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SECOND PROGRAM FOR STRENGTHENING GOVERNANCE FOR ENABLING SERVICE DELIVERY AND PUBLIC INVESTMENT IN KENYA

(GESDEK II) (P180287)

DRAFT

ENVIRONMENTAL AND SOCIAL SYSTEM ASSESSMENT (ESSA)

September 2023

TABLE OF CONTENTS

LIST OF TABLES

List of Acronyms

APA	Annual Performance Assessments
ASALs	Arid and Semi-Arid Lands
CAT	Capacity Assessment Tool
CoK	Constitution of Kenya
COVID-19	Corona Virus Disease
CPF	Country Partnership Framework
CVA	Credible Verification Agent
DA	Designated Account
DLI	Disbursement Linked Indicator
DLR	Disbursement Linked Result
DOSHS	Directorate of Occupational Safety and Health Services
DPO	Development Policy Operation
e-GP	electronic Government Procurement
E&S	Environment and Social
EIA/EA	Environmental Impact Assessment/Environmental Audit
EMCA	Environmental Management and Coordination Act
ESF	Environment and Social Framework
EHS	Environmental Health and Safety
ESHS	Environment Social Health and Safety
ESHSM	Environment Social Health and Safety Management
ESIA	Environment and Social Impact Assessment
ESMP	Environment and Social Management Plans
ESSA	Environment and Social System Assessment
FGDs	Focus Group Discussions
FLLoCA	Financing Locally Led Climate Action Program
FY	Financial Year
GBV	Gender Based Violence
GDP	Gross Domestic Product
GPOBA	Global Partnership on Output Based Aid
GoK	Government of Kenya
GRM	Grievance Redress Mechanism
HDI	Human Development Index
HCF	Health Care Facilities
HIV/AIDs	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
IA	Implementing Agency (ies)
IGRA	Intergovernmental Relations Act
IP	Indigenous People
IPF	Investment Project Financing
IT	Information Technology
IVA	Independent Verification Agency
KDEAP	Kenya Digital Economy Acceleration Project
KDSP II	Second Devolution Support Program
LAR	Land Acquisition and Resettlement
M&E	Monitoring and Evaluation
MC	Minimum Condition

MDAs	Ministries, Departments and Agencies
NACOSH	National Advisory Committee on Occupational Safety and Health
NCA	National Construction Authority
NCCRS	National Climate Change Response Strategy
NCPWD	National Council for Persons with Disability
NECC	National Environmental Complaints Committee
NEMA	National Environmental Management Authority
NT	National Treasury
MAC	Minimum Access Conditions
M&E	Monitoring and Evaluation
MoLPP	Ministry of Land and Physical Planning
OCCR	Operation Cost Coverage Ration
OD	Open Defecation
OHS	Occupational Health and Safety
DOSHS	Directorate of Occupational Health and Safety Services
OSHA	Occupational Health and Safety Act
O&M	Operation and Maintenance
PAP	Program Action Plan
PCR	Physical Cultural Resources
PDO	Program Development Objective
PforR	Program-for-Results
PFMRS	Public Financial Management Reform Secretariat
PIMIS	Public Investment Management Information System
PIU	Program implementing Unit
PLUPA	Physical and Land Use Planning Act
PLWD	Persons Living with Disability
PMU	Programme Management Unit
POM	Program Operation Manual
PIP	Project Implementation Plan
PIAP	Performance Improvement Actions Plan (s)
PS	Performance Standard
PTC	Program Technical Committee
PWD	Persons With Disability
QER	Quality Enhancement Review
RAs	Result Area (s)
RAP	Resettlement Action Plan
SDD	State Department of Devolution
SDG	Sustainable Development Goals
SEA/SH	Sexual Exploitation and Abuse
SH	Sexual Harassment
SEP	Stakeholder Engagement Plan
SoE	Statement of Expenditure
SOP	Standard Operating Procedure
SRM	Social Risk Management
STD	Sexually Transmitted Disease
TA	Technical Assistance
ToRs	Terms of Reference

ToT	Training of Trainers
UHR	Unified Human Resources
UMIC	Upper Middle-Income Country
VMG	Vulnerable and Marginalized Group (s)
WB	World Bank
WIBA	Work Injury Benefits Act

ToT	Training of Trainers
UHR	Unified Human Resources

Executive Summary

Introduction

The proposed Program will support Objectives 1 and 2 of the new Country Partnership Framework (CPF), which are "boosting Kenya's fiscal and debt sustainability" and "improving public expenditure transparency and effectiveness." The proposed Program will contribute towards achieving these objectives through incentivizing the formulation and implementation of government reforms regarding enhancing revenue mobilization, Public Financial Management (PFM) accountability, coordination and performance orientation of service delivery, and transparency and oversight. The proposed Program will complement the Fiscal Sustainability and Inclusive Green Growth (FIGG) Development Policy Operation (DPO) by supporting the implementation mechanisms of selected legal and policy actions from the DPO. The Program will further be aligned with the proposed Second Devolution Support Program (KDSP II) Program-for-Results (PforR), which will strengthen institutional performance and management of resources for improved service delivery at the county government level. The improvements in back-office Information Technology (IT) systems underpinning the reform areas that the Proposed program will incentivize will be coordinated closely with the efforts to strengthen interoperability and digitization of government services supported under the new Kenya Digital Economy Acceleration Project (KDEAP).

GESDeK II is nested in the **National Public Financial Management (PFM) Reform Strategy (2023-2028) and the Public Sector Transformation Strategy (2023-2028).** The National Public Financial Management Reform Strategy (2023-2028) promotes transparency, accountability, equity, fiscal discipline and efficiency in the management and use of public resources for improved service delivery and economic development. Whereas the Public Sector Transformation Strategy (2023-2028) seeks to create an efficient and effective public service with moral and ethical values and ethical standards.

PforR Program Scope

GESDeK II will support the implementation of the selected dimensions of the new National Public Financial Management (PFM) Reform Strategy for the 2023-2028 under the Government's ongoing PFM Reform Program. The PFM Reform Program and the PFM Reform Strategy have national coverage and apply to all Government entities including Ministries, Counties, Departments, and Agencies (MCDAs). Among the key result areas (KRAs) anticipated under the new PFM Reform Strategy, GESDeK II will specifically support the KRAs regarding: (i) enhancing revenue mobilization, (ii) strengthening the efficiency and accountability of public spending, (iii) improving the implementation of priority programs and projects, and (iv) promoting audit and external oversight. These priorities were selected in consultation with the Government based on their expected high strategic and systemic impacts on the ability of the national government entities to plan, implement, and monitor the progress of development priorities. While the scope of the Government's PFM Reform Program and the PFM Reform Strategy includes the counties, including in matters pertaining to the achievement of the KRAs selected for support under GESDeK II mentioned above, GESDeK II will maintain its focus on the national level considering (a) the selectivity that the operation is exercising regarding supporting initiatives that will have systemic impact across the public sector and (b) there is another PforR operation (KDSP II) that will be supporting PFM outcomes at the county level.

Program Development Objective (PDO)

The PDO is "to enhance revenue mobilization and deepen the efficiency, accountability, and transparency in public finance management at the national government level."

The progress towards the achievement of the Program Development Objective (PDO) will be measured through the following indicators:
    (a) VAT compliance gap is reduced.
    (b) Predictability and control in budget execution is improved.
    (c) Management of assets and liabilities is improved and responsive to climate risk.
    (d) Implementation performance of priority programs and projects are monitored and made public.

(e) Audit recommendations regarding procurement, payroll, and public investment are implemented and monitored.

GESDEK II interventions are aligned under four **Result Areas (RAs):**

1. **Result Area 1: Enhancing Revenue Mobilization.** RA 1 will support core aspects of the Government's revenue mobilization agenda. The associated DLI is "VAT compliance gap is reduced." The adoption of the National Tax Policy is the Prior Result under this RA, given the measures in the policy to bring more clarity to the principles and processes governing VAT exemptions, a major contributor to tax expenditures. The Program will also support the operationalization of the provisions of the National Tax Policy regarding the automation of the tax exemption process, which is expected to enhance the efficiency and transparency of the approval of tax exemptions and lead to a potential reduction in tax expenditures. Under this RA, the Program will also support the finalization and adoption of the Medium-Term Revenue Strategy. The rest of the DLRs in this RA will center on reforms regarding enhancing the efficiency and accountability of the collection systems for VAT and non-tax revenue. These two revenue categories have shown rapid growth in recent years and demonstrate significant revenue mobilization potential.

2. **Result Area 2: Strengthening the Efficiency and Accountability of Public Spending.** RA 2 will support efforts to strengthen the efficiency and accountability of public spending. The associated DLIs are "Predictability and control in budget execution is improved" and '' Management of assets and liabilities is improved and responsive to climate risk.'' This RA will institutionalize some of the key reforms initiated under GESDeK. GESDeK II exercises selectivity regarding the reform areas that it will support under this RA by focusing on strategic measures that are expected to have the highest impact on efficiency and accountability in the largest spending categories. These are: (i) development (public investment) spending, (ii) public procurement spending, and (iii) the wage bill. In this vein, the Program will support through its DLRs the adoption of the automated systems underpinning the management of these spending categories across the national government – namely, 100% roll-out of Public Investment Management Information System (PIMIS), electronic Government Procurement (e-GP), and the Unified Human Resources (UHR) information system. Additionally, this RA will support ongoing efforts to strengthen the monitoring of the financial performance of State-Owned Enterprises, especially those posing the highest fiscal risk to the Government. This dimension further supports the implementation of the DPO Prior Action regarding the SOE privatization agenda considering the importance of information regarding fiscal risk and financial performance in making divestiture decisions. Furthermore, in view of the Government's objective to position Kenya as a regional leader in green growth, the development of a sustainable procurement framework and guidelines for climate-smart public investment management (PIM) will be a Prior Result under RA 2, followed by the implementation of this framework and the guidelines through associated DLRs during Program implementation.

3. **Result Area 3: Improving the Implementation of Priority Programs and Projects.** RA 3 will support efforts to improve the implementation of priority programs and projects. The associated DLI is "Implementation performance of priority programs and projects are monitored and made public." The reform initiatives that the Program will support in this RA will be anchored in the National Government Coordination Act of 2013. As a Prior Result, the Program will support the development and approval of associated guidelines outlining the institutional arrangements and processes to operationalize the Act. Associated DLRs in the outer years will support the implementation of these guidelines. Specifically, the DLRs will gauge the extent to which the institutions responsible for government coordination identify, recommend solutions for, and monitor the resolution of regulatory, policy, and institutional mandate gaps and inconsistencies impacting the implementation of the Government's legislative agenda. Deepening the scope of the reforms in this area to the program and project level, the Program will support through associated DLRs the coordination and monitoring of the performance of priority government programs and projects. This will include incentivizing the recommendation and sanctioning of remedial measures for stalled or underperforming programs and projects, as well as the external audit of the performance of selected priority programs and projects.

4. **Result Area 4: Promoting Audit and External Oversight.** The associated DLI is "Audit recommendations regarding procurement, payroll, and public investment are implemented and monitored." The DLRs in this RA will build on the success achieved under GESDeK regarding the timely completion and publishing of

public sector audits by the Office of the Auditor General (OAG). Specifically, the DLRs will center on (i) enabling the systematic monitoring of the implementation of audit recommendations issued by Parliament, (ii) ensuring government entities implement these recommendations, and (iii) institutionalizing a culture and practice of performance audits at the OAG that complements its successful track record with financial audits. In facilitating the implementation of the audit recommendations by the affected MDAs, the Program will exercise selectivity by focusing on the monitoring and implementation of audit recommendations concerning the largest spending categories that RA 2 addresses (i.e., procurement, payroll, and public investment spending.) The special audits that the Program will incentivize the OAG to conduct under this RA include performance audits of the core government systems that the Program will support under the other RAs (i.e., PIMIS, e-GP, UHR, GIMIS, and the government digital payment platform), as well as a performance audit of climate-related expenditures in the final year of Program implementation.

Implementation and Institutional Arrangements

The National Treasury (NT) will represent the Government as the lead implementing agency charged with the responsibility of providing overall strategic guidance to the Program. The other four implementing agencies are: (i) Office of the Prime Cabinet Secretary (OPCS); (ii) Kenya Revenue Authority (KRA); (iii) State Department for Public Service (SDPS) within the Ministry of Public Service, Gender, and Affirmative Action; and (iv) Office of Auditor General (OAG). GESDeK II is proposed to be operationalized for a five-year (2023-2028) duration, with geographical coverage limited to the national level.

Environmental and Social System Assessment (ESSA) Scope and Methodology

The World Bank (WB) undertook the ESSA to review the extent to which the Borrower's systems for Environmental, Social, Health, and Safety (ESHS) risk management are consistent with the six core principles and key planning elements of the Bank Policy and Directive for PforR financing. The six core principles and planning elements are considered to ensure that PforR operations are designed and implemented to maximize potential ESHS benefits while avoiding, minimizing, or mitigating adverse risks and promoting the E&S sustainability of the Program. In this regard, the WB team conducted a consultative ESSA with relevant stakeholders to evaluate the adequacy of the Borrower's systems and capacities for ESHS management related to Program interventions. Essentially, the ESSA entailed:

a. Reviewing the nature and significance of the Program's ESHS effects, including indirect, induced, and cumulative impacts;
b. Assessing the adequacy of the Borrower's systems and capacity for effective management of the ESHS risks including determining if the system is applied as written;
c. Determining the effectiveness of the Grievance Redress Mechanism (GRM) to receive, record, resolve, and follow up on complaints or grievances received;
d. Formulating measures to enhance the effectiveness of the ESHS management systems and the outcomes for inclusion in the overall Program Action Plan (PAP).

In conducting the ESSA, the Bank applied several approaches including:

a. **Screening** of the Program, activities were undertaken during the concept stage to identify potential ESHS effects of the Program and to confirm that no activities that meet the defined exclusion criteria are included in the PforR. The screening was also to identify potential ESHS effects of the Program which may not meet the Policy's criteria for exclusion but potentially pose unacceptable adverse risks that are considered to likely have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people and thus not eligible for PforR financing.

b. **Comprehensive desk review of relevant country policies, legal, regulatory, and institutional frameworks, and Program documents that address ESHS aspects relevant to the Program:** This entailed the review of:
   i. The applicable national and institutional systems and capacities for ESHS management
   ii. Program documents, such as Program Concept Note, Program Appraisal Document;

    iii.   Recent ESSA reports for other PforRs such as the GESDeK 1, Kenya Urban Support Program (KUSP) 1&2, Kenya Devolution Support Program (KDSP 1), Financing Locally Led Climate Action (FLLoCA), Kenya Water Sanitation and Hygiene Program (WASH), Kenya Green and Resilient Expansion of Sustainable Access to Electricity Program (GREEN) among others.

    c.   **System, Institutional, and Capacity Assessments** conducted through consultations with national stakeholders to consider the applicability of country systems as written versus in practice for ESHS effects management and consistency with the six 'core PforR principles.' The consultations further assessed the capacity of the Implementing Agencies (IAs) to provide sufficient financial resources, avail competent and adequate staff for effective management of ESHS risks, as well as to get their views and perceptions of what they consider capacity gaps. The consultation process was guided by the ESSA questionnaire and the Capacity Assessment Tool developed by the World Bank in line with the PforR policy. Consultations to assess the capacity of implementing agencies were held with the (i) National Treasury (NT), Office of the Auditor General (OAG), Kenya Revenue Authority (KRA), and the State Department for Public Service (SDPS), on 4th August 2023; while the ESSA engagements with the (ii) NT, OAG, KRA, SDPS, Institute of Social Accountability (TISA), Hunters and Gatherers Forum (HUGAFO)-Kenya representing minority Vulnerable and Marginalized Groups (VMGs) in Kenya, Directorate for Social Development, were held at the World Bank, on 10th August 2023. The detailed list of stakeholders consulted at the national level is presented in Annex 1.

ESSA validation and disclosure workshop: In line with the World Bank Policy for PforR financing and the World Bank's Access to Information Policy, the draft ESSA findings will be presented to stakeholders through a workshop in October 2023. Based on their feedback, the draft ESSA will be revised, approved, and the final ESSA report publicly disclosed in-country on the NT website and the World Bank's external website prior to Board approval.

Scope of the Program: The Program under the Results Areas (RAs) will mainly support, among others, the rolling out of e-Government services that might require an upgrade of IT infrastructure, including the setup of data servers and computers for data collection, analysis, and management, tax administration measures and the consolidation of payroll management. The Program will not support large-scale civil works or fund activities involving high or substantial environmental or social risks. The overall objective of the Program is to make the PFM system in Kenya more efficient, inclusive, and transparent, including guidelines for sustainable procurement and climate-smart public investment management (PIM). The new National PFM Reform Strategy will incentivize the institutionalization of reforms regarding revenue mobilization, expenditure efficiency, accountability, government coordination, and external oversight, among other priority themes.

