



Government of Nepal
**Ministry
of
Urban Development (MoUD)**

Department of Local Infrastructure (DoLI)

**Draft Labor Management Procedure
(LMP)**

Provincial and Local Roads Improvement Program (PLRIP)

November 2023

Abbreviations

CPCU	Central Program Coordination Unit
DoLI	Department of Local Infrastructure
EHS	Environmental, Health, and Safety
ESCP	Environmental and Social Commitment Plan
E&S	Environmental and Social
EMP	Environmental Management Plan
ESF	Environmental and Social Framework
EIA	Environmental Impact Assessment
ESMF	Environmental and Social Management Framework
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standard
GBV	Gender Based Violence
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
GoN	Government of Nepal
IDA	International Development Association
IDO	Infrastructure Development Offices
IPs	Indigenous Peoples
LLG	Local Level Government
LMP	Labor Management Procedure
OHS	Occupational Health and Safety
PDO	Project Development Objective
PGLLs	Provincial Governments & Local Levels
PLRIP	Provincial and Local Roads Improvement Program
PPMU	Provincial Program Management Units
PwD	People with Disabilities
RAP	Resettlement Action Plan
RAIDP	Rural Access Improvement and Decentralization Project
RCIP	Rural Connectivity Improvement Project
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
SEP	Stakeholder Engagement Plan
SOP	Standard Operating Procedures
SNRTP	Strengthening National Rural Transport Programme
TID	Transport Infrastructure Directorate
ToR	Terms of Reference
WBG	The World Bank Group

Contents

Executive Summary	4
Executive Summary – Nepali translation	6
1. Introduction.....	8
2. Overview of labor use in the Program	10
3. Assessment of key potential labor risks of PLRIP	12
4. Brief Overview of Labor Legislation	14
5. Responsible staff and Responsibility.....	21
6. Policies and procedures in PLRIP	22
7. Age of employment	26
8. Terms and conditions.....	26
9. Grievance mechanism for workers	27
10. Contractor management	29
11. Primary supply of workers.....	30
12. Community workers.....	31
Annex 1: OHS provisions in the Labour Act, 2017	33
Annex 2: Content of a labor registry.....	33
Annex 3: Suggested due diligence for labor related mitigation measures in contracts.....	34
Annex 4 Code of Conduct for Contractor’s Personnel (ES) Form	36

List of Tables

Table 1: Estimated number of local and migrant workers for Phase 1	10
Table 2: Estimated labor requirements and their characteristics for Phase 1	10
Table 3: Consistency between the Nepal Labour Act 2017 with key elements of the ESS2.....	20
Table 4: Key responsible staff and responsibilities	21

Executive Summary

The Provincial and Local Roads Improvement Program (PLRIP) is the Government's nationwide federal program to be implemented in all the seven provinces and in selected rural/municipalities. In the first phase of the program, 3 provinces will participate, namely, Madhesh, Karnali and Sudurpaschim. The primary beneficiaries of the Program are the users of the provincial and local roads, and provincial and local governments (PLGs). The Department of Local Infrastructure (DoLI) under the Ministry of Urban development (MOUD) is preparing the PLRIP Program.

This Labor Management Procedure (LMP) will guide management of the workers in the program area by identifying labor-related risks and impacts and prescribing appropriate mitigation measures. The LMP addresses legal compliance requirements as stipulated in the Labour Act 2017 and Labour Rules 2018 and the requirements of the World Bank's Environment and Social Standards (ESSs), especially ESS-2: Labor and Working Conditions.

While the exact labor use in PLRIP will be determined during the implementation stage (including the number, characteristics and timing of labor requirements), an estimate of project workers can be given as the following: more than 11,460 of skilled workers; more than 53,000 unskilled workers. This LMP applies to the three types of workers relevant to the project - direct, contracted, primary supply workers which includes full-time, part-time, temporary, seasonal, or migrant workers with a minimum age of 18. Given the scope of work, various skills sets are likely to be drawn from local and national human resources.

Some key labor related risks include accidents or emergencies due to hazardous work, construction work at the project site under components 1 and 2 are expected to trigger labor influx in communities (about 60 percent of estimated workers of the total labor requirement of the program are likely to be migrant workers), use of child and/or forced labor. Moreover, working conditions, such as poor occupational health and safety (OHS), inadequate worker accommodation and other facilities, discrimination in employment, sexual exploitation and abuse and sexual harassment (SEA/SH), communicable diseases (e.g., COVID-19, HIV/AIDs, etc.), non-payment of wages, benefits, and liability, road traffic accidents, and human trafficking are major concerns related to labor and working conditions. The measures to mitigate the above risks include ensuring of fair labor and working conditions, enforcing contract management, providing training on OHS to workers, particularly on workers' code of conduct (CoC), and establishing worker's grievance mechanism, including for cases related to SEA/SH.

The Central Program Coordination Unit (CPCU) under DoLI, Ministry of Urban Development (MOUD) will be responsible for the implementation of the LMP. An environmental specialist and a social development specialist assigned in the CPCU will be responsible for the implementation of this LMP and will have oversight over the implementation of OHS activities at project sites. The PPMU at the provincial level will assign a qualified OHS specialist for the workplace or a section of the workplace for an agreed period. The PPMU will also hire and assign an environmental and a social

specialist to support the Infrastructure Development Office (IDOs) in screening, preparing, implementing, and monitoring of various E&S documents and also compliance of LMP.

A standard mechanism for monitoring and performance appraisal will be developed and conducted through a checklist and self-evaluation sheet both for the CPCU and the PPMU at the program sites and their staff. Monitoring and evaluation will be done regularly from the CPCU, Construction Supervision Consultant (CSC), and the PPMU to inform the implementation and effectiveness of the LMP.

DRAFT

Executive Summary – Nepali translation

कार्यकारी सारांश (श्रम व्यवस्थापन योजना)

प्रादेशिक तथा स्थानीय सडक निर्माण तथा सुधार कार्यक्रम (PLRIP) नेपाल सरकारको राष्ट्रव्यापी संघीय कार्यक्रम हो जुन सातवटै प्रदेश र छनौटमा परेका गाउँ/नगरपालिकाहरूमा कार्यान्वयन हुनेछ । यस कार्यक्रमका प्राथमिक लाभग्राहीहरू प्रदेश तथा स्थानीय तहका सडक उपभोक्ता, प्रदेश सरकार र स्थानीय तह हुन् । यस कार्यक्रमको तयारी शहरी विकास मन्त्रालय अन्तर्गतको स्थानीय पूर्वाधार विभाग (DoLI) ले गरिरहेको छ ।

यो श्रम व्यवस्थापन योजना (LMP) ले श्रम सम्बन्धी जोखिम र प्रभावहरू पहिचान गरी उपयुक्त न्यूनीकरण उपायहरू निर्धारण गरेर कार्यक्रमसंग आवद्ध भएका कामदारहरूको व्यवस्थापनलाई मार्गदर्शन गर्नेछ । LMP ले श्रम ऐन २०१७, श्रम नियमावलि २०१८ र विश्व बैंकको वातावरण र सामाजिक मापदण्ड (ESSs), विशेषतः ESS2: कामदार तथा तिनको काम गर्ने अवस्थाका सर्तहरूको आवश्यक कानूनी अनुपालनालाई सम्बोधन गर्दछ ।

PLRIP मा प्रयोग हुने कामदारहरूको यकिन (आवश्यक कामदारको संख्या, विशेषता तथा समय) कार्यक्रम कार्यान्वयनको चरणमा हुने भएतापनि कार्यक्रमको लागि हजार भन्दा बढी कुशल, पाँच हजार भन्दा बढी अर्ध कुशल तथा दश हजार भन्दा बढी अकुशल कामदारहरू चाहिने अनुमान छ । यो LMP कार्यक्रम संग सम्बन्धित न्यूनतम १८ वर्ष पुरा भएका प्रत्यक्ष, अनुबन्धित तथा प्रथमिक आपूर्ती कामदारहरू (पूर्ण समय, आंशिक, अस्थायी, मौसमी वा आप्रवाशी कामदारहरू) मा लागू हुनेछ । कामको दायरा अनुरूप स्थानिय र राष्ट्रिय जनशक्तिबाट विभिन्न सीपहरू जुटाईने छ ।

कम्पोनेन्ट १ र २ अन्तर्गत कार्यक्रम साइटमा जोखिमपूर्ण निर्माण कार्यका कारण दुर्घटना वा आपतकालिन अवस्थाहरू जस्ता केहि प्रमुख श्रमीक सम्बन्धी जोखिमहरूका कारण समुदायमा आप्रवाशी कामदारहरूको आगमन (कार्यक्रमको कूल श्रम आवश्यकताको ६० प्रतिशत कामदार आप्रवाशी कामदारहरू हुने सम्भावना छ), बालबालिका तथा जबरजस्ती श्रमको प्रयोगका सम्भावना बढेको छ ।

