REPUBLIC OF KENYA

THE NATIONAL TREASURY

PUBLIC PRIVATE PARTNERSHIPS (PPP) UNIT

TERMS OF REFERENCE

FOR

TRANSACTION ADVISORY SERVICES FOR THE PROPOSED 2nd NYALI BRIDGE PROJECT

DECEMBER 2019

1. BACKGROUND

1.1 Vision 2030, Kenya's national long-term development strategy covering the period 2008 to 2030, places emphasis on rebuilding and creating the much-needed infrastructure in the country's journey towards poverty reduction as well as social, political and economic transformation. However, in a time of constrained public budgets, all competing with development pressures, and rising public expenditure demands from the current and new devolved structures, the Government of Kenya (GOK) is facing fiscal challenges.

1.2 Responding to this challenge, GOK, through its National Treasury, has made infrastructure development and public service provision through Public Private Partnerships (PPP) a priority mechanism that can help it address the major infrastructure funding gap and achieve the benefits of successful PPP investments including: substantial private investment; transfer of significant risk to the private sector; improving access to infrastructure; creating higher quality assets with better operation and maintenance; and helping achieve better efficiency. See Annex 1 for an overview of the PPP process in Kenya.

1.3 The proposed 2nd Nyali Bridge project, hereinafter referred to as "the Project" or "the Bridge" is located in Mombasa County which is the second largest city in Kenya after the capital, Nairobi and Kenya's only seaport. Mombasa Island and the North Coast Mainland have expanded rapidly over the past decade, and the Kenya National Bureau of Statistics projected that the local population of Mombasa City was estimated to be approximately 1.35 million people in 2018. Growth of the local population, economic development, and increased trade have led to more traffic across the city, specifically movement between the Mombasa North Coast Mainland and Mombasa Island. The existing road network in Mombasa was not designed to sustain the current traffic volumes, and this has led to significant congestion in and around the island.

1.4 There are three access points to and from the Mombasa North Coast Mainland and Mombasa Island. However, the only direct access point is the current Nyali Bridge, which was constructed in 1980. Although it has provided commuters with an effective and well-built access point for 35 years, the Bridge and feeder roads on either side of it are congested, particularly during rush hour times and are operating close to their design capacity. Traffic analysis carried out in 2017 demonstrates that under existing conditions, travel across the existing Nyali Bridge is characterized by low speed, with significant queues and delays. Average travel speeds on most roadway sections are low, with those leading to the bridge as low as 6 km/h during the peak periods. These speeds correspond to average travel times of up to one hour (60 minutes) between the City Mall and Downtown Mombasa. Travel on other city roads such as A109 are under similar conditions[1].

[1] 2017 PPP Feasibility study undertaken on behalf of KURA

In addition to the local commuter traffic, there is also some commercial and tourist traffic, as well as through traffic from the greater North Coast Mainland.

2. PROJECT JUSTIFICATION AND DESCRIPTION

2.1 The congestion on the existing Nyali Bridge forms an economic cost due to the wasted time and uncertainty over arrival times. Further, having only one bridge between Mombasa Island and the North Coast Mainland also represents a risk that direct access between the two areas could be severed if the existing Bridge is blocked or suffers a natural or anthropogenic disaster.

2.2 The 2nd Nyali Bridge PPP project was, therefore, conceived to assist in decongesting the existing Nyali Bridge and its surrounding areas, and to provide an alternative route between Mombasa Island and the Mombasa North Coast Mainland.

2.3 In addition to easing the flow of traffic, the Bridge is seen as one of the gateways for the promotion of economic development through improving connectivity, reliability and opening up areas for development. It is also the objective of the Project to ensure that its implementation is conducted in a manner that:

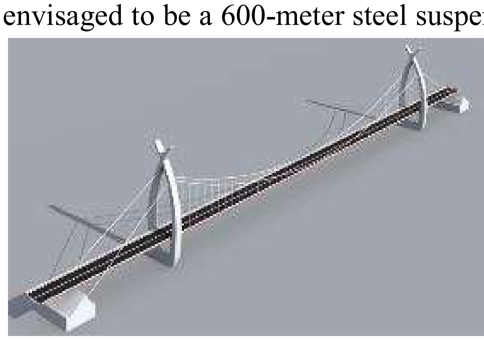
- Minimises the negative impact on the environment. This could include visual impact on and around project facilities, particularly around Tudor Creek; flora and fauna, particularly around Tudor Creek; impact on historical sites (e.g. Fort Jesus); pollution, air quality or noise;
- Minimises disruption, risks and impacts to communities and individuals affected by the project;
- Minimises cost to users and to the Government;
- Delivers the Project in the shortest possible time. In addition to the time taken for the 2nd Nyali Bridge to open, on time delivery also applies to the time taken to achieve intermediate stages such as completion of procurement, commencement of works, and other milestones; and
- Minimises risk and uncertainty over delivery of the Project (The Project being delivered, timing of delivery, cost). Key risk factors are likely to include the complexity of the Project and Project structures, and issues relating to land acquisition and resettlement.

2.4 The PPP Committee approved the Project's PPP feasibility study prepared by a consortium led by The previous Transaction Advisor in November 2016. This study found that the most optimal location for the project is within Nyali and Kisauni Sub county in Mombasa County. The project area comprises key road sections and junctions on the Mombasa Island and Nyali area in the vicinity of the Nyali Bridge. These include, on Mombasa Island: Mombasa Road / Jomo Kenyatta Ave, Ronald Ngala / New Malindi Rd (B8) that crosses the Nyali Bridge, Sheikh Abdulla Farsy Road, Abdel Nasser Road; and on the North Coast Mainland: the B8 Malindi Road within the Kisauni / Kongowea area, Old Malindi Road, Links Road, Nyali Road and Kengelani Road.

2.5 The study also noted that both sides of the creek, Mombasa Island on one side, and Kisauni/ Kongowea and Nyali on the North Coast Mainland side, where the proposed bridge would land, are heavily developed and populated urban areas. There would therefore be significant land acquisition and resettlement requirements to provide for the bridge and associated approach and connecting roads. Kisauni and Kongowea are largely low-income areas, while Nyali is primarily a higher end residential area, with commercial services as well. In the schematic below the new bridge is highlighted in red, whilst the connecting roads, which need upgrading and a new road through Kongowea are highlighted in green.

Figure 1: Project site location

2.6 A preliminary conceptual design of the bridge is shown in the adjacent figure. It is envisaged to be a 600-meter steel suspension bridge with 2-lanes in each direction



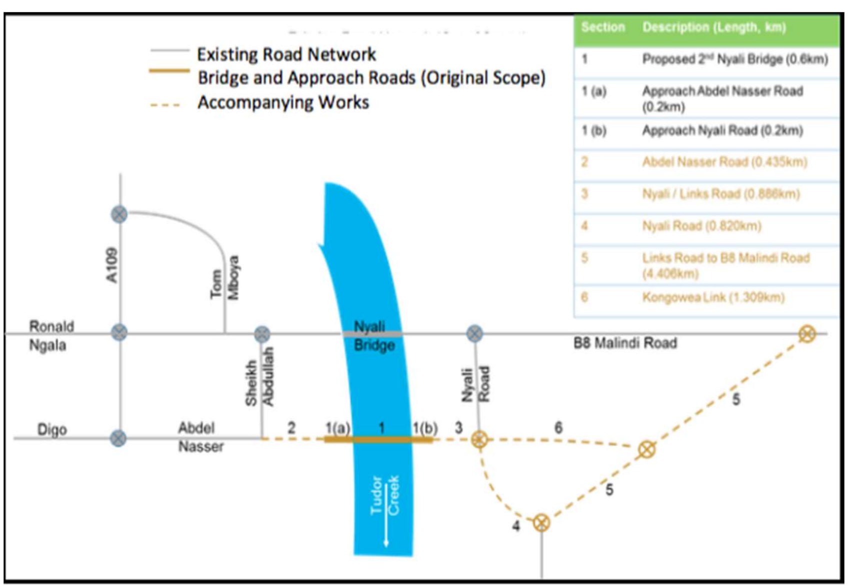
for vehicular traffic, lanes for pedestrians and cyclists plus another 2 median lanes to provide for a possible future Bus Rapid Transit (BRT) line. A suspension bridge will entail less bridge piers and piling works and was found to be the most cost-effective structure, which is also aesthetic and capable of being an iconic landmark. However, in as much as this PPP project will be on a design-build-finance-operate-maintain basis, the bidders will be given the option to present their own alternative designs during the Competitive Dialogue phase of the procurement.

2.7 The study further found that the bridge construction should be accompanied by additional improvements that should be undertaken on the Mombasa Road network within the identified project area to ensure satisfactory access and operations around the bridge. These network improvements include, but are not limited to:

a. Widening of Links Road from Malindi Road (B8) to Nyali Road/Bridge Access and installation of traffic signals at the latter intersection
b. Improvements on Abdel Nasser/Kisauni Road Intersection including signalization as well as the connection between the new Bridge at Kisauni Road
c. Intersection improvements and installation of traffic signals at Malindi Road/Links Road
d. Widening of Malindi Road (B8) to four lanes from Nyali Road to Nyali Mall (Links Road junction)
e. Installation of traffic signals at several junctions within the Downtown Area, including conversion of some roundabouts on Digo Road to traffic signalized intersections
f. Construction of a grade separated interchange at the A109 and Tom Mboya Road Roundabout.
g. Development of new Road alignments that will improve the local network efficiency, specifically through Kongowea.
h.

2.8 Figure 2 below shows the network improvements required.

Figure 2: Proposed Corridor road works



From figure 2 above, “Original Scope” refers to the Bridge and the immediate approach roads to the Bridge for which detailed costings have been done by the previous Transaction Advisor. “Additional Scope” refers to the further connecting roads and interchanges which the previous Transaction Advisor recommended be included in the Project Scope, and for which only high-level cost estimates and design work has been done. A part of the scope of this TA assignment includes bringing the feasibility work for the entire Project Scope up to the same level

2.9 As a part of the Feasibility Study prepared by the previous Transaction Advisor, a preliminary Environmental and Social Impact Assessment and Resettlement Action Plan (RAP) were developed covering the Bridge and Approach roads, but not the Accompanying Works illustrated above. Expanding the scope of this ESIA and RAP to cover the full Project Scope is a part of these Terms of Reference.

2.10 According to a survey undertaken in December 2015 by Earthcare Services (part of the the previous Transaction Advisor consortium), the proposed 2nd Nyali Bridge project (excluding the Accompanying Works) would affect approximately 200 households (i.e those living or operating along the proposed route of the Bridge and its corridor roads, including the road reserve), including those living along the affected corridor, the owners of property and people who operate businesses and their employees. From the Feasibility Study report, this translates to approximately 1,200 individuals, on the assumption that each household comprises 6 people.

2.11 From the 200 households identified above, 183 households claim a right of livelihood to the proposed project area. The majority of these run, or are employed by informal and unregistered enterprises, owned by individuals and operating mainly along Abdel Nasser road reserve or on the Coast General hospital wall/fencing. A majority (73%) of those sampled live or undertake business on public land, including the road reserve. Many of these were encroachers (informal businesses owners) and informal settlers found along Abdel Nasser road.

2.12 It is estimated that the project will necessitate the acquisition of approximately 6.52 hectares of land. This comprises 1.02 hectares on Mombasa Island, 0.3 hectares on the North Coast Mainland and an additional 5.2 hectares will need to be acquired in Kongowea.

2.13 There has been no comprehensive assessment of resettlement or land acquisition requirements in the Kongowea section of the project, but preliminary estimates put the number of affected households at approximately 700. This translates to around 4,200 individuals, on the assumption that each household comprises 6 people.

2.14 The appointed Transaction Adviser will be expected to prepare an Environmental and Social Impact Assessment and Resettlement Action Plan for the full scope of the project as described in the Feasibility Study including the Kongowea section.

2.1.3 It should also be noted that the 2nd Nyali Bridge will be tolled, but the Tolling Operator will be a separate party to the private party to be procured to design, build, finance, operate and maintain the project. Accordingly, the procurement of that operator and transaction advisory work related to the tolling of the project do not form part of this assignment.

3. Scope of the Assignment

3.1 The PPP Committee approved the project's feasibility study in November 2016 and the procurement process was launched with the publication of a PQ Notice in July 2017. Submissions were received from five interested consortia, and a shortlist of three comprising the following was drawn up following the RFQ evaluation:

- Nyali Connect Consortium (Meridiam Infrastructure, Vinci Highways, Vinci Concessions)
- IHI – JOIN – Acciona Consortium (IHI, Acciona Construction, JOIN (Japan Overseas Infrastructure Investment Corporation for Transport & Urban Development))
- Strabag AG

3.2 The previous Transaction Advisor also prepared a complete set of procurement documents, drawing heavily on the documents developed for the Nairobi-Nakuru Mau-Summit PPP project which is currently in procurement. Specifically, the following draft documents have been prepared:

- Draft Request for Proposal (RFP)
- Draft Project Agreement along with associated schedules including a Payment Mechanism, Performance Standards, Independent Expert ToR, RFP and Contract

3.3 To advance the project, KURA, the Contracting Authority (CA) seeks the services of an experienced Transaction Advisor (TA) to assist it with the remaining phases of the PPP project cycle. These Terms of Reference (TOR) therefore invite proposals from a firm or consortium of firms representing a team of suitably qualified and experienced financial, technical, legal, environmental and social safeguards advisors to assist KURA to update the Feasibility Study work to include the full Project Scope and to continue and conclude the PPP procurement stage, successfully moving the project to commercial and financial close.

3.4 There are three distinct sets of activities that need to be undertaken in order to reach financial close. The first (Phase 1) relates to updating the Feasibility Study work conducted by the previous Transaction Advisor to cover, now, the entire Project Scope and will include, inter alia, preparing the necessary preliminary reference design and related costings required for the new corridor road alignment to improve the access to the second Nyali Bridge in Kongowea and the expansion of Links

Roads, preparation of an Environmental and Social Impact Assessment and Resettlement Action Plan for the full Project and updating the financial and economic analysis of the Project to incorporate the revised numbers. This work will form an annexure to the currently approved Feasibility Study. Further detail is provided below.

3.5 The second area of activity (Phase 2) comprises the procurement tasks.

The Procurement tasks are outlined in detail below, but essentially include updating the RFP to include lessons learnt from the Nairobi Nakuru Mau Summit process and the inclusion of information relating to the Additional Scope including the Kongowea section so that the full Project is properly described. The procurement process will then proceed into a Competitive Dialogues process which will result in the revision and issuance of the final RFP and PPP Agreement, a formal bid, bid evaluation, negotiations, and then commercial and subsequently financial close.

3.6 The third area of activity (Phase 3) comprises the provision of Capacity Building Support to KURA.

Phase I: Updating of Feasibility Study work and preparation of Annexure to existing Feasibility Study

As can be seen from the Feasibility Study prepared by the previous Transaction Advisor, the scope of their detailed engineering, costing, environmental and social, and financial and economic analysis work covered the Bridge and the immediate access roads. The agreed Project Scope now includes, in addition to the Bridge and the immediate access roads, the following:

a. Widening of Links Road from Malindi Road (B8) to Nyali Road/Bridge Access and installation of traffic signals at the latter intersection
b. Improvements on Abdel Nasser/Kisauni Road Intersection including signalization as well as the connection between the new Bridge at Kisauni Road
c. Intersection improvements and installation of traffic signals at Malindi Road/Links Road
d. Widening of Malindi Road (B8) to four lanes from Nyali Road to Nyali Mall (Links Road junction)
e. Installation of traffic signals at several junctions within the Downtown Area, including conversion of some roundabouts on Digo Road to traffic signalized intersections
f. Construction of a grade separated interchange at the A109 and Tom Mboya Road Roundabout.
g. Development of new Road alignments that will improve the local network efficiency, specifically through Kongowea.

The objective of Phase 1, therefore, is to update the Feasibility Study work for these new project components to the same level of detail as was carried out by the previous Transaction Advisor for the original scope of the project, leading to an Annexure to the original Feasibility Study.

