

MR 14: SIPHOFANENI-MALOMA-NSOKO LABOUR MANAGEMENT PROCEDURE

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ABBREVIATIONS

AfDB	African Development Bank
CESMP	Comprehensive Environmental and Social Management Plan
CLO	Community Liaison Officer
CMAC	Conciliation, Mediation and Arbitration Commission
CMP	Comprehensive Mitigation Plan
CoC	Code of Conduct
E&S	Environmental and Social
ESMP	Environmental and Social Management Plan
GBV	Gender Based Violence
GRM	Grievance Redress Mechanism
ILO	International Labour Organization
LMP	Labour Management Procedure
MoPWT	Ministry of Public Works and Transport
OHS	Operational Health and Safety
OS	Operational Safeguard
SEAH	Sexual Exploitation, Abuse and Harassment
SEP	Stakeholder Engagement Plan

EXECUTIVE SUMMARY

The Labour Management Procedures (LMP) is developed to manage risks under the development of the MR14. The road development will start at Siphofaneni to Maloma and from Maloma to Nsoko. This project as a road infrastructure development project falls under the Ministry of Works and Public Transport (MoPWT) and funded by the African Development Bank (AfDB). The LMP sets out the project's approach to meeting national requirements as well as the objectives of the AfDB's Environmental and Social Operational Safeguards. Specific E&S OS relevant to this LMP include

- E&S OS2: Labour and Working Conditions
- E&S OS4: Community Health, Safety and Security
- E&S OS10: Stakeholder Engagement and Information Disclosure

It identifies the types of workers who will be engaged in the program with tenures of respective groups to be recruited and involved. Of whom direct, contracted (and sub-contracted, as appropriate), and primary supply workers are the major types.

The key highlight of this document is to categorically identify, assess, and prescribe on how to address the issues of Child and Forced Labour, Labour Influx, Gender-based Violence, Occupational Health and Safety, and Trafficking. The project, in general, will have zero tolerance for the non-compliance with national laws as well as the OS. There shall be no recruitment of children and practices of forced labour.

There is a high probability of labour influx from different parts of the country during the implementation of this program. Necessary measures are proposed in the procedure and the monitoring mechanism embedded in the program will make sure that those are translated into regular practice.

Responsible parties' actions will be periodically reported for the record. The procedure specifically outlines the project's position in case of gender-based violence and other gender-based offences. It pinpoints the high chance of women (and their children) being subject to gender-based violence and trafficking in the implementation phase of the project. Hence, necessary mechanisms are in place with regular monitoring and reporting.

The LMP further gives an overview of its guiding legal and policy framework. It identified the commonalities and gaps between the AfDB' OS and the legislation of Eswatini. Good practices are adopted, while issues/areas of further improvement are proposed, to be followed during the implementation of the LMP. The LMP with due importance incorporated the issue of labour and working conditions which is underpinned by occupation health and safety ensuring appropriate implementation of the OS2. The issues are related with safety of project communities who are exposed to the project activities and other pertains to the exposure and/or increased risks of diseases by the community due to influx of people during construction and operation. This LMP also incorporates the guidelines presented under OS10 – Stakeholder Engagement and Information Disclosure as this OS supports the implementation of OS4 -Community Safety, Health and Security. The LMP appreciates that implementation of OS4 components, OS10 has to be invoked and its resulting Stakeholder Engagement Plan (SEP) updated accordingly.

To translate the procedure into real actions the program will recruit required skill-hands with relevant experience and knowledge. The areas that these experts will cover are OHS, Labor and Working Conditions, Worker Grievance, Training, and raising the level of awareness of people engaged with the program direct and indirect.



1. INTRODUCTION

1.1. SIGNIFICANCE OF THE LABOUR MANAGEMENT PROCEDURE

This Labour Management Procedure (LMP) was developed to manage risks under the project of developing the MR14 Road funded by the African Development Bank (AfDB). The LMP sets out the Project's approach to meeting national requirements as well as the objectives of the AfDB's Integrated Safeguard System (ISS). Specifically, this LMP is a direct outcome in pursuit of the Environmental and Social (E&S) Operational Safeguard (OS) 2: Labour and Working Conditions. The LMP also aims to support the E&S OS4: Community Health, Safety and Security. The LMP also aims to support the implementation of labour practices as per the Kingdom of Eswatini's legal framework as discussed in chapter 4 of this document. Through this framework, the E&S OS as well as National Laws will facilitate and productive working environment for all the teams involved in the project's implementation.

1.2. LABOUR MANAGEMENT PROCEDURE APPROACH

This LMP is a living document and shall be reviewed and updated throughout development and implementation of project. Adhering to the procedures contained herein, Project Contractors will adhere to a Comprehensive Mitigation Plan (CMP), which will be prepared by the environmental consultant firm for larger works. For smaller contracts, the Ministry of Public Works and Transportation (MoPWT) may prepare specific procedures to be inserted in the contract as part of contractors' legal obligations reflecting the LMP principles. The approach will be assessed as part of the initial screening of environmental and social risk and impact carried out by Project implementation team. This LMP applies to all workers in this project as defined in section 2.3.



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1.3. APPLICABLE REGULATORY LICENSES AND APPROVALS

Since the project is funded by AfDB, it can only go ahead once the bank has approved the ESIA and ESMF, as well as any other documents that are relevant to the project. In accordance with the Environmental Audit, Assessment and Regulations, 2000, the project can only go ahead once the ESIA and associated ESMP have been reviewed and approved by Eswatini Environment Authority. A signed letter of project approval needs to be issued by EEA to enable the project to go ahead. During the construction phase, the EEA requires periodic project compliance reports (PCR). Once EEA is satisfied that all environmental and social mitigation measures that have been developed in the ESMP have been successfully implemented, the project would be issued with an environmental compliance certificate (ECC).



2. ANTICIPATED LABOUR USE ON THE PROJECT

2.1. PROJECT OBJECTIVES

The MR14 national road links southern eSwatini, with National Road MR-8 Manzini-Lavumisa and National Road MR-11 Lavumisa-Nhlangano. While the MR8 is a tarred road, the MR14 is a gravel road from the project start at Siphofaneni, up to the project terminus at Siphambanweni. It is therefore in the interests of solid long-term planning that MR14 is upgraded to bitumen standard, given that the agricultural benefits that will come with the construction of Mpakeni Dam and irrigation schemes at St Phillips and Lavumisa, need to be enhanced for the growth in the agricultural sector, and hence that of the national economy. Furthermore, the development of MR14 will enhance the development of Siphofaneni and Lavumisa Town. The project roads are anticipated to significantly ease travel times, reduce wear and tear as well as open up the local communities to development on real estate and industry. The planned expansion of Maloma coal mine will significantly support the anticipated outcomes of the project objectives. The project objectives are listed below:

- To promote equal access to economic and social development opportunities across the country and by doing so, enhance Government's efforts for poverty eradication and economic development.
- To improve the quality of the National Road Network and improve connectivity to all areas of the country.
- To transfer skills and build technical capacity through on the job training.
- To improve access to goods/passenger transport services and reduce transport costs along the route.
- Reduce rural travel time and costs and promote a more competitive transport sector.
- To improve access to social and economic development opportunities along the route, by providing high-capacity infrastructure.
- To ensure no roadside communities become worse off as a result of the road upgrading works.

2.2. TYPE OF WORKERS

Full Time Workers

Full time workers on the project include the Project Manager, Project Accountant, Procurement Manager/Specialist, Environmental Compliance Officer, Project Engineer and a Social Specialist. Workers from the MoPWT and those engaged by contractors to perform work related to the project's core function regardless of their location are also categorized as full-time workers.

Direct Workers

Direct workers will be divided into three major units. First the Project Implementation Unit, then project-based staff and full-time workers. The PMU will employ consultants and support staff who are working on contractual basis as part of the PIU. The Consultants will be engaged by the Project to undertake short period assignments as necessary. They will be guided by specific contracts between them and the MoPWT. The terms and conditions of the consultants and contractors will be guided by the national labour laws and regulations as well as the requirements of OS2.

