



ANTI-CORRUPTION GUIDELINES FOR REDD+ IN KENYA

March, 2021

ACKNOWLEDGEMENTS

The development of this anti-corruption guideline involved in-depth consultations with various stakeholders such as Community Based Organization (CBO), Private Sector, Indigenous People through consultative meetings. This guideline is guided by international best practice in line with the United Nations Convention Against Corruption and United Nations Framework Convention on Climate Change (UNFCCC).

The Ministry of Environment and Forestry (ME&F) would like to acknowledge individuals and organizations who dedicated their time and effort towards the development of this guideline.....**TO BE ENRICHED BY THE MINISTRY OF ENVIRONMENT AND FORESTRY**

LIST OF ABBREVIATIONS

1. CBMIS - Community Based Monitoring Information system
2. CCD - Climate Change Directorate
3. CFAs - Community Forest Associations
4. CIDPs - County Integrated Development Plan
5. EACC - Ethics and Anti-Corruption Commission
6. FPIC - Free Prior Informed Consent
7. FRL - Forest Reference Level
8. KEFRI - Kenya Forestry Research Institute
9. KFS - Kenya Forest Service
10. KLRC - Kenya Law Reform Commission
11. KWTA - Kenya Water Towers Agency
12. MEAC - Ministry of East African Community
13. MEAs - Multilateral Environmental Agreements
14. MoEF - Ministry of Environment and Forestry
15. NECC – National Environmental Complaints Committee
16. NEMA - National Environmental Management Authority
17. NFMS - National Forest Monitoring System
18. NLC - National Land Commission
19. PES - Payment of Ecosystem Services
20. PWDs - Persons with Disabilities
21. REDD+ - Reducing Emissions from Deforestation and forest Degradation and the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries
22. SIS - Safeguard Information System
23. TEV - Total Economic Valuation
24. UNFCCC - United Nations Framework Convention on Climate Change

FOREWORD

The Ministry of Environment and Forestry is committed to facilitating enabling policy, legal and regulatory reforms for promoting sustainability of the environment and forest resources, while at the same time, mitigating the effects of climate change.

This guideline is based on existing Laws, rules, policies, and procedures that address various aspects of corruption in the environmental sector. The adverse effects of corruption and unethical conduct have resulted into loss of lives as well as degradation of the environment. It presents a coordinated approach towards inculcating values and principles of governance as stipulated in Article 10 and Article 232 of our Constitution in REDD+ in Kenya.

Further, the guideline is critical in ensuring that the REDD+ process in Kenya is designed in a manner that promotes integrity among all the players in the environment/forest sector in accordance to guidance from the UNFCCC. At the national and sub-national levels, corruption in the environment sector is discussed by the various implementing partners under the REDD+ mechanism set out to mainstream integrity in the forest sector.

The guideline is destined for use not only by players in the forest sector, but also other stakeholders (civil-society, non-governmental organisations, private sector, and the community) that have an important role to play in the conservation and management of forests. It is envisaged that this guideline will enable Kenya meet its REDD+ aspirations/objectives in a more structured, efficient, and effective manner.

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Further, the guideline is critical in ensuring Kenya's readiness for REDD+ under the UNFCCC reporting mechanisms designed to promote integrity among all the players in the environment sector. At the national level and sub-national level, corruption in the environment sector is discussed by the various implementing partners under the REDD+ mechanism set out to mainstream integrity in the environment sector.

The guideline is destined for use not only by players in the environment sector, but also other stakeholders (civil-society, non-governmental organisations, private sector, and the community) that have an important role to play in the protection of the environment. It is envisaged that this guideline will enable Kenya to meet its mandate in a more structured, efficient, and effective manner.

OVERVIEW

The REDD+ Anti-corruption Guidelines outline principles and strategies for REDD+ implementing partners towards eradication of Corruption through-out the program cycle. They also provide relevant measures for prevention, detection, eradication of corrupt practices and subsequent mechanisms for reporting, monitoring accounting for and fair determination of identified cases.

The overall objective is to facilitate, the design, implementation and reporting of a corruption free REDD + program in Kenya.

This will be facilitated by the following specific objectives:

1. To provide a clear statement forbidding corrupt activity and guidance to implementing partners on action to be taken to prevent, detect and eradicate corruption.
2. To inform policy makers and implementing partners of their responsibilities in identifying corruption risks and incidences; and the need for strengthening and/or establishing systems, procedures, and controls for preventing and detecting corruption.
3. To establish the REDD+ Anti-Corruption and integrity committee charged with the responsibility to oversight implementation of the guidelines.
4. To provide an enabling environment and appropriate reporting mechanisms for reporting suspicious matters that may amount to corrupt practices or improper conduct.
5. To provide and communicate appropriate mechanism for protection of whistleblowers in circumstances where they may be victimized.

These guidelines have been developed through a consultative process and shall be made available to ALL implementing partners and stakeholders for implementation.

All implementing partners including REDD+ stakeholders and County Governments are encouraged to customize these guidelines and strengthen their internal policies to realize implementation of a corruption free REDD+ Program.

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1. GUIDELINES STATEMENT

These guidelines are designed to facilitate prevention, detection and eradication of any corrupt activity that may occur during the implementation of the REDD+ program to guarantee its overall success.