This is expected to include, inter alia:

- Updating of traffic projections
- Finalization of alignments for the new project components
- Finalization of a conceptual reference design including the new project components
- Preparation of detailed costings, including an update of costings for the original scope of the project and incorporation of detailed costings for the new project components
- Preparing an Environmental and Social Impact Assessment
- Based on the findings and recommendations of the ESIA, preparation of a Resettlement Action Plan, including a detailed land acquisition (entitlement matrix, compensation, livelihood restoration and resettlement assistance plans (as appropriate) for the entire project
- Updating the Financial Model prepared by the previous Transaction Advisor to reflect the work and update data above
- Re-running the economic and financial viability analysis, the VfM analysis, and the affordability and FCCL analysis

Each of these areas is described in further detail below.

The work will not include updating the legal and regulatory due diligence, beyond an assessment of the impact of relevant legislative changes in the period since the submission of the original Feasibility Study Report. Neither is the PPP structure expected to change, nor the intended procurement process. It is however anticipated that in updating the feasibility study as provided below, the Transaction Advisor will coordinate with other Roads Development Agencies such as the Kenya National Highways Authority as well as Mombasa County Government (MCG) in order to appropriately capture (if any) the potential impact of other infrastructure developments in the County.

(i) Finalisation of Project Alignments, and Preparation of a costed conceptual reference design:

In the Feasibility Study, the previous Transaction Advisor prepared a conceptual reference design for the second Nyali Bridge including the provision of bridge access ramps and connections to the existing road network. These connect Abdul Nasser on Mombasa Island to Fidel Odinga Road on the North Coast Mainland. Both are currently single carriageways and are already congested.

In view of the above, the TA will produce a revised and fully costed conceptual reference design for the full project which, it is anticipated will require, inter alia, the following:

- Conceptual Design of the improved Abdul Nasser Road, Fidel Odinga Road and Links Road;
- Corridor selection using Aerial Photography;
- Optimisation of Kongowea corridor alignment;
- Conceptual design of the Kongowea/Links Road section;
- Conceptual design of the Links Road/Malindi Road interchange;
- Conceptual design of the Abdul Nasser/Sheik Abdullah road interchange;
- Conceptual design of the connection between the 2nd Nyali Bridge and Kongowea corridor section;
- Design improvement of the junction Fidel Odinga/Links road;
- An updated costing of the reference conceptual design considering the above

(ii) Preparation of an Environmental and Social Impact Assessment (ESIA) and a Resettlement Action Plan (RAP)

GoK intends to adopt World Bank Safeguard Policies to address the environmental and social impacts of the proposed Project, while additionally using World Bank Operational Policy 4.12, Involuntary Resettlement, to address direct physical and economic displacement risks and impacts that are expected to result from the Project. The TA is, accordingly, expected to prepare an ESIA for approval by NEMA after clearance by the Bank, and subsequent issuance of the licence against the reference conceptual design, and a Resettlement Action Plan (including detailed land acquisition plan: entitlement matrix, compensation, livelihood restoration and resettlement assistance plans as appropriate) for implementation by KURA.

(a) ***Environmental and Social Impact Assessment: ESIA***:
The environmental and social due diligence component of the assignment will take the form of an ESIA study. The main objective of this ESIA study is to identify and assess Environmental and Social (E&S) risks and impacts resulting from the proposed project to the biophysical, social and economic environment. Anticipated positive and negative impacts from the proposed Project will be assessed in accordance with the Environmental Impact Assessment and Audit Regulations 2003 established under the Environmental Management and Coordination Act (EMCA), Cap 387 (amendment) 2015 of Kenya and the World Bank Safeguards Policies. A preliminary ESIA has already been prepared by the previous Transaction Advisor for the originally conceived scope of the project, but this is now out of date, and does not cover the expanded

physical scope of the project. A copy of this preliminary ESIA will be made available to shortlisted TAs. The detailed scope of the E&S work is set out under Annex 2 of this ToR. The TA is expected to prepare the ESIA based on the preliminary project design.

(b) ***Resettlement Action Plan (RAP)***: The objective of the Resettlement Action Plan (RAP) is to undertake an assessment of the project-affected persons (PAPs) and assets census, entitlement matrix, livelihood restoration strategies (if relevant) and other social considerations in the RAP, and develop the RAP based on the current socio-economic situation of the PAPs. The detailed scope of work required to undertake the RAP is set out in Annex 3 of this ToR.

The ESIA and RAP studies will be carried out to deliver on the following broad objectives:

- To identify and map out the various stakeholders, including groups of project affected persons (PAPs) who are directly affected by the project and to disseminate information on the project to them and the general public;
- To identify and assess all potential significant environmental and social risks and impacts of the project (including risks and impacts related to labour influx, gender-based violence (GBV) and location of material sites and workers camps where appropriate) and recommend appropriate mitigation and management measures;
- To evaluate potential impacts of engineering and design activities during site preparation, construction and operational phases of the project;
- Prepare a comprehensive Environmental and Social Impact Assessment Study Report for submission to NEMA for review and approval (after clearance by the Bank) and subsequent issuance of licence to KURA for the project; and
- Prepare a Resettlement Action Plan[2] for implementation by KURA.

In preparing the ESIA and RAP the Transaction Adviser will draw heavily upon, and wherever possible, rely on, the work already done by the previous Transaction Advisor consortium. The Transaction Adviser is not expected to assume responsibility for the work previously carried out by the Deloitte consortium, KURA will accept responsibility for its reliability, but at the same time the TA is not expected to accept the information and data unquestioningly.

[2] RAP preparation will be based on the findings of the ESIA study.

(iii) **Development of an updated Financial Model and updating of the financial and economic analyses**

The Financial Model prepared by Deloitte will be made available to shortlisted TAs. Shortlisted TAs are expected to review this model prior to the preparation of their proposals in order to scope the work that will be necessary to complete this task. It should be noted that the appointed TA will be expected to assume professional responsibility for the updated Financial Model.

Pursuant to the activities in (i) and (ii) above, the TA will need to review the existing financial model and develop a revised financial model drawing on the existing Financial Model as much as possible.

In developing an updated financial model, the TA will need to, inter alia:

- Incorporate the updated traffic projections
- Incorporate the updated costings for the entire project including the additional works highlighted above;
- Update the operating cost assumptions arising from the full project scope
- Update macroeconomic assumptions as appropriate
- Review and update financing and related financing cost assumptions

The Transaction Adviser will then update all the financial and economic analyses required, including:

- Preparing an updated Economic Cost Benefit Analysis
- Preparing an updated financial viability analysis
- Preparing an updated affordability assessment
- Preparing updated Fiscal Commitments and Contingent Liabilities and Value for Money Assessments as required under the PPP Act, 2013

It is also anticipated that the TA will develop a shadow bid model which will be used in support of bid evaluation and as a negotiation support tool (refer to Phase 2).

The TA will then update the Feasibility Study through the development of an Annexure covering, inter alia:

- The full Project Scope
- The finalized alignment
- The full conceptual reference design taking into account the updated traffic projections
- The related costings, capex and opex
- The ESIA and RAP
- The updated financial and economic analyses
- Advice on the impacts of any relevant legal and regulatory changes since the approval of the original Feasibility Study
- Confirmation of the already approved PPP structure and procurement process
- An updated Procurement Plan and timetable

- The updated Financial Model

Phase II:

Managing the Procurement Process through to Financial Close: As noted above, three consortia have already been shortlisted as Prequalified Bidders. The Transaction Advisor shall now complete the procurement process through to Financial Close. This will include finalisation of all the necessary documents to undertake a competitive and transparent bidding process, and providing support during the entire PPP bidding process until the award of the contract to a successful bidder and through to Financial Close. The tasks of the Transaction Advisor in this phase shall include, inter alia, the following:

(a) Procurement Process Design and Procurement Documents

As stated in section 3.2 above, the previous Transaction Advisor prepared draft procurement documentation which will be provided to the shortlisted TAs for this assignment. A Procurement Process has also been designed and approved and part implemented (up to prequalification).

The appointed TA is expected to review the approved procurement process and plan and update them appropriately.

The TA shall also update and finalise the draft procurement documents prepared by the previous Transaction Advisor and will prepare all the other necessary procurement documents to complete a full suite of documentation as required by the PPP Act and the agreed procurement process taking into account the final Project Scope as determined in Phase 1 above. The documentation is likely to include, inter alia:

- *The RFP including, inter alia, detailed Instructions to Bidders and the Bid Evaluation Criteria*. The Transaction Adviser will finalise recommendations on the Bid Evaluation Criteria and, in particular, shall provide advice and justification on the best-value financial bidding parameters
- The draft Project Agreement including all of its schedules, which may include, inter alia:
    - Project Company Requirements
    - Design and Construction Standards
    - Operating and Maintenance Performance Standards
    - Payment Mechanism
    - Independent Expert ToR, RFP and Agreement
    - Direct Agreements
    - Insurances

    - Third party agreements, for example with the Tolling Operator
    - Agreement giving effect to any Government Support Measures (for example Letter of Support)
    - Handback Regime
    - Construction and Operating subcontracts
    - Traffic Projections
    - Necessary Consents

- All appropriate statutory notices for publication and obtaining approval to publish same through the CA.

The TA will also develop a shadow Bid Financial Model to support in bid evaluation, negotiations and also in updating as necessary, VfM, FCCL and Affordability assessments.

The TA will be expected to make presentations and hold workshops with key stakeholders to finalise "procurement-ready" versions of these documents and support the Contracting Authority in securing all necessary approvals prior to them being capable of issuance to the market. This may include workshops/ meetings with Mombasa County and other stakeholders.

The TA will also be responsible for establishing a Virtual Data Room which it will subsequently manage throughout the procurement process.

(b) Support during Procurement Process and Evaluation

The Transaction Adviser will provide technical and project management leadership of the Procurement Process. In doing so it will carry out or assist as required the Contracting Authority, inter alia, in the following activities:

- preparation or collation of documents and data to be made available in the Virtual Data Room
- preparing for issuance all bidding-related notices/requests and supplemental notices
- coordination of bidder due diligence including site visits alongside KURA
- management of bidder communications including responding to queries and the provision of clarifications upon proper consultation with the Contracting Authority and the PPP Unit as necessary
- management of the Competitive Dialogue process and leadership of the CD meetings
- updating of procurement documentation in response to bidder queries/ clarification requests and following the CD meetings,

and subsequently negotiations including the preparation of necessary addenda/ clarifications

- management of and participation in the bid evaluation meetings and advice to the evaluation committees including preparation of the bid evaluation report
- support in securing the necessary approvals of the bid evaluation report recommendations.

(c) Assistance until Commercial and Financial Close of the Project

The Transaction Advisor shall provide all the required assistance and advisory support until the Commercial Close (execution of the PPP contract and related agreements by the Parties) and Financial Close (effectiveness of financing agreements and the satisfaction of all conditions precedent) of the project including all needed support, inputs, documentation, services and content for the project to achieve these milestones.

This will include, but not be limited to, support throughout the negotiations with the Preferred, and if necessary, the Reserve Bidder, providing necessary assistance to KURA in meeting its conditions precedent and responding to queries raised by financiers in the period up to Financial Close as required. It will also include supporting KURA in securing all the necessary approvals required by the PPP Act and supervision, on behalf of KURA, of the Financial Close protocols.

In addition to the above, the Transaction Advisor will support the Contracting Authority in its communications management throughout the project by providing technical support as required.

All project documentation will be submitted in the first instance to the CA and the PPP Unit for review and approval. The TA shall ensure that relevant sessions are held with the CA to take them through the material developed, and if necessary, presentations will be made to the CA's board and management team and the PPP Committee, and to Mombasa County government to facilitate any approvals required.

The TA will also be expected to prepare a detailed case study and project close out report upon completion of the assignment, which will be submitted to the CA and the PPP Unit.

Phase III:
Capacity Building support to KURA in PPP contract management

The appointed Transaction Advisor will assess the capacity of the Contracting Authority including the various Project Teams tasked to carry out various roles in the course of the implementation of the projet to effectively manage the PPP contract and supervise the Project Company post Financial Close and advise on an appropriate contract management structure and resourcing – including structure and resourcing for the supervision of E&S activities that are the responsibility of the Project Company, and develop a suitable capacity building programme for implementation.

Based on this Capacity Assessment of the Contracting Authority, the Transaction Advisor will design a PPP Contract Management framework, including advice on CA contract management responsibilities, resources, skills and experience needed, in-house vs outsourcing resourcing strategy, training and capacity building needs and, in close liaison with the Contracting Authority, draft a comprehensive PPP contract management plan, consistent with the provisions of the PPP agreement and the PPP Act, to help the Contracting Authority in the management of the Project and its risks, rights and obligations after financial close and supervision of the PPP Company in meeting its obligations under the PPP contract.

The Transaction Adviser is also expected to provide classroom-based training to the CA's contract management team, and an outline of such a Training Programme should be included in the TA's Technical Proposal.

4. Transaction Advisor Skills and Experience

4.1 Experience Requirements

The Transaction Advisor (TA) will be a firm or consortium of firms and shall be managed by a Lead Advisor, who should be the Financial Advisor. The Lead Advisor will be held accountable under the terms of the Transaction Advisory contract to ensure Project deliverables are delivered as contracted and for the professional conduct and integrity of the TA team. The Lead Advisor shall enter into contract with the Client (CA and National Treasury).

The skills and experience required as a minimum of the advisory team are as follows:

- Financial, legal and road sector experience of taking PPP projects through to financial close
- PPP structuring, procurement and transaction management
- PPP financial modelling, VfM analysis, fiscal impact and contingent liability analysis
- Experience of Kenyan procurement, commercial and contract law including the roads sector, environmental and PPP-related laws

- Relevant Kenyan, international and regional experience in the drafting and negotiating of PPP agreements
- Technical expertise in the design, construction, procurement, maintenance and operation of bridges and urban roads
- Social and environmental expertise including experience in roads sector projects in Kenya, in sub-Saharan Africa and with international next practice including the application of the World Bank social and environmental safeguard policies).

Key Personnel and Time Input

Bidders are free to propose their own team structure and Key Personnel, however they are advised that, as a minimum, the Specified Key Personnel described in the table below are expected to be included in their teams.

Bidders may propose the same individual and CV for more than one position if that individual is qualified for more than one position and that the individual will make the requisite time commitments for both the positions as required. But Bidders must make it explicitly clear that this is what they are proposing in order to ensure that the individual is evaluated against each position.

Bidders may also propose two complementary (not alternative) CVs for one position if they do not have personnel with the full range of expertise required for such position. Again, Bidders must indicate clearly that this is what they are proposing.

The Bidder's proposed Specified Key Personnel will be evaluated against the Expertise, Qualifications and Experience Expectations set out in the table below.

Bidder's proposed Key Personnel outside of the below Specified Key Personnel (if any) will be evaluated on their individual merits, as will Bidder's proposed non-key personnel. It is expected that a substantial majority of the proposed Specified Key Personnel will be full time employees of the Bidder, and credit will be given in the evaluation for this.

Bidders are also required to state the proposed person month input of each member of their team (Key and non-Key personnel) in the form set out in Appendix 3. The amount of input stated for Specified Key Personnel both within and outside of Kenya will be evaluated as a part of the Technical Proposal evaluation.

Each individual on the team must be personally available to do the work as and when required.

Required Skillset and Experience of Key Personnel is detailed in the matrix below:

No	Position	Expertise, Qualifications and Experience Expectations
1	PPP Expert/Team Leader	University degree in Finance, Business, Management, Economics, Engineering or any other relevant field or equivalent qualification. A minimum of 10 years' demonstrated experience in providing PPP transaction advisory services/development of large infrastructure projects on PPP basis including extensive experience in project structuring and risk analysis, allocation and management; project agreements; bid process management including preparation of bidding process documentation and post-bid process monitoring. Successful preparation of PPP projects with at least three financially closed PPP projects in the roads sector. Experience with bridge PPP projects will be an added advantage. PPP Experience in sub-Saharan Africa and other emerging markets will also be an added advantage. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
2	Financial Expert	A University degree in Finance/Financial Engineering, Business, Economics or any other relevant professional qualification At least 7 years of professional experience in PPPs and project finance, with a proven track record in financial modelling of PPP projects. Demonstrated experience in PPP project structuring and procurement, including financial structuring and advising on risk mitigation and financial products within PPP/ infrastructure projects. Lead role in successful preparation and procurement of PPP projects with at least one financially closed PPP project in the roads sector. Experience with bridge PPP projects will be an added advantage. PPP Experience in sub-Saharan Africa and other emerging markets will also be an added advantage.