Program Risk Rating: The overall E&S risk of the Program is assessed as 'Low.' The Program will not support civil works or any policy, plans, or strategies with potential adverse E&S risks and impacts. The anticipated E&S risks are low or negligible, and the Program provides an opportunity to promote positive E&S outcomes. The main environmental risks relate to installing and/or upgrading data servers and acquiring hardware to host the IT systems the Program intends to support. Social risks include inadequate public participation processes regarding the proposed tax measures and the subsequent exclusion of, e.g., Vulnerable and Marginalized Groups (VMGs) and other disadvantaged groups; insufficient application of data protection and security provisions on personal data; inaccessibility of individuals and businesses to automated services, e.g., e-TIMS due to digital illiteracy, lack of smart-phones, poor electricity and internet connectivity, and the ineffective grievance management at the institutional level. The E&S risks and impacts are site-specific and mitigable through adherence to the requirements of the national laws, oversight of implementing institutions, and enforcement of good E&S management considerations.

Benefits for the Program: The Program interventions have overall significant positive E&S impacts. The design of the Program provides a window to prepare guidelines for Ministries, Departments, and Agencies (MDAs) to manage E&S risks and impacts and create opportunities to promote positive E&S outcomes in the public

investment cycle. The Program will also mitigate the negative effects of climate change through GHG emissions reduction and enhance the country's adaptation, resilience, and mitigation capacity, strengthening country and institutional mechanisms for grievance management and social accountability.

Environmental Risks: The potential negative environmental impacts are likely typically related and limited to the installation of electronic equipment and are generally work site-specific. They include (i) improper and indiscriminate disposal of E-waste that may result in soil and water contamination through the release of heavy metals (lead, arsenic, and cadmium); (ii)Air pollution by the release of hydrocarbons in the atmosphere through melting of materials if not properly managed, (iii) oil spills during installation works and from Transformer and backup generator equipment, (iv) cooling equipment may contain refrigerants (potential Ozone Depleting Substances [ODSs]), and (v) occupational health and safety incidents through injuries or accidents to the workers at installation sites and/or managing/maintaining IT equipment and infrastructure.

Social Risks: Social risks include inadequate public participation processes for the proposed tax measures and the subsequent exclusion of, e.g., Vulnerable and Marginalized Groups (VMGs) and other disadvantaged groups; insufficient application of data protection and security provisions on personal data; inaccessibility of individuals and businesses to automated services, e.g., e-Tims due to digital illiteracy, lack of smart-phones, poor electricity and internet connectivity, and the ineffective grievance management at the institutional level.

ESSA Recommendations

To mitigate the identified E&S risks and impacts, Program interventions were screened to exclude activities that would result in high and significant negative E&S risks and impacts that are irreversible or unprecedented on the environment and/or affected people. In addition, the ESSA has recommended the following to the Program Action Plan.

i. **Enhance capacity to manage E&S risks and impacts.** The NT shall appoint (or second) an E&S focal point to support stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance resolution, protection of personal data and e-waste management under the program.

ii. **Develop and implement an Electronic Waste Management Plan to guide in the screening and management of electronic waste expected to be generated from the interventions.** The Program will incorporate e-waste management strategies at the preliminary stages of the planning process, including allocating adequate resources (especially financial) to enhance proper disposal of e-waste generated from the Program. The Program will also incorporate e-waste management clauses in the bidding and contract documents, including requirements of the suppliers to provide proposed strategies for e-waste management.

iii. **Enhance E&S risks and impacts management under the Program in line with the applicable legislative and institutional frameworks.** The Program will include in the Program Operations Manual (POM) protocols on stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance management, protection of personal data, and E&S risk monitoring and verification.

iv. **Incorporate in the new National Public Finance Management Reform (PFMR) Strategy and Public Investment Management (PIM) guidelines, the requirement, and procedures for MDAs to manage E&S risks in the PFM and PIM cycle, and to promote positive E&S outcomes**. The Program will (i) mainstream climate and disaster risk management principles into the PFRM strategy and PIM; (ii) institutionalize data protection and security provisions; and (iii) embed public participation and citizen engagement in the formulation, implementation, and monitoring of the interventions supported under the Program. These measures will enhance Government's capacity to mitigate E&S risks and impacts beyond the Program.

The ESSA recommends the following Action Plan to enhance management of ESHS risks in the proposed program for inclusion in the overall Program Action Plan (PAP).

Table 0-1: Program Action Plan (PAP)

No.	Action Description	RA / DLI	Responsibility	Timing	Expected Output/Verification
1.	**Staffing for monitoring E&S implementation and Performance** -Secondment of a **qualified environmental and social focal point** within the NT PCT	All RAs	NT	Before Program effectiveness.	• Qualified and experienced staff assigned to PCT and confirmed annually through APA.
2.	**Enhance E&S risks and impacts management under the Program** in line with the applicable legislative and institutional frameworks. -An E&S Action Plan incorporated into the POM that outlines all E&S safeguards protocols including: (i) stakeholder engagement and inclusion of VMGs and other disadvantaged groups, (ii) grievance management, (iii) protection of personal data, and (iv)E&S risk verification and monitoring.	ALL RAs	NT	Before Program effectiveness.	• POM to include all the protocols. • Confirmed annually through APA. • Audit report from the OAG confirming strategies put in place by the implementing agencies.
3.	**Managing/enhancing E&S aspects in the PFMR and PIM cycle.** -Incorporate in the new National PFM Reform Strategy (2023-2028) and PIM guidelines the requirement and procedures on climate change risks, E&S risks management and enhancement of positive outcomes in the public investment cycle.	All RAs	NT	Within 1 year after Program effectiveness.	• Climate change and E&S Guidelines incorporated in the new National PFM Strategy.
4.	**Management of Electronic waste** -Develop an Electronic Waste (E-waste) Management Plan.	ALL DLIs	NT	Condition of Program effectiveness.	• E-Waste Management Plan.

1 PROGRAM DESCRIPTION

1.1 Background

1.   The proposed Program will support Objectives 1 and 2 of the new Country Partnership Framework (CPF), which are "boosting Kenya's fiscal and debt sustainability" and "improving public expenditure transparency and effectiveness." The proposed Program will contribute towards achieving these objectives through incentivizing the formulation and implementation of government reforms regarding enhancing revenue mobilization, PFM accountability, coordination and performance orientation of service delivery, and transparency and oversight. The proposed Program will complement the Fiscal Sustainability and Inclusive Green Growth (FIGG) Development Policy Operation (DPO) by supporting the implementation mechanisms of selected legal and policy actions from the DPO. The Program will further be aligned with the proposed County Governance and Performance Program (CGPP) PforR, which will strengthen institutional performance and management of resources for improved service delivery at the county government level. The improvements in back-office IT systems underpinning the reform areas that the Proposed program will incentivize will be coordinated closely with the efforts to strengthen interoperability and digitization of government services supported under the new Kenya Digital Economy Acceleration Project (KDEAP).

2.   GESDeK II is nested in the **National PFM Reform Strategy (2023-2028) and the Public Sector Transformation Strategy (2023-2028).** The National PFM Reform Strategy (2023-2028) is a PFM system that promotes transparency, accountability, equity, fiscal discipline and efficiency in the management and use of public resources for improved service delivery and economic development. Whereas the Public Sector Transformation Strategy (2023-2028) seeks to create an efficient and effective public service with moral and ethical values and ethical standards.

3.   The proposed national level Program will seek to enhance revenue mobilization and improve efficiency, transparency, and accountability in the use of public resources at the national government level.

1.2 PforR Program Scope

4.   **The proposed Program will support two programs that constitute the cornerstones of the Government's public sector reform agenda.** These are the National PFM Reform Strategy for the period 2023-2028 and the Public Sector Transformation Strategy for the period 2023-2028.[1] These strategies expand the coverage and deepen ongoing PFM and public sector reforms to align them with the ambitions of the new administration. They are currently under preparation by the Government with advisory support from the Bank and expected to be completed and adopted in June 2023. The preparation of the proposed Program is aligned with the finalization of these strategies, as will be reflected in the Program Document. Consultations with the Government during GESDeK supervision missions and the identification mission for the proposed Program have yielded four key Result Areas aligned with the draft strategies under preparation: (1) enhancing revenue mobilization, (2) strengthening PFM accountability, (3) improving government coordination, and (4) promoting external oversight.

5.   **Following the GESDeK approach, GESDeK II will support results at the national government level**. The Program will center on the wholesale roll-out and institutionalization of the systems introduced under GESDeK across the national government. It will also introduce new areas of engagement that represent priorities for the development agenda of the Government, such as strengthening (i) tax administration systems to mobilize revenue, (ii) government coordination and performance management mechanisms to improve the implementation of priority programs and projects, and (iii) the implementation of external audit recommendations issued by Parliament. Conversely, the strengthening of PFM and other systems of service delivery at the county-government level forms part of a separate Program, the KDSP II. The implementation of

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[1] Several Institutional Strategic Plans are feeding into these strategies, including the Office of the Auditor General Strategic Plan, the Kenya Medium-Term Revenue Strategy, and the KOPCS Strategic Plan.

both Programs will be fully coordinated to exploit synergies, while at the same time ensuring that the distinct complexities at each level of government have dedicated support.

6.   The WB will support the proposed Operation through a Program for Results (PforR) instrument. The PforR financing instrument is aligned with Kenya's goal of achieving Upper Middle-Income Country (UMIC) status as it promotes government ownership and action, with a focus on achieving results whilst strengthening institutions. GESDeK is closing in December 2023 having achieved most of the anticipated results and disbursed the associated funds. The Government has a robust results-oriented PFM reform agenda and program, for which adequate resources are routinely allocated from the national budget, mitigating the need for Investment Project Financing. Maintaining the same financing instrument used under GESDeK further allows the Government to leverage the strong implementation and performance monitoring structure established under the National PFM Reform Strategy and strengthened under GESDeK. The Public Financial Management Reform Secretariat (PFMRS) at the NT has served as the platform for deepening the result-orientation of reforms across MDAs by coordinating the achievement of the Disbursement-Linked Indicators (DLIs) and Disbursement-Linked Results (DLRs) introduced under GESDeK. The PFMRS will continue to perform this function under GESDeK II.

7.   The WB has experience in implementing PforR Operations in Kenya. The GESDeK has incentivized participating Ministries, Departments and Agencies (MDAs) to implement the provisions of the PFM Act, 2012 and the National PFM Reform Strategy for 2018-2023. Highlights of the achievements expected by the closing date of GESDeK in December 2023 include: (i) a fully functional e-GP system; (ii) an automated cash management system integrated into the Integrated Financial Management Information System (IFMIS); (iii) a regulatory framework that rationalizes the design, appraisal, and supervision of public investment projects and an IT system that facilitates the implementation of the regulatory framework; (iv) a Human Resource information management system that consolidates public sector payroll data and management; (v) a digital platform that facilitates the production, review, and disclosure of public sector consolidated financial reports; (vi) an information management system facilitating financial and fiscal risk management in State Corporations (SCs); and a (vii) reengineered eCitizen portal that enables citizens and businesses to conduct and pay for 600+ types of transactions with the public sector online. Thanks to the progress achieved under GESDeK, the Office of the Auditor (OAG) has been able to complete its audits of the public sector and submit them to Parliament on time, as well as perform a special audit of COVID-19-related expenditures at the national and county levels, revealing important findings which triggered parliamentary and public scrutiny.

1.3   Program Development Objective(s) (PDO) and PDO Level Results Indicators

8.   The PDO is to enhance revenue mobilization and improve efficiency, transparency, and accountability in the use of public resources at the national government level.

9.   The progress towards the achievement of the Program Development Objectives (PDO) will be measured through the following indicators:

- VAT compliance gap is reduced.
- Predictability and control in budget execution is improved.
- Management of assets and liabilities is improved and responsive to climate risk.
- Implementation performance of priority programs and projects are monitored and made public.
- Audit recommendations regarding procurement, payroll, and public investment are implemented and monitored.

10.   GESDeK II interventions are aligned under four **Result Areas (RAs)**:
   1. **Result Area 1: Enhancing Revenue Mobilization.** RA 1 will support core aspects of the Government's revenue mobilization agenda. The associated DLI is "VAT compliance gap is reduced." The adoption of the National Tax Policy is the Prior Result under this RA, given the measures in the policy to bring more clarity

to the principles and processes governing VAT exemptions, a major contributor to tax expenditures. The Program will also support the operationalization of the provisions of the National Tax Policy regarding the automation of the tax exemption process, which is expected to enhance the efficiency and transparency of the approval of tax exemptions and lead to a potential reduction in tax expenditures. Under this RA, the Program will also support the finalization and adoption of the Medium-Term Revenue Strategy. The rest of the DLRs in this RA will center on reforms regarding enhancing the efficiency and accountability of the collection systems for VAT and non-tax revenue. These two revenue categories have shown rapid growth in recent years and demonstrate significant revenue mobilization potential.

2. **Result Area 2: Strengthening the Efficiency and Accountability of Public Spending.** RA 2 will support efforts to strengthen the efficiency and accountability of public spending. The associated DLIs are "Predictability and control in budget execution is improved" and ''Management of assets and liabilities is improved and responsive to climate risk.'' This RA will institutionalize some of the key reforms initiated under GESDeK. GESDeK II exercises selectivity regarding the reform areas that it will support under this RA by focusing on strategic measures that are expected to have the highest impact on efficiency and accountability in the largest spending categories. These are: (i) development (public investment) spending, (ii) public procurement spending, and (iii) the wage bill. In this vein, the Program will support through its DLRs the adoption of the automated systems underpinning the management of these spending categories across the national government – namely, 100% roll-out of Public Investment Management Information System (PIMIS), electronic Government Procurement (e-GP), and the Unified Human Resources (UHR) information system. Additionally, this RA will support ongoing efforts to strengthen the monitoring of the financial performance of State-Owned Enterprises, especially those posing the highest fiscal risk to the Government. This dimension further supports the implementation of the DPO Prior Action regarding the SOE privatization agenda considering the importance of information regarding fiscal risk and financial performance in making divestiture decisions. Furthermore, in view of the Government's objective to position Kenya as a regional leader in green growth, the development of a sustainable procurement framework and guidelines for climate-smart public investment management (PIM) will be a Prior Result under RA 2, followed by the implementation of this framework and the guidelines through associated DLRs during Program implementation.

3. **Result Area 3: Improving the Implementation of Priority Programs and Projects.** RA 3 will support efforts to improve the implementation of priority programs and projects. The associated DLI is "Implementation performance of priority programs and projects are monitored and made public." The reform initiatives that the Program will support in this RA will be anchored in the National Government Coordination Act of 2013. As a Prior Result, the Program will support the development and approval of associated guidelines outlining the institutional arrangements and processes to operationalize the Act. Associated DLRs in the outer years will support the implementation of these guidelines. Specifically, the DLRs will gauge the extent to which the institutions responsible for government coordination identify, recommend solutions for, and monitor the resolution of regulatory, policy, and institutional mandate gaps and inconsistencies impacting the implementation of the Government's legislative agenda. Deepening the scope of the reforms in this area to the program and project level, the Program will support through associated DLRs the coordination and monitoring of the performance of priority government programs and projects. This will include incentivizing the recommendation and sanctioning of remedial measures for stalled or underperforming programs and projects, as well as the external audit of the performance of selected priority programs and projects.

4. **Result Area 4: Promoting Audit and External Oversight.** The associated DLI is "Audit recommendations regarding procurement, payroll, and public investment are implemented and monitored." The DLRs in this RA will build on the success achieved under GESDeK regarding the timely completion and publishing of public sector audits by the Office of the Auditor General (OAG). Specifically, the DLRs will center on (i) enabling the systematic monitoring of the implementation of audit recommendations issued by

Parliament, (ii) ensuring government entities implement these recommendations, and (iii) institutionalizing a culture and practice of performance audits at the OAG that complements its successful track record with financial audits. In facilitating the implementation of the audit recommendations by the affected MDAs, the Program will exercise selectivity by focusing on the monitoring and implementation of audit recommendations concerning the largest spending categories that RA 2 addresses (i.e., procurement, payroll, and public investment spending.) The special audits that the Program will incentivize the OAG to conduct under this RA include performance audits of the core government systems that the Program will support under the other RAs (i.e., PIMIS, e-GP, UHR, GIMIS, and the government digital payment platform), as well as a performance audit of climate-related expenditures in the final year of Program implementation.

11.   Annex 6 presents the Program RAs, associated DLIs and Disbursement-Linked Sub-Indicators.

12.   **Implementing agencies** include the; NT, OPCS, KRA, and SDPS. GESDEK II is proposed to be operationalized for a five-year (2023-2028) duration, with geographical coverage limited to the national level.

