



GOVERNMENT OF KENYA

**NATIONAL YOUTH OPPORTUNITIES
TOWARDS ADVANCEMENT**

LABOUR MANAGEMENT PROCEDURES

JUNE 2024

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ACRONYMS AND ABBREVIATIONS

CEA	Child Exploitation and Abuse
CoK	Constitution of Kenya
CSO	Civil Society Organization
CTDs	County Technical Departments
DRS	Department of Refugee Services
E&S	Environmental and Social
EHS	Environmental Health and Safety
EOC	Emergency Operations Coordinator
EOO	Emergency Operations Officer
ERP	Emergency Response Plan
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESS	Environmental and Social Standards
GDP	Gross Domestic Product
GM	Grievance Mechanism
Gok	Government of Kenya
PoR	Proof of Registration
GRS	Grievance Redress Service
IAs	Implementing Agencies
KDHS	Kenya Demographic and Health Survey
KEPSA	Kenya Private Sector Association
KPIs	Key Performance Indicators
KYEOP	Kenya Youth Employment and Opportunities Program
KYEP	Kenya Youth Empowerment Program
LMP	Labor Management Procedures
LPO	Local Purchasing Order
M&E	Monitoring and Evaluation
MC	Master Craftsman
MSEA	Micro and Small Enterprise Authority
MOYACES	Ministry of Youth Affairs, Creative Economy and Sports
NEA	National Employment Agency
NEMA	National Environment Management Authority
NGOs	Non-Governmental Organizations
NITA	National Industrial Training Institute
NSSF	National Social Security Fund
NYOTA	National Youth Opportunities Towards Advancement
OHS	Occupational Health and Safety
OSHA	Occupation Safety and Health Act
PDO	Project Development Objective
PIU	Project Implementation Unit
PMU	Project Management Unit
POs	Project Officers
PSC	Project Steering Committee
PSSS	Public Service Superannuation Scheme
PWD	Persons with Disability
SCYDO	Sub-County Youth Development Officer
SDL	State Department of Labor
SEA	Sexual Exploitation and Abuse

SEAH	Sexual Exploitation Abuse and Harassment
SEP	Stakeholder Engagement Plan
SGBV	Sexual and Gender Based Violence
SH	Sexual harassment
SMP	Security Management Plan
SPR	Summary Project Report
STE	Short-Term Expert
TV	Television
TVET	Technical and Vocational Education and Training
TWG	Technical Working Group
VMG	Vulnerable and Marginalized Group
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalized Groups Plan
WB	World Bank
WIBA	Workers Insurance and Benefits

EXECUTIVE SUMMARY

I. Introduction

1. The National Youth Opportunities Towards Advancement (NYOTA) Project is a scale up of the Kenya Youth Employment Opportunities Project (KYEOP) that was implemented between 2017 and 2022. The KYEOP was a successor program to the Kenya Youth Empowerment Program (KYEP) which was implemented as a pilot project in Nairobi, Mombasa, and Kisumu between 2011 and 2016. NYOTA provides a proven comprehensive platform that addresses supply, demand and intermediation constraints faced by vulnerable youth across the country.

2. NYOTA will target vulnerable youth aged 18 to 29 years with limited education and residing in rural areas across 47 counties in Kenya. The main project activities will aim at increasing employability of youth, providing business support, and providing opportunities for savings to create resilience and strengthen systems and capacity of national and county-level implementing agencies to support youth employment and savings initiatives.

II. Objectives and project components

3. The Project Development Objective (PDO) is to increase employment and opportunities for earnings and savings for vulnerable youth. The PDO will be measured using three key results areas and associated project development indicators aligned to the primary outcomes.

4. **Results Area 1: Increasing employment among targeted youth.** Outcome indicators for results area 1 will include: Beneficiaries of job-focused interventions; youth beneficiaries in wage or self-employment at least 6 months after completing the package of project interventions (Percentage) and female beneficiaries who are in wage or self-employment in male dominated sectors at least 1 year after training with gender-specific module.

5. **Results Area 2: Increasing earnings among targeted youth.** The outcome indicators for results area 2 will include: average earnings among wage and self-employed youth beneficiaries 6 months after completing the package of project interventions; and average earnings among wage and self-employed female beneficiaries at least 6 months after completing the package of project interventions.

6. **Results Area 3: Promote savings among targeted youth.** Outcome indicators for results area 3 will include: Youth beneficiaries contributing to long term savings at least once in the 6 months after their auto-enrollment in NSSF's Haba Haba scheme ends; and females with maternity benefits who have had at least 1 post-natal health visit.

7. The project will have four components: (i) Improving youth employability; (ii) Support to youth entrepreneurship; (iii) Supporting youth savings; and (iv) Strengthening youth employment and savings systems.

III. Rationale for the LMP

8. NYOTA is prepared under the World Bank's Environmental and Social Framework (ESF). As per the Environmental and Social Standard 2 (ESS2) Labor and Working Conditions, borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions by promoting safety and health at work, fair treatment, non-discrimination and equal opportunity for workers, protect workers (including vulnerable, direct, contracted,

and primary supply workers), as appropriate, prevent the use of all forms of forced labor, and child labor and to ensure structures are in place to provide project workers with accessible means to raise workplace concerns.

IV. Potential labor risks

9. There are risks related to labor and working conditions, such as work-related to recruitment and employment discrimination (e.g. in relation to applying eligibility and selection criteria), insecurity in some areas, gender-based violence, sexual exploitation and abuse, sexual harassment (GBV/SEA/SH), employer/contractor non-compliance with labor laws relating to terms and conditions of employment, as well as the possibility of child labor and forced labor in relation to primary suppliers, payment of stipends, communication on the entitlements of target youth, and managing grievances related to interns and apprentices. Occupational health and safety (OHS) risks include an increase in the transmission of HIV/AIDS and exposure to Covid-19, and other communicable diseases among project workers and between project workers and the youth undergoing training as well as exposure to insecurity in banditry prone areas.

V. Relevant legal and policy environment

10. The country has an elaborate legal framework on matters of labor and working conditions. The Constitution of Kenya (CoK) 2010 provides 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. 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.

11. Other relevant laws and policies include: (i) National Policy on Gender and Development, 2019; (ii) HIV/AIDS Policy, 2009; (iii) Sexual Offences Act, 2006 and its amendment, 2012; (iv) Persons with Disability Act, 2003, Chapter 133; and (v) Children's Act, 2022 (a comprehensive law on all matters to do with children); among others that provide specific protections to workers.

12. 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). The NSSF labor requirements indicate that contributors must be above 18 years of age with a valid identification card.

13. The Occupational Safety and Health Act (2007) is Kenya's codifying law governing workplace safety and health. The law provides for "*the safety, health and welfare of workers and all persons lawfully present at workplaces and establishes the National Council for Occupational Safety and Health*". This law is broadly concerned with potential hazards to persons in the workplace.

VI. Policies and procedures

14. The indicative procedures to implement the LMP provisions include: (i) Labor disputes over terms and conditions of employment; (ii) Discrimination and exclusion of vulnerable groups; (iii) OHS; (iv) child labor; (v) GBV/SEA/SH at the workplace; (vi) management of fatalities and serious incidents; and (vii) monitoring and reporting. The DRS will be responsible for supporting activities in the refugee camps in the respective counties. It is notable that the Project Management Unit (PMU) at the Ministry of Youth, Sports and the Arts (MOYACES) shall report on the status of implementation of the policies and procedures monthly to the Project Steering Committee (PSC) and the Project Technical Committee (PTC). The PMU, in collaboration with the Project Implementing Units (PIUs) at National Social Security Fund (NSSF) and the Micro and Small Enterprise Authority (MSEA), will closely monitor labor and OHS performance of the project and report to the World Bank on quarterly basis. Project issues will also be discussed during regular joint missions between the World Bank and the Government.

VII. Grievance mechanisms

15. The Project will develop guidelines that indicate how workers' complaints should be reported (described in Section 9 below) including on SEA/SH. All project workers (existing and new) will be inducted on the grievance mechanism (GM) for workers, including confidential reporting on GBV/SEA/SH concerns that may affect them in their workplaces. In line with the provisions of ESS2, a GM will be provided for all direct and contracted workers (and, where relevant, their organizations) to raise workplace concerns. Such workers will be informed of the GM at the time of recruitment and the measures put in place to protect them against reprisal for its use. Measures will be put in place to make the GM easily accessible to all project workers.

16. The project will have several channels for complaints and grievances including email, phone calls, texts, toll free number, weblink and letter writing that will also be accessible to all workers. Information on the project GM will be made available to all project workers and target beneficiaries at all levels (both national and county). Project complaints should be acknowledged within 7 days and resolved as much as possible within 21 days.

17. **GBV/SEA/SH:** the project has prepared a SEAH Prevention and Response Plan, which will guide on how GBV/SEA/SH cases will be handled. All relevant staff of the PMU/PIU will be trained on handling GBV complaints and referral systems, ideally during the project initiation phase and as part of the staff welcome package. The approach will be survivor-centered. The GM operator(s) will ensure appropriate response to survivors reporting by: (i) providing a safe caring environment and respect the confidentiality and wishes of the survivor; (ii) if the survivor agrees, obtain informed consent, and make referrals; and (iii) provide reliable and comprehensive information on the available services and support to GBV/SEA survivors.

VIII. Management and resources

18. The project will be implemented over a 5-year period (June 29, 2023 – December 31, 2028) by MOYACES - State Department for Youth (SDY); NSSF and MSEA. Technical partners will include NITA, National Employment Authority (NEA) and State Department of Labor (SDL), and DRS who will have specific roles and deliverables.

19. The MOYACES will implement the procedures contained in this LMP. The procedures outline the way project workers will be managed, in accordance with the requirements of national laws and ESS2. The procedures describe the application of the labor processes to

different categories of project workers including direct workers, and requirements of third parties to manage their workers.

20. The project will set aside funds to ensure that the planned LMP activities are effectively implemented and monitored. The outlined costs will be consolidated in the overall budget for implementing safeguards. It is estimated that the LMP activities for the 5 years will cost about USD 118,500.

