

**Ministry of Agriculture, Livestock Fisheries and Cooperatives**

**State Department for Crop Development**

**National Agricultural Value Chain Development Project (NAVCDP)**

**Labour Management Procedures**

**Revised March 2023**

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## ● ACRONYMS AND ABBREVIATIONS

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

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

## **I INTRODUCTION**

### **I.1 Project Background**

1. Kenya has witnessed strong economic growth and declining poverty incidence, but absolute poverty remains high. Since 2011, the Country has experienced robust national economic growth averaging 5.8%, catapulting Kenya to a middle-income country and significantly bringing down poverty levels. Kenya's poverty rate with respect to the international poverty line is among the lowest in East African countries, falling from 43.7 percent in 2005/06 to 36.8 percent in 2015/16 and 33.4 percent in 2019, below the sub-Saharan Africa average. Poverty reduction in Kenya has been accompanied by reduced income inequality, with the Gini index falling from 0.45 in 2005/06 to 0.39 in 2015/16, indicating the country's success in boosting shared prosperity. Kenya's Human Development Index value for 2019 was 0.601, which put the country in the medium human development category - positioning it at 143 out of 189 countries and territories. With a score of 0.55, the World Bank Human Capital Index 2020 places Kenya third in Sub-Saharan Africa, after Seychelles and Mauritius.
  
2. The National Agricultural and Rural Inclusive Growth Project (NARIGP) has laid down a strong foundation for commercialization of agriculture in Kenya. NARIGP was launched in 2016 with the objective of increasing agricultural productivity and profitability of targeted rural communities in selected counties in Kenya. It has thus far benefitted 523,774 smallholder farmers organized into 19,866 Common Interest Groups (CIGs) and Vulnerable and Marginalized Groups (VMGs) based on prioritized value chains across the 21 participating counties. The project has funded 13,310 micro-project investments to a tune of KES 4.3 billion (USD 43.04 m), aimed at building farmer capacity for adopting productivity enhancing Technology Innovation and Management Practices (TIMPs). Further, 2,013 Community-Based Facilitators (CBFs) had been trained to provide integrated extension services delivery to farmers through the Farmer Field Schools (FFS). As at 31st December 2021, the project had achieved a 23.5 percent yield increase in the prioritized value chains across the participating Counties. To strengthen Producer Organizations (POs) and promote value chain development, 288,515 farmers have been federated into 314 farmer Producer Organizations (POs), and an additional 40 coffee cooperatives have been competitively selected for support under the coffee revitalization initiative. Further, 259 POs have received inclusion and capacity development grants while 265 POs have developed bankable Enterprise Development Plans (EDPs) and 176 public private partnerships have been established between supported POs and private sector firms to improve service delivery to participating farmers. For the POs supported by NARIGP, 75 have

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reported increased profitability thereby creating a strong foundation for the transformation of the agriculture sector that paves the way for the next generation of intensive investments for selected value chains with high potential to drive the shift from subsistence to commercial farming.

3. To transform the agricultural sector and build resilience to climate change risks, Kenya needs to focus on increasing productivity and profitability. In pursuit of this, Kenya has prioritized addressing the following main constraints to increased agricultural productivity and value addition: (a) low use of agricultural inputs; (b) frequent droughts and climate variability; (c) natural resources degradation (particularly soil and water) as a result of nutrients mining and soil erosion; (d) low levels of private investment in the primary production (subsistence commercial-oriented agriculture) and value addition; and (e) poor rural infrastructure, such as small scale irrigation, roads, marketing and storage facilities.

### **1.1.1 Introduction**

4. In January 2023, the Government of Kenya requested for additional counties for NAVCDP through the National Treasury Ref. *“Inclusion of Additional Counties to the National Agricultural Value Chain Development Project (NAVCDP)”*, (IDA Credit. No. 7064-KE) letter dated January 23, 2023. Subsequently, the 1<sup>st</sup> ISM for NAVCDP was held on February 13-17, 2023, and The World Bank, Country Director gave an “IDA No Objection letter” on the same Ref. February 2, 2023
5. NAVCDP therefore adopted the recommended project changes that have affected the project design in the following areas:  
NAVCDP will work in 33 from 26 counties: Meru, Nyeri, Muranga, Kirinyaga, Kiambu, Embu, Machakos, Kitui, Makueni, Tharaka Nithi, Nandi, Uasin-Gishu, Trans Nzoia, Nakuru, Narok, Kajiado, Nyandarua, Kericho, Bomet, Kakamega, Busia, Bungoma, Vihiga, Homa Bay, Migori, Kisii, Siaya, Nyamira, Kisumu, Taita Taveta, Kwale, Kilifi, and Tana River. Under Urban and peri urban Agriculture, Nairobi county will be added. The added counties in the above list include: Tharaka Nithi, Bungoma, Kajiado, Vihiga, Siaya, Nyamira and Kisumu.
  - a) The project will allow Saturation- in all wards of the project counties.
  - b) Each county will select up to 5 value chains, however 4 must be from the 12 VC menu and one more an open county choice.
  - c) Farmers Producer Organizations are value chain sensitive and will be funded directly - (FPOs will benefit from three grants: inclusion grant; Enterprise Development grant; and Value Chain Upgrading Matching grant)

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- d) There will be no micro-project grants except should there be an affirmative action - instead the Common Interest Groups (CIGs) will access funds as a revolving fund from ward-based Savings and Credit Cooperative Organizations (SACCOs).
- e) Through the CDDCs, the CIGs/VMGs will also be supported with inputs to demonstrate different technologies and innovations using the FFBS model. Within the wards, it was agreed that to start with, every farmer (including the dereferencing) will be registered and subsequently both the CDDCs (for wards) and CIGs mobilization will be undertaken based on the PICD process.
- f) Every ward will have a SACCO. A diagnostic will determine whether a new SACCO will be mobilized, or an existing SACCO will be leveraged upon.
- g) Farmer registration, SACCO membership, and accessing SACCO funds will be value chain neutral activities.

## **I.2 Project Description**

- 6. National Agricultural Value Chain Development Project (NAVCDP) is a natural progression to both National Agricultural and Rural Inclusive Growth Project (NARIGP) and Kenya Climate Smart Agriculture Project (KCSAP) that will deepen investments to scale up existing interventions around productivity enhancement, community led farmer extension, water management investments and data driven value chain services. Additionally, the project will introduce intensified infrastructure investments into select value chains, support Farmer Led Irrigation Development (FLID) especially at the individual farmer level, enhance access to credit and financial services and develop proof of concept around urban food systems and peri-urban agriculture in select clusters.
- 7. NAVCDP is expected to unlock new opportunities for maximizing finance and private sector investments in supported value chains. The project holds significant potential in maximizing finance within selected value chains as it will support a range of enabling environment initiatives including improved subsidy targeting through e-vouchers and operationalizing warehouse receipt financing. The project will build producer level capacity for higher investment through improved access to credit and farmer led irrigation development and promotion of strong Farmer Producer Organizations (FPOs) for improved aggregation and linkage with anchor off-takers. The project will also engage intensively with private sector value chain actors to crowd in investments in agri-business opportunities across the value chain including input supply, access to finance for farmers and Small and Medium Enterprises



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(SMEs), digital extension services, farm gate infrastructure for primary value addition, storage and cold chains and consumer retail.

8. The project will leverage the strong architecture of community level institutions comprising over 37000 farmer Common Interest Groups (CIGs), trained Community Driven Development Committees (CDDCs) and strong implementation capacity at national and county level. Several of the project investments such as access to credit, climate information services, development of irrigation infrastructure and market infrastructure are envisaged to be value chain neutral and universally support smallholder transition towards commercial agriculture. At the same time, tailored extension support, demonstrative micro-project investments, support for value addition infrastructure and investment support to FPOs will be aligned to the selected value chains.
9. NAVCDP will support a range of investments along selected agricultural value chains as outlined hereafter: (i) For each of the commodities, county level as well as regional value chain development plans will be finalized, identifying a set of investments crucial to the achievement of shared objectives. These plans will clearly outline pathways for private sector engagement, ecosystem investments envisaged from the regional government and Ag-tech solutions most relevant to the specific commodity and region; (ii) In the selected value chains, the capacity of the existing or new farmer groups will be built through strong community based digital extension systems, micro-investments for demonstration of production technologies and support for access to credit; (iii) FPOs will receive infrastructure and working capital support and technical assistance to build capacity for delivering a range of services such as inputs, extension and value addition to member farmers/farmer groups. Productive alliance approaches will be undertaken to build market capacity of these FPOs through linkage with commercial and private sector entities like Agribusiness SMEs engaged in value addition, anchor agribusiness firms, e-commerce companies and large Ag- tech startups with support for business development, technical assistance, and part financing. It will also generate new jobs and enterprises at various levels in supported value chains; (iv) In the selected value chains, the project will also support the e-voucher program so that farmers and farmer groups could access vital input support; (v) Complementary investments at the County and National level will be supported for necessary enabling infrastructure (irrigation infrastructure, processing infrastructure or market infrastructure etc.) for enhanced agriculture commercialization; (vi) Incubation and training of women and youth from local communities to emerge as Agri-entrepreneurs (Agripreneurs) will be scaled up for provision of bundled services

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(inputs, extension, credit and market linkages) to farmers. These are expected to emerge as meaningful private sector jobs in rural economy as Agripreneurs will earn incomes through transaction charges from the private sector for delivery of above services and (vii) Farmer-consumer market linkages will be developed in select urban clusters through dedicated urban food system pilots with end-to-end traceability mechanisms and appropriate interventions that enhance food safety, operationalizing farmer markets and institutional linkages.

### **I.3 Project Development Objective**

10. NAVCDP Development Objective is “To increase market participation and value addition for target farmers in select value chains in project areas.”

### **I.4 Project Beneficiaries**

11. The project will support over 500,000 farmers engaged in 9 value chains within 26 counties spread across 6 geographical clusters. The selection of value chains and counties to be supported under the project was based on multi-dimensional criterion. A total of 9 value chains have been selected: Dairy, Coffee, Chicken, Fruits (Avocado, Banana, Mango), Vegetables (Irish potatoes, Tomato), Apiculture, Pyrethrum, Cashew nut and Cotton. The 26 counties that will participate in the project are: Kilifi, Kwale, Taita Taveta, Kiambu, Trans-Nzoia, Nandi, Kericho, Uasin-Gishu, Narok, Nakuru, Tana River, Bomet, Migori, Homabay, Machakos, Kitui, Nyeri, Nyandarua, Kisii, Kakamega, Busia, Embu, Makueni, Kirinyaga, Muranga and Meru.
12. The 500,000 direct beneficiaries in this project will be small-holder farmers who will be either transitioning from subsistence to commercial farming or sell only a small percentage of their produce. Project participation will hinge primarily on farmers’ engagement within the selected value chains. Furthermore, the project is expected to benefit many value chain actors at various levels including extension workers, aggregators, logistics support providers and SMEs.