1.4   Institutional and Implementation Arrangements

13.   The NT will be responsible for the overall execution and monitoring the Program implementation. The NT will represent the Government as the lead implementing agency charged with the responsibility of providing overall strategic guidance to the Program. The other four implementing agencies are: (i) OPCS; (ii) KRA; (iii) SDPS within the Ministry of Public Service, Gender, and Affirmative Action; and (iv) OAG. The Public Financial Management Reform Secretariat (PFMRS) within the NT will be the coordinating entity for the Program. The Program will be implemented using the institutional arrangements currently in place for the implementation of the PFM Reform Strategy 2023-2028. These arrangements include: (i) a high-level PFM Sector Working Group that serves as a forum for dialogue, broad consultation, information sharing, and coordination; (ii) an inter-institutional PFM Steering Committee that oversees, provides strategic policy guidance, monitors, and reviews the implementation of the Strategy and the PforR; (iii) Technical Committees that are responsible for implementing and monitoring the implementation progress of the Program; (iv) participating MDAs; and (v) Technical Teams for each RA. Each Technical Committee will comprise the implementing agencies and key beneficiary MDAs relevant to the specific RA and will have a Chair with the responsibility to ensure that each RA has a dedicated Results Team established and operational. The Technical Teams will meet regularly to review progress and agree on actions to achieve success in an iterative and adaptive manner. The Results Teams will be responsible for (a) ensuring collaboration between MDAs to implement the key steps needed to achieve the anticipated results and (b) reporting to the associated Technical Committee as well as the PFM Steering Committee regarding the delivery of results including the achievement of DLRs and the implementation of the Program Action Plan (PAP). The participating MDAs will be members of the Results Teams.

1.5   Results Monitoring and Evaluation

14.   The NT will be responsible for executing and monitoring the Program utilizing the governance arrangements outlined above. The Program will use the existing PFM Reform Strategy M&E Framework within the NT, which is deemed adequate for monitoring the implementation progress of a PforR operation. The Bank task team will verify the adequacy of the M&E arrangements within the NT and implementing MDAs as part of regular implementation support and supervision. The POM will outline the verification protocols for the achievement of DLIs, as well as the reporting arrangements. A detailed results chain and M&E framework that incorporates DLIs will be developed during Program preparation and will outline the logical and sequenced connections between the inputs, outputs, intermediate results, and outcomes, as well as the descriptions and parameters for all indicators.

1.6   Disbursement Arrangements

15.   **An IVA will validate the achievement of the DLRs and the DLIs.** The Results Teams will provide evidence of achievement of their respective DLRs to PFMRS annually in July. The validation of the results will be based on the verification protocol outlined in the POM. The PFMRS will compile and submit evidence for the achievement of the results to the IVA annually in August. The IVA will verify the results based on the verification protocol outlined in the POM and prepare the verification report for submission to PFMRS. The PFRMS will present the IVA report to the PFM Steering Committee for review and endorsement. The endorsed report will be submitted to the World Bank by the NT by December every year for review and subsequent disbursement of funds associated with the DLRs.

16.   Additional disbursement arrangements have been incorporated into Program design. These are: (i) an arrangement for the disbursement of funds linked to the achievement of Prior Results before effectiveness and (ii) an arrangement for advancing funds against the expected achievement of DLRs up to the maximum allowed 25% of the total credit amount per the provisions of the PforR instrument. The Program Expenditure Framework will be monitored as part of routine program implementation support to ensure adequacy of the government program financing, expenditure credibility, and reporting. Disbursement amounts for each DLR will be computed and disbursed based on the verification protocols outlined in the POM, provisions of the financing agreement, and the IVA report.

1.7   Capacity Building

17.   **The Program will leverage the strong reform design capacity in Kenya to strengthen institutions**. The achievement of the DLIs require measures that build administrative capacity to adopt the policies and systems that the Program will support. The advisory, training, and any other form of capacity building resources needed by the participating MDAs to introduce and institutionalize the reform measures will be included in the annual corporate work plans of the MDAs and submitted by the MDAs to the PFMRS for funding at the beginning of the budget year. Some capacity building and institutional strengthening measures that the Program envisions at design stage are illustrated in Table 1 below. The list is not exhaustive; additional considerations may emerge during Program implementation as well as the implementation of the new PFM Reform Strategy that prompt the Government to bring about results through different or additional capacity building interventions during Program implementation.

18.   **Program Operational Manual (POM):** A Program Operational Manual that will be prepared as an effectiveness condition will include: (a) the activities and timetable of actions to be carried out under the Program and excluded activities; (b) the respective roles and responsibilities of entities participating in the Program; (c) the composition and responsibilities of the Program Implementation Team; (d) the fiduciary, technical and operational aspects and procedures for implementation of the Program, including the financial management procedures; (e) the procedures for distribution of IDA credit proceeds; (f) the verification protocols for the DLIs and DLRs; (i) the Anti-Corruption Guidelines; and (j) the Program Action Plan. The POM will also include guidelines for implementation of ESHS for the program activities.

1.8   Environmental and Social Systems Assessment (ESSA) Scope and Methodology

19.   The Program's ESSA has been prepared by the WB. In accordance with the WB PforR policy requirements, the Borrower-will apply national systems for management of ESHS risks associated with the PforR interventions, provided these are consistent with the WB PforR policy requirements, including the six PforR Core Principles. The broad scope of the ESSA was to assess the extent to which the borrower systems promote E&S sustainability; avoid, minimize, or mitigate adverse impacts on natural habitats and physical cultural resources; protect public and worker safety; manage land acquisition; consider issues related to indigenous peoples and vulnerable groups; and avoid social conflict. In this context, the WB is required to conduct a comprehensive ESSA to determine the capacity of the Borrower's systems to plan and implement effective measures for the management of ESHS risks associated with the Program. The ESSA therefore provides a comprehensive review of relevant government systems and procedures that address ESHS risks associated with the Program and describes the extent to which

the applicable government environmental and social policies, legislations, Program procedures and institutional systems are consistent with the six core PforR principles.

20.   The specific objectives of the ESSA are to:
    i. identify the Program's potential ESHS effects;
    ii. review the existing policy, legal, regulatory, and institutional frameworks relevant to ESHS management of effects related to Program's interventions;
    iii. assess the capacity of implementing institutions in managing potential adverse ESHS risks and impacts associated with the Program;
    iv. assess the Program's system performance with respect to the Six core PforR principles and identify strengths, weaknesses, opportunities, and threats in Program performance; and,
    v. recommend specific actions to address gaps in the Program's ESHS systems that will be embedded into the PAP and Program design, to strengthen the Program's performance.

1.9   The ESSA Approach

21.   The Program's ESSA has been prepared to establish the extent to which the Borrower's system is consistent with the six Core Principles of the World Bank's PforR policy. The Six Core PforR principles include:
    1. **Environment and Social Management:** To promote E&S sustainability in the Program design; avoid, minimize, or mitigate adverse impacts; and promote informed decision-making relating to the Program's E&S effects.
    2. **Natural Habitats and Physical and Cultural Resources:** To avoid, minimize, or mitigate adverse impacts and promote informed decision-making relating to a Program's E&S effects in relation to physical and cultural resources.
    3. **Protection of Public and Worker Safety**: To protect public and worker safety against the potential risks associated with construction and/or operations of facilities or other operational practices under the Program; exposure to toxic chemicals, hazardous wastes, and other dangerous materials under the Program; and reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.
    4. **Land Acquisition and Loss of Access to Natural Resources:** To manage land acquisition and loss of access to natural resources in a way that avoids or minimizes displacement, and assists the affected people in improving, or at the minimum restoring, their livelihoods and living standards.
    5. **Indigenous Peoples and Vulnerable Groups:** To give due consideration to the cultural appropriateness of, and equitable access to, Program benefits, giving special attention to the rights and interests of the Indigenous Peoples and to the needs or concerns of vulnerable groups.
    6. **Social Conflict:** To avoid exacerbating social conflict, especially in fragile states, post-conflict areas, or areas subject to territorial dispute.

22.   The relevance and applicability of the Six Core PforR Principles to the proposed Program are discussed under Chapter 6 where a comparative analysis of the Borrower ESHS system and the Six Core PforR principles including the key planning elements are presented.

1.10   The ESSA Methodology

23.   The ESSA process entailed the review of the Borrower system at the national level and assessment of the capacity of the implementing institutions in the effective management of the Program's ESHS effects. In this regard, the World Bank team applied various approaches as outlined below:

    d. **Screening** of the Program activities was undertaken during the concept stage to identify potential ESHS effects of the Program and to confirm that no activities that meet the defined exclusion criteria are included in the PforR. The screening was also to identify potential ESHS effects of the Program which may not meet the Policy's criteria for exclusion but potentially pose unacceptable adverse risks that are considered to likely have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people and thus not eligible for PforR financing.

e. **Comprehensive desk review of relevant country policies, legal, regulatory, and institutional frameworks, and program documents** that address ESHS aspects relevant to the Program: This entailed the review of:

    iv.   The applicable national and institutional systems and capacities for ESHS management
    v.   Program documents, such as Program Concept Note, Program Appraisal Document
    Recent ESSA reports for other PforR such as the GeSDeK 1, KUSP 1&2, KDSP 1, FLLoCA, WASH, GREEN, among others.

f. **System, Institutional and Capacity Assessments** conducted through consultations with national stakeholders to consider the applicability of country systems as written versus in practice for ESHS effects management and consistency with the six 'core PforR principles.' The consultations further assessed the capacity of the Implementing Agencies (IAs) Program to provide sufficient financial resources, avail competent and adequate staff for effective management of ESHS risks, as well as to get their views and perceptions of what they consider capacity gaps. The consultation process was guided by the ESSA questionnaire and the Capacity Assessment Tool developed by the World Bank in line with the PforR policy. Consultations to assess the capacity of implementing agencies were held with the (i) National Treasury (NT), Office of the Auditor General (OAG), Kenya Revenue Authority (KRA), and the State Department for Public Service (SDPS), on 4th August 2023; while the ESSA engagements with the (ii) NT, OAG, KRA, SDPS, Institute of Social Accountability (TISA), Hunters and Gatherers Forum (HUGAFO)-Kenya representing minority Vulnerable and Marginalized Groups (VMGs) in Kenya, Directorate for Social Development, were held at the World Bank, on 10th August 2023. The detailed list of stakeholders consulted at the national level is presented in Annex 1.

ESSA validation and disclosure workshop. In line with the WB's Policy for PforR financing and the World Bank's Access to Information Policy, the draft ESSA findings will be presented to stakeholders through a workshop in October 2023. Based on their input and feedback, the draft ESSA will be revised, approved, and the final ESSA report publicly disclosed in-country on the NT website and the WB's external website prior to Board approval.

24.   The ESSA therefore provides a good basis for decision making and identification of gap filling measures to enhance the in-country systems and capacities for ESHS management associated with the Program interventions, by both the WB and implementing institutions. The findings of the ESSA coupled with the recommendations will be used to enhance the Program design and incorporated into the Program Action Plan.

2 NATIONAL ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEMS RELEVANT TO THE PROGRAM

25. As the PforR policy outlines, the Borrower's systems will manage the ESHS risks of the proposed interventions. It is therefore necessary to ensure that the Program is implemented within a robust system to manage ESHS risks effectively. This chapter provides an overview of Kenya's policy, legal, regulatory, and institutional frameworks, and their relevance for managing ESHS risks of the Program. It also identifies gaps, if any, in the adequacy and effectiveness of the system and incorporates the roles and responsibilities of institutions involved in ESHS risk management.

26. Based on the analysis, there are no gaps in Kenyan legislation compared to the WB ESF. The significant gaps are primarily in land management, related to core principle 5, which is not applicable in this Program.

27. **Table *2-1*** below presents Kenya's policies, regulations, and legislative frameworks that are applicable for the ESHS management for the proposed Program.

Table 2-1: Relevant Policy, Legal, and Regulatory Framework for Environment, Social, Health and Safety Management

	Policy/ Legislations /Guidelines	Provisions	Relevance
		Country Environment and Social Policies, Laws, Regulations and Management Systems	
1.	Constitution of Kenya (CoK) 2010	The Constitution of Kenya (CoK) 2010 is the supreme law of the Republic and binds all persons and State organs at all levels of government. Concerning the environment, Article 42 of Chapter Four, The Bill of Rights, confers to every person the right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations through legislative measures, particularly those contemplated in Article 69. Section 69 (2) states that every person must cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources, while section 70 provides for enforcing environmental rights. The Constitution further places the citizens at the centre of development and related governance processes and provides for public participation as one of the principles and values of governance.	The CoK, 2010 is well aligned to the ESF by upholding the requirements for E&S sustainability. Implementation of Program activities will promote environmental sustainability, and ensure equitable sharing of accruing benefits by beneficiaries, including VMGs and other disadvantaged groups as foreseen by the CoK, and adherence to the national principles and values of governance. Program activities shall be conducted to ensure compliance with the CoK on all aspects related to E&S management, including public participation, management of grievances, inclusion of marginalized and minority groups, e-waste management, gender, and disability mainstreaming, among others.
		Articles 10 and 232 provides for public institutions to mainstream national values and principles of governance into their business processes and other promotional Strategies, including, providing a dignified environment for clients who seek services in the institutions; ensuring fairness and impartiality in execution of their mandates; giving individuals fair treatment and a just share of the benefits; affording all people an opportunity to contribute to the development agenda; treating everyone equally irrespective of their status such as gender, religion, social status, tribe or race; institutionalize affirmative action programmes to address the needs of the vulnerable and marginalized groups and work towards removing barriers which impede their progress and participation in public service, among others.	
		Chapter 4, part III, Application of Rights (clause 54) states: A person with any disability is entitled: - (a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning; (b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person; (c) to reasonable access to all places, public transport and information; (d) to use Sign language, Braille or other appropriate means of communication; and (e) to access materials and devices to overcome constraint arising from the person's disability, and that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.	
		Article 260 provides for the inclusion of marginalized communities and groups in the development agenda of the country. Further, under Section 56, the Constitution requires that the State shall put	

	Policy/ Legislations /Guidelines	Provisions	Relevance
		in place affirmative action programmes designed to ensure minorities and marginalised groups access to water, health services and infrastructure.	
2.	Kenya Vision 2030	Kenya's Vision 2030 is the current national development blueprint covering the period 2008 to 2030. The blueprint aims at transforming Kenya into "a newly industrializing, middle-income country providing a high quality of life to all its citizens in a clean and secure environment." The Vision is anchored on three key pillars: Economic; Social; and Political Governance. The political governance pillar envisages public participation during project development, while social pillar envisages development through equitable social development.	This policy is relevant and aligns well with the ESF E&S sustainability requirements. It conforms with the objective of the Program which aims to enhance efficiency, transparency, and accountability in the use of public resources. The political pillar of Vision 2030 is people-centred, result-oriented, and accountable to the public. Vision 2030 advocates for adherence to the rule of law applicable in Kenya, as well as public participation as envisaged under ESS1 and ESS10. In this regard, all activities to be implemented under the Program will be required to comply with the established environmental and social laws foreseen in Vision 2030, which are aligned to the World Bank's requirements for effective management of E&S risks and impacts.
3.	Climate Change Act (2016)	The Climate Change Act (2016) is national legislation that provides for an enhanced response to climate change and provides mechanisms and measures to achieve low carbon and promote climate-resilient development. The Act adopts a mainstreaming approach that includes integration of climate change considerations into all sectors and in County Integrated Development Plans. The Act establishes the National Climate Change Council, chaired by His excellency the President. The Council is responsible for overall coordination and advisory functions. The Act also establishes the Climate Change Fund – a financing mechanism for priority climate change actions and interventions. This Act requires the Government to develop five-year National Climate Change Action Plans (NCCAP) to guide the mainstreaming of adaptation and mitigation actions into sector functions of the National and County Governments. NEMA is assigned the responsibility to monitor, investigate and report on compliance and the assigned climate change duties.	The Act will be considered in mainstreaming of climate change aspects to enhance adaptation and mitigation of potential adverse effects, in Program activities. The Program incorporates disaster risk assessment in public investment management, sustainable procurement, and audit of climate related expenditures.
4.	Data Protection Act (2019)	The Act brings into play comprehensive laws that protect the personal information of individuals. It establishes the Office of the Data Protection Commissioner and makes provisions for the regulation of the processing of personal data. The Act further provides for the rights of data subjects and the responsibilities of data controllers and processors who are required to be registered by the Data Protection Commissioner. The Act provides an investigation procedure that will be undertaken by	The Program will align with the provisions as provided in the Act including, the registration of data controllers and processors, principles and obligations of personal data, grounds for processing of sensitive personal data, and transfer of personal data out of Kenya, to ensure the legitimate, appropriate, and

	Policy/ Legislations /Guidelines	Provisions	Relevance
		the Commissioner, including powers of entry and search, and issuing administrative fines. Any persons contravening the provisions of the Act, will be liable to pay a fine of KES5 million. There are certain specific offences under the Act relating to the unlawful disclosure of personal data, obtaining access to data without the prior authorization, sale of personal data obtained unlawfully, and the obstruction of the Office of the Data Commissioner during an investigation, among others.	proportionate use and processing of personal data and guard against data abuse.
5.	Public Finance Management Act, No 18, 2012	AN ACT of Parliament to provide for the effective management of public finances by the national and county governments; the oversight responsibility of Parliament and county assemblies; the different responsibilities of government entities and other bodies, and for connected purposes	The Program will align with the provisions of the Act to ensure sustainable management of public resources in service delivery. The Program will support compliance with the PFM regulations (2015), Section 95, through the development of the Treasury Single Account (TSA).
6.	Access to Information Act (No. 31 of 2016).	The Act's purpose is to: (a) give effect to the right of access to information held by the state by citizens as provided under Article 35 of the Constitution; (b) provide a framework for public entities and private bodies to proactively disclose information that they hold and to provide information on request in line with the constitutional principles; (c) provide a framework to facilitate access to information held by private bodies in compliance with any right protected by the Constitution and any other law; (d) promote routine and systematic information disclosure by public entities and private bodies on constitutional principles relating to accountability, transparency and public participation and access to information; (e) provide for the protection of persons who disclose information of public interest in good faith; and (f) provide a framework to facilitate public education on the right to access information under this Act.	This Act is aligned to the ESS 10 on information disclosure and will be upheld by the Program in relation to ensuring stakeholders have timely information on all Program activities, including the effects of each Program activity.
7.	Public Procurement and Disposal Act, 2015	An ACT of Parliament to give effect to Article 227 of The Constitution; to provide procedures for efficient public procurement and for assets disposal by public entities; and for connected purposes ENACTED by Parliament of Kenya. The purpose of this Act is to establish procedures for procurement and the disposal of unserviceable, obsolete, or surplus stores and equipment by public entities to achieve the following objectives: 1. to maximize economy and efficiency; 2. to promote competition and ensure that competitors are treated fairly; 3. to promote the integrity and fairness of those procedures; 4. to increase transparency and accountability in those procedures; 5. to increase public confidence in those procedures; 6. to facilitate the promotion of local industry and economic development.	The Program will adhere to the Act and Regulations provisions in procurement of goods and services as well as their disposal.