Community Workers

Local community workers will be given priority in hiring general labour for the project. The role of Community Liaison Officer (CLO) is strictly reserved for the community members. Community workers will also be



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engaged for membership in some of the committees such as the resettlement committee and in recruitment. The Traditional Authorities shall be engaged and sensitized of their role in the project and recruitment matters.

Migrant Workers

It is likely that national migrant workers (from other communities, towns and/or regions) and/or international workers will be engaged under this project. In the event that locals seek employment, the locals from within the project corridor will be prioritized. In this event, the Traditional Authorities will be sensitized of their role and engaged in the recruitment of local workers. Migrant workers may be engaged if the labour demand of the project exceeds the available and willing supply and/or if the local supply does not meet the minimum requirements of available vacancies. Migrant workers may also be engaged in the skilled category if the Nationals

Primary Supply Workers

Primary supply workers will be recruited by the suppliers required in the project. It will be ensured by the MoPWT that primary supply workers do not include child labour and forced labour. The PIU shall ensure that the National laws are upheld strictly to the highest standard. If any deviation is identified the MoPWT will take swift action as prescribed in the contract/agreement and a code of conducting business in the project and Eswatini (see Annex 3 – Code of Conduct).

During the implementation phase, the awarded Contractor/s will purchase material at their own preferred suppliers. For selected services, the Contractor will utilize available supplies from local/community entrepreneurs. Moreover, the MoPWT shall ensure the quality of used material through developed quality assurance procedures such as the inspection of datasheets (for materials only) to support an optimal project outcome.

2.3. NUMBER OF WORKERS

The project implementation is anticipated to be human resource intensive. This human resource also known as project workers will vary from skilled, semi-skilled and unskilled. The sourcing of the skilled and semi-skilled may be broadened beyond the borders of Eswatini, however, all unskilled labour will be sourced in-country with first preference being the employable within the project corridor.

The project has 3 phases: namely the design phase, construction phase and operational phase. During the design phase, an Engineering Consultant was hired to develop the detailed designs and prepare tender documents. This Consultant shall also be responsible for the supervision of the construction works in the construction phase. During the construction phase, the engagement of labour will depend on the phase of the project. The engagement of a high number of workers is anticipated in the construction phase.

During the construction phase, it is anticipated that the number of labourers engaged will fluctuate with the types of activities. Some will be engaged while others come to the end of their employment during activities changeover.

It is expected that, when the implementation of the project is at peak, a maximum of 800-850 persons will be working on the construction at any one time. These will include contractors, consultants and full-time employees. A significant proportion of the estimated labour stock will be recruited in-country and along the project corridor. The specific number of locals will be confirmed in due course. The labour requirements will form part of the Request for Proposal (RFPP). The RFP will specify a preference for recruitment of unskilled



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labour from the communities along the project corridor which have been identified in the SEP. Table 2-1 presents the estimated labour and type thereof that will be involved in the project.

Table 2-1: Estimated labour by type

	TYPE OF PROJECT WORKER	REQUIRED NUMBERS	TOTAL
1	Direct Workers	30	850
2	Contracted Workers		
2.1	Construction Workers	770	
2.2	Project Management/Construction Supervision Consultants	30	
2.3	Consultants for Project Preparation and other studies (e.g. ESIA, Design, etc.)	50	

It is expected that there will be no community workers in this project. All workers will be 18 years and above. The project will follow national laws and technical regulations and national laws and regulations on labour management. The labour requirements for project implementation are mainly divided into two stages: (i) design and tendering stage, (ii) construction and handover stage. Table 2-2 below presents the timing and sequence of labour requirements.

Table 2-2: Timing and sequencing of labour requirements

STAGE	LABOUR ENGAGED	TIMING (MONTHS)
STAGE 1: DESIGN & TENDERING		
Procurement of consultant	18	4
Designs and tender documents	50	8
Tendering	18	6
STAGE 2: CONSTRUCTION		
Construction	770	36
Defect liability period	50	12

Labour that will be engaged for design and supervision will be from the implementing Agent, MoPWT, or from the consultant that will be recruited. The MoPWT personnel that will be engaged on the project will be involved from project inception to completion. Labour for construction stage will be from consultant and the contractors. While the MoPWT will be doing overall project management, consultants will be supervising the works, and the contractor will be doing the actual works. The procurement of both the consultant and the contractor will follow the international competitive bidding process. This will present an opportunity for international firms and international experts to partake on the implementation of the project. Recruitment of foreign professional is likely to be for specialized skills requiring highly experienced personnel such as a Project Leader, Contracts Manager and some Engineers. The engagement of the estimated number of laborers during the construction (estimated to be 770) will be gradual as the project construction gain its momentum and they will be gradually reducing towards the completion of the project. The peak is estimated to be between the month six and month twenty-eight into the project. This labour, estimated to be 347 during the construction phase of the project would be from MoPWT, consultants and contractors. The majority of the labour will be hired by the contractor and the consultant and very few will be from MoPWT.



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3. ASSESSMENT OF KEY POTENTIAL

Social impacts such as GBV, sexual exploitation and communicable diseases for local communities are identified key potential labour risks. GBV/SEAH risks were integrated in both the SEP and LMP. The ESMP will include labour related clauses, GBV risk management measures and preventive health measures. The contractors' contracts will include specific clauses prioritizing recruitment of unskilled local labour and will consider social and environmental mitigation measures. Any civil works contracts will include the E&S OS and industry standard Codes of Conduct that address OHS risks and include measures to prevent GBV/SEAH. The LMP also includes guidance on the worker specific GRM (for direct and contract workers).

Child or Forced Labour

Based on current conditions in the construction sector, it is assessed that the risks of child or forced labour is negligible, and already managed through national legislation and Eswatini Government General Orders (GOs).

Community Health and Safety

The anticipated construction works could have incremental risks to the public's health and safety as well as potential exposure to operational accidents. The communities along the project corridor may be exposed to noise and dust pollution, increased traffic and road accidents. However, the social management plan will provide guidance on how impacts on the community will pursue preventative safety measures through risk assessments and strive to reduce occupational accidents on a continual basis. Additionally, risks to the community could be injuries or fatalities from accidental falling into borrow pits. The risks register will be developed for the project and be updated during the implementation of the project. Mitigation measures will be placed for all identified risks in the CMP. Specific requirements to manage health risks associated with interaction of project workers and local communities, such as communicable diseases and gender-based violence, are managed through contractual requirements, code of conduct, awareness raising, and training set out in this document.

Labour influx

The project is anticipated to attract a lot of labour. However, the Contractor shall be encouraged to explore the local communities to fill any vacancies particularly in the unskilled labour category. Hence, labour camps are not anticipated nor required. The MoPWT exercises prudence by mandating and localizing the local economic benefits and only allow for outside, including expatriate labour where there is a requirement for special skills. External workers will be accommodated using existing stock or rental properties or hotels located within or around the project areas.

Occupational health and safety

In the event an employee is injured at work, the incident will be handled according to the applicable laws including the Workman Compensation Act. It is a requirement that a contractor submit his certificate of good standing with the Ministry of Labour, and this meets requirement under OS2. The risk may be accidents due to machine handling, intense noise from construction machinery and activities, dust pollution, inadequate sanitation facilities as well as lack or poor-quality drinking water. The Contractor is required by law to provide appropriate protective equipment, training and sufficient supervision for possibly hazardous working conditions.



4. BRIEF OVERVIEW OF LEGAL AND POLICY FRAMEWORK

4.1. OVERVIEW OF LABOUR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

The Occupational Health and Safety Act 9, 2001

The Occupational Health and Safety Act 9, 2001 mandates that employers are responsible for ensuring the safety and health of all employees in the workplace. This includes mitigating risks associated with workplace hazards and providing personal protective equipment (PPE) to employees who are exposed to harsh or dangerous conditions. Employers must also ensure that employees are trained to perform their tasks safely and are informed about any known hazards or diseases related to their work. Employees must receive adequate training to perform their duties safely and be made aware of any potential hazards or diseases associated with their work. This training is essential to minimize the risk of accidents and injuries in the workplace. Eswatini Ministry of Health further has specific requirements related to first aid provisions.

