

GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE

# **STANDARD 2:** **LABOR AND WORKING** **CONDITIONS**



# 2

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**GUIDELINES FOR ENVIRONMENTAL  
AND SOCIAL PERFORMANCE**

# **STANDARD 2: LABOR AND WORKING CONDITIONS**

**SEPTEMBER 2021**

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## INTRODUCTION

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The following Guidelines correspond to Environmental and Social Performance Standard 2 which, together with the other nine Environmental and Social Performance Standards (ESPS) and the Policy Statement, make up the IDB's *Environmental and Social Policy Framework* (ESPF). The ESPSs are:



Assessment and Management of Environment and Social Risks and Impacts



Community Health, Safety, and Security



Land Acquisition and Involuntary Resettlement



Indigenous People



Biodiversity Conservation and Sustainable Management of Living Natural Resources



Stakeholder Engagement and Information Disclosure



Labor and Working Conditions



Resource Efficiency and Pollution Prevention



Cultural Heritage



Gender Equality

These Guidelines provide guidance to Borrowers on the requirements of Environmental and Social Performance Standard 2: Labor and Working Conditions, with the overall purpose of improving project performance and environmental and social outcomes. The relevance of each ESPS and its Guideline depends on the nature, scale, and complexity of an operation and is proportionate to its level of environmental and social risks and impacts. It is important to note that ESPS 1 and 10 are likely to be relevant to all projects.

To facilitate reading:

1. All text belonging to the ESPF is formatted with a light blue background. The ESPF's text, including its footnotes, has kept its original paragraph and footnote numbering.
2. All Guideline paragraphs begin with the acronym "GL."
3. All footnotes are ESPF footnotes.

The Guidelines and other reference material will be publicly available on a dedicated website (<https://www.iadb.org/en/mpas/guidelines>). The IDB will periodically update the material on the website to reflect best practices and evolving needs.

## DISCLAIMER

Guidelines are not policy, nor are they mandatory. The information presented in the Guidelines is for informational purposes only. Guidelines do not substitute the need to exercise sound judgment in making project decisions that are consistent with the ESPSs. In case of any inconsistency or conflict between the Guidelines and the ESPSs, the provisions of the ESPSs will prevail. In case of any inconsistency or conflict between the Guidelines and the Policy Statement in the ESPF, the provisions of the Policy Statement will prevail. Guidelines are approved by IDB Management and not by the IDB's Board.



## INTRODUCTION

1. Environmental and Social Performance Standard (ESPS) 2 recognizes that pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers.<sup>69</sup> The workforce is a valuable asset, and a sound worker-employer relationship is a key ingredient in the sustainability of any endeavor. Failure to establish and foster a sound worker-employer relationship can undermine worker commitment and retention and can jeopardize a project. Conversely, through a constructive worker-employer relationship, and by treating workers fairly and providing them with safe and healthy working conditions, Borrowers may create tangible benefits, such as enhancement of the efficiency and productivity of their projects.
2. The requirements set out in this ESPS have been in part guided by a number of international conventions and instruments, including those of the International Labour Organisation (ILO) and the United Nations (UN).<sup>70</sup>

## OBJECTIVES

- To respect and protect the fundamental principles and rights of workers.<sup>71</sup>
- To promote the fair treatment, non-discrimination, and equal opportunity of workers.
- To establish, maintain, and improve the worker-employer relationship.
- To ensure compliance with national employment and labor laws.
- To protect workers, including workers in vulnerable situations such as women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS) and migrant workers, workers engaged by third parties, and primary supply workers.
- To promote safe and healthy working conditions, and the health of workers.
- To prevent the use of child labor and forced labor (as defined by the ILO).

<sup>69</sup> As guided by the ILO Conventions listed in the footnote below.

<sup>70</sup> ILO Convention 29 on Forced Labor and Protocol of 2014. ILO Convention 87 on Freedom of Association and Protection of the Right to Organize. ILO Convention 98 on the Right to Organize and Collective Bargaining. ILO Convention 100 on Equal Remuneration. ILO Convention 111 on Discrimination (Employment and Occupation). ILO Convention 105 on the Abolition of Forced Labor. ILO Convention 138 on Minimum Age (of Employment). ILO Convention 155 on Occupational Health and Safety. ILO Convention 161 on Occupational Health Services. ILO Convention 182 on the Worst Forms of Child Labor. ILO Convention 190 on Violence and Harassment. UN Convention on the Rights of the Child, Article 32.1. UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

<sup>71</sup> ILO Declaration on Fundamental Principles and Rights at Work.



- To support the principles of freedom of association and collective bargaining of project workers.
- To ensure that accessible and effective means to raise and address workplace concerns are available to workers.

**GL1.** Environmental and Social Performance Standard 2 (ESPS 2) applies to the Borrower's workforce engaged in the project and emphasizes the significance of a good relationship between employers and workers in determining the overall success of the Borrower and the project. ESPS 2 is in part informed by several ILO and UN Conventions. Most countries in the Latin America and Caribbean region have ratified all or some of these conventions. The ILO Core Labor Standards—related to child labor and forced labor, freedom of association and the right to collective bargaining and non-discrimination—apply in all countries of the region. Many of the principles and requirements set out in these international conventions and standards have been incorporated into national law of countries. The application of ESPS 2 supports Borrowers in the implementation of national law and in meeting their obligations under international law. In many instances, compliance with national law will result in alignment with many aspects of ESPS 2. Where national law establishes standards that are less stringent than those required by ESPS 2, or are silent, borrowers will meet the requirements of ESPS 2. Where certain aspects of national law are in contradiction with the requirements set out in ESPS 2, the Borrower will seek to fulfill the objectives of ESPS 2. The requirements of ESPS 2 do not preclude the implementation of national law that provides for a higher level of requirements than set out in the standard.

## Scope of Application

3. The applicability of this ESPS is established during the environmental and social risks and impacts identification process. The implementation of the actions necessary to meet the requirements of this ESPS is managed through the Borrower's Environmental and Social Management System (ESMS), the elements of which are outlined in ESPS 1. Implementation of this ESPS must also consider requirements related to gender equality<sup>72</sup> and stakeholder engagement in accordance with ESPS 9 and 10.

<sup>72</sup> By including measures such as trainings on gender non-discrimination and sensitivity for project staff and collecting gender-disaggregated employment data to ensure non-discriminatory hiring practices.

**GL2.** The application of ESPS 2 promotes a systematic approach to improving the management of risks and impacts related to labor and working conditions in projects and is established during the environmental and social risk and impact identification and assessment process. The Borrower is responsible for managing risks and impacts throughout the project and should ensure that appropriate requirements are cascaded down the contracting chain and, where appropriate and in accordance with the requirements of this standard, the supply chain. As part of the environmental and social assessment process defined by ESPS 1 and as early as possible during project scoping and screening, there should be an assessment of the likely labor issues associated with the project. Where labor is expected to present significant risk or impact, for example when significant labor influx is expected or child or forced labor are prevalent in the sector or area of project implementation, a stand-alone labor assessment may be required. Specific actions related to the management of labor risks of workers engaged directly by the Borrower and through third parties should be developed in accordance with the scope and significance of labor risks and impacts identified in the labor assessment. Such actions should be captured in Labor Management Procedures (LMP), as defined in paragraph 9 of ESPS 2. The LMP set out both the scope and application of ESPS 2 and define actions and responsibilities of the different employing parties in relation to the project—Borrower, contractors, primary suppliers, etc. The LMP should be managed through the Borrower's ESMS and integrated in the Borrower's Environmental and Social Management Plan (ESMP). Requirements included in the LMP should also be integrated in the project's legal requirements, bidding documents and contractor and supplier contracts. For further guidance on the scope of a Labor Assessment and of Labor Management Procedures go to <https://www.iadb.org/en/mpas/guidelines>.

**GL3.** The application of ESPS 2 will also involve the identification of risks and impacts related to employment or working conditions which disproportionately affect disadvantaged or vulnerable individuals or groups. Depending on the project circumstances these may be women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants, among others. Identifying and addressing these risks has the potential to improve business outcomes, help attract talent, increase productivity, and strengthen community relationships. These concepts are incorporated throughout this guideline and should be read in conjunction with ESPS 1, 7 and 9 and their respective Guideline.

**GL4.** To inform the assessment of labor risks and impacts, the Borrower should engage with workers and with workers' organizations at international, national or sector level, trade unions, employers' organizations, chambers of commerce, labor inspectorates and other relevant government agencies. The Borrower may also benefit from consulting relevant international expert organizations, such as the ILO. In assessing the labor risks and impacts related to the project, the Borrower should consider a number of factors including: (i) the likely structure and nature of contracting and subcontracting for the project; (ii) the national laws and regulations related to labor standards and the extent to which these implement international standards and meet the requirements of ESPS 2; (iii) existing bargaining relationships and collective agreements, (iv) reports of labor rights issues in the geography or sector of the project and the capacity and the record of labor and employment practices of project partners. ESPS 10 provides additional guidance on stakeholder engagement and information disclosure.



4. The scope of application of this ESPS depends on the type of employment relationship between the Borrower and the project worker. It applies to project workers directly engaged by the Borrower (direct workers), project workers engaged through third parties to perform work related to core functions of the project<sup>73</sup> for a substantial duration (contracted workers), as well as project workers engaged by the Borrower's primary suppliers (primary supply workers).<sup>74</sup> This includes full-time, part-time, temporary, seasonal, and migrant workers. Migrant workers are workers who have migrated from one country to another or from one part of the country to another for purposes of employment. The Borrower and third parties shall refrain from entering into disguised employment relationships, such as (i) contractual arrangements that hide the true legal status of the employment relationship and/or (ii) contractual arrangements that have the effect of depriving workers of the protection they are due.

**GL5.** Contractual arrangements, particularly those involving multiple parties, should be clear as to which party is responsible for implementing the requirements of ESPS 2 for each type of project worker. This is particularly important where different parties are involved in implementing the project. For example, the construction of a large infrastructure project may include a main contractor, several subcontractors, representatives of the Borrower, and various other parties as well as suppliers.

**GL6.** The Borrower should identify the types of workers likely to be employed under the project and describe them, together with who their likely employer will be, the way that the employer relates to the Borrower and the way in which ESPS 2 requirements apply to each type of project worker. This information should be clearly set out in the LMP.

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<sup>73</sup> Core project functions constitute those of construction, production and/or service processes essential for a specific activity without which the activity could not continue.

<sup>74</sup> Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core functions of the project.