No	Position	Expertise, Qualifications and Experience Expectations
		Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
3	PPP Legal Expert	A University degree in Law. A minimum of 10 years' demonstrated experience in drafting PPP contractual agreements and other related documents/agreements for PPP projects; PPP procurement, managing bidding processes, competitive dialogue, negotiation of PPP contracts, advice on legal and regulatory frameworks. Successful preparation and procurement of PPP projects with at least one financially closed PPP project in the roads sector. Experience with bridge PPP projects will be an added advantage. PPP Experience in sub-Saharan Africa and other emerging markets will also be an added advantage. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
4	Kenya Legal Expert	A University degree in Law. A minimum of 10 years' demonstrated experience in drafting of agreements for corporate finance or project finance transactions, preferably including PPPs; experience of public procurement including PPP procurement in Kenya; demonstrated knowledge of the legal framework for PPPs in Kenya and for the transport sector. Experience of working in the Transport sector will be an additional merit. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
5	Roads Engineer	University degree in civil engineering or related field, with a relevant post-graduate qualification in engineering. Minimum of 15 years' demonstrated experience in the area of design, engineering, supervision of construction on site, developing project specifications, drafting of tender documents, bill

No	Position	Expertise, Qualifications and Experience Expectations
		of quantities etc. for urban roads projects with demonstrated experience for bridges. Experience also in the preparation of performance-based output specifications for operation and maintenance of roads and bridge PPP projects. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important..
6	Transport Planner/Economist	University degree in Urban Planning, Engineering, Economics or a related field with relevant qualifications in transport planning. Minimum of 15 years' demonstrated experience including urban planning and traffic modelling. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
7	Environmental Specialist	Postgraduate degree in Environmental Sciences or Studies or related field, NEMA registered lead EIA expert with 10 years' demonstrated experience of conducting environmental impact assessments, including a minimum of 5 projects in the roads sector, and a minimum of 3 projects in a marine environment. He/she will be well familiar with existing Kenyan environmental laws and World Bank Environmental and Social safeguards policies. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
8	Sociologist/ Team Leader for RAP	Masters Degree in social sciences from a recognized University with over ten 10 years practical post-qualification experience in social analysis. He/ She should have served in a similar capacity and have relevant experience in preparation and implementation of Resettlement Action Plans and as a team leader in at least five (5) similar infrastructure projects. Familiarity with IFI standard and best practice on involuntary resettlement is necessary.

No	Position	Expertise, Qualifications and Experience Expectations
		Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.
9	Registered Land Valuer	Bachelor of Science degree in Land Economics or any other relevant field from a recognized University with over 10 years post-qualification professional experience. He/ She must be a Registered Land Valuer with the Institution of Survey of Kenya. He/ She must have served in a similar capacity in preparation of Resettlement Action Plan for at least five (5) similar projects. Familiarity with IFI standards and best practice on involuntary resettlement is desirable. Clear, well-structured and concise oral and written English language communication skills including report writing and presentations are important.

4.2 The preceding description of the team composition is however not intended to be prescriptive.

5 Target Timetable and Payment Milestone

The assignment is anticipated to take 18 months in accordance with the Target Timetable below, however, the appointed TA is expected to sign a contract for 24 months, extendable at no extra cost for a further one year in the event that Financial Close has not been reached within 24 months. Set out below is KURA's target timetable for implementing the Project. Bidders' Work Plans will be evaluated on merit, not merely on their compliance with the below.

Delivery	Target Timetable
Formal acceptance of the addendum to the Feasibility Study Report including the delivery of the reference design (excluding the ESIA and RAP, see below)	4 Months after TA contract execution
Formal acceptance of the ESIA and RAP	4 Months after TA contract execution
Completion and acceptance of the requisite Procurement documentation including the RFP, Project	4 Months after TA contract execution

Delivery	Target Timetable
Agreement, Output specifications, Payment Mechanism etc.	
Completion of Bid Evaluation and selection and announcement of Preferred and Reserve Bidders	9 Months after TA contract execution
Commercial close	12 Months after TA contract execution
Financial Close	18 Months after TA contract execution

The remuneration schedule is as set out below:

Deliverable	Payment percentage
Formal acceptance of the updated Feasibility Study Report including delivery of the Reference Design	15 % of the Fixed Fee
Formal acceptance of the ESIA and RAP	15% of the Fixed Fee
Completion and acceptance of the requisite Procurement documentation including the RFP, Project Agreement, Output specifications, Payment Mechanism etc.	10% of the Fixed Fee
Completion and issuance of final RFP to the bidders after completion of competitive dialogue process	15% of the Fixed Fee
Completion of Bid Evaluation and selection and announcement of Preferred and Reserve Bidders	30% of the Fixed Fee
Commercial close	15% of the Fixed Fee
Financial Close	Contingent Fee

Payments will only be made once deliverables have been submitted to the client and subsequently deemed acceptable.

The Transaction Advisor will be paid on a lump sum Fixed Fee basis up to and including the Commercial Close milestone, and a Success Fee payable out of an up-front concession fee payable by the Private Party at Financial Close.

The Contingent Fee will be payable upon Financial Close and will form a part of an up-front fee payable by the Successful Bidder. Both the Fixed Fee and the Contingent Fee are to be proposed by TAs in their Financial Proposals.

6 Support to the TA

6.1 The CA shall provide the Feasibility Study, the existing RAP and ESIA, the draft procurement documentation and the Financial Model to the shortlisted TAs whilst other additional and accompanying studies and documentation will be provided to the selected Transaction Advisor.

Annex 1
Overview of the PPP Framework in Kenya

1. Background of PPPs in Kenya

Established initially under the Public Procurement and Disposal (Public Private Partnership) Regulations, 2009, the Kenyan government has in the recent past been committed to improving and strengthening the PPP framework for private sector participation in the country. Several accomplishments are notable:

a. The adoption of a PPP Policy in 2011 to articulate the government's commitment to PPPs and to provide a basis for the enactment of a PPP Law;
b. The enactment of the PPP Act on 8th February 2013;
c. The gazettement of the National PPP Regulations on 19th December 2014;
d. The development of draft PPP Regulations for the County Governments;
e. The gazettement of the Roads Annuity Fund Regulations, 2015;
f. The gazettement of the Public Private Partnership (Project Facilitation Fund) Regulations, 2017;
g. The development of the PPP Disclosure Framework;
h. The development of a PPP Screening Tool, to assess a projects PPP readiness/suitability;
i. The development of a Fiscal Commitment and Contingent Liability (FCCL) Framework for PPP Projects;
j. The development of draft National Toll Fund Regulations;
k. The development of a Governance and Operational Manual for the Project Facilitation Fund; and
l. The development of a PPP Manual is at an advanced stage

2. Legal and Regulatory Framework

Since 1996, Kenya has attracted private investments into the country’s economic and social infrastructure sectors including telecommunications, energy, transport, water and sewerage. These investments have demonstrated both the commitments of Government of Kenya (GOK) to PPPs and the interest by private investors, lenders and operators in these sectors. However, these infrastructure investments occurred without a specific policy, legal and regulatory framework for PPPs.

Therefore, the GoK's first step was to strengthen the legal and regulatory framework for carrying out PPPs in Kenya, as part of a wider agenda of increasing private sector investments in infrastructure development. Presently, the legal and regulatory framework for PPPs in Kenya comprises of: the Constitution, legislation (such as the PPP Act, 2013, the Public Procurement and Assets Disposal Act, 2015 and various sector specific legislation), court rulings, regulations, guidelines and tribunal determinations. The extent of the PPP legal and regulatory framework is further broken down in table 1 below.

Overall, Kenya has a stable PPP legal and regulatory framework that:

a. Defines the PPP ideology (a long term arrangement, between a public and a private entity to undertake a public function, for which compensation will be paid from a Public Fund, user fees or a combination of both; PPPs are usually output-based and performance-linked);
b. Provides a substantive and procedural law to govern the undertaking of PPPs – and governs both levels of government;
c. Sequences the PPP process, that is, how to initiate, prepare, procure, contract, manage PPP projects;
d. Prescribes regulatory compliance requirements;
e. Establishes WHO does what, when, why;
f. Prescribes HOW projects are to be managed, reported on, and contracts varied; and
g. Establishes a transparent predictable process which drives stability

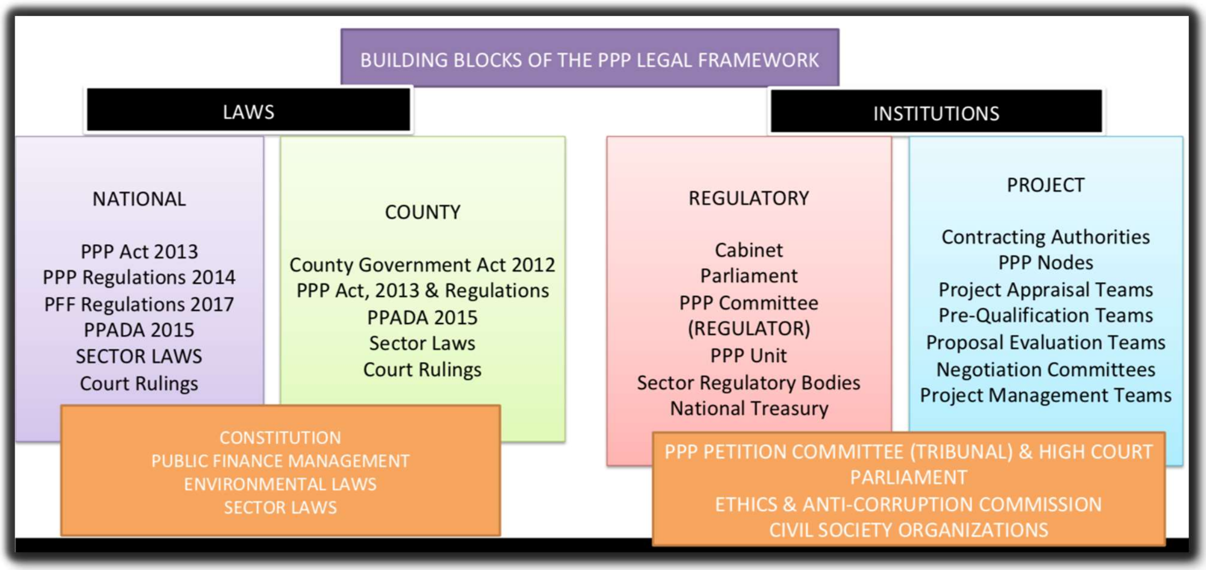


Figure 3: PPP Legal and Regulatory Framework

The PPP Act, 2013 is a law under chapter 12 of the Constitution, as it deals with Public Finance. As a result, substantial fiduciary obligations are placed on the PPP Committee in the discharge of its oversight mandate with a view of ensuring that the principles and values of Articles 10, 201 and 227 of the Constitution, among others are upheld – being PPP fidelity to national values, responsible and fiscally sustainable public finance and a public procurement system that Is transparent, competitive, cost effective and affords and equal opportunity to all.

3. Institutional Framework

To support the delivery of the country's PPP agenda, a number of institutions have been created, and are operational under the PPP Act of 2013. They include:

a. PPP Committee;

b. PPP Petition Committee;
c. PPP Unit; and
d. PPP Nodes within the Ministries, Government Agencies and County Governments.

a) PPP Committee

The PPP Committee is established under section 7 of the Act. It is assisted by its Secretariat (PPPU) and has the responsibility to:

a. Develop and implement PPP policy initiatives;
b. Champion the PPP Agenda;
c. Ensure compliance with the PPP Act 2013;
d. Approve/recommend PPP projects to the Cabinet;
e. Ensure efficient execution of the PPP Agreements;
f. Ensure PPPs are consistent with national priorities;
g. Authorize allocations of the Project Facilitation Fund; and
h. Issue PPP standards, guidelines & procedures, & bid documents.

b) PPP Petition Committee

The PPP Petition Committee, established under section 67 of the PPP Act 2013, is set up as a tribunal to adjudicate on all petitions and complaints submitted by a private party during the process of tendering and entering into a PPP project agreement. To effectively discharge its mandate to function as a dispute resolution body, the day-to-day administrative aspects of the Petition are administrated through a Secretariat.

c) PPP Unit

The PPP Unit, as the resource center for best practice and guardian of the integrity of the PPP process, has a large role to play in identifying problems, and making recommendations to the PPP Committee regarding potential solutions.

In addition, it has the specific responsibility of assisting each Contracting Authority to identify, select, appraise, procure, approve, negotiate and monitor PPP projects throughout their life cycle. Moreover, the PPP Unit is also tasked to improve capacity and skills in the public sector and to manage PPP projects more effectively.

d) Contracting Authorities

The PPP Act of 2013 recognizes Contracting Authorities (CA) as Ministries/Government Departments, County Governments and Statutory Corporations. Their main responsibilities with respect to PPP are to identify, develop, procure, implement and monitor projects. To discharge their responsibilities, procuring entities are required to conduct feasibility studies, prepare bidding documents and seek necessary approvals.

Each CA undertaking a PPP project is required to establish a PPP Node, staffed with officers with the ability to carry out day-to-day management of a PPP project (section

16 and 17 of the PPP Act, 2013). Given that Contracting Authorities presently lack the requisite in-house expertise on PPPs, they may have to appoint Transaction Advisors (TA) to assist them in the development of projects. The Unit is also on hand to support CAs in the identification and development of their priority PPP projects.

4. Scope and Application of the PPP Program

The scope of the Government's PPP program is the creation of new infrastructure, and the expansion & refurbishment of existing assets such as:

a. Roads and bridges;
b. Ports;
c. Airports;
d. Railways;
e. Power generation plants and transmission/distribution networks;
f. Oil and gas i.e. petroleum infrastructure, such as storage depots and distribution pipelines etc.;
g. Inland container depots and logistics hubs;
h. Municipal services;
i. Mining;
j. Water supply, treatment and distribution systems;
k. Solid waste management;
l. Social infrastructure for health care, prisons, education, housing;
m. Telecoms/ICT

Attached is the PPP Unit Score Card, which outlines the achievements of the PPP Unit to date, as well as the PPP Project pipeline list.

5. PPP Project Facilitation Fund

The project Facilitation Fund is a Fund established under section 68 of the PPP Act and has 4 windows:

a. <u>Window 1: Support to Contracting Authorities for project preparation</u>

The object of this window is to provide support to contracting authorities during the preparation stage of a project. Funds may be applied for by the contracting authority to meet the costs of:

i. Land acquisition, compensation, resettlement and environmental remediation.
ii. Consultancy services related to the public private partnership programme, including undertaking feasibility studies
iii. Conducting the tender process, including project advertisements, marketing and communications, tender documentation and due diligence.
iv. Undertaking transaction and associated advisory services
v. Undertaking other project preparation activities approved by the PPP

Committee

Any support provided to a contracting authority for land acquisition costs shall be recoverable and should be refunded by the contracting authority to the Fund within the immediate next budgeting cycle. This includes the cost of land acquisition, compensation, resettlement and environmental remediation. Support provided for the items listed in point (iii) and (iv) may be recoverable, based on guidelines issued and the terms of engagement set out in the Funding Agreement that is entered into between the contracting authority and the Fund.

b. <u>Window 2: Support to the PPP Unit</u>

The Fund will also have a window dedicated towards supporting the project related activities for the PPP Unit, who has the mandate under the Act *inter alia* of providing technical, financial and legal expertise to the PPP Committee and Nodes established under the Act, serving as a resource centre on PPP matters, conducting civic education and promoting awareness of PPPs.

