

The IPF (Technical Assistance)

Phase 1 Component of the Kenya Green and Resilient Expansion of Energy (GREEN) Program

LABOUR MANAGEMENT PROCEDURES (LMP)

1. Project Description

The Government of Kenya's development blueprint pledged to stimulate economic growth and accelerate job creation for the economic wellbeing of all Kenyans. In the blueprint, energy access has been identified as a key enabler of the development process. This pledge is being achieved through various projects, including the expansion of power distribution systems to be within the reach of more Kenyans, thus enabling them to connect to the national grid at affordable costs.

Given the need for a long-term, sustained engagement to achieve a financially and operationally sustainable power sector and achieve the vision of universal access to electricity, a four-phase Multi-phase Programmatic Approach (MPA) with a combination of a Program for Results (PforR) and Investment Project Financing (IPF) operations is proposed with the objective of increasing access to electricity in Kenya in a financially and environmentally sustainable manner.

The first phase of the MPA will include the IPF component, supporting Technical Assistance (TA) activities, which is the focus of this LMP. The proposed TA activities include updating the national electrification strategy, the least cost plan for generation and distribution master plan; conducting feasibility studies for distribution network including distribution substations; undertaking strategic environment and social assessments; training and capacity building for affected persons, KPLC staff and other relevant entities, and preparing other strategies, plans, and policies.

2. Overview of Labor use on the Project

This Labour Management Procedures (LMP) apply to all workers who will be involved in the implementation of the TA activities. In this regard, it is envisaged that community workers as defined in ESS2, (i.e volunteers) and casual labor will not be employed under the IPF project, and hiring of locals as contract workers will be encouraged. As per ESS2, this LMP is relevant to TA operations because TA activities will involve both direct and contracted workers as follows.

Direct Workers: persons employed or engaged directly by the implementing agency, e.g, the staff of KPLC and service providers/consultants).

Contracted Workers: persons employed or engaged by third parties such as service providers/consultants locals contracted as translators, field guides etc.

2.1 Number of Workers

The precise number of workers who will be engaged in TA implementation is unknown at this stage. Most workers will be contracted by the consultants. Bidding documents to select the consultants will be prepared by KPLC in line with the Bank's provisions, including EHSS compliance issues.

The Project Implementation Unit (PIU) will provide overall oversight on the Green Program, including TA activities. It will be formed with a combination of different professionals like the Project Manager, Project Engineer, Technical Officer; Monitoring and Evaluation (M&E); Environmental Specialist, Socio-Economist, Safety Officer, Procurement Specialists, Accountants, Drivers and Secretaries.

2.2 Characteristics of Workers

Workers will be recruited and managed in accordance with the provisions of the Kenyan Constitution 2010 and relevant legislation as well as the World Bank's provisions. The national labor-related laws and regulations include, Employment Act Cap 226 (Rev 2012), Persons with Disabilities Act 2003, Employment (General) Rules 2014, Regulation of Wages and Conditions of Employment Act (Chapter 229), Labour Institutions Act 2007, the Labour Relation Act 2007, National Social Security Fund Act No. 45 of 2013, Pension Act CAP 189 (Rev 2012), Regulation of Wages and Condition of Employment Act (Chapter 229), Public Procurement and Disposal Act 2015, Public Procurement Regulations 2020, Work Injury Benefits Act (WIBA) and Occupational Health and Safety Act, 2007 as well as the World Bank's Environmental and Social Standard 2, on Labour and Working Conditions. At this stage, the anticipated Labour can be categorized into the following three levels of expertise:

Skilled labour – technical personnel with advanced specialist training (e.g., consulting professionals, administrators). Majority of skilled labour should be nationals with few internationals,

Semi-skilled labour – ancillary staff with relevant vocational training (e.g., drivers, security). This should preferably be nationals and local to the project site; and

Basic labour (unskilled) – casual labour for incidental manual work requiring little to no specialist training (e.g., field guides, translators, vehicle breakdown servicemen). This should be locals.

However, KPLC will ensure Kenyan consultancies firms shall be given priority. International consultancy companies will be contracted only where skills are not available among Kenyan nationals/ consultancies firms. Minority and marginalized groups (women, youth, minority ethnic groups, VMGs, people with disabilities, among others) who qualify as service providers shall be encouraged to submit their proposals for consideration as well.

Employment of minors (persons below 18 years) in TA operations will be strictly forbidden. Age of workers will be verified prior to their engagement through the provision of National Identification Cards. The bidding documents will include the requirement for service providers to prevent any form of child labor.