**GL7.** Determining the existence of an employment relationship is guided primarily by facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contractual arrangement agreed between the parties. National law will normally define the tests for determining employee status, which may also include some of the factors set out in ILO Recommendation No. 198, paragraph 13. An employment relationship is likely to exist when one or more of the following considerations are met:

Performance of the work, which may include work that:

- is carried out according to the instructions and under the control of the Borrower, contractor, intermediary or other third party engaged by the Borrower;
- involves the integration of the worker in the organization of the Borrower or the entity involved in implementing the project, such as the project implementation unit or contractors;
- is performed solely or mainly for the benefit of the Borrower or another person, such as a contractor engaged by the Borrower;
- must be carried out personally by the worker;
- is carried out within specific working hours or at a workplace specified or agreed by the Borrower or another party requesting the work;
- is of a particular duration and has a certain continuity;
- requires the worker's availability; or
- involves the provision of tools, materials and machinery by the party requesting the work;
- does not have financial risk for the worker.

Remuneration and other benefits, which may include:

- periodic payment of remuneration to the worker;
- the fact that such remuneration constitutes the worker's sole or principal source of income;
- provision of payment in kind, such as food, lodging or transport;
- recognition of entitlements such as weekly rest and annual holidays;
- payment by the party requesting the work for travel undertaken by the worker in order to carry out the work.

**GL8.** In some cases, it may be difficult to determine whether or not an employment relationship exists. This includes situations where (i) the respective rights and obligations of the parties concerned are not clear, or are not captured in written documentation, or where (ii) there has been an attempt to disguise the employment relationship, or where (iii) gaps exist in the legal framework, in its interpretation or application, which may also include new forms of work arrangements which are yet to be adequately covered by national labor laws. This is particularly the case where workers are engaged through third parties or digital platforms.

**GL9.** Disguised employment may occur where the employment relationship is deliberately structured to eliminate legal protection otherwise afforded to workers. Migrant workers may be particularly vulnerable to this practice. Provision of labor through a broker, agent, or intermediary should not be used to disguise the true legal status of the employment relationship or deny legal protection due to the worker, if the nature of employment fits the tests set out above. When applicable, the LMP should justify why any group of workers engaged to work on the project are not classified as project workers.

### Direct Workers

5. Direct workers are people employed or engaged directly by the Borrower to work specifically in relation to the project. With respect to direct workers, the Borrower will apply the requirements of paragraphs 9–27 of this ESPS.

### Contracted Workers

6. With respect to contracted workers, the Borrower will apply the requirements of paragraphs 33–35 of this ESPS.

### Primary Supply Workers

7. With respect to primary supply workers, the Borrower will apply the requirements of paragraphs 36–38 of this ESPS.

**GL10.** For the purposes of ESPS 2, a **direct worker** is a worker with whom the Borrower has a directly contracted employment relationship and specific control over their work, working conditions, and treatment of the other project workers. The direct worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrowers day-to-day instruction and control. Examples of direct workers may include persons employed or engaged by the Borrower’s project implementation unit to carry out design and supervision, monitoring and evaluation, or community engagement in relation to the project. Public sector projects may likely only employ few direct workers.

**GL11.** A **contracted worker** is a worker employed or engaged by a third party, such as contractors, consultants, or intermediaries, including private employment agencies, engaged by the Borrower, to perform work or provide services related to the core functions of the project, where that third party exercises continued control over the work, working conditions, and treatment of the worker in relation to the project. As set out in footnote 73 of ESPS 2, core project functions, specific to each project, constitute those of construction, production and/or service processes essential for a specific project activity without which the project could not continue and may include cleaning, catering or provision of accommodation services. In such

circumstances, the employment relationship is between the third party and the contracted worker, even if the contracted worker is working on an ongoing basis on project activities. Even though contracted workers may be engaged through a third party and the Borrower may have limited legal responsibilities for these workers, paragraphs 33-35 of ESPS 2 set out specific requirements for the Borrower to ensure that the third party complies with the requirements of ESPS 2 and national law.

**GL12.** A third party may act as an intermediary or source and recruit workers on behalf of the Borrower, or the Borrower's organization responsible for project implementation such as the project implementation unit. In these circumstances, such workers are direct workers for the purpose of ESPS 2. Provision of labor through a broker, agent, or intermediary should not be used to disguise the legal status of the employment relationship nor to deny workers protection due to them. The Borrower will make it clear whether any employer responsibilities are assumed by the broker, agent, or intermediary.

**GL13.** A **primary supply worker** is a worker employed or engaged by a primary supplier, providing goods and materials to the project, where the primary supplier exercises control over that worker for the work, working conditions, and treatment of the worker (see footnote 47 of ESPS 2). There is no direct contractual or labor relationship between the Borrower and the primary supply worker and costs and benefits are paid by the supplier. Paragraphs 36-38 of ESPS 2 set out clearly define requirements for the Borrower. The identification of core functions is specific to each project and may include services. Second, third, and further levels of the supply chain (sometimes referred to as Tier 2 and Tier 3 suppliers) are not covered by the specific supply chain provisions in ESPS 2.

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- 8.** Where government civil servants are working in connection with the project, whether full-time or part-time, they will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement, unless there has been an effective legal transfer of their employment or engagement to the project. ESPS 2 will not apply to such government civil servants, except for the provisions of paragraphs 23-24 (Protecting the Work Force) and paragraphs 25-32 (Occupational Health and Safety).
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**GL14.** ESPS 2 is not meant to interfere in the relationship between the Borrower when it is a government agency and its government civil servants, who are normally employed under specific terms and conditions that may reflect mandatory legal requirements. The civil servant status is generally different from that of other public employees, such as in the health or education sectors or in state-owned enterprises who may not be subject to the civil service labor laws but rather to the general labor code. While government civil servants may work on the project, for example in the project implementation unit or project management office, their status as government civil servants is not affected.

**GL15.** In the case of an effective legal transfer of employment to, or engagement of a government civil servant or other public employee to work on the project, or of a government civil servant or other public employee who takes a formal unpaid leave of absence from their position to work on the project, ESPS 2 will likely apply to that government civil servant or other public employee. If the government civil servant or public employee is no longer subject to the legal requirements relating to their status, and is instead employed directly by the project, the government civil servant or public employee will be subject to the provisions of ESPS 2 relating to direct workers. Such a transfer should be conducted in accordance with all legal requirements.

**GL16.** A public employee who is not subject to civil service labor laws should be treated either as a direct, contracted, or primary supply worker, should they fall within the scope of one of these definitions. Public employees who have no employment relationship with the project may still be directly involved in the delivery of project outputs in their civil service capacity. For example, teachers expanding outreach to rural areas as part of an education sector project, or health care providers upgrading community centers. The potential risks and impacts derived from the project in relation to such persons should be assessed in accordance with ESPS 1, including fundamental rights at work, any occupational and health and safety considerations as well as risks of sexual and gender-based violence (SGBV) which encompasses threats of violence, coercion and harassment, if the circumstances and risk profile of the project warrant such an approach.

## REQUIREMENTS

### Working Conditions and Management of Worker Relationship

#### *Labor Management Policies and Procedures*

- 9.** The Borrower will adopt and implement labor management policies and procedures appropriate to the nature and size of the project and its workforce. These policies and procedures will set out its approach to managing workers consistent with the requirements of this ESPS and national law.

**GL17.** The Borrower will put in place comprehensive approaches to support good labor practices in accordance with the nature, size and complexity of the project and the type, size, employment structure and location of the workforce, including the adoption and implementation of labor policies and procedures for all types of employment relationships. The purpose of the LMP is to facilitate project workforce and labor planning and help identify potential risks and responses to the labor issues associated with the project. The LMP should identify types of project

workers likely to be involved at which stage of the project as well as which party is likely to directly employ them and should include adequate human and financial resources for effective implementation and continuous improvement. Additional guidance can be found at <https://www.iadb.org/en/mpas/guidelines>.

**GL18.** The Borrower should also assess and monitor whether there are risks of labor rights issues emerging because of legislative gaps or lack of effective enforcement of national law, such as gaps related to labor practices or gender equality. In making this assessment, the Borrower should consult with workers, trade unions, experts, government labor inspectors or ministry officials. The Borrower may also want to consult with the ILO and other relevant stakeholders.

**GL19.** In many countries, particularly those that have ratified and implemented conventions and other international instruments relating to labor and working conditions, national law will reflect many of the key requirements of ESPS 2. Where this is the case, the LMP should be primarily based on requirements to comply with the relevant national law provisions. Where there is a significant change in either legislative or enforcement landscape, the Borrower should review and revise the LMP to address resulting coverage or enforcement gaps and communicate this to all third parties employing workers on the project.

**GL20.** The LMP is a written document managed through the Borrower's ESMS and may be prepared as a stand-alone document or included as a part of ESMP documentation. The LMP should be reviewed and updated as needed during the preparation and implementation of the project. The LMP may include diagrams showing the project's management structure, collective agreements, code of conducts and dedicated policies and procedures on particular topics, such as Occupational Health and Safety (OHS) or discrimination.

**GL21.** Where relevant in the context of the project, the LMP should contain measures to address risks that may arise from interaction between project workers and local communities. For example, a large influx of a predominantly male workforce may lead to a heightened risk of SGBV, sexually transmitted diseases or human trafficking, which disproportionately affects women and girls and people of diverse sexual orientations and gender identities. Actions to address these risks may include engaging with the workforce to develop measures to prevent, identify or remedy identified risks and impacts, including through mandatory training, communication to workers on compliance with national law, and the adoption of a formal code of conduct related to employee behaviors which should include a commitment to zero tolerance of SGBV together with disciplinary measures for breach of conduct.

**GL22.** The Borrower will take appropriate steps to ensure that any third party and all project workers know and understand the requirements, entitlements and roles and responsibilities set out in the LMP. Communications can be made through third parties and should be clear, regular and focus on providing workers with adequate and up to date information and the opportunity to comment, as part of the continuous improvement of policies and procedures.



- 10.** The Borrower will provide workers with documented information that is clear and understandable regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, pension, and other benefits upon beginning the working relationship and when any material changes occur.