	Policy/ Legislations /Guidelines	Provisions	Relevance
8.	Public Procurement and Asset Disposal Regulations, 2020	The object and purpose of these Regulations is to operationalize the Public Procurement and Asset Disposal Act, 2015, on the coordination of procurement and disposal procedures by procuring entities. The regulations; (a) provide means of administering the powers vested in the Cabinet Secretary for the National Treasury and Planning under the Constitution, the Act and any other related legislation; (b) harmonize and standardize application of government service in controlling and managing the procurement function in government; (c) set out a standardized public procurement and asset disposal management system for use in Government service; and (d) ensure accountability, efficiency, transparency and effective application and utilization of public resources.	
9.	Public Audit Act, 2015	The Act in Part II, provides for the establishment of the Office of the Auditor-General (OAG) which shall be a body corporate in accordance with Article 253 of the Constitution and shall be capable of — (a) suing and being sued; (b) acquiring, safeguarding, holding, charging and disposing of moveable and immoveable property; and (c) doing or performing all such other duties or acts for the proper discharge of its functions under this Act, which may be lawfully done by a body corporate. Article 36 gives provisions for; (1) The Auditor-General shall conduct performance audit to examine the economy, efficiency, and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution, (2) The Auditor-General may undertake a comprehensive performance audit within six months after the completion of any National or County project to evaluate, whether the citizen has gotten value for money in the project and submit the report to Parliament or County Assembly for tabling and debate.	The Act provisions will be adhered to by MDA's and the Program supports implementation of performance audits to be conducted by the OAG. This will promote transparency, accountability, access to information and enhance public trust on government's service delivery.
10.	National Occupational Safety and Health Policy, 2012	The overall objective of this policy is to establish National Occupational Safety and Health systems and Program geared towards the improvement of the work environment. The Policy seeks to reduce the number of work-related accidents and diseases, provide compensation and rehabilitation to those who may be injured at work or contract occupational diseases. The specific objectives of this policy are, among others: a) to guide the development of laws, regulations and any other instruments on occupational safety and health; b) to recommend establishment and strengthening of responsible and accountable institutions for management of occupational safety and health issues; c) to recommend enforcement and compliance mechanisms for occupational safety and health laws and regulations; d) to create mechanisms for cooperation between employers, workers and their representatives at workplaces in the promotion of occupational safety and health; and e) to strengthen capacities of state and non-state actors in occupational safety and health. Among other safety issues, the policy provides the framework for mandatory use of appropriate personal protective gear, protection of workers against of occupational hazards, and workplace provisions for First Aid and emergency medical evacuation.	The DOSHS will be engaged on offering technical OHS expertise and capacity building in the Program, as needed.

	Policy/ Legislations /Guidelines	Provisions	Relevance
11.	National Policy on HIV and AIDS at work, 2009 (Revised in 2018)	This policy entails a framework for action by government employees and workers to deal effectively with HIV/AIDs at the workplace. Main objectives are to strengthen the legal & policy framework for HIV/AIDs; enhance capacities of policies implementation; reduce on new infections and HIV related deaths; strengthen financing and sustainability of HIV Programs; eliminate stigma and discrimination as well as enhance capacity for the informal and small enterprise sector for effective HIV response.	The Program will comply with the provisions of the policy as well as the workplace HIV/AIDs policies for implementing agencies to ensure the prevention and management of HIV/AIDs under the Program.
12.	Environmental Management and Coordination Act, 1999 and the amendment Act of 2015, Legal Notice No. 31 of April 2019 on the EMCA.	The EMCA of 1999, and the amendment act of 2015, is an act of Parliament that provides for the establishment of an appropriate regulatory and institutional framework for management of the environment and matters connected there with and incidental thereto. Part II of the Act states that every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment. Part VI of the Act directs that any new Program, activity, or operation should undergo EIA and a report prepared for submission to the National Environment Management Authority (NEMA) for review, who in turn may issue license as appropriate with specific conditions of approval to be adhered to during project implementation. The legal notice 31 provides for the categorisation of projects as either Low-Risk, Medium-Risk, or High Risk, and provides a longlist of projects pre-screened into each of these categories.	The Program is expected to: a. Ensure all activities are conducted in an environmentally friendly manner throughout the preparation and implementation phases of sub-projects. b. Screen potential subprojects using the criteria provided in the legal notice 31 of the Act to determine the risk category, and the level of environmental and social assessment required. The NEMA will be engaged for technical guidance and undertake training and capacity building on the Act and related regulations, as needed.
13.	Environmental Management and Co-Ordination (E-Waste Management) DRAFT Regulations, 2013	The e-waste Guidelines have been developed to streamline the procedures of handling and disposal of e-waste generated by various sectors. The e-waste guidelines provide a framework for identification, collection, sorting, recycling, and disposing of electrical and electronic waste (e-waste). The guidelines also provide the basis for developing legal instruments to enhance enforcement. The purpose of these guidelines is to assist the government, private sector, learning institutions among others to manage e-waste in a manner that enhances environmental conservation.	The guidelines shall be considered in the management of e-waste generated from Program investments.
14.	Sustainable Waste Management Act, 2022	This Act of Parliament establishes the legal and institutional framework for the sustainable management of waste; ensure the realization of the constitutional provision on the right to a clean and healthy environment. Section 19 of this Act provides guidelines on the preparation of Waste Management Plans (WMPs) by counties, private entities, and individuals.	The Act will be considered in the development of e-waste management plans.
15.	HIV/AIDS Prevention and Control Act (Act No. 14 of 2006)	Part 11, Section 7 requires HIV and AIDs education in the workplace. The government is expected to ensure provision of basic information and instruction on HIV and AIDs prevention and control to employees of all Government Ministries, Departments and Agencies, and employees of private and informal sectors. The information on HIV/AIDs is expected to be treated with confidentiality at the workplace and positive attitudes shown towards infected employees/ workers.	The Act provisions and workplace HIV/AIDs policies will be applied during E&S capacity building for implementing entities and other relevant stakeholders. Related information will be availed at implementing entities premises and websites, to

	Policy/ Legislations /Guidelines	Provisions	Relevance
			enhance HIV/AIDs awareness, prevention and management for workers and the public.
16.	Occupational Safety and Health Act (OSHA) (2007)	The Act promotes safety, health, and welfare of all workers at the workplace, preventing work related injuries and sickness, protecting third party individuals from being pre-disposed to higher risk of injury and sickness associated with activities of people at places of work. The scope of OSHA 2007 covers all workplaces including offices, schools, construction sites among others. It establishes codes of practices to be approved and issued by the Directorate of Occupational Safety and Health Services (DOSHS) for practical guidance of the various provisions of the Act. Inspection and enforcement systems exists with a bearing to occupational safety, health, and labour inspections. DOSHS have a core responsibility to conduct inspections related to environment at work, safety of workplaces, general health, and basic welfare of workers to ensure compliance with the OSH Act. In section 97 the act prohibits employment of persons below age of 18 years at the workplace or perform work likely to harm the persons safety or health.	The Program shall promote workplace safety, general health, and basic welfare of workers.
17.	The Factories and Other Places of Work (Fire Risk Reduction) Rules, 2007	The rules promote adherence to fire safety measures at every workplace, process, and operations. The rules provide guidance with reference to the location of large installations for highly flammable substances, use of fire-resistant construction material, the storage, marking and labelling of highly flammable substances, waste disposal, installation, and handling of electrical equipment, evacuation procedures, fire safety, fire detection systems, firefighting appliances, and fire safety audits.	As a subsidiary legislation under the OSHA, 2007, the Program shall observe adherence to the rules by facilitating the reduction of potential fire risks, at workplaces.
18.	The Work Injury Benefits Act (2007)	The Act was enacted to ensure that workers who sustain work related death, injuries, and diseases, are compensated. The Act applies to all employees including those employed by Government, other than the armed forces, in the same way, and to the same extent as if it was a private employer. An employee who is involved in an accident resulting in the employee's disablement or death is subject to the provisions of this Act and entitled to the benefits provided under this Act.	The Act is applied to the Program as a measure to ensure the safety and health of workers, at workplaces.
19.	Employment Act No 11 of 2012 [2007]	This Act declares and defines the fundamental rights of employees; minimum terms and conditions of employment; the basic conditions of employment of employees; and regulation of employment of children, among other rights. Key sections of the Act elaborate on the employment relationship; protection of wages; rights and duties in employment; termination and dismissal and protection of children, among others.	This Act provides guidance to enhance employer-employee relationships and adherence to labour regulations, as provided by law.
20.	National Gender and Equality Commission Act 2012 [2011]	The Act establishes the National Gender and Equality Commission mandated to promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution; co-ordinate and facilitate mainstreaming of issues of gender, persons with disability and other marginalised groups in national development and to advise the Government on all aspects thereof; co-ordinate and advise on public education Programmes for the creation of a culture of respect for the principles of equality and freedom from discrimination; and, work with the National Commission	The Program will adopt gender inclusive mechanisms in the delivery of the proposed reforms. The Program will consider the inclusion of VMGs, and other disadvantaged groups in consultations and access to Program benefits.

	Policy/ Legislations /Guidelines	Provisions	Relevance
		on Human Rights, the Commission on Administrative Justice and other related institutions to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and collaboration in the protection and promotion of rights related to the principle of equality and freedom from discrimination, amongst other functions. Section 8(d) of the Act mandates the Commission to co-ordinate and facilitate mainstreaming of issues of gender, persons with disability and other marginalized communities and groups in national development and to advise the Government on all aspects thereof. The law further mandates the Commission to work with other relevant institutions in the development of standards for the implementation of policies for the progressive realization of the economic and social rights specified in Article 43 of the Constitution and other written laws.	
21.	Sexual Offences Act, 2009 [2006]	The Act in Sections 3 – 21 identifies and prohibits sexual offences including rape, assault, indecent acts, defilement, harassment, including offences against minors. The Act in Section 26 also prohibits the deliberate transmission of HIV or any other life threatening sexually transmitted disease. Other prohibited acts include administering a substance with intent (Section 27), and distribution of a substance by juristic person (Section 28).	The Program will establish measures that prohibit and act against sexual offences listed in the Act for staff, contractors, and suppliers. The Program will put in place mechanisms which are necessary to achieve or promote the objects of this Act, including Codes of Conduct for staff, contractors, and suppliers.
22.	Persons with Disability Act, 2003	The Act provides for the establishment of a National Council for Disability, its composition, functions, and administration for the promotion of the rights of persons with disabilities set out in international conventions and legal instruments, the constitution, and other laws, and for other connected matters. The Act in Section 21 provides that PWDs are entitled to a barrier- free and disability friendly environment to enable them to have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility. Public buildings and public services vehicles shall also be adapted to accommodate PWDs.	This Act aligns well with the Bank's inclusion and non-discrimination agenda. The Program will facilitate inclusive mechanisms for PWDs such as access to adequate and quality water supply and sanitation services, PWD-friendly facilities, employment opportunities and public participation forums.
23.	Public Participation Policy 2023	The policy provides the framework for the management and coordination of public participation in Kenya for the fulfilment of the constitutional requirement on citizen engagement in development and governance processes in the country. Public bodies in Kenya will comply with this policy as a constitutional requirement. This policy seeks to address gaps and challenges in public participation in order to improve and entrench public participation in development and governance processes in Kenya. The policy is organized into nine policy areas that highlight the key policy concerns and objectives and sets the standards for public participation in Kenya. These standards legally bind all public bodies at the National and County levels. The policy areas include access to information; civic education; capacity building; planning, budgeting, and implementation; inclusion of minorities and marginalised groups, funding; monitoring, evaluation, and learning; feedback and Reporting mechanisms; and complaints and redress mechanism.	The policy aligns with the World Bank's provisions on inclusive stakeholder engagement, information disclosure and grievance management as outlined in ESS 10. The Program will adhere to the provisions of the Act to ensure all segments of the public are meaningfully consulted and as applicable, their views are taken into consideration in the implementation of the Program

3 INSTITUTIONAL RESPONSIBILITIES FOR MANAGEMENT OF ENVIRONMENTAL, SOCIAL HEALTH AND SAFETY SYSTEMS

28. The following institutions listed on **Table *3-1***, are tasked with managing environmental, social, health and safety risks and impacts of the Program for realization of benefits.

Table 3-1: Institutional Responsibilities for ESHS Management Under the Program

No.	Institution	Responsibilities	Relevance
1.	National Treasury	Some of the roles of the NT include fiscal management, collecting and disbursing public revenues and expenditure, formulating policies on taxation, tariffs, fiscal management, preparing and managing public finances, regulation of source revenues, leading public expenditure policy etc. Management and supervision of the fiscal and financial system. Administration of Republic Budget Analysis of fiscal risks, evaluation and monitoring of capital projects. Regulating the procedure of preparation and registration of capital projects by the competent ministries and their unification.	The action plan for the implementation of the Public Procurement Development Program (2019-2013) of the Public Procurement Office defines the promotion and encouragement of the environmental aspect in public procurement as a special goal. Under this PforR, DLI 4 will incentivize and support the actual utilization of green public procurement guidelines by budget users to expand the range of applications and support will be provided to PPO in the tracking of the use of green criteria in procurement.
2.	National Environment Management Authority (NEMA)	National Environment Management Authority is a government parastatal established under the Environmental Management and Coordination Act (EMCA) No.8 of 1999, amended in 2015. The responsibility of NEMA is to supervise and coordinate all matters relating to the environmental management and be the principle of government agency in the implementation of policies relating to the environment. The Authority is responsible for granting ESIA approvals including monitoring compliance with all environment regulations for any development project, to ensure protection and sustainability of the environment and development. NEMA is also charged with the responsibility of advice on land-use planning and ensures that environmental management is integrated into development policies , Programs, plans and projects.	Given the nature and scale of the Program interventions, it is certain that no subprojects will be required to have a full ESIA and hence it is anticipated that the NEMA will not be directly involved. However, activities such as installation of IT infrastructure will undergo environmental and social risk screening, and requisite ESMPs developed (if necessary) to guide management of adverse impacts and to ensure environmental and social sustainability.
3.	Directorate of Occupational Safety and Health Services (DOSHS)	The Directorate of Occupational Safety and Health Services (DOSHS) is one of departments within the Ministry of Labour and Social Protection, whose primary objective is to ensure safety, health, and welfare of all workers in all workplaces. The Directorate enforces Occupational Safety and Health Act, (2007) with its subsidiary legislation which aims at prevention of accidents and diseases at work. It also administers the Work Injury Benefits Act, 2007 (WIBA, 2007) which provides for compensation of workers who have been injured or have suffered a disease out of and in the course of employment.	DOSHS will play a key role in the program by inspecting and auditing of workplaces to promote best practices and ensure compliance with safety and health standards as set out in OSHA, 2007 and its subsidiary regulations.

