

# Enhancing Labour Mobility from Papua New Guinea Project

## LABOR MANAGEMENT PROCEDURES

DRAFT – 18 October 2021

A&NZ	Australia and New Zealand
DOT	Department of Treasury (PNG)
LMU	Papua New Guinea Labour Mobility Unit
ESF	Environmental and Social Framework
ESS	Environmental and Social Standards
GBV	Gender-based violence
GoPNG	Government of PNG
GRM	Grievance Redress Mechanism
ILO	International Labour Organization
LMP	Labour Management Procedures
LSU	Labour Sending Unit (Most Pacific Island countries)
NPS	National Public Service (PNG)
OHS	Occupational Health and Safety
PDO	Project Development Objective
PLS	Pacific Labour Scheme (Australia)
PMU	Project Management Unit
PNG	Papua New Guinea
PPE	Personal Protective Equipment
RRH	Regional Recruitment Hub (PNG)
RSE	Recognised Seasonal Employer (New Zealand)
SASMP	Social Assessment and Social Management Plan
SEP	Stakeholder Engagement Plan
SWP	Seasonal Worker Programme (Australia)
WHO	World Health Organisation

## Contents

1. Introduction .....	4
1.1 Project Background.....	4
1.2 Project Overview and Management.....	4
2. Overview of labour use in the Project .....	5
2.1 Categorisation and Project Labour Requirements.....	5
2.1.1 Direct Workers.....	5
2.1.3 Contracted workers.....	6
2.2 Project labour requirements .....	6
3. Assessment of key potential labour risks.....	7
3.1 Labour risks associated with direct workers and contracted workers .....	7
3.2 Labour risks associated with child labour and forced labour .....	7
3.3 Occupational Health and Safety (OHS) risks.....	7
3.4 Risks of exposure to COVID-19 .....	7
4. Overview of relevant labour legislation.....	8
4.1 National Employment Legislation.....	8
4.1.1 Wages and deductions .....	8
4.1.2 Working hours .....	8
4.1.3 Overtime work.....	9
4.1.4 Rest breaks .....	9
4.1.5 Leave .....	9
4.1.6 Non-discrimination and equal opportunity .....	9
4.1.7 Freedom of association and collective bargaining.....	10
4.1.8 Grievances .....	10
4.2 National Occupational Health and Safety Legislation.....	10
4.3 World Bank's Environmental and Social Standards 2 .....	10
5. Roles and Responsibilities.....	11
5.1 Labour Mobility Unit, Department of Treasury .....	11
5.2 Contractors.....	12
6. Labour policies and procedures .....	12
6.1 Employment principles .....	12
6.2 Terms and conditions of employment.....	13
6.3 Age of employment .....	13
6.4 Occupational Health and Safety .....	13
6.5 Sexual Exploitation and Abuse and Sexual Harassment .....	14
6.6 COVID-19 safety.....	15

Contractor management .....	16
7. Workers' Grievance Redress Mechanism .....	16
7.1 Worker Grievance Redress Mechanism for direct workers (other).....	17
7.2 Worker Grievance Redress Mechanism for contracted workers .....	17
Annexes .....	18
Annex 1: Guidance for Codes of Conduct for Direct Workers (other) and Contracted Workers.....	18

# 1. Introduction

## 1.1 Project Background

The **Enhancing Labour Mobility from Papua New Guinea Project** (the Project) will help to expand PNG's participation in the labour mobility programmes in Australia and New Zealand (A&NZ) – the Seasonal Worker Programme (SWP), Pacific Labour Scheme (PLS) and the Recognised Seasonal Employer (RSE) Scheme - by meeting employers' needs, facilitating better and more inclusive access to labour mobility opportunities, while also helping to ensure that temporary migration has lasting impacts on the wellbeing of workers, their families and communities.

The Project is being prepared under the World Bank's Environment and Social Framework (ESF). Under the ESF, all World Bank Borrowers have agreed to comply with ten Environmental and Social Standards (ESSs) applied to investment project lending financed by the Bank. The project recognizes the significance of, and adopts the ESSs, for identifying and assessing as well as managing the environmental and social risks and impacts associated with this investment project. The LMU as the implementing agency has developed several key instruments to address such risks. ESS2 relates to Labor and Working Conditions and expects the Borrowers to develop Labour Management Procedures (LMP). The LMP identifies the main labour requirements and risks associated with the project and helps the Borrower to determine the resources necessary to address labour issues. It sets out how project workers will be managed under the requirements of PNG law and ESS2 to ensure proper working conditions and management of worker relationships, occupational health and safety, and to prevent sexual exploitation and abuse and sexual harassment, and outlining relevant training plans.

A clear distinction is made between **Project Workers** on the one side and **seasonal/migrant workers** on the other. In this project, seasonal/migrant workers, and their households and communities are considered project beneficiaries, not project workers. The associated risks concerning working conditions and exploitation of seasonal/migrant workers are assessed as part of the SA on ESS2 requirements. The LMP is a living document, which is initiated during project preparation and is reviewed and updated throughout the development and implementation of the Project.

## 1.2 Project Overview and Management

The Project Development Objective is to strengthen government systems in Papua New Guinea that support workers and their households to benefit from overseas employment opportunities, with a focus on women and disadvantaged groups.

