

Appendix F: Simplified Labour Management Procedures

Simplified Labor Management Procedures

These simplified Labor Management Procedures (LMP) set out the ways in which the PIU and its contractors will manage all project workers in relation to the associated risks and impacts. The objectives of the LMP are to: Identify the different types of project workers that are likely to be involved in the project; identify, analyze and evaluate the labor-related risks and impacts for project activities; provide procedures to meet the requirements of KfW, UNOPS, the World Bank's ESS2, ESS4 and applicable Afghan legislation.

Provisions from the LMP will be included in the simplified and site-specific ESMPs.

The following categories of workers have been identified for the project. The LMP will apply for all categories:

Table 12 Categories of Workers

Category	Description
Direct Workers	Workers employed directly by UNOPS
Contracted Workers	People engaged through third parties to perform work related to core functions of the project, regardless of location. This category mainly includes contractors, sub-contractors or suppliers.
Community Workers	People engaged by UNOPS or contractors from the local communities, as day laborers and under the CfW schemes.

The LMP will apply to all project workers, except UNOPS personnel, including full-time, part-time, and temporary.

Labor Risk Assessment:

As part of the labor risks and impact assessment, the following activities will assist in understanding the exposure pathways. Presented here are only key risks related to workers of predictable activities. The main types of activities for contracted workers and community workers will be activities in the rehabilitation of shelter, health centers, drinking water supplies, market structures, small canals and irrigation systems.

The table highlights and analyzes the potential labor-related risks and impacts in view of the anticipated labor utilization and general baseline settings of the project area. All OHS related risks are listed in the Generic ESMP of this ESMF (see above).

Table 13 Labor-Related Risks

Risk/Impact	Analysis (Magnitude, Extent, Timing, Likelihood, Significance)	Risk Mitigation Measures to be reflected in contract documents
Labor and working conditions		
Risk of child labor	Some of the worst forms of child labor are reported from Afghanistan. It is therefore likely that construction companies may make use of child labor, or children are sent as community workers or CfW workers by the communities themselves.	<ul style="list-style-type: none"> - Check workforce for personal identity documents - Stop any employment/assignment of children and minors <16 yrs.
Violations of labor terms and conditions	Given the weak judicial system, violations of labor terms and conditions are likely. Contractors may violate terms and conditions, since there is no redress expected.	<ul style="list-style-type: none"> - Implement a fair and transparent employment process. - Provide workers with clear and understandable information regarding rights via contract documents in local language. - Do not discriminate against any workers or job applicants on the basis of their gender, marital status, nationality, ethnicity, age, religion or sexual orientation. - Establish and maintain grievance mechanisms accessible for workers.
Lack of security for workers	Given the protracted conflict in Afghanistan, including in the Heart region, workers may have to operate in insecure environments.	<ul style="list-style-type: none"> - Implement security assessment for locality prior to entering - Prepare a local security management plan for activity that includes relevant mitigation measures.

Use of forced labor	There is a likelihood for forced labor among suppliers.	<ul style="list-style-type: none"> - Conduct a track record search of the suppliers at the bidding process (record of health and safety violations, fines, consult public documents related to workers' rights violations etc.) - Raise awareness of suppliers to not engage forced labor - Conduct spot-check at supplier facility
ESS 4: Community Safety and Health		
Moderate Labor influx and GBV	<p>There is likely to be internal movement of people from areas outside the project areas to seek employment and associated benefits from within targeted communities.</p> <p>Furthermore, there will be a moderate labor influx of contracted workers that may pose risks of SEA/SH among workers and vis-à-vis community members.</p>	<ul style="list-style-type: none"> - Implementation of code of conducts (CoC) to be signed by all project workers and enforced by all contractors - Awareness sessions of CoC for all workers - Provision of GRM

Institutional Arrangement for Implementation of LMP

The PIU will carry the main responsibility for the implementation and monitoring of the LMP.

The PIU will identify sub-project interventions and prepare sub-project designs and bidding documents, as well as procure contractors. The E&S Specialist and HSSE Specialist will be responsible for contractor and site supervision, while contractors should also include technical quality assurance, certification, and payment of works or supplies. The PIU will ensure labor management procedures are integrated into the agreements with contractors, and contractors will cascade labor requirements down to sub-contractors or suppliers. The PIU will be responsible with the E&S screening process where necessary and to approve screening results and subsequent E&S plans, and monitor and supervise the implementation of all E&S risk mitigation measures, including those laid out in the LMP.