No.	Institution	Responsibilities	Relevance
		Inspecting workplaces to ensure compliance with safety and health laws, including Investigation of occupational accidents and diseases with a view to preventing recurrence, training on OSH, first aid and fire safety and disseminating information on occupational safety and health to customers among other issues.	
4.	State Department for Social Protection and Senior Citizen Affair -Directorate for Social Development -Social Risk Management Unit (SRMU)	The department focuses on the welfare of the family, women, Children, older persons and other vulnerable groups with special attention accorded to Persons with Disabilities (PWDs). The mandate of the department is formulation, review and implementation of Social Security, employment, Programme for persons with disabilities, National Human Resource Planning and Development, National labour productivity, Child Labour and regulation management, Facilitating and Tracking Employment creation, Co-ordination of National employment, Internship and Volunteers for public service, Community Development, Protection and advocacy of needs of Persons with Disabilities, Social Assistance Programmes, Workplace Inspection and Workman's Compensation	The Program aims to empower individuals and communities to facilitate sustainable social development for improvement in their livelihoods. This will be facilitated through targeting for the most deserving beneficiaries of Program benefits. The SRMU within the Directorate of Social Development will support in management of Program social risks and impacts through capacity building to implementing agencies to identify and mitigate social risks during Program inception, implementation, and operation phases.
5.	Commission on Administrative Justice (CAJ)-The Office of the Ombudsman	The mandate of the office of the Ombudsman is two-fold, and extends to both national and county governments. The Commission tackles Maladministration in the public sector; oversees, and enforces the implementation of the Access to Information Act, 2016. The office of the Ombudsman is commissioned with receiving and addressing public complaints. The types of complaints considered are; (i) Citizen against State/public officers and institutions; (ii) Public Officers against fellow public officers; and, (iii) Public Institutions against other public institutions.	During Program implementation, the public has the free will to submit complaints to the commission. Sensitization of the public on the mandate and channels of communication to the commission shall be undertaken.
6.	National Council for Persons with Disability (NCPWD)	The National Council for Persons with Disabilities is a state corporation established by an Act of Parliament; the Persons with Disabilities Act No. 14 of 2003 and set up in November 2004. The Council is mandated to promote and protect equalization of opportunities and realization of human rights for PWDs to live descent livelihoods.	Program actiivies will consider PWDs as beneficiaries, in promoting their inclusivity, human dignity, equality equity, and integrity. During the design of public financial management systems,the program will collaborate with the NCPWD to facilitate inclusion of design specifications to cater for the needs of the PWD.
7.	Office of the Data Protection Commissioner (ODPC)	The Mandate of the ODPC is to; regulate the processing of personal data; ensure that the processing of personal data of a data subject is guided by the principles set out in Section 25 of The Act; protect the privacy of individuals; establish the legal and institutional mechanisms to protect	ODPC will focus on three areas for the proposed program: i) Institutional capacity development, which aims to build the capacity and partnership with programs implementing agencies to enhance data processing operations ii) Regulatory services-

No.	Institution	Responsibilities	Relevance
		personal data, and provide data subjects with rights and remedies to protect their personal data from processing that is not in accordance with the Act.	ensure private data collected under the program is safeguarded iii) Awareness creation, which will equip stakeholders with adequate capacity on data protection to promote self-regulation.
8.	State Department for ICT and Digital Economy	The Department's mandates are; developing Data Protection Policy, and Regulation of Personal Data Services, developing National ICT Policy, Promotion of ICT Innovation and Digital Economy, E-Government, and Software Development Industry, Provision of ICT Technical Support to MDAs, and developing Policy on Automation of Government Services	Under the program, the ICT ministry will assist the implementing agencies on e-waste management in the following areas; i. Creating awareness and training on e-waste management ii. Assist the impleenting agencies on disposal of obsolete IT/ICT equipment generated under the program

4   ENVIRONMENTAL, SOCIAL, HEALTH AND SAFETY EFFECTS OF THE PROGRAM

4.1   Introduction

29.   The overall objective of Program-financed activities is to make the PFM system in Kenya more efficient, inclusive, and transparent, including Climate adaptation and mitigation principles mainstreamed into PIM guidelines. The Program will not fund any activities involving high or substantial environmental or social risks, such as land expropriation, relocation of people, heavy pollution, significant transformation of the natural environment, or activities that pose a threat to the health and safety of workers and communities. The Program is expected to have many positive environmental and social effects in the areas of government accountability, access to information and systems, transparency, inclusiveness, and climate strategies mainstreamed into budget circulars and guidelines to steer Kenya's economy onto a desired low-carbon climate-resilient green development pathway through a variety of fiscal and economic mechanisms.

30.   This chapter describes the potential ESHS benefits, risks and impacts and management measures applicable to the Program interventions.

4.2   Scope of Program

The Program under the Results Areas (RAs) will mainly support among others; rolling out of e-Government services that might require upgrade of IT infrastructure including the setup of data servers, and computers for data collection, analysis and management, tax administration measures and the consolidation of payroll management. The Program will not support any large-scale civil works, or fund activities involving high or substantial environmental or social risks. The overall objective of Program-financed activities is to make the PFM system in Kenya more efficient, inclusive, and transparent, including guidelines for sustainable procurement and climate-smart public investment management (PIM). The new National PFM Reform Strategy will incentivize the institutionalization of reforms regarding revenue mobilization, expenditure efficiency and accountability, government coordination, and external oversight, among other priority themes.

Environment & Social Risk Rating

The overall E&S risk of the Program is assessed as '**Low,** because the anticipated E&S risks are minimal or negligible. The program will not support any civil works, with the main environmental risks related to the installing and/or upgrading data servers and acquiring hardware to host the IT systems the Program intends to support. Social risks include inadequate public participation processes regarding the proposed tax measures and the subsequent exclusion of e.g., Vulnerable and Marginalized Groups (VMGs) and other disadvantaged groups; insufficient application of data protection and security provisions on personal data; inaccessibility of individuals and businesses to automated services e.g., e-Tims due to digital illiteracy, lack of smart-phones, poor electricity and internet connectivity, and the   ineffective grievance management at the institutional level.These impacts can be managed through adherence to the requirements of the national laws, oversight of implementing institutions, and enforcement of good E&S management considerations.

4.3   Exclusion Principle

31.   The principle applies to Program activities that meet the exclusion criteria regardless of the borrower's capacity to manage such ESHS effects. In the PforR context, exclusion mean that an excluded activity is not included in the identified investment menu. The exclusion principle also applies to any activity that requires completion of non-eligible activity to achieve its contribution to the PDO and/or DLI. In this regard, the Program is designed to exclude investments that are likely to have significant adverse ESHS risks and impacts or are categorised as high-risk sub-projects under the World

Bank ESF and Kenya's EIA Regulations. The six core principles under the PforR will apply to all investments as a mechanism for avoiding, minimising, or mitigating adverse ESHS risks/impacts.:

32.   The Program shall exclude activities that are likely to result in:
   a. Significant conversion or degradation of critical natural habitats or cultural heritage sites.
   b. Air, water, or soil contamination leading to significant adverse impacts on the health or safety of individuals, communities, or ecosystems.
   c. Workplace conditions that expose workers to significant health and personal safety risks.
   d. land acquisition and/or resettlement of a scale or nature that will have significant adverse impacts on affected people or the use of forced evictions.
   e. Large-scale changes in land use or access to land and/or natural resources.
   f. Adverse E&S impacts covering large geographical areas, including transboundary impacts, or global impacts such as greenhouse gas (GHG) emissions.
   g. Significant cumulative, induced, or indirect impacts.
   h. Activities that involve the use of forced or child labour.
   i. Significant adverse social impacts, marginalization of, and/ or may give rise to significant conflict within or among community or social groups.
   j. Activities with high risk of GBV and SEA-SH.
   k. Activities that would (a) adversely affect lands or rights of Traditional Local Communities or other vulnerable and marginalized groups; b) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation; (c) cause the relocation of VMGs from land and natural resources that are subject to traditional ownership or under customary use or occupation; or (d) have significant impacts on cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected communities.
   l. Investment on land for which clear ownership document is not available.
   m. Activities that may involve economic displacement of PAPs.

4.4   Potential Environmental, Social, Health, and Safety Benefits

The Program interventions have overall significant positive environmental and social impacts. The design of the Program provides a window to prepare guidelines for Ministries, Departments, and Agencies (MDAs) to manage E&S risks and impacts and create opportunities to promote positive E&S outcomes in the public investment cycle. The Program will also mitigate the negative effects of climate change through GHG emissions reduction and enhance the country's adaptation, resilience, and mitigation capacity, strengthen country and institutional mechanisms for stakeholder engagement, information disclosure, grievance management, protection of personal data and social accountability.

4.4.1   Environmental Benefits

33.   The Program is overall beneficial from climate and environmental perspectives. Achieving the results defined through DLIs will significantly enhance Kenya's public sector focus and action on climate change across the planning, budgeting, public investment planning, and procurement cycle.

34.   RA 2 will have a focus on Climate adaptation and mitigation principles mainstreamed into PIM guidelines; which is expected to trigger the implementation of environmental best practices which will lead to best utilization of resources, such as energy, water, and waste management. This shall include mechanisms of systematic inclusion of green and climate considerations, including climate mitigation and adaptation on public expenditure management, e.g., public procurement recognizing goods, services, and works to trigger the implementation of environmental best practices which will lead to the best utilization of resources, such as energy, water and waste management, adaptation to climate change, among others, throughout their life cycle.

4.5   Potential Environmental, Social, Health, and Safety Risks

35.   The anticipated adverse environmental and social impacts of the Program are expected to be minimal or negligible, taking into consideration most of the activities under the program will be confined to supply and installation of IT/ICT equipment and software, supporting infrastructure like generators on an existing government owned land or buildings, strengthening of PFM policies and frameworks, implementing tax administration measures and payroll management.

4.6   Potential Environmental Risks and Impacts

36.   The Program is not expected to have direct, indirect and/or cumulative adverse environmental risks. Depending on the type, scope, and extent of eligible work under the Program, the potential negative environmental, health and safety impacts are likely those that are typically related and limited to the installation of electronic equipment.

4.6.1   Potential Environmental Risks and Impacts

37.   The potential negative environmental risks and impacts of the Program will include: (i) Improper and indiscriminate disposal of e-waste that may result to soil and water contamination through the release of heavy metals (lead, arsenic, and cadmium); (ii)Air pollution by release of hydrocarbons in the atmosphere through melting of materials if not properly managed, (iii) oil spills during installation works and from backup generator equipment, (iv) cooling equipment may contain refrigerants (potential Ozone Depleting Substances [ODSs]), and (v) occupational health and safety incidents through injuries or accidents to the workers at installation sites and/or managing/maintaining IT equipment and infrastructure.

4.6.2   Potential Social Risks and Impacts

Social risks include inadequate public participation processes regarding e.g., the proposed tax measures and the subsequent exclusion of e.g., Vulnerable and Marginalized Groups (VMGs) and other disadvantaged groups; insufficient application of data protection and security provisions on personal data; inaccessibility of individuals and businesses to automated services e.g., e-Tims due to digital illiteracy, lack of smart-phones, poor electricity and internet connectivity etc., and the ineffective grievance management at the institutional level.

4.6.3   E&S Management Measures

38.   The potential E&S risks and impacts from the Proposed Program' activities shall be handled by the Program Action Plan (PAP) that has been prepared as part of the ESSA in a manner that will be satisfactory to the Bank. The PAP outlines the principles, steps, procedures that will be followed during Program implementation to mitigate any potential adverse risks and impacts.

The detail of the range of key ESHS risks associated with the proposed PforR is presented in Table 4-1 below.

Table 4-1: Key ESHS Risks Associated with Program Activities and Recommended Mitigation Measures

No.	Risks/Impact	Management Measures	Risk Rating
Environmental Health and Safety			
1.	Poor disposal of electronic waste from IT equipment	▪ Develop an E&S screening checklist for screening Program activities to identify any potential impacts related to e-waste. ▪ Develop an E-waste management plan to be used by all Implementing agencies which shall include guidelines/strategy on e-waste collection, holding, and disposal based on EMCA Waste regulations and international best practices.	Low
2.	Inadequate management of land, air, and water pollution	▪ Screen and prepare ESMPs (if necessary) as per EMCA, 2011 regulations and monitor implementation through better contract management of any risks related to oil spills, during installation and operation of IT equipment and generators.	Low
3.	Poor integration of green and climate aspects into the costed strategies and policies	▪ Support development of a Climate Budget Tagging (CBT) tool for monitoring and tracking of climate related expenditures in the National budget system, which will support green and climate policy needs in budgeting to inform resource allocation decisions and budget execution.	Moderate
Social Risks			
4.	Inadequate public participation and information disclosure, and lack of oversight to ensure MDAs conduct meaningful consultations.	▪ Establish a systematic approach to stakeholder engagement to identify stakeholders and build and maintain a constructive relationship with them. ▪ Promote and provide means for effective and inclusive engagement of stakeholders throughout the life of the Program including monitoring the consultation process and providing feedback on the implementation of citizen's priorities. ▪ Provide stakeholders with opportunities to express their views on the Program and allow implementing agencies to consider and respond to them. ▪ Disclose appropriate Program information on E&S risks and impacts in a timely manner to ensure meaningful consultations, in relevant local languages, in a manner that is accessible and culturally appropriate, considering any specific needs of groups that may be differentially affected by the Program, or groups of the population with specific information needs, such as disability, literacy, gender, mobility, differences in language or accessibility. ▪ Ensure adequate documentation of all stakeholder engagement process including discussions held, key concerns raised, responses given and agreed actions.	Moderate
5.	Insufficient application of data protection and security provisions on personal data	▪ Adhere to national Data Protection Laws. ▪ Sensitize the public on Data Protection and Security laws and regulations. ▪ Secure data centers. ▪ Implement non-disclosure agreements for all agencies to be involved in data collection and handling. ▪ Anonymize all data and information that is publicly displayed.	Moderate

No.	Risks/Impact	Management Measures	Risk Rating
		▪ Limit the number of people with access to non-anonymized data/ information. ▪ Encrypt data and information collected. ▪ Assess level of knowledge, attitude, and practice for implementing agencies' staff on data protection and security. ▪ Undertake Cybersecurity Audit to determine whether Implementing agencies have proper data protection and security mechanisms and complies with relevant regulations. The Audit should include review of policies, standards, guidelines, and procedures, as well as a review of professional certifications of IT technical personnel. ▪ Undertake staff capacity building on data protection and security, which should include certification of personnel with access to public data and information.	
6.	Exclusion of VMGs and other disadvantaged groups (e.g., ethnic minorities, women, youth, elderly, children, youth, people with disabilities, and digital illiteracy)	▪ Implement measures to ensure VMGs and other disadvantaged groups are targeted and included in the development process in a timely manner, and their views considered. ▪ Provide VMGs and other disadvantaged groups with adequate access to program benefits and opportunities that are culturally appropriate. ▪ Ensure VMGs and other disadvantaged groups are adequately and proportionately represented through proper and meaningful consultations. ▪ Disclose relevant and easily accessible Program information, including feedback mechanisms for the program promptly. ▪ Establish a grievance mechanism that is also culturally appropriate and accessible to VMGs and considers the availability of judicial recourse and customary settlement mechanisms among VMGs. ▪ Undertake awareness on digital literacy.	Moderate
7.	Ineffective management of Program related grievances	▪ Strengthen the existing institutional-level grievance mechanisms to receive and facilitate resolution of complaints and provide for anonymous and confidential reporting and handling of grievances. ▪ Address concerns promptly and effectively in a transparent manner that is culturally appropriate and readily accessible to all stakeholders (including VMGs and other disadvantaged groups), at no cost and without retribution. ▪ Ensure that the GRM facilitates the resolution of Program related disputes that may arise at any stage of the Program, at the lowest level, and where feasible and suitable for the Program, the grievance mechanism will utilize existing formal and informal grievance mechanisms, supplemented as needed by Program-specific arrangements. ▪ Inform the stakeholders about the grievance process, as well as the appeal process including the national judiciary, to which unsatisfied grievances may be referred when the resolution of the grievance has not been achieved.	Moderate
Safeguards Implementation, Monitoring and Reporting			

No.	Risks/Impact	Management Measures	Risk Rating
8.	Gaps in Environmental Social Health and Safety monitoring and reporting	▪ Prepare biannual and annual environmental, social, health and safety implementation reports. ▪ Continuously monitor non-compliance to ensure implementation of agreed actions. ▪ IVA to include Climate Budgeting indicators.	Substantial

5   CAPACITY ASSESSMENT FOR MANAGING PROGRAM ENVIRONMENTAL, SOCIAL, HEALTH AND SAFETY EFFECTS

39.   The section analyses the performance of key implementing institutions/agencies associated with the environmental and social legal/regulatory framework for the proposed Program. The section provides a detailed description of their mandates, core functions and assesses their overall technical, financial, and human resource capacity in management of environmental and social effects associated with Program activities.

40.   This assessment indicates that there is a robust environmental management system, as it exists and designed at the national level. The assessment noted the overall social risk management systems are inadequate at the national level. However, there is unevenness in the implementation of environmental and social risk mitigation measures, which can be traced to limited human resources capacity and technical knowledge, especially on social issues. Therefore, implementation of the environmental and social systems for the Program will largely rely on the E&S specialist that will be seconded to the PFMR Secretariat to manage the implementation and monitoring of E&S aspects, and as applicable, with oversight from respective institutions.