**GL23.** All project workers should have a written contract in a language they understand which describes the employment relationship with the Borrower or a third party. The Borrower and all third parties employing contracted workers should keep a written record at the time of hire of each worker. Documentation should be provided at the beginning of the employment relationship and when any material changes to the terms or conditions of employment occur. Documentation should be clear, easily understandable, accurate, provided in a language understood by the worker and in accordance with relevant national law. In addition to documentation, oral communication and explanation of working conditions and terms of employment in a culturally appropriate manner are important where project workers do not read or have difficulties understanding the documentation. Depending on the organization it may be appropriate to share information with workers via email or other electronic form. Workers should also have access to policies and procedures related to the employment relationship and should be able to readily access information on OHS, non-discrimination and harassment and procedures to file grievances. Documentation may include but is not limited to:

- The name and legal domicile of the employer;
- The worker's name and a copy of their state issued identification card or document;
- Emergency contact;
- The worker's job title and brief description of the position;
- The date of the beginning of the employment;
- Where the employment is not permanent, the anticipated duration of the contract;
- The place of work, or where the work is mobile, the main location;
- Wages and remuneration including the form and frequency of pay
- Provision of equipment, housing and accommodations and payment required, if any;
- Provisions regarding food and payment required, if any;
- Hours of work, rest breaks, leave entitlements, and other related matters;
- Illness, care giving, parental leave and other entitlements;
- Rules relating to overtime and overtime compensation;
- The levels and rules relating to the calculation of salary, wages, and other benefits, including any rules related to timing of payment and deductions;
- Health care, social protection, pension and other welfare arrangements applicable to the worker;
- The length of notice that the worker can expect to give and receive on termination of employment, severance pay and other benefits to which the workers would be entitled;
- Code of Conduct and other relevant policies to be followed;

- The disciplinary procedures that are applicable to the worker, including details of representation available to the worker and any appeals mechanism;
- Information on any policies or procedures related to non-discrimination, harassment and SGBV
- Details of grievance procedures, including the person to whom grievances should be addressed;
- Occupational health and safety management and emergency response plans containing information of risks that the worker will be exposed to and defining rights and responsibilities of the worker.
- Any collective bargaining arrangements that apply to the worker
- Information regarding fundamental Rights of workers including freedom of association and the right to organize.

**GL24.** Project workers should be informed when a collective agreement applies to them. Accurate and complete documentation regarding such communication and explanation should be retained, for example, through records of meetings held or notices placed on a workers' bulletin board or shared virtual platforms.

**GL25.** The LMP should include provisions and measures on workers' right to privacy and the protection of workers' personal data. Data should only be collected and used for reasons directly relevant to employment. All medical data should remain confidential, except where use of this data for specific emergency purposes is permitted by national law. Health assessments, tests and direct or indirect inquiries related to pregnancy or HIV/AIDS status should not be carried out in relation to job applicants or workers. This type of data should not be collected unless there are genuine health and safety concerns closely linked to the requirements of the job and related to precautions that could be taken during employment (for the safety of workers). Workers should be informed and provided with a justification when surveillance methods are used, including the use of CCTV, filming of workers, tracking of workers location or any other monitoring or physical searching of workers. Any such method should consider privacy and data protection and should be conducted if strictly necessary for defined purposes and in ways that are not intimidating or harassing for the workers. For further information go to <https://www.iadb.org/en/mpas/guidelines>.

**GL26.** Countries have different legal requirements for employment record retention. The LMP will refer to these requirements and inform direct workers about the type of information that will be kept about them and how and why this information will be used, and how it will be kept safe and not subject to improper disclosure.

## Working Conditions and Terms of Employment

- 11.** Where the Borrower is a party to a collective bargaining agreement with a workers' organization, such agreement will be respected. Where such agreements do not exist, or do not address working conditions and terms of employment,<sup>75</sup> the Borrower will provide reasonable working conditions and terms of employment.<sup>76</sup>

**GL27.** Terms of employment can include wages and benefits, wage deductions, hours of work, breaks, rest days, overtime arrangements, and overtime compensation, medical insurance, pension, and leave for illness, care giving, vacation, holiday or parental leave—which refers to leave to provide care to a child living in the worker's household such as maternity, paternity or adoption leave. Where national law does not mandate periods of rest, or annual holidays, illness, care-giving or parental leave for specific types of employment, the Borrower and third-party employers should consider providing such periods of rest and leave, taking into account the type and duration of the employment, and the nature of the project. Where provided, these conditions should be set out in the LMP.

**GL28.** Wages paid to workers should, at a minimum, comply with minimum thresholds under national law and collective agreements. If there is no collective agreement and national law is silent on minimum wages, then the Borrower will consider the prevailing rate offered by equivalent employers in the sector in the relevant region or country. Wages should not undercut established wage levels in the local labor market nor prevailing sector wages and should be adequate to satisfy basic needs for workers and their families. Wages should be paid regularly, on time, in legal tender and without any unlawful deductions. Project workers will be informed of the conditions under which any deductions will be made, and these should be reflected in their contracts. The Borrower or third party will keep adequate and accurate records of working time and payroll and provide workers with written or digital records of payment.

**GL29.** Where required by national law or set out in the LMP, workers will receive written notice of termination of employment in a timely manner along with details of any applicable severance payments. All wages that have been earned, social security benefits, pension contributions, and any other entitlements will be paid on or before termination of the working relationship, either directly to the worker or where appropriate, for the benefit of the worker. Where payments

<sup>75</sup> Working conditions and terms of employment examples are wages and benefits; wage deductions; hours of work; overtime arrangements and overtime compensation; breaks; rest days; and leave for illness, maternity, vacation, or holiday.

<sup>76</sup> Reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; and/or (iii) an arbitration award. Overtime work will be voluntary and will be performed and compensated in accordance with national laws and/or existing collective bargaining agreements.

are made for the benefit of workers, workers will be provided with evidence of such payments. Entitlement to such payments will depend on the nature of the employment relationship, including whether the project workers are employed on a fixed term contract, or are full time, part time, temporary, or seasonal. Where national law mandates the transfer of certain payments to specific third parties for the benefit of the worker, for example a pension fund administration or health funds, the worker is provided with written evidence of such payment.

**GL30.** Where collective bargaining agreements are in place, the Borrower should verify that these meet the requirements of national law and ESPS 2 and provide conditions and terms of employment in line with these agreements. The terms and conditions of employment as well as benefits of direct workers not covered by collective agreement should be substantially equivalent to those of direct workers covered by collective bargaining in similar positions.

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- 12.** The Borrower will identify migrant workers and ensure that they are engaged on substantially equivalent terms and conditions to non-migrant workers carrying out similar work.
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**GL31.** The working conditions and terms of employment of migrant workers (domestic or foreign) should be the same or substantially equivalent to those of non-migrant project workers performing the same work. This applies to migrant project workers employed or engaged directly by the Borrower or through a third party. Migrant workers should also be covered by processes and procedures aimed at protecting the workforce, as set out below. This should be clearly laid out in the LMP.

**GL32.** There are a range of additional potential risks that may arise where there are significant numbers of migrant workers engaged. These include issues such as payment of recruitment fees, racial or ethnic discrimination, language, cultural and other differences between workers, or workers and the communities in which the project is located, different expectations in terms of working practices and communication problems around work and safety practices.

**GL33.** In some cases, migrant workers may take their families or members of their families to the place of employment. The Borrower's due diligence should identify and manage potential risks and impacts associated with such circumstances and include relevant provisions in the LMP or ESMP in addition to requirements associated with ESPS 4 – *Community Health, Safety and Security*. Risks and impacts may include an increased incidence of child labor and sexual exploitation, children exposed to hazardous conditions, SGBV, deterioration of security conditions, poor living conditions or lack of access to services such as healthcare and education.

- 13.** Where accommodation services<sup>77</sup> are provided to workers covered by the scope of this ESPS, the Borrower will put in place and implement policies on the quality and management of the accommodation and provision of basic services.<sup>78</sup> The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Workers' accommodation arrangements should not restrict workers' freedom of movement or of association.

**GL34.** Where a project site is in a remote area making it difficult or not safe for workers to travel to work from their homes or local accommodations on a daily basis, or local accommodations are not affordable or safe, the Borrower or third party may provide accommodations, transportation, and basic services including water, sanitation, and medical care. Accommodations and services may take various forms, ranging from long-established permanent dormitories to temporary camps. Accommodations should meet GIIP standards for human health and safety, including adequate kitchens, toilets, sinks and showers, appropriate cleaning and maintenance, light, electricity and ventilation and other key elements of adequate housing, including those pertaining to privacy and security.

**GL35.** Where the Borrower or a third party provides accommodations and associated services to workers, these should be provided in a non-discriminatory manner and comply with national law and Good International Industry Practice (GIIP) for quality, security and safety. Accommodations and other services should be culturally appropriate and sensitive to gender and privacy requirements. This may include the need to assess whether there is a heightened risk of SGBV or sexually transmitted diseases. These risks can disproportionately impact women and people of diverse sexual orientations and gender identities. As a response the Borrower should provide separate sleeping areas and sanitary and washing facilities according to gender with lockable doors and windows, separate beds for each worker, adequate and well-maintained lighting, and measures to ensure privacy and avoid overcrowding. It is good practice to provide workers safe transportation to and from work, where appropriate. Where possible and appropriate, nursing facilities should be provided and when medical or security staff is assigned to project accommodations, female staff should be assigned to female workers. See also paragraphs 25-32 of ESPS 2.

<sup>77</sup> Those services might be provided either directly by the Borrower or by third parties.

<sup>78</sup> Basic services requirements refer to minimum space, supply of water, adequate sewage and garbage disposal system, appropriate protection against heat, cold, damp, noise, fire, and disease-carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities, and natural and artificial lighting, and in some cases basic medical services.

**GL36.** Project workers should not be forced to use any of these services, unless there are clear and demonstrable safety or security reasons, and if the Borrower or third-party charges for services, prices should be transparent, fair and at market rate or lower. Any charges should be specified in workers' contracts and should still leave workers with sufficient income and never lead to a worker becoming indebted to an employer.

**GL37.** The LMP should include a set of requirements and standards and a plan for the establishment and maintenance of accommodations and services, including an assessment of risks and prevention measures regarding heightened risks for women and people of diverse sexual orientations and gender identities. This should also include an emergency response plan in relation to accommodations, including considerations for epidemics and pandemics. The Borrower or third party will monitor for possible sources and outbreaks of infectious disease in these facilities and implement the necessary prevention, protection, and control measures to avoid infection and transmission among project workers and the community, ensuring these measures are not carried out in a discriminatory way. All requirements and standards should be clearly communicated to all contractors and accommodations providers. Residents should be aware of their rights and obligations within project accommodations, and the consequences for not adhering to them. Conditions with respect to accommodation services should be monitored by the Borrower.

**GL38.** Cases of epidemics or pandemics may demand legal, necessary, temporary, non-discriminatory and proportional restrictions of freedom of movement to prevent the spread of disease and maintain public health. In such cases the Borrower or third party will implement such restrictions in compliance with local and national regulations and guidelines and with the objectives to: (i) guarantee the health and safety of the workforce and community including the free and adequate provision of personal protection equipment (PPE); and (ii) limit any disproportional restrictions of freedoms and rights of workers. Such restrictions should be part of an overall pandemic emergency response and management plan.

**GL39.** Residents in project accommodations should have access to means of communication with project accommodation management and access to a formal process for lodging grievances regarding accommodation services, with special provisions for grievances related to SGBV (see paragraph 22 of ESPS 2).

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## Workers' Organizations

14. In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the Borrower will comply with national law. Where national law substantially restricts workers' organizations, the Borrower will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The Borrower should not seek to influence or control these mechanisms.