2. APPLICABILITY

These guidelines are applicable in the context of all REDD + program activities and to all implementing partners and stakeholders involved in ensuring achievement of the REDD+ program.

3. LEGAL FRAMEWORKS

This section provides an overview of applicable laws, internationally, regionally, and nationally in the context of anti-corruption associated to REDD+ program implementation.

3.1 INTERNATIONAL FRAMEWORKS

3.1.1 United Nations Convention against Corruption (UNCAC)

This Convention obligates each State Party, in accordance with the fundamental principles of its legal system, to develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

3.1.2 United Nations Convention against Transnational Organized Crime

This convention constitutes an effective tool and necessary legal framework for international cooperation in combating, criminal activities like; money-laundering, corruption, illicit trafficking in endangered species of wild flora and fauna, offences against cultural heritage and the growing links between transnational organized crime and terrorist crimes.

Article 8 of this Convention requires States Parties to adopt and put in place various legislative and other measures to criminalize corruption offences committed internationally.

Further, the Convention in Article 9, requires member states to take appropriate measures, such as legislative, administrative, or other effective measures to promote integrity and to prevent, detect and punish corrupt public officials.

3.2 REGIONAL FRAMEWORKS

3.2.1 African Union Convention on Preventing and Combating Corruption (AUCPAC)

Article 5 of this Convention requires States Parties to put in place various legislative and other measures to ensure a sustainable fight against corruption.

These Conventions have been ratified by Kenya and form part of the laws of Kenya under Article 2(6) of Constitution. They provide principles for promotion and strengthening of mechanisms for preventing, detecting, punishing, and eradicating corruption including in the forestry sector.

3.3 NATIONAL FRAMEWORKS

3.3.1 The Constitution of Kenya, 2010

The Constitutional foundation for the fight against corruption is provided for under Article 10 (National Values and Principles of Governance), Chapter four (Bill of Rights), Chapter Six (Leadership and Integrity), and Article 232 (Values and Principles of Public Service).

Article 79 of the Constitution provides for the establishment of an independent ethics and anti-corruption commission.

Article 80 provides for the enactment of legislation establishing procedures and mechanisms for the enforcement of Chapter Six of the Constitution. It establishes binding provisions for the adherence to the principles of leadership and integrity set out in the Constitution by targeting State and public officers.

Every person in Kenya has an obligation to respect, uphold and defend the constitution pursuant to Article 3 of the Constitution. Therefore, REDD+ stakeholders have an obligation to abide and promote the principles provided in the Constitution.

3.3.2 Anti-Corruption and Economic Crimes Act, No. 3 of 2003

This Act provides for the prevention, investigation and punishment of corruption, economic crime, and related offences. Section 35 of the Act provides that, following an investigation, the Commission shall report to the Director of Public Prosecutions the results of the investigation. All this is aimed at ensuring accountability and prosecution regarding corruption and economic crimes.

3.3.3 Public Officer Ethics Act, No. 4 of 2003

This Act seeks to advance the ethics and integrity of public officers with the goal of mitigating corruption, and enhancing efficiency and effectiveness in service delivery. The Act provides for codes of conduct and ethics for all public officers and mandatory Declaration of Income, Assets and Liabilities.

3.3.4 Proceeds of Crime and Anti-Money Laundering Act, No. 9 of 2009

The Proceeds of Crime and Anti-Money Laundering Act (POCAMLA), 2009 and its regulations provides for the criminalization of money laundering. The Act establishes the Financial Reporting Centre (FRC) whose objective among others includes assisting in the identification of proceeds of crime and the combating of money laundering.

The Act, in Section 54, establishes the Asset Recovery whose key function is to trace, freeze and confiscate proceeds of crime.

3.3.5 Ethics and Anti-Corruption Act, No. 22 of 2011

This Act establishes the Ethics and Anti-Corruption Commission (EACC) pursuant to Article 79 of the Constitution and provides for the functions and powers of the Commission.

The following are some of the functions of the EACC under the Act.

- i. Develop and oversee enforcement of codes of ethics.
- ii. Promote best practices on integrity.
- iii. Investigate and recommend to Director of Public Prosecutions for prosecution of acts of corruption.

- iv. File recovery proceedings including forfeiture of unexplained assets.
- v. Enforcement of Chapter six of the Constitution and compliance therein.

3.3.6 Leadership and Integrity Act, No. 19 of 2012

The Act establishes procedures and mechanisms for the effective administration of Chapter Six of the Constitution. The primary purpose of this Act is to ensure that State and Public officers respect the values, principles, and requirements of the Constitution.

The Act obligates a State officer to respect the values, principles, and the requirements of the Constitution, including: -

- i. The National values and Principles of Governance provided for under Article 10 of the Constitution.
- ii. The rights and fundamental freedoms provided for under Chapter Four of the Constitution.
- iii. The responsibilities of leadership provided for under Article 73 of the Constitution.
- iv. The principles governing the conduct of State officers provided for under Article 75 of the Constitution.
- v. The educational, ethical, and moral requirements in accordance with Articles 99(1)(b) and 193(1)(b) of the Constitution.
- vi. In the case of County governments, the objectives of devolution provided for under Article 174 of the Constitution; and
- vii. In so far as is relevant, the values and principles of Public Service as provided for under Article 232 of the Constitution.

