

TUSRAP: LABOUR MANAGEMENT PROCEDURES (LMP)

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VERSION 2, OCTOBER 2023

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Glossary and Abbreviations

ADB	Asian Development Bank
COVID-19	Coronavirus disease 2019
CPMO	Central Project Management Office
C-ESMP	Contractor’s ESMP
EHS	Environmental, Health and Safety
EHSG	Environmental and Health Safety Guidelines (World Bank)
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards (World Bank)
GIIP	Good International and Industry Practices
GRM	Grievance Redress Mechanism
HIV/ AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
IDA	International Development Association
LERA	Labour and Employment Relations Act 2017
LMP	Labour Management Procedures
MPWIELMD	Ministry of Public Works, Infrastructure, Environment, Labour, Meteorology and Disaster
MTET	Ministry of Transport, Energy and Trade
OHS	Occupational Health and Safety
OIMIP	Outer Island Maritime Investment Project
PMU	Project Management Unit
PPE	Personal Protection Equipment
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
TuSRAP	Tuvalu Safe and Resilient Aviation Project
WB	World Bank
WGRM	Workers Grievance Redress Mechanism
WHO	World Health Organization

1 Introduction

The Tuvalu Safe and Resilient Aviation Project (TuSRAP) hereafter referred to as "the Project" and is funded through the International Development Association (IDA) fund.

The Ministry of Transport, Energy and Trade (MTET), Project Management Unit (PMU) with the assistance of the Central Project Management Office (CPMO), has prepared this Project Labour Management Procedures (LMP) to meet the World Bank's Environmental and Social Standards 2 (ESS2) requirements, Labour and Working Conditions. The objectives of the LMP are to:

- Promote safety and health at work, and the fair treatment, nondiscrimination, and equal opportunity of project workers;
- Protect project workers, with particular emphasis on vulnerable workers -- prevent the use of all forms of forced labor and child labor;
- Support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law; and
- Provide project workers with accessible means to raise workplace concerns (without fear or retribution), i.e., through a workforce Grievance Redress Mechanism (GRM).

The LMP is applicable to individual consultants and firms (national and international), where individual consultants are considered as "direct workers" as per ESS2, while engaged firms are considered "contracted workers".

The LMP aligns with and reflects relevant national laws, regulations and standards for labour and working conditions and the World Bank's ESS2, and where there are differences the more stringent provisions will be applied. The LMP is a living document initiated early in the project preparation and is reviewed and updated throughout the development and implementation of the project.

MTET PMU is responsible for the day-to-day management and supervision of LMP and the overall project implementation. The following sections provide a detailed description of the type and number of workers to be engaged throughout the project life.

2 OVERVIEW OF LABOR USE ON THE PROJECT

2.1 Types of Workers

ESS2 categorizes the workers into direct workers, contracted workers, community workers and primary supply workers. The project's workforce will include direct workers (directly employed by PMU under the guidance of MTET, and contracted workers (recruited by third parties such as contractors or as consultants). Workers can be International or local workers under this LMP.

MTET/PMU will be staffed and equipped to enable it to carry out the project activities effectively. Component 3 of the Project provides project implementation support that includes the provision of technical, advisory and administrative support to the MTET.

2.2 Direct Workers

Direct workers refer to staff assigned by MTET and Consultant service providers, including the E&S consultants working for the TuSRAP. Some MTET staff will also be involved in the project activities as required. Direct workers include professional and semi-professional staff assigned to the MTET/PMU and workers who are directly employed by the MTET/PMU as described below:

- Project Manager;
- Financial Officer;
- Environmental and Social Safeguard Officer; and
- Project Administrator.

The Consultant service providers are those who will provide implementation support services to the PMU. Consultant service providers can include:

- Environmental and Social Advisors;
- Procurement Officer; and
- Maritime Engineer Advisor

Direct workers are expected to be involved from the project preparation to project completion. The number of Project workers are estimated in section 2.5.

2.3 Contracted Workers

The contracted workers on the project are those engaged through consulting firms or construction contractors, workers (International/national) hired by contractors or engineers under the project implementation. The final detailed labour requirements for the civil works are not yet known but are estimated in Section 2.5. Should there be major deviations from this, the LMP will be updated once those requirements are confirmed. The update will be prepared during project implementation.

2.4 Number of Workers

The estimated number of workers for the TuSRAP works is estimated below in Table 1. In project preparation, these estimates are based on the current known direct workforce on the PMU and on the

number of construction workers used on the Asian Development Bank (ADB) Outer Island Maritime Investment Project (OIMIP) works for Nukulaelae. The LMP will be updated before the release of the bid documents once more information on the labour planning is known.