## 1.5 Project Components

13. NAVCDP will have the following five thematic components and sub-components (Table 1.1);

**Table 1-1 NAVCDP Components and sub-Components**

<b>1</b>	<b>Component 1: Building Producer Capacity for Climate Resilient Stronger Value Chains</b>
<b>1.1</b>	<b>Sub-component 1.1 Farmer Capacity Building and e-Voucher Support</b>
	<ul style="list-style-type: none"> <li>• Participatory identification of capacity needs for CIGs/VMGs</li> <li>• Community mobilization and strengthening of CIGs/VMGs through group micro-level investments to demonstrate climate smart TIMPs for prioritized value chains.</li> <li>• Mobilize farmers to access GoK funded NVSP input climate smart e-subsidy support (seeds, fertilizer, and agro-chemicals)</li> <li>• Small scale infrastructure investments for primary aggregation and value addition</li> <li>• Technical Assistance at National and County levels to support implementation</li> </ul>
<b>1.2</b>	<b>Sub-component 1.2 FPO Level Climate Smart Value Chain Investments</b>
	<ul style="list-style-type: none"> <li>• Participatory identification of capacity needs for FPOs and provision of inclusion grants for the mobilization and strengthening of FPOs</li> <li>• Development of climate informed business plans to enable access high quality climate resilient inputs, balanced fertilizers, aggregation and value addition</li> <li>• Technical assistance to support access to formal financing; enable linkages with agribusiness SMEs, e-commerce companies and large ag-tech startups; and build techno-managerial capacity for agribusiness operations</li> </ul>
<b>1.3</b>	<b>Sub-component 1.3 Improve Creditworthiness of CIGs and FPOs</b>
	<ul style="list-style-type: none"> <li>• Provide initial small grants to CIGs through Savings and Credit Cooperatives (SACCOs) that will be repaid to build a revolving fund</li> <li>• Enhance financial management of CIGs/SACCO/CDDCs</li> <li>• Technical assistance to FPOs to access finance and support development of FPO rating tool</li> <li>• Build county, regional and national level partnerships for FPOs to ensure credit linkages and long-term access to capital from commercial banks, SACCOs, micro-finance institutions and digital financial service providers</li> </ul>
<b>2</b>	<b>Component 2: Climate Smart Value Chain Ecosystem Investments</b>
<b>2.1</b>	<b>Sub-component 2.1 Farmer-led Irrigation Development</b>
	<ul style="list-style-type: none"> <li>• Leverage on CIGs/FPOs to motivate farmers access irrigation and use water efficiently</li> <li>• Leverage on CIGs/FPOs to develop irrigation-centred FLID forums linking farmers with irrigation suppliers, financial institutions and other key stakeholders</li> <li>• Deployment of technical resource persons to coordinate with County Irrigation Development Units (CIDU) for provision of technical support on water harvesting and accessing irrigation through aggregation and linkage of farmers to high-tech suppliers and financial institutions</li> </ul>
<b>2.2</b>	<b>Sub-component 2.2 Market Access and Infrastructural Development</b>
	<ul style="list-style-type: none"> <li>• Formulate value chain development plans and co-financing models to maximize finance and crowding of investments at County, regional and national levels</li> <li>• Development and upgrading of physical markets, aggregation centres and cold chain</li> </ul>

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	<p>infrastructure</p> <ul style="list-style-type: none"> <li>• Develop linkages with anchor off-takers and create pipeline investable opportunities for development of market infrastructure with private sector players</li> <li>• Strengthen Kenya Markets Information Systems (KAMIS) to bridge market information asymmetry</li> <li>• Finance new and existing SMEs that provide essential services along the value chains</li> </ul>
<b>2.3</b>	<b><i>Sub-component 2.3 Data and Digital Investments</i></b>
	<ul style="list-style-type: none"> <li>• Scale up partnership with DAT service providers by mobilizing technical assistance, training/capacity building and digital equipment</li> <li>• Strengthen existing Big Data platform at KALRO to support wider farmer outreach</li> <li>• Develop women and youth agripreneurs as last mile extension service providers and human touch point for bundling services in partnership with DAT providers</li> <li>• Training and capacity building for county staff and farmers</li> </ul>
<b>2.4</b>	<b><i>Sub-component 2.4 Research Linkages, Technical Assistance and Institutional Capacity</i></b>
	<ul style="list-style-type: none"> <li>• Develop an inventory of TIMPs for the three new value chains (cotton, pyrethrum, and cashew nuts)</li> <li>• Update inventories of TIMPs for other value chains developed under NARIGP/KCSAP and prioritize 3-5 TIMPs with highest potential for impact</li> <li>• Support on-boarding of Technical Support Agencies across several functional areas</li> <li>• Support deployment of full-time dedicated human resource and required equipment to support their functioning at County level</li> <li>• Establish dedicated cell at County level to anchor investment coordination and reference database of ongoing county level investments for prospective new investors</li> </ul>
<b>3</b>	<b>Component 3: Piloting Climate Smart Safer Urban Food Systems</b>
<b>3.1</b>	<b><i>Sub-component 3.1 Climate Smart Urban and Peri-urban Agriculture</i></b>
	<ul style="list-style-type: none"> <li>• Mobilizing and organizing urban and peri-urban farmers into CIGs/VMGs and FPOs and provide micro-project investment support to promote appropriate TIMPs</li> <li>• Linkage with DAT service providers for efficient input use</li> <li>• Link urban/peri-urban zones to mid-stream value chain stakeholders such as processors, logistic providers</li> <li>• Train and link SMEs in urban/peri-urban production and marketing to financial service providers</li> </ul>
<b>3.2</b>	<b><i>Sub-component 3.2 Urban Infrastructure</i></b>
	<ul style="list-style-type: none"> <li>• Develop climate proof market infrastructure to serve market hubs for direct farmer-consumer linkages</li> <li>• Facilitate between CIGs/VMGs and FPOs and e-commerce platforms and digital aggregators</li> <li>• Support intensive consumer awareness and information campaign to catalyze higher demand and value for safer food produce</li> </ul>
<b>3.3</b>	<b><i>Sub-component 3.3 Policy and Institutional Strengthening</i></b>
	<ul style="list-style-type: none"> <li>• Implementation of existing legal and regulatory frameworks such as the Nairobi City Council Food System Strategy</li> <li>• Strengthening the coordination and convergence of line ministries and departments and agencies involved in urban food systems at National and County levels</li> <li>• Training and capacity building for consumers, farmers and government line ministries and</li> </ul>

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	departments <ul style="list-style-type: none"> <li>• Support policy analytics and technical assistance to line ministries and departments</li> </ul>
<b>4</b>	<b>Component 4: Project Coordination and Management</b>
<b>4.1</b>	<i>Sub-component 4.1 Project Coordination</i>
	<ul style="list-style-type: none"> <li>• Finance costs of NPCU that include salaries, operation and maintenance costs, project supervision and oversight</li> <li>• Support oversight and inter-governmental coordination provided by the Joint Agriculture Sector Steering Mechanism (JASSCOM), Council of Governors (CoG and Caucus of County Executive Committee Members (CECMs)</li> <li>• Support the Agriculture Transformation Office</li> </ul>
<b>4.2</b>	<i>Sub-component 4.2 Communication, Monitoring and Evaluation (M&amp;E), and Information Communication Technology</i>
	<ul style="list-style-type: none"> <li>• Finance activities related to communication with all stakeholders that are part of project implementation</li> <li>• Support engagement with farming communities to ensure participation and ownership at planning, preparation and implementation of community driven development operations</li> <li>• Finance routine M&amp;E functions including baseline, mid-point and end of project evaluations</li> <li>• Facilitate networking across project components and support development of an ICT-based agricultural information platform for sharing information</li> </ul>
<b>5</b>	<b>Component 5 Contingency Emergency Response Component</b>
	Finance immediate response activities following natural disasters impacting the agricultural sector triggered upon formal request from the National Treasury on behalf of GoK

## **1.6 World Bank Requirements for Labour Management Procedures**

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

## **I.7 Purpose and Specific Objectives of LMP**

15. The purpose of the LMP is to facilitate planning for the NAVCDP and help identify the resources necessary to address the labour issues associated with the project implementation. The LMP also sets out the manner in which project workers will be managed, in accordance with the requirements of National laws and ESS2.
16. The specific objectives of this LMP are:
  - a) Promote safety and health at work for all categories of workers.
  - b) Promote the fair treatment, non-discrimination and equal opportunity of project workers
  - c) Protect project workers, including vulnerable workers such as women, Differently Abled Persons (DAPs, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.
  - d) Prevent the use of all forms of forced labour, hazardous work, and child labour.
  - e) Support the principles of freedom of association and collective bargaining of project workers in a manner consistent with National law.
  - f) Provide project workers with accessible means to raise workplace concerns.
17. The project has therefore prepared this LMP to guide the use of the different categories of workers on the project, identify risks and outline OHS requirements for implementation

## **2 OVERVIEW OF LABOUR USE IN NAVCDP**

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

### **2.1 Labour Requirements for NAVCDP**

19. For NAVCDP Components 1, 2, 3 and 4, the MoALFC, the participating county governments and other government agencies will assign workers who will provide technical expertise (Table 2.1). There would be direct workers such as consultants who would be brought to support the project on specific deliverables. As well, the project will involve the use of contracted workers in the construction of minor works and the use of Government civil servants in the management and supervision of project activities. The project will also use community workers engaged by the FPOs and CIGs for farm level community-based activities.

**Table 2-1: Labour Requirements for Different Component Project Activities**

<b>Project Component</b>	<b>Activities</b>
Component 1	Land preparation, planting, soil conservation and soil fertility management, application of pesticides and fertilizers, construction of market infrastructures (grading and aggregation centers, storage centers), disbursement of e-vouchers. Working in the constructed market infrastructures. Training, Technical Assistance (TA <sup>1</sup> ), technology uptake and climate smart agriculture activities.
Component 2	Construction of FLID investments (small scale irrigation canals, water pans, and other water infrastructures), development and upgradation of physical markets and aggregation centers (e.g., pack houses, processing plants). Undertaking farming activities and working in the upgraded infrastructure. Training, TA, technology uptake and climate smart agriculture activities.
Component 3	Renovation or construction of market structure, upgrade of facilities and services

<sup>1</sup> Refers to the technical assistance provided by experts to support the value chains prioritized by CIGs/VMGs/FPOs in NAVCDP participating Counties. This support will be provided by the FFs trainers, Services Providers (SPs) and other technical experts engaged on need for short to medium term periods. The activities will involve implementation of the Technologies, Innovations and Management Practices (TIMPS) such as modern livestock housing, crop and livestock diseases control, agroforestry, soil fertility management as well as for infrastructural development e.g. agro-processing, markets, aggregation centres, farmer led irrigation development etc.

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<b>Project Component</b>	<b>Activities</b>
	at selected market hubs and working in the upgraded infrastructure. Training, TA, technology uptake and climate smart agriculture activities
Component 4	Project coordination activities by staff in the NPCU, CPCU. Training, TA.

## 2.2 Categories of Workers for NAVCDP

20. The project shall engage the following type of workers:

### **National Project Coordination Unit (NPCU)**

- a. **National Project Coordinator (NPC):** A NPCU will be set up within the MoALFC to coordinate and manage the project. It will have a dedicated NPC with overall responsibility for overseeing coordination and management of project activities at the national level.
- b. **Civil Servants:** NPC will be supported by a team of technical staff handling specific themes across the project components. In addition, staff for cross-cutting functions such as procurement officers, project accountants, safeguards officers, M&E) will also be engaged.
- c. **Consultants:** The NPCU will be supported by consultants who will be hired on need-basis to provide short to medium term technical assistance across the five project components

### **County Project Coordination Unit (CPCU)**

- a. **County Project Coordinator (CPC):** Every participating County will have a County Project Coordinating Unit (CPCU) to oversee execution of project activities at County and community level. It will have a dedicated CPC with overall responsibility for the effective management and execution of the project activities at the County and Community levels.
- b. **Civil Servants:** CPC will be supported by a team of technical staff handling specific themes across the project components. In addition, staff for cross-cutting functions including procurement officers, project accountants, safeguards officers, M&E) will also be engaged.
- c. **Contractor Workers:** there will be contracted skilled workers engaged in the construction of different subproject infrastructures under component 1, 2 and 3.
- d. **Consultants:** The CPCU will be supported by consultants who will be hired on need-basis to provide short to medium term technical assistance across the four thematic project components.