This window is therefore available to the Unit to support the following key functions, which are instrumental in helping it fulfill its mandate:

i. Costs relating to consultancy services
ii. Undertaking of capacity building programmes
iii. Purchase of office equipment, systems and associated software
iv. Undertaking research activities
v. Establishment of knowledge management systems and frameworks; and
vi. Meeting recurrent operational and maintenance costs for the Fund Secretariat that is responsible for assisting the Officer Administering the Fund (who is the Director of the PPP Unit) manage the day-to-day operations of the Fund.

c. <u>Window 3: Viability Gap Funding</u>

The next option for financial support is the viability gap funding window. Viability Gap Funding refers to money that is provided to infrastructure projects that are economical viable, but fall short of being financially viable. Support under this window may be made by way of loan, grant, equity, or any other financial instrument required to improve the financial viability of a project. Support under this window may be applied to fund:

i. Capital grants made to a project during construction
ii. Recoverable advances made to a contracting authority
iii. Any other permitted recoverable advances; and
iv. Loans, equity or other financial arrangements as may be made available to a project in accordance with the provisions of the PPP project agreement and guidelines governing the operation of the Fund

This window shall only be available to support project capital costs and recoverable land acquisition costs.

d. Window 4: Contingent Liability Support

The Fourth window provides a liquid source to meet short-term liquidity gaps in relation to contingent liabilities arising from the implementation of a PPP project agreement. To operationalize this window, the Officer Administering the Fund shall open a dedicated sub- account within the Fund, known as the Contingent Liability Reserve Account, whose sole purpose will be to ensure/provide ready liquidity to meet contingent liability disbursement requirements of the Fund.

Each contracting authority will be required to pay into the sub account annually estimates of contingent liability funding requirements in accordance with guidelines issued. This window/sub account will only be available to support projects where the contingent liability;

i. Cannot be handled by the National Treasury under alternative frameworks
ii. Cannot be handled by the National Treasury under the National Government Contingency Fund;
iii. Does not arise from a contracted obligation of a contracting authority under a project agreement for which a budgetary allocation has been made to the contracting authority; and
iv. Materialises out of a national government default, which is not recoverable from a contracting authority, under a project agreement.

Contingent liabilities arising out of a contracting authority default under a project agreement shall remain the responsibility of the contracting authority to settle. As a last resort however, the contracting authority, in exceptional circumstances, may apply to the Fund for a recoverable advance in settling such liabilities. Contingent liabilities, which are neither the responsibility of the contracting authority or the private party, and which arise from the implementation of a project agreement, shall be eligible for settlement under the Fund, subject to any guidelines issued.

Contracting authorities, in conjunction with the Debt Management Office, shall be required to submit annually to the Officer Administering the Fund estimates of contingent liabilities arising from their eligible projects and any short term liquidity gaps. Where payments are made to meet materialized contingent liabilities under a project upon the request of a contracting authority, the contracting authority shall refund the monies paid in its immediate subsequent budget cycle.

Section 68 of the Act prescribes the sources of revenue for the Fund as:

i. grants and donations;
ii. levies or tariffs imposed on a project;
iii. Success fees paid by a project company;
iv. Appropriations-in-aid; and
v. Any other source prescribed by the Cabinet Secretary, National Treasury

The monies paid into the Fund shall be used to meet the objectives of the four (4) windows outlined above.

Annex 2- TOR for ESIA

Preparation of Environmental and Social Impact Assessment (ESIA) for the 2nd Nyali Bridge Project

Given the involvement of the private sector, the GoK and the World Bank have agreed on the use of World Bank Safeguard Policies to address the environmental and social impacts of the proposed Project, while additionally using World Bank Operational Policy 4.12, *Involuntary Resettlement*, to address direct physical and economic displacement risks and impacts that are expected to result from the Project.

1. **ESIA Objectives**

The objectives of the ESIA are to ensure that all environmental and social consequences due to developing and operating the new Bridge and access roads are evaluated and addressed as part of incorporating mitigation measures into the Project's final design. For the avoidance of doubt, the ESIA to be developed by the TA will be based on the preliminary Project design against which NEMA approval will be sought. The responsibility for carrying out the ESIA based on the final design and seeking either re-approval by NEMA or transfer of the license from KURA to the Project Company will rest with the Project Company who in their ESIA will provide a reassessment of impacts based on the final design.

The ESIA study stage entails the comprehensive assessment of the project building on the findings from preliminary findings. The tasks to be performed during the ESIA and RAP study phase have been identified and are summarised in the sections below.

The ESIA shall be prepared in a manner that will:

a. Comply with the Environmental Impact Assessment and Audit Regulations 2003 established under the Environmental Management and Coordination Act (EMCA), Cap 387 (amendment) 2015 of Kenya.
b. Meet the requirements of World Bank Safeguards Policies as well as Directives and Guidance Notes on Gender Based Violence (GBV) and Labor Influx
c. Follow the World Bank Group Environment, Health and Safety (EHS) Guidelines, particularly:
    - Environmental, Health, and Safety General Guidelines (2007)
    - Environmental, Health, and Safety Guidelines for Waste Management (2007)
    - Environmental, Health, and Safety Guidelines for Construction Materials Extraction (2007)
d. Identify project components that would entail risks and impacts related to involuntary resettlement in order to provide inputs, as necessary, into the Resettlement Action Plan (RAP) and update it to meet the requirements of World Bank's Operational Policy 4.12 on Involuntary Resettlement.
e. Provide sufficient detail to clearly identify the Environmental and Social risks and impacts of the project and prepare appropriate Management Programs to be

implemented by the CA and the Project Company.

The Project ESIA and the Environment and Social Management Programs, including the identification of any risk management measures (supplementary studies, plans, policies, actions, mechanisms, and tools) to be developed and implemented during pre-construction, construction, and operation phases, should be organized to reflect the roles and responsibilities of two key actors:

a. GOK, and in particular KURA, the implementing agency, who will manage risks and impacts under its control (unless some of such risks and impacts are clearly made a contractual responsibility of the Project Company and can be effectively managed by them under the CA's oversight) as well as oversee the performance of the Project Company;
b. the Project Company who will design, build and operate the project, and must thus prepare and carry out actions necessary to comply with the environmental and social requirements included in its contractual obligations, including the preparation of further studies or risk management plans once the road design has been finalized.

The scope of the ESIA should include but not be limited to the following:

1. Predict the anticipated environmental and social risks and impacts, including risks related to labour influx, gender-based violence, sexual exploitation and abuse (SEA), sexual harassment in the work place.
2. Elaborate on a Consultation/Stakeholder Engagement strategy before and during works. (The strategy could consist of recurrent consultations and/or a public information focal point/office/tent where citizens can go if they have inquiries).
3. Establish a grievance redress mechanism (GRM) for the project
4. Recommend feasible and cost-effective measures to prevent, reduce or mitigate negative impacts and enhance positive impacts of the project.
5. Estimate the impacts and costs of those measures, and of the institutional and training requirements to implement them.
6. Prepare an environmental and social impact assessment report to include an Environmental and Social Management Plan (ESMP) including proposed work programs, budget estimates, schedules, staffing and training requirements, and other necessary support services to implement the mitigating measures. The ESMP should clearly present the social risks and impacts whose mitigation and management are the responsibility of the Project Company (examples include mitigation and management of risks related to Labor Influx, GBV, SEA, material sites and workers camps)
7. Clearly outline the environmental and social clauses/covenants to be included in bidding documents.
8. Explain how the project would comply with the requirements (including consultation) of the OP 4.01 and the environmental and social requirements

of other applicable Safeguard policies (e.g., Involuntary Resettlement (OP 4.12).

The ESIA Study report should be informed by the opinions collected during Public Consultations. Such public consultations should be conducted during at least two stages; – at the project report stage of the ESIA and during the full ESIA Study stage where the findings will be shared with project stakeholders. In particular, besides the detailed list of environmental and social risk mitigation measures in the Environment and Social Management Programs, the deliverable of the TA must summarize these Programs in an Environmental and Social Action Plan (ESAP) [3] highlighting the required additional studies, mitigation plans, policies, actions, tools etc. together with milestones/ timelines for achievement of certain outcomes, and clearly indicated main responsible party (GoK/CA, the Project Company, contractors / sub-contractors, supply chain actors).

The following tasks shall be carried out. Save for Tasks 10 and 11, designated sections of the ESIA, the different sections of the ESIA and ESMP are linked and must form a coherent narrative.

2. Report Outline:

Task 1. Executive Summary

This section should concisely summarize key findings and recommended actions.

Task 2. Detailed Description of the Proposed Project

The consultant shall describe the proposed project in detail, its location, and components as well as its layout as per the designs.

In summary the project description should include but not be limited to:

a. History, purpose, context and expected economic benefits (local and national) of the proposed new bridge, including any proposed, reasonably defined, or ongoing development that might have a cumulative impact
b. Describe the design, location, footprint, layout and size of the new bridge and road network
c. Identify and describe the project area of influence
d. identify and describe each of its associated facilities to the extent that they can be reliably determined (with adequate justification) such as dedicated access roads, construction and worker camps, raw material and product storage facilities, water supply, expected dump and quarry sites
e. describe expected activities during pre-construction, construction, and operation (to the extent known), as well as the estimated number of workers, and the volumes of materials to be transported

[3] Examples of ESAPs can be found at www.ifc.org/disclosure

f. include an indicative schedule for pre-construction and construction (to the extent known).
g. The major activities that will be associated with the proposed Bridge construction which may include but not be limited to the following:
    - Site clearance and setting out;
    - Excavation and disposal of overburden to pave way for the development;
    - Mechanical and electrical installations;
    - Connections to services including the road furniture; and
    - Finishes including the bridge and road markings.
h. Bridge operation activities including tolling stations, among others.
i. indicate the expected lifespan of the new bridge.
j. Include the following essential maps:
h. Highway alignment sheets at 1:1000 scale, showing existing features falling within ROW, such as buildings, archaeological and religious structures, monuments, or trees, as well as drainage features such as rivers, streams, ditches, canals, bridges or culverts, within 100 m of the proposed right of way
    - Detailed ground surveyed map at 1:1000
    - A land use map at 1:5,000 scale, based on recent cloud-free satellite imagery, including 2 km on either side of the proposed ROW, showing waste lands, water bodies, built-up areas, forest areas; railway tracks, roads, pipelines, transmission lines and major industries

Task 3. Description of the Environment and Social Baseline
The consultant shall conduct a field survey and a desk study to collect, collate and update information on the characteristics of the existing environment found during the Scoping Study Stage within and around the proposed project area.

The Transaction Advisor will present only data ***directly relevant*** to decisions about project location, design, operation, or mitigatory measures, including physical aspects (such as topography, landforms, geology, soils, climate, air quality, and hydrology), biological aspects (including biodiversity, fauna, flora, critical natural habitats, protected and sensitive areas), and socioeconomic conditions (such as demography, settlements, community structures, vulnerable and marginalized groups, sources and distribution of income, employment and labour markets, land use, and cultural heritage).

This will include, but not be limited to, the following:

a. Physical environment (topography, geology, climate, meteorology, air quality, hydrology, soil types);
b. Biological environment (flora and fauna types);
c. Socio economic and cultural environment. This will include present and projected where appropriate (i.e. area demographics (population in the area & demographic patterns); Land use and land use patterns; Livelihood activities, Existing social structures (schools, churches, health facilities, social centres, and shopping centres among others).
d. Identification of any changes anticipated before the project commences, taking into account ongoing trends, as well as current and proposed development

activities within the area crossed by the bridge, but not directly connected to the project.

e. Inclusion of data directly provided and confirmed by relevant data sources, such as Kenya Wildlife Service (KWS), National Museum of Kenya (NMK), Kenya Forestry Service (KFS), utilities (oil, gas, ICT), county authorities, and international organizations.
f. Review and summary of relevant studies and available data
g. An assessment of the extent, quality, accuracy and reliability of available data, and uncertainties due to data gaps.
h. A confirmation of the accuracy of available data through field visits, including photographic illustration of all key points/findings.
i. Organization and presentation of data according to three levels of detail: (a) the road right of way, and the footprint of any known associated facility, and (b) a buffer area of 100 m on either side of the ROW, and (c) an area extending 2 km on either side of the ROW.
j. The presentation of summary data in geographic formats
k. The provision of a baseline on the hydrology and habitats of Tudor Creek, Makupa Creek, and Junda Creek sufficient to assess the potential impacts of the bridge during construction and operation
l. The provision of inventory authorized municipal solid waste facilities, biomedical treatment facilities and hazardous waste disposal facilities in the area that might be utilized by the Project
m. An assessment of the existing quarries that the project might have to use
n. An assessment of medical facilities that the project might have to rely on
o. An epidemiological baseline, particularly for STDs such as HIV/AIDS
p. A baseline for sexual abuse and exploitation
q. A review of existing EHS practice challenges in Kenya, most particularly in the context of road/bridge construction
r. Socio-cultural information including sites of historical or archeological importance as well as cultural heritage.

In specific details, the consultant shall also provide the following: Baseline Physical Environmental data of project area;

Hydrology: Desktop studies and field study to gather hydrological data of the project area.

Climate: Obtain meteorological data from Kenya Meteorological Department and other specialised reports prepared by the project design team on the following:

a. Temperature (in ^{0}C) – Maximum, Minimum, Mean
b. Daily rainfall (in mm);
c. Wind speed (km/h) – Maximum, Minimum, Mean

The above information shall be able to inform the project especially on which seasons are best for construction and the related activities and processes.

Topography: Secondary data and site surveys shall be used to describe the topography of the project area and be able to advise the design team accordingly.

Geology and Soils: Secondary data and site surveys shall be used to describe the geology and soils of the project area. Information gathered shall come in handy during the construction phase of the project.

Air Quality: The consultant shall collect primary data to describe the baseline air parameters of the area.

Noise Survey: The consultant shall collect primary data to determine the baseline noise of the area. In evaluation the measured results, the consultant will adopt the Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations, 2009

The above air and noise data shall be used in the study report to describe the following:

Air

- Project components and activities that will affect air and noise quality;
- Air quality components of concern, including emissions from point sources, fugitive dust, construction, and vehicles;
- Possible effects from the deposition of primary particulate matter and impacts on surface water, soil and vegetation;
- The nature and significance of changes in ambient air quality expected as a result of the Project and the impacts associated with these changes.
- A Description of the methodology used to determine changes in ambient air quality, justification of the methodology used, and identification of any shortcomings or constraints on the findings;
- An assessment of the proposed plan to minimize dust emission levels from the Project, including any additional recommendations on the same.

Noise

Data collected will be compared with any nearby receptors that may be sensitive to noise such as schools, areas of worship among others. Required standards according to the Noise regulations shall apply.

Electromagnetic radiation measurement: Baseline EMR level measurements shall be done to facilitate future public exposure hazard monitoring. This will be conducted in line with ICNIRP guidelines since Kenya has no local standards.

Baseline hydro-ecological data of project area: A hydro-ecological survey will be conducted to determine the hydro-biological data of the project area. This will be done through direct observation, sampling and measurements and minimal consultations to the stakeholders. Secondary data will also be used to establish more biological data on the proposed site.

Baseline Socio-economic Survey of the project area: The consultant shall conduct socio-economic studies and the findings will be used to describe the baseline socio-economic conditions of the project area. The data collected will be able to identify alternatives for relocation of livelihood sources, which may be affected.

The following approach may be considered:

<u>Household Survey</u>
The structured household interviews among the project affected persons based on formatted questions.

<u>Recruitment and Training of Enumerators</u>
To ensure gender balance and reduce biasness on information gathering, female and male enumerators should be recruited and trained to carry out the exercise. The objective of training the enumerators will be to create awareness on the importance of the survey, provide training on interviewing techniques and build common understanding on the study tools as well as create team work. The interviewer's guide and questionnaires will be discussed during the training and followed by pre-testing in the field. The exercise shall inform the revision of tools where necessary.

<u>Focus Group Discussions</u>
Focus Group Discussions (FGDs) shall be conducted with the various special groups identified during the study. Discussions will focus on issues related to a particular group. Dynamics of focus group discussions will be observed to ensure fruitful discussions.

<u>Involvement of Vulnerable Groups</u>
During the study, any special/vulnerable groups identified shall be scheduled for special meetings so that their views will also be included in the discussions. This may include women, youths among others. In addition, should the ESIA find that there are groups in the project area who meet the World Bank's OP 4.10, the provisions of OP 4.10 will apply in dealing with such groups during the ESIA study, in addition to OP 4.12. The TA will also recommend culturally appropriate and gender and intergenerationally inclusive measures for mitigating project impacts on such groups and for ensuring that they access project benefits in culturally appropriate ways.