मुख्यतया: खराब व्यवसायिक तथा स्वास्थ्य सुरक्षा (OHS), कामदारलाई अपर्याप्त वास तथा अन्य सुविधाहरू, रोजगारमा भेदभाव, यौन शोषण र दुरुपयोग, यौन उत्पीडन (SEA/SH), प्रसार हुने रोगहरू (जस्तै CoVID, HIV/AIDS आदि), ज्याला, सुविधा तथा दायित्वको भुक्तानी नहुनु, सडक दुर्घटना, मानव बेचबिखन जस्ता काम गर्ने अवस्था श्रम र श्रम संग सम्बन्धित मुख्य सरोकारका विषयहरू हुन् । उपरोक्त जोखिमहरू न्यूनीकरण गर्ने उपायहरूमा निष्पक्ष श्रम र काम गर्ने अवस्थाहरू सुनिश्चित गर्ने, अनुबन्ध व्यवस्थापन लागू गर्ने, कामदारहरूलाई OHS र विशेषतः कामदारहरूको आचार संहिता (CoC) मा तालिम प्रदान गर्ने र SEA/SH सहितको कामदारहरूको गुनासो संयन्त्र स्थापना गर्ने हुन् ।

LMP कार्यान्वयनको लागि स्थानीय पूर्वाधार विभाग (DoLI) अन्तर्गतको केन्द्रिय कार्यक्रम समन्वय ईकाई (CPCU) जिम्मेवार हुनेछ । CPCU मा तोकिएका वातावरणीय विशेषज्ञ र सामाजिक विशेषज्ञ यस LMP कार्यान्वयनका लागि जिम्मेवार हुनेछ र साथै कार्यक्रम क्षेत्रमा OHS गतिविधिहरू कार्यान्वयनको पनि निरिक्षण गर्नेछ । कार्यक्षेत्र वा कार्यक्षेत्रको खण्डको लागि सहमति अवधिको लागि प्रदेश स्तरमा PPMU ले एक योग्य OHS विशेषज्ञ तोक्नेछ । पूर्वाधार विकास कार्यालय (IDO) को स्क्रीनिङ्ग, तयारी, कार्यान्वयन तथा अनुगमनका लागि PPMU ले वातावरणीय विशेषज्ञ तथा समाविक विशेषज्ञ पनि नियुक्ति गर्नेछ ।

CPCU र PPMU को कार्यक्रम क्षेत्र तथा तिनका कर्मचारिहरूको लागि अनुगमन र कार्यसम्पादन मूल्याङ्कनको लागि एक मानक संयन्त्र विकास गरिने छ र चेकलिस्ट तथा आत्म मूल्याङ्कन फारम मार्फत कार्यान्वयन हुनेछ । LMP को कार्यान्वयन र प्रभावकारिताको सुचना दिन CPCU, निर्माण सुपरिवेक्षण परामर्शदाता (CSC) तथा PPMU बाट नियमित रूपमा अनुगमन तथा मूल्याङ्कन गरिनेछ ।

1. Introduction

Provincial and Local Road Investment Program (PLRIP) is the Government's nationwide federal program to be implemented in all the seven provinces and in selected rural/municipalities. In the first phase of the program, 3 provinces will participate, namely, Madhesh, Karnali and Sudurpaschim. The primary beneficiaries of the Program are the users of the provincial and local roads, and provincial and local governments (PLGs). The Department of Local Infrastructure (DoLI) under Ministry of Urban development (MOUD) is preparing the PLRIP Program. The Government of Nepal is seeking financial resources for program financing and technical assistance from World Bank (WB). Considering this, WB has already initiated IDA financed Series of Projects (SoPs).

1.1 Program components/Interventions

Four major areas of interventions of the program are:

- i) Provide all-weather connectivity and access to municipalities;
- ii) Enhance the efficiency and resilience of provincial roads;
- iii) Road safety, emergency preparedness and complementary infrastructures and rural transportation services;
- iv) Institutional strengthening and capacity development.

The participating provinces and municipalities will sign an MoU to define the roles and responsibilities of the federal and provincial governments, local levels, and cost-sharing. The project aims to upgrade, rehabilitate, and improve 180 km of selected provincial roads and bridges, undertake periodic, routine and recurrent maintenance of 400 km and 700 km of existing provincial roads and bridges, respectively, construct 100 km of all-weather roads and bridges to provide critical connectivity to prioritized unconnected municipalities and local levels, and improve non-motorized transport and alternate means of access to reach the most remote villages and extremely poor. The project will also undertake pilot investment on community-led complimentary/associated infrastructure facilities along with road alignments such as cold storage and warehouses, among others, and build the capacity of road agencies. The project will support developing and implementing an institutional strengthening and modernization plan and capacity building strategy, including program readiness and implementation support, training, capacity building of participating governments, and vulnerability assessment.

While the Program will have beneficial impacts on improved livelihood and socio-economic benefits, access to education and health facilities, and economic diversification and job creation opportunities through construction of resilient roads some of the project activities will cause notable environmental and social impacts including concerns for occupational health and safety (OHS) of workers and community members. Considering the activities of the project, the potential risks and impacts of labor engagement in the project will be substantial. Risks associated with Occupational Health and Safety (OHS) such as; injury, falling from heights, lack of personal protective equipment (PPE) are expected. Other risks around labor management may include engagement of forced and child labor, exploitative use of labor, discrimination against women, the potential for workers in labor camps to sexually exploit

and harass local girls and women, rights of the physically disabled, vulnerable and disadvantaged people, and non-compliance and unequal distribution of resources. Mitigation measures will be placed to prevent the risks related with ESS2 and Government of Nepal's (GoN) policy on Labour Act 2017. Due to proximity and unemployment issues in the targeted area, specifically in Madhesh Province, there are risks associated with labor influx.

This LMP sets out the approach and mitigation measures that will be adopted to address risks and impacts related to workers and labor management of the project. It also sets out a mechanism by which workers on this project can lodge work-related grievances. The LMP is prepared to meet the objectives and requirements of national labor management regulations (i.e., Labour Act, 2017 and Labor Rule, 2018), the World Bank's ESF ESS2: Labor and Working Conditions and the guidance note on the ESS2, which provides guidance on the application of the standard. The LMP will be approved by DoLI/Ministry of Urban Development.

The DoLI, being the lead implementing agency, will review risks related to workers periodically as the project progresses and will undertake appropriate mitigation measures to manage such adverse risks and impacts.

1.2 Scope of the labor management procedures

This LMP applies to the following types of workers (as defined under paragraph 3 of ESS2) and will be used to manage risks and impacts related to such workers who are directly holding technical, managerial, and other responsibilities under the project.

1. Direct Workers: People employed or engaged directly by DoLI/PLRIP project to work specifically on project activities
2. Contracted Workers: People employed or engaged by contractors and other third parties to perform core functions related to the project, regardless of location
3. Primary Supply Workers: People employed or engaged by primary suppliers associated with the PLRIP projects
4. Community Workers: People employed or engaged in providing community labor, generally voluntarily.

This LMP is relevant for the duration of the project and applies to the above workers regardless of their contract type: full-time, part-time, temporary, seasonal, or migrant workers. For contracted workers, the CPCU at the DoLI and PPMU at Transport Infrastructure Directorate (TID) will ensure that contractors prepare separate labor management plan for larger work in line with this LMP. For smaller contracts, the PPMUs may incorporate specific labor-related requirements and procedures into the contracts as part of contractors' legal obligations.

2. Overview of labor use in the Program

The proposed PLRIP aims to upgrade the road condition, creates the linkage of rural municipality to the headquarters of the district and in Nepal, focusing on selected transport corridors. While the exact labor use in PLRIP will be determined during the implementation stage (including the number, characteristics and timing of labor requirements), below is an overview and a summary table (Table 1 and 2) of anticipated project workers in PLRIP based on the preliminary assessment and scope of work

- i. More than eleven thousands of skilled workers
- ii. More than fifty three thousands of unskilled workers

Given the scope of work, various skills sets would be drawn from local and national human resource base. About 60% of estimated workers of the total laborer requirement of the project are likely to be migrant workers, moving into the project areas from other parts of the country or other countries. The table given provides additional information on local and migrant workers that will be hired for project activities.