5.1   National Environment Management Authority (NEMA)

Policy and Legislative Framework Support

41.   Kenya has a fairly robust legal framework for environmental management, known as the Environmental Management and Coordination Act (EMCA), which provides the legal ground for the establishment of NEMA as well as other institutions responsible for the protection and management of the environment. Several guidelines and regulations have also been prepared by NEMA including EIA/EA regulations, which are aimed at ensuring that projects are subjected to environmental and social risk analysis to determine their likely adverse impacts before commencement. NEMA is mandated by the Environmental Management and Coordination Act (EMCA 1999, Amended 2015) to commit resources and implement actions necessary for effective environmental and social management.

42.   NEMA is charged with enforcing EMCA's provisions as well as other subsidiary legislation that has been passed over the last decade. The subsidiary legislation includes water quality, waste management, e-waste, controlled substances, biodiversity, wetland, river and seashore, and environmental impact assessment (EIA) regulations. Most of the provisions contained in the EMCA, as well as the subsidiary legislations, are intended to provide regulations for the usage and type of allowable activity in the different ecosystems and habitats in Kenya. Thus, NEMA's main task is to review EIA Project Reports and grant licenses to proponents that plan to change the land-use. To complete this task, EMCA grants NEMA the power to compel any project proponent, authority, or ministry to comply with existing environmental regulations.

43.   The EMCA has gaps in addressing social issues as mandated by law and in practice. NEMA has no role for SRM, including the review of social aspects of the ESIA, ESMP or RAP. In addition, it has no internal capacity to review social risks, with poor coordination and collaboration with the department of social security and protection under the Ministry of Labour, Social Protection (MLSP) to support in this role.

44.   NEMA has extensive experience in environmental assessment and management capacity (including monitoring and enforcement) as provided for by the EMCA.

Organization and capacity

45.   The NEMA officers at the National and County levels are qualified and possess the requisite skills necessary for ensuring the management of environmental impacts of projects. However, most NEMA offices at the County level are understaffed, with most County NEMA Offices having a maximum of two environmental officers – the County Director of Environment and an Environment Officer, with the additional help of a few interns. This has made it difficult for the staff to handle the workload of EIA reports reviews, monitoring for compliance, and enforcement for County projects. Further, staff composition in most of the Counties do not always include officers specialized in social safeguards.

46.   NEMA's lack of sufficient resources create a situation where projects with possibly huge environmental and social impacts and risks are not regularly supervised or monitored to ensure that they are complying with license obligations and regulations or implementing mitigation measures. In the end, monitoring is often left to self-monitoring by the proponent of a project with little oversight from NEMA independent view.

47.   The main challenges of NEMA at the national and county levels are;
   i.   Lack of financial resources, technical equipment, and transportation allocation for effective monitoring and supervision;
   ii.   Poor coordination with other multi-agencies in charge of managing environmental, health and safety, and social risks management.

Recommendations to enhance ESHS Management for the program:

 i. Enhance collaboration and coordination with the Ministry of ICT for management of e-waste generated from the program
 ii. NEMA to conduct capacity building to PCT on program's requirements on e-waste management, training on climate change aspects, and input to the sustainable procurement framework and guidelines for climate-smart PIM to be developed by the NT.

5.2   E-waste management by Private Sector in Kenya
48.   The East African Compliant Recycling Company (EACR) is operating Kenya's first E-waste recycling facility, operating to international health, safety and environmental standards and establishing a local, sustainable IT E-waste recycling industry. The company is the first facility of its kind in East Africa to test a practical approach to E-waste recycling. The East Africa Compliant Recycling was designed as a scalable model for E-waste recycling. It was established in Mombasa in October 2011 as a pilot project with funding from HP.

49.   Since beginning official operations, the EACR remains the only recycling facility in Kenya to accept, dismantle and separate all E-waste components and not just the valuable resources. Plastics, glass, batteries - everything - are all disposed in accordance with the highest international criteria while generating local income and employment opportunities.

50.   The facility is able to manage e-waste whereby it receives end-of-life IT from business and public sector customers, as well as from the informal sector for recycling. EACR facility offers its workers advice on handling E-waste containing hazardous materials such as lead and cadmium. The company recycles E-waste at no cost. It supported the KNBS in handling and disposing e-wastes under the previous PforR project and the implementing agency will engage the same company to dispose e-wastes.

51.   It should be noted that Kenya is reviewing its policies and regulations governing e-waste management. These include a National E-Waste Strategy that aligns with the East African E-Waste Strategy; National Solid Waste Policy and a Solid Waste Bill. Other are the Extended Producer Responsibilities Act, which will make it mandatory for all manufacturers and importers of electronics to incentivize re-collection or 'take-back-scheme' of electronic wastes. This also proposes the establishment of a Producer Responsibilities Organization which will manage incentives from e-waste manufacturers/ importers to facilitate collection and disposal of electronic wastes by formal and informal commercial e-waste handlers. Enactment of these policies will further strengthen the role of private agencies in the management of e-wastes.

52.   The program will encourage participating institutions to work with the ICT ministry and private sector players in the e-waste industry in disposing electronic waste to be replaced during the program activities.

5.3   Social Management Systems
5.3.1   The State Department for Social Protection and Senior Citizens Affairs

53.   The State Department for Social Protection and Senior Citizens Affairs is mandated with formulation, review and implementation of social security, employment, programme for Persons with Disabilities, social assistance programmes, workplace inspection and workman's compensation, among others. The department has an existing grievance redress system, although not well structured. The FLLoCCA program is supporting on enhancing the existing GRM system.

54.   A Social Risk Management (SRM) unit has recently been established at the Directorate of Social Development, with current funding from FLLoCCA Program. With no legal framework on SRM, other legislations such as the Kenya National Social Protection Policy 2011, EMCA 2015, and CoK 2010, are considered. However, the application of these legislation to SRM is uncoordinated. To this end, the SRM unit has drafted the Kenya Social Risk and Impact Management Policy, developed an SRM curriculum, and signed an MoU with KSG and UoN for accreditation of the curriculum and trainings on SRM. Further, a multi-sectoral committee has been established at the national level with membership from the NEMA, labor department, University of Nairobi-School of Land Acquisition, children department, NCPWD, among others.

Recommendations to enhance Social Risk Management
   i.   Engage institutions with oversight on social issues such as the Directorate of Social Development, National Gender, and Equality Commission, NCPWD, CAJ, in the preparation of protocols on stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance management, protection of personal data, among others.

5.4   National Treasury and Planning

The NT will provide oversight of all Program activities to be funded, including supervision, and monitoring of environmental and social management. The entities Project implementation Unit (PMU) vets all projects as guided by PIM guidelines. The NT considers climate budget tagging through climate disaster risk classification. The NT does not have a defined E&S management system. However, it has several committees on environment risk management, gender mainstreaming, health and safety, waste disposal, road safety, National Values and Principles of Governance, implementation of citizens service delivery charter, resolution of public complaints and national tree growing restoration campaign.

The committees comprise different team members each FY. Minimal budgets are provided to operationalize the committees. However, there is room to request for funds to implement some activities, e.g., drafting policies in line with the mandate of the committees. NT collaborates with NEMA on waste disposal, the National Transport and Safety Authority on road safety, DOSH on health and safety, Ministry of Environment on climate issues, NGEC/state department for gender on gender-related issues. The Public Finance Management regulations 2015 include provisions on Social Accountability, such as public participation.

55.   The key role of the Implementing Agency in the environmental and social management process of the Program will include:
  i.   Screening of proposed investments under the Program.
  ii.   Developing Program Operation Manual including considerations for environmental and social risk management
  iii.   Supervising and monitoring of environmental and social aspects during throughout the Program cycle
  iv.   Preparing quarterly environmental and social management Program progress reports.

Other roles of NT on e-waste management will include:
  i.   Coordinate collection and disposal of e-wastes generated by NT and other participating agencies with the assistance of Ministry of ICT.
  ii.   Hire a licensed e-waste handler to support handling and disposal of identified e-wastes.
  iii.   Assure confidentially of all data collected within the Program.
  iv.   Facilitate training of its staff and those of its partners on e-waste handling and disposal.

NT institutional capacity and staffing

56.   The NT has experience, implementing the first Governance for Enabling Service Delivery and Public Investment in Kenya (GESDeK) Program-for-Results (P161387). The NT is also overseeing the implementation of the Financially Locally Led Climate Action (FLLoCA) Program. FLLoCA has established a PIU at NT and has employed Environmental and Social specialists trained by the WB on E&S risk management. The ESSA finds no need to employ full time E&S specialists because of low risks of the Program. However, the NT will second an E&S specialist from the Climate Change Unit at NT which is coordinating FLLoCA Program to support the GESDeK activities.

Budget Resources/Financial Capacity

57.   The safeguards personnel at NT will require some support through budgetary allocations and provision of necessary facilities, equipment, and supplies to monitor implementation of safeguards for the Program.

Recommendations to enhance ESHS Management for NT:

  i.   Appoint (or second) an E&S focal person to coordinate E&S aspects, including capacity building to the Program's of the implementing agencies on ESHS, stakeholder engagement, protection of personal data, and GRM. NT will supplement this capacity with consultants as required and/or using the Climate Change Unit (CCU) within the NT to support this program.
  ii.   Allocate enough and adequate resources to support supervision and monitoring of E&S aspects for the program activities.
  iii.   Enhance implementation of citizen engagement channels such as social audits, to contribute to more transparent and accountable governance.

5.5 **The Kenya Revenue Authority (KRA)**

58.   The Environmental and Social (E&S) management within KRA is mainstreamed under three committees; climate and environment, occupational health & safety, and gender mainstreaming. While the Gender committee meets regularly, the other two are ad hoc. Committee members are nominated then appointed through an inclusive process considering gender and PWDs representation. The committees are challenged with capacity and a limited budget from the administrative line. The KRA considers the insurance management guidelines for potential accidents in the workplace. Gender inclusion is facilitated through initiatives that include women in tax agenda, international women's day and talks from leaders in tax.

59.   The KRA has automated its systems, which potentially limits access by disadvantaged groups such as the visually impaired, those without smart phones, internet connectivity, and limited technological know-how. Electronic invoicing is challenged with technical know-how/capacity of targeted taxpayers. Data management is mandated to the ICT department on cyber security, the Intelligence, Strategic Operations Investigations and Enforcement department handles investigations and manages information sharing to third parties. The KRA considers the third-party information policy, to manage taxpayer's data.

60.   The KRA facilitates public engagements, round tables, and training to the public, either physical or virtual, during roll-out of tax administration systems, and consolidated inputs shared with NT. To enhance access to KRA systems, contact centre teams across the 47 counties are available online and at Huduma centres nationwide. Further, the public can access information from the KRA website, KRA online TV tax education platform, social media platforms in Kiswahili, radio activations in various local languages, and the m-Service. To enhance stakeholder engagement, customer perception surveys are conducted every 2 years and an annual taxpayer's month held, which is culminated with a presidential round table. For inclusivity, institutional Service Level Agreements (SLAs) are available in Kiswahili, English and braille. The KRA plans to introduce departmental SLAs.

61.   Grievance management at the KRA, is at 3 levels; the first at the front desk/contact centre in which emails are responded to within 48hours; the second involves the redirection of specialised cases to subject matter experts through a ticketing system; and the third mandates technical expertise. The staff grievance system is robust and incorporates GBV management. The KRA has a dedicated complaints management team, with information on the grievance system elaborated by staff, during stakeholder consultations and accessible on the website. Anonymity is observed through a separate whistle-blower platform.

Recommendations to enhance ESHS Management for the KRA:

  i.   Decentralize stakeholder engagement, and sensitize the public on the tax administration measures, including VMGs and other disadvantaged groups, and implement targeted measures to access those with disability, literacy, and mobility challenges.
 ii.   Leverage on existing structures and capacity, such as the National Government Administrative Officers (NGAO).
iii.   Simply tax education to be understood by all segments of the public.
 iv.   Ensure tax systems accommodate all populations such as those with no or limited digital know-how, lack smart-phones, those residing in areas with poor electricity and internet connectivity.
  v.   Enhance the accessibility of the grievance mechanism, and ensure it is culturally appropriate and resolves all issues promptly.

vi.   Build the capacity of the climate and environment, occupational health & safety, and gender mainstreaming committees at KRA on ESHS management.

5.6   The Office of the Auditor General (OAG)

62.   The OAG will support the Program through; (i) performance audits of core government information systems that the Program will support under KRAs including E-citizen, Human Resources (GHRIS and UHRS) PIMIS, e-GP, GIMIS, Treasury Single Account and Accrual Accounting, and (ii) a performance audit of climate-related expenditures in the final year of Program implementation, and (iii) Follow-up on external audit recommendations.

63.   The OAG has committees on OHS, Corporate Social Responsibility (CSR) and Gender mainstreaming. OAG has a draft policy on CSR, guidelines on OHS and a Directorate for citizen accountability. OAG has stand-alone budgets for citizen accountability audit, and communication and stakeholder engagement.

64.   OAG has formed a new unit tasked with management of ESHS aspects. The unit's mandate is to audit compliance with environmental and social regulations. This unit is however new and requires capacity building through training on environmental and social risk management.

65.   Public engagements are managed through the website and public outreaches. The OAG publishes public and internal magazines with its reports available in Kiswahili and on vernacular radio stations. OAG conducts stakeholder engagement forums with physical presence in fifteen regions. OAG has physical complaint boxes at the institution. The legislative relations office manages coordination between the OAG and parliament.

Recommendations to enhance ESHS Management for the OAG:

i.   The constitution of audit committees to include E&S persons.
ii.   Enhance the capacity of the newly formed unit on environment, social and climate change, and audit teams on ESHS audit, including stakeholder engagement, information disclosure and grievance management, and social audit.
iii.   OAG to provide input on the ToRs for the IVA.
iv.   Strengthen collaboration between the Directorate and the departments for communication and stakeholder engagement.

5.7   State Department for Public Service

66.   The State Department for Public Service is tasked with payroll and Human Resource (HR) data management. The state department will amalgamate HR data into a single system, by migrating IPPD and GHRS data into UHSR. One system managing the HR data at national and county level for all public entities. The system is developed locally by the State department.

67.   The Unified Human Resource (UHR) information system has limited buy-in from public entities however, the NT supports the system. There is a succession management policy which is challenged in practice. The HR development department guides on training and skills audits for public institutions. Training champions to manage the system at different public entities.

68.   The State Department facilitates data management as follows. (i) an elaborate data management system with an audit trail and access control; (ii) a human resource registry that is separate from other registries; (iii) circulars on release of information to ministries that are only authorized by the Principal Secretary (PS); (iv) HR Policies and procedures customized for all national and county-level institutions; (v) a public workers code of conduct guided by the Public Officers Ethics

Act, 2003, and (v) specific officers oversee information on salaries and medical schemes as guided by the CoK.

69.   Grievances are managed through the HR policy department, the Public Service Commission, the Ministerial HR Management Committee, and the County HR Management Committees. Further, the counselling unit facilitates public servant's psychosocial support.

70.   Some of the institutional frameworks include the Norms and Standards for management of human resources, HR Strategy, HR Planning and Succession Management Strategy, Transformation frameworks (business processes and re-engineering/transformation), Guidance and counselling policy, Workplace policy on HIV/AIDs, Dignity at workplace policy, Gender Mainstreaming policy, Draft Unified HR information policy and the Public Service Management bill.

71.   Recommendations to enhance ESHS Management for the State Department of Public Service:
   i.   Ensure a single data management platform.
   ii.   Enhance tracking systems to manage entry, transfer of services and exit.
   iii. Build the capacity of staff on the proposed HR unified system.
   iv.   Enhance the payroll system on data protection, cyber security, and data recovery plan.

7 ENVIRONMENTAL, SOCIAL, HEALTH AND SAFETY MANAGEMENT SYSTEMS ASSESSMENT IN RELATION TO THE PforR CORE PRINCIPLES AND PLANNING ELEMENTS

72. The assessment of how the ESHS management systems functions in practice is presented in Table *7-1* of this report, which is a structured as a SWOT analysis of institutions capacity to manage the ESHS risks and impacts in line with the country's policies, legal and regulatory frameworks as written, and whether these are in line with the PforR Financing requirements. This section builds on the capacity assessment of institutions (Chapter 6) mandated to manage ESHS risks as per the country systems against the PforR's Core Principles.

Table 7-1: Analysis of the Borrower Environmental, Social, Health and Safety System in Relation to the PforR Core Principles

Core Principle 1: Promote E&S Sustainability, avoid, minimize, mitigate adverse impacts and promote informed-decision making
Bank Policy for Program-for-Results Financing: Environmental and social management procedures and processes are designed to.   a) promote environmental and social sustainability in Program design.   b) avoid, minimize, or mitigate against adverse impacts; and   c) promote informed decision-making relating to a Program's environmental and social effects.
Bank Directive for Program-for-Results Financing: Program procedures will: a) Operate within an adequate legal and regulatory framework to guide environmental and social impact assessments at the Program level.   b) Incorporate recognized elements of environmental and social assessment good practice, including: • early screening of potential effects of all projects.   • consideration of strategic, technical, and site alternatives (including the "no action" alternative).   • explicit assessment of potentially induced cumulative, and trans-boundary impacts.   • identification of measures to mitigate adverse environmental or social impacts that cannot be otherwise avoided or minimized.   • clear articulation of institutional responsibilities and resources to support implementation of plans.   • Responsiveness and accountability through stakeholder consultation, timely dissemination of Program information, and   • responsive grievance redress measures.
Applicability –APPLICABLE   **Core Principle 1** is considered relevant and applicable in terms of environmental, health and social (EHS) for the Program.   The Program will mainly support among others; rolling out of e-Government services that might require upgrade of IT infrastructure including the setup of data servers, and computers for data collection, analysis and management, tax administration measures and payroll management. The Program will not support large-scale civil works. The main environmental risks relate to the small-scale rehabilitation or construction initiatives for installing and/or upgrading data servers and acquiring hardware to host the IT systems the Program intends to support. Social impacts include the inadequate public participation processes and application of privacy and data protection provisions regarding handling and processing personal data. This therefore requires undertaking ESH&S assessment and providing appropriate mitigation measures to potential risks and impacts.