The primary Project beneficiaries are current and prospective seasonal/migrant workers and their families from across PNG. The Project will not place PNG workers overseas. Rather, the Project will support the design and operation of the PNG labour mobility initiatives across the labour mobility cycle including worker selection, recruitment and mobilisation; support whilst undertaking overseas employment, and return/reintegration. All project activities will be implemented in PNG through the LMU.

The Project will be implemented by the Department of Treasury (DOT) in PNG, through its Labour Mobility Unit (LMU) which is responsible for coordinating PNG's Labour Mobility Program.

The Project will consist of four (4) components:

- **Component 1. Strengthen systems and worker readiness to enhance benefits from overseas employment opportunities** including technical assistance and resources to: i) support efficient selection, recruitment and mobilization; ii) provide work readiness training for aspiring migrants; iii) facilitate linkages between Australian and New Zealand employers and the LMU/RRHs; iv) provide enhanced support for workers overseas.

- **Component 2. Enhance equity in access to labour mobility opportunities for PNG workers** including i) technical assistance to expand participation among disadvantaged groups through outreach and preparatory assistance; ii) support for financial literacy and inclusion; iii) technical assistance on loan product design (phase 1); and iv) financing for loans to cover documentation costs
- **Component 3: Boosting household impacts from labour mobility programs** including activities to assist returning workers reintegrate including income-generating opportunities, social reintegration, as well as welfare services.
- **Component 4. Project management and results monitoring** including the establishment of a Project Management Unit (PMU) within the LMU to support implementation. This unit would house relevant advisors recruited under the project, with advisors working closely with LMU staff and regional recruitment hubs in order to build capacity and fully develop the labour sending systems envisaged by the GoPNG. This activity would also support regular project monitoring and evaluation, which would employ quantitative and qualitative methods.

## 2. Overview of labour use in the Project

### 2.1 Categorisation and Project Labour Requirements

ESS2 categorizes project workers into: i) direct workers (people employed or engaged directly to work specifically in relation to the project), ii) contracted workers (people employed or engaged by third party contractors to perform work related to the core functions of the Project, regardless of location), iii) community workers (people employed or engaged in providing community labour), and iv) primary supply workers (people employed or engaged by the primary suppliers).

Community workers and primary supply workers will not be involved in the implementation of Project activities. Thus, only two categories of workers are expected, namely direct workers and contracted workers.

#### 2.1.1 Direct Workers

There are types of direct workers:

- i) direct workers (government) - including government staff in the LMU, regional recruitment hubs and other public institutions with a role in implementing Project activities; and
- ii) direct workers (other) - consultants engaged directly by the LMU

##### *Direct Workers (Government)*

Direct workers (government) are civil servants employed by the LMU and RRs who will be involved in project implementation. The Project will be implemented by the Project Management Unit (PMU) under the LMU which will be established for the management of the Project on a day-to-day basis and play a linkage role between the LMU and the WB.

Civil servants will make up the majority of the Project workers. All of them will remain subject to the terms and conditions of the PNG public sector employment agreement. The DOT and the Department of Personnel Management (DPM) collaboratively manage public sector workers. The DPM was established as a central government agency under the Public Service Management Act 1995 and has primary responsibility for public sector management including human resources issues. Since its inception, the DPM has controlled most staff management practices including recruitment and selection, discipline and performance management. It currently operates under the *Public Services (Management) Act 2014*.

The LMU is yet to be fully staffed and the Department of Personnel Management has approved 13 positions for the LMU. The number of staff in RRHs is unknown as the process of establishing RRHs in additional districts and provinces is ongoing.

Under ESS2, provisions for occupational health and safety (ESS2 paras 24-30) including those specifically related to COVID-19, as well as measures to protect the workforce in terms of child labour and forced labour (ESS 2 paras 17-20) apply to civil servants. Other aspects of ESS2 do not apply.

#### *2.1.2 Direct Workers (Others)*

Direct workers (other) are those workers employed directly by the LMU as full and part-time consultants under the Project, who will be working closely with LMU staff and regional recruitment hubs to build capacity and fully develop the labour sending systems envisaged by the Government of PNG. They will be governed by mutually agreed contracts.

#### *2.1.3 Contracted workers*

Contracted workers will be employed as deemed appropriate by contractors, sub-contractors, and other intermediaries engaged by LMU to implement project activities. Details will be known when the implementation of activities begins.

Consulting teams - Most contracted workers are expected to be members of consultant teams providing technical assistance services. This will include technical assistance to support employer-focused selection, recruitment and mobilization arrangements, to assess and develop modalities to upskill PNG job-seekers, to develop LMU's outreach function with employers and industry, to provide support to workers employed in destination countries, to facilitate enhanced outreach services, scale-up the delivery of preparatory assistance, and establish a loan/microfinance product targeted towards prospective seasonal/migrant workers, and to design and facilitate delivery of support services for migrant households, among others.

Works contractors - The project will include some small scale civil works to construct 'communication hubs' and direct or contracted workers will be engaged to complete design and construction activities.

