



REPUBLIC OF KENYA

THE NATIONAL TREASURY AND ECONOMIC PLANNING

KENYA COVID-19 RECOVERY

**SUPPORTING ACCESS TO FINANCE AND ENTERPRISE
RECOVERY (SAFER) PROJECT**

LABOUR MANAGEMENT PROCEDURES (LMP)

MARCH 2023

ABBREVIATIONS

Acronym	Definition
AMFIs	Association of Micro Finance Institutions CBFi Community Based Financial Institutions
CBK	Central Bank of Kenya
CGS	Credit Guarantee Scheme
CLF	Centralized Liquidity Facility
DOSH	Directorate of Occupational Safety and Health
ESF	Environment and Social Framework
FGD	Focus Group Discussions
ESS	Environment and Social Standards
FSSP	Financial Sector Support Project
GBV	Gender-based Violence
GDP	Gross Domestic Product
ILO	International Labor Organization
KIBT	Kenya Institute of Business Training
KII	Key Informant Interviews
KIE	Kenya Industrial Estates
KIRDI	Kenya Industrial Research and Development Institute
KNBS	Kenya National Bureau of Statistics
KBA	Kenya Bankers Association
LMP	Labor-Management Procedures
MoITED	Ministry of Industry, Trade and Enterprise Development
MSMEs	Micro, Small, and Medium Enterprises
MFB	Micro-finance Banks
MSEA	Micro and Small Enterprises Authority
NGEC	National Gender and Equality Commission
NT	National Treasury
OHS	Occupational Health and Safety
PCC	Project Coordination Committee
PFM	Public Finance Management Act
PwDs	Persons With Disabilities
SACCO	Savings and Credit Co-operative Society
SASRA	Sacco Societies Regulatory Authority

SAFER	Supporting Access to Finance and Enterprise Recovery
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
SEP	Stakeholder Engagement Plan
OSHA	Occupational Health and Safety Act
WHO	World Health Organization
WIBA	Work Injury Benefits Act

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1 INTRODUCTION

1.1 Background of the Project

The Republic of Kenya will implement the Supporting Access to Finance and Enterprise Recovery (SAFER) Project (P175017), through the National Treasury (NT) and Financial Institutions (FIs). The International Development Association of the World Bank Group (WBG) has provided financing for the Project.

The National Treasury has prepared this Labor-Management Procedures (LMP) document for the Kenya Covid-19 Recovery: Supporting Access to Finance and Enterprise Recovery (SAFER) Project in line with the ESCP. It establishes the general framework for addressing any labor issues that will emerge during the implementation of the project.

The SAFER project will be implemented by the National Treasury, which is an established ministry in the Government of Kenya (GoK). The NT staff to be involved in the implementation of the project are civil servants deployed by the Public Service Commission (PSC) to the Treasury. The NT will from time to time hire consultants to provide needed Technical Assistance (TA) to the project. The consultants will adhere to civil service regulations and existing codes of conduct as they work according to established Terms of Reference (ToRs).

This LMP contributes to ensuring that the project implementation will proceed within the confines of National Labor Laws and applicable international best practices. This is *inter alia* in line with the ESCP in place and ESS 2 on Labor and Working Conditions in Bank supported projects.

The project will comply with national law including Ministry of Health Protocols, occupational health and safety, World Health Organization (WHO), and World Bank guidelines on the management of COVID-19 risks.

1.2 Project Description

Micro Small and Medium Enterprises (MSMEs) play a critical role in accelerating economic development, investment as well as the creation of employment opportunities in the country. According to the 2020 Economic Survey, MSMEs constitute about 98% of all business in the country, create 91% of the jobs annually and contribute 34% of the GDP. However, most of these enterprises experience limited access to credit partly because of the perceived risk by financial institutions. The situation has been worsened by the impact of COVID-19 pandemic and requires immediate interventions.

The objective of the Supporting Access to Finance and Enterprise Recovery (SAFER) project is to increase access to financial services, enhance the capabilities, and support the post Covid-19 recovery of MSMEs in Kenya. The project seeks to address market failures in the provision of finance to MSMEs, which have been exacerbated by the negative impact of COVID-19. The project contributes to the implementation of the third element of the 8-Point Economic Stimulus Program unveiled by President Kenyatta on 23rd May 2020. This element focuses on enhancing liquidity to MSMEs through provision of affordable credit in an efficient and structured manner.