2.3 Direct Workers

KPLC, acting on behalf of the GoK, specifically Ministry of energy, will engage the direct workers comprising its staff and consultants to undertake the TA activities that are anticipated to include:

update the Kenya National Electrification Strategy (KNES) and the least cost plan for generation and distribution master plan;

conduct feasibility studies for distribution network including distribution substations;

undertake strategic environment and social assessments;

build the capacity of affected persons, KPLC staff and other relevant entities;

Prepare other strategies, plans, and policies, among others.

2.4 Contracted Workers

Contracted workers are not anticipated under the TA activities. However, in the event that there the TA activities will have opportunity for the engagement of contracted workers, then KPLC will ascertain that the third parties responsible for their engagement are legitimate and reliable entities. KPLC will require such entities to have in place labor management procedures applicable to the project's TA activities that will allow them to operate in accordance with the requirements of ESS 2 and this LMP. KPLC will ensure that labor management requirements and noncompliance remedies are included in the contractual agreements that are signed with subcontractors. In this regard, contracted workers will have access to a grievance mechanism. Should there be a situation where the third party engaging the contracted workers is not able to provide a grievance mechanism to such workers, then KPLC will avail the grievance mechanism prepared for the TA activities to the contracted workers.

3.0 Assessment of Key Potential Labor Risks

3.1 Proposed TA Activities

Substantial use of labour is mostly anticipated to arise from TA operations. The type of activities to be supported includes:

- updating the national electrification strategy, the least cost plan for generation and distribution master plan;
- undertaking strategic environment and social assessments;
- building the capacity of affected persons, KPLC staff and other relevant entities;
- conducting feasibility studies for distribution network including distribution substations;
- Preparing other strategies, plans, and policies, among others.

3.2 Potential Labour risks related to TA activities

Potential labour risks associated with the TA activities include safety and health hazards, accidents and injuries, HIV/AIDS, child labor, minimal labor influx and gender-based violence, specifically sexual exploitation and abuse (SEA) and sexual harassment amongst TA workers.

a) Labour influx

It is expected that there will be minimal labour influx during TA implementation. Consultants will move across the country engaging stakeholders and collecting data. However, it will be done intermittently and within a short -term period.

To the consultant firms who will be undertaking the TA activities shall hire staff as need arises with clear hiring procedures in line with:

- How advertisement of vacancies will be done,
- Locations of recruitment of workers within the country where the project will be implemented,
- Guidelines to ensure that as appropriate, most of the workers are recruited within the project host communities,
- Codes of conduct for the human resources personnel,
- Mitigation measures to manage labour attracted by the project.

This will be monitored by the KPLC-PIU.

b) Accident and injuries (safety and health hazards):

In general, consultancy services for the KPLC's Green Program implementation will be guided by KPLC's Safety, Health and Environment Policy, Occupational Safety and Health Act 2007 and World Bank's Environmental, Health, and Safety General Guidelines. Occupational health and safety hazards may arise during the movement of consultants from one part of the country to another especially in data collection. The TA activities are not expected to have extensive works that would pose major risks to workers involved in the project. However, KPLC will ensure that safe means of transport are provided to project workers or otherwise the engaged consultant procures the same. All consultants and workers will be inducted on KPLC's SHE Policy, Codes of conduct, OHS rules and the project E&S instruments. KPLC will ensure that the studies that will involve staff coming into close proximity or contact with electrical infrastructure, the necessary PPE will be provided for the works to ensure their safety and that of the community.

Discrimination

Discrimination is a potential risk. This includes potential inappropriate treatment or harassment of consultant teams' workers due to gender, age, disability, ethnicity, or religion; potential exclusion or preferences with respect to recruitment, hiring, termination of employment, working conditions, or terms of employment made based on personal characteristics unrelated to inherent work requirements; in training and development provision. To mitigate these risks, KPLC and consultants will ensure that workers are not discriminated in line with the Employment Act and ESS-2 provisions. TA implementation will provide equal opportunities for women, men and persons with disability (PWD), with emphasis on equal criteria for selection, remuneration, and promotion, and equal application of those criteria.

c) Sexual Exploitation and Abuse and Sexual Harassment (SEA/SH):

Minimal risk of SEA/SH is anticipated during TA implementation. This is because much of the work involving the implementation of TA activities will be desktop with intermittent field visits to collect data

and undertake stakeholder engagement and consultation. In addition, the potential for labor influx-related impacts is minimal given the limited travels likely to happen and the number of workforces involved.