Financial Intermediaries - The project will also include a pre-departure loan facility which will be implemented by one or more financial intermediaries. The staff of these FIs that are directly involved in the implementation of the loan facility are considered project workers (refer to Project SA/SMP). Note, these FIs are required to develop their own LMP to ensure adherence to the requirements of ESS2.

Some direct workers (other) and contracted workers are expected to be recruited as international consultants from outside of PNG. They will require a work permit issued by the Foreign Employment Division of the Department of Labour and Industrial Relations in accordance with the [Employment of Non-Citizens Act 2007](#) and the [Employment of Non-Citizens Regulation 2008](#). Non-citizens can also be engaged as technical advisors by Government agency secretaries such as the Department of Treasury under the [Public Employment \(Engagement of Non-Citizen Technical Advisers\) Regulation 2015](#) and the [Public Employment \(Non-Citizens\) Act 1978](#).

## *2.2 Project labour requirements*

*Direct workers (government):* The LMU is yet to be fully staffed and the Department of Personnel Management has approved 13 positions for the LMU. The number of staff in RRHs is unknown as the process of establishing RRHs in additional districts and provinces is ongoing.

*Direct workers (others):* In addition to the civil servants, implementation of the project will involve directly hired technical experts who will be based in the PMU. The number of experts that will be hired is not known yet. They are likely to include a Procurement Specialist, a Financial Management Specialist, a Monitoring & Evaluation Specialist, a Social Risk and Welfare Specialist and a range of other specialist advisers carrying out technical assistance activities.

*Contracted Workers:* The number of contracted workers and the timing for the involvement of these contracted workers will be known at later stages. They will be engaged on a demand basis throughout the Project period to support the implementation of various sub-components during specific time slots.

### 3. Assessment of key potential labour risks

Project interventions are in the form of i) technical assistance to strengthen policies, procedures and systems of the existing PNG labour mobility Programme as relevant and appropriate, as well as ii) activities such as pilot programs, training programs and a loan facilities. The project will also finance renovation/ retrofit of existing buildings for use as communication hubs and operation of these facilities

#### 3.1 Labour risks associated with direct workers and contracted workers

It is expected that the level of awareness of and adherence to national labour legislation is high within the LMU which is an agency in the national government. The project will fund some small-scale construction works which may expose direct or contracted workers to abuse of labour rights or OHS risks.

#### 3.2 Labour risks associated with child labour and forced labour

Labour risks associated with child labour and forced labour are considered extremely low given the Project's approach where most TA is provided directly to the LMU or channelled to RRHs. The project will fund some small-scale construction works and risk of child labour and forced labour will need to be managed for these works.

#### 3.3 Occupational Health and Safety (OHS) risks

There is OHS risk associated with the construction of small scale infrastructure under the project. Occupational Health and Safety (OHS) measures will apply to all project workers, with standard measures for small-scale construction activities outlined in the project Environmental and Social Code of Practice (ESCAP). It is expected that the ESCAP and these LMP, including procedures to establish and maintain a safe working environment as per requirements of ESS2, will be followed.

#### 3.4 Risks of exposure to COVID-19

PNG has a risk of widespread COVID-19 transmission and the community is highly vulnerable to serious health impacts associated with the disease.

The risk of COVID-19 transmission associated with the delivery of project activities is considered high. This risk affects Project workers especially during outreach activities, pre-departure preparation training, construction activities and reintegration activities.

The risks will be reduced through the implementation of the project's COVID-19 safety protocol, and adhering to the GoPNG's safety and prevention measures and good international industry practice including WHO and World Bank guidelines. In PNG the national COVID procedures are regularly updated by the Joint Agency Task Force under the National Control Centre for COVID-19 (see

<https://covid19.info.gov.pg/>). The Department of Treasury's guide, Treasury Niupela Pasin, outlines the Department's approach to operating safely within an environment where COVID-19 is present.

## 4. Overview of relevant labour legislation

### 4.1 National Employment Legislation

PNG's main labour legislation is the Employment Act 1978 and associated Employment Regulation 1980 that govern relations between employers and workers. The Employment Act is currently under review. PNG also supports several international treaties with labour-related provisions. Most importantly, as a member of the ILO, PNG has ratified several ILO Conventions including the eight Fundamental Conventions and 16 other Conventions. The employment of non-citizens is regulated by the Employment of Non-Citizens Act 2007.

The majority of direct workers on the Project are public servants who, according to ESS2, remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the Project which is not foreseen under this Project ESS2 will not apply to government direct workers, except for the provisions on protecting the workforce regarding child labour, minimum age and forced labour, and provisions on occupational safety and health.

It is important to note that during emergencies such as the COVID-19 pandemic, national laws, including labour laws, can be temporarily amended by Governments. The PMU and contractors are responsible for keeping up-to-date with the legislative situation and adapting workplace practices accordingly.

#### 4.1.1 Wages and deductions

The Employment Act of 1978 stipulates that the wages payable to an employee shall not be less than those provided for by registered awards relevant to the employee.

Casual employees shall be paid a day's wages after each day's employment, while piece-rate employees shall be paid wages in proportion to the amount of work performed, either at intervals of no longer than two weeks or on completion of the piece-rate work, whichever is the earlier. Other employees shall be paid at intervals of no longer than two weeks; or by agreement between the employer and employee, of no longer than one month.