3.3.7 Bribery Act, No. 47 of 2016

This Act provides for the prevention, investigation, and punishment of bribery. It criminalizes the act of requesting, giving and/or receiving a bribe in both the public and private sector.

It further enhances the private sector engagement in the fight against corruption. The Act extends the penalties to individuals who give or receive bribes in foreign territories.

Further the Act makes specific requirements for private entities to have in place procedures for prevention of bribery.

The Act imposes a duty to report on a State Officer, Public Officer or any other person holding a position of authority in a public or private entity or organization, to EACC any knowledge or suspicion of instances of bribery within a period of 24 hours.

3.3.8 Public Finance Management Act, No. 18 of 2012

This Act provides for the effective management of public finances by the national and county governments. In addition, it gives oversight responsibility to Parliament and county assemblies.

3.3.9 Public Procurement and Asset Disposal Act, No. 33 of 2015

An Act of Parliament that gives effect to Article 227 of the Constitution and provides procedures for efficient public procurement and assets disposal by public entities.

The Public Procurement Regulatory Authority is established under Section 8 of this Act. The Authority is responsible for the regulation of public procurement in Kenya. Even though the Procuring Entities (PEs) are responsible for managing and ensuring that the procurement process is in conformity with the legal and regulatory requirements, PPRA ensures that the PEs do indeed adhere to these requirements.

3.3.10 Witness Protection Act, No. 16 of 2006

The main aim of this Act is to oversee protection of witnesses in Kenya. The Act establishes the Witness Protection Agency (WPA) which is mandated with providing special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with the prosecution and other law enforcement agencies. Article 50 of the Constitution provides for the protection of witnesses and vulnerable persons in the interests of fair hearing before courts and tribunals and this forms the basis of our mandate.

3.3.11 Penal Code (Cap 63)

An Act of Parliament to establish a code of criminal law. There are instances where corrupt activities and abuse of power amounts to criminal offences prescribed under the Code thus the relevance of this law in prevention, detection and eradication of corrupt practices.

3.3.12 Climate Change Act no. 11 of 2016

This act provides for a regulatory framework for enhanced response to climate change and provides for the mechanisms and measures to achieve low carbon climate development.

The Act provides for the creation of the National Climate Change Council which should be headed by the President.

Further, the Act gives footing to the Environment and Land Court which has the jurisdiction to handle matters relating to climate change. It further provides an avenue for easier prosecution of climate change related offenses and a pillar to the efforts of the many social entrepreneurs that are working towards mitigating the effects of climate change.

The implementation framework of the guidelines should be incorporated into the national and County Climate Change committees.

3.3.13 Data Protection Act No. 24 of 2019

This Act gives effect to Article 31(c) and (d) of the Constitution and establishes the Office of the Data Protection Commissioner. It makes provision for the regulation of the processing of personal data, to provide for the rights of data subjects and obligations of data controllers and processors.

3.3.14 Forest Conservation and Management Act No. 34 of 2016

The Act gives effect to Article 69 of the Constitution on environment and natural resources. It is the main statute governing all forests on public, community and private land. The main features of this Act are: the inclusion of County governments and communities in forest management and conservation; the introduction of benefit sharing arrangements and incentives to increase forest and tree cover, a national strategy to increase and maintain forest and tree cover to at least 10% of the total land area; the establishment of a national forest resource monitoring system and establishment of a Forest Management and Conservation Trust Fund.

3.3.15 National Ethics and Anti-Corruption Policy, Sessional Paper no. 2 of 2018

The overall objective of the National Ethics and Anti-Corruption Policy is to reduce levels and prevalence of corruption and unethical practices in Kenya by providing a comprehensive, coordinated, and integrated framework for the fight against corruption and promotion of ethics. The specific objectives of the policy are to:

- (a) Enhance co-ordination and synergy of all stakeholders in the fight against corruption.
- (b) Generate sufficient and sustained political support for the fight against corruption.
- (c) Strengthen the legal and institutional framework for anti-corruption, ethics, and integrity.
- (d) Enhance public participation and engagement in the war against corruption.
- (e) Mainstream ethics and integrity in the management of public affairs.
- (f) Intensify efforts towards the fight against corruption in the devolved system of government.
- (g) Establish an effective monitoring and evaluation framework for anti-corruption initiatives.

The guidelines have been aligned and shall be applied with reference to Sustainable Development Goals (SDGs), Kenya Vision 2030 and Medium-Term Plans (MTPs).

4. DEFINITION OF CORRUPTION

The National Ethics and Anti-corruption policy define corruption as the abuse of public office for private gain which include actions like bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, and breach of trust. Corruption is also the dishonest or fraudulent conduct by those in power. Corruption is a form of dishonesty or criminal offense undertaken by a person or organization entrusted with a position of authority, to require illicit benefit or abuse power for one's private gain.

5. THE ANTI-CORRUPTION AND ETHICS (INTEGRITY) COMMITTEE

The committee shall be composed of representatives from key implementing partners of the REDD+ Program in Kenya; in addition to inclusion of special interest groups such as women, persons with disabilities, youth, Indigenous People, and forest adjacent communities.