Table 1: Indicative Estimates of Required Workforce

Type of project workers	Characteristics of project workers	Timing of labour requirements	Estimated number of workers
Direct workers: MTET/PMU	National maritime workers (1) Full time project management unit staff (3/4) International technical consultants (3/4)	From project preparation to project completion	7/9
Contracted Workers	Workers of civil contractor (45) Workers of engineering firms (10)	From early stage of project implementation (civil contractor) and preparation (engineers) to project completion.	55

2.5 Timing of Labour Requirements

Direct workers will be required full time and for the project duration. Consultant services workers will be required full time or on an intermittent basis for the project duration. It will be up to the contractors to mobilize the labour force to coincide with the requisite stage of project implementation and the type of works.

3 ASSESSMENT OF KEY POTENTIAL LABOUR RISKS

This section describes the following potential labour risks based on the current available information:

Key Risks: the following are the key labour risks to project workers that have been identified by the environmental and social assessments, and evaluation of the types of works planned

Construction related occupational health and safety (OHS) risks: for TuSRAP these risks are specifically identified as safety risks from operating heavy machinery, construction, transport to and from project sites, handling hazardous materials and accidents or emergencies in isolated project sites. OHS measures will apply to all project workers. Specific attention will be given to the sensitization and training of all construction workers on OHS risks, and the technical knowledge and behavioural awareness to minimize these risks before start the civil works. The Contractor will provide all necessary safety equipment, PPE and safe vessels for travel to and work on the project site.

Lack of awareness on OHS requirements: there is often a lack of use of PPE and safety work practices at worksites in remote island settings. Awareness-raising will be continuous throughout project implementation.

Influx of international workers to small island communities: increased risks of Sexual Exploitation and Abuse (SEA) /Sexual Harassment (SH), changes of power dynamics within households of contracted local workers with increased cash flow, and the increased risks of communicable diseases.

The labour risks are assessed to be moderate as the project will follow the Good International and Industry Practices (GIIP), as reflected in various internationally recognized sources, including the World Bank Group Environmental, Health and Safety Guidelines. The project 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 modification, substitution, or elimination of hazardous conditions or substances; (iii) workers and contractors will be trained on labour safety, traffic safety, and sanitation before starting any civil works; (iv) documentation and reporting of occupational accidents, diseases, and incidents; (v) emergency prevention, preparedness, and response arrangements; and (vi) the workers will be required to undergo training in the prevention of SEA/SH and sign an associated Code of Conduct.

4 BRIEF OVERVIEW OF LABOR LEGISLATION

4.1 National Labour Legislation

4.1.1 Constitution of Tuvalu

The Constitution of Tuvalu was adopted in 2008 and contains several relevant articles related to labour. It includes a Bill of Rights which, among other things, guarantees protection from slavery and forced labour, protection of freedom of assembly and association, and freedom from discrimination on the

grounds of race, place of origin, political opinion, colour, religious beliefs or lack of religious beliefs, (without reference to gender, sexual orientation, disability or age).

4.1.2 Employment Act 2008

This Act is Tuvalu's main piece of labour legislation. Consistent with ESS2, it sets out various minimum terms and conditions of employment under Tuvaluan law, including days and hours of work, rest periods, overtime and termination. The Employment Act also prohibits forced labour and the employment of children under the age of 15 years of age for light duties or 18 years of age for hazardous work.

4.1.3 Labour and Employment Relations Act 2017

This Act is made up 13 Parts, of which 6 concern the TuSRAP PMU and the CPMO as related to all employers and employees in all workplaces in Tuvalu, Section 4 (1). Relevant to this project are: (i) employment relationship including detailed terms and conditions of employment for the worker (Part 2), (ii) employment of young persons including minimum ages (Part 3), (iii) prohibition of the worst forms of child labour and forced labour (Part 4), (iv) equal employment opportunities and non-discrimination (Part 5), (v) occupational safety and health (Part 6) including employer and employee responsibilities, and (vi) settlement of disputes (Part 9).

4.1.4 Trade Unions Act 1946

This Act allows for the formation of registered Trade Unions with 7 or more members. It also sets the financial accounting requirements of Trade Unions so that accounts may be audited. The Act provides for workers being able to unionize without hindrance, subject to the union being registered and compliant with the articles of the Act. The Act also provides for workers to participate in peaceful demonstration.

4.2 Tuvalu OHS Requirements

4.2.1 Labour and Employment Relations Act 2017

This Act is applicable to all employers and employees in any work places in Tuvalu. As such, the provisions under Part 6 of the Act relating to OHS are meant for all employers and employees in the country.

Employers are required under Section 55 (1) of the Act to provide and maintain a work environment that is safe and without risks to health. Therefore, it is the responsibility of the Contractor and Ministry of Public Works, Infrastructure, Environment, Labour, Meteorology and Disaster (MPWIELMD) to ensure that the project work environment is safe and risk free at all times. Further required duties of the main employers for TuSRAP workers are clearly laid out under Section 55 of the Act.