The total amount of deductions from wages may not exceed 50% of the employee's wages. Wage deductions can be made only for cases specified by legislation or with the written consent of the employee. The following deductions are permissible: Contributions to a provident, medical or pension fund or any scheme approved by the Secretary; food rations, clothing and other articles in accordance with registered awards; any amount paid to the employee in error as wages above the amount of wages due to him; subject to any direction by the Secretary—an amount or part of an amount of any shortage of money due to the negligence of the employee where his contract of service provides specifically for his being employed in connection with the receipt, payment and custody of money; in the case of an employee employed under an attested contract, deferred wages; rental for housing provided; cost of repatriation where the employee is not a citizen; any other prescribed items; and any advance paid to the employee.

#### 4.1.2 Working hours

The standard workweek is 44 hours over six workdays (eight hours per weekday and four hours on Saturday). The maximum hours of work are 12 hours in one day. Persons under 16 years of age shall not be employed between the hours of 6 p.m. and 6 a.m., and persons of 16 or 17 years of age shall not be employed between these hours, except in an undertaking in which only members of their



family are employed. Women must generally also not be employed between the hours of 6 p.m. and 6 a.m. in any industrial undertaking.

#### 4.1.3 Overtime work

There is no prohibition on excessive or compulsory overtime. Overtime work will be paid at rates between the hourly rate and twice the hourly rate. Specifically, overtime worked on a Sunday shall be paid at twice the hourly rate; on a public holiday at the hourly rate; and at any time, other than a Sunday or a public holiday, at one-and-a-half times the hourly rate.

#### 4.1.4 Rest breaks

Employees must be granted a rest and meal break during the workday. Employees who work eight hours or more on any day shall be allowed one or more meal or rest periods totalling in the aggregate not less than 50 minutes. For every five hours of work, they are entitled to a 40 minutes meal or rest period. Workers are entitled to a weekly rest period of 24 consecutive hours. The maximum permissible work hours may be exceeded in certain circumstances such as accidents and emergencies and when employees care for the sick.

#### 4.1.5 Leave

Employees are entitled to ten working days of paid recreational leave for each year of continuous service, equivalent to 14 consecutive days of paid leave including non-working days. Furthermore, after six months of employment, employees are entitled to paid sick leave at the rate of six days per year.

Pregnant women are entitled to unpaid maternity leave for a period consisting of the number of days necessary for hospitalization before giving birth and six weeks following confinement.

#### 4.1.6 Non-discrimination and equal opportunity

The Constitution of PNG guarantees all citizens the same rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex. PNG's Employment Act only prohibits discrimination of women on account of their sex and requires employers to pay women and men the same wages for the same work.

PNG ratified ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111) by which it undertakes to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin.

PNG also signed and ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2011 and 2013 respectively. The CRPD adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. Signatories recognize the right of persons with disabilities to work, on an equal basis with others. The CRPD prohibits discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions. The CRPD promotes the principles that all country legislation and policies be harmonised to take account of the rights and needs of Persons With Disabilities. Despite signing and ratifying ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the CRPD, PNG's outdated employment legislation makes no mention of persons with disabilities. The National Policy on Disability 2015-2025 therefore advocates for the development of new legislation to provide a clear legal framework for protecting the rights of Persons With Disabilities and for the mainstreaming of the rights of Persons with Disabilities in all legislation and policies

#### 4.1.7 Freedom of association and collective bargaining

While the Employment Act does not include provisions on freedom of association, collective bargaining and the rights of workers to join unions, the right to organize is guaranteed by the Constitution (Article 47). The Industrial Relations Act 1962 aims at improving industrial relations and preventing and settling industrial disputes and the Industrial Organizations Act 1962 regulates the registration and functioning of workers' and employers' associations. Unions have the right to organize and bargain collectively. PNG is also party to ILO's Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

#### 4.1.8 Grievances

While the Employment Act does not include provisions on the resolution of labour disputes or the introduction of grievance mechanisms in workplaces, the settlement of industrial disputes is regulated by the Industrial Relations Act 1962. With no stipulations regarding the introduction of grievance mechanisms in workplaces in PNG's national legislation, employers of Project workers are required to develop and provide a grievance mechanism for all direct workers and contracted workers, except for public servants, before the beginning of work and inform their employees of the existence of such measures. Workers will be informed of the grievance mechanism at the time of recruitment. The grievance mechanism for Project workers will be submitted to the World Bank for approval (see Section 7 below).

### 4.2 National Occupational Health and Safety Legislation

The main legal framework for Occupational Health and Safety (OSH) is the Industrial Safety, Health and Welfare Act of 1961 and other industry-specific regulations (such as for the mining sector). The Industrial Safety, Health and Welfare Act of 1961 is generally no longer responsive to a modern labour market. Although the Government prioritized the development of new OSH legislation some years ago, new legislation has not been adopted. The legislation applies to factories where manufacturing processes or power generation take place, or buildings or places that are declared factories by the Minister for the purposes of this Act. Hence, the Act regulates issues such as minimum requirements of floor space, ventilation, natural lighting, providing a room for eating, restrooms, sanitary facilities, a first aid kit and first aid personnel. It also requires employers to notify of disease or injury as a result of employment and it includes specific provisions for dangerous work.