The committee shall be responsible for:

- i. Setting priorities in the prevention, detection and eradication of corruption within REDD+;
- ii. Developing and implementing corruption prevention, detection, and eradication strategies.
- iii. Integrating corruption prevention initiatives within the REDD+;

- iv. Receiving and reviewing reports on corruption prevention, detection and eradication initiatives and recommend appropriate actions.
- v. Monitoring and evaluating impact of corruption prevention initiatives.
- vi. Give advice on anti-corruption campaigns strategies.
- vii. Maintain appropriate liaison with relevant Institutions like the Ethics and Anti-Corruption Commission and
- viii. Preparing and submitting quarterly and annual progress reports to the principal secretary in the relevant ministry.
- ix. Undertaking annual audit review to measure implementation of these guidelines and compliance by all the Implementing partners/agencies.

The committee shall convene at least one (1) meeting every quarter to assess progress and advice on any remedial actions needed to reduce corruption risk in forestry sector.

6. COMPLIANCE AUDIT REVIEWS

The audit review Committee will be appointed by the Ministry and EACC in compliance with Regulation 1.1(5) of Mwongozo, the Commission's Board comprises of eleven (11) members possessing a balanced mix of skills, knowledge, and experience to enable the Commission to achieve its mandate. In addition, the review meeting will provide a self-assessment mechanism to assess implementation of these guidelines through measuring the following:

- (a) the level of compliance by the REDD+ Anti- corruption and Ethics (Integrity) committee
- (b) the level of compliance by the implementing partners.

The compliance audit review report will focus on the four areas namely, operational, reporting, compliance and safeguarding. This is aimed at increasing effectiveness and efficiency of the prevention, detection, and eradication of any corrupt activity in the REDD+ program.

7. HOW TO REPORT CORRUPTION

The REDD+ program is run by various stakeholders (State and Non-State actors) across the country. This therefore means that corruption incidences will occur at various places and or stages and will vary in form. There is need to have a centralized reporting office where ALL corruption incidences can be reported for ease of categorization and referral to the most appropriate agency to deal. It is proposed that there be created a reporting office at the National REDD+ Coordination office in the

(Ministry of Environment) the **National REDD+ complaints office/ desk**. Apart from the aforementioned office, it is proposed that reporting may be done in existing legally recognized reporting centers which may include Ward Administration Offices, Chiefs Offices and Huduma Centres reporting desks etc. In addition, the reporting will also be done at the project level in consultation with the Committee.

The mode of reporting once the aforementioned office has been set up will include;

- a) Web based anonymous reporting;
- b) Telephone; Calls/SMS
- c) Written Correspondences
- d) Corruption Reporting Boxes
- e) Social media; or
- f) Walk-in.

8. HANDLING OF CORRUPTION CASES

Once a corruption allegation has been reported, the **National REDD+ complaints office/ desk** shall categorize and refer the complaint to the entity under whose mandate the complaint falls. This shall be done through an established Complaints Referral Mechanism. There should be clear timelines within which a complaint should be processed, and feedback given (to the Complaints office) on action taken for accountability purposes.

The Grievance Redress Mechanism should consider existing mechanisms, including traditional systems developed for REDD+.

9. PROTECTION OF WHISTLEBLOWERS AND WITNESSES

Protection of whistleblowers shall be anchored on the existing laws including.

- *Anti-Corruption and Economic Crimes Act, 2003*
Section 65 of the Act provides for the protection of informers.
- Witness Protection Act, 2006
- *The Bribery Act, 2016*
Section 21 of the Act provides for protection of whistleblowers and witnesses.
- Any other written law.

10. DETERRENT MEASURES

A commonly advocated anti-corruption approach is deterrence. It assumed that corruption is preferred and chosen if its net expected benefit is higher than that of legal alternatives. Therefore, there is need to establish effective deterrence methods which increase compliance with the law by;

- i) Creating awareness among stakeholders in the REDD+ program
- ii) Increasing the risks associated with engaging in corrupt practices.

The goal in deterrence is not only to help save funds but achieve the goal of forest conservation and management.

Deterrent measures to be employed include but are not limited to;

- a) Amendment of existing legislation touching on management and conservation of forests to provide for tougher penalties;
- b) Full information disclosure: Access to information is a basic right entrenched in the Constitution of Kenya pursuant to Article 35 which provides for access to information held by the state or another person. The Access to Information Act, 2016 defines "information" to include all records held by a public entity or a private body, regardless of the form in which the information is stored, its source or the date of production. Access to timely and accurate information provides individuals with the knowledge required to participate effectively in the democratic processes in any democratic society. Access to information fosters openness and transparency in decision-making. An informed public is also likely to be vigilant against corruption within and outside of Government.

It therefore paramount that information regarding REDD+ activities be made available to all stakeholders.

- c) Inclusive participation of the relevant stakeholders through free prior informed consent; whose aim is promoting the respect for principles of openness and transparency deriving from constitutional provisions on citizen participation, Kenya's international obligations and responding to international best practices.
- d) Collaborative monitoring and evaluation; This will assist in tracking implementation and outputs systematically and measure the effectiveness of REDD+ programmes. Transparency and Accountability

is also increased where there is an efficient Monitoring and Evaluation system.