The duties of the employees are articulated under Section 56 of the Act for her/his personal protection and not to affect others in the work environment in terms of OHS. Therefore, TuSRAP workers are expected to comply with all the applicable provisions under this particular section of the Act.

4.3 Requirements of ESS 2

The requirements of ESS2 cover the following areas: (a) working conditions and management of worker relationships; (b) protecting the workforce; (c) workers' access to a grievance redress mechanism; and (d) OHS measures.

Working conditions and management of worker relationships include requirements that:

- Project workers are provided with clear terms and conditions of employment, consistent with national legal requirements;
- The principles of non-discrimination and equal opportunity are applied to project workers, and vulnerable project workers are protected; and
- The rights of workers to form workers organizations, consistent with national law, are respected.

Workforce protection requirements include:

- Provisions to prevent the employment of children below the age of 14 or the national legal minimum, whichever is higher, and restrictions on the employment of children under 18;
- Prevention of forced labour; and
- Direct and contracted workers must have access to a grievance mechanism. The grievance mechanism for contracted workers must be provided by the direct employer and is separate from the project grievance mechanism.

OHS requirements must address:

- Identification of potential hazards to project workers, particularly those that may be life threatening;
- Provision of preventative and protective measures, including modification, substitution or elimination of hazardous conditions or substances;
- Training of project workers and maintenance of training records;
- Documentation and reporting of occupational accidents, diseases and incidents;
- Emergency prevention preparedness and response arrangements to emergencies; and
- Remedies for adverse impacts, including occupational injuries, deaths, disabilities and disease.

4.4 Gap Analysis and Measures

It should be noted that, as with many small island developing states, common employment practices in the country frequently vary from the provisions of the legislation, which are not widely known or understood outside certain sectors. For TuSRAP, the gaps include:

- No substantive provision on equal opportunities for women, with restrictions being put on the types of employment women can do;
- No proactive enforcement of safety standards; and
- No provision for a workplace grievance management process

The Project measures will need to address the gaps between employment legislation and ESS2, but also include measures to enforce compliance with the legal requirements where these are consistent with ESS2. Furthermore, when there are differences between the national legislation and ESS2, the more stringent provisions will be applied. Table 1 provides more information about gaps between common practice and ESS2 requirements, including terms and conditions of employment.

Table 2: Gap Analysis of Tuvalu labour laws against ESS 2 requirements

ESS 2 Requirement	National Legislation	Comment on Gap	Required Measures
Terms and Conditions of Employment	Required by law and provided for in detail in Labour and Employment Relations Act 2017	No notable gap	Use Tuvalu legislation
Non-Discrimination and Equal Opportunity	Provided for in detail in Labour and Employment Relations Act 2017	No notable gap	Use Tuvalu legislation
Rights to Organize	Provided for in detail in Labour and Employment Relations Act 2017 and Trade Union Act 1946	No notable gap	Use Tuvalu legislation
Prevention/restriction of child labour	Defined in Labour and Employment Relations Act 2017 setting minimum age at: 15 for light work (defined in Act) 18 for hazardous work (defined in Act)	ESS2 doesn't provide for employment of children younger than 18	Only people aged 18 or above can be employed as workers on the project.
Prevention of forced labour	Forced labour has a wide definition and is prohibited under the Constitution of Tuvalu and the Labour and	No notable gap	Use Tuvalu legislation

	Employment Relations Act		
Worker grievance mechanism	Labour and Employment Relations Act provides a detailed process for escalated disputes	No specific mention of workplace grievance management	Worker GRM in this LMP will be used for workplace grievance management, legislated process will be used for the escalation of grievances that are not resolved by the GRM
Identification of potential hazards	Provided for in Part 6 of the Labour and Employment Relations Act	No notable gap	Use Tuvalu legislation
Training of Workers and maintenance of training records	Provided for in Part 6 of the Labour and Employment Relations Act	No notable gap	Use Tuvalu legislation
Documentation and reporting of occupational disease and incidents	Not specifically provided for	ESS 2 requires reporting procedures	All workplace H&S incidents to be recorded in a register and reporting to PMU in contractor's periodical reports
Emergency preparedness	Not specifically mentioned	ESS 2 requires emergency preparedness planning	All worksites to have OHS plan including emergency plans
Remedies for adverse impacts	Not in legislation	No information available on workers' insurance	All workers to be insured for OHS.