Table 1: Estimated number of local and migrant workers for Phase 1

Types of Workers	Skilled	Unskilled	Total
Local	4660	21200	25860
Migrant	6800	31800	38600
Total	11460	53000	64460

Table 2: Estimated labor requirements and their characteristics for Phase 1

Works/Activities	Estimated Workers requirement			Characteristics (Direct, Contracted, and primary supply, local, migrants,)	Remarks
	Skilled	Semi-skilled	Unskilled		
Component 1: Enhancing efficiency and resilience of provincial roads and bridges					
(a) Upgrading/rehabilitation	6000		24000	Direct, Contracted, and National	
(b) Periodic Maintenance	1400		5000	Direct, Contracted, and National	
(c) Routine Maintenance	100		10000	Direct, Contracted, and National	
(d) Community led Infrastructure	400		2000		
Component 2: Enhancing all-weather connectivity and access to Municipalities					
a) New track opening	3500		12000		
Component 3: Strengthening Governance System and Capacity Development					
a) Training/capacity	50				
Component 4: Component 4: Road safety and rural transportation services:					

a) Audit/ road safety action plans and others	10				
---	----	--	--	--	--

2.1 Labor characteristics (Types of Labor)

Direct Workers: Direct workers on the project are largely skilled technical and specialized Consultants (i.e., civil, highway, bridge engineers, geo-tech engineers, finance and fiduciary staff, environment, and social staff, etc.) Skilled workers such as drivers that would be engaged by the DoLI to carry out activities on this project. These group of workers may be national or local and term or full time. The consultants are expected to be skilled in specialized area, such as road and bridge construction, financial as well procurement along with Environment & Social risk management and may be internationally or drawn from the local consulting firms. Direct workers will serve in the CPCU at the DoLI and PPMU at TID and IDO at districts and the participating municipalities. Civil servants that are engaged or seconded to serve in the project will remain under their existing contractual terms and are not covered by the provisions of World Bank ESS2, except on issues related to OHS, forced labor and child labor. The term of consultants and support staff to be hired are likely to work full-time and part-time and will work under clear contractual agreements and conditions of service as per the National Labor Laws and regulations (Labour Act, 2017 and Labour Rule, 2018) and the relevant requirements of the ESS2.

Contracted Workers: The contractors and sub-contractors will hire ‘contracted’ workers to perform various core project works especially under components 1 and 2, based on their level of skills and project needs. Components 1 and 2, for example, will be implemented using design and supervision consultants, civil contractors, and construction companies. The workers to be hired by these consultants and contractors are ‘contracted workers’ and will include skilled (e.g., masons, steel workers, metal fabricators, etc.) and unskilled manual workers. To the extent possible, 40% of the required workers (including women) will be sourced from the local communities to minimize and disincentivize labor influx. Special considerations will be made to extend work opportunities to women and vulnerable youth, including IP, Dalits, and Muslims, among others. Based on past experiences, some contracted workers are likely to be migrants from communities within the area of influence of the project other than the directly impacted communities.

Primary Supply Workers: Based on the requirement in every component, primary supply worker will be recruited by the primary suppliers. They include workers involved in supplies of stones, sand, cement, water and sanitation chemicals, seedlings, and other raw materials. The workers engaged by such primary suppliers for the supply of above materials on ongoing basis are deemed ‘primary supply workers,’ as defined in ESS2. Risks related to primary suppliers include the tendency to use child labor, forced labor and safety concerns associated with the use of such workers. The number and type of primary suppliers will be determined at project implementation stage. The timing of labor use of primary supply workers will cover the construction stage of the project. This LMP includes provisions to address the aforementioned risks.

Community Workers: PLRIP envisages engagement of community workers along project roads, particularly women from adjoining villages/areas for project interventions like road side vegetations, cleaning and maintenance of road side drains and in pilots for community-led complimentary/ associated infrastructure facilities along road alignment to improve supply-chain efficiency etc. The community workers engaged will be on payment basis in accordance with the wages set by the local authorities. About 200 workers are likely to be engaged, comprising pre-dominantly women. The provisions related to OHS, inclusion, non-discrimination, working conditions, forced and child labour of this LMP will be applicable to community workers. Community workers are expected to work according to their agreed plan and will have the flexibility of days and working hours as decided by the community consensual decisions maintaining the provisions in the Labour Act 2017 and WB's ESF.

2.2 Timing and sequencing of labor

Timing and sequencing of workers in this project are considered along the following stages: project preparation, design phase, construction, and closure. Direct workers, mostly skilled, part-time, and full-time consultants (Design consultants, environmental and social impact assessments (ESIA)/resettlement action plan (RAP) consultants, etc.) and support staff are involved in project preparation, formulating project ideas, and conducting early feasibility and consultation activities. Their deployment will increase overtime as specialized consultants are hired to support design and construction of key investments under components 1, 2, and 3 of the project. Contracted workers, both skilled and unskilled, will be deployed during construction activities under components 1 and 2. The involvement of these workers is expected to terminate when construction works are complete, although few unskilled workers will be maintained beyond construction to maintain forest nursery and plantation activities. The involvement and tenure of primary supply workers is expected to be intermittent as determined by the primary suppliers of the project. Their services are likely to be limited to supply of raw materials and other services during construction. Engagement of community workers will depend upon type of project construction activities and the working season.

3. Assessment of key potential labor risks of PLRIP

This section deals with potential labour risk and impacts based on the past experiences of implementing similar projects [Rural Access Improvement and Decentralization Project (RAIDP); Strengthening National Rural Transport Programme (SNRTP); and Strengthening National Rural Transport Programme (RCIP) of the DoLI. The main labor-related risks and impacts associated with the project are;

Occupational health and safety: The potential for workers to operate and/or live under hazardous conditions; accidents from falls and misuse of tools, equipment, and machines during works; and the potential epidemic disease outbreak among workers and communities especially where labor camps are in use. As part of institutional arrangements, the PLRIP project intends to dedicate staff to provide orientation and training, maintain accident records and conduct regular toolbox meetings on project sites.

Labor influx: Construction works at the project site under the components 1 and 2 are expected to induce influx of workers to project communities in search of work and other project benefits. In some places, there may be a need to host projects workers in labor camps particularly in the areas where the labor absorbing capacity of the host community is weak. Labor-influx in localized settings may increase demand and overwhelm local facilities (e.g., water, electricity, housing, food, health services etc), pose sexual exploitation, abuse, and harassment (SEA/SH) risks to host communities, etc. The project will encourage contractors to recruit 40% of unskilled workers from the local communities in order to localize project benefits, disincentivize labor influx from outside, avoid or minimize the need for labor camps, and reduce labor management cost.

Epidemic and communicable diseases: Labor influx and labor camps can facilitate disease transmission from workers to local communities or among workers at labor accommodation facilities. Without adequate mitigation measures, communicable diseases such as COVID-19, HIV/AIDS, etc. can spread among workers and host communities.

Sexual exploitation and abuse/sexual harassment (SEA/SH): SEA/SH risk of the project is assessed to be substantial. Works under components 1 and 2 are labor-intensive and are likely to induce inflow of workers to project areas, leading to change in community dynamics and abet risks of potential risks of illicit crimes and multiple forms of gender-based violence (GBV), such as sexual abuse and exploitation, forced/early marriages, child labor, coerced human trafficking, particularly impacting girls, and women. A SEA/SH action plan has been prepared and will be implemented along with this LMP to address SEA/SH risks. The Action plan focuses on capacity building, creating awareness about SEA/SH; identifying service providers; developing Code of Conduct for project personnel and workers; strengthening institutional mechanisms that aid in accessing grievance redressal etc. The plan will be applicable to the staff and workers from DoLI, PLRIP, contractors, subcontractors, and supervision consultants, implementing agency, including the client working on the project, and cover the program's footprint and adjoining communities.

Child and Forced Labor: The risk of child labor will be mitigated through certification of laborer's age. This will be done by using legally recognized documents, such as the National Identification Card, Birth Certificate, Citizenship card, driving license, Permanent Account Number (PAN) card, voter card etc. Further, awareness sessions will be conducted among the communities to sensitize them on the prohibition and negative impacts of child and forced labor. Site offices will continue to raise awareness against child and forced labor.

Specific requirements to manage risks associated with labor influx, related to the interaction between project workers and local communities, such as communicable diseases and GBV will be managed through contractual requirements, codes of conduct and training set out in this document. These procedures are guided by national legislation.

4. Brief Overview of Labor Legislation

a) Terms and conditions

The Constitution of Nepal, 2015 guarantees fundamental rights for workers such as the Right against exploitation (article 29); the Right to a clean and healthy environment (article 30); Rights to fair labor practice including appropriate remuneration, facilities, and contributory social security (article 34); the rights of the child (article 39), including prohibiting the engagement of children in factories, mines or any hazardous work; and the Right to social security of different categories of marginalized communities and individuals (article 43). In the case of access to project-related jobs and procurement opportunities, Article 18 (3) of the constitution enjoins the State not to discriminate against citizens on the grounds of caste and tribe. In principle, these provisions are generally consistent with the objectives and requirement of ESS2 and will guide the terms and conditions of workers under PLRIP.