- e) Clear and equitable benefit sharing arrangements; Where there are clear (Open) and equitable benefit sharing arrangements corruption incidences such as embezzlement of funds will be reduced since all stakeholders are aware of what is owed to them.
- f) Incentivizing best practices; Where stakeholders are assured of an Incentive chances of engaging in corrupt practices are minimized.

11. CAPACITY BUILDING AND AWARENESS CREATION

The training should focus on the concepts, functions, processes, and desired outcomes of the REDD+ project and giving an emphasis on gender equity, gender representation and gender mainstreaming.

The training shall target the REDD+ stakeholders including.

- National and County Government
- Actors in the forest sector.
- Private sector;
- National Alliance of Community Forest Associations
- Knowledge Institutions.
- Indigenous People and Local Communities; and
- Civil Society Organizations/Non-Governmental Organizations
- General public

The training should be need-based/targeted and periodic.

12. MANAGEMENT OR IMPLEMENTATION AUTHORITY

These guidelines shall be managed and implemented by the Ministry currently in charge of environment and climate change matters.

13. REVIEW

The review of the guidelines shall be carried out every three years. The Ethics and Anti-Corruption Commission, the Ministry and the project members is responsible for reviewing these guidelines due to its impartial nature. The Ministry currently in charge of environment and climate change matters shall provide an annual report on the status of implementation of the guidelines including how safeguards are operationalized, which shall form the basis for review of the guidelines.

14.EFFECTIVE DATE

The commencement date of these guidelines is day of, March 2021

Issued this day of 2021

Table 1: INDICATIVE CORRUPTION RISK MATRIX FOR REDD+ PROGRAM

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
1. Readiness and governance	National REDD+ fund management: Financing system for policies and measures (national budget; trust fund; positive incentives system, etc.)	<p>Undue influence on designs of fund management to favour obscure movements of funds</p> <p>Definition of beneficiaries to favour those with influence/power and/or exclude the poor and marginalized (i.e. women, indigenous people, and the poor)</p> <p>Undue influence to link Carbon rights to state ownership excluding informal or customary tenure Bribery to register Carbon rights over particular parcels of land</p>	<p>Embezzlement of REDD+ grants</p> <p>Fraud (deliberate misinformation) related to the distribution of positive incentives</p> <p>Failure to account for Non-Carbon Benefits</p>	<p>Acknowledge and incentivise the Non-Carbon Benefits</p> <p>Full information disclosure on REDD+</p> <p>Creation of awareness on concepts of REDD+ program</p>	Ministry of Environment REDD+ project Stakeholders
	Degazettement of forests to pave way for development or human settlement.	<p>Political interference in the processes and laws that regulate forest conservation and management</p> <p>Vested interests and ignorance of forest dependent communities</p> <p>Weak and conflicting interests in laws governing community land and community forests</p> <p>Inadequate allocation of resources to institutions tasked with management of forests</p> <p>Inadequate technical capacity</p> <p>Lack of awareness creation on the importance of REDD+ projects to</p>	<p>This is likely to bring issues in implementation and enforcement of the laws.</p> <p>Displacement and forceful eviction</p> <p>Where community land has a forest, issues of conservation should take precedence</p> <p>No priority given to conservation of community forests</p> <p>Low understanding of</p>	<p>Ensuring robust, effective stakeholder engagement including through the pre-agreed framework of engagement</p> <p>Meaningful application of free prior informed consent</p> <p>Ensure fair and commensurate compensation for land loss and lost livelihoods</p> <p>De-politicize REDD+ through transparent issue-based</p>	Ministry of Environment/ KFS KWTA NEMA KWS WRA NECC NLC National REDD+ Coordination Office NGOs Private sector

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
		<p>the magistrates handling environmental cases Lack of financial and community support on awareness creation programs</p> <p>Vested interests and lack of awareness by forest dependent communities</p> <p>Lack of policy mechanisms for benefit sharing and where available the process is lengthy</p>	<p>the concept, functioning and importance of the REDD+</p>	<p>programming & clear institutional arrangements</p>	
	Inadequate appreciation of REDD+ Program as a land use option among Judicial actors	Lack of awareness creation on the importance of REDD+ projects for the judicial officers handling environmental cases	<p>Court orders issued by courts may halt project processes</p> <p>Unfavorable determination of cases by courts. Presents a leeway for manipulation of fines and penalties</p>	<p>Capacity building for judicial officers</p> <p>Robust and well-resourced feedback and grievance redress mechanism</p>	
	Benefit sharing from forest resources	<p>Lack of policy mechanisms for benefit sharing and where available the process is lengthy</p> <p>Accounting for Non-Carbon Benefits at project design</p> <p>Accounting for the respective land tenure regimes - communal, Public and Private and associated decision-making arrangements</p>	Lack of transparency in implementation of the REDD+ projects	<p>Develop benefit sharing mechanisms</p> <p>Robust benefit sharing mechanisms incorporating the 3Es (Efficiency, Effectiveness and Equity)</p> <p>Pragmatic costs and benefit distribution arrangements with clear articulation of</p>	<p>REDD+ Stakeholders</p> <p>MoEF</p> <p>KFS</p> <p>County Governments</p> <p>Local Communities</p>