The Public Health Act, 1969

The Public Health Act provides for the establishment of processes to ensure public health at all phases of a project. It also provides for steps to take should there be any incident from the project affecting the public and lays out responsibilities for actions to be taken.

4.2. OVERVIEW OF LABOUR LEGISLATION: AGE LIMITS

International Conventions

The nation has affirmed its commitment to eradicating child labour by ratifying the International Labour Organization's (ILO) Conventions on child labour—C138 concerning the Minimum Age for Admission to Employment and C182 on the Worst Forms of Child Labour—in 2002. Additionally, the country has signed the African Charter on the Rights and Welfare of the Child in 1992, signaling its intent to align with international child welfare standards, although ratification is still pending.

The Child Protection and Welfare Act, 2012

Under the Employment Act, Section 97 sets the minimum age for employment in industrial settings, although it does not extend to domestic or agricultural sectors. Furthermore, the Children's Protection and Welfare Act 6, 2012, under Section 246, explicitly forbids children under 15 from engaging in hazardous work in industrial environments, including but not limited to mining, manufacturing, and electrical operations. As stipulated in Section 248 of the Children's Protection and Welfare Act, employing underage individuals will result in legal consequences, including a minimum fine of E100,000 or imprisonment for up to 5 years for first-time offenders. Repeat offenders will face a minimum of 10 years of imprisonment.



4.3. OVERVIEW OF LABOUR LEGISLATION: EMPLOYMENT CONDITIONS

The Employment Act 5, 1980

The Employment Act provides for the basic conditions of employment with a view of improving the status of employees in Eswatini. The Act makes it mandatory for employers to furnish employees with written particulars of employment stating hours of work, wages, leave entitlements, job description, grievance procedure, benefits if any, etc. It further mandates the Ministry responsible to issue Wage Regulations on a regular basis which deal with worker's terms and conditions for each particular industry. It is in this legislation where you will find provisions regulating contracts of employment, leave entitlements, i.e., annual leave, sick leave, maternity leave and compassionate leave, the protection of wages (prohibition against unlawful deductions), retrenchment procedures as well as fair and unfair reasons for termination of employment.

The Wages Act 16, 1964

The Wages Act deals specifically with the minimum wages and basic terms and conditions of employment in virtually all sections of economic activity in Eswatini, be it in retail, manufacturing, agriculture or building and construction industry. Eswatini MoPWT requires Contractors to comply with the most current Wages Regulations Order for Building and Construction as issued by the Minister as legal notice periodically.

4.4. OVERVIEW OF LABOUR LEGISLATION: GRIEVANCE MECHANISM

The Industrial Relations Act 2000 (as amended)

This is the main Act which provides for the collective negotiation of terms and conditions of employment in the workplace (i.e., negotiations between employers and trade unions, and the dispute resolution mechanism). There are three specialized forums for dealing specifically with labor issues in Eswatini: The Conciliation Mediation and Arbitration Commission (CMAC), The Industrial Court and the Industrial Court of Appeal.

4.5. OVERVIEW OF LABOUR LEGISLATION: WORKERS ORGANIZATION

The Public Service Act 1963

This legislation deals with all disciplinary control and proceedings for workers.

The Constitution of Swaziland 2005

Section 32 (2) of The Constitution of Swaziland, 2005 on the Rights of Workers, guarantees all workers of their right to freely form, join or not join a trade union for the promotion and protection of the economic interest of that worker, and collective bargaining and representation.

The Industrial Relations Act 2000 (as amended)

This legislation was enacted to give effect to collective bargaining, amongst other purposes. Section 4 (c) to (e) of the Act allows for the collective negotiation of terms and conditions of employment.



4.6. OVERVIEW OF APPLICABLE ENVIRONMENTAL AND SOCIAL OPERATIONAL SAFEGUARDS

The AfDB has established a comprehensive framework known as the Integrated Safeguards System (ISS) to address various environmental and social issues, including labour conditions.

OS2: Labour and Working Conditions

The core requirements of OS2 mandate that all workers are treated fairly and without discrimination. This includes ensuring equal opportunities and fair treatment in hiring, compensation, and working conditions. The safeguard requires that employers provide a safe and healthy working environment, which includes measures to prevent accidents, injuries, and occupational diseases. Workers must be allowed to form and join trade unions and engage in collective bargaining without fear of reprisal or discrimination. The OS also requires that employers must establish a grievance mechanism for workers to raise concerns and complaints related to their employment conditions. The OS requires that these stipulations must be incorporated into contracts with contractors and subcontractors to ensure compliance throughout the project lifecycle. Regular monitoring and reporting mechanisms must be established to ensure adherence to labour standards set out in OS2. The employers are required to provide PPE and training to workers to ensure their safety and health, aligning with the requirements. To comply with OS2, the LMP must include verification of workers' age and identity to prevent child labour and ensure that all workers meet the minimum age requirements.

OS4: Community Health, Safety, and Security

OS4 addresses potential risks to and impacts on communities that may be affected by the project activities. The OHS requirements of OS2 sets out the requirements for project workers to avoid or minimize impacts on human health and the environment due to existing or potential pollution as set out in OS3. This OS recognizes that projects, activities, equipment, and infrastructure can increase community exposure to risks and impacts. In addition, communities that are already subjected to impacts from climate change may also experience an acceleration or intensification of impacts due to a project or activities. OS4 addresses the health, safety, and security risks to and impacts on project-affected communities and the corresponding responsibility of the Borrower to avoid or minimize them, with particular attention to people who, due to their particular circumstances, may be vulnerable.

OS10: Stakeholder Engagement and Information Disclosure

OS10 mandates the development of stakeholder engagement plans to facilitate continuous engagement and information sharing throughout the project cycle. This ensures transparency and accountability in labour management procedures.

4.7. ANALYSIS OF LEGISLATIVE FRAMEWORK AND OS

This section presents an analysis of the national legislation applicable to the LMP in comparison with the AfDB's OS. The objective of this section is to highlight significant gaps between the objectives of the OS and provisions in the respective legislation. The OS also provide guidance on implementation of relevant



strategies to avoid or minimize negative impacts during project implementation. The section also presents recommended actions in the event where gaps can be found between the national and funder frameworks. The AfDB is cognizant of the sovereignty of the Kingdom of Eswatini, therefore the national legislations shall take precedence over the OS where appropriate. However, as presented in the preceding analysis and the table below, there are no misalignments of objectives or conflicts thereof that would warrant a reassessment of the feasibility of the project.

Where both frameworks are aligned, the more stringent one shall apply. Where the more stringent framework has gaps, the less stringent framework shall fill in those gaps. Where the national legislation falls significantly short or does not provide guidance, the OS shall apply completely but within the context of existing national guidelines. The project has zero tolerance for flouting national laws and regulations.



Table 4-1: Comparative Table of OS and National Objective Requirements

OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
OS1: LABOUR AND WORKING CONDITIONS		
<p>To provide every employee with written particulars of employment</p>	<p>The Employment Act 5, 1980</p> <p>S.22 – makes it mandatory for the employer to give each of its employees a copy of the written particulars of employment, signed by both parties within six weeks of commencement of the employment. This requirement is not applicable to employees engaged for a fixed period of less than six weeks or anyone expected to work less than 21 hours per week.</p> <p>S.30 – makes it an offence to provide an employee with such form with fine of not more than E3,000 or imprisonment of not more than 1 year or both.</p> <p>S.136 – requires that before a contractor is awarded a public contract, that contractor is required to certify in writing that the wages, hour and conditions of work or persons to be employed by him on the contract are not less favorable than those contained in the most current wages regulation issued by the Labour Commissioner.</p> <p>S.143 - states that the contract with the contractor may be withdrawn as an approved contractor upon recommendations of the Labour Commissioner</p>	<ul style="list-style-type: none"> • Post award, the contractors will be required to furnish EWSC with copies of the Written Particulars of all its employees or Contracts of employment including those who work below 21 hours a week as casual employees? • The contract employment shall at least have the information contained in the prescribed template of the Form Contained in the Second Schedule as can be seen in Annex 1. • Each contractor will be required to provide such information as required in terms of S.136 as part of the tendering process.
<p>To promote safety and health at work</p>	<p>The Occupational Safety and Health Act 9, 2001</p> <p>This Act provide for the safety and health of persons at work and at the workplace and for the protection of persons other than persons at the workplace against hazards to safety and health arising out of or in connection with the activities of persons in the workplace and to provide for other matters incidental thereto.</p> <p>S.9 entrusts the employer to ensure the safety and health of all its employees, and also to mitigate risks of exposure to danger of its workforce. Provide personal protective clothing or equipment to employees exposed to wet, dusty, noisy or any conditions that might</p>	<ul style="list-style-type: none"> • Each contractor will be required to have a OHS Officer and First Aider. • Contractors required to keep logs of incidents and should be reported and investigated regularly. • The Contractor will conduct induction talks to workers and contractors weekly