**15.** The Borrower will inform workers that they have the right to elect workers' representatives, form or join workers' organizations of their choosing, and engage in collective bargaining, in accordance with national law. In either case described in paragraph 14 above, and where national law is silent, the Borrower will not discourage workers from electing worker representatives, forming or joining workers' organizations of their choosing, or bargaining collectively and will not discriminate or retaliate against workers who participate, or seek to participate, in such organizations and collective bargaining. The Borrower will engage with such workers' representatives and workers' organizations and provide them with information needed for meaningful negotiation in a timely manner. Workers' organizations are expected to fairly represent the workers in the workforce.

**GL40.** One of the key principles of international labor rights and the core labor standards of the ILO is the principle of freedom of association. Workers have the right to form or join unions or other workers' organizations of their own choosing without interference from employers or other parties. National laws often reflect provisions under ILO conventions and other international agreements that recognize and protect these rights.

**GL41.** A workers' organization is any organization of workers for the purpose of furthering and defending their interests, particularly regarding working conditions and terms of employment. Workers' organizations can be called by different terms in different countries, for example, trade unions, labor unions, or workers associations. In order to be considered independent in accordance with ILO principles and standards, they should be formed and organized by workers and should operate without control or interference of employers or governments.

**GL42.** Collective bargaining consists of discussions and negotiations between employers and representatives of workers' organizations for the purpose of determining working conditions and terms of employment by joint agreement, including for example accommodation and transport. It also includes the implementation and administration of any agreements that may result from collective bargaining and the resolution of other issues and grievances that arise in the employment relationship with respect to workers represented by the workers' organization. Collective bargaining can take place in different ways. Many countries have multilevel bargaining systems, which may include company, sectoral, and national levels. The governance of collective bargaining rights and obligations is normally set out in national law.

**GL43.** The Borrower or third-party employer should inform workers that they have the right to elect workers' representatives, form or join workers' organizations of their choosing, and engage in collective bargaining in accordance with national law, at the beginning of the working relationship, as laid out in paragraph 10 of ESPS 2. This includes cases where collective bargaining agreements between employers and unions may contain a provision requiring all employees to either join the union or pay union dues.

**GL44.** The Borrower or third-party employer will not interfere with workers' rights to form or join a workers' organization, for example, by favoring one workers' organization over another or unreasonably or unlawfully restricting access to workers by representatives of such organizations. Workers should be free to meet and to discuss workplace issues on the premises during scheduled breaks, and before and after work. Furthermore, workers should be allowed to choose representatives to speak with management, inspect working conditions in an appropriate manner and in a way that does not disrupt productivity, and carry out other organizing activities. The Borrower or third party should not seek to influence or control nor interfere with the operation of worker organizations or alternative mechanisms within the project. The Borrower or third-party employer should engage with workers' organizations and alternative mechanisms and provide them with any information needed for meaningful negotiations. Information to enable meaningful negotiations might include, among others, information on the economic and financial situation of the enterprise, employment trends, or expected substantial changes in operations, taking into account legitimate requirements of business confidentiality.

**GL45.** The Borrower or third party should not discourage workers from forming or joining a workers' organization or discriminate or retaliate against workers who attempt to form or join workers' organizations or alternative mechanisms. Examples of discrimination or retaliation include an employer's refusal to hire project workers for reasons unrelated to qualifications or job performance and with the intent to prevent freedom of association, including by refusing to hire those that have been members or leaders of workers' organizations at other workplaces, dismissing, demoting, or reassigning such project workers, or outsourcing or modifying the delivery of work, in response to worker organizational activities.

**GL46** In countries where workers' freedom of association and/or collective bargaining is clearly prohibited or restricted under national law, the Borrower or third-party employer should take steps to seek to engage with workers to address issues relating to their working conditions and terms of employment. Alternative mechanisms may include recognizing worker committees, free from the Borrower's or third-party employer's influence or control and allowing workers to choose their own representatives for dialogue and negotiation on terms and conditions of employment in a manner that does not contravene national law. In contexts where workers organization may be inherently discouraged, the Borrower may consider establishing non-interference commitments such as neutrality agreements with labor organizers and train managers in labor engagement strategies and workplace management. Neutrality agreements define a fair and democratic process for workers to decide on forming or joining a workers' organization, establish reasonable access for representatives, establish procedures to resolve interference and retaliation or violation of the agreement, and establish procedures for promptly proceeding to collective bargaining if an organization is formed. Workers should be informed of their right to form and join alternative mechanisms at the beginning of the working relationship, as laid out in paragraph 14 of ESPS 2.

## Non-Discrimination and Equal Opportunity

- 16.** The Borrower will not make employment decisions on the basis of personal characteristics<sup>79</sup> unrelated to inherent job requirements. The Borrower will base the employment relationship on the principle of equal opportunity and fair treatment and will not discriminate 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, and disciplinary practices. The Borrower will take measures to prevent and address violence, harassment, intimidation, and/or exploitation, especially in regard to women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age in accordance with this ESPS), and migrant workers.<sup>80</sup> The principles of non-discrimination apply to migrant workers.
- 17.** In countries where national law provides for non-discrimination in employment, the Borrower will comply with national law. When national laws are silent on non-discrimination in employment, the Borrower will meet this ESPS and ESPS 9. In circumstances where national law is inconsistent with this ESPS and ESPS 9, the Borrower is encouraged to carry out its project consistent with the intent of paragraph 16 above without contravening applicable local and national laws.
- 18.** Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job will not be deemed as discrimination, provided they are consistent with national law.
- 19.** The Borrower will provide special measures<sup>81</sup> of protection and assistance to address the vulnerabilities of project workers, such as women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS), and migrant workers. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability.

<sup>79</sup> Such as gender, sex, race, color, nationality, national extraction, political opinion, affiliation or non-affiliation to a union, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity, or state of health.

<sup>80</sup> ILO Violence and Harassment Convention No. 190 and recommendation No. 206, 2019, provide the international baseline for addressing these practices in the world of work.

<sup>81</sup> They may include adaptation or accommodation measures such as work environment adjustments to provide access to the place of work and flexible schedules to address specific vulnerabilities. Distinction or preferences that may result from the application of special measures of protection and assistance taken to meet the particular requirements of workers in a vulnerable position are not considered discriminatory.

**GL47.** Providing for equal access to opportunities (such as promotion and in recruitment) and equal treatment may also bring benefits to Borrowers and third parties, by allowing for better decision making, more innovation and productivity, and generating opportunities that multiply in the community. The Borrower should assess the extent to which national law supports implementation of the principles of non-discrimination and equal opportunity in the project when developing the project's LMP and seek to identify measures, including clear policies and procedures, that support equal opportunities for disadvantaged or vulnerable individuals or groups. Depending on the project circumstances these may be women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants, among others. The ESPS 2 Guideline should be read in conjunction with the Guidelines for ESPSs 4, 7, 9 and 10.

**GL48.** Discrimination in employment occurs when persons are treated differently, through distinctions, exclusions or preferences, based on characteristics that are not inherently linked to the job requirements, denying or limiting their ability to access equal opportunities or treatment. Discrimination may be based on gender, sex, race, color, nationality, political opinion, engagement in legitimate trade union activities, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity, or state of health. Characteristics inherent to the job requirement are those that genuinely relate to a worker's ability to perform the job. However, an employer cannot preemptively dismiss a category of job applicants based on prejudiced or biased understanding, whether conscious or not, that they will not meet these requirements.

**GL49.** Discrimination may be direct or indirect and can be intentional or not. For example, not hiring or dismissing a worker on the grounds of disability, pregnancy, parental leave, or marital status or paying different wages to workers performing the same or similar work are forms of discrimination. Requiring unnecessary classification such as cultural affiliation, or marital status, be included in worker identification cards may also be an example of discrimination. SGBV, including sexual harassment, is a form of discrimination.

**GL50.** Discrimination may occur throughout the employment relationship and relate to 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, and disciplinary practices. Discrimination can also occur through the provision of services such as accommodations and transport.

**GL51.** All workers should have access to working conditions and terms of employment without discrimination based on personal characteristics (see paragraph 16 in ESPS 1). Pay should not be based on discriminatory criteria and men, women, and people of diverse sexual orientations and gender identities and disadvantaged or vulnerable individuals or groups should receive the same pay for performing the same or similar work.



**GL52.** The Borrower may provide special measures of protection and assistance to address specific vulnerabilities of project workers such as pregnant and nursing individuals, workers with caregiving responsibilities, and persons with disabilities, to allow for access and retention of equal work opportunities. Such measures may be necessary only for specific periods of time, depending on the circumstances of the project worker and the nature of the vulnerability. A common measure is to temporarily reassign a pregnant worker to other functions to avoid exposure to hazards during pregnancy and breastfeeding. Where appropriate, the Borrower should adapt spaces for workers with disabilities to be able to access and egress from the workplace and other services such as accommodation, sanitary and washing facilities, and to access information through appropriate communication channels, such as large print, Braille or digital format. Other measures include providing nursing and childcare facilities at the workplace or offering work flexibility arrangements for all workers with caregiving responsibilities, which may be particularly desired in contexts such as pandemics or epidemics, where domestic, child and elder care-giving responsibilities may be increased. Specific project measures should be included in the LMP where such vulnerabilities exist. These considerations and treatment of workers should not disadvantage them, amount to discrimination nor hinder their professional opportunities.

**GL53.** The Borrower may also implement special measures of protection, assistance or selection to remedy past discrimination of workers from a disadvantaged or underrepresented group in the workforce or in particular occupations, such as women, indigenous people, African descendants, and persons with disabilities. Where allowed by national law, these measures could include training, targeted recruitment, quotas, or financial assistance.

**GL54.** The Borrower or third party should not tolerate violence, harassment, intimidation, and/or exploitation in the project or other services such as project accommodations or transportation and should adopt policies and procedures to identify where and when the project may present heightened risks for violence, harassment, intimidation, and/or exploitation, and measures to remedy and prevent them from occurring. Certain groups such as women, people of diverse sexual orientations and gender identities, persons with disabilities, indigenous peoples, African descendants, children and migrant workers may be more vulnerable to these risks. Where appropriate, the Borrower should seek the input of populations at heightened risk for harassment in the development and implementation of remedial and protective policies and procedures.