The main gaps between GoN laws (terms and conditions) and WB ESF Standards are already discussed in section 3: Legal, Regulatory and Policy Framework of this framework document.

The provisions of the constitution relative to the terms and conditions of workers are further codified in the Labour Act, 2017 and Labour Rule, 2018, guaranteeing the rights, interest, facilities, and safety of workers and to establish harmonious work culture between employers and employees. The terms and conditions stipulated in the Act which applies to this LMP, and the project are as follows:

- Prohibition against engagement of force labor, bonded labor, child labor, discrimination. The act also promotes equal pay for equal work.
- Provision that employment contracts should include (a) nature of employment, (b) primary work of the Employee and his/her position, (c) statement that the Employees' Service Rule will be integral part, (d) remuneration, (e) benefits, and (f) terms of the employments of the Employee (g) date, time and schedule of work, (e) payment mode, (f) right to treatment and such other matters as prescribed.
- Provision of part time work and social security for the workers
- Provision for issuing work permit for foreign labor.
- Provisions for labor supply and the responsibility of the suppliers towards workers. This states employer must obtain the employees from licensed labor suppliers. If outsourced employees are not from the licensed labor supplier, they are deemed to be employees of the main employer. The employer should ensure the employees are provided minimum remuneration and facilities as per this act.
- Fundamental provision on Occupational Health and Safety (OHS) including role and responsibility of suppliers and manufacturer.
- Provisions for special types of facilities provided
- Provision for good culture of work, and discipline at work and performance for labor
- Provision for labor audit for each workplace
- Provision against harassment, and sexual abuses.
- Provision for collective bargaining.

- Provision not to be employed without employment agreement
- Provision for termination of employment.

In respect of risks of child labor, the Child Labor (Prohibition and Regulation) Act, 2000 and Labour Act 2017, section 5 prohibits the engagement of children in factories, mines, or similar risky activities. The Act also enjoins persons engaging children in other activities to do so with necessary protection of their health and security. Section 3 of the Act strictly prohibits the engagement of children 14 years or below in any works as a worker. Equally, under Section 4, engagement of children in works as a laborer against his/her will by way of persuasion, misrepresentation or by subjecting him/her to any influence or fear or threat or coercion or by any other means is prohibited. Under Section 6, in case any Enterprise, engaging a child in works, must get an approval from the concerned labour office (LO) or any authority or official prescribed by that office and form the fathers, mother or guardian of the child.

The labor law of Nepal clearly describes all things related to labor and workforce including, contract provision wage and salary, termination, redressing, work environment, female workers, recruitment, unionization, child labor and other issues that are relevant to ESS2. Key relevant provisions of the Labour Act 2017 and regulation or rule 2018 include the following:

Contract for employment: The Act stipulates the provision for employment including employment relationship, provision period, and work continuation for all short and long-term contract, and that no one shall be employed without an employment contract.

Work hours: Working hours of 8 hours a day and 48 hours a week as per section 28 of Labour Act, 2017. Overtime prescribed for 24 hours per week as per section 30 of this Act. The employer will be required to pay the worker one and a half times more of the basic wage for regular work if he employs overtime as per Section 30. In respect of female workers, the Act requires employers to make arrangement for transportation of female employees in a way that the working period begins after sunrise and ends before the sunset.

Wages: The term "Wages" means all economic benefits including salary, bonuses, and remuneration for overtime work, holiday or leave, termination of employment or other additional remuneration payable under the terms of employment. Every employer is responsible for the payment of wages to workers employed by the employer. In the case where the wages of a worker employed by a contractor are not paid by the contractor, the wages must be paid by the employer of the establishment. The maximum wage period is one month. The wages of every worker must be paid before the expiry of the 7 working day after the last day of the wage period in respect of which the wages are payable.

Wages for public sector work are set by the National Pay and Wages Commission and may not be disputed. In the private sector, wages are set by the industry, and collective bargaining rarely occurs due to high unemployment and worker concerns over job security. The legal working hour in a week is 48 hours, with one day off mandated.

The Government of Nepal, Ministry of Labor, Employment and Social Security (MoLESS) has recently prescribed the minimum remuneration/wage of the worker/employees under Section 106 of the Labour Act, 2017 (2074) (“Labour Act”) by publishing a notice in Nepal Gazette (Volume 68, August 16, 2018 (2075-04-31) Number 20) on Aug. 16, 2018 (2075-04-31) (“Gazette Notice“). The Ministry has prescribed separate minimum remuneration/wage for the workers/employees working (a) other than tea estate (“Minimum Wage Other than Tea Estate”) and (b) in the tea estate (“Minimum Wage Tea Estate”). In addition to the Minimum Wage/Remuneration specified above benefits including Provident Fund and Gratuity provided under the Labour Act and Contribution Based Social Security Act 2017 (2074) and other prevailing laws should be provided.

Where the employment of a worker is terminated by retirement or by the employer, whether by way of retrenchment, discharge, removal, dismissal or otherwise, the wages payable to him must be paid before the expiry of the 30th working day from the day on which his employment is so terminated. Wages have to be paid in legal tender, through cheque and in some cases (given the requirement of the laborers) through an electronic transfer in favor of the bank account of the worker or through any other digital medium. Wages must be paid on a working day. No deduction can be made from the wages of a worker except those authorized by the Labor.

Trade union: As per the Labour Act, in an entity with 10 or more employees, there should be a collective bargaining committee. The Act also defines as to how the committee should be formed such as by authorized trade union or by all the trade unions in absence of authorized trade union or by the signature of 60 percent workers in absence of any trade union. The member of the committee should be at least 3 but not exceeding 11. The committee is authorized to submit collective demands, negotiate, and settle the demand, among other things.

Regular leaves and benefits: According to the Labour Act 2017, every worker must enjoy paid sick leave, casual leave, and festive holiday, mourning leave. The laborers would get festival allowances as per the rules. The Act has also made it compulsory maternity leave from 2 weeks before the delivery up to at least 6 weeks after the delivery.

According to the provision in the Labour Act, a worker can save home leave and sick leave for 90 days and 45 days respectively. Similarly, this Act has made provision for the labor involved in non-stop and continuous work to get one day substitute leave if s/he works on weekly leave or public holiday.

There have been also major changes in the terminal benefit provided to the employees such that the benefits are provided to each laborer irrespective of length of service or nature of employment. The Previous Labour Act provided the terminal benefits to the permanent employee and for certain benefits such as gratuity the employee should have completed certain year of services. The eligibility criteria have been removed by the New Labour Act. There have been also changes in the benefits such as rate of gratuity and leave encashment etc.

Maternity/Paternity leave: Female worker will get paid maternity leave. An expectant mother would be entitled to 98 days maternity leave, fully paid up to 60 days after submission of the necessary documents. The new act also provides for 15 days fully paid paternity leave. If the authorized medical doctor recommends that the woman labor who needs additional rest for the health of her or her baby, the employer may approve an additional one month's unpaid leave in addition to the maternity leave or leave may adjust for other leave.

Safe work environment- Health/ Safety/ Welfare: Employer shall constitute the Collective Bargaining Committee as per sec 116 of the Labour Act (2017) where 10 or more employees are engaged in the entity. Employer shall constitute a Safety and Health Committee as per sec 74 of the Labour Act (2017) where 20 or more employees are engaged. This act also ensures employee safety, health and resolving any kind of disputes and unfairness also.

Social Security: The Labour Act requires the retirement fund such as (a) gratuity, and (b) provident fund to be deposited in the Social Security Fund. There has been separate law on social security. The parliament has enacted the Social Security Act, 2017 (2074).

Provision to formulate safety and health policy: Under the Labour Act or the rules enacted under this Act, employers are required to formulate and implement policies regarding the safety and health of workers and other persons in the workplace.

Notice periods: The employee can terminate the employment voluntarily by submitting a resignation letter. The employer must approve the resignation within 15 days and provide a notice to the employee. Even if the employer does not approve the resignation the resignation becomes effective on the next day of the expiry of the 15-day time. However, if the employee continues to work in the entity even on the effectiveness of resignation in such situation the resignation is deemed cancelled.