SECTION 1: INTRODUCTION

Background

1. The Government of Kenya's (GoK) flagship Kenya Youth Employment and Opportunities Program (KYEOP), supported by the World Bank (P151831), provided a proven platform that addresses constraints faced by the youth in terms of limited access to gainful employment. The KYEOP is Kenya's only comprehensive job program, addressing demand and supply-side issues in the labor market and supporting intermediation. The program specifically targets youth aged 18 to 29 with no more than secondary education, working across 17 out of the 47 counties in the country. Its main activities have been geared towards increasing employability of the youth and providing business support. The limited project coverage has been the main constraint to KYEOP having an impact on a scale commensurate with the challenges.

2. Alongside the youth employment challenge, most workers in Kenya's large informal sector have no access to any form of social protection to help them build resilience to cope with shocks and save for retirement. Of the 18.1 million employed persons in Kenya (2019), 14.4 million were not covered by any form of social insurance. Public and formal private sector workers have access to the Public Service Superannuation Scheme (PSSS), National Social Security Fund (NSSF) and private pension funds. As of June 2022, NSSF recorded 2.6 million active members. Nevertheless, high and persistent rates of informal employment imply that traditional forms of social insurance, such as the NSSF formal sector scheme, are a distant reality for most Kenyans. Coverage against short-term risks like unemployment, maternity, sickness, death, etc., also remains elusive for Kenyans in the informal sector.

3. Kenya has a limited range of voluntary retirement savings plans designed for informal sector workers and while these are innovative, they are characterized by low uptake and high rates of withdrawal. The two most prominent plans are the NSSF's Haba Haba and the Mbao Pension Plan. The Mbao was launched in 2009 in collaboration with M-Pesa and the Jua Kali Association (it had 92,900 active contributors, 2019)¹. The NSSF started accepting voluntary contributions from informal sector workers in 2013. In 2019 it enabled contributions through the mobile money M-Pesa platform and launched the dedicated Haba Haba Pension Scheme to expand access (reaching 560,000 registered individuals in 2019). The short-term withdrawals allowed under Haba Haba (50% of funds after 5 years) and the partnership with NHIF and Safaricom to offer bundled services, are some design features which attract informal sector workers. Due to low and sporadic incomes amongst informal workers, awareness and priority towards long term savings is limited and lack of adequate resources limits NSSF's ability to plan targeted messaging and awareness campaigns needed to encourage participation in the Haba Haba scheme.

4. More broadly, the contributions to the NSSF formal sector scheme have also been low due to a combination of systemic bottlenecks, administrative, design and resource challenges, and a general lack of trust that NSSF can safely and productively hold and invest people's savings. Core grievances and challenges for NSSF include delayed payments, inadequate registration support, and weak data management to integrate verification across different databases. Investments in strengthening the NSSF's business processes and systems, large

¹Jua Kali is a term used to refer to the informal sector in Kenya. The Jua Kali Association is the largest organization of informal sector workers in Kenya, with close to 12 million members.

scale targeted awareness programs to encourage savings among informal workers and building trust through transparent payments and easy registration, are needed to help move the incipient plans to larger scale.

5. The National Youth Towards Advancement (NYOTA) is a scale up of the KYEOP. The KYEOP was a successor program to the Kenya Youth Empowerment Program (KYEP) which was implemented as a pilot project in Nairobi, Mombasa, and Kisumu between 2011 and 2016. NYOTA will build on the developed systems to address supply, demand and intermediation constraints faced by vulnerable youth across the country.

6. NYOTA will target vulnerable youth aged 18 to 29 with no more than secondary education, working across 47 counties in Kenya. The aim of the project is to increase employability of youth, provide business support, and opportunities for savings to create resilience and strengthen systems and capacity of national and county-level implementing agencies to support youth employment and savings initiatives.

7. Since this project is being implemented under the World Bank’s Environment and Social Framework (ESF) there are standards to be met based on the relevance to the project. The current ESF risk rating shows that the project has ‘moderate’ environmental risk and ‘moderate’ social risk. This, therefore, requires the project team to develop several instruments to ensure that the risks are identified, and mitigation measures planned and implemented.

8. The project will be implemented over a period of 5 years (June 29, 2023 – December 31, 2028) by the Ministry of Youth Affairs, Creative Economy and Sports (MOYACES) - State Department for Youth (SDY); National Social Security Fund (NSSF) and the Micro and Small Enterprise Authority (MSEA). Technical partners will include National Industrial Training Authority (NITA), National Employment Authority (NEA) and State Department of Labor (SDL), who will each have specific roles and deliverables. The implementing agencies will engage with DRS in taking to account the Refugee Regulations 2024 and Marshall Plan on Refugee Settlement to define refugee opportunities to access jobs, as outlined in the Refugees Act 2021.

Project Objectives

9. The Project PDO is: To increase employment and opportunities for earnings and savings for vulnerable youth.

Key Results

10. The PDO will be measured using three key results areas and associated project development indicators aligned to the primary outcomes. **Results Area 1: Increasing employment among targeted youth.** Outcome indicators for results area 1 will include:

- i. Beneficiaries of job-focused interventions (Number)
 - Beneficiaries of job-focused interventions – Female (Number)
 - Youth beneficiaries living with disabilities (Percentage)
- ii. Youth beneficiaries in wage or self-employment at least 6 months after completing the package of project interventions (Percentage)
 - Female beneficiaries in wage or self-employment at least 6 months after completing the package of project interventions (Percentage)

- Host community beneficiaries in wage or self-employment at least 6 months after completing the package of project interventions (Percentage)
 - Refugee beneficiaries in wage or self-employment at least 6 months after completing the package of project interventions (Percentage)
- iii. Female beneficiaries who are in wage or self-employment in male dominated sectors at least 1 year after training with gender-specific module (Percentage)

11. **Results Area 2: Increasing earnings among targeted youth.** The outcome indicators for results area 2 will include:

- iv. Average earnings among wage and self-employed youth beneficiaries 6 months after completing the package of project interventions (Percentage)
- Average earnings among wage and self-employed female beneficiaries at least 6 months after completing the package of project interventions (Percentage)

12. **Results Area 3: Promote savings among targeted youth.** Outcome indicators for results area 3 will include:

- v. Youth beneficiaries contributing to long term savings at least once in the 6 months after their auto-enrollment in NSSF's Haba Haba scheme ends (Percentage)
- vi. Females with maternity benefits who have had at least 1 post-natal health visit (Percentage)

Project Components

13. The project will have four components, each with several sub-components as summarized in Table 1.

Table 1: Project components and sub-components

Components	Sub-components
1. Improving youth employability This component will connect targeted youth to wage employment by providing them with training, on the job experience, and access intermediation services.	1.1 Provision of training and work experience to youth in the formal and informal sector.
	1.2 Operationalization of the Kenya labor market observatory and supporting intermediation
2. Expanding employment opportunities This component will expand employment opportunities through entrepreneurship development and support to social enterprises.	2.1 Support for entrepreneurship.
	2.2 Results based financing partnership with social enterprises.
3. Supporting youth savings This component will provide savings opportunities to beneficiaries of components 1 and 2.	3.1 Supporting savings through monetary top-ups and nudges.
	3.2 Enhancing NSSF operations by upgrading processes, systems and communications.
4. Strengthening youth employment and savings systems This component will strengthen systems and capacity of national and county-level implementing agencies and finance project management activities.	4.1 Build County Government capacity to invest in youth employment.
	4.2 Monitoring and evaluation and delivery systems.
	4.3 Project Management and Coordination

1.5 Objectives of the LMP

14. NYOTA will function under the World Bank's ESF. As per the Environmental and Social Standard 2 (ESS2) Labor and Working Conditions, borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions by promoting safety and health at work, fair treatment, nondiscrimination and equal opportunity of project workers, protect project workers (including vulnerable workers, direct workers, contracted workers, community workers and primary supply workers), as appropriate, prevent the use of all forms of forced labor and child labor and ensure structures are in place to provide project workers with accessible means to raise workplace concerns. The commitments of the Government under ESS2 are outlined in this LMP.

15. The purpose of the LMP is, therefore, to facilitate proper planning and management of labor in the project. This LMP identifies the main labor requirements and risks associated with the project and will help the Government to determine the resources necessary to address the project labor issues. The LMP is a living document, which has been initiated early in project preparation, and will be reviewed and updated throughout the development and implementation of the project, including when the project advances and as new categories of employees become involved in the various activities.

16. This LMP provides for labor requirements for NYOTA in the context of the relevant national laws and World Bank's ESF, by defining the scope of project workers and the need to manage specific labor, and occupational health and safety (OHS) risks. The project will ensure compliance with national laws, policies and protocol requirements, and World Bank Environment, Health, and Safety Guidelines (EHHGs) s.

SECTION 2: OVERVIEW OF LABOUR USE IN NYOTA

2.1 Activities with labor requirements

17. Table 2 presents the project activities that will require labor.

Table 2: NYOTA labor requirements

Component	Activities	Requirements
Component 1: Improving youth employability	Training of 40,000 youth Training of 5,000 youth from refugee camps Training of 5,000 youth from host communities	-Trainees -Trainers -Space -Materials
	Providing childcare for trainees	-Space -Workers
	Providing on the job experience to 90,000 youth through master craftsmen and employer organizations	-Space -Specialists
	Develop up to 50 additional apprenticeship standards and testing instruments, including for digital jobs and jobs in the blue and green economy	-Experts in the specified areas
	Fully operationalize the recently developed KLMIS (under KYEOP) and disseminate its information widely	-Experts -ICT Equipment
	NEA and private companies to customize their platforms to assist vulnerable youth access opportunities both in formal wage employment as well as linking them to gig jobs	-Experts -Private sector partners
Component 2: Support to youth entrepreneurship	Engage social enterprises in a results-based contracting mode that will pay for about 20,000 youth	-Trainees -Operational enterprises -Space
	Provide up to USD 400 in seed funding for youth-led businesses	-Youth -Experts in training and funds management
	Engaging mentors for youth in entrepreneurship	-Specialists in the relevant fields
	Focusing on vulnerable and hard-to-reach youth	-Communication channels with the appropriate reach -Engagement with key contacts for vulnerable and hard to reach youth
Component 3: Supporting youth savings	Upgrade the Haba Haba system to enroll more youth	-Experts in the field -Office space
	Finance outreach and communication activities (the production and distribution of leaflets and videos)	-Experts in communication -Production and dissemination costs -Private partnership with media and communication agencies
Component 4: Strengthening	Enhance the national level support and management systems	-Consultants/experts

youth employment and savings systems	Enhance county systems and enhance their capacity to support the youth	-Consultants/experts -Advocacy at the county level
	Enhance county M&E systems	Experts
	Support the management of the project implementing and technical agencies	-Staff -Experts -Space -Supplies, equipment and materials
Cross-cutting activities	Development and operationalization of the GM for workers	-Experts to develop and refine/link the systems -Staff to manage the systems
	Capacity building for LMP related functions (labor matters, GBV/SEA/SH, GM, M&E, etc.) and on the ESF	-Experts -Training venues
	Monitoring and evaluation of LMP and other related project components (including the SEP, SEAH Prevention and Response Plan and the Vulnerable and Marginalized Groups Plan)	-M&E experts -Facilitation during monitoring

2.2 Categorization of workers

18. ESS2 categorizes project workers into four: (i) direct workers; (ii) contracted workers; (iii) primary supply workers; and (iv) community workers. The ESF (para 3) defines direct workers to include “*people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies and consultants) to work specifically in relation to the project.*” The labor category of direct workers for this project includes government civil servants (mainly those that belong to the MOYACES, NSSF, MSEA, NITA, SDL, NEA, DRS, among other implementing and technical agencies, at the national and the county levels. It also covers staff from other government ministries, departments and agencies (MDAs) deployed to provide requisite technical support to the project. While the civil servants are governed by the Employment Act of 2007 and a set of Public Service Regulations and Human Resources Manuals, the consultants hired by any of the implementing and technical agencies will be governed by a set of mutually agreed contracts and will sign the Project Code of Conduct (CoC). In addition, the provisions on Occupational Health and Safety as well as protection in the work force (child and forced labor prohibition) shall apply to the direct workers.