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
		<p>Low awareness level on Carbon as a property, its relation to tree and land rights</p> <p>Poor/weak design of costs and benefit distribution arrangements, including lack of a balance on the 3Es -Efficiency, Effectiveness and Equity</p> <p>Failure/Weak balance between vertical (national, subnational, community/project level) and horizontal (intra community – women, elders. PWDs) benefits distribution arrangements</p>		<p>vertical and horizontal flows</p> <p>Tailored benefits that address form, cultural appropriateness and timely delivery</p> <p>Development of structures for stakeholder engagement</p> <p>Engage all relevant stakeholders as identified in the REDD+ stakeholder engagement program</p> <p>Mainstreaming REDD+ projects in CIDPs</p> <p>Strengthen/Capacity build the counties in the REDD+ PROGRAM</p>	
	Uncoordinated decision-making points related in land and forest management	<p>Poor collaborative mechanisms and strategies by institutions</p> <p>Multiple decision-making points</p>	<p>Conflict between state agencies in undertaking their mandates relating to forest conservation</p> <p>Delay in the implementation of REDD+ projects and programs</p> <p>Misuse of resources and</p>	<p>Robust stakeholder engagements from inception. Effective representation of the forest right holders.</p> <p>Implementation of quarterly inter-agency/Multi-Agency forums REDD+ Program</p>	Ministry of Environment, NLC Council of Governors

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			duplication of duties	Enhance Performance Contracting commitment to facilitated delivery of the coordination and oversight roles of the Ministry in-charge of Forestry	
	Weak institutional systems and human resource management	Weak enforcement of environmental laws Low staffing levels Low budgetary allocation Weak compliance to existing staff transfers guidelines	Continuous forest degradation and low value attached to forest resources Poor and slow implementation of REDD+ programs and projects due to inadequate financing Complacency in implementation of forest duties Court orders issued by courts may halt project processes Unfavorable determination of cases by courts. Presents a leeway for manipulation of fines and penalties Inadequate infrastructural	Enhanced capacity building of relevant institutions and human resource Economic valuation of ecosystem services Engage scouts in forest conservation processes Awareness creation on forest conservation programs and REDD+ Projects Adequate allocation of financial resources Strengthen the internal audit system through allocation of adequate resources, capacity building and clarify the role of policy makers in ensuring regular reporting and	MoEF REDD+ Stakeholders KFS KWTa

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			support of the forest enforcement teams	feedback mechanisms. Enhance the infrastructure to facilitate the forest enforcement team	
	Weak community participation in forest management	Lack of financial and community support on awareness creation programs Vested interests and ignorance of forest dependent communities Failure to address historical land injustices Weak/Lack of structures for community participation	Community resistance on implementation of REDD+ projects Violation of indigenous and local community rights Lack of transparency in implementation of the REDD+ projects	Address historical land injustices Adequate financial resources towards capacity building and awareness creation Dissemination of information Adequate stakeholder engagement (FPIC) In addition to CFAs, create engagement arrangement for indigenous peoples	MoEF REDD+ Stakeholders
	Lack of political goodwill	Low appreciation of REDD+ projects including allocation of resources Slow implementation of recommendations from previous reports and court rulings in the forestry sector	Less than optimal implementation of REDD+ projects	Enhance knowledge on REDD + to policy and decision makers Strategic stakeholder engagements and awareness creation	MoEF/CCD REDD+ Stakeholders Climate Change Council
	Land tenure systems influencing poor land use practices	Weak enforcement and conflicting mechanisms of the legal framework relating to land use Unsettled historical land injustices	Weak implementation of projects and programs Conflicts between project	Harmonizing conflicting laws and policies on land tenure Address historical land injustices	MoEF Ministry of lands NLC County governments

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			<p>Stakeholders and the community</p> <p>Illegal settlement and evictions of communities from forest land</p> <p>Impact on benefit sharing may trigger conflicts</p>	<p>Establish strategic engagement fora on forest conservation for relevant stakeholders</p> <p>Establish benefit sharing arrangements that take into account the existing land tenure systems</p> <p>Awareness creation on proper land uses</p>	
	Different forest ownership and management categories (Community, County, Private)	<p>Lack of clarity in categorization of community forest</p> <p>Weak collaborative action within different forest ownership and management categories</p>	<p>Improper land use practices and land allocation</p> <p>Misuse of power resulting from the lacuna in law</p>	<p>Awareness creation on the existing land categorization</p> <p>Public sensitization on the benefits of forests</p> <p>Strengthen linkages between actors at county and national governments</p>	<p>MoEF</p> <p>Ministry of lands</p> <p>NLC</p> <p>County governments</p>

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
	Weak implementation of incentivized forest conservation approaches	Unclear system of accessing incentives provided for under the Forest Conservation and Management Act, 2016	Discourages community investment and participation in REDD+ projects Forest conservation-based land use practices overshadowed by other competing land uses Hinder implementation of REDD+ projects	Promote and support REDD+ programs in Kenya Establish structures and mechanisms on conservation reward mechanisms through policies such as benefit sharing Awareness creation on forest conservation	MoEF
	Absence of a Payment for ecosystem (PES) framework	No clear legal mechanisms and standards for payment of ecosystem services	Failure to account for PES	Establish payment of ecosystem services schemes framework/guidelines Undertake feasibility studies on the PES framework	
	Lack of a ploughing-back principle in relation to enhancement and conservation of forest resources	Lack of requisite legislation actualize the principle	The community do not attach economic value to nature (Ecosystem Services and biodiversity) Low investment in forest-based programs and projects	Commensurate resource allocation Develop relevant laws and policies	
	Weak conservation culture	Absence of an incentive reward system targeted at nature conservation	Lack of conservation culture inculcation into the society	Incentivize conservation cultures through reward	ME&F County Government Environmental Agencies