5 RESPONSIBLE STAFF

Various aspects of the responsibility with respect to worker management are described below:

The **PMU** will be responsible for overall project management and coordination, including compliance with labour and working conditions in the LMP. The PMU will be responsible for the following tasks relevant to labour and working conditions:

- Undertake the overall implementation of this LMP;

- Engage and manage contractors and consultants in accordance with these LMP and the applicable Procurement Documents;
- Ensure that contractors prepare their labour management plan (Contractor's LMP) that complies with this LMP for approval before the contractor is allowed to mobilize to the field;
- Monitor that the contractor is meeting obligations towards contracted workers as included in the General Conditions of Contract in the World Bank Standard Bidding Documents, and align with ESS2 and national labour code;
- Monitor that contractors are meeting obligations towards contracted workers as included in the Contractor's LMP and the applicable Procurement Documents;
- Monitor the training of relevant project workers;
- Ensure that the grievance mechanism for project workers is established and implemented and that workers are informed of it;
- Ensure all Contractor requirements of the SEA/SH Action Plan and Codes of Conduct of the PESMP are integrated into the C-ESMP and are adhered to. Monitor the implementation of the Worker Code of Conduct and any other measures to address risks of SEA/SH; and
- Report to the World Bank on labour and occupational health and safety performance.

The PMU will monitor implementation of the LMP and systematically report on activities and outcomes in a dedicated section of the quarterly and annual project reports.

Reporting will include:

- Awareness-raising materials produced and the training undertaken;
- Outcomes of the recruitment of direct project workers by age group, gender and ethnicity;
- Records of the project direct worker grievance mechanism; and
- Records of occupational health and safety incidents. These are to be systematically recorded in a standard format including (1) type of incident; (2) severity class of incident (major, moderate, minor); incident classification (e.g., fatality, illness, medical treatment, and other information as relevant), and notification timeframe (e.g., immediately, within 24 hours, or as stipulated in the incident reporting procedures).

The **contractor** will be responsible for the following:

- Employ or appoint qualified environmental, social, occupational health and safety expert(s) to manage OHS issues for each project site;
- Prepare and implement Contractors Environmental and Social Management Plan (C-ESMP) and a Contractors Labour Management Plan (Contractor's LMP). These plans will be submitted to the PMU for review and approval before the contractor is allowed to mobilize to the field;

- Prepare required OHS and risk assessments and management plans and procedures in accordance with the OHS Implementation Plan Guideline in the PESMP.
- Supervise their workers adherence to the C-ESMP and LMP;
- Maintain records of recruitment and employment of contracted workers with age verification to avoid child labour;
- Provide induction and regular training to contracted workers on environmental, social and occupational health and safety issues and redress measures;
- Develop and implement the grievance mechanism for contracted workers, including ensuring that the grievances or feedback received from their contracted workers are resolved or addressed promptly, and reporting the status of grievances and resolutions;
- Ensure all Contractor requirements of the SEA/SH Action Plan and Codes of Conduct of the PESMP are integrated into the C-ESMP and are adhered to.
- Ensure that all contractor, subcontractor and community workers understand and sign the Worker Code of Conduct, which will provide for the prevention of SEA/SH before the commencement of works, address all measures related to the risks of SEA/SH as specified in the Project Environmental and Social Management Plan (PESMP), and supervise compliance with such measures. An example of the required content of a Workers Code of Conduct is provided in Appendix A; and
- Report to MTET PMU on the labour and occupational health and safety performance.

6 POLICIES AND PROCEDURES

The Project will ensure that all tender documents for infrastructure development include budget provisions for all OHS provisions as well as other costs associated with labour management (e.g., the operation of a grievance redress mechanism). The project will regularly monitor the contractor's performance in implementing OHS measures. The Project's regular reporting system should include the project's performance on the OHS implementation.

Following ESS2 and national law, children under the age of 18 will not be allowed to work on the project, due to the hazardous work situation (working with heavy machinery, transport to and from project sites, working with hazardous materials). The use of forced labour or conscripted labour on the project is also prohibited. The LMP includes a GRM in Section 8, which will be provided to all workers and measures will be in place for all workers (including contractors) to access the GRM to raise any concerns or feedback related to the project.

The Project will apply the following policies and procedures to address the key labour risks identified under Chapter 3.

6.1 Occupational Health and Safety

The health and safety procedure illustrated in the Labor and Employment Relations Act, WB Environmental and Health Safety Guidelines (EHSG) (General and Infrastructure) and ESS 2 will be referenced in all activities under the TuSRAP infrastructure works implementation. Specifically, all requirements of the OHS Implementation Plan Guideline in the PESMP will be met by the Contractor.

The PMU will include in the bidding documents specific OHS standard requirements that all contractors will meet under this project. The standards will be consistent with local regulations, ESS2, WB EHSG, and GIIP.

The Contractors' OHS Plan measures will be designed and implemented to address: (a) identification of potential hazards to project workers; (b) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (c) training of project workers and maintenance of training records; (d) documentation and reporting of occupational accidents, diseases and incidents; (e) emergency prevention and preparedness and response arrangements.

In addition, the OHS Plan will also require the Contractor to:

- Provide fully stocked first aid stations at each construction site with workers trained in emergency First Aid.
- Provide appropriate Personal Protection Equipment (PPE) for all construction workers and ensure they are used and replaced if necessary
- Maintain daily contractor's diary and record any OHS accidents or incidents.
- Include any OHS accidents or incidents in the monthly report.
- Report any serious accident or incident to the Supervision Engineer.
- Prohibit usage of drugs and alcohol on construction sites and undertake regular alcohol testing.
- Install lights and cautionary signs in hazardous areas.