### **Community**

The number and type of subprojects and the subsequent exact number of community workers required have not been established. There will be two types of community workers:

- a. **CIG/FPO members** that will provide un-remunerated labour as in-kind contribution to the subprojects in sub-components 1.1 and 1.2 to ensure ownership and sustainability; and
  - b. **Youths** employed under the value chain ecosystems investment window in project subcomponent 2.1, 2.2, 3.1 and 3.2 that will provide off-season unskilled labour for the restoration of degraded lands, establishment of marketing infrastructure as well as other rural infrastructure. The youths under this employment program will be remunerated as per the National labour statutory guidelines and will sign code of conduct. The youth employment program shall also adhere to guidelines against child labour by working closely with relevant government agencies such as the local administrators, County Children Directors and County Labour Officers alongside other stakeholders.
21. For unremunerated community workers, LMP and ESMF will address: (i) process to document voluntary participation; (ii) working conditions particularly Occupational Health and Safety (OHS); and (iii) no disadvantage to those who are not able to participate (elderly, Differently Abled Persons (DAPs), women, etc.).
  22. The LMP, which will apply to all project workers, will specify the use and flow of different cadres of workers, before the commencement of project activities. During the implementation of project activities, the respective contractors will prepare OHS plans and the community health management plans, Traffic management plans, HR policy, and Emergency Response Preparedness Plans (ERPP) as part of their Contractor-specific Environmental and Social Management Plans (ESMPs) to manage related risks which have to be inserted in all bidding documents to tie all contractors into implementing them. Contractors will do the following to ensure the health and safety of the workers and communities; Develop a Human Resources Policy, which will outline worker rights to be included in all contracts including restrictions on working hours in line with applicable ILO standards, compensation including consideration of overtime, holidays etc.
    - Put in place policies in line with National legislation and applicable international legislation and Code of Conduct and Policies.
    - Put in place a pre-employment medical assessments as a workforce risk management tool to screen individuals for risk factors that may limit their ability to perform a job safely and effectively. This will ensure safer working environment, reduction in workplace injuries, minimized downtime, matching the capacity of the employee with the role, and overall recruitment cost and risk reduction.
    - Ensure that training on health and safety measures is provided to all construction workers prior to starting to work on the project and that supervisors have adequate experience to deliver on their responsibilities.

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- Implement regular health and safety checks and audits of workers, contractors and subcontractors and implementing sanctions in case of breaches of OHS plans and procedures
- Develop and implement a Workers Grievance Mechanism for the Project workforce including contractors and subcontractor's standards and the Project's specific standards. Such audits to include workplace H&S; worker contracts, working hours, pay and conditions; housing and food standards. Also ensure adequate condoms for both male and females.
- Establish procedure for the recording and analysis of incidents and lessons learned such that additional actions can be implemented to avoid or minimize recurrence of occupational health and safety incidents. Additionally, ensure that facilities and work sites are designed and maintained such that robust barriers are in place to prevent accidents.
- Ensure that its Code of Conduct is followed to regulate the performance and behaviour of all workers, including provision for disciplinary action for anti-social behaviour and non-compliance with health and safety regulations such as lack of use of PPE.
- In order to address the impacts on community health and safety, the contractors will be expected to develop and monitor the implementation of a Community Health and Safety Management Plan which will include the following measures:
- Ensure that all workers are housed in accommodation camps rather than in the local settlements in order to minimize interaction with local communities and related health and safety impacts.
- Ensure all workers including contractors and subcontractors undergo pre-employment screening and regular health screening including voluntary screening for STDs.
- Ensure any trucking companies employed to work on the Project will have policies around health screening of their workers in line with Project requirements.
- Ensure all workers including contractors and subcontractors receive education around transmission routes and symptoms of communicable diseases of concern and STDs.
- Undertake community awareness on HIV/AIDS and other STDs
- Ensure that COVID-19 protocols and guidelines by GoK's Ministry of Health are adhered to during the construction activities including social distancing, provision of face masks to all workers, provision of sanitizers, establishment of hand washing areas and provision of water and soap, conducting temperature checks for all workers, creating awareness on signs and symptoms of COVID-19, encouraging staff

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to take COVID-19 tests if symptoms associated with the same are exhibited, liaising with GoK to offer vaccination for workers

- Provide access to health care for those injured by its activities.
- Ensure that work sites are fenced and that signs are put up around work fronts and construction sites advising people of the risks associated with trespass.
- Undertake a programme of stakeholder engagement and consultation to educate local communities of the risks of trespassing onto sites, the meaning of signs, and the dangers of playing on or near equipment or entering fenced areas.

- 23. Other stakeholders working in connection with the project:** Stakeholders working in connection with the project, other than the above workers, will include staff from other institutions and organizations such as Civil Society Organizations (CSOs), National and county level offices who will support the activities at different levels and with varied time commitments. They will remain subject to the terms and conditions of their existing private sector employment, which are governed by Constitution of Kenya (CoK, 2010), Employment Act 2007 and existing public service regulations. There will be no legal transfer of their employment or engagement to the project. They will however be governed under the project OHS requirements.
- 24.** Each of these categories of workers need a platform to present their grievances or complaints. Therefore, just like in many organizations, where a welfare desk exists; the project will encourage contractors to adopt the same or similar desks so that workers and employees may have appropriate channels to put forward issues of dissatisfaction. (Chapter 11 describes the GM at sub project level including workplace). Table 2-2 presents a list of the workers and timing of their engagement in the project. The workers for the project may be migrant in nature but mainly domestic with this determination to be made during specific sub project design.

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**Table 2-2: Project workers<sup>2</sup>’ description**

Category	Description	Number	Timeframe/p roject phase
Direct workers	Comprise of staff working in the National Project Coordination Unit (NPCU), County Project Coordinating Unit (CPCU) as skilled fulltime time personnel,	NPCU=20 CPCU <sup>3</sup> (to be determined)	Coordination and management
	Various MoALFC staff will be involved in the project including directors of various departments both National and County Governments and all cadres in the MoALFC and support staff as skilled part time basis /need basis	About 25 Policy and technical personnel.	Construction and Operation
	These will include Technical Assistants (TA), who will be hired on need-basis to support the NPCU as professional highly skilled consultants on need basis.	Numbers unknown (to be determined)	Construction and Operation
Contracted workers	These will include workers who will be contracted by firms sourced by NAVCDP to undertake the design and construction of the various infrastructures e.g., water pans, irrigation canals, processing plants as temporary workers both skilled and unskilled.	Numbers are unknown to be determined when each investment is conceptualized.	Construction
Primary supply workers	Primary supply workers are envisaged in this project - required when implementing components 1, 2 and 3 as temporary workers both skilled and unskilled	Numbers are unknown to be determined when each investment is conceptualized.	Construction and Operation

<sup>2</sup> Includes full time, part time, temporary, seasonal, and migrant workers (migrant workers are not envisioned here – for no major works are expected in NAVCDP)

<sup>3</sup> Civil works contracts are at County level; hence CPCU are involved in implementation of the LMP.

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Category	Description	Number	Timeframe/p roject phase
Community workers	There will be two types of community workers: (i) community workers that will provide labour as in-kind contribution to the sub-projects to ensure ownership and sustainability; as non-skilled temporary workers, and (ii) youths employed as also non-temporary workers under the multi-community investment window that will work in restoration of degraded lands, construction of water pans and other water storage structures, establishment of small-scale irrigation canals, and other sustainable land management activities.	Numbers are unknown to be determined when each investment is conceptualized.	Construction and operation

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

### 3.0 ASSESSMENT OF POTENTIAL LABOUR RISKS

#### 3.1 Potential Labour Risks

26. Potential risks are those related to labour and working conditions, such as work-related discrimination, Sexual Exploitation and Abuse/Sexual Harassment (SEAH) and OHS risks. The NPCU will assess and address these risks by developing recruitment guidelines, procedures and appropriate OHS measures and applying relevant provisions of the Employment Act 2007, public service regulations and HR manual. In addition, the NPCU will train all workers engaged in project activities, on the guidelines and protocols on how to protect themselves and the communities from the spread of COVID-19. The following are the key labour risks anticipated during the implementation of the project.
- a. **Environmental, Health and Safety (EHS) risks:** Potential risks during implementation of NAVCDP may arise on the construction phase of the structures, and other numerous operational activities. There are also risks associated with pesticide application and disposal of the empty containers which unless well managed, are an environmental hazard. Environmental, Health, and Safety (EHS) Guidelines are reference documents with general and industry-specific examples of Good International Industry Practice (GIIP) (*Environmental, Health, and Safety (EHS) Guidelines*).
  - b. **Occupational Health Safety (OHS) risks:** potential risks during civil works may include slip and falls from manual handling of objects, injuries from working on heights and depths, injury, and cuts from moving machinery and equipment and dust from construction works. The contractors will therefore be expected to draw C-ESMPs and following inclusion of clauses on OHS plans in contractors' bids; OHSPs, ERPPs, amongst other mitigation measures will be addressed accordingly.
  - c. **Worker accommodation and transportation:** The project involves some infrastructural construction and rehabilitation activities. And therefore, there is potential for EHS risks associated with worker accommodation and transport, as well as the potential for the spread of diseases such as COVID-19, HIV/AIDs, and other Sexually Transmitted Diseases (STDs).
  - d. **Gender based Violence/Sexual harassment, exploitation, and abuse:** there are concerns on the potential for GBV/SEAH, increased risk of abuse and exploitation for vulnerable women workers, increased risk of sexual exploitation and violence. Although support to farmers will be channeled through FPOs and CIGs, there is a possibility of women being asked for favours by leaders of these organizations to access services. Indirectly, the project might lead to GBV/SEAH at the household level depending on who has access to the project benefits such as the e-voucher and utilization of the inputs once purchased at the household level or

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participation of women in decision making process and project activities that may not align with gender norms in certain communities.

- e. **Child labour:** The risk is substantial (given that NAVCDP is community driven development in nature and that community contribution through provision of unskilled labour will be expected) the risk may emerge through the contracted labour, community labour, contracted workers, and at household level where children may engage in forms of labour e.g., supporting farming activities that may be defined as child labour, hazardous work, and not child work. More specifically, in the cotton and coffee value chains there is some probability of experiencing child labour because (i) general global child labour statistics point to the agriculture sector contributing 70% of engaging child labour in activities (and NAVCDP is an agriculture project) (ILO, 2020); (ii) NAVCDP is working with smallholder farmers/households who in most cases are not aware of the law on child labour, light work, and hazardous work, etc. In fact, the Kenya Population and Housing Census of 2019 indicate that 1 million children aged between 5-13 years were involved in child labour; (iii) child labour is within farming households; (iv) in cotton and coffee value chains. The project expects a substantial child labour risk for NAVCDP will target smallholder farmers who normally are less endowed, thus a high likelihood of farmers letting their child join paid up jobs to supplement household income. Whereas emphasis to check against child labour is in the two value chains; all the others may be in same category when you consider children on labour to supplement household incomes (fertilizer and pesticide application in labour - intensive areas/counties).The project preparation team held consultative meeting with key stake holders on 16th march 2022 to deliberate more on the Kenyan context on child labour issues. Annex 7 provides the proceedings of the consultative meeting.
- f. **Forced labour:** According to the ILO's Article 2.1 of the Forced labour Convention No. 29, forced labour "*shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily*". Forced labour risk is likely in the said sub projects. There may be risks related to construction and civil works/hazardous work, and natural resources management which may manifest itself as forced labour especially where community labour is in question on payment in-kind. Whereas, the community investment may be noble, some beneficiaries may feel that their rights are infringed as they offer labour to complete the sub projects. The community rights may include abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, retention of identity documents, abusive working, and living conditions, excessive overtime, and intimidation and threats. The production of farm produce, transportation and marketing activities will require labour and could lead to forced labour. The following are the proposed mitigation

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measures NAVCDP will use in case of forced labour: engage with stakeholders inclusively; let the contractor's employment code of conduct; capacity building and awareness creation to communities; signing of individual contracts; use the project grievance management; monitoring risks and remedying them; contractors' to liaise with Area Chiefs on community labour management; set community working hours (Start/End); use the services of community mobilizer (employed by the contractor) as a go-between-the contractor/service provider and community. For the SEAH, it is recommended that this LMP is consulted together with the project SEAH Prevention and Response Plan and also ESMF recommendations.