According to the Act, an Industrial Safety Officer may, at all reasonable times and with or without notice to any person, enter any premises or place at which he has reasonable grounds for suspecting that an employee is, or has recently been, employed. Employees can request a workplace inspection if they believe conditions are hazardous. Overall, the PNG Government has a weak influence on occupational health and safety regulations and few inspections take place.

PNG has not ratified the ILO Conventions dealing with occupational health and safety ([ILO Occupational Safety and Health Convention, 1981 \(No. 155\)](#) and the [ILO Safety and Health in Construction Convention, 1988 \(No.167\)](#)), nor [the ILO Occupational Health Services Convention \(No. 161\)](#).

With work under the Project being outside the scope of PNG's Industrial Safety, Health and Welfare Act of 1961, the OHS measures of the Project will include the requirements of the relevant sections of ESS2.

### 4.3 World Bank's Environmental and Social Standards 2

The World Bank's stipulations related to labour are outlined in its Environmental and Social Standard 2 on Labor and Working Conditions (ESS2). This helps the Borrowers in promoting sound worker-management relationships and enhance the development benefits of a project by treating workers

in the project fairly and providing safe and healthy working conditions. Key objectives of the ESS2 are to:

- Promote safety and health at work;
- Promote the fair treatment, non-discrimination and equal opportunity of project workers;
- Protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and seasonal/migrant workers, contracted workers, community workers and primary supply workers, as appropriate;
- Prevent the use of all forms of forced labour and child labour;
- Support the principles of freedom of association and collective bargaining of project workers; in a manner consistent with national law; and
- Provide project workers with accessible means to raise workplace concerns.

ESS2 applies to project workers including full-time, part-time, temporary, seasonal and seasonal/migrant workers. Where government civil servants are working in connection with the project, whether full-time or part-time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project. ESS2 will not apply to government civil servants.

The Borrower is responsible for developing and implementing written labour management procedures applicable to the project. These procedures set out how project workers will be managed, in accordance with the requirements of national law and this ESS. The procedures will address how this ESS will apply to different categories of project workers including direct workers, and how the Borrower will require third parties to manage their workers.

Project workers will be provided with information and documentation that is clear and understandable regarding their terms and conditions of employment. The information and documentation will set out their rights under national labour and employment law (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from the requirements of this ESS. This information and documentation will be provided at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur.

The employment of project workers will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices.

## 5. Roles and Responsibilities

### 5.1 Labour Mobility Unit, Department of Treasury

The LMU Director, reporting to the Minister of Treasury, will be responsible for the day-to-day implementation of the project. This will include engagement and management of direct workers in accordance with the LMP as well as monitoring contractor's compliance with the LMP.

The LMU will be supported by a Project Management Unit. Staffing of this unit is yet to be confirmed.

The LMU Director, with the support from the PMU, will be responsible for:

- Implementing these Labour Management Procedures;
- Ensuring that contractors comply with these Labour Management Procedures;
- Monitoring to verify that contractors are meeting labour and OHS obligations toward contracted workers as required by PNG national legislation and ESS2;
- Monitoring contractors and subcontractors' implementation of these Labour Management Procedures;
- Monitoring compliance with OHS standards at all workplaces in line with ESS2;
- Monitoring compliance with COVID-19 related health and safety measures including making workplaces ready for COVID-19;
- Monitoring and implementing training on LMP, OHS and on mitigating the spread of COVID-19 for all Project workers;
- Ensuring that the grievance redress mechanism for project workers is established and implemented and that workers are informed of its purpose and how to use it;
- Have a system for regular monitoring and reporting on labour and OHS performance; data collection, monitoring, and analysis of the LMP as part of the Project's M&E activity.
- Preparing and submitting regularly progress reports on the implementation of the LMP to the Project Steering Committee and the World Bank.

## 5.2 Contractors

Any contractors engaged by LMU to implement project activities will be responsible for the following:

- To obey requirements of the PNG national legislation and these Labour Management Procedures;
- Maintain records of recruitment and employment process of contracted workers;
- Communicate clearly job description and employment conditions to contracted workers;
- Provide workers with evidence of all payments made, including benefits and any valid deductions;
- Providing all contracted workers with health insurance (including coverage for the treatment of COVID-19 infections);
- Maintain records regarding labour conditions and workers engaged under the Project, including contracts, hours worked, remuneration and deductions (including overtime);
- Ensure no child or forced labour is involved in the Project;
- Implement the grievance redress mechanism for workers, maintaining records of any worker grievances including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up outstanding.
- Have a system for regular review and reporting on labour, and occupational safety and health performance.
- Submitting reports to the LMU on the implementation of LMP requirements.

When contractor(s) are known after the beginning of Project implementation, these Labour Management Procedures can be updated to include additional details about companies, hired workforce and others, as deemed necessary.