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

All Project workers will also receive training on COVID-19 prevention, social distancing measures, hand hygiene, cough etiquette, and relations with the local community. Training programs will focus, as needed, , on compliance monitoring and reporting requirements, including waste management, the Project's labour-management procedures, stakeholder engagement, and grievance mechanism.

Workplace processes will be put in place for Project workers to report work situations that they believe are not safe or healthy. Project workers can remove themselves from a work situation that they have reasonable justification to believe presents an imminent and serious danger to their life or health.

Project workers who remove themselves from such situations will not be required to return to work until an investigation has been conducted and necessary remedial action to correct the situation has been taken. Project workers will not suffer retaliation or otherwise be subject to reprisal or negative action for such reporting or removal.

6.1.1 COVID-19 Considerations

The presence of migrant brings potential transmission risks for COVID-19 both within the worksite and for nearby communities. These risks are not only from workers who are mobilized from abroad or returning from abroad but also from workers moving from other regions.

In light of the COVID-19 world pandemic, the Project will ensure protection its workers, and to comply with those regulations of the national government requirements for COVID-19 protection measures and with the WB Interim Note on COVID-19 Considerations in Construction/Civil Works Projects. The Project should prioritize and look after the well-being of the workers, and monitor and follow the local and national health authority guidance on COVID-19.

All migrant workers will be required to be fully vaccinated with a WHO-approved vaccine.

All workers are required to undergo the COVID-19 testing, if a worker has been tested positive or has been in contact with a positive COVID-19 case; and if necessary, the worker will be required to undergo the nationally mandated days of quarantine.

The contractor will assess their workforce and identify appropriate mitigation measures through:

- Preparing a detailed profile of the project workforce, key work activities, schedule for carrying out which activities, different durations of contract and rotations. This should include a breakdown of workers who reside at homes, workers who lodge within the community and workers in on-site accommodation. It should also identify the workers' vaccination status and, where possible it should also identify workers who may be at more risk from COVID-19, those with underlying health issues, or who may otherwise be at risk.
- Consideration should be given to ways in which to minimize movement across the international border.
- Consideration should be given to moving workers accommodated within the community into accommodations on site.
- Workers from local communities who do not reside on site should be subject to health checks at the site entrances.

6.2 Labour Influx

To minimize the impact of labour influx, the Project will contractually require the contractor to preferentially recruit unskilled and semi-skilled (where available) labour from the local communities. This will be achieved through developing a local employment and skills development plan that may include:

- Preparing a local labour and skills registry for the islands (including their Funafuti-based community members);
- Perform a work package analysis and breakdown to maximize the use of local labour;
- Provide comparison of skills and labour requirements from local and import labour;
- Provide upfront OHS training for all eligible community members to ensure all are equally prepared to commence working; and
- Develop practical implementation measures and undertake monitoring.

All contracted workers will be required to sign the Code of Conduct (to be included in updated LMP prior to release of bid documents) before the commencement of work, which includes a provision to require the worker and contractor to prevent instances of SEA/SH. The Code of Conduct governs both on-site behaviour (with colleagues) and conduct in the community. Relevant training will be provided to workers, such as induction and daily toolbox talks outlining expected conduct and local community values.

6.3 Prevention of Discrimination

The employment of project workers under the Project will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination concerning any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. To address the risk of exclusion of vulnerable groups such as women and persons with disabilities from employment opportunities, the Project will require the contractor to employ such groups as part of their unskilled workforce. The contractor will also be required to comply with the provision of maternity leave, and sufficient and suitable toilet and washing facilities separate for male and female workers as practicable. The contractor will also be required to enable a safe work environment, free of sexual exploitation or harassment in the recruitment or retention of skilled or unskilled female workers.

6.4 Age of Employment

The Project will only employ those who are age 18 and over. There will be no opportunity to employ any Tuvaluan or someone from outside of Tuvalu who has not reached the age of 18.

All workers for the project will be required to provide official documentation, which includes a birth certificate, a passport, or a national identification card, along with their educational and medical records. If a child is discovered to have applied or employed but has not attained the age of 18, their application

will automatically be disqualified or employment terminated in a manner that takes into account the best interest of the child.

6.5 Fair Wages and Working Conditions

To avoid labour disputes, fair terms and conditions will be applied for the Project workers (more details are provided in Section 7). The Project will also have a grievance mechanism for the Project workers (direct workers and contracted workers) in place to promptly address their workplace feedback and grievances (more details are provided in Section 7). Further, the project will respect the workers' right for labour unions and freedom of association, as set out in the national Trade Union Act.