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
	<p>expose the employees to harsh or dangerous conditions. To train its workers to perform their work in order to avoid exposure to danger or injury; and to inform employees of any known hazards or disease associated with the work.</p> <p>The Factories, Machinery and Construction Works Act 17, 1972. This legislation provides for the registration of factories and the regulations of working conditions and the use of machinery at factories, construction works and other premises and for matters incidental thereto. The Act mandates the office of the Labour Commissioner to monitor and inspect any working environment or structure to determine its suitability. The office of the Labour Commissioner is also required to investigate incident or accident involving any person injured in connection with the activities of the employer.</p> <p>The Workman’s Compensation Act 7, 1983 It provides for the compensation and medical treatment of workmen who suffer injury or contract diseases in the course of their employment. The scope of its application extends to not an injury or accident that occurs within the workplace but also while the employee is travelling by reasonable means and within any reasonable route between the workplace and his place of residence. In terms of the Act, Workman is any person who has entered into the works under the contract of service or of apprenticeship or of traineeship whether the contract is express or implied, is oral or in writing whether the remuneration is calculated by time or work done.</p>	
<p>To promote the fair treatment, nondiscrimination and equal opportunity of project workers.</p>	<p>The Employment Act 5/1980 S.29 – prohibits employers from discriminating against any person on grounds of race, color, religion, marital status, sex, national origin, tribal or clan extraction, political affiliation or social status.</p> <p>S.30 – makes it an offence to discriminate against any person as envisaged in S.29. Such employer if found guilty shall be liable on</p>	<p>Contractors will be required to comply with national legislation when recruiting.</p>



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
	<p>conviction to a fine not exceeding E3,000 or imprisonment not exceeding 1 year or both.</p> <p>S.96 – mandates employers to accord female employees the same treatment as their male counterparts in the workplace and also pay them ‘equal pay for equal work’.</p>	
<p>To prevent the use of all forms of forced labour</p>	<p>The Employment Act 5, 1980 (Part XIV) – Forced Labour</p> <p>S.144 – prohibits all works or service, which is extracted from any person under the threat of any penalty and for which the said person has not offered himself voluntarily.</p> <p>S.147 – states that, if any person acting in an official capacity coerces any person under his charge, that person shall be held personally liable and shall be liable to a fine not exceeding E3,000 or imprisonment not exceeding one year or both.</p>	<ul style="list-style-type: none"> Contractors will be required to comply with national legislation and as precautionary measures. The Contractor will conduct an induction. Random inspection will be done on a regular basis to ensure compliance.
<p>To prevent the use of all forms of child labour</p>	<p>The Country ratified both the ILO Minimum of Age Convention (C138) and the ILO Worst Forms of Child Labour Convention (C182) in 2002. It also signed the African Charter on the Rights and Welfare of the Child in 1992 but has not yet ratified it.</p> <p>The Employment Act 1980 S.97 – Prohibits the employment of children below the age of 15.</p> <p>The Children’s Protection and welfare Act 6, 2012</p> <p>S.234 – Minimum age of engagement for children is 15.</p> <p>S.236 – children below the age of 18 cannot be engaged in any form of hazardous employment</p> <p>S.248 – any person who employs underage children liable on conviction to a minimum fine of E100,000 or 5 years’ imprisonment or both for a first offender. For a second offender, it is imprisonment of not less than 10 years.</p>	<ul style="list-style-type: none"> Monitoring will be done through the National ID system that every employee is required to produce on employment. If a contractor is found to have engaged underage kids for the project: - a formal case will be reported to the police and the contract will be terminated



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
<p>To support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.</p>	<p>The country has ratified the numerous ILO Conventions aimed at ensuring that member states do protect the notion of collective bargaining. These Conventions include ILO Convention 87 on Freedom of Association and Protection of the Right to Organize and the ILO Convention 98 on the Right to Organize and Collective Bargaining.</p> <p>The Constitution of Eswatini, 2005 Section 32 (2) of The Constitution of Eswatini, 2005 on the Rights of Workers, guarantees all workers of their right to freely form, join or not join a trade union for the promotion and protection of the economic interest of that worker, and collective bargaining and representation.</p> <p>The Industrial Relations Act 2000 (as amended) The Industrial Relations Act 2000 (as amended) was enacted to give effect to the collective bargaining, amongst other purposes. Section 4 (c) to (e) of the Act allows for the collective negotiation of terms and conditions of employment. Part 4 of the Act deals with the registration and/or formation of Employee, Staff and Employer Organizations, Federations and International Organizations. In terms of S. 26 (3) of the Act a minimum of six employees can form a trade union by obtaining a Certificate of Registration through the office of the Labour Commissioner (S.27). Once registered, a trade union can recruit any employees who fall within its bargaining unit with that particular employer. S.42 (9) states that once the union has recruited more than fifty percent of the employees in respect of which it seeks recognition, the union can then apply for recognition with the employer. The employer is obliged to recognize the trade union if it meets the required threshold. If, however, the union membership is below the threshold the employer is not obliged to recognize the union but can exercise its discretion. Once a union is recognized, it has the right to bargain or negotiate for and on behalf of its members and also to represent them at the workplace.</p>	<ul style="list-style-type: none"> • Contractors need to inform their workers of their right to organize. • The Written Particulars of Employment as prescribed by S.22 of the Employment Act 1980 allows employee to state the trade union they are affiliated to on employment.



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
<p>To provide project workers with accessible means to raise workplace concerns.</p>	<p>In implementing an effective dispute management system consideration must be given to the disputed resulting from (i) disciplinary action, (ii) Individual grievances, (iii) Collective grievances, (iv) Negotiation of collective grievances.</p> <p>Disciplinary Procedure the Code of Good Practice: Resolution of Disputes at the Workplace which is in terms of S.109 of The Industrial Relations Act 2000 (as amended) at Clause 4.2 requires employers to establish a fair and effective disciplinary procedure in the workplace, which should be in line with Clause 11 (Fair Procedure). The procedure is as follows: -</p> <ol style="list-style-type: none"> a) Investigate to determine whether there are grounds for a hearing to be held. b) If a hearing is to be held, the employer is to notify the employee of the allegations using a form and language that the employee can understand. c) The employee is to be given reasonable time to prepare for the hearing and to be represented by a fellow employee or a union representative. d) The employee must be given an opportunity to respond to the allegations, question the witnesses of the employer and to lead witnesses. e) If an employee fails to attend the hearing the employer may proceed in with the hearing in the absence of the employee. f) The hearing must be held and concluded within a reasonable time and is to be chaired by an impartial representative. g) A dismissed employee must be given the reasons for dismissal and the right to refer the dispute concerning the fairness of the dismissal to the Conciliation, Mediation and Arbitration Commission (CMAC). <p><u>Individual Grievance Procedure</u> Clause 4.3 requires every employer to have a Formal Grievance Procedure, which should be known and explained to the employee. The Code recommends that such procedure should at least:</p> <ol style="list-style-type: none"> a) Specify to whom the employee should lodge the grievance. 	<ul style="list-style-type: none"> • Contractors will be required to comply with national legislation in this regard. • Contractors will be required to have a grievance procedure and inform workers of the same during induction. • The contractors will be required to log worker's grievances in monthly reports.