1.3 Project Components

The project has three components, namely:

- i. Innovation and Liquidity support to MSMEs through Community Based Financial Institutions and digital channels
- ii. De-risking lending to MSMEs; and
- iii. Technical assistance to build resilience

Component 1: Innovation and Liquidity support to MSMEs (US\$ 55 million)

This component aims to provide liquidity support to MSMEs through regulated financial intermediaries (especially regulated retail lending financial institutions that have limited liquidity) with a focus on MSME banking, including those innovating with digital channels (hereinafter referred to as participation financial institutions (PFIs)). In addition, support will target MSMEs that were previously financed but are now facing constraints in addition to those that are considered bankable but have not been able to access credit. The indicative size of loans to individual microenterprises will range between KES7,000 and KES 150,000 and for small enterprises will range between KES150,001 and KES 250,000. Tenor for microloans is expected to not exceed 18 months, and for small loans to not exceed three years. Maximum grace period of six months may apply for both micro and small loans.

These aspects will be further defined in the project operations manual. This component will have two windows: window 1 (US \$25million) and window 2 (\$ 30 million). Window 1 will provide lines of credit to MSMEs through Savings and Credit Co-operative (SACCOs) and Micro Finance Banks through an apex institution that will wholesale the lines of credit and in line with government policies and regulation. The apex institution will be an entity, which may include a financial intermediary, identified by the National Treasury. Window 2 under this component, which will also be managed by the apex institution, will help drive innovation targeting informal sector MSMEs by leveraging digital channels to extend offering by PFIs to micro and small firms.

Labor risks related to Component 1 will be managed as guided by the Environmental and Social Management System and this LMP developed for the Project by the National Treasury and cascaded down to the Apex FI and beneficiary financial institutions.

Component 2: De-risking Lending to MSMEs (US\$ 30 million)

This component aims to unlock lending to MSMEs during the COVID-19 crisis and beyond to support recovery and growth of enterprises. This component would ramp up support to the partial credit guarantee scheme (CGS) that has been set up by The National Treasury as an emergency COVID-19 response measure both in the interim and support the establishment and capitalization of the Credit Guarantee Company (CGC). The CGC will be established to operate according to the Principles of Public Credit Guarantee Schemes as a sustainable mechanism of de- risking MSMEs.

Labor risks under Component 2 will be guided by the NT, ESMS which will cover the established Credit Guarantee Company and the LMP.

Component 3: Technical Assistance to Build Resilience (US\$ 15 million)

This component will provide technical assistance to build resilience capacity of the MSME finance ecosystem beyond the lifecycle of SAFER. During the life of the Project, the component will support NT, CBK, SASRA and PFIs in the delivery of component 1 and 2 and ensure overall growth of the MSME lending market.

(a) Sub-Component 3a: TA to NT in setting up the CGC (US\$5 million).

Support to the CGC will include support to CBK to develop prudential regulations for the company. Once the CGC has been established, the project will provide support to build its operational capacity to ensure it effectively delivers its mandate.

(b) Sub-Component 3b: TA to Participating Financial Institutions (PFIs) (US\$ 2 million)

This sub-component will support PFIs (SACCOs, MFBs and financial intermediaries involved). The support will target strengthening of governance arrangements, risk management capacity, business models, and operational efficiency. The majority of the SACCOs and MFB, especially the smaller ones, face numerous challenges including limited staff capacity with limited funds to invest in capacity building.

(c) Sub-Component 3c: Technical Assistance to financial sector regulators to strengthen the regulatory environment and enhance the financial infrastructure (US\$ 6 million)

This sub-component will support follow-on TA activities related to strategic initiatives started under the Kenya Financial Sector Support Project (FSSP) that are tied to underlying structural weaknesses holding back improved financial intermediation and improvement in liquidity distribution and asset-liability management (ALM). These activities will include: the implementation of a shared digital services platform for Saccos (i.e., SACCO Central initiative by SASRA), which will also establish a mechanism for a centralized liquidity facility similar to the inter-bank market to aid liquidity distribution and asset-liability management in the SACCO sector; implementation of the informal sector micro pension scheme by NT, and; added support for the central securities depository (CSD) initiative by CBK.

(d) Sub-Component 3d: This component will also support Project Management by NT (US\$ 2 million)

The objective would be to provide resources for: (i) workshops and outreach to facilitate diffusion and replication of lessons and promising innovations from the project, (ii) monitoring and evaluation (M&E) analyses to ensure the implementation and sustainability of the Project's activities, (iii) develop environmental and social operational and training manuals for PFIs and MSMEs; and (iii) project implementation support, through key functions forming part of the Project Implementation Unit (PIU).

This subcomponent will finance the design and implementation of an overall Project communications strategy, information disclosure and dissemination tools to inform stakeholders on the Project's progress and facilitate replicability of success stories. These will support the Project through a demonstration effect and contribute to mobilize added private capital and broader capacity building. Finally, this subcomponent will support the establishment of the Project Implementation Unit (PIU), which will be responsible for the day-to-day management of the project, with a multilayer implementation and oversight structure. The PIU would consist of NT staff and consultants/experts that would need to be hired to boost

PIU capacity. The core PIU staff will include a Project Coordinator, a Procurement Specialist, a Project Accountant, and an M&E consultant. Since the social and environmental risks are deemed to be substantial, the PIU will also recruit a full-time environmental and social (E&S) safeguards consultant.