The outputs of the socio-economic data analysis shall be used to determine the socio-economic parameters that will support the resettlement action plan and for addressing project impacts on groups that meet the OP 4.10 (if found to be relevant).

<u>Task 4 Review of Relevant Institution and Legal Framework</u>

Through desk studies, the consultant shall carry out a detailed review of relevant environmental legislation in Kenya, both existing and proposed. Where appropriate, the

consultant shall meet the regulatory authorities for further direction and guidance on the study.
The section will:

- Review the laws and regulations of the Government of Kenya that are relevant to the project, most particularly the requirements and procedures EMCA, Cap 387, including reporting requirements
- Analyse the requirements and features of World Bank Safeguard Policies
- Analyse the specifications of the World Bank Group Environment, Health and Safety (EHS) Guidelines, particularly:
    - Environmental, Health, and Safety General Guidelines (2007)
    - Environmental, Health, and Safety Guidelines for Waste Management Facilities (2007)
- Present the environmental and social requirements of potential financiers of the Project Company, if known at the time of ESIA completion.
- Identify relevant international environmental and social agreements and treaties – including labor-related such as ILO conventions - to which the country is a party.

This section will further describe the roles and responsibilities of the key players, most particularly CA, the PPPU at the National Treasury, the Transaction Advisor, the future Project Company, the relationship between KURA and the Ministry of Transport, Infrastructure, Housing and Urban Development, the role of the County Government of Mombasa, the role of National Environmental Management Agency (NEMA) and any other institutions relevant to the Project, such as the Ministry of Lands and Physical Planning, the Kenya Wildlife Service, the Kenya Forest Service, the Kenya Marine Services and the National Museums of Kenya.

This section should highlight any differences between the World Bank Safeguard Policies and national laws and regulations, which must be taken into account.

Task 5. Determination of Potential Impacts of the Proposed Project

This section should:

- Assess the potential positive and negative direct and indirect environmental and social impacts of the Project, as measured in comparison with baseline conditions, during construction and operation of the project. These should include socio-economic impacts on people who may currently be depending on the project area for their livelihoods strategies
- Assess any potential for physical and/or economic displacement of households or individuals
- Assess project impacts that might be cumulative to ongoing or planned activities, and indicate if any tipping points might be reached

- Identify the receptors that may be affected, indicating their sensitivity and significance
- Describe how impacts should be assessed, such as model studies, empirical observation, reference to similar situations, or reference to existing studies
- Quantify impacts to the extent possible, in terms of their magnitude, duration and consequences, including in terms of environmental costs and benefits
- Distinguish impacts of pre-construction, construction and operation
- During construction phase; Identify any populations or project affected persons which may be physically or economically displaced and propose mitigation measures that are necessary to assist them in their displacement, identify any potential risk of child labor
- Determine if the potential impacts are: (i) avoidable; (ii) temporary and reversible; (iii) permanent and irreversible; (iv) short-term or long-term, and; (vi) large scale or local
- Highlight when the consequence of impacts cannot be determined or addressed or does not need to be addressed
- Assess the health, safety and security of the workers

Identify and describe all potential major social and environmental impacts from the proposed project, which will be significant over the long-term. The proposed matrix for evaluation of the impacts is presented below.

Item	Rating in each phase*1			Impact predicted and Reason of the rating (A to D) in each phase
	Pre-Co*2	Co	Op	
Pollution control / Public Nuisances				
Air pollution				
Solid Waste and/or Industrial Discharge				
Soil Contamination				
Noise and vibration				
Ground subsidence				
Odour				
Sediment				
Natural Environment				
Geographical Conditions				
Geological Conditions				

Soil Erosion				
Fauna and Flora				
Ground Water				
Local Climate				
Global warming				
Social Environment				
Involuntary Resettlement				
Vulnerable groups (orphans, poor women, poor youth, poor elderly persons, poor persons with disability etc)				
Groups that meet the World Bank's OP 4.10 (if applicable)				
Labour Influx				
Gender-Based Violence				
Material sites (if known)				
Workers camps (if known)				
Local economies (employment, livelihood, etc.)				
Land use and utilization of local resources				
Water Use				
Existing social infrastructures and services				
Social institutions and community				
Landscape				
Gender and Children's rights				
Infectious diseases such as HIV/AIDS				
Working conditions (including occupational safety)				
Public Hygiene				
Accident and Hazard				
Cultural heritage				

Key: *1: A+/-: Significant positive/negative impact is expected. B+/-: Positive/negative impact is expected to some extent. C+/-: Extent of positive/negative impact is slight or unknown. (A further examination is needed, and the impact could be clarified as the study progresses) D: No impact is expected.
*2: Pre-Co: Pre-Construction Phase, Co: Construction Phase, and Op: Operation Phase (Post Construction)

Additionally, comparative evaluation with alternatives including non-project scenario (zero option) shall be taken by using multiple criteria analysis.

The consultant shall identify the actions that will develop into a negative impact and issue mitigation measures that must be translated into action in the correct way and at the right time to reduce the magnitude of the impact or avoid it.
The objectives of the mitigation measure will be to:

- Find better alternatives and ways of doing things;
- Enhance the environmental and social benefits of a proposal;
- Avoid, minimize or remedy adverse impacts;
- assess the expected residual impacts following mitigation
- Ensure that residual adverse impacts are kept within acceptable levels, and;
- Match management/mitigation measures with identified impacts

Task 6. Development of Environmental and Social Management Plan (ESMP)

Recommended feasible and cost-effective measures to prevent, reduce or mitigate significant negative impacts. Indicate the impacts and costs of those measures, and of the institutional and training requirements to implement them.

a. The Environmental and Social Management Plan will:

- comprise a documented combination of operational procedures, practices, plans, and related supporting documents (including legal agreements) that are managed in a systematic way.
- apply broadly across the Projects' design (KURA, the Project Company, contractors and primary suppliers over which the Project Company has control or influence, or to specific sites, facilities, or activities)
- establish specific measures and plans – with clear timelines and main assigned responsibility as above - which will define desired outcomes and actions to address the issues raised in the risks and impacts identification process, as measurable events to the extent possible, with elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods, and with estimates of the resources for implementation
- describe feasible, cost efficient and sufficient measures to mitigate and monitor the impacts identified in the ESIA, during pre-construction, construction, and operation of the road, in accordance with the requirements of the World Bank Safeguard Policies, and in compliance with the laws and regulations of the GoK
- provide technical details for each mitigation measure, including the type of impact to which it relates, the conditions under which it is required (e.g., continuously or in the event of contingencies), as well as preliminary design, equipment descriptions, and operating procedures, as appropriate

- assign institutional responsibilities for implementing and monitoring these mitigation measures, and estimate the resources required for their implementation, distinguishing the roles and responsibilities of KURA from the responsibilities that KURA will include in the concession agreement
- take into account the Project RAP, as necessary.

b. There will be sub-plans addressing a list of issues[4]. Specifically, the sub plans should include:

- Construction management, including contractors, sub-contractors and primary supply chains
- Traffic and access to construction site
- Labour camps
- Generic plans for the restoration of material sites (if applicable)
- Labour influx and labour rights
- GBV and Sexual Exploitation and Harassment – SEA - (prevention and response) plans and responsibility for the same
- Occupational Health and Safety, including accidents and the prevention and management of infectious diseases such as STDs and HIV
- Community Health and Safety
- Storage and disposal of hazardous and nonhazardous waste, including construction debris
- Soil contamination
- Surface and ground water contamination
- Spill response
- Blasting
- Air emissions
- Noise from equipment, operations (blasting and drilling), and traffic
- Landslide prevention and slope stabilization
- Storm water management
- Emergency Response Plan, particularly during operations
- Gender equity
- Biodiversity protection and conservation
- Cultural heritage
- Traffic management and road safety
- Site closure and restoration

5. Distinguish what CA has to do, through the Transaction Advisor, from what the Project Company will do.

[4] The plans must clearly state who is responsible for their implementation (CA or Project Company)

It is further expected that the Project Company will:

- Prepare a Code of Conduct that incorporates the following core requirements:

    a. carrying out his/her duties competently and diligently;

    b. complying with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;

    c. maintaining a safe working environment including by:

        - ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
        - wearing required personal protective equipment;
        - using appropriate measures relating to chemical, physical and biological substances and agents; and
        - following applicable emergency operating procedures.

    d. reporting work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;

    e. treating other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;

    f. not engaging in any form of sexual harassment including unwelcome sexual advances, requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;

    g. not engaging in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual exploitation occurs when access to or benefit from Goods, Works, Consulting or Non-consulting services is used to extract sexual gain;

    h. not engaging in Sexual Assault, which means sexual activity with another person who does not consent. It is a violation of bodily integrity and sexual autonomy and is broader than narrower conceptions of "rape", especially because (a) it may be committed by other means than force or violence, and (b) it does not necessarily entail penetration.

i. not engaging in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;

j. completing relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, and Sexual Exploitation and Assault (SEA);

k. reporting violations of this Code of Conduct

l. not retaliating against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the Project Grievance Mechanism.

- require all employees and the employees of subcontractors to sign the Code of Conduct
- proactively address any breach to the code of conduct

The minimal criteria for the preparation of the Project Company ESMP is provided in Annex 4 in this document.

Task 7. Analysis of Alternatives to the Proposed Project

As indicated earlier, the options for the development of the bridge has been proposed. Where possible, the consultant shall engage the design team on analysis of the design options for the access road and approaches. Further ESIA analysis shall be done on these alternatives and results will be presented in the ESIA Study report.

Task 8. Stakeholder Engagement

The TA shall carry out a verification of social due diligence measures, which involves describing the social, economic and cultural status of the project area.

Identify and map relevant stakeholders and describe requirements for the integration of stakeholder engagement and consultations (public participation) during the ESIA process, with special consideration of local conditions, including the identification and mapping of stakeholders, a communication plan, and a schedule of consultations, and a disclosure plan.

- Identify and map relevant stakeholders and describe requirements for the integration of stakeholder engagement and consultations (public participation) during the ESIA process, with special consideration of local conditions;
- Based on the identification and mapping of stakeholders, provide an initial Stakeholder Engagement Management Plan (SEP) for KURA, and for the preparation of a Stakeholder Engagement Plan for the Project Company that will include any responsibilities stemming from the stakeholder engagement actions prepared and implemented by KURA under the RAP and is to include a Grievance Mechanism (GM) to be put in place that is accessible to project stakeholders, especially the PAPs.

- If groups that meet the World Bank's OP 4.10 are found to be present in the project area, then the communication and engagement strategies with them will be in line with the requirements of OP 4.10.

Undertake public and stakeholder consultations as described in Part II section 17 of the Environmental (Impact assessment and Audit) Regulations, 2003 and the World Bank Safeguards Policies (in particular (OP 4.01, OP 4.12 OP 4.10 [if found to be applicable]). Stakeholder and public consultations should be transparent, accessible to stakeholders involved and conducted in consideration of socially acceptable means in relation to the project area. Consultations related to RAP implementation would be spearheaded by the GoK/CA.

The TA to organize forums for public participation to enable interested & affected parties to present their concerns and opinions regarding the proposed project, the stakeholders should include County officials, relevant Government agencies, community groups, and NGOs. The views of the public will be solicited and incorporated in the ESIA report. A record of public consultations and other records that will indicate participation of interested and affected parties throughout the ESIA study process, including: surveys used to seek views of affected stakeholders; date and location of consultation meetings; a list of attendees, their affiliation, contact addresses and a summary. This section needs to present an approach to ongoing stakeholder engagement. In addition, a grievance redress mechanism should be described in this section.

The TA should keep a record of consultation meetings, including date and location, a list of attendees, their affiliation and contact addresses, voiced concerns or opinions, and how these concerns were incorporated into the design of the project. The record should also indicate any surveys used to seek views of affected stakeholders. A record of information disclosure, public consultations and surveys should be summarized in the ESIA and the records preserved to indicate participation of interested and affected parties throughout the ESIA study process. Such records may include: surveys used to seek views of affected stakeholders; date and location of consultation meetings; a list of attendees, their affiliation, contact addresses and summaries of the outcome of the meetings. This section needs to present an approach to ongoing stakeholder engagement. In addition, a grievance redress mechanism should be described in this section.

The TA should note that:

a. KURA will put in place and implement a GRM that will build on the Grievance Redress Mechanisms (GRMs) that it has already set up in the context of World Bank supported projects. This GRM will be harmonized with the GRM put in place as part of the Project Resettlement Action Plan (RAP). KURA's GRM should seamlessly interface with the GRM that the Project Company will establish.

b. The KURA GRM will detail the procedures that communities and individuals who believe they are adversely affected by the Project can use to submit their complaints, as well as the procedures that will be put in place to systematically register, track, investigate and promptly resolve complaints.
c. KURA will set up a focal point to handle Project activity-related complaints. Multiple access points (telephone, complaint box, website, email, text message, etc.) should be provided and advertised at subproject level so that beneficiaries have different ways to voice their concerns. KURA will have the overall responsibility to address concerns brought to the attention of the focal points regarding any environmental and/or social impacts due to Project activities. Copies of complaints shall be recorded in the activity files and the progress reports, including the number and type of complaints and the results of their resolution. The section should include draft templates for registering grievances.

The section should also make reference and describe the role of the World Bank's Grievance Redress Service (GRS), as well as the WB's independent Inspection Panel.

Task 9. Assessment of Capacity for Environmental and Social Risk Management

The section should assess KURA's current systems and its capacity to manage the environmental and social aspects of the tendering processes, and to monitor and oversee the environmental and social performance of the Project Company during Project implementation.

The section should recommend measures to close any capacity gap, to ensure that KURA has the capacity to meet the requirements of the World Bank's safeguard policies, such as staff recruitment, staff training, the development of procedures, and the use of contractors to supplement KURA's capacity. These measures will be summarized in an action plan, including a timeline and itemized costs for capacity strengthening measures.

Task 10. Development of Management and Monitoring Plans

An Environmental and Social Management and Monitoring Management Plan will be developed recommending a set of mitigation, monitoring and institutional measures to avoid, eliminate, minimize or reduce to acceptable levels any adverse environmental impacts, compensate for any residual impacts and / or maximize socio-economic benefits. The objectives of this task will therefore be:

a. To develop an Environmental and Social Management and Monitoring Plan (ESMP);

b. To recommend within the ESMP a set of mitigation and monitoring measures to help eliminate or reduce to acceptable levels and where not possible compensate for adverse environmental impacts while creating a mechanism for maximization of social economic benefits;
c. To provide cost outlays for the proposed measures;
d. Outline responsibility for the implementation of the various actions and plans in the ESMP
e. To detail KURA's procedures to monitor the implementation of the E&S risk management measures under its control and responsibility,
f. To detail KURA's procedures to monitor the performance of the Project Company
g. To define a set of indicators that will be used by KURA to report on the implementation of risk mitigation measures to GoK and the World Bank, and will also be used by the Project Company to report to KURA
h. To specify parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and thresholds that will signal the need for corrective actions
i. Analyze KURA's capability to mitigate and monitor the anticipated environmental impacts under their direct responsibility and to provide effective oversight for responsibilities under the Project Company. Where possible propose relevant capacity building programmes for implementation of the ESMP.
j. To define the types of reports, roles and accountability (who reports - who gets the reports), when and how frequently reports are prepared
k. To define procedures to trigger change management and the management of corrective actions
l. To list mandatory government clearance requirements, most particularly NEMA's certification of compliance and annual environmental audits during operation

Monitoring Indicators:

i. It is the anticipation that the Project Company shall be required to monitor, keep records and report on the following environmental and social issues:

a. *Availability of Key Personnel:* E&S Manager, Environmental Management specialist; Social Management Specialist; Health and Safety Specialist; Community Relations Manager.
b. *Safety*: hours worked, recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).
c. *Environmental incidents and near misses*: environmental incidents and high potential near misses (dust, erosion, blasting, spills, habitat degradation) and how they have been addressed, what is outstanding, and lessons learned.
d. *Traffic accidents (project vehicles and non-project vehicles)*: provide date, location, damage, cause, follow-up;

e. *Status of permits and agreements*: areas/facilities with permits required (quarries, asphalt & batch plants), areas with landowner agreements required (borrow and spoil areas, camp sites).
f. *Major works*: those undertaken and completed, progress against project schedule, and key work fronts (work areas).
g. *E&S requirements*: noncompliance incidents with permits and national law (legal noncompliance), project commitments, or other E&S requirements.
h. *E&S inspections and audits*: by Project Company, KURA, or others—to include date, inspector or auditor name, sites visited and records reviewed, major findings, and actions taken.
i. *Workers*: number of workers, indication of origin (expatriate, local, nonlocal nationals), gender, age with evidence that no child labour is involved, and skill level (unskilled, skilled, supervisory, professional, management).
j. *Accommodations*: status of accommodations' compliance with national and local law and good practice; actions taken to recommend/require improved conditions, or to improve conditions.
k. *E&S Training (including HIV/AIDS and SEA/SH, and training in communities)*: including dates, number of trainees, and topics.
l. *Footprint management:* details of any work outside boundaries or major off-site impacts caused by ongoing construction—to include date, location, impacts, and actions taken. External stakeholder engagement: highlights, including formal and informal meetings, and information disclosure and dissemination—to include a breakdown of women and men consulted and themes coming from various stakeholder groups, including vulnerable groups (e.g., disabled, elderly, children, etc.).
m. *Details of any security risks:* details of risks the Project Company may be exposed to while performing its work—the threats may come from third parties external to the project.
n. *Worker grievances*: details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.
o. *External stakeholder grievances*: grievance and date submitted, action(s) taken and date(s), resolution (if any) and date, and follow-up yet to be taken—grievances listed should include those received since the preceding report and those that were unresolved at the time of that report. Grievance data should be gender-disaggregated.
p. *Major changes to the ESMP*.
q. *Deficiency and performance management*: actions taken in response to previous notices of deficiency or observations regarding E&S performance and/or plans for actions to be taken should continue to be reported to KURA until it determines the issue is resolved satisfactorily.