The monitoring and supervision of the implementation of the LMP will rest with the E&S Specialist at the PIU. The Specialist will regularly analyze labor-related risks related to the project; oversee all implementation of the LMP by contractors.

Labor Legislation: Terms and Conditions

The Labor Law (2007) provides a legal basis for safe and decent working conditions in Afghanistan. Key relevant provisions stipulate non-discrimination in recruitment (Art. 9), compliance with international conventions (Art. 12), working hours (Art. 30), breaks (Art. 40), non-discrimination in payment (Art. 59), and special provisions for female and youth workers (Art. 121, 127-130), over-time pay, night shift differentials and retirement benefits.

The law further stipulates safe and decent working conditions in Afghanistan, including occupational health and safety regulations (Chapter 10) that stipulates safety trainings, hygiene rules, protective equipment, and medical treatment when necessary. The law also addresses Work Standards and Regulations (Art. 88) and how labor disputes over terms and conditions of employment shall be resolved in the public, private and joint sector (Art. 89).

Employment Relationship: Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labor and social security laws and regulations. Wages for workers as per government policy shall be followed.

Non-discrimination: No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, nationality, political opinion, social group or ethnic origin.

Harassment or Abuse: Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Forced Labor: There shall be no forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

Freedom of Association and Collective Bargaining: Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Furthermore, Article 4 of the Labor Law prohibits compulsory work, which is defined as work that is against the rules and regulations of the office, against the will of the worker, and performed under

threat; Article 9 calls for nondiscrimination in recruitment; Article 12 requires compliance with the convention of the International Labor Organization; Article 30 concerns working hours and specifies that the normal working week is 40 hours; Article 40 requires employees to be given a one-hour break for prayers and lunch; the break is not included in the normal working hours Article 59 calls for non-discrimination in payment of salary; Article 91 in the chapter on Labour Norms and Discipline states the general obligations of the employer, which include ensuring labour safety and security at work; Article 92 lists the obligations of employees, which include following safety rules and practicing working environment hygiene; Chapter 10 is devoted to provision of health and occupational safety conditions at workplace and involves: Article 107 requires the employer to ensure safe and hygienic working conditions and Article 110 to follow legislated safety and hygiene standards; Article 111 compels the employer to provide continuous safety training and the employee to follow safety rules, standards and instructions and utilize personal protective equipment; Article 113 requests the employer to provide all necessary protection clothing and personal protective equipment, free of charge; Article 114 compels the employer to provide for first aid and for transfer to medical centres in case of accidents; Article 121 prohibits assigning female or youth workers to night duties; Article 127 defines youth workers as between the ages of 14 and 18; Articles 128 through 130 states the special requirements that must be followed in employing youth workers¹.

The government of Afghanistan has ratified a number of international ILO conventions. These include the following – the Equal Remuneration Convention 1951, the 1957 Abolition of Forced Labor Convention, The 1999 Worst Forms of Child Labor Convention, and the Tripartite Consultation (International Labor Standards) Convention.²

Legislation on Occupation, Health and Safety

The Labor Law (2007) provides occupational health and safety regulations (Chapter 10) that include safety training, hygiene rules, protective equipment, and medical treatment when necessary, health insurance compensation, reduced standard work weeks for pregnant and nursing mothers and minors. Employers shall provide a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt responsible measures to mitigate negative impacts that the workplace has on the environment.

Article 108 of Labor Law describes mandatory assurance of health and safety conditions for the employer. The employer shall take appropriate precautions to ensure that the workplace is safe and without risk of injury to the safety and health of workers. Mitigation measures will be adopted to protect the workers present at or in the vicinity of site from all risks which may arise from the works. The Project will further apply the IFC Environmental, Health and Safety Guidelines.

Terms and Conditions

Applicable terms and conditions as per Afghan Labor Law will apply to the Project, as well as KfW, UNOPS and ESS2 standards. This includes the requirement for a written service contract detailing the worker's salary, working hours & leave, rights and allowance, Code of Conduct, duration of contract, and terms and conditions for termination of contract by employer and worker alike. The contract should be signed by both parties, who each will keep a copy (Labor Law, Chpt 2: Recruitment and Service Contract).

Hours of Work: Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country where the workers are employed. The regular work week shall not exceed 48 hours per week. Employers shall allow workers at least 24 consecutive hours of rest in every

seven-day period. All overtime work shall be consensual. Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 60 hours as per national working law.

Compensation: Every worker has a right to compensation for a regular work week that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract.