Specific provisions for construction workers: Clause 85 of the Labour Act, 2017 includes a special provision relating to construction laborers and defines the obligations of the employers towards the construction laborers. It defines the construction labor as those who are engaged in the construction of a building, road, bridge, canal, tunnel, internal or interstate waterway, railway, construction work or construction of a power station, telecommunication, telephone or telegraphic structure, and similar other structure, and the term also applies to the works of installing any machine, tool, or equipment in that structure. The Clause asks the employers to provide tools, equipment, and material in a sufficient quantity as may be required for construction, make arrangements for temporary quarters to the laborers who do not have settlement near the construction workplace, ensure clean drinking water and supply of necessary food items, and make appropriate safety arrangement in the construction workplace. The Clause also clearly defines that any person or organization who takes responsibility or contract for the construction work will be deemed to be the employer for the purpose of this Act. It also says that the representation of the trade union of the concerned level and the construction entrepreneurs' association is mandatory while fixing the rate of remuneration and other benefits for the construction laborers.

Termination is considered a “discharge” in the case that an employee is fired for reasons of mental or physical incapacity, illness or other reasons not related to misconduct by the employee. An employer must pay compensation when a termination is unrelated to discharge or dismissal and must give justification when they do terminate on grounds of discharge or dismissal. Section 132 of the new labour Act prohibits the sexual harassment and violence in the workplace. If anyone found to be involved in the sexual misconduct the service may be terminated based on seriousness of offence.

Non-applicability of the Act: As per sec 180 of the act, it is not applicable to the following entities:

- Civil Service, Nepal Army, Nepal Police, Armed Police force.
- Entities incorporated under other prevailing laws or situated in the Special economic Zones to the extent separate provisions are provided, and
- Working journalists, unless specifically provided in the contract

b) Occupational Health and Safety

The special provision related to OHS and working condition has been stipulated in the chapter 12 and chapter 7 of The Labour Act, 2017 and Labour Rule, 2018 respectively and also in the ESS2 of ESF and the WBG’s ESHG. The legal obligations applicable in this LMP are:

- Provision to demonstrate OHS policy at workplace
- Responsibility of employers towards employee such as information, facility, personal protective equipment, and training on OHS.
- Provision regarding the protection of non-labors such as visitors and others
- Appointment of responsible person at the workplace for OHS implementation
- Obligation of manufacturer, importer, and suppliers for assurance of OHS for their goods and services. This will apply to matters of primary supplies under this project
- Responsibility of labors for work and use of safety gears
- Formation of safety and health committee at worksite
- Information to respective Labor Organization against accident, fatality and disease happened due to work.
- Provision for treatment and prevention of communicable diseases
- Provision for easy and harmless work for special condition of workers such as pregnant
- Specifies requirements for workplace in terms of health and safety such as;
 - a. proper cleanliness,
 - b. passage of fresh air, proper light and temperature,
 - c. solid waste management,
 - d. noise control measures,
 - e. 15 cubic meter space to Employees to the extent possible as per the nature of work,
 - f. healthy drinking water,
 - g. Bathroom/toilet, (Separate toilets for men and women and especially women friendly toilets i.e., provision for proper management of menstrual pads.)
 - h. Tobacco free zone,

- i. mandatory medical check-up for the entities undertaking health hazardous activities,
- j. provide appropriate time for the lunch to the Employees,
- k. Childcare center for children under three years.
- Provision of onsite first aid and primary health care.
- Provision of accident investigation, inventory of work-related diseases and compensation

There are basically two components of OHS. One is the physical safety of project communities who are exposed to the project activities during construction and operation, including risks of accidents and risks of violence due to increase in crimes and cultural conflict between locals and migrant population. The other pertains to the exposure and/or increased risks of diseases by the community due to influx of people during construction and operation and due to the changes in the project area, including pollution and ecological change. The physical safety aspects are partly addressed by the OHS provisions of Labour Act. Other laws have specific provisions that address part of ESS4.

Health and Safety Offences:

The Labour Act provides stringent sanctions for the violation of the provision of such Act. The Sanctions include fine, imprisonment or both. The authority to impose sanction also depends on nature of violation. As per the law there are three institutions viz; the Labor office, Labor department and Labor court.

- An entity found guilty of discriminating against workers may be fined up to NPR 100,000 with an order to maintain equality among workers going forward.
- Similarly engaging a worker without appointment letter or employment agreement can attract a fine up to NPR 500,000 at a rate of NPR 10,000 per worker; the order to conclude an employment agreement and provide an appointment letter shall also be given.
- Additionally, engaging a bonded labor can attract an imprisonment up to 2 years or fine up to NPR 500,000 or both.
- The Labor Court may require the offending entity to provide such bonded labor with remuneration, allowance, and other facilities, as well as to indemnify the bonded labor with an amount double such remuneration, allowance, and other facilities.
- If the entity does not make health and safety arrangements knowingly and as a result the worker dies or suffers physical or mental injury; Imprisonment up to 2 years, except otherwise provided. Such person suffering the injury should be compensated.

Table 3: Consistency between the Nepal Labour Act 2017 with key elements of the ESS2

Key Elements of ESS2	Provisions in the Labour Act 2017
Equal Opportunity and Non-discrimination	The Clause 6 of the Labour Act 2017 contains important provisions prohibiting discrimination based on religion, colour, sex, caste, tribe, origin, language, ideological conviction or other similar ground and Clause 7 of Act prohibit discrimination in remuneration for equal value of work on the ground of sex.
Timely payment	Clause 35 of the Labour Act 2017 says that wages must be paid within three days from the date of completion of the work in the case of a labour working for a period of less than one month. However, in the case of a labour employed in a casual work, payment should be made immediately after the completion of the work.
Working hours and overtime	Clause 17 of the Labour Act 2017 provisions that the working hours should be 48 hours per week extendable up to 72 hours with 24 hrs overtime
Worker rights.	Chapter 9 (Clauses 40 - 51) of the Labour Act 2017 provisions various types of leaves for workers while clause 103 of the Labour Act 2017 talks about the benefits to be awarded to the workers. Similarly, as per the Clause 144 of the Labour Act 2017, the employer must provide a notice and reasons for termination.
Prevents use of all forms of forced labor and child labor	Clause 4 of the Labour Act 2017 bars employing any forced labor and Clause 5 of the Act prohibits employ a child of 14 years old or below. The Child Labor (Prohibition and Regulation) Act, 2000 bars to engage a child in risky activities as listed in the annex of the act
Community Workers	The labor law does not recognize community workers as defined in the ESS2 and hence does not provide any special considerations for such contracting arrangements. The law requires that all labour supply contracting agency will have to be formally registered, and workers should first be the responsibility of the contracting agency.
OHS	Labour Act, 2017 provides provision for comprehensive OHS . See Annex 1 for details
Children at Working Age	No children at work
Women	Clause 45 of the Labour Act, 2017 provisions 60 days of paid maternity leave for expectant mothers is mandatory
People with disabilities (PWD)	Person with Disabilities Rights and Protection Act 2013 provides for rights to discrimination-free employment opportunities
Migrant Workers	No special provisions for migrant workers
Freedom of association and collective bargaining	Clause 116 of the Labour Act 2017 says that where 10 or more employees are engaged in the entity, employer shall also constitute the Collective Bargaining Committee, but the government does not permit any collective demand in following area providing essential service, or (b) established in Special Economic Zone, (c) state of Emergency declared as per the Constitution.
Access to a grievance redress mechanism	Clause 113 of the Labour Act 2017 allows individual laborers to file a complaint against employer in case of non-compliance of contract. Employees can also seek direct civil law redress from the Labour Courts for complaints regarding terms and conditions employment and wages.

Key Elements of ESS2	Provisions in the Labour Act 2017
	While health and safety, maternity welfare and child labour offences are subject to criminal prosecution.

5. Responsible staff and Responsibility

The PLRIP project will be implemented at three levels of government: Provincial and Local level. The Central Project Coordination Unit (CPCU) will be responsible for the overall project implementation and coordination of the project activities, including compliance with environment and social requirements in line with the World Bank's ESF ESS-2 on Labor and Working Condition. Key project staff will be responsible for engagement and management of labor-related issues at the provincial (PPMU) and local levels. In addition, contractors responsible for contracted workers will be responsible for OHS issues related to their contracts. An overview of arrangements is provided below.