6.6 Monitoring and Reporting

The contractor shall report to the PMU and the construction and supervision consultants on the implementation status of the above policies and procedures on a monthly or quarterly basis. The PMU and the construction and supervision consultants will closely monitor the contractor/subcontractor on labour and occupational health and safety performance and report to the World Bank quarterly.

6.7 Fatality and Serious Incidents

In the event of an occupational fatality or severe injury, the PMU shall report to the WB as soon as becoming aware of such incidents and inform the relevant government authorities (where available) in accordance with national reporting requirements. Corrective actions shall be implemented in response to project-related incidents or accidents. The PMU or, where relevant the contractor, will be required to conduct a root cause analysis for designing and implementing further corrective actions.

6.8 Prioritizing Local Workers

The Contractor should attempt to prioritize recruiting workers from the locally available workforce in Funafuti. Contractors are required to prepare, submit to the PMU, and publicise through appropriate channels with the advice of the PMU the following

- Labour resourcing forecast;
- Local labour-force and industry engagement and the set-up of a labour and supplier registry;
- Scoping and comparison of local supply and employment options; and
- Definition of targets for a) local employment, b) training, c) and monitoring and compliance methods for local recruitment.

7 TERMS AND CONDITIONS

Applicable terms and conditions as per Tuvalu Employment Act applies, and the relevant stipulations in the PESMP, including written service contract detailing the worker's salary, working hours & leave, rights and allowance, Code of Conduct, duration of contract, and terms and conditions for termination of contract by employer and worker alike. The contract should be signed by the parties involved, and each will keep a copy.

7.1 Direct Workers

Direct workers' contracts are determined by the Employment Act, as they are directly employed by the relevant government agencies. Consultant service providers or construction and supervision consultants will be governed by the Standard WB Consultancy agreements, which set higher standards than the national legislation.

7.2 Contracted Workers

The following terms and condition guidance is taken from the national legislation and have been strengthened by ESS2 requirements where necessary.

Minimum Wages: While the mechanism to set the official minimum wage as prescribed by the Employment Act, it is not currently functioning. The fair market rate will be identified and applied for the Project workers.

Hours of Work: The regular hours of work of a project worker shall not exceed 8 hours a day or 48 hours a week (Employment Act). Hours worked more than the regular hours of work shall not exceed 12 hours a week and shall entitle a worker to a proportionate increase in remuneration/overtime allowances.

Meal and tea breaks: Every worker who works more than 6 consecutive hours in 1 day is entitled to an unpaid break of one hour for a meal and to paid tea breaks during the day totaling 20 minutes (Labour and Employment Relations Act (LERA))

Rest per week: Every worker shall be entitled to one day's rest each week, which will fall on Sunday (Tuvalu Constitution). It shall consist of at least 24 consecutive hours each week. Workers shall also be entitled to a rest day on public holidays recognized as such by the State.

Annual leave: Workers shall be entitled to 12 days leave with pay for every year of continuous service (Art. 111). An entitlement to leave with pay shall usually be acquired after a full year of continuous service. A worker is entitled to take annual leave on a pro rata basis on the completion of 6 months service with an employer. (LERA)

Maternity leave: A female worker shall be entitled, on presentation of a medical certificate indicating the expected date of her delivery, to 12 weeks of maternity leave (LERA). During maternity leave, the female employee is entitled to 100% of her wages payable by the employer.

Paternity Leave: A worker, who is the spouse or partner of a woman who gives birth or who adopts a child shall be entitled to 10 days paid paternity leave at 100% of their wage. Paternity leave will be taken within 4 months of the birth or adoption of the child. (LERA)

Sick Leave: A worker is entitled to 5 days paid sick leave for each continuous 12 months of service.

Deductions from remuneration. No deductions other than those prescribed by the Employment Act or regulations made thereunder, or any other law or collective labour agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The contractor shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.

Medical treatment of injured and sick workers: the cost of maintenance and treatment of a worker and his dependents residing in a place of employment shall be paid for by the employer as long as the worker remains in their employment. It shall be the duty of the employer to arrange and bear the cost for the conveyance of any injured or sick worker to the nearest hospital if the worker can be so conveyed and cannot be treated on the spot with the means available (Employment Act).

Collective Bargaining: It is the right of workers to participate in collective bargaining under the provisions of Part 8 in the LERA.

8 WORKER GRIEVANCE MECHANISM

The PMU will require the Contractor to develop and implement a Workers Grievance Redress Mechanism (WGRM) for their own workforce prior to the start of design stage. The Contractor will prepare their Contractor's ESMP (C-ESMP) before the start of civil works, which will also include detailed description of the workers WGRM. The WGRM must be well circulated and written in a language understood by all. The WGRM is separate to the Project GRM, which manages feedback and grievances from the communities, groups and/or individuals affected by the project works.