This LMP will cover the labor risks related to the Project activities.

1.4 Project Activities

Under Component 1 the project will focus on the following activities:

- Identify an Apex Institution to channel lines of credit to MSMEs
- Work with the Apex Institution to identify appropriate SACCOs and Micro Finance Banks through which credit lines will be channeled to MSMEs
- Work with the Apex Institution to drive innovation targeting informal sector MSMEs

Under Component 2 the project will carry out activities as follows:

- Establish a Credit Guarantee Company (CGC) to operate credit guarantee schemes
- Build the systems and capacity for the CGC.

Under component 3 the project will:

- Provide Technical Assistance to the CGC to operationalize the institution to lead in robust credit guarantee schemes especially for MSMEs in Kenya
- Provide Technical Assistance to Participating Financial Institutions (PFIs)
- Provide Technical Assistance to financial sector regulators
- Support the project management at the national Treasury (NT) including developing a project communication strategy, setting up a project implementation unit (PIU) and resourcing it, among others.

1.5 Purpose of the Labor Management Procedure

In accordance with the SAFER Project ESCP, the NT committed to prepare, adopt, and disclose Labor Management Procedures (LMP) in line with existing national laws, regulations, and consistent with ESS 2 that will guide NT in managing labor issues in the Project. The NT has further committed to ensure that the Apex PIE and PFIs adopt labor management practices, consistent with this LMP and ESS2 in a manner acceptable to the Association.

Therefore, the purpose of this LMP is to facilitate further project planning in identifying the resources required for addressing labor issues in the project. The LMP provides a framework for labor management in line with ESS 2, national law, and internal public service regulations. Furthermore, the LMP aims to (a) identify the various categories of workers likely to be engaged in the project, and (b) explain the manner of complying with national law and regulations, and ESS 2 requirements in managing the various categories of workers.

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

Specifically, the LMP endeavors to:

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

The LMP is a living document that is initiated early in project preparation and is reviewed and updated throughout development and implementation of the project as the context including national law and policy change. This document may also be adjusted as the project advances, and as new stakeholders and categories of workers get involved in the various activities.

2 OVERVIEW OF LABOR USE IN THE SAFER PROJECT

Environmental and Social Standard (ESS) 2 categorizes project workers into: direct workers; contracted workers; community workers; and primary supply workers. The SAFER project will **only engage direct workers** who will be government employees mainly from the National Treasury, and consultants that the PIU will hire for the delivery of specific time-bound technical tasks and assistance. The civil servants engaged in the project will be subject to and governed by the Employment Act of 2007, public service regulations and Human Resources Manuals. The consultants on the other hand will be governed by a set of mutually agreed contracts.

Direct Workers. The project will engage the following types of workers as “direct workers”:

- a. **Project Implementation Unit (PIU):** A PIU will be set up within the NT to manage the project. It will have a Project Coordinator (PC) with overall responsibility for the effective functioning of the Project. The PIU will include cross-cutting functions as follows:
 - i. Project Coordinator
 - ii. Procurement Specialist
 - iii. Project Accountant
 - iv. M&E consultant
 - v. Environmental and social (E&S) safeguards consultant
- b. **Civil Servants:** Various NT staff including economists, finance experts, accountants and procurement officers will be involved in the project. These will be drawn from the civil service at the NT.
- c. **Consultants:** The PIU will be supported by technical assistance (TA) consultants, who will be hired on needs-basis. The consultants will be assigned to various functions including safeguards.

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

3 ASSESSMENT OF KEY POTENTIAL LABOR RISKS

This LMP concerns itself with potential risks associated with labor and working conditions, such as work-related discrimination, gender-based violence or sexual exploitation and abuse (GBV/SEA) and Occupational, Safety and Health (OSH) risks. The PIU will assess and address these risks by developing recruitment guidelines, procedures and appropriate OHS measures and applying relevant provisions of the Employment Act 2007, ESS2, ESS4, public service regulations and relevant HR manuals including codes of conduct therein. In addition, the PIU will train all workers engaged in project activities, on the guidelines and protocols to protect themselves and other stakeholders from the spread of COVID-19.

The following are the key labor risks anticipated during the implementation of the project.

