost not less than Kshs. _____ and not more than Kshs. _____

The consultant shall be paid as per the following schedule:

- (a) 20% on submission of the Inception Report.
- (b) 50% on submission of the I I draft VMGPs and validation of the information collected.
- (c) 30% on submission of the final (hard copy and electronic versions) I I VMGPs including the training plan.

Annex 4: FSRP Stakeholder Consultation Workshop

Stakeholder Consultations for the FSRP Concept And ESS Frameworks (Refer to FSRP ESMF consultation annex)