8.1 WGRM Principles

The mechanism will be based on the following principles:

- 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, without any retribution, and will operate in an independent and objective manner.
- The process will be transparent and allow workers to express their concerns and file grievances.
- There will be no discrimination against those who express grievances and any grievances will be treated confidentially.
- Anonymous grievances will be treated equally as other grievances, whose origin is known.
- Management will treat grievances seriously and take timely and appropriate action in response. Information about the existence of the grievance mechanism will be readily available to all project workers (direct and contracted) through notice boards, the presence of “suggestion/complaint boxes”, and other means as needed.
- The Project workers’ grievance mechanism will not prevent workers to use the conciliation procedure provided in the Labour and Employment Relations Act 2017.

8.2 WGRM Process

The WGRM will be part of the workers’ induction trainings, which will be provided to all project workers.

The PMU GRM focal point will monitor the Contractors’ recording and resolution of grievances, and report these to the PMU in their monthly progress reports.

The WGRM will operate as follows:

1. The complainant may report their feedback or grievance in person, by phone, text message, mail or email (including anonymously if required) to the contractor as the initial focal point for information and raising grievances. Complainant will be notified of the outcome of their grievance within the two-week period of receiving their complaint, either directly via their line manager or using the same method they submitted their grievance. For complaints that are satisfactorily resolved at this stage, the incident and resultant resolution will be logged in the Contractors records and reported to the PMU Grievance Focal Point.
2. If the complainant is not satisfied, the contractor will refer the aggrieved party to the GRM focal point in the PMU and/or CPMO (preferably the Safeguards Advisor). The focal point will endeavour to address and resolve the complaint and inform the complainant in two weeks or less. For complaints that are satisfactorily resolved by the Focal Point, the incident and resultant resolution will be logged by the focal point. Where the complaint is not resolved, the focal point will refer to the Project Manager for further action or resolution.

3. As a third step, if the matter remains unresolved, or the complainant is not satisfied with the outcome, the Project Manager will refer the matter to the MTET CEO, who will aim to resolve the grievance in three weeks or less. The Grievance focal point will log details of issue and resultant resolution status.
4. Should grievances not be addressed to the satisfaction of the worker within the workplace, the Labour and Employment Relations Act 2017 (Part 9: Settlement of Disputes) provides a process for escalation of grievances (referred to as disputes in the Act). The Act provides the right for the worker to apply to the Secretary of MTET for dispute resolution services. The application for dispute resolution services will be considered if: (i) the application is made within 3 months of the dispute arising, (ii) if attempts to resolve the dispute in the workplace have been unsuccessful; (iii) the dispute is not frivolous.

If the Secretary determines that the application does not meet the criteria for dispute resolution services, they will inform the worker in writing within one month giving reasons for the decision.

If the Secretary determines that the application does meet the criteria for dispute resolution services, the Secretary shall, as soon as reasonably practicable, provide one or more of the following services:

- a. Verbal or written information to the parties involved in the dispute about their rights and obligations under this Act;
 - b. Information to support the parties to fix new terms and conditions of employment; and
 - c. Conciliation services in accordance with the Act.
5. If an agreed resolution cannot be gained through conciliation the parties can escalate the dispute to the Court under Part 9B of the Act. A party aggrieved by the decision of the court has the right to appeal.

9 CONTRACTOR MANAGEMENT

The project's management of the process of contracting third parties (i.e., the lead construction contractor) who engage contracted workers shall help to ascertain the legitimacy and reliability of the third party prior to contracting. Information required may as a minimum include:

- Business licenses;
- Professional accreditations and registrations;
- References;
- Existing standard contractual provisions and non-compliance remedies;
- Performance monitoring systems; and
- Documents relating to a labor management system, including OHS issues, labor management procedures; safety, and health personnel, their qualifications, and certifications; compliance

records with regards to environmental, social and OHS issues, and the monitoring system in place for these.

The contracts with a selected Contractor will include provisions related to labor and occupational health and safety, as provided in the World Bank Standard Procurement Document (SPD), Tuvalu Employment Act and Labour and Employment Relations Act. The bid document will make it mandatory for C-ESMP to include a work program, Traffic Management Plan, Labor Management Plans, among others.

The PMU will manage and monitor the performance of the Contractor in relation to:

- (i) Contracted workers, focusing on compliance by contractors with their contractual agreements (obligations, representations, and warranties). This may include periodic audits, inspections, and/or spot checks of project locations or work sites and/or of labour management records and reports compiled by contractors. Contractors' labour management records and reports may include: (a) a representative sample of employment contracts or arrangements between third parties and contracted workers; (b) records relating to grievances received and their resolutions; (c) reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions; (d) records relating to incidents of non-compliance with national law; and (e) records of training provided for contracted workers to explain labor and working conditions and OHS for the project.
- (ii) Primary supply workers. This will require the Contractor providing the PMU with documentation to verify that the primary supplier adheres to good OHS practice and does not employ children.
- (iii) Ensure all Contractor requirements of the SEA/SH Action Plan and Codes of Conduct of the PESMP are integrated into the C-ESMP and are adhered to.