- a. Occupational Safety and Health (OSH) risks: Potential risks during project implementation include unsafe work environments, traffic related incidents, sprains and strains, fire and electrical hazards, noise, poor lighting, poor housekeeping, equipment hazards and poor work station ergonomics.
- b. Gender-based Violence/Sexual, Exploitation, Abuse and Harassment (GBV/SEAH): there are several concerns on the potential for GBV/SEAH, increased risk of abuse and exploitation for vulnerable women in the work place, increased risk of sexual exploitation and harassment in the context of project resources and opportunities. Other abuses may occur at the MSMEs-Credit Channel interface where vulnerable women yearn for credit.
- c. Child labor: This risk is minimal given the recruitment criteria for all government jobs.
- d. Forced labor: Forced labor risk is unlikely as the project will work mainly with the NT staff and consultants.
- e. Labor disputes over terms and conditions of employment. Likely cause for labor disputes include demand for limited employment opportunities; labor wages/rates and delays of payment; disagreement over working conditions (particularly overtime payments and adequate rest breaks); and health and safety concerns in the work environment. Further, there is a risk that employers may retaliate against workers for demanding legitimate working conditions, or raising concerns regarding unsafe or unhealthy work situations, or any grievances raised.
- f. Discrimination and exclusion of vulnerable groups. If unmitigated, vulnerable groups of people may be subject to increased risk of exclusion from employment opportunities under the project. Such groups include vulnerable and marginalized groups, as well as women and persons with disabilities (PWDs). Sexual harassment and other forms of abusive behavior by workers or managers will also have the potential to compromise the safety and wellbeing of vulnerable groups of workers and the local communities, while adversely affecting project performance. All these are unlikely at the NT level but are potentially possible downstream in MSMEs and will be addressed through social assessment and attendant actions.

4 OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

4.1 General Working Conditions

The World Bank Environmental and Social Framework requires compliance of projects with national law regarding terms and conditions of work/service of their workers. ESS2 envisions that national law provisions on working hours, payment for overtime work, statutory deductions on wages, rest time per week, leave days, and other terms and conditions of work will be complied with. ESS2 therefore, emphasizes requirements of national law and may kick in only where national law is deficient. Kenya has a robust labor law regime that projects are required to comply with.

As already stated, Kenya has a very elaborate legal framework on matters of labor and working conditions. The Constitution of Kenya (CoK) 2010 stipulates a number of relevant clauses including Article 2 which recognizes ratified treaties as part of the laws of Kenya. Article 41 (on Labor Relations) addresses the entitlements and guarantees afforded to workers, employers and the unions, and exercisable by them within Kenya's employment regime. Key among these entitlements is the right to organize and join labor unions, to picket and to engage in collective bargaining on terms and conditions of service.

These entitlements are anchored on key human rights and freedoms including the right to human dignity in Article 28; freedom from all forms of slavery, servitude and forced labor in Article 30; and the right of everyone to have their privacy respected as provided for in Article 31. Article 27 on non-discrimination provides for equality and prohibits discrimination on various grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Article 53 provides that every child has a right to be protected from abuse, and hazardous or exploitative labor.

The Employment Act 2007 is Kenya's codifying legislative enactment on the laws governing employment. It addresses itself to regulating the tripartite relationship that exists between the employers, employees, and the government including the State's mediator role in safeguarding the entitlements of both parties. The Act, which has been amended severally; defines the fundamental rights of employees, and provides basic conditions of employment for employees, including the regulation of employment of children. It essentially prohibits all forms of child labor in Kenya. As such, this Act most closely aligns with essential imperatives that are evident in the ESS2 of the World Bank on Labor and Working Conditions.

The Act has a single subsidiary legislation titled the Employment (General) Rules, 2014 that largely expounds on the terms and conditions of work - aside from other procedural aspects, with an entire schedule outlining the minimum rights bestowed upon employees, and another dedicated to the requisite elements of the Policy Statement on Sexual Harassment. The Act also has provisions on foreign contracts of service that is relevant to the SAFER project where the NT may recruit consultants for Technical Assistance.

The Employment Act addresses the employer-employee power dynamic, focusing on 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. This is particularly important because projects employ people including

consultants on a short-term basis that require attention to issues such as timely payment and general respect of terms of engagement according to the Act.

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

The Act deals with the issue of Gender-based Violence (GBV) providing in Section 6(2) that “An employer who employs twenty or more employees shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment”. This forms the basis for codes of conduct around gender relations at the workplace that protects workers from GBV and combats discrimination on the basis of gender in the workplace.

The applicable international instruments in Kenya include the *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)*. These instruments align the expected conditions at the workplace in Kenya with ESS2 especially regarding non-discrimination and equal opportunity, combating child and forced labor. The ILO instruments speak to the same issues but especially emphasize the place of labor unions in workspaces.

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

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

4.2 Overview of Labor Legislation: Occupational Health and Safety

Workplace health and safety in Kenya is governed by the Occupational Safety and Health Act¹. 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

¹ OSH Act No. 15 of 2007 (Revised 2010)

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.