## 6. Labour policies and procedures

### 6.1 Employment principles

The employment of Project workers will be based on the principles of non-discrimination and equal opportunity. There will be no discrimination with respect to any aspects of the employment

relationship, including recruitment, compensation, working conditions and terms of employment, access to training, promotion or termination of employment. The following measures will be monitored by the LMU to ensure fair treatment of all employees:

- Recruitment procedures will be transparent, public and non-discriminatory, and open with respect to ethnicity, religion, sexuality, disability or gender;
- Clear job descriptions will be provided in advance of recruitment and will explain the skills required for each post;
- All workers will have written contracts describing terms and conditions of work and will have the contents explained to them. Workers will sign the employment contract;
- Employees will be informed at least two months before their expected release date of the coming termination;
- Depending on the origin of the employer and employee, employment terms and conditions will be communicated in a language that is understandable to both parties;
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulty understanding the documentation.

## 6.2 Terms and conditions of employment

Terms and conditions of direct workers are determined by their individual contracts. All the recruiting procedures should be documented and filed in the folders following the requirements of PNG's labour legislation and the ESS2. The maximum weekly working hours are 44. Requirements and conditions of overtime and leave entitlements are agreed as part of individual contracts.

The LMU will ensure that contractors are aware of and comply with the labour management and OSH policies and procedures outlined in this LMP. Each contractor will be required to submit an assessment of environmental and social risks (including labour risks) associated with their activities and risk mitigation measures following the Project's environmental and social requirements.

The Project's labour requirements are outlined in the sections below.

## 6.3 Age of employment

PNG has ratified both the ILO Minimum of Age Convention (C138) and the ILO Worst Forms of Child Labour Convention (C182). According to PNG's Employment Act 1978, the minimum age of employment is 16 years of age. Children between the ages 11 and 16 may be employed in a family business or enterprise provided they have parental permission, medical clearance, and a work permit from a labour office. Persons under the age of 16 may not be employed in any employment or any place or under working conditions that are injurious or likely to be injurious to the health of the person. Under ESS2 children under the age of 14 cannot be employed, not even in light work.

Given the nature of the Project and required workforce, all workers hired for the Project will be over 18. To ensure compliance, all employees will be required to produce a Tax Identification Number (TIN) as proof of their identity and age. Contractors and subcontractors will be required to receive approval for the specific procedures they will use to verify the ages of job applicants.

If a child under the minimum age is discovered working on the project, measures will be taken to immediately terminate the employment or engagement of the child in a responsible manner, taking into account the best interest of the child.

## 6.4 Occupational Health and Safety

With work under the Project being outside the scope of PNG's Industrial Safety, Health and Welfare Act of 1961, the OHS measures of the Project will include the requirements of the relevant sections of ESS2. Specifically, the OHS measures will be designed and implemented to address:

- identification of potential hazards to project workers, particularly those that may be life-threatening;
- provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances;
- training of project workers and maintenance of training records;
- documentation and reporting of occupational accidents, diseases and incidents;
- emergency prevention and preparedness and response arrangements to emergencies; and
- remedies for adverse impacts such as occupational injuries, deaths, disability, and disease.

ESS2 requires that all parties who employ or engage project workers will develop and implement procedures to establish and maintain a safe working environment, including that workplaces, machinery, equipment, and processes under their control are safe and without health risk. Such parties will actively collaborate and consult with project workers in promoting understanding, and methods for, implementation of OHS requirements, as well as in providing information to project workers, training on occupational safety and health, and provision of personal protective equipment without expense to the project workers.

Project workers will receive OHS training at the start of their employment or engagement, and thereafter regularly and when changes are made in the workplace, with records of the training kept on file. Training will cover the relevant aspects of OHS associated with daily work, including the ability to stop work without retaliation in situations of imminent danger (as set out in paragraph 27 of ESS2) and emergency arrangements.

Workplace processes will be put in place for project workers to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation that they have reasonable justification to believe presents an imminent and serious danger to their life or health. Project workers who remove themselves from such situations will not be required to return to work until necessary remedial action to correct the situation has been taken. Project workers will not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal.

Project workers will be provided with facilities appropriate to the circumstances of their work, including access to canteens, hygiene facilities, and appropriate areas for rest. Where accommodation services are provided to project workers, policies will be put in place and implemented on the management and quality of accommodation to protect and promote the health, safety, and well-being of the project workers, and to provide access to or provision of services that accommodate their physical, social, and cultural needs.

The LMU will ensure that the requirements listed above are followed by all employers of Project workers. The LMU will ensure effective methods are put in place for responding to identified hazards and risks, establishing priorities for taking action and evaluating outcomes.

A system for regular review of occupational safety and health performance and the working environment will be put in place and include identification of safety and health hazards and risks, implementation of effective methods for responding to identified hazards and risks, setting priorities for taking action, and evaluation of results.

Occupational health and safety risks for construction of small scale infrastructure will be managed via implementation of these LMPs and the project ESCOP which includes standard mitigation and management measures to be implemented by the contractor.

## 6.5 Sexual Exploitation and Abuse and Sexual Harassment

Papua New Guinea ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995. By ratifying CEDAW, PNG has committed to ensuring that the principles for equality are adhered to and that discriminatory practices including sexual exploitation and abuse and sexual harassment are abolished.