The ESMP will be developed with project knowledge and information available during Impact assessments. The contents will include but not be limited to:

a. Current environmental and social issues and parameters to be mitigated;
b. Mitigation measures;
c. Lines of responsibility;
d. Cost of undertaking the environmental and social mitigation measures;

e. The time frame in which these mitigation measures will be handled.
f. The ESMP shall form part of the full ESIA Study Report to be cleared by the World Bank, submitted to NEMA and disclosed to the key stakeholders and Lead Agencies. The ESIA Study Report shall be prepared in the Manner and format required for purposes of obtaining the EIA License for the project.

Task 11. Implementation Schedule and Cost Estimates

This section will:

a. Provide a clear statement of financial responsibilities
b. Identify summary of costs for implementation of the proposed mitigation measures
c. Provide detailed estimated budget for all phases of the project including planning, implementation, monitoring and evaluation, with contingencies
d. Include an implementation schedule for mitigation measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans;
e. Estimate the capital and recurrent cost estimates and sources of funds for implementing the Environmental and Social Management Programs

Facilities to be provided by client

The client will provide the following subject to availability

a. Project preliminary documents
b. Relevant environmental audit reports
c. Access to other relevant information to the extent of its availability
d. Access to the project site and other site belonging to the client
e. ESMF for the IFPPP

Annex 3: RAP Terms of Reference (TOR)

1. Preparation of updated Resettlement Action Plan (RAP) for 2nd Nyali Bridge Project

1.1 Objective of the RAP Study

The purpose of the assignment is to prepare a Resettlement Action Plan for the proposed Project in line with the relevant laws, regulations, and procedures of the Government of Kenya (GoK) which include the National Land Policy 2009 and the Land Act, 2012, Land Value Index Laws, Community Land Act, 2016, other national laws related to Land as well as the World Bank's Operational Policy on Involuntary Resettlement (OP 4.12). The objectives of OP 4.12 are:

a. To prevent or minimize involuntary displacement whenever possible;
b. To design and implement resettlement as a sustainable development program;
c. To pay for lost assets at replacement cost;
d. To restore peoples' capacity to earn a living and their community ties;
e. Components necessary to realize project objectives are covered regardless of the source of financing;
f. Resettlement costs are considered part of project costs

The objective of the RAP update will be to produce a document specifying the procedures to be followed and the actions to be taken to properly and satisfactorily resettle and compensate affected people and communities as a result of the proposed project. The RAP should address the physical and economic impacts of the proposed project on individuals, households and communities in the proposed site and route. The RAP must also identify the full range of people affected by the project and clearly describe and justify their physical and/or economic displacement after consideration of alternatives that would avoid or minimize displacement.

2. Specific Tasks in RAP Preparation

The RAP must be prepared in a participatory manner through a meaningful consultation with key stakeholders in each of the areas where the infrastructure will pass and in particular, with the active participation of affected people and communities. As part of the RAP update, the TA will identify particularly vulnerable households that may require additional support and resettlement assistance during the resettlement process and determine the need for livelihood restoration where necessary. The RAP will identify strategies and other measures that target the project affected individuals, households as well as vulnerable PAHs, to assist them to improve or at least restore their livelihoods, incomes and living standards. The specific Tasks for the RAP update – which will be undertaken in proportionality to the project risks and impacts - include:

Tasks 1. Description of the project

To undertake a description of the project, the project affected areas/locations, and why resettlement is needed. Identify the potential involuntary relocation impacts of the project including the:

- Project components or activities that give rise to resettlement or restriction of access
- Zone of impact of such component or activities
- Alternatives considered to avoid or minimize resettlement or restriction of access;
- Mechanisms established to minimize resettlement, to the extent possible, during project implementation; and,
- Provision of appropriate maps (in various scales) to describe the project area and location maps.

Tasks 2. Review policy, legislation, regulatory and institutional frameworks

To review all the relevant policies, legislation, regulatory and institutional frameworks related to land acquisition and resettlement, and ensure all appropriate regulations are articulated including the analysis of the following:

- The scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment.
- The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project.
- Relevant law (including customary and tradition law) governing land tenure, statutory mechanism for land acquisition, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law related to displacement, and environmental laws and social welfare legislation that are related to resettlement
- Identify the institutions responsible for land acquisition and resettlement, and review laws and regulation relating to such agencies,
- Indicate the provisions of the World Bank OP 4.12 on involuntary resettlement, present the similarities, differences and gaps, and provide mechanisms to address the gaps, confirming which set of standards is to set precedence in this RAP
- Any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land including claims that derive from customary law and traditional usage and
- Commonalities between GOK, and the World Bank's guidelines, basis for effecting payment outside Kenyan legal system.

Tasks 3: Socio-economic survey studies
To carry out a socio-economic survey and cultural assessment to ensure that the relevant data pertaining to the following is presented:

- Adopt guiding methodology for socio-economic survey for the project affected people. The results of the socio-economic survey to include:
- Social characteristics of the potential PAPs including a description of production systems, labour, gender relations, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from occupational (both formal and informal economic activities), expenditure, livelihood patterns and standards of living (including health status) of displaced population.
- The magnitude of the expected loss (total or partial, permanent or temporary) of assets, and the extent of displacement, physical or economic;
- Social infrastructure and services
- Address and integrate a profile on vulnerability clearly stipulating the levels of vulnerability of different categories of PAPs through an appropriate set of indicators and classification tool. Gender analysis should be integrated in this component. Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement
- Attitude to the project
- Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. community organizations, ritual groups, non-governmental organizations NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities;
- Develop a profile of PAP's by the way of providing special identification numbers corresponding to photo book and their structures/properties/crops to be affected.
- Mapping of project area and location of the PAPs. The maps should appropriate scales and should be easy to interpret.

Task 4: Census of PAPs and their Assets
Apply a methodology that will ensure that all potential affected persons of the project are enumerated, as well as all potential involuntary resettlement impacts are documented by undertaking a new census of all PAPs and determining the scope and magnitude of likely resettlement effects, impacts and losses. Ensure that the PAPs census survey covers all people living on the project affected area.

In depth census of the PAPs: The TA will carry out an in-depth census of the PAPs, with their involvement. The census should clearly identify:

a. All PAPs who may be physically displaced by the subproject, also referred to as project displaced persons (PDPs), including their details e.g. names, original National Identity card number, phone and physical contacts (street/estate, village, sub-location, location, District and County) and photograph;
b. Vulnerable PAPs by gender and age, who may need special targeting for livelihood restoration or other forms of resettlement assistance including their details as well as explanation or description of their vulnerability and the kind of support that might be accorded to them.
c. Standard characteristics of displaced households, including a description of production systems, labour, and household organization; and baseline information on livelihoods (including, as relevant, production levels/income streams and income derived from both formal and informal economic activities) and standards of living, including education levels and health status of the displaced population.

The detailed census will include the following information as appropriate:
Where physical displacement/relocation is anticipated:

a. Number of owner households to be affected;
b. Number of renter households to be affected;
c. Number of informal occupant households to be affected.

Where land acquisition is anticipated

a. Number of affected households with titles;
d. Number of affected households without titles;
e. Number of affected households losing more than 50% of their land;
f. Number of affected households losing less than 30% of their land.

Where non-land economic displacement is anticipated

a. Number of households to be affected;
b. Number of individuals to be affected by non-land economic displacement;
c. Types/nature of economic displacement.

In all three cases above, and as appropriate

a. Total number of Vulnerable and Marginalized Groups (VMG) - people who meet OP 4.10 criteria - households affected by the proposed subproject
b. Total Estimated population of the VMGs present in the subproject area.
c. Prepare the PAPs Categorization/Classification and Compensation Entitlements due to each category of PAPs.
d. Classification should be in the form of, e.g. Land, structures, Crops and Trees affected; Permanently displaced Persons (PDPs) and PDPs with structures etc.
e. Provide a description of the eligibility criteria for each entitlement.

f. Prepare a livelihoods restoration plan (where appropriate) for each category of vulnerable PAPs.
g. propose resettlement assistance to vulnerable PAPs households or individuals (poor orphans, poor women or men headed households, poor elderly persons, poor persons with disabilities etc)
h. Provide a cut-off date to prevent "rent seeking".

Tasks 5. Impacts of the projects: Census and valuation of PAPs Assets
The TA will carry out a detailed census of PAPs assets including farmland, commercial land, structures, crops, and trees.

Census and valuation of land

- For each PAP, whose land is affected, provide (i) actual acreage of land to be taken by the transmission line way leave; (ii) total acreage of the PAP's land; (iii) a description of the nature of impact on the land and structures, i.e. whether whole or partial; (iv) details of the land affected in terms of type of tenure and land use patterns
- For each PAP, whose land is affected: (i) conduct valuation of the affected strip and compute compensation values; (ii) provide type and methodology of compensation; (iii) preferred method of valuation with justification; and,
- For each PAP, whose land is affected, provide the following information on the status of land ownership documents (i) information on whether the current land occupant is the registered land owner (ii) placed caveats (if any); (iii) disputes involving the land parcel if any, and their status (i.e. whether they are in court or not)
- Provide actual values of the percentage parts of the parcels affected basing the values on 30 – 70% of the total market value of land where 30% is for the parcels with very minimal effect while up to 70% being for the parcels that are severely or totally affected.

Note: The valuation estimates should be based on locational registration areas and eligibility of affected land must be confirmed by legal documents of ownership (squatters may be compensated for assets, not for land).

Census and valuation of structures

- A detailed census and valuation of all affected structures, by type and nature, e.g. residential, institutional, communal or business structures, and whether made of permanent, semi-permanent or temporary materials, and the plinth area.

Census and valuation of crops and trees[5]

- A detailed census and valuation of affected crops and trees by type and level of maturity.

[5] Refer to OP 4.12 Source Book

Note: (i) For each affected asset provide details of the true owner (for land, this is achieved by undertaking a search at the appropriate lands office), including names, gender and ID as a caption of the picture of the affected assets; (ii) For each of the affected assets, provide type and methodology of compensation preferred, with justification. While undertaking inventory of losses, ensure that the result entail and describe the following:

- Mapping the affected properties (structures, crops, trees, fences) using the GPS with an accuracy of 1 meter in UTM Coordinate System. The affected buildings, fences and trees should be plotted along the corridor and photographs of the same taken at least at 2 elevations (front and side/rear). The descriptions of the land development being affected should have a unique number that corresponds with the photos and also have waypoint coordinates (GPS coordinates);

  The assignment shall also include placing of permanent survey markings. The survey marks shall be made visible, protruding above the ground at intervals of 10-15cm and constructed using iron pin in concrete (see survey manual for property beacons). The iron pin shall be a minimum of 40cm since the project road corridor traverses a highly built up urban area, the preferred equipment to use to fasten the assignment is GPS RTK;

- Land tenure and transfer systems, scope of land acquisition, distribution of land acquisition in administrative units, nature of land to be acquired for the project, including an analysis of the development status of land owned by individual PAP households, analysis of likely extent of damage to assets, crops and trees, analysis of potential displacement of livelihoods; inventory of common property, natural resources from which people derive their livelihoods and sustenance; properties/sites of cultural importance (e.g. graves, grave yards, worship areas); non-titled based usufruct systems (including fishing, grazing, or use of forest areas) governed by locally recognized land allocation mechanisms, and any issues raised by different tenure systems in the project;
- Analysis of potential displacement of communal assets including public infrastructure and social services that will be affected; and
- Include feasible impact mitigation measures to adequately address issues on loss of assets, livelihoods, community property and sites of cultural importance. This should entail any specific measures to be considered in the design and implementation of the RAP and project implementation stage; and
- Develop in close cooperation with PPP Unit, Nakuru County and the PAPs livelihood strategies, which are feasible to be implemented by the County. Determine and identify the induced impacts as a result of the project.

Tasks 6. Valuation of and compensation of losses:

- To describe the methodology to be used in valuing loses to determine their current replacement cost; and a description of the proposed types and levels of compensation under Kenyan law and the World Bank's OP 4.12, and such supplementary measures as are necessary to achieve current replacement cost for lost assets. When reviewing the systems for compensation, the following should be included:
- Identification and preparation of an inventory of impacted properties and livelihoods for each household whether land owner licensee, tenant, or illegal occupant (female headed, male headed, number of males and females per household)
- Established compensation criteria and strategies
- Definition of the methodology to be used in valuing loses, to determine their replacement cost; and cost and description of the proposed types and levels of compensation under the GoK regulations and such supplementary measures as are necessary to achieve replacement cost for lost items.
- Valuation of all land affected and assets including structures, properties, trees, crops and livelihoods affected by the project (disaggregated data) in order to provide the basis for compensation/resettlements to be acquired and livelihoods lost.
- Specify procedures for compensation payment-paying attention to gender aspects, power and control
- Ensure provision for assistance to vulnerable groups-specify who are vulnerable, weighing and ranking of PAPs depending on vulnerability and the type of assistance
- Develop effective and sustainable livelihood restoration measures of PAPs especially the informal traders.

Tasks 7. Determine eligibility

- The TA will provide a definition of displaced persons or PAPS and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.
- Provide the definition of displaced persons, criteria for determining their eligibility for compensation and other resettlement assistance.

Tasks 8. Propose resettlement measures and entitlement matrix

Provide a description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons including the vulnerable populations. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preference of the displaced persons and prepared in consultation with them. The issues to consider while describing the resettlement measures include, but not limited to the following:

- An Entitlement Matrix prepared in line with both the GoK laws and regulations, and the WB's OP 4.12. The entitlement matrix should clearly present the categorization/classification of affected assets and eligibility and compensation entitlements that will assist each category of eligible PAPs to achieve the RAP objectives. Classification should be in the form of, e.g., land only affected; structure only affected; land and structure affected, crops only affected and trees only affected. permanently displaced persons (PDPs); etc. For PAPs whose livelihoods are land-based, preference should be given to land-based resettlement strategies. Such strategies may include resettlement on public land, or on private land acquired or purchased for resettlement. Note that:
- Whenever replacement land is offered, PAPs are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, or the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, then non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented.
- Payment of cash compensation for lost assets may be appropriate where: (a) livelihoods are land-based, but the land taken for the subproject is a small fraction of the affected asset and the residual is economically viable; or, (b) active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing; or, (c) livelihoods are not land-based. In any of these cases, cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.
- Should the study affirm that there will be involuntary taking of land (whole or partial, permanent or temporary) resulting in: (a) relocation or loss of shelter; (b) loss of assets or access to assets; or (c) loss of income sources or means of livelihood, whether or not the affected persons must move to another location, then in line with the World Bank's policy on involuntary resettlement, OP 4.12, the TA will:
    - Ensure that the displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.
    - Ensure that appropriate and accessible grievance mechanisms are established for these groups in consultation with them.
    - Propose measures to ensure that, in new resettlement sites or host communities, infrastructure and public services are provided as

necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities.