Appendix A: Workers Code of Conduct

All Contracted Workers are required to sign this Code of Conduct as a condition of employment.

I, _____, acknowledge that adhering to environmental, social, health and safety (ESHS) standards and the Project's occupational health and safety (OHS), and sexual exploitation and abuse (SEA) and sexual harassment (SH) requirements are important.

I agree that while working on the Project I will:

- a. Comply with this Code of Conduct and all laws of the Tuvalu, regulations and other requirements, including protecting the health, safety and well-being of other Contractor's Personnel and any other persons.
- b. Consent to a background check in any place I have worked for more than six months.
- c. Attend training courses related to ESHS, OHS, and SEA and SH as requested by my employer.
- d. Carry out my duties competently and diligently.
- e. Avoid and declare any conflicts of interest (such as benefits, contracts, or employment, or any preferential treatment or favors are not provided to any person with whom there is a financial, family, or personal connection).
- f. Ensure the proper use of all worksite property including not engaging in theft, carelessness or waste.
- g. Use specified sanitary facilities provided by their employer and not open areas.
- h. Maintain a safe working environment including by:
 - o Ensuring that workplaces, machinery, equipment and processes are safe.
 - o Wearing required personal protective equipment at all times when at the Project Site.
 - o Using appropriate measures relating to chemical, physical and biological substances and agents.
 - o Following applicable emergency operating procedures.
 - o Reporting work situations that are not safe or healthy.
 - o Removing myself from a work situation which is an immediate and serious danger to my life or health.
- i. Not consume alcohol or use of narcotics, drugs or other substances which can impair faculties during work activities, including attending work under the influence of these substances.
- j. Not discriminate against any person on the basis of family status, ethnicity, race, gender, sexual orientation age, language, religion, marital status, political or other opinion, disability, health or other status.
- k. Treat all members of the community(ies) and any affected person(s) with respect, including to respecting their religion, culture and traditions.
- l. Not use language or behavior toward any person that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate.
- m. Comply with all laws of the Tuvalu, including but not limited, not perpetrating any form of physical or sexual violence.
- n. Not exploit or sexually exploit or abuse any person.
- o. Not engage in sexual harassment toward other Contracted Workers, Port Authority / Transport Department staff, Contractors, visitors to Project Sites or any other persons at or around the Project Sites.
- p. Not engage in sexual favors with any Contracted Worker or members of the community.

- q. Not use prostitution in any form at any time.
- r. Not engage in Human Trafficking of any person or exploit a trafficked person.
- s. Not participate in sexual contact or activity with children under the age of 18, except in the case of a pre-existing marriage. Mistaken belief regarding the age of a child or “consent” from the child are not a defense or excuse.
- t. Unless there is the full consent¹ by all parties involved, not have sexual interactions with any person.
- u. Ensure the protection and safety of children under the age of 18 by:
 - o Informing my manager of the presence of any children on the Project Site or who are engaged in hazardous activities as part of the Project.
 - o Wherever possible, ensuring that another adult is present when working close to children.
 - o Not inviting unaccompanied children, who are not my family, into my home.
 - o Not accessing child pornography.
 - o Refraining from physical punishment or discipline of children.
 - o Taking appropriate caution when photographing or filming children for work-related purposes.²
- v. Report through the GRM or to my manager any breaches of this Code of Conduct.
- w. Not retaliate against any person who reports violations of this Code of Conduct.

The Contractor considers that failure to comply with this Code of Conduct constitute acts of gross misconduct and are therefore grounds for sanctions, penalties or potential termination of employment. Prosecution by the police of those who break the law of the Tuvalu may be pursued if appropriate.

I understand that if I breach this Code of Conduct, my employer will take disciplinary action which could include:

- a. Informal or formal warning.
- b. Additional training.
- c. Loss of up to salary for a period of time.
- d. Suspension of employment (without payment of salary), for a period of time.
- e. Termination of employment.
- f. Report to the police or other relevant authorities.

I do hereby acknowledge that I have read this Code of Conduct, agree to comply with the standards contained therein and understand my roles and responsibilities to prevent and respond to ESHS, OHS, and SEA and SH.

I understand that any action inconsistent with this Code of Conduct or failure to act mandated by this Code of Conduct may result in disciplinary action and may affect my ongoing employment.

¹**Consent** is defined as the informed choice underlying an individual’s free and voluntary intention, acceptance or agreement to do something. No consent can be found when such acceptance or agreement is obtained using threats, force or other forms of coercion, abduction, fraud, deception, or misrepresentation. Consent cannot be given by a child under the age of 18, even where legislation in the Tuvalu has a lower age.

² Including: complying with local traditions or restrictions for reproducing personal images, obtaining informed consent from the child and a parent or guardian of the child and presenting children in a dignified and respectful manner.

Signature: _____

Name: _____

Position: _____

Date: _____