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
				<p>system for nature conservation</p> <p>Elevate the profile for environmental celebrations Continuous advocacy on the importance of forest conservation</p> <p>Key environment education in school programs</p> <p>Capacity build environmental and wildlife clubs in schools</p>	
	Inadequate capacity and resources by county Governments to handle devolved forest functions	<p>Inadequate allocation of resources to devolved forest functions</p> <p>Inadequate technical capacity in the forest departments</p> <p>Lack of merit in appointments</p> <p>Lack of political goodwill</p>	<p>Creates an opportunity for forest degradation</p> <p>Discourages investment in forest related projects and programs</p>	Targeted capacity building for County Governments on environmental and natural resource management departments	ME&F NEMA KWTA KFS
	Effects of Mega projects on forests such as roads, pipelines, dams	<p>Poor implementation of the environment management plans in the ESIA and Environmental audits</p> <p>Prioritization of development over forest conservation</p> <p>Weak stakeholder engagement</p> <p>Absence of Free Prior Informed Consent (FPIC)</p>	<p>Prioritization of development over forest conservation</p> <p>Poor implementation of the environment management plans in the ESIA and</p>	<p>Undertake cost benefit analysis of mega projects</p> <p>Implementation of the ESIA</p> <p>Involvement of conservation agencies in decision making</p>	ME&F NEMA KWTA KFS

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
		<p>Lack guidelines to operationalize Deposit Bonds as stipulated in Section 28 of EMCA.</p> <p>Weak inter-Agency collaborations</p> <p>Lack of appreciation of other agencies mandate</p>	<p>Environmental audits</p> <p>Results in massive forest degradation and human wildlife conflicts</p> <p>Unnecessary conflicts between state agencies, non-state actors, environmental conservation groups and communities</p> <p>Lack of environmental accountability in implementation of mega projects</p>	<p>Adequate public participation techniques</p> <p>Advocate for Total Economic Valuation (TEV) of ecosystem services before commencement of development projects</p> <p>Promote inter agency collaborations</p>	
	Inadequate stakeholder engagement and free prior and informed consent	<p>Selective public participation mechanisms</p> <p>Lack of full disclosure of potential effects or benefits of REDD+ projects</p> <p>Lack of gender inclusivity in forest conservation</p>	<p>Resultant conflicts between state agencies and communities</p> <p>Lack of transparency in project implementation</p> <p>Lack of sense of ownership and trust by the community and project Stakeholders</p>	<p>Community sensitization and education on their rights to public participation and access to information</p> <p>Adequate and effective public participation techniques</p> <p>Robust implementation of</p>	<p>ME&F</p> <p>KFS</p> <p>KWTA</p> <p>NEMA</p>

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			Unclear and weak enforcement of regulations on forests and forest products	regulations on forest and forest products	
	Weak collaborations in cases where institutional mandates overlap	Inadequate consultation efforts to bridge the gaps that exist in implementation of institutional mandates	Conflicts among state agencies in implementation of forest functions Duplication of efforts and misuse of resources Parallel interventions that cause confusion to the communities	Harmonization of conflicting laws and policies Fostering collaborative partnerships among state agencies tasked with forest conservation Encourage regular multi-stakeholder conferences and dialogues	MoEF and other stakeholders
	Failure to account and report the economic value of natural capital	Inadequate systems and capacity to undertake and document total economic valuation Inadequate leveraging on technology	Delays in development and implementation of incentivized conservation programs such as the payment of ecosystem services Negative impacts on judicial announcements on economic value of forest resources Wastage of resources in	Undertake and regularize economic valuation of natural resources in Kenya Adopt modern technology to enhance efficiency of economic valuation	

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			outsourcing expertise to undertake economic valuation of forest resources		
	Cost benefit analysis	Failure to undertake cost benefit analysis before commencement of development projects in forest areas	Conversion of forest areas to other land uses Non-disclosed costs of development projects in forest areas	Undertake a cost benefit analysis of development projects before commencement	REDD+ Project/Programme Development partners Project Stakeholders
	Lack of awareness of the existing complaints and grievance management mechanisms	Low publicity of the various parallel complaints' mechanism mandated to process cases of environment rights violations	Unresolved complaints on forest degradation Unclear reporting lines	Carry out extensive public awareness and sensitization on the existence of grievance redress and complaint handling institutions and mechanisms	Ministry of environment and forestry NECC KFS KWTA
2. Development of policies and measures	Lengthy policy and legal development processes	Lack of political goodwill that does not prioritize forest conservation programs	Allows for continuous degradation and forest destruction Hinders innovation and technology transfer in the forest sector Delays implementation of REDD+ program	Collaborative approaches among stakeholders.	MoEF REDD+ Stakeholders