The consultants will be expected to abide by the national laws and regulations as they pertain to sexual violence, as well as the World Bank provisions on SEA-SH, and institute the measures to mitigate the risk of SEA/SH. Further, KPLC will ensure that requirements for SEA/SH mitigation measures such as codes of conduct to be signed by all TA workers, are reflected in the bidding documents and contracts for TA engagement. To this end, KPLC will prepare a SEA/SH prevention and response plan to be prepared by KPLC in line with the ESCP to guide the conduct of both KPLC staff and KPLC consultants/contractors in their relationship with communities and among themselves.

d) Employee grievances

Employee grievances will be addressed in line with the provisions of section 10 of this LMP.

e) Terms and conditions of employment

For teams carrying out data collection, field assistants, interpreters (etc.). The terms and conditions of employment will, as appropriate, clearly spell out labor related requirements including the issues of minimum wage; overtime; leave entitlement, contracts; disciplinary measures and termination of contracts among others

f) Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome (HIV/AIDS):

HIV/AIDs prevalence in Kenya is 6.04% (Kenya World AIDS Day Progress Report 2013 - 2021). Consultancy teams attracts workers, national and even international to support the TA implementation. Most of the consultancy teams are mostly unaccompanied with their spouses especially during field work that may therefore attract transactional sex workers in the project areas and also increase cases of sexual contact with local population creating a risk of spread of HIV/AIDS and other sexually transmitted infections. The consultancy team will adhere to the KPLC HIV/AIDS Policy. KPLC will sensitize the consultancy team on HIV/AIDS; liaise with various government health institutions to distribute condoms; provide Information and Education Materials (IEC) on HIV/AIDS; offer pre- and post-counselling and voluntary free testing services to the consultancy team workforce.

g) Spread of diseases including COVID -19

Multiple levels of interactions between consultancy firms' staff, project staff and other stakeholders during project events could increase the risk of COVID-19 transmissions. To mitigate these risks, workers will attend awareness raising sessions, be provided with relevant PPE such as face masks and hand sanitizers, and be required to enforce and maintain adequate physical distances and use masks during meetings, training sessions, and other project activities.

h) Violation of Workers' Right

The violation of workers' rights could occur through inadequate compensation of consultants and contracted workers to be engaged, requirement for direct and contracted staff to work for long working hours and denial of holidays or leave request. Through pre-contractual due diligence, the project will ensure that staff of all partners working on TA activities have working conditions and rights consistent with Kenya Employment Act, and World Bank policies.

i) Forced and Child Labour:

KPLC shall maintain strict prohibitions on forced and child labor. In this regard, all consultancy firms will be screened to establish that they have no historical practices on forced and child labor before contracts are signed between them and KPLC, and they will be required to affirm the ages of their potential employees by requiring such employees to provide original and copies of their national identification documents prior to being considered for employment by the concerned firm.

4.0 Brief Overview of Labour Legislation: Terms and Conditions

4.1 The Constitution of Kenya (CoK) 2010

The 2010 Constitution of Kenya provides the national legal and regulatory framework on terms and conditions for labor. Article 41 of CoK, 2010 (on Labor Relations) addresses the entitlements and guarantees afforded to workers, employers, and the unions and exercisable by them within Kenya's employment regime. These entitlements are anchored on key human rights and freedoms including the right to human dignity in Article 28; freedom from all forms of slavery, servitude and forced labor in Article 30; and the right of everyone to have their privacy respected as provided for in Article 31. Article 27 on non-discrimination provides for equality and prohibits discrimination on various grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language, or birth.

4.2 The Employment Act, 2007

The Employment Act, 2007 addresses the employer-employee power-dynamic, focusing on the employer employee engagement from the insular perspective of a direct contractual arrangement between the two parties. The assumption is that all persons who fit the descriptions of 'employer' and 'employee' are governed by this law including those implementing development projects. Article 4 (1) of the Act states that 'No person shall use or assist any other person in recruiting, trafficking or using forced labor'. Article 5. (1) holds that it shall be the duty of the Minister, labor officers and the Industrial Court– (a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; Article 5(3) states that no employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee (i) on grounds of race, color, sex language, religion, political or other opinion, nationality, ethnic, or social origin, disability, pregnancy, mental status or HIV status (b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the 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 promise of preferential treatment in employment; threat of detrimental treatment in employment; or threat about the present or future employment status of the employee. (b) use language whether written or spoken of a sexual nature; (c) use visual material of a sexual nature; or (d) shows physical behavior of a sexual nature which directly or indirectly subjects the employee to behavior that is unwelcome or offensive to that employee

and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

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.

The employment Act, 2007 further sets basic minimum conditions of employment, which among others states that (i) an employee shall be entitled to at least one rest day in every period of seven days and after every twelve consecutive months of service with employer to not less than twenty-one working days of leave with full pay (ii) A female employee shall be entitled to three months' maternity leave with full pay (iii) After two consecutive month of service with his employer, an employee shall be entitled to sick leave of not less than seven days with full pay and thereafter to sick leave of seven days with half day pay, in each period of twelve consecutive months of service. The Labor law prohibits the use of forced and child labor, and thereby set prohibitions on employment of children below 17 years.