- g. **Labour disputes over terms and conditions of employment.** labour will be required during construction of infrastructures under components 1, 2 and 3. Component 4 will also require labour inputs to support project coordination, monitoring and evaluation. Labour related disputes are likely to occur. The likely cause for labour disputes includes demand for limited employment opportunities; labour wages/rates and delays of payment; discrimination under conditional grant activities, disagreement over working conditions (particularly overtime payments and inadequate rest breaks); and health and safety concerns in the work environment. Further, there is a risk that employers may retaliate against workers for demanding legitimate working conditions or raising concerns regarding unsafe or unhealthy work situations or any grievances raised, and such situations could lead to labour unrest and work stoppage.
- h. **Discrimination and exclusion of vulnerable groups.** If unmitigated, vulnerable groups of people as well as communities who meet the requirements of the World Bank ESS7 may be subject to increased risk of exclusion from employment opportunities under the project. Such disadvantaged and vulnerable individuals and groups include women, female headed households, single parents, the elderly and sick, expectant mothers, DAPs and nutritionally challenged. Also those communities who meet requirements of the World Bank ESS 7<sup>4</sup> will also be targeted to benefit from the activities of the NAVCDP in line with the requirement documented in the VMGF. Sexual harassment and other forms of abusive behavior by workers or managers will also have the potential to compromise the safety and wellbeing of the vulnerable groups of workers and the local communities, while adversely affecting project performance.
- i. **Community labour.** The project anticipates the use of community labour only in the case of specific sub projects (water related, Natural Resources Management

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<sup>4</sup>(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.



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(NRM) related or cottage industry related) and it anticipates that the use of community labour will be undertaken through two mechanisms. The first mechanism is when the community clearly puts in labour as their part of the contribution. The second mechanism is when the local communities will be paid for their work. For community workers, there may be risk that basic working conditions are not maintained at site, may involve child or forced labor, experience sexual exploitation and harassment, those who may not be providing voluntary labor may get excluded from the benefits of the project or experience situations of discrimination, and those being paid for labor may face issues around wages and terms of employment.

### **3.2 Proposed Project Child labour Mitigation Measures**

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

- a) In the project design, NAVCDP implementation structures will include membership from Children and Labour Departments mandated to address child labour, both at national and county levels. The two departments will be included in the National Technical Advisory Committee (NTAC) and the County Technical Advisory Committees (CTACs).
- b) NAVCDP will undertake a Baseline Study through gap-filling to ensure the status of child labour and the resultant risks are analysed and known to the project across all counties. Mapping of existing referral mechanisms.
- c) Raise awareness/sensitization of child labour issues, e.g. hazardous work and risks to all project beneficiaries.
- d) In liaison with county relevant officers, support community organizations to formulate children's policies at local level enforced by county officers.
- e) Train and build capacity of communities on the supportive legal framework against child labour.
- f) Use existing government structures to address child labour issues: Area Advisory Council in Children (AAC), children services and labour departments, the Ministry of Internal Security (Area Chiefs), Ward Administrators and the National Council Against Child labour. The project will work in collaboration with these structures to ensure that there is no child labour in any project activities. The structures will also be and involved to address any child labour issues arising in the communities implementing NAVCDP.
- g) Large scale coffee farms to be encouraged to hire extra security to ensure that children are not recruited or exploited.
- h) Involve Children Services Department at the project level from the outset to ensure child labour, risks and mitigation measures are identified and the mitigation measures mainstreamed.

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- i) The policy of the Government is to eliminate child labour through awareness creation, training of communities and ToTs. Therefore, it will be prudent for the project at mobilization stage and throughout the implementation phases to identify strategies that will avoid/minimize engagement of child labour.
- j) Structures to address child labour exist in various mandated government ministries, departments and agencies and are multi-sectoral in nature and should be fully engaged by the project to mitigate child labour.
- k) Sensitize and train beneficiary communities to be aware of the drivers (including socio-cultural practices, high income incentives, poverty levels and high cost of living) of child labour and suitable measures to avoid/minimize the same.
- l) NAVCDP to establish a M&E system and systematic mechanisms to address child labour risks and to monitor risks within the activities of the value chains and also strengthen referral mechanisms for child and social protection.

### **3.3 Responsibility for LMP**

28. **The National Project Coordination Unit (NPCU)** is responsible for the overall project management and coordination, including compliance with safeguards requirements such as those contained herein. The NPCU shall engage consultant(s) with expertise in environmental, social, EHS, and OHS issues. The team will also coordinate with the labour and Children Service officers and OHS officers available in most counties countrywide in order to ensure efficiency in implementation of the LMP according to Table 3.

29. Overall, the implementation of this NAVCDP is multifaceted and at the minimum functions may be distributed as shown in Table 3-I.

**Table 3-I: Responsibility for LMP Implementation**

No	Activity	Responsibility for LMP implementation		
		NPCU	County	Community
1	Contract Management Plan (CMP),	Procurement unit of NPCU / Fiduciary Dept Procurement Unit prepare a guide on CMP and a procurement plan to guide the counties and communities on adequate provision of PPEs	Procurement unit CPCU/ county procurement unit - develop a procurement plan to ensure sufficient procurement of PPEs	Ward level – community structure (for CIGs, POs, Value Chain Ecosystem Investments on procurement requirements to ensure purchase, equitable distribution and utilization of the PPEs
2	Contracts listed in the Annual Workplan and	NPCU M&E Expert to guide on budgeting to	CPCU M&E O – domesticate the Annual	Ward level Subcommittee in charge of procurement/

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No	Activity	Responsibility for LMP implementation		
		NPCU	County	Community
	Budget	ensure adequate funding of security items and PPEs	workplan and budget to county conditions ensuring E&S activities are listed and PPEs have adequate budget	finance to guide CIGs, POs, etc. on work- planning and ensure that the security items and PPEs are budgeted for and procured on time for full utilization during project implementation.
3	ToR developed	Respective component/ Procurement Officers to include the requirement for compliance to Code of Conduct	Respective component/ Procurement Officer at CPCU to include the requirement for compliance to Code of Conduct.  To follow up on compliance of the same.	-
4	Support teams involved in managing one or more of those categories (works, Goods, etc.)	Panel of Experts (PoE) appointed by the NPC – train on ESHS, labour laws and child labour. Contracting and E&S clauses to be included in bids	County Technical Teams appointed by CO in liaison with CPC to ensure capacity building on child labour, labour laws and EHS and OHS	-
5	Prepare contract implementation documents (i.e. E&S Tools)	ESIA shared with winning contractor by project to prepare contractor's -ESMP (C-ESMP)  Train counties on the due diligence and compliance with labour, EHS and OHs issues.	ESIA shared by CPCU to allow contractor to customize it by developing a C-ESMP and confirm inclusion of the child labour, labour laws, OHS, EHS and compliance with the same during operation	Work with the contractor to ensure that labour influx is mitigated, ensure that there is no child labour and also equity in allocation of job opportunities.
6	Provide induction and regular training to contracted workers on ESHS issues;	NPCU. To ensure that training curriculum addresses the EHS, OHS, child labour and SEAH	CPCU- To ensure that training activities on EHS, OHS, child labor and SEAH are regularly carried out.	Contracted workers from the communities to participate in EHS, OHS, child labour and SEAH trainings

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No	Activity	Responsibility for LMP implementation		
		NPCU	County	Community
7	Maintain records of recruitment and employment of contracted workers (including sub-contractors);	NPCU to provide the guidelines to the contractors and Counties	CPCU. To regularly follow up on the records keeping by the contractors.	To work with the contractors to ensure record development and keeping.
8	Monitor project contractors and workers to ensure their activities are in accordance with the LMP and drawn contracts. Also monitor OHS Plans that must be prepared as a ESMF requirement for C-ESMPs and as applicable as per procurement bidding documents.	NPCU Environmental Expert; NPCU Social expert, short term SEAH expert, M&E Specialist; to develop M&E schedules to follow up and ensure compliance	CPCU Environmental expert, social expert, County M&E assistant, county works committees to follow up and ensure compliance	The project management committee to ensure that the contractor adheres to the EHS.OHS and labour requirements.
9	Managing EHS/ OHS risks in Works contracts	NPCU social expert and PoEs including DOSH to provide guidance	CPCU social expert and PoEs to build the capacity of the communities on EHS/OHS, child labour and SEAH	Key participants from the community to attend trainings and implement the guidelines given on use of PPEs, EHS,OHS, SEAH and child labour
10	Provide training to mitigate social, health and safety risks of project workers	NPCU social expert, PoEs including DOSH to provide the guidelines and undertake follow ups in the counties.	CPCU social expert, PoEs and DOSH to train the communities	Key participants from the community to attend trainings and implement the safety guidelines.
11	Ensure the abbreviated CoC (one-pager) is displayed in all sub projects supported facilities such as in the construction sites for various infrastructures,	NPCU Environmental Expert and DOSH to train (ToTs), draw CoC, and assist in displaying all other safety signage	CPCU Environmental expert to train the communities on the same and help them implement.	Ward Committee chair to coordinate training of members on the COC and follow up on compliance

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No	Activity	Responsibility for LMP implementation		
		NPCU	County	Community
	bulking and sorting centers, milk processing plants etc.			
12	Implement the GM for contracted workers including ensuring that grievances received from the contracted workers are resolved promptly, and report the status of grievances and resolutions regularly to the NPCU and World Bank;	NPCU - National Grievances Management Committee. -Train county GMs committees, and other national stakeholders	Capacity build county technical team; county GM committees	SAICs to document the grievances, ensure timely resolution and where necessary promptly escalate to the CPCU any grievances that they are unable to resolve.
13	Ensure that the grievance mechanism (GM) for project workers is implemented and that project workers are informed;	NPCU – Environmental and Social Safeguards experts to train counties, coordinate, and make follow-ups	CPCU Environmental and Social Safeguard experts to train the communities, contractors, and make follow-ups	Report any emerging issues as the subprojects are being implemented by contractors
14	Require primary supplier(s) to identify and address risks of child labour, hazardous work, forced labour and serious safety issues, and undertake due diligence to ensure they are minimized/ avoided;	NPCU Environmental and Social Experts in liaison with relevant stakeholders (ILO, Children Services, Labour Department, FAO, National Council Against Child Labour – (NCACL) identify where these risks are, train Counties on suitable avoidance/ mitigation measures	CPCU Environmental and Social Experts in liaison with relevant stakeholders at the County level to train contractors and sub project committee members, and make follow-ups	In liaison with contractors, Area Chiefs to ensure compliance and inform the CPCU any cases of noncompliance for early mitigation
15	Undertake inspection of workers' housing/camp (if any) to establish: if workers need housing and whether it is provided if required; where (within	NPCU Environmental and Social Experts to make regular M&E field visits to check compliance	CPCU Environmental and Social Experts to make routine visits to contractors' sites, and all other works sites to ensure compliance to ESHS	SAICs and PMCs to liaise with Contractors, /project managers to ensure compliance

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No	Activity	Responsibility for LMP implementation		
		NPCU	County	Community
	community or new facilities need); and potential impacts of such accommodation; mitigation measures; security and grievance mechanism in place.			
16	Report on labour, EHS and OHS performance and key risks and complaints;	NPCU Environmental and Social Experts train Counties on EHS/OHS in liaison with DOSH, Ensure regular M&E, and reporting.	CPCU Environmental and Social Experts to train County Technical Teams as ToTs to implement EHS/OHS	SAICs to liaise with Contractors/project managers to ensure compliance
17	Undertake the overall implementation of this LMP	NPCU Social Safeguards expert to oversee implementation of LMP	CPCU social expert to guide contractors and consultants to implement the LMP (if applicable). County Labour Officers to be involved at this point	SAICs and communities to be sensitized to understand labour requirements and rights.
18	Supervise contractors' adherence to the LMP	NPCU Social Safeguards expert to oversee implementation of LMP	CPCU Social Safeguards expert – Guide contractors and consultants to implement the LMP (if applicable). County Labour /Children Officers to be involved at this point	SAICs to be sensitized to understand labour requirements and rights. They should also ensure that the contractors comply with the requirements of the LMP and promptly report any noncompliance for mitigation

30. The NPCU has recruited social and environmental safeguards officers who will be responsible for promoting the implementation of the LMP, EHS and OHS requirements within the project at both NPCU and CPCU levels. The project coordinator and the entire NPCU have the responsibility to implement these components which are integral to the project (Table 3-2).