STRENGTHS	WEAKNESSES
• The Government has a robust written legal, policy and institutional frameworks to protect, conserve, and mitigate adverse environmental risks and impacts. • The national system provides a comprehensive framework for environmental screening, impact assessment, and management consistent with the core principles outlined in the Program for Results Financing.	• The implementation of the existing legal/regulatory provisions face challenges due to lack of adequate and qualified staff within the implementing agencies to manage E&S risks, budgetary constraints, limited understanding of the law by public servants and the public. • The National Environmental Impact Assessment (EIA) system mainly focuses on environmental aspects and does not comprehensively cover the social, health and safety issues such as on labour, occupational/community health and safety, land management, GBV-Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) among others.

• Existing legislation also helps minimize or mitigate possible adverse impacts on the natural habitats, archaeological sites, and cultural resources. • The country has developed policies and legislation that advance social issues relevant to the Program such as on public participation, data protection, inclusion of minority and marginalized groups, disability mainstreaming, national values and principles on governance, Gender-Based Violence (GBV), among others • The GoK has developed a draft Green Fiscal Incentives Policy Framework (2022) that seeks to steer Kenya's economy onto a desired low-carbon climate-resilient green development pathway through a variety of fiscal and economic mechanisms. • Kenya has demonstrated commitment to public participation through policy and legal frameworks, including the Participation Guidelines by the State Department for Public Service Commission and County Public Participation Guidelines by the Ministry of Devolution and Arid and Semi-Arid Lands (ASALs) in collaboration with the Council of Governors, the Public Participation Policy and national curriculum for civic education. The Constitution and the PFM Act strengthen the requirement for public consultations. • Further, the Judiciary has integrated public participation by establishing Court Users' Committees and the National Council on the Administration of Justice.	• The national EIA system does not articulate provisions on social screening and assessment. • The laws related to Social Risk Management (SRM) are defined however the systems of their management thereof, are not well coordinated. This is because, relevant SRM laws are fragmented across different ministries and departments which makes implementation of social risks management difficult to synchronize. • The implementing Agencies lack enough and qualified human capacity and adequate budgets to support Environmental and Social Management Systems (ESMS) of the Program. • There is insufficient and consistent capacity building of implementing agencies on ESHS management to ensure compliance to required environmental and social standards when implementing their mandates • Limited attention to environmental and social concerns, due to poor allocation of resources (human and financial) for oversight authorities such as NEMA, DOSHS, National Gender and Equality Commission (NGEC), Directorate for Social Development (DSD), Office of the Data Protection Commissioner, Commission on Administrative Justice, Office for Auditor General (OAG) etc., for Environmental and Social management. • Inability to integrate ESHS clauses in the bidding documents and contracts, and allocation of sufficient budgets for managing ESHS impacts which makes it difficult to enhance E&S compliance during Program implementation. • Lack of adherence to national environmental regulations and good practices in waste management, including e-waste management. • Public participation is limited in number and reach at the national level. It does not meet the threshold of meaningful consultation, with no sanctions for not aligning with the Constitutional provisions. • Weak coordination across Ministries, Departments, and Agencies (MDAs) in delivering their respective mandates due to limited financial and human resources, lack of interagency implementation agreements, silo mandates, bureaucracies, and no clear entity to oversee the coordination.
OPPORTUNITIES The program will assist the implementing agencies to; • Prepare and implement appropriate protocols on data protection stakeholder engagement, grievance management, inclusion of VMGs and other disadvantaged groups etc., screening checklists, manuals, etc., to comply with the ESHS legislation. • Develop and implement an E-waste recycling and disposal management plan applicable to the E-waste stream to be generated under the Program. • Integrate ESHS requirements in the procurement processes.	**RISKS** • Inadequate mainstreaming of existing ESHS risk management regulations in the E&S protocols to be developed under the Program. • Insufficient allocation of budgets and human resource capacity for ESHS risk management during Program planning and implementation. • Limited supervision, monitoring and reporting on ESHS risk management impeding identification and execution of corrective action plans. **LEVEL OF RISK - LOW**

• Ensure all PIMIS reports (DLI 2.2) are inclusive of ESHS considerations as part of monitoring.

Core Principle # 3: Public and Workers Safety

Program E&S management systems are designed to protect public and worker safety against the potential risks associated with
  a) the construction and/or operation of facilities or other operational practices under the Program;
  b) exposure to toxic chemicals, hazardous wastes, and otherwise dangerous materials under the Program; and
  c) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.

Program procedures;
- Promotes community, individual, and worker health, safety, and security through the safe design, construction, operation, and maintenance of Program activities; or, in carrying out activities that may be dependent on existing infrastructure, incorporate safety measures, inspections, or remedial works as appropriate.
- Promote measures to address child and forced labour.
- Promote the use of recognized good practice in the production, management, storage, transport, and disposal of hazardous materials generated under the Program activities.
- promotes the use of integrated pest management practices to manage or reduce pests or disease vectors, and provides training for workers involved in the production, procurement, storage, transport, use, and disposal of hazardous chemicals in accordance with international guidelines and conventions.
- Include adequate measures to avoid, minimize, or mitigate community, individual, and worker risks when the Program activities are in areas prone to natural hazards such as floods, hurricanes, earthquakes, or other severe weather or climate events.

Applicability –APPLICABLE
- The provisions in Core Principle # 3 are considered as part of the ESIA process analysed under Core Principle # 1. This could be through;
- Improper and indiscriminate disposal of E-waste (old IT equipment) may result to soil and water contamination through the release of heavy metals (lead, arsenic, and cadmium).
- Air pollution by release of hydrocarbons in the atmosphere through melting of materials if not properly managed.
- Transformer and backup generator equipment may potentially contain used oils, Polychlorinated Biphenyls (PCBs) which can pollute water and soils, while cooling equipment may contain refrigerants (potential Ozone Depleting Substances [ODSs]).
- Construction phase related impacts such as disturbance of existing vegetation, air pollution from dust; nuisances such as noise, vibration impacts, and traffic interruptions.
- Water and soil pollution from the accidental spillage of fuels or other materials associated with civil works.
- Environment risks occupational health and safety incidents through injuries or accidents to the workers at construction sites and/or managing/maintaining IT equipment and infrastructure.

STRENGTHS	WEAKNESSES
• The country has legal statutes and provisions to protect the workers such as the Occupational Health and Safety Act (OSHA) 2007 and the Workers Injury and Benefits Act (WIBA), 2007. • Kenya has several regulations under the EMCA, 1999, such as on waste management, water and air quality, noise and excessive vibration as summarized in table 5 that aims to protect the environment from all forms of pollution and environmental degradation across different sectors.	• The National EIA system does not adequately cover aspects on public and worker's health and safety. This results to ESIA/ESMP prepared not to broadly incorporate the health and safety requirements and mitigation measures. Aspects of community/public heath are not covered adequately as well. • Limited awareness, capacity, and enforcement of the relevant provisions for addressing community health and safety risks and impacts related to construction sites such as

Core Principle # 3: Public and Workers Safety	
- The draft Green Fiscal Incentives Policy Framework (2022) seeks to steer Kenya's economy onto a desired low-carbon climate-resilient green development pathway through a variety of fiscal and economic mechanisms. - The National Climate Change Act, 2016 and the related National Climate Change Policy Framework provides guidance on use of climate resilient technologies. - Employment Act No 11 of 2012 [2007] confides the rights of children and has penalties on unlawful employment of children. - The Government standard contract conditions for contractors have ESHS clauses provided such as; a) the requirement to maintain an accident prevention officer on site; b) maintain logs of any accident/incident at the work sites and report on incidents occurred; c) create awareness to workers on HIV and other sexually transmitted diseases; d) labour laws (working hours, facilities for staff and labour, prohibition of forced, compulsory or child labour). However, there is an opportunity to strengthen the existing contract documents. - The country systems have guidelines/regulations, and promotion of workers safety through agencies such as DOSHS and NCA on aspects concerning the management of construction sites, including public and worker safety risks from construction/operation of investments.	- environmental pollution, labour influx risks (GBV- SEAH, spread of HIV/AIDs and communicable diseases). - Limited human and financial resources allocation to DOSHS staff resulting to poor supervision of investments to ensure compliance to required national standards as per the OSH Act– some counties do not have DOSHS representatives. - Limited capacity in technical personnel, safety equipment provision, and deficient budget allocation by consultants/contractors to comply with national requirements and international good practices. - Poor collaboration and coordination among the various implementing agencies, especially DOSHS and Public Health departments, in addressing occupational health and safety related issues, because they are rarely involved in providing health and safety oversight at the construction, resulting in inadequate attention to OHS, and public safety concerns, particularly at the County level. - There is a general lack of awareness for workers on health and safety issues, particularly concerning exposure to workplace safety hazards aspects in hazard-prone areas, etc. - Weak workers grievance redress mechanism which fails to address workers complains and concerns on occupational safety and health. - There are weak structures of disposal of hazardous wastes, especially e-waste, and capacity in the private sector is limited to dispose such waste. - E-waste disposal is costly considering the value of items being disposed. - Strict disposal requirements as specified in the Public Procurement and Disposal Act (PPDA) which discourages disposal of e-waste effectively within MDAs. - Poor integration of green and climate aspects into the costed strategies and budget policies and adapting to its impacts and embracing digitalization and advanced technologies for low-emission green development.
OPPORTUNITIES - Strengthening of the IAs to manage manual waste, through adoption of an e-waste management plan to be developed for the Program. - Work with Ministry of ICT to define e-waste management and disposal strategies within the MDAs. - Partner with NEMA to improve ESHS awareness and mainstreaming climate change mitigation and adaptation strategies on fiscal and economic planning, including capacity building through training and orientations of the implementing agencies on proposed Program	**RISKS** - Improper management and limited enforcement of public and worker safety can result in physical injuries, including loss of life to the workers and public at and near construction sites. - Non-compliance by Implementing agencies, suppliers/consultants/contractors on EHS issues, and inaction by IAs to enforce contract ESHS clauses. - Lack of accountability on disposal of e-waste during and after Program completion **LEVEL OF RISK – MODERATE**

Core Principle # 3: Public and Workers Safety
• Inclusion of appropriate requirements in fiscal and economic planning and preparation of the required instruments of EHS management plans, especially the E-waste Management Plan.

Core Principle # 5: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities
Program E&S systems give due consideration to the cultural appropriateness or and equitable access to, Program benefits, giving special attention to the rights and interests of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and to the needs or concerns of vulnerable groups.
Program to be supported: • Undertakes free, prior, and informed consultations if Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are potentially affected (positively or negatively) to determine whether there is broad community support for the program. • Ensures that Indigenous Peoples can participate in devising opportunities to benefit from the exploitation of customary resources or Indigenous knowledge, the latter (Indigenous knowledge) to include the consent of the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. • Gives attention to groups vulnerable to hardship or disadvantage, including as relevant the poor, the disabled, women and children, the elderly, or marginalized ethnic groups. If necessary, special measures are taken to promote equitable access to program benefits.
Applicability The Program will not be explicitly implemented in areas where Indigenous Peoples/Sub-Saharan Africa Historically Underserved Traditional Local Communities, known in Kenya as Vulnerable and Marginalized Groups (VMGs), exist. However, there is potential to exclude VMGs and other disadvantaged groups from accessing information and other Program benefits and opportunities due to inadequate stakeholder engagement, disability, literacy, and mobility challenges.

STRENGTHS	WEAKNESSES
• Article 260 of the Constitution provides for the inclusion of marginalized communities and groups in the development agenda of the country. Further, under Section 56, the Constitution requires that the State shall put in place affirmative action programmes designed to ensure minorities and marginalised groups access public services. • Articles 10 and 232 of the Constitution provides for public institutions to institutionalize affirmative action programmes to address the needs of the vulnerable and marginalized groups and work towards removing barriers which impede their progress and participation in public service.	• There are no clear guidelines, for targeting and inclusion of VMGs and other disadvantaged groups. The lack of meaningful consultation hampers their engagement in the development process and access to culturally appropriate Program benefits and opportunities. • Non-compliance by implementing agencies to required national principles and values on inclusiveness, equity, equality, social justice, non-discrimination, protection of the marginalized, good governance, transparency and accountability and promotion of human rights and sustainable development. This is due to weak multi-sectoral coordination, limited human resources capacity and budgets, lack of an effective monitoring and evaluation system, inadequate engagement of VMGs and other disadvantaged groups and information disclosure, lack of awareness among the VMGs on their rights and entitlements, and weak compliance enforcement. • The existing stakeholder engagement, grievance resolution, and feedback mechanisms are not positioned to address challenges that are specific to VMGs such as representation and access to infrastructure, because they focus on issues that affect the mainstream society.
OPPORTUNITIES	RISKS

• Enforce the Access to Information Act 2016, to ensure relevant information held by public offices is availed to all segments of the public. • Create the awareness of individuals and businesses on proposed tax measures. • Undertake meaningful consultations with all segments of the public, including VMGs and other disadvantaged groups, informed by the Constitution and the Public Participation Policy 2023. • Utilize communication techniques beyond wide stream media such as public forums, use of local languages, websites translated into Kiswahili, mainstreaming disability in public participation etc. • Enhance the functionality and effectiveness of the institutional grievance mechanisms, to ensure they are accessible and culturally appropriate, ensure anonymous and confidential reporting and handling of complaints.	• Weak compliance enforcement, leading to the exclusion of VMGs and disadvantaged groups from the consultation process and access to Program benefits and opportunities. • Automation of tax administrative measures may potentially lock out segments of the public including VMGs, due to digital illiteracy, lack of smart-phones, poor electricity, and internet connectivity, thus hindering their ability to comply to some of the Program requirements, such as e-tax filing. **LEVEL OF RISK – LOW**

8   MEASURES TO STRENGTHEN SYSTEM AND INSTITUTIONAL PERFORMANCE

73.   This chapter summarizes measures recommended to strengthen the ESHS existing system and institutional performance in line with the gaps and risks identified in the ESSA. The proposed measures should be executed during Program implementation to address identified gaps and risks considering the existing country system and capacity verses the PforR core principles and key planning elements.

8.1   ESSA Findings
74.   The ESSA established that,
i.   Kenya has well-developed and robust written systems (laws, regulations, procedures, and guidelines) consistent with the PforR six Core Principles, which, if effectively applied, will enhance the environmental, social, health, and safety opportunities under the Program. They include provisions on inclusion of VMGs and other disadvantaged groups, compliance with national values and principles on governance, data protection and security, management of e-waste, and meaningful public participation and access to information.
ii.   There are challenges in complying with existing statutory provisions within Ministries, Departments and Agencies (MDAs) impeding adequate implementation of country's systems as written, and low awareness by the public on the provisions of the law.
iii.   Public Participation at the national level is affected by inadequate funding, limited stakeholder mapping and targeting, low public awareness, community expectations, short notice for public participation events, minimal coordination and collaboration among government agencies and development partners and lack of implementation of the citizens' priorities and feedback on decisions taken on their proposals. In addition, there exist gaps in complaints management and engagement of minority and marginalised groups, and unclear sanctions for not undertaking meaningful consultation.
iv.   Weak coordination across MDAs in delivering their respective mandates, due to limited financial and human resources, lack of interagency implementation agreements, silo mandates, bureaucracies, and no clear entity to oversee the coordination.
v.   Implementing agencies have institutionalized some form of complaints redress and feedback mechanisms. However, the systems need strengthening to ensure they are culturally appropriate and readily accessible to all (including VMGs and other disadvantaged groups) and resolve grievances promptly, effectively, transparently, and confidentially, at no cost and without retribution. Further, the existing stakeholder engagement, grievance resolution, and feedback mechanisms focus on challenges affecting mainstream communities and less on VMG-specific concerns such as no/limited representation in the governance process and lack of infrastructure.
vi.   Limited integration of green and climate aspects into the budget strategies and policies that inform resource allocation decisions and budget execution.
vii.   Weak capacity (expertise and budget) to manage e-waste in Kenya, leading to improper e-waste management, and poor enforcement. Kenya has a few private sector players in e-waste management, with limited capacity to handle all the e-waste generated.
viii.   There are deliberate efforts by MDAs to promote positive E&S outcomes through in-house committees on gender mainstreaming, climate and environment, occupational health, and safety, procurement, and disposal, among others. The established committees are challenged with limited ESHS expertise of appointed committee members for effective management of effects thereof.
ix.   Automation of tax measures will potentially lock out segments of the public including VMGs and other disadvantaged groups, due to digital illiteracy, lack of smart-phones, poor electricity, and internet connectivity. This will likely lead to non-compliance by individuals and businesses.

x. There are no dedicated E&S specialists within the implementing agencies, which may lead to limited monitoring and reporting on E&S risk management, potentially hampering the identification and implementation of E&S corrective measures.