4.3 Trade Dispute Act (Cap. 234)

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

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)

Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW).

Instruments of the International Labor Organization (ILO): 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).

5.0 Brief Overview of Labour Legislation: Occupational Health and Safety

5.1 Occupational Health and Safety Act 2007

The Kenya Occupational Safety and Health Act, 2007 is the main legislation that governs workplace safety and health. The law provides for “the safety, health and welfare of workers and all persons lawfully present at workplaces and establishes the National Council for Occupational Safety and Health”. This law is broadly concerned with potential hazards to persons in the workplace including permanent, temporary, seasonal, casual, consultants and all persons that legally visits work premises.

This Act entrust the employer with the obligation to ensure the safety and health of all its employees, and to mitigate risks of exposure to any hazards in the workplace. The legislation makes it mandatory for employers to provide personal protective clothing or equipment to employees exposed to wet, dusty, noisy or any conditions that might expose the employees to harsh or dangerous conditions. Employees are to be trained to perform their work in order to avoid exposure to danger or injury and to be informed of any known hazards or diseases associated with the work they do.

The Act set detail standards and requirements on occupational health and safety at these specific sections. 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), which 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.

5.2 The Work Injury Benefits Act, 2007 (WIBA)

The Work Injury Benefits Act 2007 also addresses workplace health and safety and has been amended several times. It provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment. The Act provides for the compensation of ‘injured’ employees as well as their dependents, who may be adversely affected by the work injuries. Part III (on Right to Compensation) addresses the entitlements and guarantees afforded in respect of compensation.

5.3 World Bank Environmental and Social Framework

The World Bank recently approved an Environmental and Social Framework (ESF), which consists of ten standards, and are aimed at preventing and mitigating undue harm to people and their environment in any development projects involving the Bank. The relevant standard of this framework to the LMP is ESS-2 Labor and Working Conditions.

ESS-2: Labor and Working Conditions: The World Bank through the ESS2 promotes the fair treatment, non-discrimination and provision of equal opportunities for workers engaged on projects it supports. It strongly encourages protection of all project workers, including vulnerable groups such as women, persons with disabilities, children (of working age) and migrant workers, contracted workers and, where applicable primary supply workers, as appropriate. However, engagement of primary supply workers is not envisaged for the TA component activities. ESS2 sets certain requirements that the project must meet in terms of working conditions, protection of the work force (especially the prevention of all forms of forced and child labor), and provision of a grievance mechanism that addresses concerns on the project promptly and uses a transparent process that provides timely feedback to those concerned. It requires borrowers to:

- Develop and implement written labor management procedures applicable to the project.
- Provide workers with clear and understandable information and documentation regarding their terms and conditions of employment.
- Provide fair treatment, non-discrimination, and equal opportunity to workers. Decisions relating to the employment or treatment of project workers should not be made on the basis of personal characteristics unrelated to inherent job requirements.
- Protect the work force by defining the minimum age for employment and prohibiting forced labor.
- Provide an efficient Grievance Mechanism for all direct workers and contracted workers (and, where relevant, their organizations) to raise workplace concerns.
- Conduct risk assessment to understand the likelihood and magnitude of OHS risks associated with project based on: whether the project will involve hazardous materials or processes; the potential consequences to workers, communities, or the environment if hazards are not adequately managed, which may depend on the proximity of project activities to people or to the environmental resources on which they depend.

5.4 Comparison of the Kenya Labor law with key elements of the ESS2

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
Obligation of employers to all forms of workers i.e, supply chain workers		WB requires implementing agency to take responsibility of other workers on their site	Kenyan law is silent on role of implementing agency on welfare of primary supplier workers and community workers, although these categories of workers will not be engaged for TA activities under phase of the Program	KPLC to align Consultancy ToRs with the World Bank's requirements
OHS responsibility in shared workspaces under different employers		Where project workers are employed or engaged by more than one party and are working together in one location, the parties who employ or engage the workers will collaborate in applying the OSH requirements, without prejudice to the responsibility of each party for the health and safety of its own workers.		
Settlement of final dues		All wages that have been earned, social security benefits, pension	Kenyan law does not provide for final settlement but does indicate timelines	KPLC to align Consultancy ToRs with the Kenyan laws