- Propose measures to ensure that alternatives or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).
- Propose measures to ensure that patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of PAPs and any host communities are preserved and PAPs preferences with respect to relocating in pre-existing communities and groups are honored.
- For each of the affected assets, provide type and methodology of compensation preferred, with justification.
- Measures or programs for livelihood restoration, including any special measures to be accorded to, in particular, the vulnerable PAPs;
- Provide a cutoff date (to prevent “rent seeking”);
- Prepare a Grievance Redress Mechanisms (GRM), developed in consultation with the PAPs and other subproject stakeholders.
- Prepare a detailed budget estimate for the whole resettlement action plan inclusive of costs of land, structures, crops/trees, livelihoods restoration, capacity building and monitoring of the subproject.
- Prepare the RAP Implementation timetable (linked to the underlying subproject construction activities
- Propose a follow-up or monitoring system
- Propose the RAP evaluation system
- Clearly document the consultation that occurred during RAP preparation including:
- Summary of the views expressed
- How the views were taken into account in the RAP
- Alternatives presented to PAPs and their views on the same
- Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the engagement of other stakeholders.
- Measures and procedures for grievance redress and for consultations with PAPs; Measures for disclosure of RAP information.

Tasks 9. Grievance redress procedures

- To propose an appropriate tiered grievance redress mechanism at project level that includes a community level tier to ensure affordable and accessible procedure for third-party settlement of disputes arising from resettlement during the relocation period and after resettlement/relocation has taken place. This should also include a review of the already established PAPs committee to ensure representation of the women, men and youth as well as clarification of their duties and management procedures. The grievance redress mechanism should take into account the provision of the National Land Commission, the role of the Commission for Administration of Justice (the Ombudsman), and availability of judicial recourse; and community and traditional dispute settlement mechanisms. This will include provision of relevant guidance on the scope and qualities deemed necessary for an effective grievance mechanism and communication strategy including development of information package for PAPs.

*Note that a grievance redress mechanism shall also be established at RAP preparation process and communication strategy developed and implemented for the same.

Tasks 10. Institutional arrangements for RAP Implementation

- To review the organizational framework for implementing the RAP, including identification of agencies responsible for delivery of resettlement measures/activities and provision of services; provide analysis of Civil Society organizations that may have a role in project implementation. Explore the arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures [including technical assistance] needed to strengthen the implementing agencies capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or PAPs themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.
- Review and update governance, representativeness and stockholder engagement during RAP preparation and implementation is also expected at this stage.
- Analyze the capacity of each institution to effectively implement their assigned roles, and, as appropriate, propose a capacity building strategy that would ensure effective and smooth implementation of the RAP by each responsible institution.

Tasks 11. Measures for monitoring and evaluation

- To review the arrangements for internal monitoring of resettlement activities by the implementing agency, supplemented by independent external monitoring as considered appropriate by the lender; to ensure complete and objective information; performance monitoring indicators to measure inputs, output, and outcomes for resettlement activities and means of verification of the impact of resettlement for a reasonable period after all resettlement and related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Tasks 12. Prepare an implementation schedule

- To prepare the implementation schedule that is linked to the technical works of the project and ensure that all resettlement from the review of the PAP through implementation including timelines for the achievement of expected benefits to potential PAPs and termination of the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

Tasks 13. Resettlement cost estimate and RAP budget

- Prepare the cost of the resettlement process and the total budget for the RAP in table format showing item cost estimate – at current replacement cost without consideration for depreciation -for all resettlement activities (costs of structures, land [6], livelihoods restoration, capacity building and monitoring of the subproject), including allowances for inflation, natural grown considerations in case of a delay in RAP implementation, and other contingencies; timetable for expenditure; sources of funds and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

Tasks 14. Public participation and community consultation

This component should include:

- A description of the strategy for the interactive and meaningful consultation with and participation of stakeholders and PAPs in the design, implementation of the resettlement activities, and modalities for information disclosure
- Identify and map stakeholders, and provide an analysis of the identified stakeholders and a matrix stipulating the level of power and interest and how to involve them (during RAP preparation and implementation) in the RAP project cycle;
- A plan for civil society organization/stakeholder structured and on-going engagement in the resettlement planning process
- A summary of the views expressed and how these views were considered in preparing the resettlement plan.
- A review of the resettlement alternatives presented, and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals, families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship and graves)
- Institutionalized arrangements or mechanisms for Grievance Redress by which the displaced and other PAPs can communicate their concerns to projects authorities throughout the planning and implementation, and measures to ensure that such vulnerable groups as the poor, the landless and women are adequately

[6] Squatters are not compensated for land, but for the assets that they may have on the land. They may also be provided with resettlement assistance as necessary.

represented. In addition, where groups that meet the OP 4.10 criteria are found to be present, ensure that culturally appropriate institutionalized GRM is agreed with them.

- Development of effective channels of outreach to those most vulnerable by use of community-based organization and official representative channels and authorities;
- Clearly document the consultation that occurred during RAP preparation including:
  - a summary of the views expressed by PAPs and other stakeholders;
  - how the views were taken into account in the RAP;
  - the alternatives presented to PAPs and their views on the same.
  - Propose a consultation strategy to be employed during the RAP implementation to ensure the active involvement and participation of PAPs and a process for the continued engagement of other stakeholders
- Coordinate with the client and undertake RAP disclosure to the PAPs.

Format and outline of Resettlement Action Plan

The TA should revise the RAP to confirm to the format prescribed by the World Bank OP4.12 as follows:

1. Executive Summary
2. Introduction
3. Project Description
4. Minimizing Resettlement
5. Legal Framework
6. Participation and Consultation
7. Census and Socioeconomic Surveys
8. Vulnerable Groups or Persons
9. Eligibility Criteria
10. Project Impacts and Entitlement Matrix
11. Valuation Criteria
12. Livelihoods Restoration (if found to be appropriate)
13. Resettlement Sites
14. Host Communities
15. Grievance Redress Mechanism
16. Organization and Institutional Arrangements for RAP implementation
17. Monitoring and Evaluation of RAP implementation
18. Implementation Schedule
19. Cost and Budgets
20. Reference
21. Annexes

Facilities to be provided by client

The client will provide the following subject to availability

f. Access to other relevant information to the extent of its availability
g. Access to the project site and other site belonging to the client
h. Feasibility Study Report
i. IFPPP Resettlement Policy Framework
j. The current RAP report.

Annex 4. E&S Criteria

The purpose of this section is to provide minimum criteria regarding environmental and social mitigation measures that the Project Company shall consider when preparing the C-ESMP.

1. E&S Training

The Project Company shall:

- Determine its E&S training needs in collaboration with the KURA or its representative.
- Maintain records of all E&S training, orientation, and induction.
- Ensure, through appropriate contract specifications and monitoring that service providers, as well as contracted and subcontracted labour, are trained adequately before assignments begin.
- Demonstrate to the KURA or its designated representative that its employees are competent to carry out their activities and duties safely. For this purpose, the Project Company shall issue a Competence Certificate for every person working on site (relative to trade and aspect of work assignment) that specifies which tasks can be undertaken by which key personnel.

Orientation Training

- Provisions should be made to provide E&S orientation training to all employees of the Project Company, including management, supervisors, and workers, as well as to subcontractors, hey are apprised of the basic site rules of work at / on the site and of personal protection and preventing injury to fellow employees.
- Training should consist of basic hazard awareness, site- specific hazards, safe work practices, and emergency procedures for fire, evacuation, and natural disaster, as appropriate. Any site-specific hazard or colour coding in use should be thoroughly reviewed as part of orientation training.

Visitor Orientation

If visitors to the site, including vendors, can gain access to areas where hazardous conditions or substances may be present, a visitor orientation and control program should be established to ensure visitors do not enter hazard areas unescorted.

Visitors will always be accompanied by an authorized member of the Project Company or the KURA's representative who has successfully fulfilled the E&S orientation training, and who is familiar with the project site construction hazards, layout, and restricted working areas.

New Task Employee and Contractor Training

- The Project Company shall ensure that workers and contractors, prior to commencement of new assignments, have received adequate training and information enabling them to understand work hazards and to protect their health from hazardous ambient factors that may be present. The training should adequately cover the step by step process that is needed for Project activities to be undertaken safely, with minimum harm to the environment, and in accordance with the C-ESMP, including:
    - Knowledge of materials, equipment, and tools
    - Known hazards in the operations and how they are controlled
    - Potential risks to health
    - Precautions to prevent exposure
    - Hygiene requirements
    - Wearing and use of protective equipment and clothing
    - Appropriate response to operation extremes, incidents and accidents

2. Construction Site Management

Vegetation

The Project Company shall exercise care to preserve the natural landscape, most particularly by:

- conducting construction operations so as to prevent any unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the Works;
- protecting from damage by the Project Company's construction operations and equipment all trees and vegetation, except where clearing is required for permanent works, approved construction roads, or excavation operations;
- revegetating damaged areas on completion of the Works, and for areas that cannot be revegetated, scarifying the work area to a condition that will facilitate natural revegetation, provide for proper drainage, and prevent erosion;
- using, as much as possible, local species for replanting and species that are not listed as a noxious weed;
- repairing, replanting, reseeding or otherwise correcting, as directed by the KURA or its representative, and at the Project Company's own expense, all unnecessary destruction, scarring, damage, or defacing of the landscape resulting from the Project Company's operations.

The Project Company shall transport labour and equipment within the right of way and over routes provided for access to the work in a manner to avoid as much as possible damage to land and property.

Waste from Excavation and Earthworks

The Project Company shall:

- Collect and properly manage all solid wastes proceeding from the construction activities, to prevent the contamination of soil and groundwater.
- Carefully select waste disposal sites, to be approved by the KURA or its representative and the relevant authority.
- Remove unneeded excavation material from construction sites as soon as possible;

Air Quality

The most common pollutant involved in fugitive emissions is dust or particulate matter (PM). This is released during certain operations, such as transport and open storage of solid materials, and from exposed soil surfaces, including unpaved roads. Accordingly, the Project Company shall:

- Use dust control methods, such as covers, water suppression, or increased moisture content for open materials storage piles, or controls, including air extraction and treatment through a baghouse or cyclone for material handling sources, such as conveyors and bins;
- Use water suppression for control of loose materials on paved or unpaved road surfaces. Oil and oil by-products are not a recommended method to control road dust.
- Use wheel washes at quarries, ready-mix plants, construction sites, and other facilities to prevent track-out of mud, dust and dirt on to public road.
- Regularly clean road surfaces within the construction sites to remove accumulated fine material, and regularly clean transportation vehicles.
- Cover open bodied trucks handling sand, gravel or earth.
- Minimise smoke from diesel engines by regular and proper maintenance, in particular by ensuring that the engine, injection system and air cleaners are in good condition.

Hazardous and Toxic Waste

Toxic and deleterious wastes resulting from the Project Company's activities require special attention in order to forestall their introduction into the natural environment which could result in harm to people, aquatic life or natural growth of the area. The Project Company shall take precautions relative to the conditions specified herein.

- Providing adequate secondary containment for fuel storage tanks and for the temporary storage of other fluids such as lubricating oils and hydraulic fluids,
- Using impervious surfaces for refuelling areas and other fluid transfer areas
- Training workers on the correct transfer and handling of fuels and chemicals and the response to spills
- Providing portable spill containment and cleanup equipment on site and training in the equipment deployment

- Depositing or discharging toxic liquids, chemicals, fuels, lubricants and bitumen into containers for salvage or subsequent removal to off-site locations.
- Avoiding the storage or handling of toxic liquid adjacent to or draining into drainage facilities.
- Keeping absorbent materials or compounds on Site in sufficient quantities corresponding to the extent of possible spills.
- Locating landfill pits for the disposal of solid waste at least 100 m from water courses, and fencing them off from local populations.
- Ensuring adequate primary treatment of sanitation effluents and installing septic tanks away from village watering points.

Area Signage

- Hazardous areas should be marked appropriately.
- Signage should be in accordance with international standards and be well known to, and easily understood by workers, visitors and the general public as appropriate.
- Work sites should be demarcated

Labelling of Equipment

- All vessels that may contain substances that are hazardous as a result of chemical or toxicological properties, or temperature or pressure, should be labelled as to the contents and hazard, or appropriately colour coded.

Borrow Pits and Quarries

Materials required for site fill, backfill or the construction of permanent works that are not available from the surface will be obtained from borrow areas and quarries that the Project Company will identify, subject to approval by KURA.

The Project Company will adhere to the following standards when siting, developing, operating, and reinstating borrow pits and quarries:

- Obtain all necessary permits for borrow pits and quarry operations.
- Locate quarry sites as far away from settlements as possible. Quarry operations will produce noise and dust that will impact on nearby inhabitants even if controls are imposed.
- Fence and secure quarry sites. Steep quarry faces are a hazard to people and livestock.
- Locate borrow pits and quarries at least 100 m from watercourses or human habitations.
- Conduct a pre-blasting inspection/survey, in consultation with residents/property owners, prior to operating a quarry, to document the existing condition of buildings

and identify any sensitive structures, building components or contents. The site conditions and the inspection information should be used to design the blasting operation to avoid any effects to property.

- Locate, to the extent possible, borrow pits on land that is not used for cultivation and is not wooded.
- Avoid areas of local historical or cultural interest and pits should not be located within 25 m of grave sites.
- Hide, to the extent possible, pits from roads. Quarries and borrow pits should be designed to minimise visible scarring of the landscape.
- Develop a borrow pits and quarry management plan, including a plan to reinstate borrow pits and quarry sites as closely as possible to their original state

Location of Worker Camps

The C-ESMP will describe the process for siting Project camps. As part of this process, the Project Company will:

- Consult and negotiate with local stakeholders before proposing a location for its camps.
- Submit the proposed locations to KURA for approval, including a justification for their location, as well proposed measures to mitigate the environmental and social risks and impacts around the camp and to enhance social benefits.

Decommissioning of Camps, Worksites and Plant

The C-ESMP shall include a section on the decommissioning of the Project Company's camp(s), including the following measures:

- Clearing construction sites of any equipment or waste and ensuring that the sites are free from contamination.
- Disposing or recycling any equipment or waste in an appropriate and environmentally sound manner.
- Handing construction sites over to the original owners, taking into account his/her wishes and national legislation.
- Specifying hand-back requirements, such as arrangements for handover to the KURA or for other government use (e.g., for schools).

3. Occupational Health and Safety (OHS)

Severe Weather and Facility Shutdown

- Work place structures should be designed and constructed to withstand the expected elements for the region and have an area designated for safe refuge, if appropriate.
- Standard Operating Procedures (SOPs) should be developed for project or process shut-down, including an evacuation plan.

Lavatories and Showers

- Adequate lavatory facilities (toilets and washing areas) should be provided for the number of people expected to work at the construction sites and allowances made for segregated facilities, or for indicating whether the toilet facility is "In Use" or "Vacant". Toilet facilities should also be provided with adequate supplies of hot and cold running water, soap, and hand drying devices.
- Where workers may be exposed to substances poisonous by ingestion and skin contamination may occur, facilities for showering and changing into and out of street and work clothes should be provided.