19. **Direct Workers.** The project will engage the following direct workers.

- i. **Project Management Unit (PMU) at MOYACES level and Project Implementation Units (PIUs) for NSSF and MSEA:** the current KYEOP PCU will be reconstituted to include new members based on the expanded project scope. The PMU will engage 31 staff on fulltime basis.

At the NSSF, the PIU will have 19 key staff assigned to the project on fulltime basis, while the MSEA will engage 6 staff at the PIU on fulltime basis.

- ii. **Government Civil Servants:** MOYACES, NSSF, MSEA, NEA, NITA, DRS and SDL will have staff assigned to deliver on specific NYOTA tasks including directors of various departments and all cadres of youth officers and support staff. This will be both at the national and county levels, as appropriate.

- iii. **Consultants:** The project will hire consultants to deliver some of the courses including master craftsmen (MCs). These experts will be hired on contractual basis and will sign a CoC (Annex 7) that will guide on their terms and key responsibilities.

20. **Contracted workers:** these are workers employed or engaged by a third party to perform work or provide services related to the core functions of the project, where the third-party exercises control over the work, working conditions, and treatment of the project worker. The project will engage social enterprises in a results-based contracting model. The employees of the social enterprises will be managed as 3rd party workers who will also be subjected to ESS2 and OHS requirements as applicable. The project will also enlist host organizations for internships and apprenticeship for the youth. The businesses enlisted to provide this service will also be subjected to ESS2 and OHS standards as appropriate. Further, the PMU and PIUs have contractors who offer cleaning services and those who supply meals on a regular basis whose workers should benefit from the ESS2 and OHS protections.

21. **Primary supply workers:** There will be suppliers engaged to deliver training materials and other supplies for the project by the different implementing agencies. Since the number of students anticipated for training are many, the project may engage suppliers for a long-term period. These suppliers will also be subjected to ESS2 standards, especially with regard to the provisions on Occupational Health and Safety as well as protection in the work force (child and forced labor prohibition).

22. **Community workers:** It is not anticipated that the project will formally engage community workers. However, there may be opportunities to engage local leaders, leaders of associations/groups, opinion leaders and camp refugee leadership during recruitment and as information purveyors to the youth, more so those in remote hard-to-reach rural areas for the identification of vulnerable youth (as will be further described in the Vulnerable and Marginalized Groups Plan (VMGP) for the project). There will be no contractual engagement with communities. However, they will sign consent forms indicating their voluntary participation, which labor will be limited to 8 hours per week, ensuring that the work is not impacting their income activities, and will be facilitated for their communication costs, lunch and refreshments while supporting the project activities. They shall be prohibited for enlisting support of any children while undertaking their voluntary duties.

23. Table 3 presents a tentative list of the workers and timing of their engagement on the project.

Table 3: Project workers' description

Category	Role	Number	Timing	
MOYACES/PMU				
Direct Workers	MOYACES/PMU - existing civil servants at the national and county levels (these officers are all Government employees)	PMU – 31 CYDs - 47 SCYDO - 290 Support staff – 20	Throughout Project implementation period	
	-Experts (contracted by the MOYACES and NSSF to deliver on specific tasks) -Trainers/master craftsmen -ICT delivery (back office)	8,000	Throughout Project implementation period	
Contracted workers (3 rd party)	Consultants	3 entities for MIS, procurement, and M&E	Throughout Project implementation period	
Primary supply workers	-Suppliers of training materials -Suppliers of ICT equipment -Suppliers for meals during meetings and training	15 for training materials 15 for ICT materials	Throughout Project implementation period	
	GBV service providers	1	Project period	
NSSF/PIU				
Direct workers	NSSF PIU – existing civil servants at the national and county levels (these officers are all Government employees)	PMU – 19 Support at County Level - 130 (Branch and Regional Levels)	Project Period	
	-Experts (contracted by the MOYACES and NSSF to deliver on specific tasks) -Trainers/master craftsmen -ICT delivery (back office)	NSSF Component 3.1- 5 Component 3.3 – 3	Project period	
Contracted workers (3 rd party)	The contracted support will include service providers in ICT and communication	ICT – 5 Communication – 4	Throughout the project	
	Consultants (who belong to firms)	MIS, procurement, and M&E – 3	Project period	
	GBV service providers	1	Project period	
Primary Suppliers	-Suppliers of training materials -Suppliers of ICT equipment -Suppliers for meals during meetings and training	15 for training materials 15 for ICT materials	Project period	
MSEA/PIU				
Direct workers	MSEA/ PIU	Existing civil servants at the national (these officers are all Government employees)	6	Entire Duration
		-Experts (contracted by MSEA) to deliver on specific tasks) -Trainers -ICT delivery (back office)	7	Entire Duration
	MSEA County Officers	County levels (these officers are all Government employees)	141	Entire Duration
	Drivers	Government employees	9	Entire Duration

Contracted workers (3 rd party)	Consultants (who belong to firms providing technical support to the project)	4	As needed
	Support services in the offices	17	Entire Duration
Primary supply workers	Suppliers of: 1. ICT Equipment: Open for tendering 2. Office Supplies: Open for tendering 3. Vehicle maintenance: 1 firm 4. Vehicle complements: Open for tendering 5. Vehicles	5	As needed

24. This LMP will apply to project workers including those recruited on fulltime, part-time, temporary, and seasonal basis. The LMP contains relevant mitigation measures to be incorporated into procurement documents.

SECTION 3: ASSESSMENT OF KEY POTENTIAL LABOUR RISKS

3.1 Labor risks

25. Potential risks are those related to labor and working conditions, such as: (i). discrimination and unequal opportunity (due to corruption/nepotism/elite capture) during the selection and recruitment of contractors, service providers and primary suppliers); (ii). employer/contractor non-compliance with labor laws relating to terms and conditions of employment, and insecurity, among others; (iii). There is the possibility of child and forced labor in relation to primary suppliers; (iv) Gender based violence; (v) Sexual Abuse, Harassment and Exploitation, (vi). and occupational health and safety relating to road safety, workshop safety (plant, machinery and equipment), insecurity while working in conflict prone and volatile counties. The potential risks and mitigation measures are summarized in Table 4.

Table 4: Potential labor and OHS risks and mitigation measures

Risk/Impact	Analysis	Risk Mitigation Measures
Labor and working conditions		
1. Terms and conditions of employment	<p>The Employment Act 2007 provides for adequate remuneration in view of the quality and quantity of the work delivered, and must be non-discriminatory in regard to age, gender, ability, and other aspects.</p> <p>The ESS2 provides for the promotion of fair treatment, non-discrimination, and equal opportunity of project workers.</p>	<p>-Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. This will set out their rights under national labor and employment law (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation, and benefits. This information and documentation will be provided at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur.</p> <p>-Employment will be on voluntary basis (No forced labor). The workers will be provided with workplace GM to channel their complaints and grievances.</p>
2. Labor disputes	<p>The contractors/service providers and primary suppliers will have workers who will be involved in training, supply of equipment, materials and services to the project. Potential labor disputes may arise due to breach of contract regarding conditions of employment, fringe benefits, hours of work, and wages negotiated or of already agreed terms. Labor disputes may also arise due to disagreements amongst the workers and between workers and the contractors/service providers and primary suppliers.</p>	<p>The project shall adhere to the requirements proposed in the LMP including:</p> <ol style="list-style-type: none"> i. Fair terms and conditions shall be applied to all project workers (guided by relevant laws); ii. The project shall have GMs for project workers (direct workers, contracted workers and primary suppliers) to promptly address their workplace grievances and complaints; and iii. The project shall respect the workers' right to join labor unions and freedom of association.
3. Occupational health and safety	<p>The project activities during implementation and operational phase, including the training and apprenticeship may have OHS risks including physical hazards, such as slip falls, cuts, exposure to air pollution.</p>	<p>-Carry out job risk assessment (analysis of hazards likely to exist and precautions required) before implementing the activities. See risk assessment guideline in Annex 6.</p> <p>The implementing agency will ensure that the requirements of the Environmental and Social Standard (ESS 2) on labor and working conditions and non-compliance remedies are incorporated into contractual agreements.</p> <p>Respective apprenticeship agreements will outline the requirement for the participating entities/firms to ensure site-</p>