**GL55.** SGBV at the workplace is a human rights violation and a form of discrimination, a threat to equal opportunities and a health and safety risk. Violence, harassment, intimidation, and exploitation may be physical, psychological, economic or sexual, and may occur between project workers, between supervisors and workers, in primary suppliers and between workers and the community. The most common forms of SGBV at the workplace are sexual abuse, harassment and exploitation, which disproportionately affects women, young men and people of diverse sexual orientation and gender identities. Children are especially vulnerable to sexual abuse and exploitation. The risk of SGBV may be heightened with an increase in labor influx, when migrant workers bring their families to a project, when accommodations and other services are provided, and in certain work contexts such as night-time or isolated work. Measures to address the risk of SGBV may include mandatory training for all workers, having clear codes of conduct establishing a commitment to zero tolerance of SGBV and defining proportionate disciplinary measures for breach of conduct; communicating them clearly to all workers and explaining the consequences for deviating from the codes including where national law criminalizes certain actions; and awareness raising; continuous monitoring; and providing for appropriate grievance mechanisms (see paragraph 22 of ESPS 2). The Borrower should ensure that third parties have policies and procedures in place to address these risks. For more information see ESPS 9 and its accompanying Guideline as well as GL21 of this Guideline, on direct involvement of vulnerable populations in development of policies and procedures.

**GL56.** Access to grievance mechanisms should also be granted on an equal basis, which may include providing for accessible procedures, considerations on language and methods for initiating and following a complaint. Training may be required for responsible party or personnel implementing the grievance mechanism. Where there are risks of SGBV which might discourage workers coming forward, workforce grievance mechanisms should be reviewed and, if necessary, enhanced to ensure the safety of workers raising complaints related to SGBV. Workers should also be able to bring a complaint free from the risk of retaliation (see paragraph 22 of ESPS 2).



## Retrenchment

- 20.** Prior to implementing any collective dismissals,<sup>82</sup> the Borrower will carry out an analysis of alternatives to retrenchment.<sup>83</sup> If the analysis does not identify viable alternatives to retrenchment, a retrenchment plan will be developed and implemented to reduce the adverse impacts of retrenchment on workers. The retrenchment plan will be based on the principle of non-discrimination and will reflect the Borrower's consultation with workers, their organizations, and, where appropriate, with other government agencies, and will comply with collective bargaining agreements if they exist. The Borrower will comply with all legal and contractual requirements related to notification of public authorities, and provision of information to and consultation with workers and their organizations.
- 21.** The Borrower should ensure that all workers receive notice of dismissal and severance payments mandated by law and collective agreements in a timely manner. All outstanding back pay and social security benefits and pension contributions and benefits will be paid (i) on or before termination of the working relationship to the workers; (ii) where appropriate, for the benefit of the workers; or (iii) payment will be made in accordance with a timeline agreed through a collective agreement. Where payments are made for the benefit of workers, workers will be provided with evidence of such payments.

**GL57.** Retrenchment means the elimination of several work positions or the dismissal or layoff of several workers by an employer, generally a consequence of adverse economic circumstances or as a result of a reorganization or restructuring. Retrenchment does not cover isolated cases of termination of employment for cause or voluntary departure. Demobilization of a project workforce at the end of a planned construction phase or other fixed length project will not normally amount to retrenchment according to ESPS 2, but should nevertheless be planned from the outset, through communication, management of expectations and supporting workers to find alternative employment. Under the terms of ESPS2, the principles only apply to direct workers.

**GL58.** Where there is a potential retrenchment, the Borrower will carry out an analysis looking at alternatives to job loss, setting out the potential number of positions saved due to application of each alternative, and a cost analysis to determine viability of alternatives. Such an analysis will also assess and evaluate impacts and risks to the community. The Borrower should consult workers and their representatives, where present, about the alternatives to dismissal, which may include

<sup>82</sup> Collective dismissals cover all multiple dismissals that are a result of an economic, technical, or organizational reason or other reasons unrelated to performance or other personal reasons.

<sup>83</sup> Examples of alternatives may include negotiated working-time reduction programs, employee capacity building programs, long-term maintenance works during low production periods, etc.

reduction in hours, productivity improvements, temporary layoff, job sharing, and agreed salary reduction in exceptional circumstances. Such measures should be introduced after a period of consultation, and in agreement of the workers affected. The duration of these measures should normally be subject to a clear and agreed time limit.

**GL59.** In many countries, national law requires advance notice to affected workers, their representatives and/or specific public entities of planned collective economic or organizational dismissals, where more than a specified number of employees will be dismissed. National law will often also require the provision of information and consultation with workers and their representatives, including trade unions where present.

**GL60.** National law and collective agreements may also mandate severance payments to affected workers, and additional payments or transfers to social security, pension or health funds. In such cases the Borrower or third party may make these additional payments for the benefit of the worker to the appropriate institution. The Borrower or third party will provide the worker with evidence of such payments.

**GL61.** When significant retrenchment cannot be avoided, a plan should be developed to address the adverse impacts on workers and their community. The plan should address issues such as retrenchment methods and procedures, worker selection criteria, appeals and grievances, calculation of severance payments, assistance in retraining efforts, and job placement, among others.

**GL62.** Selection criteria for those to be dismissed should be objective, fair, transparent and not based on personal characteristics unrelated to inherent job requirements. If a procedure and criteria applied during retrenchment disproportionately impacts one group more than another, its use should be reviewed and reconsidered.

**GL63.** The Borrower will consult with workers and their organizations in developing the retrenchment plan. Consultations are essential for the development of plans that reflect workers' concerns as well as their ideas about ways to avoid or minimize layoffs, criteria for selection and compensation payments. The Borrower will establish a process to deal with claims that workers have been unfairly selected or not received compensation due to them. This process may be part of the workforce grievance mechanism (see paragraph 22 of ESPS 2) or a specific process for the retrenchment exercise.

**GL64.** Because large-scale (and in some instances even small scale) retrenchment can have significant negative impacts on communities, they should be consulted on potential retrenchment plans in accordance with the requirements of ESPS 10. In cases where public assistance may be available to help address impacts on communities, the Borrower should engage with other public entities. Consultation with other public entities may also be required by law.

## Grievance Mechanism

- 22.** The Borrower will provide a grievance mechanism for workers (and their organizations, where they exist) to raise workplace concerns and provisions for special protection for reports of sexual and gender-based violence. The Borrower will inform the workers of the grievance mechanism at the time of recruitment and make it easily accessible to them in a language they understand. The mechanism will involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without retribution. The mechanism will also allow for anonymous or confidential complaints to be raised and addressed. The mechanism will not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

**GL65.** Because workplace concerns are usually different from issues raised by project-affected parties and other stakeholders, they require a separate mechanism or procedure to address them. The nature of workforce grievance mechanisms, and to whom they apply, should be defined in the LMP and include features specifically designed to address workplace concerns. The Borrower is responsible for providing the grievance mechanism to direct workers, while, depending on the project's management structure, the party responsible for the employment of contracted workers may provide the grievance mechanism to those workers. If the contractor or a third party is not able to provide such a mechanism, the Borrower should work with the third party to help it provide the appropriate mechanism and, where feasible and necessary, will extend its grievance mechanism for direct workers to contracted workers.

**GL66.** The grievance mechanism will be proportionate to the nature and scale and the potential risks and impacts of the project. It will be designed to address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, and it should be designed and operated in a format that is culturally appropriate. The complainant may request a meeting to discuss the grievance and has the right to be accompanied by a worker representative, colleague or other trusted person at that meeting if they so choose. Workers should be informed about the progress of any complaint under the grievance mechanism and the steps being taken to address their concerns. The time frames specified to address these concerns should be as expeditious as possible. Workers should be able to raise grievances anonymously and without fear of retribution or any other form of disadvantage stemming from their lodging a grievance. The grievance mechanism does not impede access to or interfere with judicial or administrative remedies that may be available under national law or any other accountability mechanism available to the complainant.

**GL67.** The grievance mechanism must be able to receive, record, investigate, and manage incidents of SGBV. The Borrower or third party should consider whether special procedures or standalone grievance mechanisms should be established to manage these types of complaints. Confidentiality, discretion, non-retribution, timeliness, consistency, capacity to provide a survivor-centered remedy, and access to further or other recourse will also be of particular importance. The Borrower or third party should also provide training for staff and management to raise awareness and on how to address these grievances, and for workers on how to lodge them. For more information see ESPS 9.

**GL68.** The grievance mechanism may utilize or supplement existing grievance mechanisms, such as those provided through a collective bargaining agreement, provided that they are properly designed and implemented, address concerns promptly, and are readily and safely accessible to all direct and contracted workers. Existing grievance mechanisms may be reassessed, improved or supplemented as needed with additional channels for raising grievances in project-specific situations.

**GL69.** The grievance mechanism does not replace the requirements to provide workplace processes to report work situations that a project worker believes are not safe or healthy (see paragraph 28 of ESPS 2). Project workers should be able to raise concerns regarding unsafe or unhealthy working conditions through the grievance mechanism or otherwise.

## Protecting the Work Force

### *Child Labor*

**23.** The Borrower will not employ children below the minimum age of employment or engagement, which will be the age of 15 unless national law specifies a higher age. The labor management procedures will specify this minimum age. Children over the minimum age will not be employed or engaged in any manner that is economically exploitative or likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Children under the age of 18 will not be employed in hazardous work.<sup>84</sup> The Borrower will identify the presence of all people under the age of 18. All work of people under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work. If child labor cases are identified, the Borrower will take appropriate steps to remedy them.

<sup>84</sup> Examples of hazardous activities include work (i) with exposure to physical, psychological, or sexual abuse; (ii) underground, underwater, working at heights, or in confined spaces; (iii) with dangerous machinery, equipment, or tools, or involving handling of heavy loads; (iv) in unhealthy environments exposing the worker to hazardous substances, agents, processes, temperatures, noise, or vibration damaging to health; or (v) under difficult conditions such as long hours, night work, or confinement by the employer.

**GL70.** ESPS 2 requires the Borrower to take proactive and continuous measures to prevent the use of child labor in direct and contracted work on the project and in its primary supply chain.

**GL71.** As part of the project environmental and social assessment process, the Borrower should seek to identify child labor-related risk by considering any inherent risk and prevalence of child labor within the country, region, sector or the industry in which the project is developed. This applies to direct, contracted and primary supplier workers (see also paragraphs 36-38 of ESPS 2).

**GL72.** The LMP should include necessary requirements to address the risk of child labor in the project, specify the minimum age for employment or engagement in the project—which should not be lower than 15 or the age specified in national law, whichever is higher—and should include measures to identify potential child labor and to prevent employing or engaging children under this age, that will be applied, implemented and monitored by the Borrower and third parties. In addition, there are specific risk assessment requirements related to the project's primary supply chain (see paragraphs 36-38 of ESPS 2).

**GL73.** Documentation and verification of age are important steps in preventing employment or engagement of child labor and are usually a mandatory requirement for all workers. The Borrower or third party must keep records of age of workers between the age of 15-18. The record should be obtained prior to employment or engagement of a project worker, maintained and retained, and may include but is not limited to the following: (i) written confirmation from the applicant of their age; (ii) where there is any reasonable doubt as to the age of the applicant, requesting and reviewing available documents to verify age (such as a birth certificate, personal identification card, medical or school record, or other document or community verification demonstrating age); (iii) details on enrolment in school or vocational training programs.