Table 4: Key responsible staff and responsibilities

Level of government/responsible staff	Roles and Responsibilities
DoLI/PLRIP/ Central Project Coordination Unit (CPCU)	
CPCU Environment and Social Experts	<ul style="list-style-type: none"> • Overall responsibility to oversee all aspects of the implementation of the LMP • To ensure contractors' compliance on issues related to ESHS • Incorporate labor-related requirements into procurement of works and suppliers • Engagement and management of workers • Conduct health and safety induction to contractors and workers • Monitor and audit implementation of policies and procedures of contractors including contractor performance • Ensure that the grievance mechanism for project workers is established and implemented and that workers are informed of it • Monitor the potential risks of child labour, forced labour and serious safety issues in relation to primary supply workers • Report to the World Bank on labour and occupational health and safety performance, including immediate notification of any project-related fatality or serious accident
Provincial Project Management Units (PPMU)	
Environment and Social Specialists, Provincial Project Management Units (PPMU), Transport Infrastructure Directorate (TID)	<ul style="list-style-type: none"> • Conduct site visits on OHS • Support training of workers on CoC, Workers GRM, SEA/SH, emergency and epidemic diseases, etc. • Tracking and reporting on workers' GRM

	<ul style="list-style-type: none"> Monitoring/compliance of LMP in consistent with ESMP
Infrastructure Development Office (IDO)	
IDO	<ul style="list-style-type: none"> Supervise and monitor implementation of the ESMPs and other E&S plans, Monitor and report on contractor OHS plans Prepare, adopt, and implement occupational, health and safety (OHS) measures specified in the LMP and OHS Management Plan for all contract
Contractors	
Environmental Focal Person/Health Safety Officer	<ul style="list-style-type: none"> Plan and implement contract-specific labor management plans Coordinate toolbox meetings focused on health and safety, SEA/SH, HIV/AIDs, epidemic diseases etc Report on OHS performance to IDO and PPMU on monthly basis Tracking and responding to workers' grievances
Local Levels	
Participating local levels	<ul style="list-style-type: none"> Monitor the implementation of OHS Plan

6. Policies and procedures in PLRIP

Based on the requirements of national labor laws and ESS2, the following policies and procedures will apply in this project.

6.1 General principles

Non-discrimination in employment: Decisions relating to the employment and conditions of project workers will not be made based on personal characteristics unrelated to typical requirements of the job. The employment of project workers will be based on the principle of equal opportunity and fair treatment, with 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. The contractual arrangements with each project worker will be clearly defined in accordance with national law and will be issued terms of employment conditions.

No forced and bonded labor: The DoLI, the PLRIP (CPCU, PPMU, IDO), contractors, suppliers, or sub-contractors shall not engage forced and bonded labor under any circumstance. Forced labor includes bonded labor (working to defray indebtedness), under excessive limitations of freedom of movement, retention of their identity, travel 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 in a non-voluntary basis.

Labor and Working Conditions: Contractors will keep records in accordance with specifications set out in this LMP and this will be specific in the contract agreements. Working conditions and occupational health and safety measures specified in this LMP for other types of labor will also apply for community labors considering: i) the nature and scope of project; ii) the specific project activities in which the community workers are engaged and iii) the nature of the potential risk and impacts to the community workers. The CPCU and PPMU may at any time require records from contractors to ensure that labor conditions are met. The PPMU will review records against actuals at a minimum bi-monthly and can require immediate remedial actions if warranted.

Contractor responsibility for implementation of LMP:

The potential bidders would be required to reflect their capacity to fulfill the labour management requirements in their bids and be required to implement these clauses for the duration of the contract. The CPCU will enforce compliance by contractors with these clauses. As a core contractual requirement, the contractor is required to ensure all documentation related to labour management is available for inspection at any time by the CPCU, PPMU, IDOs and LGs and other concerned offices. The contractor will report on key environmental and social management related to LMP to the PPMU, IDO and LGs, or its appointed agents such as supervising consultants. The contractual arrangements with each project work must be clearly defined under national law. All labour-related requirements will be spelled out explicitly in the bidding documents and contracts in addition to any additional clauses, which are contained, in the project's environmental and social instruments.

6.2 Occupational, health and safety

The PLRIP is committed to:

1. Complying with national legislation and other applicable requirements which relate to the occupational health and safety hazards.
2. Enabling active participation in OHS risks elimination through promotion of appropriate skills, toolbox meetings, as well as training on risks and hazard awareness.
3. Continually improving the OHS management system and performance.
4. Communicating OHS procedures to all persons working for the project with emphasis on individual safety awareness and responsibilities.

The PPMU will assign a qualified OHS specialist Representative for the workplace or a section of the workplace for an agreed period. The Representative must:

- a. Identify and assess potential hazards.
- b. In collaboration with the contractors, investigate the cause of accidents at the workplace.
- c. Inspect the workplace, including water facilities, lighting, etc. with a view to ascertaining the safety and health of workers.
- d. Accompany a third-party inspector(s) whilst they are carrying out project-related site inspection duties in the workplace.

- e. make recommendations to the PLRIP, CPCU and PPMU and contractors in respect of safety and health matters affecting workers.

Further to avoid work related accidents and injuries, contractors will:

- Provide occupational health and safety training to all employees involved in works.
- Provide safety and occupational safety measures to workers with Personal Protection Equipment (PPE) like protective masks, helmet, gloves, safety goggles, reflective vest and overall & safety shoes as appropriate.
- Provide workers in high noise areas with earplugs or earmuffs. Shorten the exposure time of workers in high noise area by changing shifts.
- Ensure availability of well first aid box
- Provide employees with access to toilets and potable drinking water
- Properly dispose of solid waste at designated permitted sites landfill allocated by the local authorities and cleaning funds; and attach the receipt of waste from the relevant landfill authority.
- Carry out all procedures to prevent leakage of generator oil into the site.

Further to enforcing the compliance of environmental management, contractors are responsible and liable of safety of site equipment, labors and daily workers attending to the construction site and safety of citizens for each subproject site, as mandatory measures.

Contractors must engage or designate, at least, one safety representative. Smaller contracts may permit 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 PLRIP (CPCU and PPMU) monthly, serious incidents are reported immediately. Minor incidents are reflected in the quarterly reports to the World Bank, major issues are flagged to the World Bank immediately within 24 hours.

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

Epidemic and Emergency considerations: It is imperative to assess and mitigate the risks of communicable diseases like COVID-19 and Tuberculosis transmission among workers and to provide a safe environment for project workers and local communities. As a first step, contractors and workers on this project will:

- Adhere to all epidemic/communicable disease control protocols issued by the Government of Nepal and provincial authorities, the WHO and the World bank

- Where necessary, prepare and implement site-specific measures (as part of the project OHS plan) to mitigate the risks of epidemic disease transmission among workers
- Promote measures for preventing the spread of epidemic disease among host communities.

As part of E&S screening, contractors will assess the risks of epidemic disease transmission before undertaking project activities: site access, construction of labour camps, consultations with project stakeholders, and based on the assessment, ensure that the basic epidemic disease control protocols are observed such as maintaining social distancing, isolating the infectious and practicing safe hygiene. The OH&S Specialist will perform additional roles as the focal person for epidemic diseases and coordinate site specific measures with local health authorities and community leaders. The World Bank's Interim note: Covid-19 considerations in construction/civil works projects may be referenced for further guidance on the assessment and management of epidemic disease risks at construction sites.

6.3 Labor influx and sexual exploitation and abuse/sexual harassment

Contractors are required maintain peaceful and cooperative 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 non-compliance, including non-compliance with specific policies related to sexual exploitation and abuse and sexual harassment (e.g., termination). The CoC should be written in language understandable by workers 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 the induction process; acknowledged that adherence to this CoC is a mandatory condition of employment; and understood that violations of the CoC can result in serious consequences, up to and including dismissal, or referral to legal authorities.

CoC are signed with individual workers and familiarised with its provisions. 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 Nepali and local language.

Contractors must address the risk of SEA/SH through;

- i. Mandatory training and awareness-raising for the workforce about refraining from unacceptable conduct toward local community members, specifically women. Training may be repeated.
- ii. Informing workers about national laws that make sexual harassment and gender-based violence a punishable offence which is prosecuted.
- iii. Adopting a policy to cooperate with law enforcement agencies in investigating complaints about gender-based violence/SEA/SH.

A grievance redress mechanism for recording and addressing SEA/SH related complaints is defined as part of the project GRM outlined in the project stakeholder engagement plan (SEP), further presented in section 9 below, and will be used to respond to such cases as necessary.

7. Age of employment

Considering the local context and the principles under the Labour Act 2017 and WB ESS2, the mandatory minimum age to work under the project is 18 and no child under this age will be allowed to work on the project. All the evidence such as birth certificate or citizenship or driving license or voters card or national identity card, monitoring and inspection and other documents need to be produced to demonstrate the age and assurance of complying legal obligation.

8. Terms and conditions

As stated in section 4 of this LMP the terms and conditions of employment in this project will be governed by the Labour Act and as specified in the LMP. The Act makes it mandatory for employers to give its employees a written contract of employment, signed by both parties. Accordingly, contractors in this project will be required to provide all their employees with written contracts. Contractors will also be required to comply with the current regulation of wages which is issued and periodically reviewed by the Government. The regulation often specifies the minimum wages, hours of work, overtime pay, leave entitlements, travelling and subsistence allowances and the issue of protective clothing which will be included in the contract documents for enforcement.