The Act also deals with health issues at the workplace including ventilation, tackling overcrowding, and provision of sanitary conveniences, lighting, and cleanliness among others. Sanitary conveniences are particularly critical to the comfort of all workers. Furthermore, those conveniences must be separate for males and females and their number be commensurate to the number of workers. These align with the requirements of ESS2.

Employer-employee occupational safety and health collaborations will be through the Safety and Health Committees² (that should be formed at each workplace), to enable workers to manage the intended and unintended health and social consequences of the work being done. In addition, there will be a need for the creation of public awareness, which will further empower all persons in the workplace to safeguard their own health through training and conscientization at the workplace including using signage to generate awareness on potential occupational safety and health hazards and the associated risks. These efforts will also include training on risk mitigation measures.

The Work Injury Benefits Act³ (WIBA) addresses workplace safety and health and has been amended severally. It provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment. The Act provides for the compensation of ‘injured’ employees (as well as their dependents), who are adversely affected by work injuries. Part III (on Right to Compensation) addresses the entitlement and guarantee afforded in respect of compensation. In this COVID-19 era this provision could be expanded to include infection with COVID-19 for project workers while on duty. Overall, there is a need to ensure that employees involved in the SAFER project are covered with WIBA as appropriate and necessary.

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

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

² Factories and other Places of Work (Safety and Health Committees) Rules, 2004, under the Occupational Safety and Health Act, [Act No. 12 of 2007]

³ WIBA Act No 13 of 2007

The PIU will refer to applicable international conventions, and directives for addressing health and safety issues relevant to COVID-19, such as:

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

Table 1 below offers a summary of some critical legislation and regulations in Kenya, and their relevance to the SAFER project.

Table 1 : Summary of Safety and Health Regulatory Framework

#	Legislation	Provision	Relevance/Measures
1	Public Health Act (Cap 242) Revised 2012	Part III of the Public Health Act provides for the protection of human health through prevention and guarding against introduction of infectious diseases into Kenya from outside, to promote public health and prevention, limitation or suppression of infectious, communicable or preventable disease within Kenya. The Public Health - Prevention, Control and Suppression of Covid-19 Rules, 2020 provide additional regulatory requirements to this part. The latter adopts WHO COVID-19 Technical Guidance that calls on each country to increase their level of preparedness, alert and response to identify, manage and care for new cases of COVID-19.	The SAFER project activities may expose the workers to COVID-19. The NT will develop protocols to educate the staff on risks of infection and the control measures. The PIU will make provisions for support for workers who get infected while on duty.
2	Work Injury Benefits Act, 2007	This Act provides for compensation to employees for work related injuries and diseases including COVID-19 contracted in the course of their employment and for connected purposes.	The NT shall comply with part II of this Act with regard to obligations of the employer securing WIBA coverage for relevant employees of the project, and necessary treatment as well as provision of first Aid Services to workers.
3	The Traffic Act Cap. 403 of 2009	This Act consolidates the law relating to traffic on all public roads. Key sections include registration and licensing of vehicles; driving licenses; driving and other offenses relating to the use of vehicles on roads; regulation of	The NT and PIU will comply with the Traffic Act regarding the deployment of qualified and licensed drivers in SAFER

#	Legislation	Provision	Relevance/Measures
		traffic; accidents; offences by drivers other than motor vehicles and other road users.	project activities to avoid accidents and loss of property.
4	Occupational Safety and Health Act, 2007	This Act of Parliament covers the safety, health, and welfare of all workers and all persons lawfully present at workplaces. It applies to all workplaces, whether workers are temporarily or permanently employed.	The NT will establish safety and health measures to mitigate workers' exposure to safety and health risks during the project planning and operational phases.
5	HIV/AIDS Prevention and Control Act, 2006	Part 11 Section 7 requires HIV and AIDS education in workplaces; specifically, the provision of basic information and instruction on HIV/AIDS prevention and control.	The NT will carry out HIV / AIDS awareness to all project staff using fliers, posters, and workshops during project preparation and implementation.
6	Children's Act, 2001	Section 7(i) states: Every child shall be entitled to education the provision of which shall be the responsibility of the Government and the parents. The right to healthcare is found in Article 8. Section 10 of that Act further seeks to protect persons under the age of 18 years, by providing that they enjoy the entitlement to protection from economic exploitation and work that is hazardous or interferes with the child's education, or health; physical, mental, spiritual, moral or social development.	The NT shall ensure that no child is employed in the project. The PIU will also sensitize direct workers on the requirement not to employ engage in child labor on the domestic front.
7	Public Service Code of Conduct and Ethics, 2016 and Gender-based Violence Issues	Section 30 of the Act provides that a public officer shall not sexually harass a member of the public or another public officer. Sexual harassment includes inter alia intentional or careless physical contact that is sexual in nature, and sending of sexually suggestive texts, pictures, or videos. The aforementioned Act will be complemented by the Sexual Offences Act No. 3 of 2006 Section 23(1) of which inter alia provides that: Any person, who being in a position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows, or has	The usual workplace at the NT where the project will be implemented has risks of sexual harassment just other workplaces. The NT will enforce provision of the Act to protect workers from sexual harassment. The NT will also create awareness on GBV and Sexual Harassment to all