8.2 ESSA Recommendations

75. The ESSA has recommended the following to the Program Action Plan.

i. **Enhance capacity to manage E&S risks and impacts** to support stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance resolution, protection of personal data and e-waste management under the Program. The NT should capitalize gains made from other PforR Programs, especially the E&S systems set under the FLLoCA program under the Climate Change Unit (CCU) in managing the environmental and social aspects under the Program. It is recommended that NT should appoint (or second) a **qualified environmental and social specialist** within the PCT.

ii. **Management of Electronic Waste.** The Program will develop an Electronic Waste Management Plan to guide in the screening and management of electronic waste expected to be generated from the Program's activities. The Plan (which will be incorporated in the main Program Operational Manual (POM), will have guidelines and Standard Operating Procedures (SOPs) in line with the existing country's e-waste management systems and legislation. Implementing institutions and agencies with mandate for e-waste management such as Ministry of ICT, NEMA and private entities in e-waste management will be integrated early into the Program planning process, including participating in the development of the e-waste management plan. In addition, the Program will ensure that e-waste management strategies are incorporated at preliminary stages of the planning process, including the allocation of adequate resources (especially financial), to enhance proper disposal of e-waste generated from the Program.

iii. **Include in the POM protocols on stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance management, protection of personal data and E&S risk monitoring and verification. In this regard, the Program will institutionalize the following.**

a. A participatory process with the public e.g., in formulating and rolling out the proposed tax administration measures. A systematic approach to stakeholder engagement that is timely, effective, and inclusive, and that Program information is disclosed to stakeholders in an understandable, accessible, and appropriate manner and format. Implementing agencies will ensure VMGs and other disadvantaged groups are adequately engaged, participate in and benefit from the proposed reforms, in a culturally appropriate manner, and include gender considerations to ensure women are not marginalized. The stakeholder engagement process will align with the provisions on public participation as per the provisions of the Constitution, the Public Participation Policy and other applicable laws and legislations.

b. Transparent, accessible, and inclusive means to raise issues and grievances and allow implementing agencies to respond to and manage such grievances promptly and effectively, without retribution. The mechanism will allow for anonymous complaints to be raised and addressed.

c. Employ the relevant legislative frameworks and institutional protocols to ensure the legitimate, appropriate, and proportionate use and processing of personal data and guard against data abuse, and specific mitigation measures implemented in line with the the Data Protection Act 2019.

d. Enable procedures to assess the performance of the Program on environmental, climate

change and social risk management and opportunity enhancement will rely on the environmental and social performance protocols, which will be outlined in the POM. Building on lessons learned from other PforRs in Kenya, the Terms of Reference (ToRs) for the Annual Independent Verification (AIV) Agent and the AIV reports shall also include environment, climate change, and social performance assessment considerations.

iv.   **Incorporate in the new National Public Finance Management Reform (PFMR) Strategy and Public Investment Management (PIM) guidelines the requirement and procedures for MDAs to manage E&S risks in the PFM and PIM cycle, to enhance Government's capacity to mitigate E&S risks and impacts and to promote positive E&S outcomes**. The Program will (i) mainstream climate and disaster risk management principles into the PFRM strategy and PIM; (ii) institutionalize data protection and security provisions; and (iii) embed public participation and citizen engagement in the formulation, implementation, and monitoring of the interventions supported under the Program. These measures will enhance Government's capacity to mitigate E&S risks and impacts beyond the Program.

76.   The overall Program Action Plan that should be legal incorporated into the financing agreement of the Program is provided in the Table below.

Table 8-1: PROGRAM ACTION PLAN (PAP)

No.	Action Description	RA / DLI	Responsibility	Timing	Expected Output/Verification
1.	**Staffing for monitoring E&S implementation and Performance** -Secondment of a **qualified environmental and social specialist** within the NT PCT.	All RAs	NT	Before Program effectiveness.	• Qualified and experienced staff appointed (or seconded) to PCT and confirmed annually through APA.
2.	**Managing/enhancing E&S aspects under the Program.** -Develop protocols on stakeholder engagement and inclusion of VMGs and other disadvantaged groups, grievance management, protection of personal data and E&S risk verification and monitoring in line with the applicable legislative and institutional frameworks.	ALL RAs	NT	Before Program effectiveness.	• POM to include all the protocols. • Confirmed annually through APA. • Audit report from the OAG confirming strategies put in place by the implementing agencies.
3.	**Managing/enhancing E&S aspects in the PFMR and PIM cycle.** -Incorporate in the new National PFM Reform Strategy (2023-2028) and PIM guidelines the requirement and procedures on climate change risks, E&S risks management and enhancement of positive outcomes in the public investment cycle.	All RAs	NT	Within 1 year after Program effectiveness.	• Climate change and E&S Guidelines incorporated in the new National PFM Strategy.
4.	**Management of Electronic waste** -Develop an Electronic Waste (E-waste) Management Plan.	ALL DLIs	NT	Condition of Program effectiveness.	• E-Waste Management Plan.

9 Annexes

9.1 Annex 1: List of Stakeholders Consulted for the ESSA

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9.2 Annex 4: ESSA Assessment Tool

Core Principles	Key Planning Elements	Guiding Questions
Core Principle 1: Program E&S management systems are designed to (a) promote E&S Sustainability in the Program design; (b) avoid, minimize, or mitigate impacts; and (c) promote informed decision-making relating to a Program's E&S effects.	Operate within an adequate legal and regulatory framework to guide E&S impact assessments, mitigation, management, and monitoring at the PforR Program level.	1. What are the effects (positive and negative) of the proposed Programs? 2. What relevant policies, laws, regulations, procedures, decrees, strategies, or other mandatory legal instruments are available at the national government level that address E&S considerations that apply to the Program activities? (See separate list of activities and E&S considerations)? 3. Do these instruments (laws/policies) sufficiently and objectively address the E&S aspects of the Program? (If no, what changes are necessary?) (If yes, give examples) 4. Do the Program implementing agency/agencies (national level) have the legal and/or regulatory authority to commit resources to implement the E&S aspects? 5. If not, are critical legal or regulatory framework changes needed before the operation can proceed? (If yes, what changes?) 6. How will the E&S aspects under the Program be coordinated between the implementing agencies and the various compliance authorities, such as NEMA, Social Risk Management Unit, Commission on Administrative Justice (Ombudsman), State Department for Citizen Services, Public Service Commission, Data Protection Commission, etc? 7. What are the foreseen gaps and challenges that may impede the effective implementation of the E&S aspects under the Program?
	Incorporate recognized elements of good practice in E&S assessment and management including: i. Early screening of potential impacts.	1. Do applicable procedures require E&S screening or assessment of activities associated with the proposed PforR operation that presents risks? 2. Is there a criterion for screening E&S risks and impacts in place? 3. Does the implementing agency apply the screening criteria in the E&S assessment?
	Clear articulation of institutional responsibility and resources to support the implementation of plans.	1. Are the roles and responsibilities of national government clearly articulated regarding the management of E&S aspects under the Program? E.g., public participation, inclusion and access, e-waste management etc. 2. Are responsibilities supported by adequate human and financial resources to implement the E&S aspects? 3. Are Program entities responsible for E&S aspects adequately staffed-in terms of skills, qualification, and the number of personnel – to ensure effective administration, planning, design, implementation, and monitoring functions? 4. Are E&S experts in-house or outsourced? 5. Does the entity have an E&S Specialist (s)? If so, what is the scope of work for the specialists? 6. How often are the E&S staff re-trained on E&S aspects? If not, why? And what can be done? 7. If the Program depends on interagency collaboration for the delivery of services or for managing E&S effects, or if the multi-jurisdictional reach or scope of the Program creates divided responsibilities for implementation, what structural arrangements are in place to ensure effective and timely coordination? 8. Is there a coordinating body empowered to resolve coordination issues or delays in necessary actions? 9. Are the Program entities effective at applying their E&S frameworks in practice? 10. Do Program entities have access to contingency funds for unexpected impacts or budget shortfalls?

| | Responsiveness and accountability through stakeholder consultation, timely dissemination of the PforR information, and responsive GRM. | **Stakeholder Consultation and timely dissemination of the PforR information (Public Participation)**
1.　What mechanisms are available for Program entities to ensure that stakeholders are identified, mapped, consulted, and engaged and that their views, concerns, and suggestions are systematically considered?
2.　Does the sampling of stakeholders capture jurisdictional, geographical diversity?
3.　Are consultations conducted early enough that stakeholder feedback can be considered in designing new or changing Program activities?
4.　Are consultations conducted in a manner that encourages an open exchange of views without fear, coercion, or intimidation?
5.　Do consultation processes promote communication and informed decision-making? Do those affected have prior access to information about the topics for consultations?
6.　Is information relating to E&S effects made available to the people or communities that are potentially affected in a timely manner?
7.　What kind of information do you give the program-affected people to enable them to make informed decisions?
8.　How much time/notice is given to the public to provide their input? Is this notice adequate to guarantee meaningful consultations?
9.　Are documents published and distributed in a language and form that the public can use? E.g., Is the information accessible to persons with disabilities?
10.　Is there a feedback mechanism for affected persons on decisions made by the responsible authorities?
11.　Are there sanctions/penalties for the responsible institution due to non-compliance with the constitutional provisions on public participation?
12.　Does the borrower have a Stakeholder Engagement Framework or Plan that can be adapted to the Program?
Oversight
1.　Does the system include mechanisms for independent oversight and monitoring where appropriate? If yes, which ones? If not, why?
Responsive GRM
1.　Do counties have an accessible and functional GRM with established procedures for submitting grievances (including several uptake channels, established routines, and standards, grievance logs, etc.)?
2.　If so, to what level is the GRM decentralized? If no GRM system is in place, why?
3.　Are complaints addressed consistently, objectively, and timely?
4.　Are complainants/whistle-blowers protected from, e.g., retribution?
5.　Do the established GRMs accept and process grievances relating to E&S management? etc.
6.　Is the GRM responsive to sensitive issues, e.g., SGBV cases? If yes, what measures are in place to promote confidential reporting and handling SGBV complaints? |
| **Core Principle 3: Program E&S management systems are designed to protect public and worker safety against the potential risks associated with (a) the construction and/or operation of facilities or other operational practices under** | Promote adequate community, individual and worker health, safety and security through the safe design, construction, operation, and maintenance of Program activities, or, in carrying out activities that may be dependent on existing infrastructure, incorporate safety | **Management of E-Waste**
1.　Does the Program include adequate measures to protect people and the environment from the effects of e-waste that will be generated under the Program?
2.　Do applicable systems include skills development of staff for management of e-waste?
3.　In terms of technical scope, have trainings/capacity building on management of e-waste been provided? If so, are they sufficient? |

the Program; (b) exposure to toxic chemicals, hazardous wastes, and otherwise dangerous materials under the Program; and (c) reconstruction or rehabilitation of infrastructure located in areas prone to natural hazards.	measures inspections or remedial works as appropriate.	4. What good industry practice on management of e-waste have been adopted? Are there systemic constraints in application of good industry practices?
Core Principle 5: Program E&S systems give due consideration to the cultural appropriateness or and equitable access to, Program benefits, giving special attention to the rights and interests of Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and to the needs or concerns of vulnerable groups.	Undertake meaningful consultations if the Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities are potentially affected (positively or negatively), to determine whether there is broad community support for the PforR Program activities. Give attention to groups of vulnerable to hardship or discrimination, including, as relevant, the poor, the disabled, women and children, the elderly, ethnic minorities, or other marginalized groups; and if necessary, take special measures to promote equitable access to PforR Program benefits.	**Meaningful Engagement of VMGs/IPs and Disadvantaged Groups** 1. Do consultations include socialy and culturally distinct groups e.g. Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, or other ethnic minorities, the poor, or other groups that might be underrepresented)? 2. How are these groups sampled? 3. What are the efforts/mechanisms made by the National governments to identify the presence of distinct social, cultural, religious, and vulnerable groups and ensure their inclusive participation and access to Program benefits and opportunities? 4. What barriers hamper the inclusion/participation? 5. What considerations are given to alleviate these barriers and ensure their participation and access to Program benefits and opportunities? 6. Does the incentive structure within Program agencies promote outreach measures to encourage equitable and affordable access to Program benefits? 7. What changes are required to ensure these groups are meaningfully engaged under the Program? 8. What gender mainstreaming strategies are in place that facilitate gender considerations and equity for Program benefits? 9. Do Program entities regularly review and consider consultation results to obtain or broaden community support? 10. What monitoring & evaluation system exists for measuring equitable access to Program benefits? 11. Any recommendations?

9.3   Annex 5: Capacity Assessment Tool

The Enabling Environment

1.   Based on the institutional mandate, what role can the institution play to deliver or enhance the delivery of the Governance Program?
2.   What is the specific entity's mandate as related to the E&S risk management?
3.   What policies, legal and regulatory frameworks guide the institution (s) in fulfilling its environmental and social mandates?
4.   What institutional compliance enforcement measures are in place for management of environmental and social effects?
5.   Are there inter-agency relationships that facilitate effective environmental and social management?
6.   Who coordinates such relations?
7.   What oversight measures will be utilized under the Program to ensure the delivery of reforms as well as the anticipated E&S considerations?

Skills Assessment/Resources/Organizational Structure

8.   Is there an operational institutional environmental and social management system (ESMS) in place?
•   E&S Policy Statement;
•   Support from Management;
•   Adequacy and qualification of staff;
•   E&S management strategies, plans;
•   E&S training modules and trainings held etc.,
9.   Are technical resources available to support Program entities to manage the E&S risks?
10.   Is there an institutional budget that is adequate for managing the environmental and social effects?
11.   Elaborate on coordination/synergy with other key agencies in the governance sector.

Public Participation and Grievance Management

12.   What measures and capacity are in place to carry out meaningful consultations and stakeholder engagements (include disadvantaged groups, access to services etc.,)?
13.   What feedback and grievance redress mechanisms are in place at the entity and how effective are they? E.g., uptake channels, grievance logs, responsibility to log etc.
14.   How does the entity handle grievances/issues relating to their operations from the members of the public? (response time, implementing resolutions, inter-agency collaborations, feedback mechanisms etc.,)

Lessons Learned/Best Practices

15.   What has been the entity's experience (positive and negative) of World Bank funded projects in the management of E&S issues?
16.   Propose key recommendations for adoption in the Governance Program based on lessons learned from implementation of related projects.

9.4   Annex 6: Result Areas, associated Disbursement Linked Indicators and Disbursement Sub-Indicators

Result Area	Disbursement-Linked Indicator	Disbursement-Linked Sub-Indicators	Verification Protocol
RA 1: Enhancing Revenue Mobilization	**DLI 1:** VAT compliance gap is reduced.	**DLSI 1.1:** Collection of VAT revenue is enhanced through automation. **DLSI 1.2:** Collection of user service fees by revenue collecting MDAs is enhanced through automation.	All associated sub-indicators have been achieved as verified by Independent Verification Agent (IVA).
RA 2: Strengthening the Efficiency and Accountability of Public Spending	**DLI 2:** Predictability and control in budget execution is improved.	**DLSI 2.1:** The cash position and financial obligations of the Government are more transparent. **DLSI 2.2:** Transparency of public procurement spending is improved. **DLSI 2.3:** At least 90 percent of Ministries, State Departments, and selected State Corporations (SCs) have improved payroll controls.	All associated sub-indicators have been achieved as verified by IVA.
	DLI 3: Management of assets and liabilities is improved and responsive to climate risk.	**DLSI 3.1:** Public investment projects selected for inclusion in the development budget are economically viable. **DLSI 3.2:** The financial performance and the fiscal risk of SCs is monitored regularly and published. **DLSI 3.3:** Climate adaptation and mitigation concerns are mainstreamed into public investment and procurement spending.	All associated sub-indicators have been achieved as verified by IVA.
RA 3: Improving the Implementation of Priority Programs and Projects	**DLI 4:** Implementation performance of priority programs and projects are monitored and made public.	**DLSI 4.1:** The National Government Coordination Act of 2013 has been operationalized with approved guidelines in place. **DLSI 4.2:** Priority programs and projects are monitored through an enhanced performance management system.	All associated sub-indicators have been achieved as verified by IVA.
RA 4: Promoting Audit and External Oversight	**DLI 5:** Audit recommendations regarding procurement, payroll, and public investment are implemented and monitored.	**DLSI 5.1:** Audit recommendations are tracked and implemented. **DLSI 5.2:** OAG conducts special audits of the performance of core government systems and selected priority programs and projects.	All associated sub-indicators have been achieved as verified by IVA.