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**Table 3-2: Summary of project staff and key responsibilities**

<b>Responsibility area</b>	<b>Direct and contracted workers</b>	<b>Primary supply workers</b>
Security of all workers/staff including facilities	NPCU/CPCU will ensure security is maintained in liaison with the relevant security agencies	NPCU/CPCU will take the lead in assessing the risks with respect to staff, facilities, and workers and initiate the right security measures including reporting accordingly.
Hiring and managing individual project workers	NPCU will oversee the work of consultants and contractors hired to support project related activities	n/a (outside the scope of ESS2)
OHS	Direct workers and contractors will follow OHS measures	The NPCU will assess the risk of serious safety issues by primary suppliers and as needed require them to develop procedures to address these risks
EHS	All workers and beneficiaries will adhere to the EHS measures/guidelines	The NPCU will take lead in assessing impacts and risks related to the NAVCDP activities and thereof prescribing strategic solutions
Child labour and forced labour	The contract does not allow child and forced labour Community labor agreements to adhere to child labor and forced labor requirements are signed and verified time to time.	Contractors to adhere to child labour requirements. The project safeguards team at NPCU will inspect work sites to ensure that contractors are complying with the minimum age and other labour requirements.
Training	NPCU/contractors	n/a (outside the scope of ESS2)
Code of conduct	The contract for direct workers and contractors will address relevant risks.	
Grievance mechanism	NPCU/Contractors	
Monitoring and reporting	NPCU/consultants to monitor and report to World Bank	Relevant NPCU to monitor and report to NPCU Coordinator NPCU to report to World Bank.

31. It is notable that NPCU is fully operational, and will develop LMP protocols which will clearly assign responsibilities to each of the members for efficient in oversight. For instance, the Social Safeguards officer will oversee the implementation of the GM and ensure appropriate stakeholder consultation (ESS10). Other functions will include:

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- a) Raising awareness on labour issues and training of workers;
- b) Monitoring, supervising, and reporting on health and safety issues relating to NAVCDP activities.
- c) Coordinating and reporting arrangements between contractors.
- d) Following up on the feedback mechanisms between the contractors and their workers and flagging out any issues for redress; and
- e) Reporting on a regular basis on the overall project progress.



## 4.0: OVERVIEW OF NATIONAL LABOUR LEGISLATION FRAMEWORK

32. Kenya has a legal framework on matters of labour and working conditions. The CoK 2010 provides relevant clauses including Article 2 which recognizes ratified treaties as part of the laws of Kenya. Article 41 (on labour Relations) addresses the entitlements and guarantees afforded to workers, employers, and the unions, and exercisable by them within Kenya's employment regime. These entitlements are anchored on key human rights and freedoms including the right to human dignity in Article 28; freedom from all forms of slavery, servitude and forced labour in Article 30; and the right of everyone to have their privacy respected as provided for in Article 31. Article 27 on non-discrimination provides for equality and prohibits discrimination on various grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, or birth.
33. **The Employment Act, 2007** Article 4 (1) states that 'No person shall use or assist any other person in recruiting, trafficking or using forced labour'. Article 5. (1) holds that it shall be the duty of the Minister, labour officers and the Industrial Court— (a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; Article 6. (1) states that an employee is 'sexually harassed if the employer of that employee or a representative of that employer or a co-worker— (a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express; it also guides if one needs to declare and define the fundamental rights of employees, to provide basic conditions of employment of employees, to regulate employment of children, and to provide for matters connected with the foregoing. Again, making it safe for the workers for the law covers them against discrimination, sexual exploitation or forced labour (*EMPLOYMENT ACT CHAPTER 226, 2012; PART II-GENERAL PRINCIPLES 4-Prohibition against Forced labour. 5-Discrimination in Employment. 6-Sexual Harassment, n.d.*).
34. The Employment Act addresses the employer-employee power-dynamic, focusing on the employer-employee engagement from the insular perspective of a direct contractual arrangement between the two parties. The assumption is that all persons who fit the descriptions of 'employer' and 'employee' are governed by this law including those implementing development projects.
35. The law has different approaches to defining the categories of employees, such as: by nature, and length of the employee-engagements. The categories include casual

employees (who are not engaged for a longer period than 24 hours at a time), part-time, full-time employees, piece work (where the focus is the amount of work performed irrespective of the time occupied in its performance) and employees with probationary contracts (which address the formalities and length of the probationary period). The Act also addresses the issues of the employees' nationality and origin as is the case with migrant workers (referring to those migrating to Kenya specifically for purpose of the employment) and provides the requirements to be met by migrant workers before they are employed. In addition, the Act provides for the minimum terms and conditions of employment of an employee and grounds upon which a contract may be nullified. This is intended to discourage any arrangements that seek to undermine the statutory standards.

#### **4.1 Terms and Conditions**

36. The Employment Act 2007 broadly addresses other issues including the minimum, statutory requirement of any employment arrangement in Part III on Employment Relationship (as read with Part V on Rights and Duties in Employment; and Part VI on Termination and Dismissal). By law, the employee is entitled to pertinent employment information and documentation pursuant to Section 14 on Reasonably Accessible Document or Collective Agreement. Part IV of the Act addresses itself on the Protection of Wages seeks to outline the minimum standards required of all salary policies. The law has expressly restricted the employer's ability to interfere with how the employees dispose of their earnings. Part V focuses on the Rights and Duties in Employment and outlines the employees' entitlements and the employers' responsibilities. Indeed, the provisions of this Part expressly "constitute basic minimum terms and conditions of contract of service". Hours of work are lawfully the employer's prerogative; however, there must be weekly rest day (s). The Act also covers matters of leave for employees.
37. Part VI of the Act addresses the Termination and Dismissal matters. It outlines how employers and employees may terminate their contractual arrangements lawfully. Termination notice (s) are lawfully demanded of the party seeking to end the contractual arrangement in order to avoid ambushing the other party. The party seeking to terminate the employment contract may make a payment in lieu of notice or the employer may simply waive the employee's obligation to make payment in lieu of notice.
38. Where the contractual arrangement ends based on alleged employee wrongdoing; then there ought to be due process for the employee to defend his/her case and challenge the allegations. The employer is obligated to show justifiable cause for dismissal and the proof thereof. If the cause (and the proof thereof) is sufficiently

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grievous to meet the threshold for summary dismissal; then the employer may exercise the option to terminate the employee summarily (after due process). The termination must not amount to an unfair, unlawful and/or unreasonable dismissal for what is otherwise lawful, reasonable and the exercise of the employee's entitlements (such employee's pregnancy). Further, the Act obligates employers to make timely payments of separation and severance- all accrued salary/wages, allowances and benefits, pension and pension contributions and any other employee entitlements will be paid on or before termination of the working relationship.

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

- a. **Direct workers:** The terms and conditions for direct workers in PCU, the consultants will be governed by National labour Laws. Workers who are on short-term employment will not have maternity or annual leave, etc. Their terms and conditions will be based on a specific assignment to be completed within a specified period at a pay rate per day. These terms and conditions should be discussed at recruitment; and
- b. **Contracted workers:** The Employment Act and associated public service regulations are the guiding legislations on employment terms and conditions for contracted workers. The MoALFC shall therefore follow the provisions related to labour engagements and management.
- c. **Minimum Wage:** The official minimum wage will be governed by the provisions of Salaries and Remuneration Commission (SRC). All efforts will be made to ensure that contractors do not underpay and overwork their workers, more so temporary (casual) workers.
- d. **Hours of Work:** The normal hours of work of a project worker shall not exceed 8 hours a day. Hours worked in excess of the normal hours shall be entitled to relevant allowances and compensation.
- e. **Rest per week:** Every worker shall be entitled to rest on Saturday and Sunday. Workers shall also be entitled to rest on public holidays recognized as such by the Republic of Kenya.
- f. **Annual leave:** Workers (apart from consultants and temporary workers) shall be entitled to 30 days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.
- g. **Maternity and Paternity leaves:** A female worker shall be entitled, on presentation of a medical certificate indicating the expected date of her confinement, to 90-days maternity leave while male workers shall be entitled for paternity leave of 14 days with pay, provided that she/he has been employed by the employer for at least six months without any interruption on her part except for properly certified illness.

- h. **Deductions from remuneration:** No deductions other than those prescribed in labour laws shall be made hereunder or any other law or collective labour agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The employer shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.
- i. **Death benefit:** In case of death of a worker during his/her contract of employment, the employer shall pay to his/her remuneration as death benefits in-line with the provisions of the relevant laws.
- j. **Medical treatment of injured and sick workers:** Contract workers shall on a minimum be expected to be enrolled on Work Injury and Benefits Act (WIBA) by the contractors. All other workers will continue to benefit from medical insurance as arranged by their employers (e.g., for civil servants the civil service insurance scheme).

#### 4.2 Occupational Health and Safety (OHS) Act

- 40. **The Occupational Safety and Health Act<sup>5</sup>** is Kenya's codifying law governing workplace safety and health. The law provides for "the safety, health and welfare of workers and all persons lawfully present at workplaces and establishes the National Council for Occupational Safety and Health". This law is broadly concerned with potential hazards to persons in the workplace. These concerns would likely remain the same, if there's only one individual likely to be affected; and thus, the standards set under the Act are largely focused upon the environmental risks to persons at the workplace. Part VI (on Health-General Provisions), Part VII (on Machinery Safety), Part VIII (on Safety-General Provisions), Part IX (on Chemical Safety), Part XI (on Health, Safety and Welfare – Special Provisions) and Part XII (on Special Applications) provide for different occupational safety and health scenarios (in detail), with the intent of allowing for the management of the intended and unintended safety and health consequences that may be wrought by potential hazards. These safety and health consequences are more localized to individual workers, by virtue of their presence in the premise, than upon the wider society.

#### 4.3 The environmental Management Coordination Act (EMCA) 2006

- 41. The EMCA legal notice number 68 provides regulations cornering drinking water, water for agricultural purposes and other water uses. While legal notice number 69 through the legal notice number 121 gives the regulations on the management of all

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<sup>5</sup> OSH Act No 15 of 2007

types of waste to avoid any negative impacts to people including work places. Additionally, EMCA 2009 gives regulation on noise and vibration control to safeguard the population and workers from injuries due to excessive noise and vibrations

#### **4.4 The Work Injury Benefits Act**

42. **The Work Injury Benefits Act<sup>6</sup>** (WIBA) also addresses workplace safety and health and has since been amended several times. It provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment. The Act provides for the compensation of ‘injured’ employees as well as their dependants, who are adversely affected by work injuries. Part III (on *Right to Compensation*) addresses the entitlement and guarantee afforded in respect of compensation. This provision could be expanded to cover infection with COVID-19 contracted while at work.