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
	<p>b) Refer to time frames to allow the grievance to be dealt with expeditiously</p> <p>c) Allow the person to refer the grievance to a more senior level within the organization, if it is not resolved at the lowest level.</p> <p>d) If a grievance is not resolved the employee has the right to log a dispute with CMAC. <u>Collective Grievances and Disputes</u> resulting from the negotiations of Collective agreements.</p> <p>Clause 4.4 and 4.5 of the Code deals with the handling of collective grievances as raised by the employees. This procedure is usually contained in the Recognition Agreement the parties sign from the onset. What is common to these disputes is that in the event the parties fail to resolve the dispute, either can lodge a dispute with CMAC and subsequently the Industrial Court.</p>	
<p>To protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate.</p>	<p>S.20 of The Constitution of Swaziland guarantees citizens the right to equality before the law in all spheres and it further affirms that a person shall not be discriminated against on the grounds of gender, race, color, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion, age or disability.</p> <p>S.29 of The Employment Act 1980 states that, no employer shall discriminate against any person or between employees on grounds of race, color, religion marital status, sex national origin, tribal or clan extraction, political affiliation or social status.</p> <p><u>Rights of women</u></p> <p>S28(1) of The Constitution of Swaziland guarantees the rights of woman to equal treatment with men including equal opportunities in political economic and social activities.</p> <p>S.96(1) of The Employment Act 1980 also requires employers not to discriminate between male and female employees by failing to pay equal pay for equal work.</p>	<p>MoPWT will also ensure, that when/if any primary supplier to the project report fatalities or serious injury and informs government authorities in accordance with national reporting requirements.</p> <p>National legislation will take precedence however, the AfDB's OS will be enforced where there are gaps. The higher standard between the national legislation and OS will always prevail in case of uncertainty in applicable policy/requirement.</p>



OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
	<p>Primary Supply Workers - Registered suppliers are subject to regulations issued by the National laws. Reviews is carried out twice annually and requires a Commercial Services Officer visit the supplies premises. The supplier evaluation form provides Commercial Services to observe any labour irregularity.</p> <p>Primary Supply Workers - Registered suppliers are subject to regulations issued by the National laws. Through bi-annual reviews, a supplier evaluation form will be used to capture any labour irregularity.</p> <p>S.2 read with S.16 (7) of The Industrial Relations Act 2000 states that where it is found that the reason for the termination of an employee’s services is that the employer discriminated against an employee directly or indirectly, that employee shall be awarded compensation of not more than 24 months’ remuneration calculated at the rate of the employee’s rate of remuneration at the time of dismissal. This compensation serves as a deterrent as is it double the amount of compensation awarded to any other form of compensation.</p>	
OS4: COMMUNITY HEALTH, SAFETY AND SECURITY		
<ul style="list-style-type: none"> ▪ To anticipate and avoid adverse impacts on the health and safety of project-affected communities during the project lifecycle from both routine and non-routine circumstances. ▪ To promote quality and safety, and considerations relating to climate change, in the design and construction of infrastructure, including dams. ▪ To avoid or minimize community exposure to project-related traffic and road safety risks, diseases and hazardous materials. 	<p>The Public Health Act, 1969 This Act provides for the establishment of processes to ensure public health at all phases of a project. It also provides for steps to take should there be any incident from the project affecting the public and lays out responsibilities for actions to be taken.</p> <p>The Occupational Health and Safety Act, 2001 provides\ for the safety and health of both employees and the public, especially during the construction phase of proposed projects, and specifies processes to be undertaken in order to ensure that safe and health practices are adhered to and implemented at work.</p> <p>The Road Traffic Act, 2007 provides for the compliance of all road users and for those organizations such as EEC conducting works on and/or along public roads.</p>	<p>National requirements and OS objectives are aligned. No significant gaps are noted. It is recommended that both OS objectives and National Requirements apply to the project.</p>



SOCIO

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OS OBJECTIVES	NATIONAL REQUIREMENTS	RECOMMENDED ACTION
<ul style="list-style-type: none">▪ To have in place effective measures to address emergency events.▪ To ensure that the safeguarding of personnel and property is carried out in a manner that avoids or minimizes risks to the project affected communities.		



5. RESPONSIBLE STAFF AND PROCEDURES

The Project Implementation Unit (PIU) has the overall responsibility to oversee all aspects of the implementation of the LMP, in particular to ensure contractor compliance. The MoPWT will address all LMP aspects as part of procurement for works as well as during contractor induction. The contractor is subsequently responsible for management of labor issues in accordance with contract specific Labor Management Plans, implementation of which will be supervised by the MoPWT's PIU on a monthly basis or at shorter intervals as defined by specific Plans. The detailed approach is described below.

Occupational Health and Safety Officer.

This Officer's responsibilities will be to ensure the implementation and compliance to occupational health and safety requirements. The Contractor must formulate comprehensive OHS programs, establish safety representatives for day-to-day monitoring of safety requirements, recording and reporting all incidents accordingly to the Ministry.

Contractors Occupational Health and Safety

Contractors must engage a minimum of one safety representative. Smaller contracts may permit for the safety representative to carry out other assignments as well. The safety representative ensures the day-to-day compliance with specified safety measures and records of any incidents. Minor incidents are reported to the MoPWT on a monthly basis; serious incidents are reported immediately. Minor incidents are reflected in the quarterly reports to the AfDB; major issues are flagged to the AfDB immediately.

Contractor Labor and Working Conditions.

Contractors will keep records in accordance with specifications set out in this LMP. The MoPWT may at any time require records to ensure that labor conditions are met. The PIU will review records against actuals at a minimum on a monthly basis and can require immediate remedial actions if warranted. A summary of issues and remedial actions will be included in quarterly reports to the AfDB.

Worker Grievances.

Contractors will be required to present a worker grievance redress mechanism which responds to the minimum requirements in this LMP. The PIU's Social Officer will review records on a monthly basis. Where worker concerns are not resolved, the national system will be used. The PIU will keep abreast of resolutions and reflect them in quarterly reports to the AfDB.

Additional Training.

Contractors are required to, at all times, have a qualified safety officer on board. If training is required, this will be the contractor's responsibility. The safety officer will provide instructions to contractor staff. The MoPWT will procure for training to address risks associated with labor influx and will provide a schedule for trainings required. The contractor will be obligated to make staff available for this training, as well as any additional mandatory trainings required by MoPWT, as specified by the contract.



6. POLICIES AND PROCEDURES

Most environmental and social impacts of subprojects resulting from activities directly under the control of contractors will be mitigated directly by the same contractors. As a consequence, ensuring that contractors effectively mitigate project activities related impacts is the core of the Project's approach. The MoPWT will incorporate standardized environmental and social clauses in the tender and contract documents in order for potential bidders to be aware of environmental and social performance requirements that will be expected from them and are able to reflect that in their bids and required to implement the clauses for the duration of the contract.

The MoPWT will enforce compliance by contractors with these clauses. As a core contractual requirement, the contractor is required to ensure all documentation related to environmental and social management, including the LMP, is available for inspection at any time by the MoPWT or its appointed agents. The contractual arrangements with each project worker must be clearly defined in accordance with Eswatini law. All environmental and social requirements will be included in the bidding documents and contracts in addition to any additional clauses, which are contained, in the Project's environmental and social instruments.

Under no circumstances will the Ministry, Contractors, suppliers or sub-contractors engage forced labor. Forced labor includes bonded labor (working against an impossible debt), excessive limitations of freedom of movement, excessive notice periods, retaining the worker's identity or other government-issued documents or personal belonging, imposition of recruitment or employment fees payable at the commencement of employment, loss or delay of wages that impede the workers' right to end employment within their legal rights, substantial or inappropriate fines, physical punishment, use of security or other personnel to force or extract work from project workers, or other restrictions that compel a project worker to work on a nonvoluntary basis.