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
		contributions and any other entitlements will be paid on or before termination of the working relationship,	to be adhered to in their settlement of disputes	and World Bank requirements as appropriate
Equal opportunity and non-discrimination	Kenyan law prohibits discrimination. An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice. An employer shall not discriminate an employee on grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status.	ESS-2 gives provisions for equal opportunity, fair treatment, and no discrimination with respect to any aspects of the employment relationship	Both are against discrimination in workplaces	Provision for equal opportunity and non-discrimination in the Kenyan constitution and the Employment Act will be used. The project will make all institutions aware of the Labor law requirement for compliance in their recruitment processes. Institutions shall show the evidence of induction of employees on the legal requirements for non-discrimination.
Timely payment	Payment of salaries, wages and allowances shall be made on a regular basis.	Project workers should be paid on a regular basis as required by national law and labor management procedures	Both protect workers' wages	Salary wages and allowances will be paid in accordance with the Employment Act.

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
Working hours and overtime	<p>The working hours in Kenya are 52 hours per week for daytime employees. However, employees who work at night need to fulfill 60 hours per week.</p> <p>Regardless of the work, no daytime worker should work for more than 116 hours over a period of two weeks. Similarly, no night-time employee should work for more than 144 hours every two weeks.</p> <p>In the case of overtime work, employers must pay their employees 150 percent of their regular day's pay.</p>	Working hours shall be agreed mutually or by collective bargaining.	Both give provisions according to working hours and overtime.	<p>Working hours and overtime will be defined in accordance with the Kenyan law.</p> <p>Attendance register shall be maintained to record time of arrival and departure from work.</p>
Workers' rights	<p>Kenyan Employment Act provides provisions for regular leaves and benefits.</p> <p>Employer must also provide reasons for termination.</p>	ESS-2 requires full respect of workers' rights.	Both recognize the rights of workers	<p>The project will be implemented in accordance with Kenyan Laws.</p> <p>An effective grievance mechanism will be put in place to help workers raise their concerns.</p>
Minimum age	Thirteen years and above	Fourteen years and above	Disparity in age of engagement	<p>Children under 18 years old will not be permitted to work on the project.</p> <p>Evidence like birth certificates will be required to certify workers' ages.</p>

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
Prevents use of all forms of forced labor	The Constitution and Employment Act prohibit all forms of forced or compulsory labour.	All workers associated with this project shall be required to work voluntarily without coercion or any form of threats. Forced labor in this context can be any form of indentured labor.	Both condemn forced labor	The project will not resort to forced labour. Periodic checks and screening for forced labor shall be carried out.
Protection of workers	Provisions are given in the law relating to the protection of workers such as: Protection against discrimination; Protection of assignment of pregnant women.	ESS-2 requests borrowers to provide appropriate measures of protection and assistance for workers especially vulnerable workers.	Both give provisions to protect workers	Effective grievance mechanism will be put in place to manage complaints that may arise from workers in accordance with ESS2.
OHS	The Employment Act does not provide full provision for OSH in workplaces.	There are adequate provisions for OHS procedures in ESS2, which projects are, expected to adhere to.	EES2 includes more provision for workers on OHS	Beyond the project safeguard specialists, Kenya cluster shall have a safeguard focal person to manage OHS issues. Project workers will not be victimized for removing themselves from unsafe or unhealthy work environments. Project workers should have access and trained to

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
				effectively use appropriate PPE.
Employment of young persons	According to the labor code, children (between 13 and 16 years old) shall be assigned only light work and not be assigned to hazardous tasks.	ESS-2 gives provision to protect children between 14 years of age and 18 years against hazardous works	Both protect young workers against hazardous works.	<p>As the minimum age to work on the project Consultancy services is 18, provisions in the Employment Act will be applied.</p> <p>Enforced prohibitions on child labor, persons under 18 years will not be permitted to work on the project Consultancy services.</p> <p>Sensitize all consultancy firms engaged under the TA component on child labor prohibitions.</p> <p>Institute age verification for new workers before engagement.</p>
Women	Provisions are given in the Kenya law. They take into account equality of chance, non-discrimination, maternity leaves, etc.	ESS-2 provides measures to protect and assist vulnerable project workers, including women.	Both protect women in workplaces.	The GREEN Program should target to maximize employment benefits to women.

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
				KPLC should comply with the national legislation on pregnant and maternity.
Person with Disabilities (PWDs)	Kenya Constitution and Employment Act safeguard against discrimination on the grounds of disability.	ESS-2 provides measures to protect and assist vulnerable project workers, including PWDs.	Both include provisions to fight against discrimination of PWDs in workplaces.	KPLC would comply with the national legislation on discrimination against PWDs. KPLC should therefore target to involve PWDs in project learning activities.
Sexual Harassments	The Kenyan Employment Act forbids sexual harassment. However, under article 6. 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.	ESS 2 clearly forbids sexual harassment of any kind especially once the grievances have been reported.	Both forbid sexual harassment.	KPLC will adopt the provisions of the Kenyan regulation. All project workers will sign the code of conduct with key prohibitions on SEA/SH as stipulated in the SEA/SH prevention and response plan to be prepared by KPLC in line with the ESCP. The project will provide safe and confidential grievance channels easily accessible to all stakeholders.