#### **4.5 The National Children Policy Kenya 2010**

43. This policy defines a child as any person under the age of 18 years. Children hold a special place in society. Their nurture and wellbeing is the responsibility of key stakeholders who include parents, wider family, the state (national and county governments) and civil society. Kenya, upon recognition that children rights are human rights, has taken great strides in advancing and advocating for them. In this respect, Kenya is a signatory to various international conventions including the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC) and the Hague Convention on the protection of children and cooperation in respect of inter-country adoption. The country has gone further and domesticated the same instruments by enacting the Children Act 2001 and participated in the various sessions reporting the progress made in implementing the said instruments. The commitment to the Sustainable Development Goals (SDGs) and the articulation of children issues in Kenya’s Vision 2030 is a demonstration of this obligation that whoever is working for the people of Kenya must observe.

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

44. The second National Action Plan will be implemented during the period 2020-2024. Following the development of Kenya’s first National Action Plan, the country has established the National Steering Committee which continues to provide advisory support on the implementation of the plan. The country has also developed and launched the first Gender Policy in Defense Docket which aims at ensuring that

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<sup>6</sup>WIBA Act No 13 of 2007

more women are included in peacekeeping missions, and women are promoted in positions of higher levels, among others.

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

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

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

#### **4.8 Relevant International Instruments**

46. The applicable international instruments in Kenya include: *International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD)*; *Convention on the Rights of the Child, 1990, (CRC)*; *Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990 (ICRMW)*; *Convention on the Rights of Persons with Disabilities; (CRPD)* and *Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)*.
47. **SDG 8 aims at fostering sustainable and equitable economic growth** for all workers, irrespective of their background, race, or gender. More specifically, unit **8.7 allows all us to take** immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms. NAVCDP will strive to

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work together with relevant stakeholders: Children Services Department at both levels of Government, and Labour Office at both levels of Government, National Council Against Child Labour, FAO, ILO, and CSOs working Against Child labour.

48. The instruments of the international labour Organization (ILO) applicable in Kenya include the following.
- a. **Freedom of Association and Protection of the Right to Organize** (ILO Convention 87); in which among many good practices states “Article 8 8. (1) In exercising the rights provided for in this Convention workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land. 8. (2) The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention”.
  - b. **The Right to Organize and Collective Bargaining (ILO Convention 98); Forced labour** (ILO Convention 29); stating in some Articles thus “**Article 3** Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organize as defined in the preceding Articles; and **Article 4** Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.
  - c. **The Abolition of Forced labour** (ILO Convention 105) provides for ‘Article I Each Member of the International labour Organization which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour- a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; b) as a method of mobilizing and using labour for purposes of economic development; c) as a means of labour discipline; d) as a punishment for having participated in strikes; e) as a means of racial, social, national or religious discrimination.
  - d. **Minimum Age (of Employment)** (ILO Convention 138) in one of the Articles holds that “**Article 1** Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons”.

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- e. **The Worst Forms of Child labour** (ILO Convention 182); *Equal Remuneration* (ILO Convention 100); maintains that “**Article 1** Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency; and
- f. **Discrimination (Employment and Occupation)** (ILO Convention 111) that states in one article that “**Article 1 1.** For the purpose of this Convention the term **discrimination** includes:
  - i. Any distinction, exclusion or preference made based on race, color, sex, religion, political opinion, national extraction, or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
  - ii. Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.



## **5.0 OVERVIEW OF LABOUR INSTITUTIONAL FRAMEWORK**

### **5.1 The Labour Institutions Act**

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

#### **5.1.1 National Labour Board**

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

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

#### **5.1.2 Committee of Inquiry**

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

#### **5.1.3 Labour Inspection and Administration**

52. To carry out the foregoing functions, the Cabinet Secretary is empowered to appoint the following officers: - 1. Commissioner for Labour 2. Director of Employment 3. Any other officer- labour officer. - Employment officers. - Medical officers. 5. Deputy Registrar of Trade Unions 6. Assistant registrars of Trade Unions and such other officers as may be required by the Act.
53. **Delegation of duties:** The Commissioner for Labour, director of employment and registrar of trade unions may in writing, delegate duties to their subordinates, labour officers, employment officers and deputy and assistant registrars of trade unions respectively.
54. **Powers of the Labour Officer:** To ensure compliance with the labour laws, the labour officer may: 1. Order production, inspect or examine wage sheet and other

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records of employment kept by the employer. 2. Interview person giving out work or outworkers on information of the person to whom the work is given or vice versa respectively, with respect to remuneration. 3. Inspect and copy any material part of any list of outworkers kept by an employer or other persons giving out work to outworkers. 4. Examine, either alone or in the presence of other persons a matter on remuneration where he has reasonable cause to believe the person to have committed an offence. 5. Enter, inspect and examine any land, building or structure that provides residence to an employee to determine its fitness and compliance with the Act. 6. Examine documents establishing the employment relationship between an employer and an employee. These documents may be sourced from either the employer or employee. 7. Inspection of sanitary conditions and water supply in a business premises. 8. Examine and make copies of documents of employment and seize those that he has reasonable ground to believe contain evidence of an offence under the Act or any other law. In instances where employment records are seized, the labour officer should give the employer or his representative a receipt in respect of the documents seized. 9. Examine food provided by the employer to the employees and where need arises, take samples in duplicate for analysis. This examination has to be carried out in the presence of the employer. 10. Order that clean and sanitary conditions are upheld in buildings and premises where employees are housed. 11. Institute proceedings against employers who are in contravention with labour laws. 12. Institute civil proceedings on behalf of an employee in any cause of action against the employer, arising in the course of employment. 13. Take into custody and return to his parents or guardians any child he reasonably suspects to have been employed in contravention with employment laws. Section 36:

- 55. Power of the medical officer.** Examine and assess the health conditions of an employee and make recommendations for his rapid recovery. He may recommend that the employee goes back to work or proceed to hospital at the earliest opportunity at the expense of the employer. 1. Condemn any food provided by the employer which in his opinion is not fit for human consumption. Such food will be destroyed in the presence of the medical officer. 2. Order at the expense of the employer, such variety of food for an employee as he may deem necessary. However, the cost of the food should not exceed the normal costs of the daily rations ordinarily supplied by employers to the employees. 3. Condemn any building in which an employee is residing or working where in his opinion it is inhabitable or unfit because of its construction, location or condition for the purpose for which it was built. Its use will hence stand suspended until the medical officer subsequently certifies its fitness. 4. Order that the employer provides an employee under a contract of service extra clothing and blankets at the expense of the employer. Such

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

#### **5.1.4 Wages Council**

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

## 6.0 KEY POLICIES, PROCEDURES AND RATIONALE

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

- a. **Occupational Health and Safety (OHS):** Pursuant to the relevant provisions of the national OSH Act, Employment Act, ESS2 (including WBG Environmental, Health and Safety Guidelines (EHSGs), and WB standard procurement documents, the MoALFC will manage the project in such a way that project workers are properly protected against possible OHS risks. The contractors will also be required to produce policies and procedures in line with these provisions as explained in the ESMF. Contractors must formulate C-ESMPs and OHS Plans before signing the contract. Key elements of OSH measures include: (i) identification of potential hazards to workers; (ii) provision of preventive and protective measures; (ii) training of workers and maintenance of training records; (iv) documentation and reporting of occupational accidents and incidents; (v) emergency preparedness; and (vi) remedies for occupational injuries and fatalities.
- b. **Child labour:** The minimum age of project workers for the project is set at 18 years and above. To prevent engagement of under-aged labour, all contracts shall have contractual provisions to comply with the minimum age requirements including penalties for non-compliance in-line with the relevant laws. The NPCU is required to maintain the labour registry of all contracted workers with age verification.
- c. **Labour influx:** To minimize labour influx, the project will contractually require the contractors to preferentially recruit labour from the local communities and nearby areas. All contracted workers will be required to sign the Code of Conduct prior to the commencement of work, which includes a provision to address the risk of SEAH. The CoC will also include provisions to mitigate the risk of misconduct in contact with community members including sensitization of community and contractor's workers on SEAH. Consultants will also be required to sign the CoC and attend SEAH awareness sessions. These policies and procedures are also in the ESMF, SEAH, and SEAH AP. The CoC will be written in relevant local language.
- d. **Labour disputes over terms and conditions of employment:** To avoid labour disputes, fair terms and conditions will be applied for project workers (guided by relevant laws). The project will also have GMs at sub project level for project workers (direct workers and contracted workers) to promptly address their workplace grievances. Further, the project will respect the workers' right of labour unions and freedom of association, as set out in the *Employment Act 2007*.
- e. **Discrimination and exclusion of vulnerable groups and/or persons from communities who meet the requirements of the WB ESS7:** The

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employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. The project shall comply with the *Employment Act, 2007* on gender equality in the workplace, which will include provision of maternity and sick leave. There will also be enough and suitable toilet and washing facilities, separate from men and women workers, boy youths and girl youths as the community cultures demand. The contracts with third parties will include these requirements which will also be part of the monitoring system. Where the workers will require accommodation to be provided, then separate facilities for women and girls away from those for men will be provided.

- f. **Security risks:** Counties that fall under North-eastern Development Initiative (NEDI) where Tana River County falls are more vulnerable than the rest of the project counties. However, the project will be keen on security for all counties because in case of attacks any county may be a target. The MoALFC will implement SMP and work closely with the Ministry of Interior Security to ensure the security of the workers and the facilities involved in NAVCDP are responsive.
- g. **Sexual Exploitation, Abuse and Harassment (SEAH):** Given the implementation context, sexual harassment, exploitation, and abuse of co-workers is a likely risk. Thus, all staff and contracted workers shall sign the code of conduct outlining expected standards of behavior in this regard and attend an awareness session on the same including the consequences of such actions. MoALFC has identified and recruited a qualified trainer/consultant to offer training in SEAH.
- h. **Monitoring and reporting:** The NPCU shall report on the status of implementation of the above policies and procedures on a quarterly basis. The NPCU will closely monitor labour and OHS performance of the project and report to the World Bank on a quarterly basis.
- i. **Fatality and serious incidents:** In the event of an occupational fatality or serious injury, the PCU shall report to the World Bank as soon as it becomes aware of such incidents and inform the MoALFC in accordance with national reporting requirements within 48 hours of the occurrence. Corrective actions shall be implemented in response to project-related incidents or accidents. The NPCU or, where relevant a consultant, may conduct a root cause analysis for designing and implementing further corrective actions.
- j. **Guideline on Code of Conduct:** A satisfactory code of conduct will contain obligations on all project workers (including sub-contractors) that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the ministries, the location, and the project

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sector or to specific project requirements. The Code of Conduct should be written in plain language and signed by each worker to indicate that they have:

- received a copy of the code;
- had the code explained to them;
- acknowledged that adherence to this Code of Conduct is a condition of employment; and
- Understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.

k. **SEAH incidents:** To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, the grievance mechanism shall have a different and sensitive approach to SEAH-related cases and will be dealt with according to the complainant's informed consent. Where such a case is reported, the complainant will be provided with information about the available services including confidential appropriate medical and psychological support, emergency accommodation, and any other necessary services as appropriate including legal assistance. The survivor will be provided support to access these services. Staff will immediately inform the survivor/complainant to go to a health center which specializes in free post-SEA health support (within 72 hours of the incident). All staff and GM focal points will be reminded that if a case of SEAH is reported to them, they will be expected to establish if the incident involves a worker on the project, the nature of the incident, the age and sex of the complainant and if the survivor/complainant was referred to service provision. If a worker on the project is involved the incident will be immediately reported to the Project Coordinator who will provide further guidance after consulting with the World Bank.

l. **Project Implementation within COVID-19 Context.** The project will minimize the chances of exposure of COVID-19 Infection as follows:

- Any worker showing symptoms of respiratory illness (fever, cold or cough) and has potentially been exposed to COVID-19 will be immediately removed from the site and tested for the virus at the nearest local hospital;
- Close co-workers and those sharing accommodation with such workers will also be removed from the site and tested;
- Project management shall identify the closest hospital with testing facilities, refer workers.
- Persons under investigation for COVID-19 will not return to work at the project site until cleared by test results. During this time, they will continue to be paid daily wages;
- If a worker is found to have COVID-19, wages should continue to be paid during the worker's convalescence (whether at home or in a hospital); and

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- If project workers live at home, any worker with a family member who has a confirmed or suspected case of COVID-19 will be quarantined from the project site for 14 days, and continued to be paid daily wages, even if they have no symptoms.