Labor Influx and Gender Based Violence

Contractors will need to maintain labor relations with local communities through a code of conduct (CoC). The CoC commits all persons engaged by the contractor, including sub-contractors and suppliers, to acceptable standards of behavior. The CoC must include sanctions for noncompliance, including non-compliance with specific policies related to gender-based violence, sexual exploitation and sexual harassment (e.g., termination). The CoC should be written in plain language and signed by each worker to indicate that they have:

- Received a copy of the CoC as part of their contract.
- Had the CoC explained to them as part of induction process.
- Acknowledged that adherence to this CoC is a mandatory condition of employment.
- Understood that violations of the CoC can result in serious consequences, up to and including dismissal, or referral to legal authorities.

A copy of the CoC shall be displayed in a location easily accessible to the community and project affected people. It shall be provided in English and SiSwati. Contractors must address the risk of gender-based violence, through:

- Mandatory training and awareness raising for the workforce about refraining from unacceptable conduct toward local community members, specifically women. Training may be repeated.



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- Informing workers about national laws that make sexual harassment and gender-based violence a punishable offence which is prosecuted.
- Adopting a policy to cooperate with law enforcement agencies in investigating complaints about gender-based violence.
- Developing a system to capture gender-based violence, sexual exploitation and workplace sexual harassment related complaints/issues.

This process will be under the portfolio of the Social Standards Officer to be recruited under the PIU and shall identify and engage the relevant stakeholders on GBV and HIV and Aids related issues.



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7. AGE OF EMPLOYMENT

The Country ratified both the ILO Minimum of Age Convention (C138) and the ILO Worst Forms of Child Labour Convention (C182) in 2002. It also signed the African Charter on the Rights and Welfare of the Child in 1992 but has not yet ratified it. Section 97 of the Employment Act applies minimum age protections to children working in industrial undertakings, but it does not cover children working in domestic and agricultural work. Similarly, Section 246 of the Children's Protection and Welfare Act 6, 2012 prohibits hazardous work for children under the age of 18 in industrial undertakings, including in mining, manufacturing, and electrical work. The minimum age of employment for this project shall be 18 years and to ensure compliance, all employees will be required to produce National Identification Cards as proof of their identity and age which is the national identification document required for employment. If any contractor employs a person under the age of 18 years, that contractor's will not only be terminated by Eswatini Ministry of Health but also be reported to the authorities. Section 248 of the Children's Protection and Welfare Act states that any person who employs underage children will be liable on conviction to a minimum fine of E100, 000.00 or 5 years imprisonment or both for a first offender. For a second offender, it is imprisonment of not less than 10 years. In accordance with Legal Notice of 2023, The Wages Act No.16 of 1964, section 13, the retirement age of employment shall be sixty (60) years.



8. TERMS AND CONDITIONS

The terms and conditions of employment in Eswatini are governed by the provisions of The Employment Act 5, 1980. Section 22 of the Act makes it mandatory for employers to give its employees a copy of the written particulars of employment, signed by both parties within six weeks of employment. This requirement however is not applicable to employees engaged for a fixed period of less than six weeks or anyone 89 expected to work less than 21 hours per week. For this project, contractors will be required to provide all its employees with written particular of employment, including those excluded by the provision of Section 22 and casual employees.

Contractors will also be required to comply with the most current Regulation of Wages Order for the Building and Construction Industry which is issued by the Government and reviewed on a regular basis. The Wages Order specifies the minimum wages, hours of work, overtime pay, leave entitlements, travelling and subsistence allowances, and the issue of protective clothing. Section 136 of the Act states that before a contractor is awarded a public contract, that contractor is required to certify in writing that the wages, hour and conditions of work or persons to be employed by him on the contract are not less favourable than those contained in the most current wages regulation issued by the Labour Commissioner. Where a contractor fails to comply with this requirement, Section 143 states that the contract with the contractor may be withdrawn as an approved contractor upon recommendations of the Labour Commissioner. In ensuring full compliance with the law in this regard, contractors will be required to furnish the MoPWT with copies of the Written Particulars of Employment or copies of the contract of all its workforce.

As a monitoring mechanism, Section 139 of the Act provides that a contractor shall not be entitled to any payment unless he has filed, together with his claim for payment, a certificate: a) stating whether any wages due to employees are in arrears; b) stating that all employment conditions of the contract are being complied with. Section 141 authorizes the office of the Labour Commissioner to intervene if the contractor defaults in the payment of wages due to any of its employees by arranging for the payment of the wages to the employee out of the sum payable to the contractor. However, for this project, it will be a material term of the contract to allow the MoPWT to withhold payment from the contractor should the contractor not fulfil their payment obligation to their workers.

Worker's Organization

The country has ratified the numerous ILO Conventions aimed at ensuring that member states protect the notion of collective bargaining. These Conventions include ILO Convention 87 on Freedom of Association and Protection of the Right to Organize and ILO Convention 98 on the Right to Organize and Collective Bargaining. Section 32 (2) of The Constitution of Swaziland, 2005 on the Rights of Workers, guarantees all workers of their right to freely form, join or not join a trade union for the promotion and protection of the economic interest of that worker, and collective bargaining and representation. The Industrial Relations Act 2000 (as amended) was enacted to give effect to the collective bargaining, amongst other purposes. Section 4 (c) to (e) of the act allows for the collective negotiation of terms and conditions of employment.



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Workers' leaves and benefits

The Contractor shall abide by the provisions of the latest Legal Notice of The Wages Act regarding leave benefits for workers. Section 8(1) of the Legal Notice of 2023 obligates employers to grant sick leave with full pay for a maximum of 14 days subject to the fulfilment of section 8(2). Section 9(1) provides guidance on the allocation of maternity leave and conditions thereof presented in sections 9(2) and 9(3). Section 11 obligates the observation of public holidays and section 12 advises on the provisions of compassionate leave. The allocation of workers leaves shall be in accordance with the periodic revision of The Regulation of Wages Order Legal Notices.



9. DISCIPLINARY PROCEDURES AND GRIEVANCE REDRESS MECHANISM

9.1. OVERVIEW

In any working environment it is essential for both employers and employees to be fully conversant with all aspects of disciplinary processes, the grievance handling procedures and the legal requirements and rights involved. In implementing an effective dispute management system consideration must be given to the disputes resulting from the following:

- Disciplinary action
- Individual grievances
- Collective grievances and negotiation of collective grievances
- Gender-based violence, sexual exploitation and workplace sexual harassment

9.2. DISCIPLINARY PROCEDURE

The starting point for all disciplinary action is rules. These rules may be implied or explicit and will vary from workplace to workplace. Some rules are implied in the contract of employment (e.g. rule against stealing from the employer), however it is advisable that even implied rules be included in the disciplinary code or schedule of offences. In an organized workplace these rules ideally are negotiated with the trade union and are often included in the Recognition Agreements signed by the employer and trade union. In terms of Clause 6 of the Code of Good Practice: Termination of Employment, these workplace rules must be:

- Valid or reasonable.
- Clear and unambiguous.
- The employee is aware, or could reasonably be aware of the rule or standard; and
- The procedure to be applied in the event the employee contravenes any of these rules

The Code of Good Practice: Resolution of Disputes at the Workplace which, in terms of S.109 of The Industrial Relations Act 2000 (as amended) at Clause 4.2, requires employers to establish a fair and effective disciplinary procedure in the workplace, which should be in line with Clause 11 (Fair Procedure). The procedure is as follows: -

- i. Investigate to determine whether there are grounds for a hearing to be held.
- ii. If a hearing is to be held, the employer is to notify the employee of the allegations using a form and language that the employee can understand.
- iii. The employee is to be given reasonable time to prepare for the hearing and to be represented by a fellow employee or a union representative.
- iv. The employee must be given an opportunity to respond to the allegations, question the witnesses of the employer and to lead witnesses.
- v. If an employee fails to attend the hearing the employer may proceed with the hearing in the absence of the employee.
- vi. The hearing must be held and concluded within a reasonable time and is to be chaired by an impartial representative.



- vii. If an employee is dismissed, he/she must be given the reasons for dismissal and the right to refer the dispute concerning the fairness of the dismissal to the Conciliation, Mediation and Arbitration Commission (CMAC).