Government agencies are required to implement Papua New Guinea's [Public Service Gender Equality and Social Inclusion Policy \(GESI\) 2013](#). This Policy promotes equity and inclusiveness in the public sector and encourages respectful relations at the workplace. This is used as a guidance for this Project. GESI calls for the development of workplace gender violence plans which includes best practice responses from management, ways to respond to reports of workplace harassment, referral processes to support agencies, and appropriate discipline or legal actions against perpetrators. The LMU will include provisions to prevent sexual exploitation and sexual harassment (SEA/SH) in the LMU Operational Policy and in MoUs with RRHs.

Provisions to prevent sexual exploitation and abuse and sexual harassment will be included in Codes of Conduct (refer Annex A) for all direct workers (other) and contracted workers in line with relevant national laws and legislation and ESS2 requirements.

## 6.6 COVID-19 safety

This section sets out the procedures which respond to the specific health and safety issues posed by COVID-19.

Due to the nature of this Project, Project workers will not be accommodated together and there will be no labour camps. Much of the work of Project workers, both direct and contracted, will take place in office environments where the advice of the PNG government and the WHO to make workplaces COVID-safe will be followed. Workers are particularly vulnerable to COVID-19 transmission outside of the office such as during community outreach activities and pre-departure sessions for prospective workers.

The Department of Treasury has published a guide, Treasury Niupela Pasin, outlining the Department of Treasury's approach to operating safely within an environment where COVID-19 is present under the Niupela Pasin. The guide outlines practices put in place by the Department of Treasury to continue to work and operate safely and maintain physical distancing wherever possible. Moreover, the risk of infection at the workplace will be minimised by following WHO's workplace-related advice (see [WHO guidance getting your workplace ready for COVID-19](#)).

The Project's SEP includes a COVID-19 Safety Protocol entailing principles and approaches to mitigate the risk of COVID-19 during the conduct of face-to-face consultation and engagement activities during project implementation. The Protocol follows PNG national guidelines, and good international industry practice including WHO and World Bank guidelines. Project workers who are involved in community outreach and pre-departure preparation will follow the measures introduced by the LMU and the RRHs to prevent or minimize exposure. National guidelines are outlined in the National Department of Health's [Papua New Guinea Emergency Preparedness and Response Plan Coronavirus Disease 2019](#) which is a live document. Project workers will also follow the procedures that are regularly updated by the Joint Agency Task Force under the National Control Centre for COVID-19 (see <https://covid19.info.gov.pg/>).

All Project workers will receive training on COVID-19 prevention, social distancing measures, hand hygiene, cough etiquette and community relations, and guidelines of what to do in case they or someone within their households feels sick or COVID-19 positive. These measures will follow the Project's COVID-19 Protocol (refer SEP) which has been developed based on the National Department of Health and WHO guidelines.

Sick leave provisions for direct workers – other and contracted workers will be enhanced in response to the risks associated with COVID-19. All of these workers will be entitled to paid sick leave from the start of their contracts instead of after six months of employment and the number of sick days will not be limited if they fall sick due to COVID-19 infections. Furthermore, if workers are required to self-isolate after arriving in PNG from abroad or after being in contact with an infected person, they will also be entitled to paid sick leave.

## Contractor management

Contractors will be consultancy companies. They should follow the requirements of the national legislation and measures described in this document concerning labour management.

The LMU will make reasonable efforts to ascertain that consultancy companies that engage contracted workers are legitimate and reliable entities and have in place labour management procedures applicable to the project that will allow them to operate in accordance with the requirements of ESS2.

The LMU will establish systems for managing and monitoring the performance of contractors in relation to the requirements of ESS2. Besides, the LMU will incorporate the requirements of this ESS into contractual agreements with such third parties, together with appropriate noncompliance remedies. In the case of subcontracting, the Borrower will require such third parties to include equivalent requirements and noncompliance remedies in their contractual agreements with subcontractors.

The LMU will manage and monitor the performance of contractors in relation to contracted workers, focusing on compliance by such third parties with their contractual agreements (obligations, representations, and warranties). This will include labour management records and reports compiled by contractors which include:

- a representative sample of employment contracts or arrangements between third parties and contracted workers;
- records relating to grievances received and their resolution;
- reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions;
- records relating to incidents of non-compliance with national law; and
- records of training provided for contracted workers to explain labour and working conditions and OHS for the Project.

## 7. Workers' Grievance Redress Mechanism

LMU and RRs public servants will have access to the grievance mechanisms established by the national and respective provincial public services.

For other direct workers and contracted workers, a Worker Grievance Redress Mechanism (WGRM) will be provided to raise workplace concerns. These workers will be informed of the GRM at the time of recruitment and the measures put in place to protect them against any reprisal for its use. Measures will be put in place to make the grievance mechanism easily accessible to all direct and contracted workers.

It is expected that a limited number of people will be employed within the Project. Therefore, a simple project-specific WGRM will be established. This is different from the GRMs that will be established for seasonal/temporary migrants as Project beneficiaries, and for project-affected stakeholders, which are included in the Project's SEP.