Key Elements	Kenya Laws	ESS-2 Requirements	Identified gaps	Action required
Temporary and casual Workers	Provisions of the Kenyan Employment Act take into account casual and temporary workers.	ESS-2 applies to project workers including fulltime, part-time, temporary, seasonal, and migrant workers.	Both take into account temporary and casual workers	The project will apply provision in both the Labor Law and EES2.
Freedom of association and collective bargaining	The Kenyan law affords all persons the right to freedom of association, which includes freedom to form or join trade unions or other associations.	ESS-2 makes provision for borrowers to legally establish workers' organizations and legitimate workers' representatives.	Both give workers the right to freedom of association.	KPLC will commit to, and require its consultants and contractors under the project, to support the principles of freedom of association and collective bargaining by project workers, in a manner that is consistent with the provisions of Kenya's Labor Act.
Salary deductions	Labor Code generally precludes employers from deducting any amount from the remuneration of their employees except in some cases defined in the Employment Act.	ESS2 gives provisions for payment deductions in line with national law or the labor management procedures.	ESS-2 refers to national law for salary deduction	The project Consultancy Teams will follow provisions in the Employment Act to make salary deductions.

6.0 Responsible Staff

This LMP will be operationalized through the leadership of PIU with assistance from the Safeguard Focal Person for KPLC. The KPLC Environmental Expert and Social Safeguard Specialist will provide additional oversight to ensure the application of this LMP to mitigate and respond to issues on occupational health and safety. Detailed level of oversight, responsibility and key role are provided in the table below.

6.1 Roles and Responsibilities

No.	Oversight Areas	Responsible staff	Key Role
1.	Labor and working conditions	KPLC Project Manager in charge of the Green Program	<p>Identification and recruitment of consultants.</p> <p>Ensuring that relevant OHS requirements are included in consultants contracts.</p> <p>Checking to ensure that working conditions of new consultants are consistent with national laws.</p> <p>Ensuring that all consultants staff members' signs code of conduct as stipulated in the SEA/SHP prevention and response plan, that includes prohibitions and sanction regime on SEA/SH.</p>
2.	Occupational health and safety	<p>KPLC Project Manager</p> <p>KPLC Environmental Expert</p> <p>KPLC Social Safeguard Specialist</p>	<p>Ensuring day to day compliance with safety measures outlined in this LMP and site specific ESMPs to be prepared.</p> <p>Development of a transport management plan to address road safety risks and ensuring adherence by project teams adhere to the provisions therein.</p> <p>Ensuring Safety of staff on site i.e in cases where a team member falls ill on site and provide procedures to be followed.</p> <p>Assessing the risk of serious safety issues</p> <p>Ensuring that the required PPE are procured and used during consultancy at no cost to workers.</p> <p>Ensure that all staff and consultants working on the project Consultancy activities receives basic training on occupational health and safety arrangements of KPLC.</p> <p>Keeping and maintaining records of all incidents and ensure that major accidents are reported to the World Bank through PIU Safeguard Specialist within 48 hours upon notice.</p>
3	Worker's grievance	KPLC Social Safeguard Specialist	Ensuring that all consultancy workers are aware of grievance uptake points and procedures.

No.	Oversight Areas	Responsible staff	Key Role
			Keeping records of all consultancy workers' grievance and include them in biannual reports to the KASAEP Management Unit. Ensuring that grievances linked to SEA/SH are reported to the World Bank through KPLC Social Safeguard specialist within 24 hours upon receipt.
4	Sensitization on LMP	KPLC Environmental Expert KPLC Social Safeguard Specialist	Organizing sessions to raise awareness of consultancy teams and project staff on this LPM. Ensuring full disclosure of this LMP.
5	Monitoring and reporting	KPLC Environmental Expert KPLC Social Safeguard Specialist	Conducting regular monitoring to consultancy teams including visits across the country where the proposed program will be implemented to ensure effective compliance with OHS measures in this LMP Targeted monitoring of specific situations or difficulties arising from implementation, and of the compliance to this LMP and providing tailored assistance. Providing reporting template to consultancy teams for quarterly reporting. Producing biannual report on this LMP implementation and submit to the World Bank through the PIU.