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
	Weak enforcement and implementation of forest conservation legal framework	Delayed enactment of regulations to actualize the Forest Conservation and Management Act, 2016	Slow implementation of forest sector interventions	Fast track enactment of the regulations and relevant policies Enhance enforcement and implementation of forest conservation and management laws	MoEF KFS KLRC
	Weak implementation of multilateral and bilateral agreements relating to environment	Partial enforcement of treaties and MEAs through regional cooperation Creation of restrictive measures in cross border access and monitoring	Illegal cross-border trade on forest products Non-compliance by state parties to existing MEAs	Joint /Collaborative REDD+ programming within the region Enactment of laws and regulations to domesticate MEAs	Ministry of Foreign Affairs Ministry of Environment and Forestry MEAC REDD+ Stakeholders
3. Safeguard Information Systems	Poor integration of indigenous knowledge and people's rights in conservation	Lack of proper documentation of indigenous knowledge Lack of proper documentation of biodiversity and forest resources	Violation of the rights of indigenous people in forest conservation Affects legitimacy of REDD+ programs Community resistance to projects	Promote co-generation and application of knowledge (Science and Indigenous knowledge) Integrate community Based Monitoring Information system (CBMIS) Establish a system of documenting biodiversity and forest resources	Ministry of Environment and REDD+ Project Stakeholders KWS National Museums of Kenya (NMK) KWTA
	Inadequate dissemination of relevant and timely information to all the	Untimely dissemination of information	Inadequate access to information on the proposed REDD+ programs	Strengthen compliance with the relevant information disclosure laws	REDD+ Project stakeholders

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
	actors in the REDD+ program			Full Disclosure through FPIC Clear grievance handling mechanisms.	
	Unstructured and selective mapping of stakeholders and interest groups	Non-inclusive involvement and participation of relevant stakeholders	Results in poorly designed projects	Clear mechanisms for relevant stakeholder mapping	MoEF
	Weak data collection and management protocols and capacity in the forest sector	Lack of a platform for consolidation of different streams of data Lack of expertise and special skill sets on proper data collection and analysis	Inconsistent Submission of data to UNFCCC Poor methods of collection and storage of data on the achievements of REDD+ projects and programs Inaccurate reporting of achievements of REDD+ projects	Allocation of adequate resources for acquisition of data collection, analysis and reporting systems	NEMA
4. Forest reference levels	Inadequate and unpredictable allocation of financial resources to support FRL activities	Lack of prioritization of REDD+ reporting activities in budgetary allocation	Untimely reporting of national forest reference emission levels	Allocation of adequate financial resources to support FRL activities	MoEF KFS
	Inadequate technology adoption to support development of forest reference levels	Failure to prioritize allocation of resources for appropriate technology adoption	Affects adoption of new knowledge and trends for transparent, complete and consistent reporting of reference levels to UNFCCC	Adequate Allocation of financial resources to support adoption of technology transfer mechanisms	

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
	Low baseline levels set by the country in reporting forest reference levels	Lack of a database detailing historic emissions resulting from inadequate or unreliable data	Inaccurate reporting of the country's achievements of the REDD+ targets	Facilitate establishment of efficient/robust system for accounting and reporting FRL	
	Failure to account and report the economic value of natural capital	Inadequate systems and capacity to undertake and document economic valuation of natural capital	<p>Inadequate information to inform judicial determination of natural capital related matters.</p> <p>Delays development and implementation of incentivized conservation programs such as the payment of ecosystem services</p>	Undertake and regularize economic valuation of natural resources in Kenya	MoEF
5. National forest monitoring system (NFMS)	Absence of a National Forest Monitoring System	Absence of a policy framework to enable NFMS	Lack of data on NFMS	Facilitating establishment and operationalization of a national forest management system	MoEF KFS
	Lack of financial, institutional and technical capacities for NFMS	<p>Lack of prioritization of REDD+ projects and programs during national budgeting</p> <p>Lack of capacity needs assessment to identify potential areas for training of experts to undertake NFMS processes</p>	Inaccurate assessment, evaluation, interpretation and reporting of data derived from NFMS processes	Advocate for adequate financial resources	MoEF REDD+ stakeholders
	Poor involvement of local communities and indigenous people in designing NFMS	Inadequate participation and information dissemination to local communities and indigenous people on NFMS	Lack of ownership of the process of data collection for NFMS by local communities	Establish a mechanism for indigenous community involvement in NFMS	MoEF

REDD+ Element	Risk Area(s)	Corruption Risks		Mitigation Strategy	Responsibility
		Design Phase	Implementation phase		
			affecting implementation of REDD+ projects and programs		
	Unaccounted tree survival rates	<p>Inefficient auditing mechanisms in place to monitor tree survival</p> <p>Low budgetary allocation for auditing purposes</p> <p>Lack of tree growing monitoring plan</p>	<p>Limited Tree survival reporting</p> <p>Slow progress towards realization of the national target of 10% tree cover</p> <p>Encourages continuous degradation</p> <p>Wastage of resources allocated to tree planting</p>	<p>Quarterly auditing of tree planting sites</p> <p>Developing robust guidelines on tree survival audits</p> <p>Allocation of financial resources</p>	<p>Ministry of Environment and Forestry</p> <p>KEFRI</p> <p>KWTA</p> <p>KFS</p>