The Labour Act 2017 notes 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. Where a contractor fails to comply with this requirement, the contract with the contractor may be terminated.

In ensuring full compliance with the law in this regard, contractors will be required to furnish the PLRIP project (PPMU/CPCU) with copies of the Written Particulars of Employment or copies of the contract of its entire workforce. Contractors will not be allowed to deploy any employee to work in the project if such copy of employment of that employee has not been copied to the PPMU/CPCU. As a monitoring mechanism, the 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.

For this project, it will be a material term of the contract to allow the PLRIP to withhold payment from contractor should the contractor not fulfill their payment obligation to their workers.

8.1 Worker's Organization

Nepal has ratified numerous ILO Conventions related to protecting workers and is committed to implementing the key elements of these conventions including the right of workers to collective bargaining. The Labour Act gives effect to collective bargaining and allows for the collective negotiation of terms and conditions of employment. As per this law, workers under this project will

have the right to join and form an organization for purpose of labor representation, and to negotiate favorable terms and conditions for their members.

9. Grievance mechanism for workers

Complaints from direct workers hired by PLRIP to work on the project, i.e., consultants and support staff will be addressed using ‘standard dispute resolution mechanisms’ as specified in their contracts. Contractors for works will be required to present a worker grievance redress mechanism which responds to the minimum requirements in this LMP. This Grievance Redress Mechanism (GRM) will be designed to facilitate the uptake, review and redress of complaints and grievances that may be raised by workers under PLRIP projects. The GRM is an integral part of the project’s Labour Management Procedures (LMP), and designed in line with the World Bank’s Environmental and Social Standard 2 (ESS2), and the labour laws of Nepal; i.e. the Labour Act (LA) 2017 and the Labour Rule, 2018. Furthermore, the constitution of Nepal, part 3 the fundamental rights (article 34 right to labor) and duties and part 4 directive principles policies and obligations of the state (I policies relating to labor and employment). The Social Development Specialist at the CPCU and designated Officers at the PPMU level will review records of workers’ GRM monthly. Where worker concerns are not resolved at contractor level, the PPMU will serve as recourse to solve such complaints.

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:

1. Disciplinary action
2. Individual grievances
3. Collective grievances and negotiation of collective grievances
4. Gender-based violence, sexual exploitation, and workplace sexual harassment

9.1 Monitoring & Reporting

Minor incidents will be reported directly to the PPMU on a monthly basis and will be reflected in quarterly reports, and serious incidents will be reported immediately and flagged to the World Bank. Given that most labor related risks and impacts results from actions of contractors, mitigation measures will be largely implemented by contractors. In the event of an occupational fatality or serious injury, the CPCU will report to the Bank as soon as becoming aware of such incidents and inform the government authorities (where available) in accordance with national reporting requirements. Corrective actions will be implemented in response to project-related incidents or accidents to avoid recurrence of such incidents. The PPMU or, where relevant the contractor, will be required to conduct a root cause analysis for designing and implementing further corrective actions

9.2 Disciplinary procedure

Disciplinary procedures under the project will be in line with national regulations, and further discussed with organized labor union groups associated with the project. The CPCU, PPMU, contractors, and other authorities responsible for this project will ensure that disciplinary rules are:

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

The PPMU will establish a fair and effective disciplinary procedure in the workplace, which should be fair. The procedure is as follows: -

- a. Conduct an investigation to determine whether there are grounds for a hearing to be held;
- b. If a hearing is to be held, the employer/contractor is to notify the employee about the allegations using a form and language that the employee can understand;
- c. The employee will 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 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.

If an employee is dismissed, s/he must be given the reasons for dismissal and the right to seek recourse on the fairness of the dismissal. Therefore, contractors under this project will be required to ensure that they have a disciplinary procedure, Code and standards which the workers are aware of. Each contractor will be required to produce this procedure to ensure that workers are not treated unfairly.

9.3 Individual grievance procedure

In addition to using formal government administrative channels to resolve worker complaints and grievances, the contractors under this project are required to have a Formal Grievance recording Procedure. The procedure should;

- a. Specify how workers can lodge their grievance;
- b. Allow for reasonable time frame to address complaints expeditiously;
- c. Allow complainants the right to refer their 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 the PLRIP (CPCU).

Following formal contracts, contractors will be required to provide proof that workers have been inducted and signed that they have been inducted on the procedure.

9.4 Collective disputes resulting from the negotiations of collective agreements

Where worker unions are recognized, they are entitled to negotiate on a regular basis with the employer over terms and conditions at the workplace and the employer is obliged to negotiate with the union. The procedures followed in such instances is usually contained in the collective bargaining agreement, which must have outlined how issues can be raised, the procedure for negotiations, the composition of the parties involved in the negotiation and the procedure to deal issues that are not resolved through consensus. 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 labor legislation.

9.5 Gender-based violence, sexual exploitation and workplace sexual harassment

The PPMU will, with support from consultants, identify institutions and services providers who are actively engaged in prevention of gender-based violence, sexual exploitation and abuse, and workplace sexual harassment in and around project sites; and will establish a manual for referring any potential survivors to these services. Such services will include health facilities, law enforcement's services, relevant public authorities in the project localities. Grievances related to gender-based violence/SEA/SH will be reported through the project/contractor, the nature of the complaint will be recorded along with the age of the complainant and relation to the project will be recorded but the issue will be referred to relevant institutions.

In addition, the EIA/ESIA may identify additional mitigation measures related to gender and such measures will be reflected in site specific ESMPs, including the contractors ESMPs or contractors specific Labor Management Plans, where necessary. This will include engagement with communities on gender related risks, grievance, and response measures available, as identified in the manual.

10. Contractor management

The project requires that contractors monitor, keep records and report on terms and conditions related to labor management. Contractors and sub-contractors 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. In addition while selecting the contractor the experiences of the contractors in managing and implementing ESMPs which covers labour related issues as well will be evaluated. The application of this requirement will be proportionate to the activities and to the size of the contract, in a manner acceptable to the PLRIP project and the World Bank:

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

- b. **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).
- c. **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, semiskilled, skilled, supervisory, professional, management).
- d. **Training/ induction:** dates, number of trainees, topics and venue.
- e. **Details of any security risks:** details of risks the contractor may be exposed to while performing its work and the threats from third parties external to the project.
- f. **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.

The Project's oversight of contractors is set out in section 5 of this LMP. The CPCU will:

1. Ensure that Contractors have valid contracts with clearly define service level agreement in accordance with the national law and all environmental and social clauses, as applicable: Contractor induction to the PLRIP standards and LMP.
2. Monthly submission of records: Contractor submission to Infrastructure Development Office (IDO),
3. Monthly site visits (at a minimum) and reports: Provincial Project Management Unit, Infrastructure Development Office and other Officers
4. Evaluation of contractor requirements. This includes training, OHS files, certifications and other. The evaluation results in Portfolio Reports which includes recommendations for contract extension or termination
5. Training needs identification recorded in Contractor Training Schedule
6. Annual Contractor Management Plans submitted

11. Primary supply of workers

The risks associated with use of child labour, forced labour and safety in the primary supply chain associated with the Project will be assessed periodically as information about these supplies becomes known. All primary suppliers are formal businesses who are required to procure and/or produce raw materials subject to high standards. Suppliers will be vetted using GoN due diligence procedures with regards to compliance with tax obligations, certification, licensing, and workmen's compensation, safety protocols, and declared commitments against the aforementioned risks .. Primary suppliers will be required to identify their permanent staff and declare any current or prior arbitrations as well as criminal convictions. Registered suppliers are subject to regular review. The review will be carried out twice annually. The CPCU of PLRIP will also ensure, that any primary supplier to the project do not use child labor, report fatalities or serious injury and informs government authorities in accordance

with national reporting requirements. Suppliers will be required to use Government issued IDs (like citizenship, birth certificate, National identity card, driving license or PAN card) as evidence of age prior to contracting workers.

12. Community workers

The project is expected to use community workers on payment basis. ESS2 requirements related to working conditions, child labour, forced labour and Occupational Health and Safety will apply to this category of workers. While labor workers whether voluntary or on payment basis is common in community-driven projects in Nepal, there are no clear national level regulatory framework that defines the terms and conditions. However, following terms and conditions stipulated in the Labour Act (2017), Labour Rule (2018) and Child Labour (prohibition and regulations) Act 2000, are applicable for community workers as well:

- Provisions of work hours, rest breaks,
- Prohibition against engagement of force labor, bonded labor, child labor, discrimination. The act also promotes equal pay for equal work.
- Fundamental provision on Occupational Health and Safety (OHS)
- Provision for good culture of work, and discipline at work and performance for labor
- Provision for labor audit for each workplace.
- Provision against sexual harassment, and sexual abuses.
- Specific requirements for the workplace: health and safety such as proper cleanliness, the passage of fresh air, proper light and temperature, solid waste management, noise control measures, safe drinking water, toilet, a mandatory medical check-up for the entities undertaking health-hazardous activities; appropriate lunchtime, childcare centre for children under three years
- Provision of accident investigation, inventory of work-related diseases and compensation.