6.3 Policies and Procedures

All the consultant firms that will be engaged by KPLC in the implementation of TA activities will be committed to managing project activities in a manner that safeguards the welfare, health, and safety of their employees and sub-consultants. In accepting this responsibility, the consultants are committed to follow various policies and procedures to avoid and mitigate the potential labor related risks outlined in this report with more consideration but not limited to:

Discrimination and Exclusion of VMGs and Vulnerable/Disadvantaged Groups,

Labor Disputes over Terms and Conditions of Employment,

Forced labor,
Child labor,
Occupational Health and Safety,
Sexual exploitation and abuse (SEA) and Sexual Harassment (SH).

7.0 Age of Employment

7.1 Minimum Age for Consultancy Team Members to engage in TA implementation

The Employment Act, 2007 forbids employment of children under the age of 18 for certain hazardous work. In compliance with these national standards, persons under 18 years will not be permitted to work on the TA activities in any capacity. KPLC will ensure that all consultant teams adhere to this requirement.

7.2 Procedure to follow to verify the age of the project workers

The age of potential consultant workers will be verified before engagement. The National Identification Card (ID), Passport, birth certificate or national driver's licenses will be used as proxy documents for verifying worker's age. In the absence of these forms of IDs, the project will apply and document an age verification process. The age verification process will consist of alternative methods including copies of academic certificates, testimony from officials of the schools attended, a medical examination, statements from family members and locality/village officials/local authorities.

In addition, all documents will be cross-referenced and subjected to a verification process to ensure the validity of the documents. In instances where the documents are thought to be falsified, the project will conduct the same process to ensure their authenticity. In all the processes, care will be provided to ensure that the applicant or employee's data are protected and their right to privacy is guaranteed. All copies of the IDs and documents pertaining to the applicant's age and other supporting materials will be kept in files with the human resources personnel.

7.3 Terms and Conditions

The Kenya Employment Act 2007 sets the statutory terms and conditions for all employment arrangements in Kenya. Drawing from this act, the table below provides an outline of terms and conditions that will inform management of all consultancy workers. The due diligence shall be conducted on all consultancy teams that will be engaged to show their employment arrangement meets all the essential terms and conditions required by the World Bank.

Category	Conditions
Minimum Wages	The official minimum wage rates released by the Salaries and Remuneration Commission will provide the overall guide on worker salaries. As of 1st May 2022, the lowest urban minimum wage was pegged 15,201 shillings per month, and the lowest agricultural minimum

Category	Conditions
	<p>wage for unskilled employees was 6,736 shillings per month, excluding housing allowance.</p> <p>The salary scale and consultancy fees band of KPLC will also provide a framework for setting salaries and fees of consultants on the basis of inherent job description and grade without discrimination.</p>
Provision of written consultancy contract of employment for consultant firms	A written consultancy service contract of employment shall be provided to the individual consultant teams that will be engaged by KPLC under the project. The written consultancy service contract of employment will specify the following: (a) name of Consultant Firms workers; (b) address, occupation, age, and sex of workers for consultant firms; (c) employer's name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the consultant firms and its workers; (g) procedure for suspension or termination of contract. In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to consultant firms that may have difficulty understanding the documentation.
Hours of Work	<p>The normal working hours for Consultant Firms and their members of staff shall not exceed 8 hours a day.</p> <p>Consultant Firms workers who work in excess of the normal hours will be entitled to relevant allowances or leave in lieu of hours worked.</p>
Rest per week	<p>Every Consultant Firms members of staff shall be entitled to rest on Saturday and Sunday.</p> <p>Consultant Firms members of staff shall be entitled to rest on public holidays recognized as such by the Republic of Kenya.</p>
Annual leave	<p>Consultant Firms members of staff shall be entitled to 30 days' leave with pay for every year of continuous service.</p> <p>An entitlement to leave with pay shall normally be acquired after a full year of continuous service.</p>
Maternity and Paternity Leaves	Consultant Firms members of staff especially the female shall be entitled, on presentation of a medical certificate indicating the expected date, 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/his part except for properly certified illness
Deductions from remuneration	The Consultant Firms 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.

Category	Conditions
	No deductions other than those prescribed in labor laws shall be made hereunder or any other law or collective labour agreement shall be made from Consultant Firms members of staff's remuneration, except for repayment of advances received from the employer and evidenced in writing.
Death benefit	In case of death of a worker during his/her contract of employment, the Consultant Firms shall pay to his/her remuneration as death benefits in line with the provisions of the relevant national laws and institutional policies.