Therefore, it is incumbent upon the Contractors to ensure that they have a disciplinary procedure and Code and standards which the employees are aware of. Each contractor will be required to produce this procedure to ensure that employees are not treated unfairly.

9.3. GRIEVANCE PROCEDURE

Individual Grievance Procedure

Clause 4.3 of the Code of Good Practice: Termination of Employment requires every employer, including contractors, to have a Formal Grievance Procedure which should be known and explained to the employee. The Code recommends that such procedure should at least:

- a) Specify to whom the employee should lodge the grievance.
- b) Refer to time frames to allow the grievance to be dealt with expeditiously.
- c) Allow the person to refer the grievance to a more senior level within the organization, if it is not resolved at the lowest level.
- d) If a grievance is not resolved the employee has the right to lodge a dispute with CMAC.

All the contractors who will be engaged for the project will be required to produce their grievance procedure as a requirement for tender which at a minimum comply with these requirements. In addition, good international practice recommends that the procedures be transparent, is confidential, adheres to non-retribution practices and includes the right to representation. After they are engaged, they will be required to produce proof that each employee has been inducted and signed that they have been inducted on the procedure.

Collective Grievances and Disputes Resulting from the Negotiations of Collective Agreements

Where a trade union is recognized, it is entitled to negotiate on a regular basis with the employer over terms and conditions existing at the workplace and the employer is obliged to negotiate with it. The procedures followed in such instances is usually contained in the Recognition Agreement, which states how the issues are raised, the procedure for negotiations, the composition of the parties involved in the negotiation and the procedure to deal with issues that are not resolved through consensus. Clauses 4.4 and 4.5 of the Code deals with the handling of collective grievances as raised by the employees. In the type of disputes, if the dispute is not resolved at the workplace, the parties to the dispute can utilize the dispute resolutions mechanisms provided for in the labour legislation. For civil servants, the Public Service Act of 1963 (Part V (B)) which deals with disciplinary proceedings is also included.

Gender-based Violence, Sexual Exploitation and Workplace Sexual Harassment

Violence and harassment in the work world deprives people of their dignity, is incompatible with decent work, and a threat to equal opportunities and to safe, healthy, and productive working environments. It



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remains a widespread phenomenon, present in all countries and disregarding sectors, occupations and workplace arrangements. Convention No. 190 and Recommendation No. 206 recognizes the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment.

9.4. APPEALS PROCEDURE

In the event that a complainant is not satisfied with the outcome of their proceeding, the employee has the right to appeal the respective decision within five working days of receipt of judgement. An employee who lodges an appeal has the following rights: to be represented by a representative of his choice who can assist him in preparing and submitting the appeal grounds; to be heard and to be given adequate opportunity to state and argue his appeal grounds, including the calling of witnesses, if necessary and appropriate; All the other relevant rights that an employee normally has during a formal disciplinary hearing.



10. CONTRACTOR MANAGEMENT

The MoPWT requires that contractors monitor, keep records and report on terms and conditions related to labor management. The contractor must provide workers with evidence of all payments made, including social security benefits, pension contributions or other entitlements regardless of the worker being engaged on a fixed term contract, full-time, parttime or temporarily. The application of this requirement will be proportionate to the activities and to the size of the contract, in a manner acceptable to the MoPWT and the AfDB:

Labor conditions: records of workers engaged under the Project, including contracts registry of induction of workers including CoC, hours worked, remuneration and deductions (including overtime), collective bargaining agreements.

Safety: recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).

Workers: number of workers, indication of origin (expatriate, local, nonlocal nationals), gender, age with evidence that no child labor is involved, and skill level (unskilled, skilled, supervisory, professional, management).

Training/induction: dates, number of trainees, and topics.

Details of any security risks: details of risks the contractor may be exposed to while performing its work—the threats may come from third parties external to the project.

Worker grievances: details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken. Grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.

Every Safety File is 'site-specific'. It will be compiled following the client's and the site's safety specifications. The overall information requirements remain the same, and the site-specific documents will be added. When Health and Safety File is set up, it will consist of the following documents:

- Contractor appointment letter. (Construction Regulation 5(3)(f) of the OHS A) 37(2) Agreement between client and contractor
- Notification of Construction Work
- Copy of the OHS Act
- Occupational Health and Safety Management Plan
- Company Occupational Health and Safety Policy
- Letter of Good Standing
- Material Safety Data Sheets for hazardous materials used (if required)
- Tax Clearance Certificate
- Risk Assessments



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- Safe work procedures (Site Specific)
- Fall Protection Plan (if required)
- Legal appointment with proof of training
- Incident Reporting Procedures
- Incident Reports (General Administrative Regulation 9 (3))
- Incident Registers
- Reports of Accidents
- Emergency Preparedness Documents
- First Aid Documents
- Induction Records
- Medical Surveillance records
- Safety Communication (e.g. toolbox talks)
- Minutes of safety meetings
- Inspection registers

The tender and the contract document will have contractual clauses that clearly state the engagement of staff and labour. This clause, normally clause 6 in contracts document addresses the following:

- Engagement of staff and labour,
- Rates of wages and condition of labour,
- Persons in the service of employer,
- Labour laws,
- Working hours,
- Facilities for staff and labour,
- Health and safety,
- Contractors' superintendence,
- Contractors' personnel,
- Records of contractors' personnel and equipment,
- Disorderly conduct,
- Foreign Personnel,
- Supply Foodstuffs,
- Supply of Water,
- Measures against Insect and Pest Nuisance,
- Alcoholic Liquor or Drugs,
- Arms and Ammunition,



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- Festivals and Religious Customs,
- Funeral Arrangements,
- Forced Labour,
- Child Labour,
- Employment Records of Workers,
- Workers Organizations,
- Non-Discrimination and Equal Opportunities.

The MoPWT requires that contractors monitor, keep records and report on terms and conditions related to labour management. The contractor must provide workers with evidence of all payments made, including social security benefits, pension contributions or other entitlements regardless of the worker being engaged on a fixed term contract, full-time, part-time or temporarily. The application of this requirement will be proportionate to the activities and to the size of the contract, in a manner acceptable to MoPWT and the AfDB.



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11. COMMUNITY WORKERS

The project will not engage community workers. All labour engaged will be formally hired and paid according to the National Legislation with the same benefits and treatment as guided by the National Legislative Framework. Local communities will be given priority in hiring of general labour for the project. During the later stages of the project, some community workers may be engaged. These include the development committee overseeing the respective Tinkhundla transport infrastructure development. This committee is involved in development projects that are transport related.



ANNEX 1 – WRITTEN PARTICULARS OF EMPLOYMENT

As requires by Section 22 of the Eswatini Employment Act.

SECOND SCHEDULE (WRITTEN PARTICULARS OF EMPLOYMENT)

(Regulation)

1. Name of Employer
2. Name of Employee
3. Date Employment began
4. Wage and Method of Calculation
5. Interval at which wages are paid
6. Normal Hours of work
7. Short description of employee’s work
8. Probation Period
9. Annual Holiday Entitlement
10. Paid Public Holiday
11. Payment during sickness
12. Maternity Leave (if employee female)
13. Nursing Break Entitlement (for female employee)
14. Notice employee entitled to receive
15. Notice employer required to give
16. Pension Schedule, Provident Fund Gratuity Schedule etc. (if any, other than SNPF)
17. Any other matter either party wishes to include

Notes:

- a) An employee is free to join a trade union or staff association, which is recognized by the undertaking. The address of the Trade Union or Staff Association is:

- b) The grievance procedure and disciplinary procedure in this undertaking requires to be followed when a grievance arises, or disciplinary action needs to be taken.

- c) When any heading is inapplicable enter NIL.

Employer’s Signature	Witness
Employee’s Signature	Witness
Date	Date



ANNEX 2 – CONTRACTORS SHE FILE MONITORING FORM

Contractor Name

Instructions

Tick (v) if available, put a cross (X) if unavailable. Tick (v) if there was activity, put a cross (X) if there was no activity. Tick (v) if there's evidence, put a cross (X) if there's no evidence. Make a Comment according to the changes that have taken place as reflected by availability, activity and evidence on each SHE item.