**GL74.** Children over the minimum age and under the age of 18 will not be employed or engaged in connection with the project on hazardous work or activities. Hazardous activities may be defined in national law, but generally include work (i) with exposure to physical, psychological, or sexual abuse; (ii) underground, underwater, working at heights, or in confined spaces; (iii) with dangerous machinery, equipment, or tools, or involving handling of heavy loads; (iv) in unhealthy environments exposing the young person to hazardous substances, agents, processes, temperatures, noise, or vibration damaging to health; or (v) under difficult conditions such as long hours or night work. The reference to the child's health includes considerations of the child's physical and emotional safety.

**GL75.** The Borrower or third party will conduct an appropriate assessment prior to the start of work to ensure that any activities to be conducted by young persons do not fall within the above stated criteria. The LMP will include the requirements for such specific risk assessments. The LMP may also describe specific jobs or tasks that have been characterized as being hazardous, and as such should not be carried out by young people under 18.

**GL76.** If one or more children over the minimum age of employment and under the age of 18 are employed or engaged, the Borrower and third parties should conduct regular monitoring of health, safety and working conditions including risks associated with exposure to machinery, substances and conditions likely to be harmful to them, hours of work and the other requirements under ESPS 2 and all relevant provisions of national law. The LMP should include monitoring and reporting requirements of third parties and primary suppliers.

**GL77.** If a child under the minimum age of employment is discovered working on the project, measures will be taken to terminate the employment or engagement of the child in a responsible manner, considering the best interest of the child. Immediately removing children from their work may aggravate their situation of vulnerability. At a minimum, immediate measures should include removing children from tasks that are dangerous, harmful, or inappropriate given their age and that hinder their education. A child removed from a child labor situation should receive remediation assistance and presented with alternatives to child labor, for example ensuring access to education or vocational training. Any case of child labor should be investigated, and measures taken to terminate employment should be documented and implemented responsibly within a specified timeframe. Third parties will report cases of child labor to the Borrower immediately. Where appropriate and safe for the child, cases should be reported to local authorities. The LMP should include procedures to identify child labor, reporting requirements as well as possible measures to safely address child labor in a timely manner.

**GL78.** If a child between the minimum age of employment and under the age of 18 is discovered to be working on the project in a manner that is deemed economically exploitative, interfering with the child's compulsory education, or harmful to the child's health or physical, mental, spiritual, moral or social development, the same procedures as above apply. The reference to the child's health includes considerations of the child's safety.

**GL79.** If a child between the minimum age of employment and under the age of 18 is discovered to be working on the project in a manner that is likely to be hazardous, the Borrower or third party will immediately consider whether the hazard can be removed. If this is not possible, steps should be taken to remove or transfer the child to an alternative position for which a risk assessment has been undertaken, considering their best interest. Where no such alternatives are possible, the Borrower or third party should no longer employ or engage the child but provide remedy such as reducing economic hardship to them and/or their family. Third parties, including primary suppliers will report such cases of hazardous conditions to the Borrower immediately. The LMP will include these requirements.



## Forced Labor

- 24.** The Borrower will not employ forced labor, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. The Borrower will not employ trafficked persons.<sup>85</sup> If forced labor cases are identified, the Borrower will take appropriate steps to remedy them.

**GL80.** Forced labor consists of any work or service not voluntarily performed that is exacted or coerced from a person under threat of force or penalty. Work is on a voluntary basis when it is done with the free and informed consent of a worker and cannot exist if consent is given under duress, threat, menace or other circumstance of restriction or deceit. Such consent must exist throughout the employment relationship and the worker must have the possibility to revoke consent.

**GL81.** Conditions that may result in forced labor as defined in ESPS 2 are not limited to slavery and slavery-like practices. They include bonded labor (i.e., work in satisfaction of a debt of an amount that would be difficult or impossible to pay off in a reasonable amount of time), excessive limitations on freedom of movement, excessive notice periods, retaining workers' identity card, passport or other government-issued documents, imposition of recruitment or employment fees payable by the worker 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 or threat of use of security or other personnel to force or extract work from project workers, or other restrictions that compel a project worker to work on a non-voluntary basis. Migrant workers who lack legal status in a country are particularly vulnerable to these types of conditions.

**GL82.** There should be no forced labor and human trafficking in relation to any employment on the project. This reflects requirements under international human rights law and requires the Borrower to take proactive and continuous measures to identify and take steps to prevent the use of forced labor in the project, including in relation to the project's primary supply chain.

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<sup>85</sup> Trafficking in persons is defined as the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Women and children are particularly vulnerable to trafficking practices.

**GL83.** As part of the project's environmental and social assessment, the Borrower will identify any risk of forced labor and human trafficking, considering inherent risk within the country, region, sector or the industry related to the project. In addition, there are specific risk assessment requirements related to the project's primary supply chain (see paragraphs 36-38 of ESPS 2).

**GL84.** The LMP should include any specific requirements that have been identified as necessary to address the risk of forced labor and human trafficking in the project, procedures to identify and remedy cases of forced labor and human trafficking as well as monitoring and reporting requirements of the Borrower and third parties.

**GL85.** There are circumstances where prison labor and labor from correctional facilities will be considered forced labor. If prisoners are hired or put at the disposal of the Borrower or any third party, then work will only be acceptable if the prisoners have freely given their consent to work and they enjoy working conditions approximating those prevailing in the labor market, including but not limited to remuneration, hours of work, and rest periods. If prison labor is used in the Borrower's primary supply chain, the Borrower should provide a detailed review demonstrating that the proposed prison labor meets the above requirements (see also 36-38 of ESPS 2).

**GL86.** If incidents of forced labor are discovered in the project workforce, immediate measures will be taken to safely remove the worker from the condition of forced labor, address the specific incident and the practice that led to the worker's situation and any other conditions that present a risk of forced labor. Any case of forced labor discovered in the project's workforce and measures taken to terminate it shall be documented. Such measures may include retroactive pay, remedial compensation, physical and medical treatment as needed, shelter, training and transportation to the workers' preferred destination or home. Third parties, including primary suppliers, will report defined indicators of forced labor to the Borrower immediately. Any cases of forced labor discovered should be referred to relevant government authorities and support services, as appropriate, to be addressed in accordance with national law. The LMP will include respective procedures and possible measures to safely and swiftly address incidents of forced labor.

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## Occupational Health and Safety

- 25.** The Borrower will provide a safe and healthy work environment, taking into account inherent risks related to the project and specific classes of hazards, including physical, chemical, biological, and radiological hazards, and specific threats to women, people of diverse sexual orientations and gender identities, persons with disabilities, children (of working age, in accordance with this ESPS), and migrant workers. The Borrower will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. In the case of pandemics or epidemics, the Borrower must develop and implement occupational health and

safety measures and protocols to protect project workers from the risk of exposure, in accordance with national guidelines and best international practices,<sup>86</sup> such as those recommended by the World Health Organization (WHO). The Borrower must prevent discrimination and exclusion relating to health conditions.

**GL87.** Most countries have laws and regulations covering OHS and workplace conditions and have ratified relevant international agreements on the subject. Measures relating to OHS will be applied to the project in accordance with national law and the requirements set out in ESPS 2. Additional guidance on the management of OHS issues according to Good International Industry Practice may be obtained from the World Bank Group's Environment, Health and Safety Guidelines (EHS Guidelines) and other recognized references and standards, both general and sector specific.

**GL88.** OHS system refers to the range of policies, procedures and actions aimed at protecting workers from injury, illness or impacts of harmful agents associated with exposure to hazards encountered in the workplace and while working or traveling to and from work or task locations. Providing safe and healthy working conditions for all project workers requires identifying potential hazards, assessing the OHS risks inherent in project activities, and establishing measures for their elimination, prevention, protection, and control. It is the Borrower's responsibility to develop, implement and monitor an OHS system and cascade requirements down the contracting chain, including, where appropriate, primary suppliers. The Borrower will determine and provide the necessary resources for the establishment, implementation, maintenance and continuous improvement of the OHS system.

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<sup>86</sup> Such as: (i) ensuring that workers understand which job activities may put them at risk for exposure to sources of infection; (ii) provide options for working remotely, if feasible, or for using flexible leave policy when they are sick; (iii) implementing social distancing strategies; good hygiene and appropriate disinfection procedures; (iv) providing PPE and training workers on how to wear, use, clean, and store it properly; (v) informing of available medical services (e.g., vaccination, medication); and (vi) communicating updated epidemic/pandemic-related information and where to direct their questions.

**GL89.** A deterioration of the health and wellbeing of workers can occur due to exposure to physical, chemical, biological, radiological, hygienic, ergonomic and/or psychosocial hazards. Hazards and risks may arise from a variety of circumstances including but not limited to:

- i. material agents including chemical, physical, radiological, biological agents and substances, flora and fauna, equipment, tools, machinery, facilities, materials, objects, among others;
- ii. environmental or working conditions, such as night work, oxygen-deficient environments, excessive temperatures or noise, inadequate ventilation, excessive or insufficient lighting, presence of toxic gases, faulty electrical systems, confined spaces with inadequate protection method, inadequate protection for working at height and other high-risk work, poor housekeeping, vibrations, factors derived from natural hazards such as floods, winds, among others,
- iii. the processes or the organization of work, such as working hours of excessive duration, load excessive work, lack of training of workers, poor or inadequate communication systems, methods and procedures deficient or inadequate work environments, deficient controls and supervision, especially for high-risk work including the use of tools, machinery and equipment, and
- iv. personal characteristics and workers' skill profile.

**GL90.** Some OHS risks may affect certain groups of workers more than others. This may be partly because different workers tend to be overrepresented in certain types of jobs, but also because of physiological differences, socioeconomic vulnerabilities, and other aspects. For example, pregnant women and their unborn child, may be at higher risk if they come in contact with hazardous materials, or exposed to certain diseases, such as the Zika virus. Local workers may have a higher resilience to high altitude. To address these circumstances, the Borrower or third party should take measures to ensure the health and safety of disadvantaged or vulnerable individuals or groups.

**GL91.** The Borrower should identify, assess, manage and monitor OHS hazards and risks throughout the life of the project. As part of the LMP, the Borrower should develop written OHS measures and procedures that will be communicated to all workers and contractors. These measures and procedures should be incorporated, as appropriate and necessary, in the project design and implementation, and may include but are not limited to:

- Processes and measures for performing hazardous activities;
- identifying occupational hazards, assessing associated risks and implementing preventive and corrective measures for continuous OHS management;
- preparation and response to emergency situations;
- complying with national law and other OHS requirements assumed by the Borrower
- investigating and reporting accidents, incidents, occupational and common diseases related to or caused by the project;

- Reporting of fatal work accidents and work-related diseases to authorities, including labor inspectorates as prescribed by national law;
- monitoring, measuring, analyzing and evaluating the effectiveness of the OHS management system, including assessing performance of contractors;
- managing the procurement and contracting processes of third parties to ensure compliance with the Borrower's OHS system and requirements of ESPS 2;
- engaging in consultation on OHS with workers including their representatives where they exist;
- raising awareness and training on communicating pertinent topics of OHS internally and externally;
- managing documentation and information related to OHS;
- attending to the grievances of workers related to OHS.