The WGRM is not an alternative or a substitute to accessing the legal system for receiving and handling grievances. Nevertheless, all workers at all times have the right to access judicial or administrative remedies that are available under the PNG law or through existing arbitration procedures. While all workers always have the right to access the legal system, the purpose of establishing a WGRM is to provide an accessible and practical means to mediate and seek appropriate solutions to labour-related grievances, without escalating to higher stages wherever possible.



## 7.1 Worker Grievance Redress Mechanism for direct workers (other)

The project-specific WGRM will operate at two levels- one at the PMU level and the other at the LMU level.

1. The Social Risk and Welfare Specialist at the PMU will serve as Grievance Focal Point (GFP) to file grievances of direct workers (other). The complainant may report their grievance in person, by phone, text message, mail or email (including anonymously if required). The GFP will be responsible to coordinate with relevant departments/organizations and persons to facilitate addressing these grievances. If the issue cannot be resolved at the level of the PMU within seven working days, it will be escalated to the level of the LMU. The PMU will review the grievance records monthly and report on the grievances, response time and resolution status in a quarterly report to the World Bank.
2. Where the complaint is not resolved at the level of the PMU, or where the response is not satisfactory, the PMU GFP will refer the issue to the Project Manager for further action or resolution. If there is a situation in which there is no response from the PMU level, the worker can directly approach the Project Manager.
3. Where the complaint is not resolved by the Project Manager, the matter will be referred to the Project Steering Committee for resolution by the Project Manager. The Project Steering Committee will aim to resolve the grievance in three weeks or less. The PMU Grievance Focal Point (GRP) will log details of the issue and resultant resolution status.

## 7.2 Worker Grievance Redress Mechanism for contracted workers

The WGRM for contracted workers will operate as follows:

1. The complainant may report their grievance in person, by phone, text message, mail or email (including anonymously if required) to the contractor as the initial focal point for information and raising grievances. For complaints that are satisfactorily resolved at this stage, the incident and resultant resolution will be logged and reported to the PMU Grievance Focal Point (GRP).
2. If the complainant is not satisfied, the contractor will refer the aggrieved party to the PMU Grievance Focal Point (GRP). The GFP endeavours to address and resolve the complaint and inform the complainant in two weeks or less. For complaints that are satisfactorily resolved by the PMU GFP, the incident and resultant resolution will be logged by the PMU GFP.
3. Where the complaint is not resolved, or the response is not satisfactory, the PMU GFP will refer it to the Project Manager for further action or resolution. If there is a situation in which there is no response from the PMU level, the worker can directly approach the Project Manager.
4. If the matter remains unresolved, or the complainant is not satisfied with the outcome, the Project Manager will refer the matter to the Project Steering Committee for resolution, which will aim to resolve the grievance in three weeks or less. The PMU Grievance Focal Point (GRP) will log details of the issue and resultant resolution status.

## Annexes

### Annex 1: Guidance for Codes of Conduct for Direct Workers (other) and Contracted Workers

A satisfactory code of conduct will contain obligations on all direct workers (other) and contracted works that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the region, the location and the project sector or to specific project requirements. The code of conduct shall contain a statement that the term “child” / “children” means any person(s) under the age of 18 years.

The issues to be addressed include:

1. Compliance with applicable laws, rules, and regulations
2. Compliance with applicable health and safety requirements to protect the local community (including vulnerable and disadvantaged groups), the Employer’s and Project Manager’s personnel, and the Contractor’s personnel, including sub-contractors and day workers, (including wearing prescribed personal protective equipment, preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
3. The use of illegal substances
4. Non-Discrimination in dealing with the local community (including vulnerable and disadvantaged groups), the Employer’s and Project Manager’s personnel, and the Contractor’s personnel, including sub-contractors and day workers (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, age, disability (physical and mental), sexual orientation, gender identity, political conviction or social, civic, or health status)
5. Interactions with the local community(ies), members of the local community(ies), and any affected person(s) (for example to convey an attitude of respect, including to their culture and traditions)
6. Sexual harassment (for example to prohibit use of language or behaviour, in particular towards women and/or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
7. Violence including sexual and/or gender-based violence (for example acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion, and deprivation of liberty)
8. Exploitation including sexual exploitation and abuse (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading behaviour, exploitative behaviour or abuse of power)
9. Protection of children (including prohibitions against sexual activity or abuse, or otherwise unacceptable behaviour towards children, limiting interactions with children, and ensuring their safety in project areas)
10. Sanitation requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
11. Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favours, are not provided to any person with whom there is a financial, family, or personal connection)
12. Respecting reasonable work instructions (including regarding environmental and social norms)
13. Protection and proper use of property (for example, to prohibit theft, carelessness or waste)
14. Duty to report violations of this Code
15. Non-retaliation against workers who report violations of the Code, if that report is made in good faith.

The Code of Conduct should be written in plain language and signed by each worker to indicate that they have:

- received a copy of the code;
- had the code explained to them;
- acknowledged that adherence to this Code of Conduct is a condition of employment; and
- understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.

A copy of the code shall be displayed in a location easily accessible to the community and project-affected people. It shall be provided in languages comprehensible to the local community, Contractor's personnel (including sub-contractors and day workers), Employer's and Project Manager's personnel, and affected persons.