#	Legislation	Provision	Relevance/Measures
		reasonable grounds to know, are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than three years or to a fine of not less than one hundred thousand shillings or to both.	project workers as part of preventive measures in the project.
8	Grievance Mechanism	Grievances at the work place at addressed in various laws including the Employment Act in Part XII; the Employment and Labor Relations Court Act, 2011 established to hear and determine disputes relating to employment and labor relations and for connected purposes; Labor Relations Act, 2007 that inter alia recognizes the place of trade unions in the work place; the Commission on Administrative Justice Act, 2011.	The NT will respect any project workers' membership in trade unions, and establish a workplace grievance mechanism (GM) to address matters related to the project. Information of the GM will be shared freely with all project workers.

5 RESPONSIBLE STAFF

The NT has prepared and will implement the SAFER Project. The Cabinet Secretary (CS) in-charge of the NT will host the project on behalf of the Kenya Government and will be responsible for its effective implementation through specific officers in the NT.

The Project Implementation Unit (PIU), supported by the Human Resources Officer at NT, will be responsible for the overall project management and the implementation of this LMP. The Unit will coordinate work with key stakeholder organizations including regulators such National Environment Management Authority (NEMA), the Directorate of Occupational Safety and Health Services (DOSHS) , and the Ministry of Public Service to implement this LMP in compliance with national laws. The PIU will specifically be responsible for the following tasks:

- (i) Undertake the overall implementation of this LMP;
- (ii) Engage and manage consultants in accordance with this LMP and the applicable Government procurement procedures;
- (iii) Monitor project consultants to ensure their activities are included in the LMP and the applicable procurement documents;
- (iv) Provide training to mitigate risks to project workers;
- (v) Ensure operationalization of the NT's GM for staff and consultants; and
- (vi) Ensure that all the workers are informed about how to report a grievance and the operations of the broader Project GM including that it is open to internal NT Human Resource Processes, the ombudsman, and the judiciary.

Table 2 below presents a summary of the key personnel and their responsibilities in the project.

Table 2 : Commitments and Responsible Persons

#	Officer	Key Responsibilities
1	Project Coordinator	<ul style="list-style-type: none"> • Overall oversight of all project activities and day-to-day management of the project. • Chairing the PIU and overall project resource management • Link to the World Bank Team • Link to the implementing partners • Responsible for all project reporting and communication.
2	Deputy Project Coordinator	<ul style="list-style-type: none"> • Deputize the project coordinator • Coordinates production of project reports at the direction of the project coordinator.
3	Human Resource Officer at NT	<ul style="list-style-type: none"> • Guide the implementation of this LMP. • Lead in the training of all project workers including the PIU on the provisions of this LMP.
4	Social and Environmental Safeguards Consultant	<ul style="list-style-type: none"> • Oversee the development and updating of safeguards documents as appropriate

#	Officer	Key Responsibilities
		<ul style="list-style-type: none"> • Oversee the implementation of social safeguards documents including the SEP, LMP, and aspects of the ESMS and Environmental and Social Impact Assessment (ESIA). • Develop protocols for the workplace including adoption of MoH COVID-19 guidelines • Link with NEMA and DOSH on all labor related issues • Monitor, document and report on all social safeguards issues and provide training on codes of conduct at all appropriate levels of the project. • Support the development of a GM structure for the workplace, partners, and stakeholders as appropriate • Support the implementation of the GM. • Monitor, document, and report on GM matters • Assess safety and health risks in the project • Support in the development of health and safety protocols for the workplace including the adoption of MoH COVID-19 guidelines. • Link with NEMA and DOSH on all EOHS matters • Monitor, document, and report on all EOHS matters • Oversee development and updating of EOHS documentation as appropriate.
5	Capacity Building Officer /Focal Point	<ul style="list-style-type: none"> • Collaboratively identify all TA needs and identify TA Resources to meet the needs. • Lead the TA activities in the project.
6	M&E Officer	<ul style="list-style-type: none"> • Develop the project M&E framework • Train staff and partners on the framework and their roles in it. • Carry out actual monitoring of this LMP and project inputs, activities, and outputs, and document lessons from time to time. • Plan for and oversee the execution of the final LMP and project evaluation.

6 POLICIES AND PROCEDURES

This LMP is a living document that will be updated from time to time during the life of the SAFER project as the context changes and in order to improve the project environment. A summary of the indicative procedures to develop and implement the LMP policies is provided below.