Risk/Impact	Analysis	Risk Mitigation Measures
		<p>specific, adequate health and safety provisions informed by risk assessment.</p> <p>Ensure that workers/supervisors and trainees are properly instructed and notified concerning the hazards of their respective occupations and the precautions necessary to avoid accident and injury to health.</p> <p>Sensitize workers on dangers associated with floodwater and especially flashfloods in ASAL areas. They should be encouraged to avoid walking, swimming, riding, or driving through flood water, even if it means cancelling an activity.</p> <p>-Hazardous areas in workplaces should be clearly marked with signs easily understood by workers, trainees, visitors, and the general public, as appropriate.</p> <p>The project will provide accident cover for the trainees during their apprenticeship period.</p> <p>Implement project's security management plan</p>
<p>4. Discrimination of employment on the basis of gender, disability or ethnicity</p>	<p>There is a risk of discrimination on the basis of gender, disability and ethnicity in recruitment and sharing of project benefits.</p> <p>There is also a risk of bias in selecting the members of committees established to support project decision making and management.</p>	<p>-The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices. The CoC, to be signed by all workers, is aimed at preventing and addressing harassment, intimidation and/or exploitation.</p> <p>-Contractors/service providers will be compelled to safeguard the interests of women, including ensuring gender parity at the workspace, provision of appropriate sanitation facilities at the workplace/training facilities and ensures safety of persons with disability.</p> <p>To address potential discrimination of vulnerable and marginalized groups (VMGs), the project has adopted a vulnerable and marginalized group framework within which VMG plans will be prepared for the identified VMGs.</p>
<p>5. Use of child labor and forced labor</p>	<p>There is potential for child labor use among the primary suppliers as cost cutting measures.</p> <p>There may be risks of forced labor by primary suppliers and other service providers.</p>	<p>-The project will require the implementation of age verification procedures by contractors/service providers and suppliers for all its prospective employees.</p> <p>-The PMU will work closely work with the SDL to enforce the age requirement.</p> <p>-The team will conduct periodic assessments with workers to confirm their terms of conditions of employment and identify any deviations from the provisions contained in the national laws and ESS2.</p>
<p>6. Corruption/ nepotism/ elite capture</p>	<p>There is potential for recruiters to be compromised to hire workers and give contracts to contractors/service providers/suppliers who are not qualified. Factors such as clannism, ethnicity, elite capture and bribery could lead to the selection of unqualified youth.</p>	<p>-The recruitment process will be overseen by the selected representatives from the project leadership and key stakeholders.</p> <p>-All actions will be handled transparently.</p> <p>-Names of selected service providers will be shared on the NYOTA web platform.</p> <p>-People will be encouraged to use the GM to channel any complaints and grievances.</p>
<p>Community Health and Safety Risks</p>		

Risk/Impact	Analysis	Risk Mitigation Measures
1. Spread of diseases in communities, including HIV/AIDS and Covid-19 and other communicable diseases i.e. cholera and measles through project activities	<p>The implementation of the project may increase the risk of HIV infections given the current reports that infections are going up among the youth.</p> <p>The risk of Covid-19 is still current in Kenya, hence the need to find mechanisms to prevent infections among workers and the learners.</p> <p>There has been reported cases of cholera and measles outbreak in the refugee camps spilling over to the host communities and therefore there is need for mitigation.</p>	<p>-Communication on risks of infection with HIV/AIDS and Covid-19 will be conducted through appropriate means – targeting workers, learners and communities around training institutions.</p> <p>-The contractors/service providers and suppliers will be required to create awareness on HIV/AIDS and Covid-19 among the workers and in the communities.</p> <p>-Provision of condoms and masks (as appropriate).</p> <p>-Encourage and facilitate the youth to take Covid-19 vaccine.</p> <p>-The CoC will be signed by all project workers and enforced by all contractors/service providers and primary suppliers</p> <p>-PIU/DRS to work closely with the County Department of Health and camp management on early detection and prompt response to any disease outbreak. Enhanced health screening of the new arrivals of the Asylum seekers in the camps.</p>
2. Insecurity	<p>The main security threats associated with the project include attacks on workers (direct, contract and primary supply) and theft of project materials and equipment.</p>	<p>-All activities, including travelling in areas prone to insecurity shall be guided by the project-specific Security Management Plan (SMP). This includes use of police escorts to the insecure locations; restriction of movement of project vehicles (from 6am to 6pm) and residence in secure hotels across the country while on project-related assignments.</p> <p>Staff badges shall be issued to the authorized workers to access the MOYACES, NSSF and MSEA offices</p> <p>-All visitors shall be required to fill a visitor’s form providing personal details and purpose of the visit</p> <p>-Security induction will be done to all project staff</p> <p>-All project equipment shall be engraved/marked with a property number and the agencies will maintain a list of equipment procured under the project.</p> <p>-All individuals and personal luggage will be screened by the guards at the access control points to ensure no access or removal of prohibited items into the project sites.</p>
3. GBV/SEA/SH	<p>There is a risk of SEA/SH among the workers and between workers and the interns</p>	<p>The project shall adhere to the measures proposed in the SEAH Prevention and Response Plan, Stakeholder Engagement Plan (SEP) and VMGP. The mitigation measures will include:</p> <ol style="list-style-type: none"> i. Sensitize project workers and the implementing and technical agency staff on GBV/SEA/SH; ii. Sensitize the youth on GBV/SEA/SH and available referral pathways; iii. Train all project staff on GBV/SEA/SH; and iv. The CoC, to be signed by the workers, shall contain provisions on GBV/SEA/SH.

26. The PMU and PIUs will assess and address these risks by applying the relevant provisions of the Employment Act 2007, Public Service Regulations and HR manuals, Occupational Safety and Health Act (OSHA), Workers Injury and Benefits Act (WIBA) and the relevant provisions of ESS2, ESS4 and the World Bank ESHGs. In addition, the PMU/PIUs will train all workers engaged in project activities on the guidelines and protocols on how to enforce adherence to the national and WB provisions on labor and working conditions.

3.2 Emergency Response Plan (ERP)

27. The PMU and PIUs will each designate an officer to serve as the Emergency Operations Officer (EOO). The Social Safeguards Officer at MOYACES will provide oversight over all

emergency situations on the project in close coordination with the EOOs. The EOOs will be responsible for making decisions and following the steps described in the ERP (see Annex 6). In the event of an emergency occurring within or affecting workers and/or trainees during a project activity, the person responsible for the activity (e.g. field trip) will serve as the EOO. If the primary contact is unable to fulfill the EOO duties, the secondary contact will take on this role as provided for in the ERP.

28. The following is a list of potential emergencies that may occur during the project implementation period:

- i. OHS accidents requiring immediate medical attention, etc.;
- ii. Fire emergencies in training institutions, apprenticeship premises, etc.;
- iii. Road accidents affecting project workers and trainees;
- iv. Security incidents like banditry attacks, and theft of project equipment;
- v. Agitation and appraising in the training centers if youth feel dissatisfied with the quality of training and other services; and
- vi. Improper food hygiene, contamination leading to food poisoning of workers and trainees.

29. The ERP will be availed to the workers, trainers, trainees, contractors/service providers, suppliers, and project stakeholders. Other key measures to be put in place include:

- i. Early identification of risks and instituting proactive avoidance measures;
- ii. Provision of appropriate personal protective equipment (PPEs) to all workers;
- iii. Implementation of systemic risk management plans comprising risk prevention, evacuation of accident victims, evaluation and improvement measures;
- iv. Provision and maintenance of fire extinguishers in all workplaces;
- v. Display of fire emergency telephone numbers and action plan in communal areas;
- vi. Conduct of fire drills at the MoYACES/NSSF/MSEA/ DRS facilities, at a minimum once a year; and
- vii. Sensitize all workers on the ERP.

Reporting serious incidents

In the event of an occupational fatality or serious injury, the PMU shall report to the Directorate of Occupational Safety and Health Services (DOSHS) in line with OSHA timelines World Bank as soon as it becomes aware of such an incident and not later than 48 hours after the incident occurs. The reporting will describe the incident in detail and also indicate the immediate intervention/corrective measures to be implemented to deal with the accident/incident. Corrective actions shall be implemented in response to project-related incidents or accidents. The PMU/PIU, where relevant a consultant, will conduct a root cause analysis for designing and implementing further corrective actions.

SECTION 4: OVERVIEW OF RELEVANT LEGISLATION

4.1 Labor Legislation

30. Kenya has an elaborate legal framework on matters of labor and working conditions. The CoK 2010 provides relevant clauses including *Article 2* which recognizes ratified treaties as part of the laws of Kenya. *Article 41 on 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.

The Refugee Act 2021 provides for refugees to depart from the camps and goes towards creation of wider social and economic inclusion of refugees and host community in utilizing the area-based approach programming. The inclusion of refugees in the county integrated development plans would go to anchor for planning of refugees in the designated counties expanding on the broader rights. The law further takes to account the special circumstances of refugees in seeking gainful employment or enterprise or to practice a trade or a profession where they hold qualifications recognized in Kenya. The DRS and other partners will require engagement with various stakeholders such as private sector, government department and financial institutions to facilitate realization of this right. Educational institutions will also need to be engaged to facilitate recognition of certificates. There is need to have regulations on the work permit to be able to remove the high threshold to access class M work permit.

31. 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)*. The NSSF labor requirements indicate that contributors must be above 18 years of age with a valid identification card.

32. 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)*; (v) *The Worst Forms of Child Labor (ILO Convention 182)*; *Equal Remuneration (ILO Convention 100)*; and (vi) *Discrimination (Employment and Occupation) (ILO Convention 111)*.

33. 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 several times; defines the fundamental rights of employees, and provides basic conditions of employment for employees, including the regulation of employment of children. As such, this Act most closely aligns with essential imperatives in ESS2. The Act has a single subsidiary legislation titled the *Employment (General) Rules, 2014* that largely expounds on the terms and conditions of work

apart 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*.

34. The *Employment Act* addresses the employer-employee power-dynamic, focusing on the employer-employee engagement from the insular perspective of a direct contractual arrangement between the two parties. The assumption is that all persons who fit the descriptions of ‘employer’ and ‘employee’ are governed by this law including those implementing development projects.

35. The law has different approaches to defining the categories of employees including: 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).² 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.³

36. The Labour Relation Act of 2007: The Act consolidates the law relating to trade unions and trade disputes, to provide for the registration, regulation, management and democratization of trade unions and employers organizations or federations, to promote sound labor relations through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development and for connected purposes. The Act provides for a collective agreement is defined in the Labour Relations. Act as “A collective bargaining process precedes this. The process of collective bargaining is not specifically provided for in law, but there are prerequisite conditions, which must be fulfilled before parties may proceed with bargaining process. Such conditions are contained in the Labour Relations Act, No. 14 of 2007. In section 184 of the Labour Relations Act, there is a requirement that the trade union must have legal recognition in law that is duly registered by having a constitutional jurisdiction.