**j. Training of Staff and Precautions**

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

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

**DOs**

1. Wear at all times prescribed and appropriate personal protective equipment on site.
2. Wash hands, always sanitize and observe social distancing and follow WHO and GOK updated guidelines.
3. Seek healthcare if you experience any of the following symptoms (while at home or work): cough, fever, and shortness of breath.
4. Prevent avoidable accidents and report conditions or practices that pose a safety hazard or threaten the environment.
5. Treat women, children and elderly men, vulnerable persons, persons from the indigenous communities and persons with disabilities with respect regardless of race, color, language, religion, or other status.
6. Report any violations of this code of conduct to workers' representative, HR or grievance redress committee. No employee who reports a violation of this code of conduct in good faith will be punished in any way.
7. Comply with all Kenya laws.

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**DON'Ts**

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



## 7.0 AGE AT EMPLOYMENT

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

- a. **The process of age verification:** Verification of the age of employees shall be undertaken prior to the engagement of labour and be documented. The National Identification Card (ID) or Passport will be used as indicative age verification means. For Vulnerable and Marginalized Groups/Indigenous Peoples (VMGs/IPs) who may not have ID cards and/or passports, a verification by a recognized local leader will suffice to engage him/her.
- b. **Household Level and Child labour:** At the household level, there is potential that beneficiaries may engage children in activities including land cultivation, planting, harvesting, livestock husbandry among others. Children's participation in their own family farm activities helps them learn valuable skills and contribute to the generation of household income, which has a positive impact on their livelihoods. Such participation is important for children and builds their self-esteem. However, to prevent and mitigate child labour at household level because of the NAVCDP, awareness creation and sensitization will be undertaken by the project on the distinction between child labour and child work including a clear elaboration on implication of child labour on the part of the households found to have subjected children to forced labour.

## **8.0 CONTRACTOR MANAGEMENT PROCEDURES**

61. Each contractor engaged by the Project to provide services (such as construction of water pans, sand dams, small scale irrigation canals, market centers, bulking and sorting centers etc.) will be expected to adopt the protective measures outlined in this document. The contracts drawn by the Government will include provisions, measures, and procedures to be put in place by the contractors to manage and monitor relevant OHS issues. Measures required of Contractors will include:
- i. As part of the bidding/tendering process, specific requirements for certain types of contractors, and specific selection criteria (e.g., certifications, previous experience),
  - ii. Specific procedures relating to the workplace and the conduct of the work (e.g., creating at least 6 feet between workers by staging/staggering work, limiting the number of workers present),
  - iii. Specific procedures and measures dealing with specific risks. For example, Infection Prevention and Control (IPC) strategies and MoH SOPs.
  - iv. Appointing a COVID-19 focal point with responsibility for monitoring and reporting on COVID-19 issues and liaising with other relevant parties; and
  - v. Including contractual provisions and procedures for managing and monitoring the performance of contractors, considering changes in circumstances prompted by COVID-19.
62. Contractors will be required to identify focal points and communication channels (for example, WhatsApp, SMS and email) within the company to address workers' concerns on an ongoing basis and ensure that such channels are adequately resourced (for example, 24-hour staffing of the emergency response call line). Workers shall not be victimized in any way for reporting a grievance.

## **9.0 PRIMARY SUPPLY WORKERS**

63. **Selection of primary suppliers.** When sourcing for primary suppliers, the project will require such suppliers to identify the risk of child labour/force labour and serious safety risks. The NPCU will review and approve the purchase of primary supplies from the suppliers following such risk identification/assessment. The project will be required to include specific requirements on child labour, forced labour and work safety issues in all purchase orders and contracts with primary suppliers. The NPCU will, as part of its monitoring, include indicators for assessing the functions of primary supply workers.

## **10.0 COMMUNITY WORKERS**

64. The project will use community workers who will be engaged by the FPOs and CIGs for farm level community-based activities. There will be two types of community workers: (i) community workers that will provide labour as in kind contribution to the sub-projects to ensure ownership and sustainability; and (ii) youths employed under the multi-community investment window that will work in restoration of degraded lands, construction of water pans and other water storage structures, establishment of small-scale irrigation canals, and other sustainable land management activities, the latter group of community workers will be remunerated as per the National laws and will sign code of conduct. The potential subprojects and number of community workers have not been identified. For unremunerated community workers, documentation will be undertaken including signed forms on voluntary participation; 2) working conditions particularly OHS; and 3) no disadvantage to those who are not able to participate (elderly, DAPs, women, etc.). The project will have a standardized and comprehensive community agreement (in cases where the community is contributing voluntarily) to ensure that there is no risk of any negative impact on the community. Similarly, the project will also have standardized terms of engagement when the community will be paid for their labour. NAVCDP will capture the potential risks for both the above types of engagement of community labour. The project will endeavor to ensure that there are no negative impacts.
65. NAVCDP will formulate mechanisms to address child labour, forced labour, hazardous work, the roles and responsibilities for monitoring of community workers, and the grievance mechanism in the LMP, amongst various communities. The department of labour will provide guidance to the County teams to ensure that any community work is undertaken according to the labour laws in Kenya.
66. Potential security risks will also be identified, analyzed and the necessary measures taken to reduce chances of occurrence and mitigation of negative impacts.

## **11.0 GRIEVANCE MECHANISM UNDER LMP**

67. The objective of labour grievance handling systems and procedure is to establish for the workers a mechanism for raising diverse complaints related to the sub project activities during the sub project phases and having such complaints resolved as amicably as possible through acceptable and binding corrective actions. Typical workplace grievances include demand for employment opportunities; labour wage rates; delays of payment; disagreement over working conditions; and health and safety concerns in the work environment.
68. Handling of grievances will be objective, prompt, and responsive to the needs and concerns of the aggrieved workers. The mechanism shall also allow for anonymous complaints to be raised and addressed. Individuals who submit their complaints or grievances may request that their name be kept confidential, and this will be respected.

### **11.1 labour Related Grievances**

- 65) Grievances from workers (direct workers, community workers, contract workers, consultants) during the implementation of the project may include:
- Complaints pertaining to wage rates, salary, other remuneration or benefits as per Company's HR policy
  - Gender discrimination
  - Workplace sexual harassment
  - Issues related to workers' organization
  - Labour accommodation.
  - Health and safety issues;
  - Extended working hours.

### **11.2 Project Level Grievance Management**

- 66) **Direct workers:** These will mainly be National and county government employees at the NAVCDP and consultants. The staff will utilize the current grievance system set up by public service to address workers' grievances (Public Service Commission, 2016). Each unit engaging direct workers (National, County staff, consultants) will hold periodic team meetings to discuss any general workplace concerns. The grievances raised by workers will be recorded and requisite actions taken. The summary of grievances will be reported to the World Bank as part of regular project reporting.
- 67) For individual grievances, the Public Service Commission (PSC) provides for a process that guides how these are addressed, thus: "PSC of Kenya advocates settling

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of a grievance as quickly as possible to its point of origin and encourages staff and their superiors/managers to resolve grievances informally.” However, the following three (3) stages are set to address the situations where this is not possible. A Grievance Form (PSC GF) has been designed for ease of application of the procedure.

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

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

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

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

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1. Complaints will be sent to the GM focal point at the workplace by email, text, phone, letter or in person. The complaints will be registered in the form, collated onto a register (Annex 4) and reported using the format provided in Annex 3 (lodgment form). The email address and phone number will be made available to all workers during recruitment inductions. The project complaints handling email at the NPCU level is [grievance@narigp.go.ke](mailto:grievance@narigp.go.ke) and the telephone contacts (+254-020-271-5466) once operational, the hotline number will be disseminated widely to stakeholders including county level and should be displayed on the MOALFC website. The current web- based system under NARIGP will also be updated to accommodate grievances in NAVCDP.
  2. Each entity engaging direct workers (NPCU, CPCU and the consultants) will hold periodic team meetings to discuss any workplace concerns. Complaints will be reviewed by the NPCU and CPCU on biweekly basis upon receipt. Grievance committee will be established at the workplace. The team will review the complaints and provide guidance on the course of action and ensure follow-up on previous complaints. Any preliminary investigation will take place within 5 working days of the committee meeting. Feedback will be given to the complainant within 10 working days.
  3. For informal complaints i.e., those raised through social media, print media or not formally lodged, the committee will deliberate upon them to decide whether to investigate based on the substance and potential impact/reputational risk.
  4. If the complaint is referred to the main project GM and government's legal complaints structures ((Ethics and Anti-Corruption Commission (EACC), Commission on Administration of Justice (CA, etc.)), the World Bank will be notified.
  5. Complaints regarding SEA shall be kept confidential, the name of the complainant will not be recorded, only the age and gender of the complainant, and whether a project worker was involved and will be sent directly to the project coordinator who will immediately inform the World Bank.
    - No disciplinary or legal action will be taken against anyone raising a complaint in good faith.
    - A monthly report of complaints resolution will be provided to the NPCU and the World Bank.
- 71) The summary of grievance cases will be reported to the World Bank as part of the regular report. Where the aggrieved direct workers wish to escalate their issues or raise their concerns anonymously and/or to a person other than their immediate supervisor/hiring unit, the workers may raise the issues with the World Bank task

team. Where consultants/contractors have an existing grievance system, their direct workers will be expected to use such mechanism.

### **11.3 Contractor Labour Grievance HR**

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

- 73) **Awareness Sensitization:** All workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all such project workers including providing the name and telephone contacts of the GM focal point at the workplace. Communication could also be done on email (the email address will also be shared) and in-person reports. Handling of grievances will be objective, prompt, and responsive to the needs and concerns of the aggrieved workers. The mechanism will also allow for anonymous complaints to be raised and addressed through providing options for people reporting a grievance to not mention their names, positions or place or workstation. Individuals who submit their complaints or grievances may request that their names be kept confidential, and this must be respected.
- 74) **SEAH incidents:** To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, there is a separate grievance with a different and sensitive approach to SEAH-related cases and requires that SEAH complaints be dealt with according to the complainant's informed consent. Where such a case is reported, the complainant will be provided with information about the available services including confidential appropriate medical and psychological support, emergency accommodation, and any other necessary services as appropriate including legal assistance. The survivor will be provided support to access these services. Staff will immediately inform the survivor/complainant to go to a health center which specializes in free post-SEA health support (within 72 hours of the incident). All staff and GM focal persons will continue to be informed that if a case of SEAH is reported to them, the information they will establish is if the incident involves a worker on the project, the nature of the incident, the age and sex of the complainant and if the survivor/complainant was referred to service provision. If a worker on the project is involved the incident should be immediately reported to the Project Coordinator who will provide further guidance after consulting with the World Bank.