Occupational, Health, and Safety (OHS): In line with relevant provisions of the national OSH Act, Employment Act, ESS2 on Labor and Working Conditions (including WBG Environmental, Health, and Safety Guidelines (EHSGs), and WB standard procurement documents, the NT will manage the project in such a way that the project team is properly protected against possible OHS risks.

Gender Based Violence (GBV) and Sexual Harassment, Exploitation and Abuse (SHEA): Although the implementation context is largely at the NT which is not a new project site, sexual harassment, exploitation and abuse of co-workers in the project is potential risk. Thus, all staff should sign the code of conduct (CoC) outlining expected standards of behavior in this regard and attend an awareness session on the same including the consequences of such actions. The PIU will seek the support of the Ministry of Gender to provide training and create awareness of GBV and SEA. The project will provide channels for reporting and addressing GBV and SEA complaints. This is meant to encourage reporting of GBV-related complaints by tackling issues of stigmatization and acts of vengeance on victims who report their experiences.

Once 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 should be provided support to access these services. Staff should 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 the social safeguards officer handling the GM will be informed that if a case of GBV is reported to them, the only information they should 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 a service provider. If a worker on the project is involved the incident, this should be immediately reported to the Project Coordinator who will provide further guidance after consulting with the World Bank.

Labor disputes over terms and conditions of employment: The SAFER project team will be drawn from NT which already has established terms and conditions of service. However, there is a risk of labor disputes regarding working overtime in project activities or traveling out of the station, therefore fair terms and conditions will be applied for project workers (guided by relevant laws and Salaries and Remuneration Commission Guidelines). NT has grievance mechanisms for project workers to promptly address their workplace grievances. Further, the project will respect the workers' right of labor unions and freedom of association, as set out in the Employment Act 2007. Additionally, the SAFER project will comply with the Employment Act, 2007 on gender equality in the workplace, which will include the provision of maternity and sick leave. There will also be sufficient and suitable toilet and washing facilities, separate for men and women workers respectively.

COVID-19: The SAFER Project PIU shall ensure that the workplace offers an environment that is protective of COVID-19 including social distancing; accessible wash areas with water, soap and sanitizers; and emergency lines for any worker who needs to report a COVID-19 related issue. The PIU will deploy an EOHS officer to be responsible for COVID-19 prevention and response measures including PPEs. In case of a COVID-19 infection at a workplace, the SAFER Project Coordinator will need to be informed immediately and all other preventive measures put in place immediately to contain the spread of the virus. All workers will be provided with appropriate care and support if exposed to the virus at the workplace.

Monitoring and Reporting: The SAFER Project PIU will report on the status of implementation of the above policies and procedures on a quarterly basis. The PIU will closely monitor labor and EOHS performance of the project and report to the World Bank quarterly.

7 GRIEVANCE MECHANISM

7.1 Principles of the Grievance Mechanism

The Grievance Mechanism (GM) will be guided by the following principles:

- **Promptness:** Effort will be made to process grievances promptly, deliver responses to complainants in a timely manner and in line with agreed standards.
- **Transparency and Openness:** grievances will be addressed in an open manner and decisions arrived at will be delivered with no under the table dealings.
- **Confidentiality:** complaints touching on the private lives of complainants such as those around GBV will be handled with the necessary confidentiality in focus from the reporting/recording, processing, and delivering responses and decisions. This is to encourage reportage of even the most sensitive of complaints.
- **Intentionality:** The GM will be a deliberate process put in place and publicized sufficiently to all relevant stakeholders and welcoming feedback and complaints at the commencement of the project not in response to an avalanche of complaints.
- **Escalation:** The GM will not be a closed system. It will be open to escalation of complaints to higher levels of the GM or even to other dispute-handling mechanisms such as Quasi-Judicial Institutions and to the Judiciary.
- **Inclusivity:** The GM will be non-discriminatory entertaining complaints from complainants without consideration of their skin color, religion, gender, age, or other criteria.

The typical workplace grievances to anticipate include demand for employment opportunities; wage rates; delays of payment; disagreement over working conditions; and health and safety concerns in the work environment including absence of PPEs for protecting staff from COVID-19. Although SEA occurs in workplaces it is not always reported on for fear of victimization. Therefore, a separate grievance mechanism will be established for project staff, as required in ESS2 to offer the necessary comfort to complainants to report. Handling of grievances should be based on the principles discussed above and will also allow for anonymous complaints especially on sensitive matters to be raised and addressed.

Direct workers. The project will have a compact but effective grievance system for direct workers. Each unit engaging direct workers (PMT, field staff, enumerators and consultants) will hold periodic team meetings to discuss any workplace concerns. The grievances raised by workers will be recorded with the actions taken by each unit. 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 should use such a mechanism.