37. Apart from the *CoK (2010)* and the *Employment Act, 2007*, there other policies and legislation that are of relevance to NYOTA. The *National Policy on Gender and Development, 2019* aims to facilitate the mainstreaming of the needs and concerns of men and women in all areas in the development process in the country. It provides a framework for advancement of women and an approach that seeks greater efficiency in resource allocation and utilization to ensure empowerment of women. The Policy compliments the Government’s efforts of spurring economic growth to reduce poverty and unemployment, by considering the needs and aspirations of all Kenyans of all gender across economic, social, and cultural lines. NYOTA will endeavor to adhere to legal provisions during recruitment with a lens of equity.

38. The *HIV/AIDS Policy, 2009* identifies HIV/AIDS as a global crisis that presents a formidable challenge to development and social progress. HIV/AIDS has been considered a

²The probation period is not more than 12 months’ duration or part thereof

³ Sec 3 (6) of The Employment Act, No. 11 of 2007

significant potential impact due to the large number of youth and project workers to be engaged in the project as direct beneficiaries. The rising number of infections in the country calls for more intensified focus on prevention (Kenya Demographic and Health Survey (KDHS, 2022). HIV/AIDS awareness campaign for the project staff as well as trainees which should be done throughout the project implementation period. Other services to be considered will include linkages to health facilities for voluntary counselling and testing (VCT) and/or provision of anti-retroviral treatment as necessary. The project will also address Covid-19, which is still a key public health concern.

39. The *Sexual Offences Act, 2006 and its amendment, 2012* requires workers to observe a standard work ethic to ensure persons from both genders are not subjected to sexual offences. A conducive working environment should prevail in all workplaces in the project, to be enhanced through implementation of the SEAH Prevention and Response Plan. All workers shall sign a CoC with clear provisions over the breach of the code. The CoC shall be translated into Kiswahili to ensure that all workers are able to read, sign and apply.

40. The *Persons with Disability Act, 2003*, Chapter 133 outlines the following entitlements: a legitimate expectation of being able to enjoy accessibility and mobility; a legitimate expectation of being able to access public buildings (that must be adapted to suit the needs of PWDs); and a legitimate expectation of being able to access public service vehicles (that must be adapted to suit the needs of PWDs).

41. The *Children's Act, 2022* is a comprehensive law on all matters to do with children. It provides that the best interests of the child shall be a primary consideration in all actions concerning children including protections related to employment.

4.2 Occupational Health and Safety

42. The *Occupational Safety and Health Act, 2007* is Kenya's codifying law governing workplace safety and health. The law provides for "*the safety, health and welfare of workers and all persons lawfully present at workplaces and establishes the National Council for Occupational Safety and Health*". This law is broadly concerned with potential hazards to persons in the workplace. 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 brought about 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.

43. Given the large number of youth to be engaged in the project and the labor requirements that will be necessary to provide training, mentorship and support, it is proposed that MOYACES puts in place a *Safety and Health Committee*⁴ which will be responsible for all safety and health matters of the trainees, project staff and business entrepreneurs/social enterprises. The NYOTA team will need to develop guidelines on health and safety that will be applied across all the implementing and technical agencies and other partners involved in the actual project delivery. In addition, there will be a need for the creation of public awareness,

⁴Factories and other Places of Work (Safety and Health Committees) Rules, 2004, under the Occupational Safety and Health Act, [Act No. 12 of 2007]

which will further empower all persons in the workplace to safeguard their own health through training and workplace publicity campaigns. The M&E team will develop checklists that will be used to verify the health and safety standards in all premises delivering the project and among the key stakeholders including beneficiaries, workers and service providers.

44. The *Work Injury Benefits Act*⁵ (WIBA) of 2007 also addresses workplace safety and health. 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 entitlement and guarantee afforded in respect of compensation. All direct workers (government employees and consultants) involved in the project will be enrolled on WIBA. Contractors/service providers and primary suppliers will be required to register their workers who are engaged on the project on WIBA.

45. The PMU and PIUs will also refer to applicable international conventions, and guidelines for addressing health and safety issues relevant to the project, 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; and
- v. WHO Emergency Response Framework, 2017.
- vi. EU OSH Framework Directive (Directive 89/391)

46. Protection against possible risks as provided in Section 6 (2) of the OSH Act, 2007 will be managed through:

- i. Provision and maintenance of procedures of work that are safe and without risks to health for both the trainees, workers and service providers;
- ii. Provision of proper signage and warning signs in the workplace and training venues to minimize accidents;
- iii. Provision of such information, instructions, training, and supervision as is necessary to ensure the safety and health at work of every person employed or using the facilities;
- iv. Information shared with all employees and trainees using the facilities on: (i) any risks from new technologies; (ii) imminent danger; and (iii) appropriate recourse measures;
- v. Ensuring that all protocols to minimize the spread of HIV/AIDS, Covid-19 and other communicable diseases are observed and strictly adhered to;
- vi. Ensuring that every person employed participates in the application and review of safety and health measures; and
- vii. Ensuring that training facilities and business enterprises are disability friendly and accessible for all workers and trainees.

4.3 World Bank Group EHS Guidelines

47. The Environmental Health and Safety (EHS) Guidelines are technical reference documents with general and industry-specific examples of Good International Industry Practice (GIIP). The EHS Guidelines contain the performance levels and measures that are normally acceptable to the WB Group, and that are generally considered to be achievable in new facilities

⁵WIBA Act No 13 of 2007

at reasonable costs by existing technology. The EHS General Guidelines remain relevant to this project. General guidelines are available at www.ifc.org/ehsguidelines.

48. 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	No requirement to be responsible for 3 rd party 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, community workers etc.	MSEA, MOYACES, NSSF to align Consultancy ToRs with the World Bank's requirements
OHS responsibility in shared workspaces under different employers	Not specific on who is responsible for Health and safety in shared spaces	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.	Kenyan law does not explicitly require employers to be responsible for the safety of third-party workers in a shared site. However, it is assumed that whoever's works poses the danger is responsible for the safety of the workplace	Implement and comply with OHS measures in the LMP and ensure such applicable measures are included in all project contracts and ToRs Ensure adequate Emergency Response Procedures are implemented in facilities used by Project workers

Settlement of final dues	The Employment Act provides for the dues payable to an employee upon termination of employment	All wages that have been earned, social security benefits, pension contributions and any other entitlements will be paid on or before termination of the working relationship,	Kenyan law does not provide for final settlement but does indicate timelines to be adhered to in the settlement of disputes	MSEA, MOYACES, NSSF to align Consultancy ToRs with the Kenyan laws 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 for MSEA, MOYACES, NSSF. MSEA, MOYACES, NSSF 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.

Working hours and overtime	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. 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. In the case of overtime work, employers must pay their employees 150 percent of their regular day's pay.	Working hours shall be agreed mutually or by collective bargaining.	Both give provisions according to working hours and overtime.	Working hours and overtime will be defined in accordance with the Kenyan law. The attendance register shall be maintained to record time of arrival and departure from work.
Workers' rights	Kenyan Employment Act provides provisions for regular leaves and benefits. Employer must also provide reasons for termination.	ESS-2 requires full respect of workers' rights.	Both recognize the rights of workers	The NYOTA program will be implemented in accordance with Kenyan Laws. An effective grievance mechanism will be put in place to help workers raise their concerns.
Minimum age	Thirteen years and above	Fourteen years and above	Disparity in age of engagement	Children under 18 years old will not be permitted to work on NYOTA program. Evidence like birth certificates will be required to certify workers' ages.
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	Both prohibit forced labor	NYOTA program will prohibit any forced labour. Periodic checks and screening for forced labor shall be carried out.

		coercion or any form of threats. Forced labor in this context can be any form of indentured labor.		Project Leads will ensure consent of employees to work as project workers.
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 would 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. However, OSHA 2007 has full provisions for workplace safety and health.	There are adequate provisions for OHS procedures in ESS-2 which projects are expected to adhere to.	No gaps.	NYOTA program shall have a safeguard focal person to oversee management OHS issues. In case of deviations between National standards regulations and the World Bank's EHSGs, the project will follow the more stringent standard.
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.	As the minimum age to work on NYOTA program is 18, provisions in the Employment Act will be applied. Enforced prohibitions on child labor, persons under 18 years will not be permitted to work on NYOTA program Consultancy services. Sensitize all partners and farmer groups on child labor prohibitions. Institute age verification for new workers before engagement.
Women	Provisions are given in the Kenya law. They take into account equality of chance, non-	ESS-2 provides measures to protect and assist vulnerable	Both protect women in workplaces.	NYOTA program should therefore target to maximize employment benefits to women.

	discrimination, maternity leaves, etc.	project workers, including women.		MSEA, MOYACESMOYACES, NSSF 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.	MSEA, MOYACES, NSSF would comply with the national legislation on discrimination against PWDs. MSEA, MOYACES, NSSF should therefore target 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.	MSEA, MOYACES, NSSF will adopt the provisions of the Kenyan regulation. All project workers will sign the code of conduct with key prohibitions on SEA/SH. NYOTA program will provide safe and confidential grievance channels easily accessible to all stakeholders.
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 NYOTA program 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.	NYOTA program will elaborate, implement and disclose a Grievance Mechanism in accordance with provisions in ESS2. Implementing partners will be required to induct their employees on the grievance procedure.

				MSEA, MOYACES, NSSF will be required to report grievances raised and progress on resolution.
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	NYOTA program Consultancy Teams will follow provisions in the Employment Act to make salary deductions.

SECTION 5: RESPONSIBLE STAFF

49. The MOYACES through PMU will be responsible for the overall management and coordination of the project. It will guide and oversee the implementation of this LMP by the PIUs. The PMU in conjunction with the PIUS will develop and submit to the World Bank a work plan for the rollout of the LMP implementation modalities not later than two (2) months after Project effectiveness. The social safeguards and OHS experts at the PMU will facilitate this responsibility, together with capacity building consultants.

50. The PMU in conjunction with the PIUs at NSSF and MSEA will be responsible for the following tasks:

- i. Undertake the overall implementation of this LMP;
- ii. Engage and manage consultants and contractors/service providers in accordance with this LMP and the applicable procurement documents;
- iii. Monitor project contractors/service providers, primary suppliers, and workers to ensure their activities are included in the LMP and the applicable procurement documents;
- iv. Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary suppliers/service providers;
- v. Provide training to mitigate risks of project workers and trainees;
- vi. Ensure that the GM for project workers is established and implemented and that project workers are informed about it;
- vii. Monitor the implementation of the CoC; and
- viii. Report to the World Bank on labor and OHS performance and key risks and complaints.