Age of Employment: Afghanistan has ratified all key international conventions on Child labor. The Minimum Age (15) for work (*Article 13 of Labor Law*), and the Minimum Age (18) for Hazardous Work (*Article 13 and 120 of Labor Law*) are in compliance with international standards. The Project will adhere to the Afghan Labor Law and its definition of minimum age, which will be verified through the national Identity card at the moment of recruitment. No person shall be employed under the age of 16 or under the age for completion of compulsory education, whichever is higher.

Contractor Management Procedure: The objective of this procedure is to ensure that UNOPS has contractual power to administer oversight and action against a contractor's non-compliance with the E&S instruments.

1. UNOPS shall avail all related documentation to inform the contractor about requirements for effective implementation of the ESMF, simplified ESMP or site-specific ESMP.
2. Before submitting a bid for any contract, the contractor shall incorporate the requirements of the ESMF, ESMP, including the LMP.
3. Contractor to provide a Labor Recruitment Plan.
4. Contractor to ensure all workers sign a Code and Conduct.
5. Contractor to show evidence of OHS and Emergency Preparedness procedures.
6. Contractor to submit the progress reports on the implementation of the mitigation measures, including those of the LMP, and allow UNOPS access to verify the soundness of the contractor's implementation of the requirements of the LMP.
7. Where appropriate, UNOPS may withhold contractor's payment until corrective action(s) is/ are implemented on significant non-compliance of the LMP. The following are some of the non-compliance that the contractor needs to take note of:
 - Failure to submit mandatory quarterly progress report
 - Failure to avail for inspection specified documentation pertaining to the implementation of risk mitigation measures.
 - Failure to notify and submit incident and accident investigation report in a timely manner
 - Failure to appoint or replace a competent and experienced EHS office
 - Recruitment of nontechnical staff from outside the local community.
 - Procedure for Primary Suppliers: The objective of the procedure is to ensure that labor-related risks, especially child and forced labor as well as serious safety issues to the project from primary supply workers are managed in line with the requirements of ESS2.

UNOPS and all contractors/ implementers will undertake the following measures:

- Procure supplies from legally constituted suppliers. The legal registration ensures that the company is legally obliged to comply with all applicable labor laws in Afghanistan, which makes it

possible to assume mainstreaming of the labor laws within the supplier's firm.

- This will include ensuring evidence of certificate of incorporation; make a physical check on the supplier's labor management system, including OHS, any past work related environmental or occupational incidents, age restrictions (16 and above), employment is voluntary.

Procedure for Community and Cash-for-Work Workers:

The objective of this procedure is to ensure the community workers offer their labor voluntarily and that they are agreeable to the terms and conditions of employment.

UNOPS and the contractor will apply the following guidelines when engaging community workers:

- UNOPS will develop a standard TOR, working times, remuneration systems (depending on the type of work), methods of payment, timing of payment, and CoC (see Annex 9), which will apply to all project activities.
- The contractor will have to produce a recruitment plan and have it reviewed and approved by UNOPS. Further, UNOPS and the contractor have to meet and document resolution of meetings with the community on the intended community workers recruitment. The resolution shall include details on nature of work, working times, age restrictions (16 and above), remuneration amount, method of payment, timing of payment, individual signatory or representative signatory of meeting resolution, employment is voluntary, and CoC.
- The contractor will have the terms and conditions discussed, explained, negotiated and documented through joint community meetings, with each community employee showing consent through appending their signature against the resolutions or signing the attendance register of the meeting which made the employment resolutions.
- UNOPS and the contractor have to induct community workers on key LMP issues, including project GRM, OHS, HIV awareness, and safe use of equipment.

Procedures for non-discrimination and equal opportunity:

The objective of this procedure is to ensure that recruitment and treatment of project workers is based on the principle of equal opportunity and fair treatment.

UNOPS and the contractor will apply the following guidelines when dealing with workers:

- There will be no discrimination with respect to any aspects of the employment relationship, such as: recruitment and hiring; compensation (including wages and benefits); working conditions and terms of employment; access to training; Job assignment; promotion; termination of employment or retirement; Or disciplinary practices.
- Harassment, intimidation and/ or exploitation will be prevented or addressed appropriately: Special measures of protection and assistance to remedy discrimination or selection for a particular job will not be deemed as discrimination.
- Vulnerable project workers will be provided with special protection.
- GRM for Workers: All workers, including community workers will apply the Project GRM to register any work-related grievances. Workers are encouraged to solve matters with their respective employer where possible. However, all types of workers can apply the Project GRM at any time, where grievances can be filed directly with UNOPS (in cases where they concern UNOPS or the contractor).