Potable Water Supply

- Adequate supplies of potable drinking water should be provided from a fountain with an upward jet or with a sanitary means of collecting the water for the purposes of drinking
- Water supplied to areas of food preparation or for the purpose of personal hygiene (washing or bathing) should meet drinking water quality standards

Clean Eating Area

- Where there is potential for exposure to substances poisonous by ingestion, suitable arrangements are to be made for provision of clean eating areas where workers are not exposed to the hazardous or noxious substances

Personal Protective Equipment (PPE)

The Project Company shall:

- identify and provide appropriate PPE at no cost that offers adequate protection to its workers, and the workers of its subcontractor, as well as to KURA's staff or its representatives and visitors, without incurring unnecessary inconvenience to the individual
- ensure that the use of PPE is compulsory.
- provide sufficient training in the use, storage and maintenance of PPE to its employees;
- properly maintain PPE, including cleaning when dirty and replacement when damaged or worn out;
- determine requirements for standard and/or task-specific PPE based on of Job specific Safety Analysis (JSA);
- consider the use of PPE as a last resort when it comes to hazard control and prevention, and always refer to the hierarchy of hazard controls when planning a safety process.

Noise

The Project Company shall institute appropriate measures to mitigate the impact of construction noise to an acceptable level. Precautions to reduce the exposure of workers to noise should include but not be limited to:

- No employee should be exposed to a noise level greater than 85 dB(A) for a duration of more than 8 hours per day without hearing protection. In addition, no unprotected ear should be exposed to a peak sound pressure level (instantaneous) of more than 140 dB(C).
- The use of hearing protection should be enforced actively when the equivalent sound level over 8 hours reaches 85 dB(A), the peak sound levels reach 140 dB(C), or the average maximum sound level reaches 110 dB(A). Hearing protective devices provided should be capable of reducing sound levels at the ear to at least 85 dB(A).
- Although hearing protection is preferred for any period of noise exposure in excess of 85 dB(A), an equivalent level of protection can be obtained, but less easily managed, by limiting the duration of noise exposure. For every 3 dB(A) increase in sound levels, the 'allowed' exposure period or duration should be reduced by 50 percent.
- Periodic medical hearing checks should be performed on workers exposed to high noise levels.
- Rotating staff to limit individual exposure to high levels.
- Installing practical acoustical attenuation on construction equipment, such as mufflers. Silenced air compressors and power generators should be used, and all machinery should be kept in good condition. Exhaust silencing equipment should be installed on bulldozers, compactors, crane, dump trucks, excavators, graders, loaders, scrapers and shovels.
- Posting signs in all area where the sound pressure level exceeds 85 dB(A).
- Providing advance notice to occupants should be given if an activity involving high level impact noise is in close proximity to buildings.

First Aid and Accidents

The Project Company shall include the following measures in the C-ESMP:

- Ensuring that qualified first-aid by qualified personnel is always available. Appropriately equipped first-aid stations should be easily accessible throughout the place of work.
- Workers with rescue and first-aid duties should receive dedicated training so as not to inadvertently aggravate exposures and health hazards to themselves or their co-workers. Training would include the risks of becoming infected with blood–borne pathogens through contact with bodily fluids and tissue.
- Providing eye-wash stations and/or emergency showers close to all workstations where immediate flushing with water is the recommended first-aid response.
- Providing dedicated and appropriately equipped first- aid room(s) where the scale of work or the type of activity being carried out so requires, should be provided.

First aid stations and rooms should be equipped with gloves, gowns, and masks for protection against direct contact with blood and other body fluids.

- Making widely available written emergency procedures for dealing with cases of trauma or serious illness, including procedures for transferring patient care to an appropriate medical facility.
- Immediately reporting of all accidental occurrences with serious accident potential such as major equipment failures, contact with high-voltage lines, exposure to hazardous materials, slides, or cave-ins to KURA or designated representative.
- Immediately investigating any serious or fatal injury or disease caused by the progress of work by the Project Company, and submitting a comprehensive report to KURA or its designated representative.

Communicable Diseases

Sexually-transmitted diseases (STDs), such as HIV/AIDS, are the communicable diseases of most concern during the construction phase due to labour mobility. Recognizing that no single measure is likely to be effective in the long term, the Project Company shall include a combination of behavioural and environmental modifications to mitigate communicable diseases.

The Project Company shall include the following measures in the C-ESMP:

- Providing for active screening, diagnosis, counselling and referral of workers to a dedicated national STD and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labour.
- Conducting Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labour (including all the Project Company's employees, all sub-contractors of any tier and consultants' employees working on the Site, and truck drivers and crew making deliveries to the Site for Works and Services executed under the Contract, concerning the risks, dangers and impact, and appropriate avoidance behaviour with respect to of
- Providing male or female condoms to all Site staff and workers, as appropriate.
- Providing treatment through standard case management in on-site or community health care facilities.
- Ensuring ready access to medical treatment, confidentiality and appropriate care, particularly with respect to migrant workers.
- Promoting collaboration with local authorities to enhance access of workers families and the community to public health services and ensuring the immunization of workers against common and locally prevalent diseases.
- Providing basic education on the conditions that allow the spread of other diseases such as Lassa Fever, Cholera and Ebola. The training should cover sanitary hygiene education.
- Preventing illness in immediate local communities by:

- Implementing an information strategy to reinforce person-to-person counselling addressing systemic factors that can influence individual behaviour as well as promoting individual protection, and protecting others from infection, by encouraging condom use
- Training health workers in disease treatment
- Conducting immunization programs for workers in local communities to improve health and guard against infection
- Providing health services
- Contracting an HIV service provider to be available on-site

Vector-Borne Diseases

Reducing the impact of vector-borne disease on the long-term health of workers is best accomplished through implementation of diverse interventions aimed at eliminating the factors that lead to disease. The Project Company, in close collaboration with community health authorities, shall implement an integrated control strategy for mosquito and other arthropod-borne diseases that might involve:

- Prevention of larval and adult propagation through sanitary improvements and elimination of breeding habitats close to human settlements
- Elimination of unusable impounded water
- Increase in water velocity in natural and artificial channels
- Considering the application of residual insecticide to dormitory walls
- Implementation of integrated vector control programs
- Promoting use of repellents, clothing, netting, and other barriers to prevent insect bites
- Use of chemoprophylaxis drugs by non-immune workers and collaborating with public health officials to help eradicate disease reservoirs
- Monitoring and treatment of circulating and migrating populations to prevent disease reservoir spread
- Collaboration and exchange of in-kind services with other control programs in the project area to maximize beneficial effects
- Educating project personnel and area residents on risks, prevention, and available treatment
- Monitoring communities during high-risk seasons to detect and treat cases
- Distributing appropriate education materials
- Following safety guidelines for the storage, transport, and distribution of pesticides to minimize the potential for misuse, spills, and accidental human exposure

4. Road safety and Traffic Safety

The Project Company shall ensure traffic safety by all project personnel during displacement to and from the workplace, and during operation of project equipment on private or public roads. Accordingly, the Road Safety and Traffic Management Plan shall include:

- Adoption of best transport safety practices across all aspects of project operations with the goal of preventing traffic accidents and minimizing injuries suffered by project personnel and the public. Measures should include:
    - Emphasizing safety aspects among drivers
    - Improving driving skills and requiring licensing of drivers
    - Instituting defensive driving training for all drivers prior to starting their job
    - Adopting limits for trip duration and arranging driver rosters to avoid overtiredness
    - Avoiding dangerous routes and times of day to reduce the risk of accidents
    - Use of speed control devices (governors) on trucks, and remote monitoring of driver actions
    - Mandatory use of seat belts by drivers and co-passengers. Defaulters should be duly sanctioned.
- Regular maintenance of vehicles and use of manufacturer approved parts to minimize potentially serious accidents caused by equipment malfunction or premature failure.
- Where the project may contribute to a significant increase in traffic along existing roads, or where road transport is a significant component of a project, recommended measures include:
    - Minimizing pedestrian interaction with construction vehicles, particularly at crossing points to schools, markets, and any animal crossing points of significance, through appropriate signage, engineered footpaths or traffic slowing devices.
    - Organising meaningful road accident awareness events at all roadside schools and communities within 150 metres of the road centreline, covering safe road crossing, road accident hazards from weather conditions and vehicle roadworthiness, overloading and driver alertness, dangers posed by parked and broken-down vehicles, etc.
    - Collaborating with local communities and responsible authorities to improve signage, visibility and overall safety of roads, particularly along stretches located near schools or other locations where children may be present. Collaborating with local communities on education about traffic and pedestrian safety (e.g. school education campaigns).
    - Coordinating with emergency responders to ensure that appropriate first aid is provided to all affected persons in the event of accidents.
    - Using locally sourced materials, whenever possible, to minimize transport distances. Locating associated facilities such as worker camps close to project sites and arranging.

    - Employing safe traffic control measures, including road signs and flag persons to warn of dangerous conditions.

5. Chance Find Procedures

The Project Company shall develop a chance find procedure that outlines the actions to be taken if previously unknown cultural heritage is encountered during construction Works or maintenance. The chance find procedures will include:

- determination of whether cultural heritage is expected to be found, either during construction or operations
- record keeping and expert verification procedures
- chain of custody instructions for movable finds
- notification of national heritage institutions
- clear criteria for potential temporary work stoppages that could be required for rapid disposition of issues related to the finds.

6. Emergency Preparedness and Response

The Project Company will establish and maintain an emergency preparedness and response system, in collaboration with appropriate and relevant third parties.

The emergency response plan cover: (i) the contingencies that could affect personnel and facilities of the project to be financed, (ii) the need to protect the health and safety of project workers, and (iii) the need to protect the health and safety of the Affected Communities. More specifically it should include:

- Identification of the emergency scenarios
- Specific emergency response procedures
- Trained emergency response teams
- Emergency contacts and communication systems/protocols (including communication with Affected Communities when necessary)
- Procedures for interaction with government authorities (emergency, health, environmental authorities)
- Permanently stationed emergency equipment and facilities (e.g., first aid stations, firefighting equipment, spill response equipment, personal protection equipment for the emergency response teams)
- Protocols for the use of the emergency equipment and facilities
- Clear identification of evacuation routes and muster points
- Emergency drills and their periodicity based on assigned emergency levels or tiers
- Decontamination procedures and means to proceed with urgent remedial measures to contain, limit and reduce pollution within the physical boundaries of the project property and assets to the extent possible.

7. Stakeholder Engagement

The Project Company will be required to undertake a process of stakeholder engagement with representative persons and communities along the road/bridge, including the public disclosure of its C-ESMP. The Project Company shall also maintain throughout the Project good relations with local communities and will give these communities prior notice of plans and schedules as they might affect local people.

The stakeholder engagement process will also be applicable in the event of land acquisition associated with changes in the alignments and detour land requirements during construction and maintenance.

8. Labour Influx and Labour Force Management

Labour Influx

The Project Company shall include the following issues into the C-ESMP to limit labour influx:

- Establishing worker camps when accommodation supply is insufficient for workers, including sub-contractors and associated support staff;
- Locating worker camps away from environmentally sensitive areas to avoid impacts on the local wildlife;
- Building additional/separate roads to project and workers' camp sites;
- Organising the commute from camp to project to reduce traffic;
- Ensuring workers' camp and associated facilities are connected to a septic tank or other wastewater systems that are appropriate and of sufficient capacity for the number of workers and local conditions;
- Avoiding contamination of fresh water sources;
- Providing opportunities for workers to regularly return to their families;
- Providing opportunities for workers to take advantage of entertainment opportunities away from rural host communities;
- Ensuring that children and minors are not employed directly or indirectly on the project;
- Paying adequate salaries for workers to reduce incentive for theft;
- Paying salaries into workers' bank accounts rather than in cash;
- Getting an appropriate mix of locally and non- locally procured goods to allow local project benefits while reducing risk of crowding out of and price hikes for local consumers;
- Creating supervised leisure areas in workers' camp;
- Establishing substance abuse prevention and management programs;
- Hiring workers through recruitment offices, and avoid hiring "at the gate" to discourage spontaneous influx of job seekers;
- Identifying authorized water supply source and prohibiting use from other community sources;
- Separating service providers for community and workers' camp/construction site;

- Putting in place measures to reduce water and electricity consumption;
- Employing locals to the extent possible;
- Developing and adopting a Gender Action Plan to promote the transfer of construction skills to local women, to facilitate their employment at the Project site, including training and recruitment targets.

Grievance Mechanism for Workers

The Project Company will put in place a Grievance Mechanism for their workers and the workers of their subcontractors that is proportionate to their workforce, according to the following principles. This GRM will be distinct from the Project level Grievance Mechanism, and shall adhere to the following principles:

- *Provision of information.* All workers should be informed about the grievance mechanism at the time they are hired, and details about how it operates should be easily available, for example, included in worker documentation or on notice boards.
- *Transparency of the process.* Workers must know to whom they can turn in the event of a grievance and the support and sources of advice that are available to them. All line and senior managers must be familiar with their organization's grievance procedure.
- *Keeping it up to date.* The process should be regularly reviewed and kept up to date, for example, by referencing any new statutory guidelines, changes in contracts or representation.
- *Confidentiality.* The process should ensure that a complaint is dealt with confidentially. While procedures may specify that complaints should first be made to the workers' line manager, there should also be the option of raising a grievance first with an alternative manager, for example, a human resource (personnel) manager.
- *Non-retribution.* Procedures should guarantee that any worker raising a complaint will not be subject to any reprisal.
- *Reasonable timescales*. Procedures should allow for time to investigate grievances fully, but should aim for swift resolutions. The longer a grievance is allowed to continue, the harder it can be for both sides to get back to normal afterwards. Time limits should be set for each stage of the process, for example, a maximum time between a grievance being raised and the setting up of a meeting to investigate it.
- *Right of appeal.* A worker should have the right to appeal to the World Bank or national courts if he or she is not happy with the initial finding.
- *Right to be accompanied*. In any meetings or hearings, the worker should have the right to be accompanied by a colleague, friend or union representative.

- *Keeping records.* Written records should be kept at all stages. The initial complaint should be in writing if possible, along with the response, notes of any meetings and the findings and the reasons for the findings. Any records on SEA shall be registered separately and under the strictest confidentiality.
- *Relationship with collective agreements.* Grievance procedures should be consistent with any collective agreements.
- *Relationship with regulation*. Grievance processes should be compliant with the national employment code.

9. Code of Conduct

The Project Company will be responsible for the behaviour of its employees and their behaviour in contact with the public and in villages where they are lodged. Accordingly, the Project Company will: (i) develop a Code of Conduct as part of the C-ESMP that incorporates the core requirements; (ii) require all of its employees and the employees of its subcontractors to sign the Code of Conduct, and; (iii) proactively address any breach to the code of conduct. The code of conduct will include the following measures:

- mandatory and regular training for workers on required lawful conduct in host community and legal consequences for failure to comply with laws;
- the preparation of a SEA/SH action plan, including a response and accountability framework, in association with a specialised non-governmental organisation.
- culturally sensitive education training campaigns for Project Company staff (foreign and Kenyan) and for the staff of contractors regarding engagement with local communities, including positive examples of behaviour towards local populations.
- the summary dismissal of employees having inappropriate relations with children under the age of 18 (eighteen);
- the definition of sanction for engagement in SEA/SH in the workplace taking into account local legislation
- the investigation and sanction of any exploitative conduct against women or children with the support of a local NGO, and following the wishes of the survivor (to note, no data collection on prevalence of SEA/SH shall be collected).
- awareness campaigns and mitigation training on sexual exploitation and abuse SEA/SH;
- cooperation with law enforcement agencies in investigating complaints about SEA/SH;
- reporting of SEA/SH instances and responses, in monthly and quarterly reports in accordance with Appendix 13 (Reports) of the Contract Agreement.

- a confidential reporting system for any systematic abuse through channels such as the staff nurse, identified service providers, the grievance mechanism or, as necessary, appeal to the KURA;
- the investigation and sanction of any harassment or abuse of Project staff or local persons, by Project Company Managers and staff, as well as subcontractors of any tier.
- the dismissal for workers involved in criminal activities;
- sanctions for drunkenness, particularly among drivers
- sanctions for speeding, inconsiderate and risky driving, which endangers pedestrians, local roadside communities, and other road users;
- penalties for littering by Project Company and subcontractor staff, as well as inappropriate dumping of waste materials;
- a ban on the use of bush meat to feed workers
- non-discriminatory treatment of security staff whether local or directly hired outside of Kenya.
- provision of information regarding Worker Code of Conduct in local language(s);