51. The Social Safeguards Officers and the OHS Expert at PMU will be responsible for the implementation of the LMP and OHS requirements including the following:

- i. Supervise all workers' adherence to the LMP;
- ii. Maintain records of recruitment and employment of direct and contracted workers/service providers;
- iii. Provide induction and regular training to direct and contracted workers/service providers on social and OHS issues;
- iv. Require primary supplier(s) to identify and address risks of child labor, forced labor and serious safety issues, and undertake due diligence to ensure this is done;
- v. Develop and implement the GM for workers, including ensuring that grievances received from workers are resolved promptly;
- vi. Report the status of grievances and resolutions regularly to the PMU and World Bank;
- vii. Ensure that all trainees are taken through the health and safety induction requirements and preventive measures are put in place in all training and accommodation facilities;
- viii. Ensure all direct, contractors/service providers and primary supply workers understand and sign the CoC prior to the commencement of work; and
- ix. Prepare and display health and safety charters in respective workplaces and learning institutions that will include contact information of key contact persons in case of complaints and/or emergencies.

52. It is notable that since the PMU and PIUs are new to labor management procedures, all the staff members will be inducted on these procedures and their roles clearly spelt out. The

Social Safeguards Officers and the OHS Expert at PMU will be on the lookout for new staff members and offer training on the LMP as part of the induction process.

53. The Social Safeguards Officer and the OHS Expert, working closely with the M&E office, will also be responsible for:

- i. Monitoring, supervising, and reporting on health and safety issues relating to the sub-projects;
- ii. Coordinating and reporting arrangements between contractors/service providers and the PMU/PIUs;
- iii. Following up on the feedback mechanisms between the workers, interns and apprentices while flagging out any issues for redress; and
- iv. Reporting on regular basis on the overall project progress.

SECTION 6: POLICIES AND PROCEDURES

54. A summary of indicative procedures to implement the LMP policies is provided below.
- i. **Labor disputes over terms and conditions of employment:** To avoid labor disputes, fair terms and conditions will be applied for project workers (guided by relevant laws). The project will also have a GM for project workers (direct workers and contracted workers) to promptly address their workplace grievances (more details are provided in Section 9). Further, the project will respect the workers' right of labor unions and freedom of association, as set out in the *Employment Act 2007*. The trainees will also be encouraged to share any complaints and feedback on the workers using the project GM.
 - ii. **Discrimination and exclusion of vulnerable groups:** The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. The project shall comply with the *Employment Act, 2007* on gender equality in the workplace, which will include provision of maternity and sick leave. There will also be sufficient and suitable toilet and washing facilities, separate for men and women workers. Contracts with third parties will include these requirements which will also be part of the monitoring indicators.
 - iii. **Occupational health and safety (OHS):** MOYACES will ensure the protection of project workers against OHS risks and impacts. The implementing agencies, contractors/service providers and primary suppliers will also be required to have policies and procedures with the following key measures: (i) identification of potential hazards to workers and users of facilities; (ii) provision of preventive and protective measures based on mitigation hierarchy; (ii) training of workers and maintenance of training records; (iv) documentation and reporting of occupational accidents and incidents; (v) emergency preparedness; and (vi) remedies for occupational injuries and fatalities.
 - iv. **Child labor:** The minimum age of project workers is set at 18 years and above. The PMU will maintain labor registry of all contracted workers with age verification. More details are provided in Section 7.
 - v. **GBV/SEA/SH:** there is likelihood of SEA/SH of co-workers at the workplace and of workers/trainees. Consequently, all staff and contracted workers will sign a CoC outlining expected standards of behavior and attend awareness sessions on the same. A separate GM will be set up for addressing GBV/SEA/SH complaints as described further below. Trainees will be provided information on how to report any GBV/SEA/SH incident involving project workers occurring while in training and/or during apprenticeship.
 - vi. **Fatality and serious incidents:** In the event of an occupational fatality or serious injury, the PMU shall report to the World Bank as soon as it becomes aware of such incidents and inform the MoYACES in accordance with national reporting requirements. Corrective actions shall be implemented in response to project-related incidents or accidents. The PMU, PIUs, or where relevant a consultant, may conduct a root cause analysis for designing and implementing further corrective actions.
 - vii. **Monitoring and reporting:** The PMU shall report on the status of implementation of the above policies and procedures monthly to the PSC
 - viii. The PMU, in collaboration with the PIUs, will closely monitor labor and OHS performance of the project and report to the World Bank on quarterly basis.

SECTION 7: AGE OF EMPLOYMENT

55. This project shall not hire anyone less than 18 years of age. The process of age verification shall be undertaken prior to the engagement of labor and be documented. The National Identification Card (ID) or Passport will be used as indicative age verification means. For VMGs and refugees who may not have ID cards and/or passports, a verification by Recognition letter, Gok Proof of Registration document (PoR) or a recognized local leader will suffice to engage him/her. The SDL will support routine age verification and implement sanctions against any agency not complying with this requirement. The sanctions may include suspension or cancellation of the agreement/contract.

SECTION 8: TERMS AND CONDITIONS

56. The *Employment Act 2007* broadly addresses labor issues including the minimum, statutory requirement of any employment arrangement in Part III on *Employment Relationship* (as read with Part V on *Rights and Duties in Employment*; and Part VI on *Termination and Dismissal*). By law, the employee is entitled to pertinent employment information and documentation pursuant to Section 14 on *Reasonably Accessible Document or Collective Agreement*. Part IV of the Act addresses itself on the *Protection of Wages* seeks to outline the minimum standards required of all salary policies. The law has expressly restricted the employer's ability to interfere with how the employees dispose of their earnings. Part V focuses on the *Rights and Duties in Employment* and outlines the employees' entitlements and the employers' responsibilities. Indeed, the provisions of this *Part* expressly "*constitute basic minimum terms and conditions of contract of service*". *Hours of work* are lawfully the employer's prerogative; however, there must be weekly *rest day(s)*. The Act also covers matters of leave for employees (detailed conditions as presented in Annex 1).

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

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

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

- i. **Direct workers - government employees and consultants hired by the implementing/technical agencies to deliver on specific services and mandates:**
The terms and conditions for direct workers in PMU and PIU staff at the project supported facilities will be governed by National Labor Laws and the public service

- terms and conditions. Consultants recruited to provide services on the project will be contracted based on terms and conditions to be discussed at recruitment; and
- ii. **Contracted workers (3rd party workers including consultants) and primary suppliers:** The Employment Act and associated public service regulations are the guiding legislations on employment terms and conditions for contracted workers and primary suppliers. The PMU and PIUs shall therefore follow the provisions related to labor engagements and management.

60. The OHS provisions provided in this LMP will apply to all workplaces and workers. Premises where training, apprenticeship and entrepreneurship will be undertaken will be required to be protective of the workers and trainees..

SECTION 9: GRIEVANCE MECHANISM

61. **General Principles:** Typical workplace grievances include demand for employment opportunities, labor wage rates, delays of payment, disagreement over working conditions, favoritism, and health and safety concerns in work environment. Although SEA/SH occurs in workplaces it is not always reported due to fear of victimization. Therefore, a separate GM for project workers (direct workers and contracted workers) will be provided as required under ESS2.

62. The Project will develop guidelines that indicate how workers' complaints will be reported (described in para 68 below) including on SEA/SH. All project workers (existing and new) will be inducted on the GM for workers including confidential reporting on GBV/SEA/SH concerns that may affect them in their workplaces. In line with the provisions of ESS2, a GM will be provided for all direct and contracted workers (and where relevant, their organizations) to raise workplace concerns. Such workers will be informed of the GM at the time of recruitment and the measures put in place to protect them against reprisal for its use. The Project will ensure that the GM is easily accessible to all project workers and users of the services.

63. **Direct workers - government employees and consultants hired to deliver specific services.** For government employees, the Public Service Commission (PSC)⁶ provides for a process that guides how grievances are addressed, thus: "PSC of Kenya advocates settling of a grievance as quickly as possible to its point of origin and encourages staff and their superiors/managers to resolve grievances informally." However, the following three (3) stages are set to address the situations where this is not possible. A Grievance Form (PSC GF) has been designed for ease of application of the procedure.

i. An officer who has any grievance or complaint should raise it with his/her Head of Department in writing by completing the Grievance Form (attached in Annex 2). The Head of the Department will give an answer as soon as possible and within a maximum of seven (7) working days; ii. If the matter is unresolved at stage II the aggrieved officer can appeal in writing to the Senior Deputy Secretary, Administration. The Senior Deputy Secretary Administration will at his/her discretion arrange a personal interview with the aggrieved officer and will give a written reply to the latter within fourteen (14) working days; and

iii. It is expected that most of the cases will be solved at Stage II but in exceptional circumstances where this is not possible and the matter remains unresolved, the aggrieved officer may present it in writing to the Secretary, Public Service Commission who will handle the matter and give a written reply within a further fourteen (14) working days.

Where an aggrieved government employee wishes to escalate his/her issues or raise concerns anonymously and/or to a person other than his/her immediate supervisor/hiring unit, the worker may raise the issues with the Project GM.

64. All implementing/technical agencies will be required to have a GM focal point. Handling of grievances will be objective, prompt, and responsive to the needs and concerns of the aggrieved workers. The mechanism will allow for anonymous complaints to be raised and addressed. An individual who submits his/her complaints or grievances may request that their name be kept confidential, and this should be respected. Workers should raise concerns with their immediate supervisors as much as possible or the head of human resources. If they are unable to do so, they can raise to the county or national project grievance focal person if it relates to the Project.

⁶ 3Public Service Commission (2016). Human Resource Policies and Procedures Manual for the Public Service

65. Contractors/service providers with more than 20 staff assigned to the project will be required to assign an officer as a focal point within the company to address workers' concerns on an ongoing basis. However, where contractors/firms/service providers have an existing grievance system, their workers, interns, and apprentices should use such a mechanism. The workplace GM should provide for a dedicated channel via email and phone/SMS, weblink and should have a clear resolution and feedback mechanism as follow:

- i. The grievances raised by workers will be recorded with the actions taken by each concerned entity;
- ii. The aggrieved workers may wish to escalate their issues or raise their concerns anonymously to a level beyond their immediate supervisors;
- iii. The contractor/service provider should provide to the PMU a monthly summary of all project complaints including for workers using the format provided in Annex 5; and
- iv. GBV/SEA/SH cases affecting or concerning project workers will follow the procedures described for GBV/SEA/SH reporting detailed in the SEAH Prevention and Response Plan.