7.4 Employee Grievance Mechanism

Besides the Program-level grievance mechanism (GM), a separate GM will be established for the consultancy team workers. Workers will be able to lodge their complaints relating to their work environment or conditions such as a lack of PPE, lack of proper procedures or unreasonable overtime, freedom of association, GBV/SH, etc. to the consultancy team worker's GM, for which the focal person is the Social Specialist from the PIU. The mechanism for workers' GM will be based on the following principles:

Handling of grievances will be objective, prompt and responsive to the needs and concerns of the aggrieved workers.

The process will be transparent and allow workers to express their concerns and file grievances.

There will be no discrimination against those who express grievances.

All grievances will be treated confidentially, and individuals who submit their comments or grievances may request that their name be kept confidential.

Anonymous grievances will be considered, and anonymous grievances will be treated equally as other grievances, whose origin is known.

KPLC management will treat grievances seriously and take timely and appropriate action in response. Information about the existence of the grievance mechanism will be readily available to all consultancy team workers (direct and contracted) through notice boards, the presence of "suggestion/complaint boxes", websites, emails, and other means as needed. Different ways in which consultant workers can submit their grievances will be allowed, such as submissions in person, by phone, text message, mail and email, as well as anonymous submissions. Consultancy workers will be informed of the grievance mechanism at the induction session prior to the commencement of work, and the contact information of the GM focal person and the PIU will be shared with consultancy workers. Project workers will be encouraged to use any of the available submission channels outlined above, to report all forms of complaints, including complaints related to GBV, in particular, SH.

Where the grievance cannot be addressed within a reasonable timeframe, the aggrieved worker will be informed in writing, so that the worker can consider proceeding to the national appeal process through:

Judiciary system of the Maldives, which essentially is a legal system accessible to all aggrieved persons.

Grievances raised by workers will be recorded with the actions taken by each consultant firm. The summary of grievance cases will be reported to the PIU and other relevant parties' periodic report. Where the aggrieved workers wish to escalate their issue or raise their concerns anonymously and/or to a person other than their immediate supervisor, the workers may raise their issue with the PIU.

7.5 Contractor Management

It is anticipated that under the Technical Assistance there will be contracting of consultancy service providers. The PIU requires that consultants to be hired monitor, keep records and report on terms and conditions related to Labor management. To ensure fair competition and transparency, consultants will be selected based on the Government of Kenya's Public Procurement and Asset Disposal Act 2015 and World Bank Procurement Procedures, which control the engagement of consultants or contractors. This includes:

Competitive bidding through transparent open advertising,

Shortlisting and selection of contractors; and,

Contract signing.

To ensure sound and time-bound project implementation, the PIU will utilize a number of specialists in various consultancy services. This call is for sound consultancy management be realized through proper agreement signing, agreement on key performance indicators and ensuring that worker related aspects of the project are embedded in contract. Consultant teams will be selected through an open competitive bidding process. Management of labor issues including occupational health and safety as guided by ESS 2 and the approved LMP shall form part of the contract awarded to the best-evaluated bidder. There will be:

- Scrutiny of Information in public records, for example, corporate registers and public documents relating to violations of applicable labor law, including reports from labor inspectorates and other enforcement bodies,
- Business licenses, registrations, permits, and approvals; Documents relating to a labor management system, including OHS issues, for example, labor management procedures,
- Identification of labor management, safety, and health personnel, their qualifications, and certifications,
- Workers' certifications/permits/training to perform required work,
- Records of safety and health violations, and responses,
- Accident and fatality records and notifications to authorities,
- Records of legally required worker benefits and proof of workers' enrolment in the related programs,
- Worker payroll records, including hours worked and pay received, Identification of safety committee members and records of meetings; and,
- Copies of previous consultancies with contractors and suppliers, showing inclusion of provisions

and terms.

The PIU shall have full access to all project information collected by the consultant teams and project focal persons. The KPLC project manager with support from the Independent Supervisor shall be tasked to monitor and ensure compliance by the Contractor to ESS 2. All consultant teams shall have clear plans on how to undertake their assignments with clear closure dates and competent action parties. Continuous monitoring shall be carried out throughout the project life cycle including but not limited to periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by the PIU. While consultants shall have independent agreements or contracts signed with KPLC, the PIU shall ensure that all consultants' are employed as per Employment Act, Best industry practice and in compliance to the labor management procedures.

7.6 Community Workers

Consultancy teams will not engage community workers to undertake consultancy services. However, it is expected that there will be some opportunities for engagement of some community members as contracted workers, e.g. engagement of locals for work such as language interpretation during stakeholder consultations and bird spotting in biodiversity assessment.

7.7 Primary Supply Workers

The engagement of primary suppliers to support the delivery of TA activities is not foreseen.