Accordingly, the PLRIP will be responsible for assessing and managing identified risks. The PLRIP will:

- Ensure compliance with legislations that relates to OHS as stipulated in the Labour Act (2017), Labour Rule (2018), ESS2 and ESS4, Child Labour (Prohibition and Regulation) Act 2000
- Develop a budgetary plan for OHS provisions
- Communicate and provide trainings to all community workers of individual OHS responsibilities
- Provide OHS measures to workers with PPE such as protective masks, safety shoes and others, as appropriate
- Ensure availability of health and safety measures including first aid box, potable drinking water and sanitation facilities among others
- Assess and monitor use of child labor and forced labor.

Additionally, the PLRIP will document the agreements reached with community worker. It will include:

- The way in which agreements was reached in identifying and engaging community workers (e.g. community meetings, etc.)
- Activities/responsibilities that have been agreed between PIU/contractor and community worker,
- Set out terms and conditions on which community labor are engaged, including the work hours and rest breaks
- The way in which community workers can raise grievance in relation to the project.
- Roles and responsibilities for monitoring community workers

Existing **Grievance Redress Mechanism (GRM)** formed at local level will be adapted and strengthened to allow community workers to raise grievance in relation to the project. The concerned CBO or local authority /community will be responsible for operationalising the GRM including maintaining the records and timely resolution of any grievances. The PPMU will provide overall guidance and advice on any related grievances.

Annex 1: OHS provisions in the Labour Act, 2017

- Clause 68 of the Labour Act 2017 asks the employer to prepare and implement a policy on health and safety of workers and other persons at the workplace and register such policy to the concerned Labor Office. As per the clause 68, the employer is responsible for the implementation of the OHS plan/policy. The Labour Office is assigned to regularly monitor the implementation.
- Clause 69 (d) of the Labour Act asks the employer to provide training and information in an appropriate language on use of equipment or chemical, physical, and biological materials.
- Clause 69 (1, f) of the Labour Act 2017 ask employer to provide personal safety equipment to the worker and Clause 73 (1, e) ask the employee to use such personal safety equipment. Similarly, Clause 69 (2) of the Act bars the employers from charging any fee from workers for providing safety equipment. The Labour also requires employers to ensure workers' OHS including medical treatment and insurance for injury and death. Accordingly, each labourer must be insured for a sum of up to Nepalese rupee (NPR) 100,000 for medical expenses and NPR 700,000 for accidental death.
- Clause 79 of the Labour Act 2017 asks the employer to give information about any occupational accidents to Labor Office immediately.
- Clauses 93 of the Labour Act 2017 has the provision of appointing a labor inspector to ensure implementation of the act and may also bring in OHS inspectors in required.
- The Health and Safety Policy formulated as per the Clause 74 (3, D) of the Labour Act 2017 asks the employer to review their safety policy each year
- Rule 39 (D) of Labour Regulations, 2018 asks the employer to arrange emergency doors and passages in case of fire hazards

Annex 2: Content of a labor registry

(WRITTEN PARTICULARS OF EMPLOYMENT)

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.:
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.

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

(c) When any heading is inapplicable enter NIL.

.....
Employer's signature

.....
Witness

.....
Employee's signature

.....
Witness

Date:

Date:

Annex 3: Suggested due diligence for labor related mitigation measures in contracts

Stage of Contractual Process	Suggested Due Diligence
Before bidding	<ul style="list-style-type: none"> ➤ Ensure that the terms of reference of supervision consultant clearly define the responsibilities regarding oversight of, and reporting on, labor influx and workers' camps. ➤ 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	<ul style="list-style-type: none"> ➤ Review contract conditions included in bidding documents to: <ol style="list-style-type: none"> i. Identify relevant provisions (workers, camps, child and forced labor, 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 ii. Include a requirement that all workers sign 'Codes of Conduct' governing behavior, and identifying sanctions iii. 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 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 labor influx and workers' camps.
Bidding evaluation	<ul style="list-style-type: none"> ➤ 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 ESMPs of the respective sub project, which includes specific management plans for; <ul style="list-style-type: none"> ➤ Work activities; ➤ Traffic management ➤ Occupational health and safety ➤ Environmental management ➤ Social management and ➤ Labor influx

DRAFT

Annex 4 Code of Conduct for Contractor's Personnel (ES) Form

CODE OF CONDUCT FOR CONTRACTOR'S PERSONNEL¹

We are the Contractor, *[enter name of Contractor]*. We have signed a contract with *[enter name of Employer]* for *[enter description of the Works]*. These Works will be carried out at *[enter the Site and other locations where the Works will be carried out]*. Our contract requires us to implement measures to address environmental and social risks related to the Works, including the risks of sexual exploitation, sexual abuse and sexual harassment.

This Code of Conduct is part of our measures to deal with environmental and social risks related to the Works. It applies to all our staff, labourers and other employees at the Works Site or other places where the Works are being carried out. It also applies to the personnel of each subcontractor and any other personnel assisting us in the execution of the Works. All such persons are referred to as “**Contractor's Personnel**” and are subject to this Code of Conduct.

This Code of Conduct identifies the behavior that we require from all Contractor's Personnel.

Our workplace is an environment where unsafe, offensive, abusive or violent behavior will not be tolerated and where all persons should feel comfortable raising issues or concerns without fear of retaliation.

REQUIRED CONDUCT

Contractor's Personnel shall:

1. carry out his/her duties competently and diligently;
2. comply with this Code of Conduct and all applicable laws, regulations and other requirements, including requirements to protect the health, safety and well-being of other Contractor's Personnel and any other person;
3. maintain a safe working environment including by:
 - a. ensuring that workplaces, machinery, equipment and processes under each person's control are safe and without risk to health;
 - b. wearing required personal protective equipment;
 - c. using appropriate measures relating to chemical, physical and biological substances and agents; and
 - d. following applicable emergency operating procedures.
4. report work situations that he/she believes are not safe or healthy and remove himself/herself from a work situation which he/she reasonably believes presents an imminent and serious danger to his/her life or health;
5. treat other people with respect, and not discriminate against specific groups such as women, people with disabilities, migrant workers or children;

¹ This form is to be signed by the contractor's personnel after contract is awarded.

6. not engage in Sexual Harassment, which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature with other Contractor's or Employer's Personnel;
7. not engage in Sexual Exploitation, which means any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
8. not engage in Sexual Abuse, which means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
9. not engage in any form of sexual activity with individuals under the age of 18, except in case of pre-existing marriage;
10. complete relevant training courses that will be provided related to the environmental and social aspects of the Contract, including on health and safety matters, Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH);
11. report violations of this Code of Conduct; and
12. not retaliate against any person who reports violations of this Code of Conduct, whether to us or the Employer, or who makes use of the grievance mechanism for Contractor's Personnel or the project's Grievance Redress Mechanism.

RAISING CONCERNS

If any person observes behavior that he/she believes may represent a violation of this Code of Conduct, or that otherwise concerns him/her, he/she should raise the issue promptly. This can be done in either of the following ways:

1. Contact [*enter name of the Contractor's Social Expert with relevant experience in handling sexual exploitation, sexual abuse and sexual harassment cases, or if such person is not required under the Contract, another individual designated by the Contractor to handle these matters*] in writing at this address [] or by telephone at [] or in person at []; or
2. Call [] to reach the Contractor's hotline (*if any*) and leave a message.

The person's identity will be kept confidential, unless reporting of allegations is mandated by the country law. Anonymous complaints or allegations may also be submitted and will be given all due and appropriate consideration. We take seriously all reports of possible misconduct and will investigate and take appropriate action. We will provide warm referrals to service providers that may help support the person who experienced the alleged incident, as appropriate.

There will be no retaliation against any person who raises a concern in good faith about any behavior prohibited by this Code of Conduct. Such retaliation would be a violation of this Code of Conduct.

CONSEQUENCES OF VIOLATING THE CODE OF CONDUCT

Any violation of this Code of Conduct by Contractor's Personnel may result in serious consequences, up to and including termination and possible referral to legal authorities.

FOR CONTRACTOR'S PERSONNEL:

I have received a copy of this Code of Conduct written in a language that I comprehend. I understand that if I have any questions about this Code of Conduct, I can contact *[enter name of Contractor's contact person(s) with relevant experience]* requesting an explanation.

Name of Contractor's Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Contractor:

Signature: _____

Date: (day month year): _____

DRAFT