66. **Project GM:** the project will have several channels for complaints and grievances including email, phone calls, texts, toll free number, weblink and letter writing that will also be accessible to all workers. Information on the project GM will be made available to all project workers at all levels (both national and county) and target beneficiaries. Project complaints should be acknowledged within 7 days and resolved as much as possible within 21 days.

67. The practical steps to be used in addressing grievances at the workplace are presented in Figure 1.

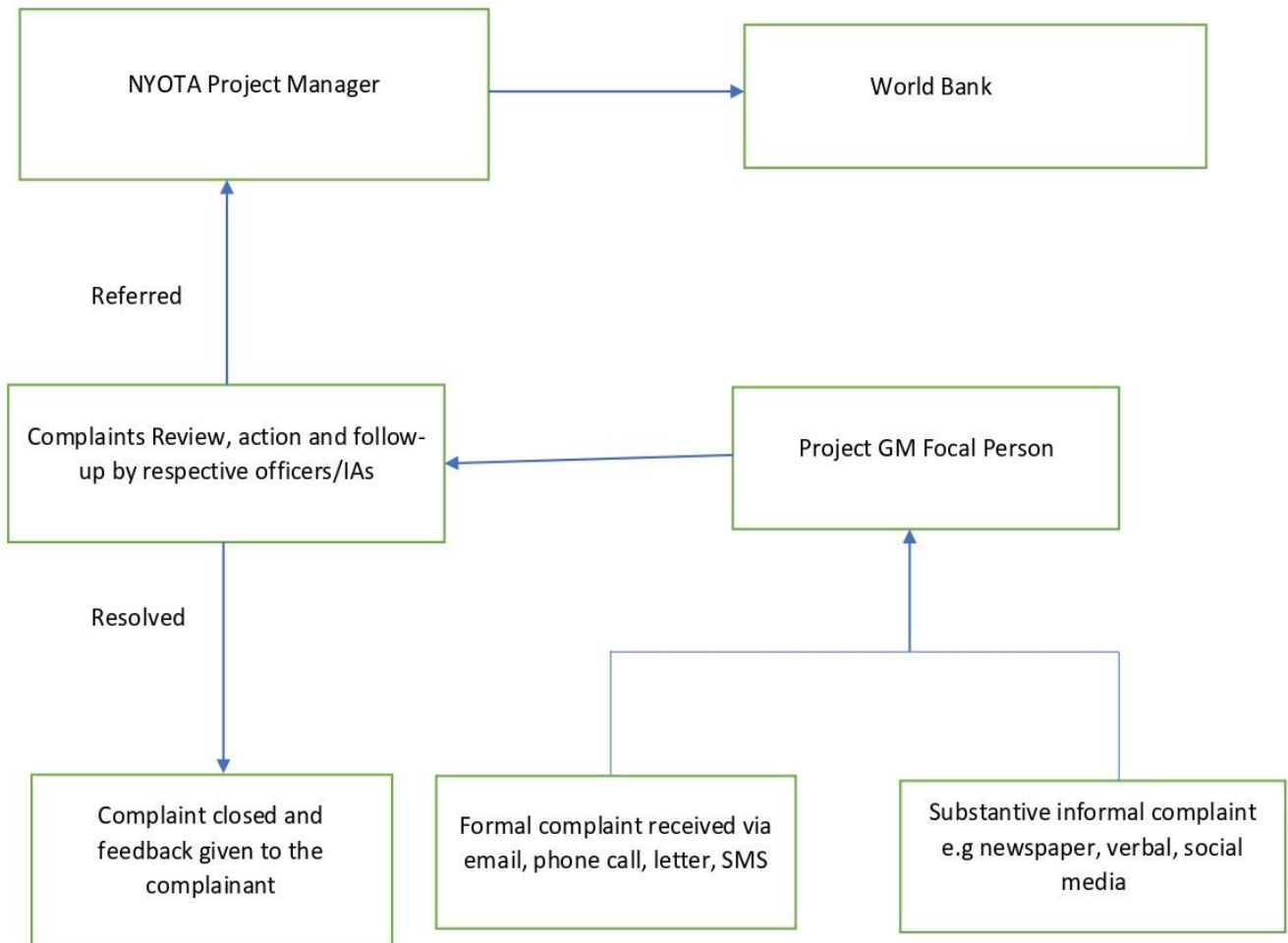


Figure 1: Internal workers' grievance management structure

68. A summary of grievance cases and their status of resolution will be reported to the World Bank as part of regular reporting. 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/service providers/primary suppliers have existing grievance systems, their direct workers should be encouraged to use these mechanisms with the leeway to appeal to the World Bank as they deem appropriate.

69. **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. Where agreement on grievance resolution has not been reached, the project team will offer the complainant with appeal options and processes available in the country. The approaches will include an independent panel, internal or external offices or individuals with appreciable degree of independence, and third-party fact-finding, facilitation, and mediation missions as applicable. Depending on the grievance, the appeal may entail offering the aggrieved person the option to seek redress through statutory referral institutions operational in the country including appealing to the Commission on Administrative Justice (CAJ), Kenya National Human Rights Commission (KNHRC), National Gender and Equality Commission (NGEC) or the court system. Other measures such as arbitration and mediation could be used depending on the nature of the complaint and the willingness of the parties involved.

70. Individuals and groups who believe they are adversely affected by a WB supported project may submit complaints to existing project-level grievance mechanisms or the World Bank Kenya office as follows: Country Director, World Bank Kenya Office, Delta Center Menengai Road, Upper Hill P.O. Box 30577-00100 Nairobi, Kenya. Tel: +254-20-3226000. Fax: 254-20-3226382. Kenyaalert@worldbank.org.

71. Aggrieved individuals and groups can also reach the World Bank Grievance Redress Services (GRS) if no response has been received from the WB Kenya office. The complainant can report directly to the WB GRS on email: grievances@worldbank.org. The GRS ensures that complaints received are promptly reviewed to address project-related concerns. Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, because of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to WB's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate GRS, please visit <https://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service>. For information on how to submit complaints to the World Bank Inspection Panel, please visit www.inspectionpanel.org.

72. **GBV/SEA/SH:** despite additional channels being present for reporting GBV/SEA/SH complaints such as SEAH Prevention and Response Plan, cases of GBV/SEA/SH can also be reported through the general Project GM. The GBV survivor has the freedom and right to report an incident to anyone: project staff; GBV case manager, or service provider. All relevant PMU/PIU staff will receive training on handling GBV complaints and referral systems, ideally during the project initiation phase and as part of the staff welcome package. The GM operators will be trained on key protocols including referral, reporting and informed consent protocols to receive those cases in an appropriate manner and immediately forward them to the GBV/SEA/SH referral system. The GM Operators will ensure appropriate response by: (i) providing a safe caring environment and respect the confidentiality and wishes of the survivor; (ii) if the survivor agrees, obtain informed consent, and make referrals; and (iii) provide reliable and comprehensive information on the available services and support to GBV survivors.

73. The GM proposes the following key features on preventing GBV/SEA/SH:

- i. Establish quotas for women in project management committees to facilitate safe reporting;
- ii. Provide multiple channels to receive complaints (channels to be determined after consultation with key stakeholders);
- iii. Resolve complaints at the point of service delivery to reduce information and transaction costs and gender sensitive independent channels for redress; and
- iv. Create GBV/SEA/SH awareness and encourage project-affected persons to file complaints.

74. If a GBV/SEA/SH case is reported through the Project GM, the GM operator will report the case within 24 hours to the relevant PMU and PIU, and the PMU is obligated to report this case to the WB within 24 hours. Furthermore, cases of SH will be reported through the workers' GM, if it concerns a direct worker or a worker. The PMU and PIU should hold sensitization sessions for contractors/service providers and primary suppliers regarding the CoC obligations. All reporting on GBV/SEA/SH will have limited information in accordance with the survivor's wishes regarding confidentiality and in case the survivor agrees on further reporting, information will be shared only on a need-to-know-basis, avoiding information which may lead to the identification of the survivor and any potential risk of retribution.

SECTION 10: MANAGEMENT OF CONTRACTORS/SERVICE PROVIDERS

75. Each contractor/service provider/primary supplier engaged by the Project will be expected to adopt the labor protective measures and provisions outlined in this document. The contracts/agreements drawn by NYOTA will include provisions, measures, and procedures to manage and monitor relevant OHS and other labor standards. Measures required of contractors/service providers/primary suppliers as part of the bidding/tendering process, specific requirements for certain types of services, and specific selection requirements (e.g., for master craftsmen, etc., certifications, previous experience) will include:

- i. Paying WIBA for all project staff;
- ii. Providing suitable and appropriate documented safety measures and equipment at their workplaces corresponding to the identified hazards and risks assessments Providing workers and trainees who need PPEs with the correct type of PPEs; and
- iii. Putting in place measures to respond quickly to emergencies and report to the responsible officers within the PMU/PIU as appropriate.

76. Contractors/service providers/primary supplier will be required to identify focal points and communication channels (for example, WhatsApp, SMS and email) to address workers' concerns on an ongoing basis. They will ensure that such channels are adequately resourced (for example, 24-hour staffing of the emergency response call lines). Workers will not be victimized in any way for reporting a grievance as described in Section 9.

SECTION 11: COMMUNITY WORKERS

77. The project may use the services of community/refugee leaders during recruitment to sensitize communities on the recruitment of project beneficiaries. Community members could also support with the vetting of the applicants especially in areas undergoing insurgence and remote hard to reach rural areas. There is no intention of the project to recruit and pay community workers. However, community workers engaged will sign forms indicating voluntary participation (limited to approximately 8 hours per week, ensuring that the work is not impacting their income activities); observance of safe working conditions, and encouraged to channel any grievances through the general project GM described in Section 9.. Nonetheless, such workers shall be facilitated by the project for for their communication costs, lunch and refreshments while supporting the project activities. They are prohibited for enlisting support of any children while undertaking their duties.