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75) Stakeholders can access the WB's Grievance Redress Service (GRS) (<http://www.worldbank.org/GRS>; e-mail: [grievances@worldbank.org](mailto:grievances@worldbank.org) for addressing concerns and grievances arising in connection with the project. Project affected communities and individuals may also submit their complaints to the WB's independent Inspection Panel. For information on how to submit complaints to the World Bank Inspection Panel, please visit [www.inspectionpanel.org](http://www.inspectionpanel.org) <<https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.inspectionpanel.org%2F&data=04%7C01%7Cgignacio1%40worldbank.org%7Ca284278957ad43c8ed4d08d9e73b3b92%7C31a2fec0266b4c67b56e2796d8f59c36%7C0%7C0%7C637795063875375783%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6IklhaWwiLCJXVCi6Mn0%3D%7C3000&sdata=bqPTJUg8p%2BEZbM56nwQH6IndN7EAZvMhYj5OmOdDUHs%3D&reserved=0>>..

## **12 RESOURCES FOR IMPLEMENTING THE LMP**

76) Effective implementation of the NAVCDP ESMF and its social plans will require resources and adequate capacity in institutions, target communities and other stakeholders including ILO, Children Services, Labour Dept; FAO, County level relevant departments and National Council for Child Labour, especially with regards to observation of compliance as certain activities will be implemented and subsequently followed up with an elaborate and inclusive monitoring and evaluation (M&E). There is a need for targeted capacity building and training on ESS implementation and monitoring at the national, county, and community levels. Table 12-1 shows the capacity building topics, target groups and training level as well as indicative budget. The Project Implementation Manual (PIM) has described in detail ESS-related aspects such as capacity building at all levels.

**Table 12-1: ESS Capacity Building and Training Support for NAVCDP-LMP**

<b>Level</b>	<b>Key Target Groups</b>	<b>Type of Training/Capacity building</b>	<b>Estimated Budget (USD)</b>
<b>National</b>	NPCU National CSOs, Line Ministries and Departments including Children Services, National Council for Child Labour, Labour services, ILO, FAO	Environmental and Social Standards and Project Component ESMF and social plans	10,000
County	County relevant technical teams including Children Services, Labour Office, CSOs on child labour	NAVCDP briefs including explanation on application of the screening checklists, manuals, and tools (SEP, LMP, SMP, SEAH Prevention and Response Plan, etc.), conflict resolution and grievance redress mechanism; social audits; citizen and stakeholder engagement, targeting issues and report writing.	80,000
Target community	Community-level structures (CIGs, VMGs/IPs, and local leadership both administrative and technical).	Environmental and social standards screening checklist, targeting issues, and administration and ESS instruments/plans. Conflict resolution and grievance redress mechanism (GM) at all levels; Participatory M&E and reporting; Gender Based Violence and	100,000

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<b>Level</b>	<b>Key Target Groups</b>	<b>Type of Training/Capacity building</b>	<b>Estimated Budget (USD)</b>
		control measures.	

**Table 12.2 Budget for implementation of the LMP**

<b>Level</b>	<b>Activity</b>	<b>Estimated budget (USD)</b>
<i>NPCU</i>	<i>Development of guidelines for implementation of the LMP</i>	<i>100,000</i>
	<i>Sensitization of stakeholders at national and County levels</i>	<i>100,000</i>
	<i>Follow up of implementation of LMP</i>	<i>300,000</i>
<i>County</i>	<i>Sensitization of the County and community structures on LMP</i>	<i>100,000</i>
	<i>Follow up on the implementation of LMP at the community level</i>	<i>100,000</i>
<i>Community</i>	<i>Community sensitization meetings</i>	<i>100,000</i>
	<i>Regular follow up on the implementation of the LMP requirements</i>	<i>100,000</i>

## ANNEXES

### ANNEX 1: CODE OF CONDUCT-TEMPLATE

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

1. A satisfactory CoC will contain obligations on all project workers that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the location and the project sector and/or to specific project requirements.
2. The CoC should be written in plain language (it may need to be translated into various languages based on the needs of the workers) and signed by each worker to indicate that they have:
  - received a copy of the code;
  - had the code explained to them;
  - acknowledged that adherence to this CoC is a condition of employment; and
  - understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.
3. The employer should conduct continuous awareness raising and training activities to ensure that workers abide by the CoC (such as through toolbox talks and training sessions). The employer should also ensure that local communities are aware of the CoC and enable them to report any concerns or noncompliance.
4. The issues to be addressed include:
  - i. Compliance with applicable laws, rules, and regulations of the jurisdiction;
  - ii. Compliance with applicable health and safety requirements (including wearing prescribed Personal Protective Equipment (PPE), preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment;
  - iii. The use of illegal substances (such as alcohol and narcotics during working hours); iv. Non-Discrimination (e.g. on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction);
  - iv. Interactions with community members (e.g. to convey an attitude of respect and nondiscrimination);

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- v. Sexual harassment (e.g. to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate);
  - vi. Violence or exploitation (e.g. the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior);
  - vii. Protection of children (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas);
  - viii. Sanitation requirements (e.g., to ensure workers use specified sanitary facilities provided by their employer and not open areas);
  - ix. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection);
  - x. Respecting reasonable work instructions (including regarding environmental and social norms);
  - xi. Protection and proper use of property (e.g., to prohibit theft, carelessness or waste);
  - xiii. Duty to report violations of this Code; and
  - xii. xiv. No retaliation against workers who report violations of the Code, if that report is made in good faith.
5. All staff should understand the disciplinary actions that can be taken against those who repeatedly or intentionally fail to follow the CoC. Disciplinary actions will vary depending on the violation. Possible consequences include: demotion; reprimand; suspension or termination for more serious offenses; and detraction of benefits for a definite or indefinite time.
6. The employer may take legal action in cases of corruption, theft, embezzlement, or other unlawful behavior (for example, the diversion of food meant for the SMP or the school equipment).

**ANNEX 2. PUBLIC SERVICE GRIEVANCE FORM**

PUBLIC SERVICE COMMISSION GRIEVANCE PROCEDURE GRIEVANCE FORM

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

**Response/Action taken:**

Respondent's Name .....

Designation.....

Signature: .....Date.....

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**Employee's response**

- I conclude my grievance and am returning the form to the Human Resource Office
- I request that my grievance be taken to the next stage.

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

**Stage II**

Submitted to:.....

Name: .....Senior Deputy Secretary (Administration)

Date: .....

Date Received: .....

Response/Action taken:.....

Respondent's Name ..... Designation .....

Signature: ..... Date .....

**Employee's Response**

- I have documented my grievance and am returning the form to the Human Resource Office
- I request that my grievance be taken to the next stage

**Stage III**

Submitted to the Secretary PSCK

### ANNEX 3. GRIEVANCE LODGEMENT FORM

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

**Claimant Signature (if applicable):** .....**Date:** .....

**NAVCDP Representative Signature:** .....**Date:** .....



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**ANNEX 4. COMPLAINTS REGISTER FORM**

<b>Date Received</b>	<b>Name and Address of the complainant</b>	<b>Contact of the Complainant</b>	<b>Complain ant Issue</b>	<b>Complain Channel</b>	<b>Date acknowledge</b>	<b>Action Taken</b>	<b>Complai n status</b>

### ANNEX 5. COMPLAINTS REPORTING TEMPLATE

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

## ANNEX 6. DOCUMENTATION OF COMMUNITY WORK

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

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<b>Age verified:</b>  <b>Terms of employment explained:</b>  <b>Payments made:</b>  <b>Signature: ...</b>  <b>(Community work Supervisor/Assigned Person)</b>	
<b>Remarks:</b>	

**ANNEX 7. PROCEEDINGS FOR VIRTUAL STAKE HOLDERS  
CONSULTATION ON CHILD LABOUR HELD ON MARCH 16, 2022.**

**A. Participants list**

S/ No	Name	Station	Department	Position	Email
1.	Vinay Vutukuru	World Bank, Nairobi	Agriculture	TTL- NARIGP / NAVCDP	vvutukuru@worldbank.org
2.	Sangeeta Kumari	World Bank, Nairobi	Social safeguards	SSDS	skumari@worldbank.org
3.	Mary Nyamongo	World Bank, Nairobi	Social safeguards	Consultant	mnyamongo@worldbank.org
4.	Michael Njuguna	World Bank, Nairobi	Agriculture	Consultant	mnjugunamichael@gmail.com
5.	Rose Chepkoech	World Bank, Nairobi	Office Admin.	Admin.	rchepkoech@worldbank.org
6.	Faith Manyala	Nairobi	ILO	Children services	manyala@ilo.org
7.	Kimereh, Stanley	Nairobi	FAOKE	Agronomy	Stanley.Kimereh@fao.org
8.	christine otieno	Nairobi	Commissioner of Labour- Nairobi	Labour	c.obaraotieno@yahoo.com
9.	Marygorret	Nairobi	Director,	Children	mumbuamogaka

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	Mogaka		Children Services		@yahoo.com
10.	Stanley Rotich	Nairobi	Children Office	Children	rockstano@gmail.com
11.	Daniel Waiti	Tana River	County Director	Children	danielwachira63@yahoo.com
12.	Olive Kamau	Meru	County Director	Children	oliveruguru@yahoo.com
13.	Peter S. kutere	Homa bay	County Director,	Children	pkutere@yahoo.com
14.	Catherine kubai	Meru	County labour Officer	Labour	catekubai@gmail.com
15.	David Kirui	Homa bay	County Labour Officer	Labour	kiruid@ymail.com
16.	Emily Kimanzi	Machakos	County Director	Children	emilykimanzi3@gmail.com
17.	John Kimani	Nairobi	NARIGP	NPC	jwkimani2018@gmail.com
18.	Judy Amadiva	Nairobi	NARIGP	NECO	JudyAmadiva@amadivajudy.onmicrosoft.com
19.	Titus Mutisya	Nairobi	NARIGP	NESSCO	Tmutisya2003@gmail.com
20.	Benjamin Kilaka	Nairobi	NARIGP	Social safeguards Consultant	k.kilaka@gmail.com

B. Key issues that were discussed are summarized in the table below

S.No.	Participant	Comments	Recommendations
I	Faith Manyala	<ul style="list-style-type: none"> <li>The number of children as at 2020 who experience child labor was 160M which is an increase of 8M from 2016.</li> <li>70% of the case are within the agricultural sector and emphasized the importance of</li> </ul>	Preparation of mitigation measures in advance

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		preparing the mitigation in advance.	
		<ul style="list-style-type: none"> <li>Covid has affected the social economic status of most families intensifying child labor engagement in different forms to supplement the economic status of their household.</li> </ul>	New project should address the economic recovery of children who were affected by Vovid-19
		<ul style="list-style-type: none"> <li>There is lack of awareness on the parent's side in terms of what the law says on the difference of light work for children and hazardous work and agriculture is a common entry point for child labour</li> </ul>	The project should emphasize on raising awareness on what entails child labor, forced labor and human trafficking on the nine prioritized VCs.
	Christine Otieno	<ul style="list-style-type: none"> <li>There is an institutional framework, children act, the rules and regulations on hazardous work &amp; light work for children-</li> </ul>	Project should involve the state department to create awareness on the regulations
		<ul style="list-style-type: none"> <li>National steering committee under the ministry of labor which is the apex policy body,</li> <li>county and sub county labour committers which is multi sectoral (inclusive of the church, NGOs and government departments.)</li> </ul>	
	Peter Kutere	The children's Act is under review	It should address the discrepancy between the labour Act which puts employment at 16 whereas the children Act puts it at 18yrs.

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**C. Conclusions;**

1. The project will work with small holder communities, hence the severity of child labour risk is ranked as low
2. The necessary structures for control of child labour are in place from National (National Steering committee on child protection) up to community level( Area Advisory Committee)
3. The project will incorporate the children and labour departments in the project structures at the National and County levels to ensure that child labour issues are mainstreamed into the decision making processes.
4. Awareness creation for prevention of child labour at all the project levels will be a key topic in all the project activities from planning to implementation.
5. Follow up discussions will follow, preferably 3 months after the finalization of the LMP to ensure that the child labour issues are well addressed in NAVCDP.