**GL92.** OHS procedures should be established with the participation of workers and their representatives where they exist. Workers should have the time, information and resources necessary for their consultation, participation and adequate understanding at no cost to them. OHS committees formed by workers and/or their representatives can facilitate adoption of good OHS practices. The Borrower or third party should consider experience of workers, familiarity with OHS matters as well as representation of disadvantaged or vulnerable individuals or groups, such as women, people of diverse sexual orientations and gender identities, people with disabilities, indigenous peoples or African descendants when establishing OHS committees.

**GL93.** Emergency preparedness and contingency plans are an essential aspect of OHS management. As part of the risk identification and analysis process, the Borrower should assess risks or emergencies or foreseeable high impact events or scenarios, including those related to pandemics and epidemics, and will develop a prevention and response plan in accordance with paragraph 26 of ESPS 2 and ESPS 4. Any measures and procedures should comply with provisions of local and national public health institutions, national regulations and recommendations of relevant international organizations, such as the WHO and ILO. Any restrictions on workers' rights and freedoms must be legal, necessary, temporary, non-discriminatory and proportional.

**26.** In a manner consistent with good international industry practice,<sup>87</sup> as reflected in various internationally recognized sources including the World Bank Group Environmental, Health and Safety Guidelines, the Borrower will address areas that include the (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including

<sup>87</sup> Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally.

elimination, substitution, or modification of hazardous conditions or substances; (iii) training of workers and maintenance of training records; (iv) documentation and reporting of occupational accidents, injuries, diseases, and incidents; (v) emergency prevention, preparedness, and response arrangements;<sup>88</sup> and (vi) remedies for adverse impacts such as occupational injuries, death, disability, and disease. For additional information related to emergency preparedness and response, refer to ESPS 1.

**GL94.** Assessing OHS risks is a continuous process throughout the project cycle. The Borrower and third parties should review and update the potential hazards to workers and measures and, where appropriate, coordinate prevention, protection, and control activities when (i) new products, services, equipment, machinery, substances or chemical preparations are introduced, (ii) project site, work location and their surroundings or working conditions are modified, (iii) operational processes change, (iv) damage to the health and wellbeing of workers occurs, whether due to accidents, occupational diseases or common diseases related to or caused by work, and (v) monitoring of the work process, health outcomes and worker inputs identify previously unanticipated negative health consequences, for example unforeseen mental health impacts.

**GL95.** Potential hazards must be identified considering physical, mental, chemical, biological, radiological, hygienic, ergonomic and psychosocial risks associated with material agents, environmental and work conditions, processes or organization of the work and personal characteristics. The identification, evaluation, prevention, protection and control of hazards and risks with the potential to generate serious or fatal consequences for workers, as well as for visitors and the community will be prioritized.

**GL96.** The Borrower or third party should establish, implement and monitor measures to avoid or eliminate sources of hazards to workers' health and safety. Where it is not feasible to avoid or eliminate the hazard, appropriate protective measures to minimize the hazard should be established. Such measure may consist of: (i) controlling the hazard at its source through the use of protective solutions such as exhaust ventilation systems, insulation, machine guarding, acoustic or thermal insulation, (ii) administrative measures such as avoiding large concentration of workers in areas with hazardous noise levels (iii) hazard labeling in languages understandable to project workers, and (iv) providing suitable PPE and training in its correct use and care at no cost to the project worker. Any measure should be planned, timebound, have clearly assigned responsibility, appropriate human, material and financial resources for its execution, be accompanied by appropriate mechanisms for continuous monitoring and improvement.

<sup>88</sup> These arrangements will be coordinated with the Emergency Preparedness and Response measures established under ESPS 4. Such remedies should consider, as applicable, the wage level and age of the project worker, the degree of adverse impact, and the number and age of dependents concerned.

**GL97.** The Borrower or third party will refrain from using any materials or substances prohibited by national law, international conventions or by lenders to the project, in new construction, including construction for natural disaster relief. When hazardous materials, such as asbestos and asbestos-containing material, are identified in a work environment, whether during renovation work or demolition and removal of infrastructure or any built facility or structure, OHS risks will be assessed and mitigated, including through measures integrated into the OHS procedures that should also specify safe disposal techniques that comply with national law or GIIP. For example, polychlorinated biphenyl compounds (PCB) may be found during the replacement of electrical transformers. Radioactive materials may be present in hospital equipment, loose asbestos fibers or asbestos-containing material may be found in the insulation of old pipes slated for replacement, lead-based paints or coatings may be disturbed and become airborne during the work on existing buildings.

**GL98.** Both direct and contracted workers should receive OHS training that is commensurate with the risks they are exposed to, at the start of their employment or engagement, and thereafter on a periodic basis and when significant changes are made in work processes or tasks. Where project workers carry out potentially hazardous activities, more specific training may be required. Workers should also be briefed on their right to stop work without retaliation in situations of imminent danger (as set out in paragraph 28 of ESPS 2). The Borrower or third party should keep training and individual training records of project workers. OHS briefings should be conducted for all visitors and other third parties accessing the project site.

**GL99.** The Borrower and third party will document and report occupational fatalities, injuries, and illnesses related to or caused by work and should establish, implement and monitor procedures to investigate, manage, document and report OHS accidents, incidents and non-compliances. Incident, accident and health data should be reviewed and used to assess the effectiveness of protective measures in accordance with requirements set out in paragraphs 10-11 of ESPS 2. Serious incidents, including fatalities, should be reported to lenders.

**GL100.** OHS procedures will include emergency preparedness and response plans commensurate to the project hazards and risks, and supported with adequate human, financial, material and equipment resources. The Borrower or third party should have competent OHS personnel with clearly defined roles and knowledge of potential dangers and emergency situations that could arise from project activities. Potential sources of emergencies will be continuously monitored. Emergency equipment and material will be reviewed and tested and drills will be held periodically. Emergency preparedness and response plan must be coordinated with local authorities, including communication and engagement with the community regarding information and training on emergency response.



**GL101.** In the case of impacts on workers' health and well-being, such as injuries, death, disability, and occupational diseases, the Borrower and third party will comply with national regulations for compensation, collaborate in any investigative process and with workers' organizations where present, provide timely and adequate information and undertake appropriate root cause analysis for remedial action such as financial or other support to workers and their families. The LMP should include relevant procedures with reference to national laws and GIIP.

**27.** All parties who employ or engage project workers will develop and implement procedures to establish and maintain a safe working environment, including that workplaces, machinery, equipment, and processes under their control are safe and without risk to health, including by use of appropriate measures relating to chemical, physical, and biological substances and agents. Such parties will actively collaborate and consult with project workers in promoting understanding of, and methods for, the implementation of occupational safety and health requirements, as well as in providing information to project workers. Such parties will also provide training on occupational safety and health and PPE without expense to the project workers.

**GL102.** The Borrower will ensure that a safe and healthy work environment is extended to workers engaged or employed in the project by contractors and other third parties. OHS requirements in accordance with national law and the requirements of ESPS 2 will be included in contracts with contractors and other third parties. The Borrower will monitor contractor performance on the implementation of OHS requirements and require corrective actions as appropriate. The Borrower ensures that all direct and contracted workers have adequate access to first aid and medical care in cases of work-related accidents or injuries. These requirements are extended to the project's primary suppliers.

**GL103.** The Borrower's ESMS should address oversight of OHS requirements for all types of project workers to assess its effectiveness and identify any corrective measures to continuously improve OHS conditions and management. This should include, for example, regular monitoring and review of OHS matters, ambient working environments and other defined OHS indicators, such as work accident rates and incidents of non-compliance with OHS requirements of national law, among others.

**GL104.** Various methods can be used to engage and consult project workers and to promote knowledge and understanding of OHS requirements. These include, for example, engaging with trade unions and designated worker representatives, inviting workers to appoint safety representatives or forming OHS committees to support collaboration in ensuring OHS and effective communication of information.

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

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**GL105.** OHS training should help workers identify work situations where there might be an imminent and serious danger to their life or health. Workers should be instructed that should they face a situation that, in their opinion, represents an imminent danger to their life and health, they should refrain from or depart from the situation, warn affected workers of the danger and ensure that other workers do not put themselves in the same situation, and report the hazard immediately. The same requirements and processes should apply where a worker identifies a situation that represents an imminent danger to the life and health of others.

**GL106.** The information and training on OHS provided to workers under paragraphs 22 and 25-27 of ESPS 2 should include details of the workplace procedures that are available to report hazardous work situations referred to in paragraph 28 of ESPS 2 and should be communicated to all project workers. Where appropriate such processes may be integrated in the workforce grievance redress mechanism, and there must be a reporting structure that allows for immediate response, such as reporting to designated personnel or direct supervisors.

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

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**GL107.** Accommodations provided for project workers should not be situated in proximity to locations used for storing, handling, processing hazardous raw materials or waste or vulnerable to natural disasters and should be subject to the same levels of risk and safety management as the worksite. The accommodations should be managed in accordance with paragraph 13 of ESPS 2.



- 30.** Where more than one party is employing or engaging project workers and they are working together in one location, the parties who employ or engage the workers will collaborate in applying the occupational health and safety requirements, without prejudice to the responsibility of each party for the health and safety of its own workers.

**GL108.** Overall responsibility for the worksite, and the obligation to continuously supervise and coordinate the work being performed, should be clearly assigned to a manager on site. It is important for roles and responsibilities to be clearly understood and communicated to all third parties and their workers, and for procedures to be put in place to facilitate communication between workers, supervisors and management of the Borrower or third party.

**GL109.** Collaboration may be achieved in different ways, with the aim of protecting the health and safety of all workers on site. The Borrower and third parties will establish, implement and maintain procedures that allow coordinating activities, communicating OHS hazards and risks and controlling and mitigating them jointly where feasible. Arrangements aimed at achieving such collaboration should be documented and integrated in the OHS management plans and/or LMP.