2-1: SHE ITEMS

Monthly Checklist – SHE Items

	SHE ITEM	AVAILABLE	ACTIVITY	EVIDENCE	COMMENT
1	Exposure to MoPWT IMS Policies				
2	Valid working contract				
3	Current employee list				
4	Confirmation letter incl. copy of ID/employee				
5	Understanding of resources, role, responsibilities and authority				
6	Inductions – all contractor staff				
7	HIRA & Reporting; Incidents, accidents & near misses				
8	Appointment letters; for # 9, 10, 11 below				
9	SHE Certificates; Safety Rep				
10	SHE Certificates; 1st Aider				
11	Mandatory Qualifications – as per the evaluation form				
12	Vehicles; CoF, Bluebook, Daily inspection sheet, Driver Permit				
13	Current Evaluation form,				
14	PPE properly work at all times				
15	Internal Communication; minutes showing meetings,				
16	NCR's Received and closed,				
17	Environment Management Aspects				
18	First Aid Kit: availability and usage of the form.				
19	Fire extinguisher; valid				
20	Any other				



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2-2 – FIRST AID

1. Items in the first aid box are minimum contents as per the South African Occupational Health and Safety Act 85 of 1993. A checklist must be completed every month to ensure compliance with the law.
2. Contents should be regularly replenished by respective department
3. Any deficiencies should be reported to the Safety Officer or SHERQ Representative

Monthly Checklist – First Aid Box Contents

	ITEM	QUANTITY (specified)	QUANTITY (in box)	COMMENT
1	Adhesive elastic plasters assorted 20's	1 Box		
2	Roller bandages-conforming 100mm	4 Rolls		
3	Roller bandages-conforming 75mm	4 Rolls		
4	CPR Mouthpieces	2		
5	Cotton wool 50 gram	2 Rolls		
6	Fabric roll plaster 25mm x3M	1 Roll		
7	First Aid dressing No 3 75x 100mm	4		
8	First Aid dressing No 4 150x 200mm	4		
9	Forceps- 10cm	1		
10	Gauze swabs 75mm x 75mm 100's	1 Packet		
11	Gauze swabs 75mmx75mm Sterile 5's	2 Packet		
12	Gloves-Latex Large	2 Pairs		
13	Gloves-Latex Medium	2 Pairs		
14	Hypoallergenic Adhesive Tape 25mm x 3M	1 Roll		
15	Safety Pins Bunch of 12	1 Bunch		
16	Scissors- 10cm	1		
17	Splints-Straight	2		
18	Triangular Bandages	4		
19	Wound Cleaner- CENTRIMIDE 1% 100ml	1 Bottle		

CONTRACTOR SHE REP	SIGNATURE	DATE COMPILED



ANNEX 3 – CODE OF CONDUCT

Preamble

This Code of Conduct (COC) defines labor standards that aim to achieve decent and humane working conditions for the project of developing the MR14. The COC's standards are based on national laws and accepted good labor practices. Companies affiliated with this project are expected to comply with all relevant and applicable laws and regulations of the country in which workers are employed and to implement the COC in their applicable work areas. When differences or conflicts in standards arise, affiliated companies are expected to apply the highest standard.

The Project Proponent monitors compliance with the Workplace Code by carefully examining adherence to the Compliance Benchmarks and the Principles of Monitoring. The Compliance Benchmarks identify specific requirements for meeting each Code standard, while the Principles of Monitoring guide the assessment of compliance. The Project Proponent expects affiliated companies/contractors to make improvements when the COC standards are not met and to develop sustainable mechanisms to ensure ongoing compliance.

The Government of Eswatini promotes continuous improvement and strives to establishing and enforcing (through relevant structures and Government Departments) best practices for the respectful and ethical treatment of workers, and in promoting sustainable conditions through which workers earn fair wages in safe and healthy workplaces.

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.

Non-discrimination

No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, based on gender, race, religion, age, disability, sexual orientation, 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 use of forced labor, including bonded labor or other forms of forced labor.

Child Labor

No person shall be employed under the age stipulated in the Child Protection and Welfare Act of 2012.

Freedom of Association and Collective Bargaining

Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.



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Health, Safety and Environment

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 the negative impacts that the workplace has on the environment.

Hours of Work

Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country. All overtime work shall be consensual. Employers shall not request overtime regularly and shall compensate for all overtime work at a premium rate.

Compensation

Every worker has a right to compensation for a regular work week that is sufficient to meet the workers' 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.



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ANNEX 4 – DUE DILIGENCE FOR SOCIAL AND ENVIRONMENTAL MITIGATION MEASURES IN CONTRACTS

STAGE OF CONTRACTUAL PROCESS	DUE DILIGENCE
Before bidding	<ul style="list-style-type: none"> ▪ Ensure that the terms of reference clearly define the supervision engineer’s responsibilities regarding oversight of, and reporting on, labour influx, workers’ camps as well as other variable that require monitoring and evaluation. For high-risk components of the project, have independent safeguards supervision. ▪ Ensure the team skills in the terms of reference clearly include key staff qualified and experienced in managing similar projects, and demonstrated capacity to manage social and environmental issues, including issues pertaining to community health and safety. ▪ Ensure that the project GRM is established, and its use is widely publicized.
Preparation of bidding documents	<p>Review contract conditions included in bidding documents to:</p> <ul style="list-style-type: none"> (i) Ensure that the relevant mitigation measures in the ESMP are reflected and budgeted in the contract, (ii) Ensure the ESMP forms part of and is explicitly referred to in the bidding documents. (iii) Identify relevant provisions (workers, camps, child and forced labour, safety, grievance redress, etc.) regulating the contractor’s responsibility and identify any gaps, inconsistencies or areas of concern that could be addressed through additional provisions in the “particular conditions of contract” and/or technical specifications (iv) Include a requirement that all workers sign ‘Codes of Conduct’ governing behavior, and identifying sanctions (v) Clearly identify that training programs on implementing the Codes of Conduct, etc. will be undertaken by external providers <ul style="list-style-type: none"> ▪ Ensure the contract conditions clearly specify what type of penalty the contractor will face if the provisions of the ESMP and CESMP are not adhered to—including by subcontractors. This may include direct incentives to contractors in the form of penalties for poor performance on social and environmental matters or specific Performance Securities for ESMP and CESMP compliance. ▪ Ensure bidding documents make clear the responsibilities of the contractor to prepare and adhere to a CESMP based on the ESMP and that no civil works will commence until the CESMP has been approved by the supervision engineer.



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STAGE OF CONTRACTUAL PROCESS	DUE DILIGENCE
	<ul style="list-style-type: none"> ▪ Ensure the bidding documents detail how the contractor and supervision engineer will be required to monitor and report on the impacts on the local community, issues related to labour influx and workers' camps. ▪ Propose Key Performance Indicators (KPIs) for Contract Management, reflecting issues and risks specific to the contract and the monitoring plan.
Bidding evaluation	<ul style="list-style-type: none"> ▪ Review the Borrower's bid evaluation report and request to review the bids where appropriate, to verify for the recommended bidder that documents related to the ESMP, safeguard implementation capacity, and other obligations of the contractor required to be submitted with the bid are sufficiently detailed and cover the contractual requirements. ▪ Require the contractor's representative or dedicated community liaison staff to have the ability to communicate in the language of the Borrower and/or the local language. ▪ Verify that the contract management framework identifies clearly lines of communication and that these are formalized, and a consistent record is provided. ▪ Ensure that the contractor meets the project's OHS requirements for capability and experience.
After contract signing	<ul style="list-style-type: none"> ▪ Prior to commencing works, the contractor submits site specific CESMP(s) based on the ESMP, which includes specific management plans for: <ul style="list-style-type: none"> (i) work activities. (ii) traffic management. (iii) occupational health and safety. (iv) environmental management. (v) social management; and (vi) labour influx. ▪ Supervision engineer reviews and approves the CESMP— with inputs from appropriate Government agencies—before any works start. For high-risk activities of the project, the Bank should also review and clear the CESMP. Borrower should disclose the approved CESMP.