SECTION 12: PRIMARY SUPPLY WORKERS

78. When sourcing for primary supply workers, the project will require such supply workers to identify the risk of child labor and forced labor and any serious safety risks. The PMU and PIUs as part of their monitoring may be required to carry out assessments of potential risks and impacts that may arise in relation to primary supply workers during implementation. Where necessary, specific requirements on child labor, forced labor and work safety issues will be included in all Local Purchasing Orders (LPOs) and contracts with suppliers.

SECTION 13: RESOURCES FOR IMPLEMENTING THE LMP

79. The project will set aside funds to ensure that the planned LMP activities are implemented and monitored effectively. The costs will be consolidated in the overall budget for implementing safeguards. The estimated budget is presented in Table 5.

Table 5: Estimated budget for implementing the LMP

Labor Management Activities	Q-ty/per years	Cost per unit (USD)	Total cost (USD) – 5 years
Support the development and review of Labor Management Plans for MOYACES and other IAs	2	2,000	20,000
Travel expenses of staff on LMP activities (supervision missions by the safeguards officers and leadership)	4	1,500	30,000
Capacity building on CoC, GM, GBV/SEA/SH, etc. for workers and trainees	2	2,500	25,000
Cost of managing the workplace GM	2	2,100	21,000
Monitoring and evaluation	2	2,250	22,500
Total			118,500

SECTION 14: ANNEXES

Annex 1: Terms and Conditions for Employment

Terms and Conditions. Below is the list of relevant provisions of the Employment Act, 2007 mainstreamed to GoK Human Resources Manual regarding terms and conditions of work.

- 1) Content of individual contract in-line with Employment Act 2007 (Section 10)
 - Subject to the provision of this Act or regulations made hereunder, a written individual contract of employment shall specify the following: (a) name and father's name of worker; (b) address, occupation, age and sex of workers; (c) employer's name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract.
- 2) Notice for termination of contract in-line with Employment Act, 2007 (Part VI; Sections 35 - 51)
 - Either of the contracting parties may terminate a contract of employment by giving written notice in-line with the provisions of employment Act, 2007:
 - (a) Not less than ten days in the case of manual workers;
 - (b) Not less than 30 days in the case of non-manual workers:Provided that no notice need be given in case the duration of contract does not exceed one month.
- 3) Protection of wages in-line with Employment Act, 2007 (Part IV; Sections 17 - 25)
 - Taking into consideration the economic and social conditions of the country (and in consistence with the provisions of Employment Act, 2007 and relevant Agency Human Resources Manual), the minimum wages for any category of workers may be determined by the Salaries Remuneration Commission.
- 4) Hours of work – Employment Act, 2007 (Article 85, 86)
 - The normal hours of work of a worker shall not exceed eight a day or 48 a week.
 - Hours worked more than the normal hours of work shall not exceed 12 a week and shall entitle a worker to a proportionate overtime payment in-line with the provisions of applicable Human Resources Manuals on allowances.
- 5) Weekly rest
 - Every worker shall be entitled to one day's rest each week, which should normally fall on Sunday. It shall consist of at least 24 consecutive hours each week.
 - Workers shall also be entitled to a rest day on public holidays recognized as such by the State.
- 6) Annual leave (Employment Act, 2007)
 - Workers shall be entitled to 30 days' leave with pay for every year of continuous service.
 - An entitlement to leave with pay shall normally be acquired after a full year of continuous service.
- 7) Fringe benefits (Employment Act 2007)
 - Any employer shall provide (a) accommodation when a worker is required to be away from his normal residence; (b) free food to workers, or subsistence allowance in place thereof; (c) free transport to and from the place of work, when a worker is required to work in a town or locality away from his normal residence.
- 8) Deductions from remuneration (Employment Act 2007)
 - No deductions other than those prescribed by the code or regulations made hereunder or any other law or collective labor agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing.

9) Death benefit (Employment Act 2007)

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

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

- A woman worker shall be entitled for maternity leave with pay for 90 days and male workers 14 days in-line with the provisions of the employment Act, 2007 and applicable Human Resources Manuals.

Note: The terms and conditions for service should align to workplace policies for workers whose duties go beyond the timelines indicated the Employment Act 2007.

Annex 2: Complaints Uptake Points

Note: this is the current reporting structure that will be adjusted to reflect the new arrangements under NYOTA including contacts for new implementing agencies such as NSSF and MSEA.

In case of a Complaint, contact or directly channel your complaint(s) through any of the following points during working hours (0800 hrs to 1700 hrs):
1. NYOTA PMU Physical address and post office numbers: Bruce House, 3rd floor 34303-00100 Nairobi, Kenya
2. MSEA PIU Coordinator MSEA physical address and post office numbers: Utalii Hse 10 th floor left wing, P. O. Box 48823-00100, Nairobi, Kenya
3. NITA PIU Coordinator NITA, Commercial st, Nairobi, Kenya Phone: +25420557688
4. MEACLSP physical address and post office numbers: NSSF building, Block 14 th floor P. O. Box 40326- 00100 Nairobi, Kenya
5. NSSF NYOTA Project Management Unit, NSSF Building – 2nd Floor, P.O. Box 30599 - 00100 +2542729911
6. NYOTAGRM Office located in every Implementing Agency Offices
7. E-mail: kyeop@psgy.go.ke
8. Hotline Number:
9. Cell phone: 0793060440/0793060444
10. Website: www.psgy.go.ke
11. Face book page: Kenya Youth Employment Opportunities Project
12. Twitter: @NYOTA_Kenya
13. Counties and Sub-Counties Youth Development Offices Located at every County and Constituency Headquarters and the respective camp managers in cases of complains arising from the refugee camps and host

Annex 3: Complaints Register

Date Received	Complainant Name	ID/ARN Number	Sub-County	Grievance Category	Case Description	Receiver	Handling Office	Resolution Offered	Status	Stakeholder	Proposed solution/indicate a detailed description

Annex 4: Format for Recording the Proceedings of Grievance Management Working Groups

- 1. Name of the complainant/s: _____
- 2. National Identification Number: _____
- 3. Address: _____
- 4. Date of the inquiry: _____
- 5. Time: _____
- 6. Whether Complainant participated or not: _____
- 7. Grievance or issue (in summary): _____

- 8. Statement made by the complainant/s: _____

- 9. GRC recommendations: _____

- 10. Participants in the Grievance Redress Working Group: _____

- 11. Copies to: _____

Annex 5. Complaints Reporting Template

Complaints category/type (e.g. service related, GBV/SEAH, OHS, etc.)	No. of complaints received	Main mode complaint lodged	No. of complaints resolved	No. of complaints pending	Comments
Recommendations for system improvement 1..... 2..... 3.....					

Annex 6: Guideline for OHS Risk Assessment and Emergency Response Plan

The following is a guideline of how to complete site specific occupational safety and health risk assessment and for developing an ERP.

List the key processes/activities that take place at the training/work site.

- XXXX
- Yyyy

Identify the main materials (inputs/chemicals etc. as applicable) used in the processes. <ul style="list-style-type: none"> ○ XXXX ○ Yyy 	Identify the main equipment/plants used in the workplace. <ul style="list-style-type: none"> ○ Yyyy ○ Zzzz

What are the hazards ⁷ ?	Who may be harmed and how?	What are you already doing?	What further action is necessary?	How will you put the assessment into action?		
				Remember to prioritize. Deal with those hazards that are high-risk and have serious consequences first.		
Identify/Spot hazards by:	Identify groups of people ⁸ . <i>Remember:</i>	List what is already in place to reduce the likelihood of harm or make any harm less serious.	Make sure that you have reduced risks “so far as is reasonably practicable”. An easy way of doing this is to compare what you are already doing with best practice. If there is a difference, list what needs to be done ⁹ .	Action by whom	Action by when	Action Status
○ Walking around the workplace. ○ Asking workers what they think. ○ Checking safety instructions. Contacting your supervisors <i>Don't forget long-term hazards.</i>	<ul style="list-style-type: none"> ○ Some workers have particular needs. ○ People who may not be in the workplace all the time. ○ If you share your workplace think about how your work affects others. ○ Members of the public <i>Say how the hazard could cause harm.</i> 					
Review your assessment to make sure you are still improving, or at least not sliding back. If there is a significant change in your worksite, remember to check your risk assessment and where necessary, amend it				Review date		
Assessment completed by:				Signature:		

⁷ Something with potential to cause harm-can be substances, articles, plant/machine, method of work, work environment, or other aspects of the organization.

⁸ These could be workers/trainees/operators, maintenance staff, cleaners, contractors, visitors, members of the public.

⁹ Apply general hierarchy of control (ISO 45001:2018): elimination; substitution; engineering control; administrative control; PPE.

EMERGENCY RESPONSE PLAN GUIDELINE

All entities participating in NYOTA shall develop emergency response plan/procedures (ERP) to deal with foreseeable emergency incidents, proportionate to the nature of the identified incidents.

Emergency incidents anticipated may include.

- Fire,
- Security/banditry threat,
- Chemical/hazardous materials spillage,
- Accident, including road traffic accidents with severe injuries etc.

The ERP shall cover the internal arrangements for dealing with the foreseeable incidents as well as for calling external emergency response service providers. As a minimum, the procedure shall include:

- Identification of the foreseeable emergencies.
- Procedures for raising the alarm.
- Procedures for workers/trainees/visitors to follow.
- Provision of suitable equipment to aid in responding to the emergency.
- Nomination of a responsible staff to coordinate response.
- Procedure for accounting for personnel and visitors
- Maintained contacts of external emergency services (county/municipal fire brigade, ambulance, local traffic police, etc.).

The entity/agency must provide and notify staff and trainees of its first-aid facilities, equipment, and responsible representatives.

Fire response procedures must be in place so that employees are aware of what actions to take in the event of fire such as means of escape, emergency evacuation procedures, the role of fire marshals, and including provisions for people with disabilities.

Emergency procedures shall be continually reviewed and updated during the continuation of the project to reflect any changes in the operations of the implementing agencies/institutions.

At the PMU, the Emergency Operations Coordinator-EOC (OHS Officer) will serve as the main contact person for the NYOTA in an emergency. In the event of an emergency occurring within or affecting the worksite, the primary contact will serve as the Emergency Operations Officer (EOO). If the primary contact is unable to fulfill the EOO duties, the secondary contact will take on this role. The contacts of these officers shall be provided in the emergency plan.

NYOTA Emergency contacts

#	Name	Designation	Contact person and number
1.		Project manager	
2.		OHS Officer/advisor	
3.		Emergency Operations Officer	