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

**GL110.** The OHS System will include procedures to monitor and enforce OHS requirements, standards and GIIP. The Borrower will maintain records of systematic reviews of OHS management and requires all third parties and primary suppliers to maintain them. The Borrower and any third party will report on their assessments, evaluations, results and actions, including preventive and corrective measures, taken as part of their project reporting requirements. Monitoring should include:

- i. identifying unsafe working conditions at the project site,
- ii. Monitoring the OHS training of project workers
- iii. Analyzing documentary records of workforce grievances and engagements with worker organizations regarding OHS
- iv. Analyzing records of investigations of incidents, accidents, occupational illnesses and common illnesses related to or caused by work, including their root-cause,
- v. Reviewing compliance of third parties with legal requirements
- vi. Analyzing trends in OHS indicators and establish the necessary actions to improve them.

**GL111.** In case of fatalities or serious injuries, the Borrower will inform all the relevant parties, including public authorities, in accordance with national requirements as soon as becoming aware of the incident. The Borrower and third parties will include records of other incidents or long-term impacts such as occupational illnesses related to or caused by the project in the reporting requirements laid out in the OHS management plan and/or LMP. These requirements should be extended to the project's primary suppliers.

**GL112.** The Borrower and the third party will investigate incidents, accidents, occupational and common illnesses related to or caused by the project and identify non-conformities with the OHS requirements to determine the root cause of the incident and preventive, remedial, corrective, and control actions to avoid reoccurrence and improve OHS management. Investigations should be carried out with the appropriate participation of workers and their representatives where they exist. The results of the investigations should be communicated to project workers, including any OHS committee, and workers' representatives where they exist. Where appropriate, responsibility to implement the action plans established in response to the findings of investigations will be incorporated into agreements with third parties. The Borrower and third party should report incidents as part of their monitoring requirements as laid out in this ESPS and ESPS 1.

- 32.** Where there are specific risks that could result in adverse effects on the health, safety, and well-being of workers with sensitivities such as age, gender, disability, or short- or long-term health conditions, the Borrower will carry out a more detailed risk assessment and make adjustments to prevent discrimination, injury and ill health.

**GL113.** The risk assessment process will include the identification of the specific hazards and risks that may affect workers in a position of vulnerability and will establish measures to mitigate and monitor differentiated OHS risks and impacts, prevent discrimination, harassment, victimization, intimidation and retaliation. While respecting the right to privacy and confidentiality of medical information, where workers have a known disability or health condition, such as asthma or epilepsy, their work process and exposure to risk should be assessed to determine whether there are specific tasks or exposures that may need to be considered and adjusted to the workplace or work practices.

### Workers Engaged by Third Parties

- 33.** With respect to contracted workers, the Borrower will take reasonable efforts to ascertain that the third parties who engage these workers are reputable and legitimate entities and have an appropriate ESMS that will allow them to operate in a manner consistent with the requirements of this ESPS, except for paragraphs 20-21 and 36-38.

**GL114.** As part of the process of contracting third parties, such as contractors, the Borrower should obtain and assess information regarding the commitment, capacity, and track record of the third party to manage risk and impacts related to labor and working conditions in a manner consistent with ESPS 2. Depending on the nature of the project and its risks and impacts, information provided by the third party or otherwise obtained may include but is not limited to:

- Information in public records, for example, corporate registers and public documents relating to violations of applicable labor laws, including reports from labor inspectorates and other enforcement bodies;
- Business licenses, registrations, permits, and approvals;
- Documents relating to a labor management system and its procedures, such as the identification and management of OHS, child and forced labor risks, workforce grievance redress or engagement with workers' organizations;
- Identification of labor management, safety, and health personnel, their qualifications and certifications;
- Workers certifications/permits/training to perform required work;
- Records of safety and health violations and responses;

- Accident and fatality records and notifications to authorities;
- Records of legally required worker benefits and proof of workers enrollment in the related programs, for example health insurance and pension schedules;
- Worker payroll records, including hours worked and pay received;
- Identification of safety committee members and records of meetings;
- Documentation of initiatives in relation to inclusion and non-discrimination at the workplace
- Policies or codes of conduct regarding SGBV including sexual exploitation and abuse
- Any contracts that have been suspended or terminated on SGBV or OHS reasons in the last five years.
- Documentation of training and information provided for workers
- Copies of previous contracts with contractors and suppliers, showing inclusion of provisions and terms reflecting ESPS 2.

**34.** The Borrower will establish policies and procedures for managing and monitoring the performance of such third-party employers in relation to the requirements of this ESPS. In addition, the Borrower will incorporate these requirements in contractual agreements with such third-party employers, together with appropriate noncompliance remedies. In the case of subcontracting, the Borrower will require such third parties to include equivalent requirements and noncompliance remedies in their contractual agreements with subcontractors.

**GL115.** The LMP should set out the ways in which the Borrower will manage and monitor the performance of third parties in relation to contracted workers, focusing on compliance by third parties with their contractual agreements (obligations, representations, and warranties) and the requirements of national law, including OHS, in relation to the employment of people by those contractors. There should be specific reference to the standards required under ESPS 2 in the relevant contractual provisions between the Borrower and the contractor. When the contractor itself is subcontracting work, it should pass on these requirements to its sub-contractors.

**GL116.** The Borrower's management of contractors and third parties in accordance with ESPS 2 should include monitoring and reporting requirements of the third party hired by the Borrower and representing the Borrower. Measures may include periodic site visits, inspections, audits or spot checks of project locations or worksites by the Borrower or other third parties, and inspection of labor management records and reports, as appropriate. The third party or contractor should produce and retain records and reports which may include, but are not limited to, the information listed in the guidance on paragraph 33 of ESPS 2.

**GL117.** Unpaid labor without an employment relationship increases the risk of labor violations, including forced labor, and should be avoided. In cases where the Borrower benefits from work of volunteers, for example where representatives of indigenous peoples communities lead stakeholder engagement activities or where community members monitor and report



on community health and safety, the Borrower should document the agreement to undertake such activities on a voluntary basis by the community, recording the terms on which such labor will be provided, the way in which such agreement was reached, and how volunteers are represented. While individual agreements with volunteers may not need to be in writing, it is good practice to meet with the community to discuss and agree the terms of their engagement with the project and document and disseminate agreements accordingly.

**GL118.** The Borrower will assess relevant project-related risks and impacts associated with the scope of work of volunteers and develop measures for labor and working conditions that meet the requirements of ESPS 2. These will be documented in the LMP. For example, where community representatives may contribute their labor to conduct regular health monitoring, the Borrower or third party will take reasonable steps to ensure a safe working environment, verify the age of volunteers and the terms on which labor is mobilized.

**35.** The Borrower will ensure that contracted workers, covered in paragraphs 33–34 of this ESPS, have access to a grievance mechanism. In cases where the third party is not able to provide a grievance mechanism, the Borrower will extend its own grievance mechanism to serve workers engaged by the third party.

**GL119.** If the workforce grievance mechanism is provided by a third party, the third party should report regularly to the Borrower or its representative on concerns raised by the contracted workers, and the way in which the grievances were resolved.

**GL120.** If a third party is not able to provide a grievance mechanism in accordance with the requirements of paragraph 22 of ESPS 2, the Borrower's grievance procedures for direct workers, or where appropriate the project's stakeholder grievance mechanism, should be made available to all contracted workers. The Borrower should bring any concerns received through such mechanism to the attention of the third party for resolution.



## Primary Supply Workers

**36.** Where there is a risk of child labor or forced labor<sup>89</sup> related to the primary supply workers, the Borrower will identify those risks consistent with paragraphs 23 and 24 above. If child labor or forced labor cases are identified, the Borrower will take appropriate steps to remedy them. The Borrower will monitor its primary suppliers on an ongoing basis to identify any significant changes. If new risks or incidents of child and/or forced labor are identified, the Borrower will take appropriate steps to remedy them.

**GL121.** As specified in footnote 74 of ESPS 2, Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core functions of the project. The environmental and social assessment process identifies both the core functions and any such goods and materials related to them.

**GL122.** The Borrower should carry out an assessment where potential child labor, forced labor, and serious safety risks are prevalent or known to exist in a specific sector, industry, or region in connection with the supply of such goods and materials. The assessment should:

- Identify, to the extent possible, the types of goods, materials and services to be obtained from primary suppliers, locally, domestically or internationally;
- Assess the risk of child labor, forced labor, human trafficking and serious safety risks, including serious risks of SGBV, prevalent or known to exist in a product, sector, industry, or region in connection with the supply of those specific goods, materials and services;
- Assess the degree to which the identified primary suppliers present risks related to child and forced labor;
- Specify requirements to identify and remedy, monitor and report on child labor, forced labor and serious work safety issues in contracts and purchasing order with primary suppliers.

**GL123.** Where it is not possible to identify specific primary suppliers during project preparation, the assessment should review general industry labor issues and risks relating to the supply of the specific goods, materials and services. The assessment, procedures and measures will be periodically reviewed to ascertain their effectiveness and account for any new risks that may arise in relation to primary suppliers of the project during project implementation.

<sup>89</sup> The potential risk of child labor and forced labor will be determined during the risks and impacts identification process as required in ESPS 1.

**GL124.** Where instances of child or forced labor are identified, the Borrower should work with primary suppliers and relevant agencies to remedy the situation for the individuals concerned. The Borrower should refer to GL 72-81 with respect to child labor and GL82-89 with respect to forced labor. The nature of remedial actions will depend on the nature of the incidents, the Borrower's leverage over the situation and the ability of other parties, including the state, to better provide support and remedy. The Borrower may consider involvement in collaborative activities or support collective solutions to particularly endemic context driven instances of child and forced labor. This may include working with government agencies and other purchasers to identify the root causes of the child or forced labor and provide for careful remediation of the situation, which can include schooling for children or removing and protecting those who are in conditions of forced labor.

**37.** Additionally, where there is a high risk of significant health and safety issues related to primary supply workers, the Borrower will introduce procedures and mitigation measures to ensure that primary suppliers are taking steps to prevent or to correct life-threatening situations.

**GL125.** Significant health and safety risks may include but are not limited to fall and crushing hazards, exposure to hazardous substances or electrical hazards, risk of SGBV or threats to life and safety by third parties. Where significant health and safety issues are identified, the Borrower should work with suppliers and other appropriate agencies to define corrective actions to remedy the situation. The nature of the actions to remedy identified situations will depend on the nature of the incidents, the control and influence of the Borrower over the situation.

**38.** The ability of the Borrower to fully address these risks will depend upon the Borrower's level of management control or influence over the project's primary suppliers. Where remedy is not possible, the Borrower will shift the project's primary suppliers over time to suppliers that can demonstrate that they are complying with this ESPS.

**GL126.** The Borrower's ability to influence its primary suppliers depends on the terms and conditions of contracts with the primary supplier. The Borrower should therefore review all contracts and include clauses which allow for it to request risk assessments and corrective actions in line with the requirements of this standard on primary suppliers and forced and child labor and life-threatening safety issues. Where corrective actions are not feasible or effective, the Borrower or third party should shift the project's primary suppliers, within a reasonable time frame, to suppliers that can meet the requirements of ESPS 2.