Project GRM: the project will have several channels for complaints and grievances including email, phone calls, texts, and complaints boxes that will be accessible to all workers. Information on the workers' grievance mechanism will be communicated by the NT, Human Resource Officer. Anonymity will be assured when handling workers' grievances. Although 'suggestion boxes' exist in many worksites and appear to be a preferred form of reporting complaints, the experience has been that these boxes are hardly opened. If these have to be

used as part of the workers grievance mechanism, a structure needs to be put in place for opening, reviewing, responding and providing feedback on the issues raised.

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

- a. Complaints should be sent to the grievance focal point (HR office) at the workplace by email, text, phone, letter, or in person. The complaints should be collated onto the complaints form and logged into the register (Annex 3 and 4) and reported using the format provided in Annex 4. The email address and phone number will be made available to the workers at signing the contract/recruitment.
- b. Complaints should be reviewed by the PIU weekly upon receipt. The grievance committee at the workplace comprised the grievance officer and members from the PIU. The team will review the complaints and provide guidance on the course of action and ensure follow-up on previous complaints. Any preliminary investigation should take place within 5 working days of the committee meeting. Feedback will be given to the complainant within 10 working days.
- c. For informal complaints i.e., those raised through social media, print media or not formally lodged, the committee should deliberate upon them to decide whether to investigate based on the substance and potential impact/reputational risk.
- d. If the complaint is referred to the main workers' complaints mechanism and the government's legal complaints structures (EACC, CAJ, etc.), the World Bank should be notified.
- e. Complaints regarding GBV/SEA/SH should be kept confidential, the name of the complainant should not be recorded, only the age and gender of the complainant, and whether a project worker was involved should be sent directly to the Project Coordinator who should immediately inform the World Bank.
- f. No disciplinary or legal action will be taken against anyone raising a complaint in good faith.
- g. A monthly report of complaints resolution should be provided to the PMT and the World Bank (as per the reporting format in Annex 3).

Any complaints that will not be addressed to the satisfaction of the affected complainants will be escalated for further action.

National appeal process. The labor laws provide for the national appeals process that should be utilized by any aggrieved staff if they consider the process established by the project to be ineffective and/or unfair.

ANNEXES

Annex 1: Code of Conduct for All Staff and Project Workers on Kenya Covid-19 Emergency Response Project

Dos:

- Wear prescribed and appropriate personal protective equipment on-site at all times.
- Wash hands, sanitize and observe social distancing at all times and follow WHO and GOK updated guidelines.
- Seek healthcare if you experience any of the following symptoms (while at home or work): cough, fever, and shortness of breath.
- Prevent avoidable accidents and report conditions or practices that pose a safety hazard or threaten the environment.
- Treat women, children, and men with respect regardless of race, color, language, religion, or other status.
- Report any violations of this code of conduct to the 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.
- Comply with all Kenya laws.

DON'Ts:

- Expose other people to the risk of infection in any form.
- Leave personal protective equipment lying around.
- Come to work if you or any of your family members has any symptoms of COVID-19 (cough, fever, and shortness of breath). Report immediately to your supervisor if you or family member has any of these signs.
- Make unwelcome sexual advances to any person in any form.
- Have sexual interactions unless full and unequivocal consent is given and there is no form of material or other coercion.
- Use alcohol or narcotics during working hours.

Annex 2: Complaints Form Aligned to Kenya Public Sector Complaints Guide and Commission on Administration of Justice (CAJ)

1. Complainant's Details

Name (Dr/Mr./Mrs./Ms.) _____
ID Number _____
Postal address _____
Mobile _____
Email _____
County _____
Age (in years): _____

2. Which institution or officer/person are you complaining about?
Ministry/department/agency/company/group/person

3. Have you reported this matter to any other public institution/ public official? ___ Yes ___ No

4. If yes, which one?

5. Has this matter been the subject of court proceedings? ___ YES ___ NO

6. Please give a brief summary of your complaint and attach all supporting documents [Note to indicate all the particulars of what happened, where it happened, when it happened, and by whom]

7. What action would you want to be taken?

Signature _____
Date _____

Annex 3: Sample Grievance Log Form

No.	Name of Complainant	Gender	Brief Description of Grievance	Date of Receipt	Grievance Status and Brief Description of Response	Date of Response	Remarks

Annex 4: Grievance Record Form

Grievance Record	
Name of the complainant:	Telephone:
Date complaint filed:	Nature of grievance:
Name of person taking complaint:	
Position:	Signature:
Review/Resolutions	
Date of conciliation session:	Was the complainant present?
Nature of complaint:	
Was field verification of complaint conducted:	Finding of field investigations:
Was agreement on the issue reached?	If an agreement reached provide details
If agreement not reached provide points of disagreement:	
Mediator Name:	Signature: Date:
Complainant Name:	Signature: Date:
Sub-project team member name:	Signature: Date: