



Government of Nepal
Ministry of Physical Infrastructure and Transport (MoPIT)
Department of Roads (DoR)
and
Ministry of Industries, Commerce, and Supplies (MoICS)
and
Ministry of Forests and Environment (MoFE)



Bangladesh-Bhutan-India-Nepal (BBIN) Multi-phase Programmatic
Approach (MPA) Regional Transport and Trade Facilitation Program -
Nepal Phase 1

DRAFT

LABOUR MANAGEMENT PROCEDURES (LMP)

April 2022

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Abbreviations and acronyms

BBIN	Bangladesh-Bhutan-India-Nepal
CBOs	Community-based organizations
CoC	Code of conduct
CSC	Construction Supervision Consultant
DoR	Department of Roads
DCID	Development Cooperation Implementation Division
ESCP	Environmental and Social Commitment Plan
E&S	Environmental and Social
ESF	Environmental and Social Framework
ESHS	Environmental, Social, Health and Safety
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
GBV	Gender Based Violence
GRM	Grievance Redress Mechanism
IDA	International Development Association
LMP	Labor Management Procedures
M&E	Monitoring and Evaluation
MoPIT	Ministry of Physical Infrastructure and Transport
MoICS	Ministry of Industries, Commerce, and Supplies
MoU	Memorandum of Understanding
MPA	Multi-phase Programmatic Approach
OHS	Occupational health and safety
PCU	Project Coordination Unit
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
SEA/SH	Sexual Exploitation and Abuse, Sexual Harassment
SEP	Stakeholder Engagement Plan
WB	World Bank

Executive summary

The Government of Nepal is preparing the Bangladesh-Bhutan-India-Nepal (BBIN) Multi-phase Programmatic Approach (MPA) Regional Transport and Trade Facilitation Program for World Bank financing, which is to be implemented in phases. The BBIN Nepal Phase 1 Project (the Project) is the first phase of the Program to support the more cost-efficient and resilient movement of goods and people within and across the borders of Nepal along the East-West Highway on the western side – which is key to accessing India's western seaports thus for economic growth.

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

At peak of construction, an estimated 600 workers would be involved in the project, and may include about 130 skilled, 170 semi-skilled, and 300 unskilled workers over the six-year period of phase 1 activities. Most of the workers will be involved in the construction of the around 70 km (Butwal – Gorusinghe - Chanauta) road section and a signature bridge along the road. This LMP applies to the three types of workers relevant to the project - direct workers, contracted workers, and primary supply workers and both full-time and part-time including national or international, male, or female workers with a minimum age of 18.

The LMP presents the project's labor management policies and procedures to facilitate safe and productive working environment throughout the project implementation. Some key labor-related risks that are concerning include accidents or emergencies due to hazardous works, an influx of migrant workers, use of child labor, or forced labor. Moreover, the working conditions, such as poor occupational health and safety, inadequate worker accommodation and other facilities, discrimination at employment, sexual exploitation and abuse, and sexual harassment (SEA/SH), communicable diseases (e.g., COVID-19, HIV/AIDs, etc.), non-payment of wages, benefits, and liability, road traffic accidents, and human trafficking are the major concern related to labor and working conditions. The measures to mitigate the above risks as prescribed in this LMP are ensuring fair labor and working conditions, enforcing contract management, providing training on Occupational Health and safety to workers, particularly on workers' code of conduct (CoC), and establishing worker's grievance mechanism, including for the cases related to SEA/SH.

The Project Coordination Units (PCUs) at the DoR, the Ministry of Industries, Commerce and Supplies (MoICS), and the Ministry of Forest and Environment will be responsible for the implementation of the LMP. Occupational Health and Safety (OHS) Specialist at the PCUs at DoR will be responsible for implementing this LMP and will have oversight over the implementation

of OHS activities at project sites. In the case of the PCUs at MoICS and MoFE, the Environment and Social Specialists will be responsible for implementing the LMP. In addition to staffing at the PCUs, contractors as well as Design and Supervision Consultants are required to high OHS specialists to support project implementation and help to implement this LMP. The capacity of the staff will be enhanced through training and orientations. A standard mechanism for monitoring and performance appraisal will be developed and conducted through a checklist and self-evaluation sheet both for the PCU and the PIU at the project site and their staff. Monitoring and evaluation will be done regularly from PCU, Construction Supervision Consultant (CSC), and the PIU at the project to inform the implementation and effectiveness of the LMP.

1. Introduction

The Government of Nepal is preparing the Bangladesh-Bhutan-India-Nepal (BBIN) Multi-phase Programmatic Approach (MPA) Regional Transport and Trade Facilitation Program for World Bank financing, which is to be implemented in phases. The BBIN Nepal Phase 1 Project (the Project) is the first phase of the Program to support the more cost-efficient and resilient movement of goods and people within and across the borders of Nepal along the East-West Highway on the western side – which is key to accessing India's western seaports thus for economic growth

In Nepal, the BBIN 1 will support the GoN towards (a) Upgrading of Butwal-Gorusinghe-Chanauta section of East-West Highway from 2 to 4 lanes, (b) Construction of a signature bridge (including detailed design/urban design and construction), (c) Support for development and implementation of green resilient highway concept, integrating transportation functionality and ecological sustainability, and (d) Upgradation of trade facilities at critical locations.

1.1 Project description

The proposed BBIN 1 aims to develop cost-efficient and resilient trade and transport in Nepal, focusing on selected transport corridors. The program comprises the following components:

- **Component 1: Digital Systems for Trade**

This component will support the adoption and implementation of digital and automated systems for the improvement of Nepal's cross-border clearances. The new systems will provide Nepal with an efficient cross-border data-sharing tool, reduced touch points and human interface, enhanced transparency and faster border clearance times. They will also contribute to a greener infrastructure development, including decreased GHG emissions, by reducing the use of materials, truck idling, and travel of government officials and traders. Specifically, it will support the following sub-components:

- (a) Sub-component 1A – Development of an Integrated Automated Border Management System (ABMS), including electronic cargo tracking system.
- (b) Sub-component 1B – Development of a Statistical Management Software System and Risk Engine.
- (c) Sub-component 1C – Development of a web-based supply Management Information System (MIS) for automation of registration processes and permits.

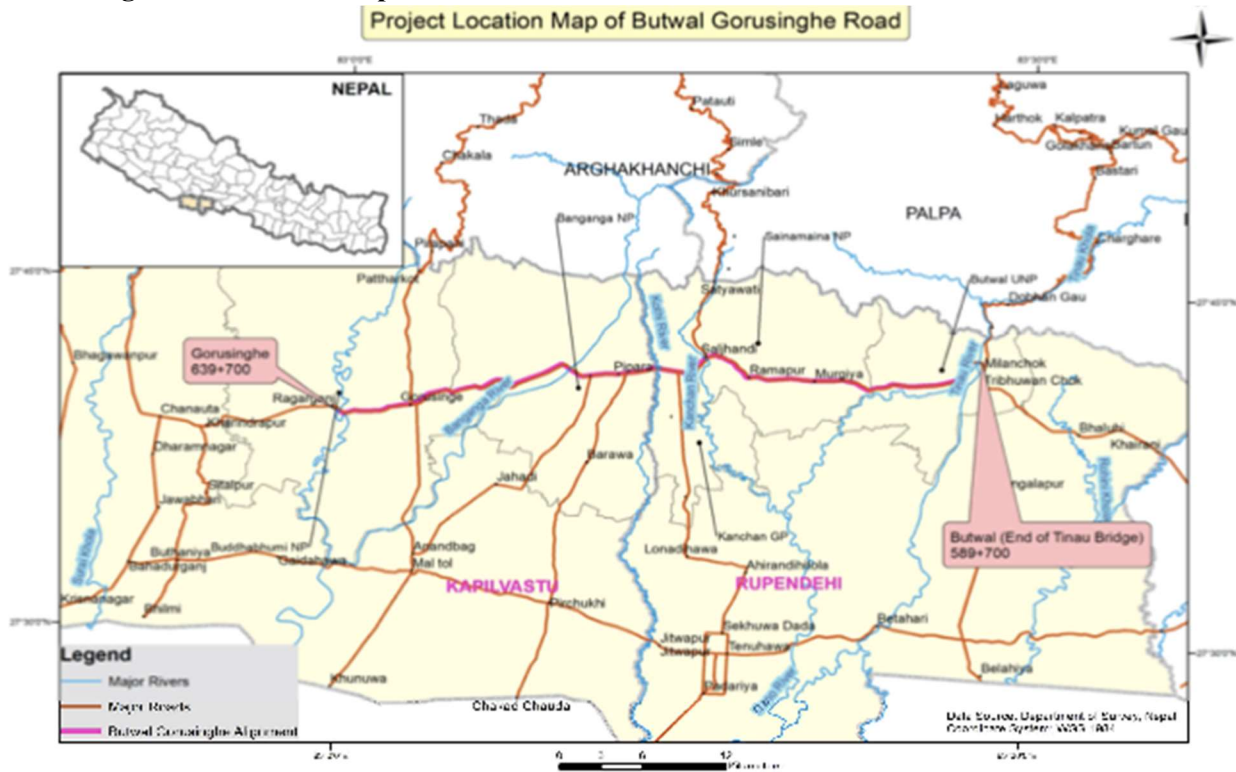
- **Component 2: Green and Resilient Transport and Trade Infrastructure.**

This component will support the development of climate-resilient transport infrastructure along Nepal's primary domestic and international trade corridor connecting Nepal with the other BBIN countries, i.e., the East West Highway (EWH). Specifically, it will finance:

- (a) Sub-component 2A – Upgrading of Butwal-Gorusinghe-Chanauta Road Section.

- (b) Sub-component 2B – Design and Construction of a Green Resilient Urban Bridge.
- (c) Sub-component 2C – Development and Implementation of a Green Resilient Highway Concept and Strategy.
- **Component 3: Institutional and Policy Strengthening for Transport and Trade.** This component will support the strengthening of policies, institutions, and technical capacities as well as the development of mechanisms necessary for improving Nepal’s transport and trade facilitation governance. Specifically, it will finance key strategic agreements, reforms and capacities, as follows:
 - (a) Sub-component 3A – Support for Implementation of the Bangladesh-India-Nepal Motor Vehicle Agreement (MVA).
 - (b) Sub-component 3B - Support for Customs Reforms.
 - (c) Sub-component 3C – Implementation of Private Sector Support Initiatives.
 - (d) Sub-component 3C – Implementation of Private Sector Support Initiatives.
 - (e) Sub-component 3E – Support for Future Projects Preparation.
- **Component 4: Contingency Emergency Response** (CERC) (US\$0 Million) will support unforeseen emergency needs. In case of a major natural or human made disaster, GoN may request the Bank to re-allocate project funds to this component to support its quick response and reconstruction. Disbursements under CERC are contingent to three conditions: (i) GoN has determined that an eligible crisis or emergency has occurred and the Bank has agreed and notified the government; (ii) the Ministry of Finance has prepared and adopted the Contingent Emergency Response (CER) Implementation Plan that is agreed with the Bank; and (iii) GoN, through the Project Implementing Unit, has prepared, adopted, and disclosed safeguards instruments, as per the Bank’s guidelines, for the eligibility of the CER Implementation Plan’s activities.

Figure 1: Location Map of BG Road



The Department of Roads (DoR), under the Ministry of Physical Infrastructure and Transport (MoPIT) is the executing agency of the transport-related works on this project and will be responsible for implementing this LMP. The PCU at the DoR will have Environmental specialist, Social Specialist and Occupational Health and Safety Specialist, and The PCU and the MoICS will have an Environmental and Social Specialist, to execute the ESHS activities under the project. Moreover, the DoR has a Geo-Environment and Social Unit (GESU) which is specifically tasked with the assignment of managing E&S risk in the DoR projects, in coordination with the environment Unit of MoPIT. The Ministry of Forests and Environment, leading the implementation of component 2c activities, i.e., development and implementation of green resilient highway concept and strategy will dedicate an Environment Specialist and a Social Specialist who would oversee the implementation of the LMP as it relates to the concept.

Though the project will extend overall positive benefits, the implementation of some project activities especially infrastructure investments under component 2 will cause notable environmental and social impacts including concerns for occupational and community health and safety which may affect workers and community members. Other concerns related to the workers to be deployed on the project include: the potential for intimate relations between workers and local women/girls, something that may lead to sexual exploitation and abuse. In addition, there is

a risk of conflict between the migrant workers and local community due to cultural differences and stress on use local resources, such as water, electricity, and health services, among others. The environmental and social impacts of the project will be mitigated and managed through the provisions made by World Bank's Environmental and Social Framework (ESF) as guiding framework. Nine of the Bank's ten Environmental and Social Standards (ESSs) are determined as relevant for managing E&S impacts of the project, including the standard on Labor and Working Conditions (ESS2).¹ This LMP sets out the approach and mitigation measures that will be adopted to address risks and impacts related to workers and labor management of the project. It also sets out a mechanism by which workers on this project can lodge work-related grievances. The LMP is prepared to meet the objectives and requirements of national labor management regulations (i.e., Labor Act, 2017 and Labor Rule, 2018), the World Bank's ESF ESS2: Labor and Working Conditions (ESS2) and the guidance note on the ESS2 which provides guidance on the application of the standard.

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

1.2 Scope of the labor management procedures

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

1. People employed or engaged directly by BBIN 1 project to work specifically on project activities (direct workers).
2. People employed or engaged by contractors and other third parties to perform core functions related to the project, regardless of location (contracted workers).
3. People employed or engaged by primary suppliers associated with the BBIN 1 project (primary supply workers).

This LMP is relevant for the duration of the project and applies to the above workers regardless of their contract type: full-time, part-time, temporary, seasonal, or migrant workers. For contracted workers, the PCUs at the DoR and MoICS will ensure that contractors prepare separate labor management plans for larger work in line with this LMP. For smaller contracts, the PCUs may

¹ ESS1: Assessment and Management of Environmental and Social Risks and Impacts; ESS2: Labor and Working Conditions; ESS3: Resource Efficiency and Pollution Prevention and Management; ESS4: Community Health and Safety; ESS5: Land acquisition, Restriction on Land Use and Involuntary Resettlement; ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; ESS7: Indigenous Peoples/Sub-saharan African Historically Underserved Traditional Local Communities; ESS8: Cultural Heritage; and ESS10: Stakeholder Engagement and Information Disclosure.

incorporate specific labor-related requirements and procedures into the contracts as part of contractors' legal obligations.

2. Overview of labor use on the project

Based on available information and current scope of the works, it is estimated that a total 600 workers will be required to implement the project over the period of five years, including:

- i. 130 skilled workers
- ii. 170 semi-skilled workers
- iii. 300 unskilled workers

Given the scope of work, various skills sets would be drawn from local and international human resource base. An estimated 360 workers of the total laborer requirement of the project are likely to be migrant workers, moving into the project areas from other parts of the country or other countries. The table given provides additional information on local and migrant workers that will be hired for project activities.

Table 1.1: Estimated number of local and migrant workers for the project

Types of workers	Skilled	Semi-skilled	Unskilled	Total
Local	52	68	120	240
Migrant	78	102	180	360
Total	130	170	300	600

Similarly, the table below summarizes the estimated labor requirements and their characteristics

Table 1.2: Estimated labor requirements and their characteristics

Works/Activities	Estimated labor requirement			Characteristics (Direct, Contracted, and primary supply, local, international, migrants,)	Remarks
	Skilled	Semi-skilled	unskilled		
Component 1: Component 1- Systems to facilitate trade					
<ul style="list-style-type: none"> Development of Automated System for Customs Data (ASYCUDA) new modules and Development of an Automated Border Management System (ABMS) 	5	5	-	Direct, Contracted, and national/international	The activities under this component will be implemented with direct involvement of government and contracted services of specialized consultants.
	5	5	-	Direct, Contracted, and national/international	
Component 2: Enhancing Regional Transport and Trade Enabling Infrastructure					
<ul style="list-style-type: none"> Upgrading of Butwal-Gorusinghe Road section and Gorusinghe-Chanauta Road section of East-West Highway from 2 to 4 lanes, Construction of a signature bridge (including detailed design/urban design and construction), Support for development and implementation of green resilient highway concept, integrating transportation functionality and ecological sustainability, and Upgradation of trade facilities at critical locations. 	50	75	200	Direct, Contracted, and primary supply workers National/international	The activities under this component will be implemented with direct involvement of government staff at federal, provincial, and local government levels along with contracted services of specialized consultants.
	30	55	100	Direct, Contracted, and primary supply workers National/international	
	10	10	-	Direct, Contracted, and national/international	
	10	14	-	Direct, Contracted, and national/international	
Component 3: Capacity building					

<ul style="list-style-type: none"> • Implementation of the World Trade Organization (WTO) Trade Facilitation Agreement, • Transport specific reforms / Reforms to support local communities, and • Training programs and capacity building activities • Project preparation studies 	7	2	-	Direct, Contracted, and national/international	The activities under this component will be implemented with direct involvement of government and contracted services of specialized consultants.
	5	2	-	Direct, Contracted, and national/international	
	5	2	-	Direct, Contracted, and national/international	
	3		-	Direct, Contracted, and national/international	
Total	130	170	300		

2.1 Labor characteristics

- **Direct Workers:** Direct workers on the project are largely skilled technical and specialized Consultants (i.e., civil, highway and structural engineers, geo-tech engineers, finance and fiduciary staff, Environment, and social staff, etc.) and semi-skilled workers such as drivers that would be engaged by the DoR and MoICS to carry out activities on this project. These group of workers may be national, local, and international, term or full time. The consultants are expected to be skilled in specialized area, such as road and bridge construction, financial as well procurement along with E&S risk management and may be internationally or drawn from the local consulting firms. Direct workers will serve in the Project Coordination Units (PCU) at the DoR and MoICS and the Project site offices. *Civil servants that are engaged or seconded to serve in the project will remain under their existing contractual terms and are not covered by the provisions of World Bank ESS2, except on issues related to OHS, forced labor and child labor.* The term of consultants and support staff to be hired are likely to work full-time and part-time and will work under clear contractual agreements and conditions of service as per the National Labor Laws and regulations (Labor Act, 2017 and Labor Rule, 2018) and the relevant requirements of the ESS2.
- **Contracted Workers:** The contractors and sub-contractors will hire ‘contracted’ workers to perform various core project works especially under components 1, 2 and 3, based on their level of skills and project needs. Component 2, for example, will be implemented using design and supervision consultants, civil contractors, and construction companies. The workers to be hired by these consultants and contractors are ‘contracted workers’ and will include skilled, semi-skilled (e.g., masons, steel workers, metal fabricators, etc.) and unskilled manual workers. To the extent possible, 40% of the required workers (including women) will be sourced from the local communities to minimize and disincentivize labor influx. Special considerations will be made to extend work opportunities to women and vulnerable youth, including IP, Dalits, and Muslims, among others. Based on past experiences, some contracted workers are likely to be migrants from communities within the area of influence of the project other than the directly impacted communities.
- **Primary Supply Workers:** Based on the requirement in every component, primary supply worker will be recruited by the primary suppliers. They include workers involved in supplies of stones, sand, cement, water and sanitation chemicals, seedlings, and other raw materials. Risk related to primary suppliers include the tendency to use child labor, forced labor and safety concerns associated with the use of such workers. This LMP includes provisions to address these risks.

2.2 Timing and sequencing of labor

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

² Note that these phases are not typical project life cycle stages. Rather they are only indicative and considerate of the how workers will be deployed overtime.

3. Assessment of key potential labor risks

This section is informed by the project ESIA and experiences from similar projects implemented by the DoR. Based on these references, the main labor-related risks and impacts associated with the project are:

- i. *Occupational health and safety*: The potential for workers to operate and/or live under hazardous conditions; accidents from falls and misuse of tools, equipment, and machines during works; and the potential COVID-19 outbreak among workers and communities especially where labor camps are in use. As part of institutional arrangements, the BBIN 1 project intends to dedicate staff to provide orientation and training, maintain accident records and conduct regular toolbox meetings on project sites.
- ii. *Labor influx*: Construction works at the project site under the component 2 are expected to induce influx of workers to project communities in search of work and other project benefits. In some places, there may be a need to host projects workers in labor camps particularly in the areas where the labor absorbing capacity of the host community is weak. Labor-influx in localized settings may increase demand and overwhelm local facilities (e.g., water, electricity, housing, food, health services etc), pose sexual exploitation, abuse, and harassment (SEA/SH) risks to host communities, etc. The project will encourage contractors to recruit 40% of unskilled workers from the local communities in order to localize project benefits, disincentivize labor influx from outside, avoid or minimize the need for labor camps, and reduce labor management cost.
- iii. *COVID-19 and communicable diseases*: Labor influx and labor camps can facilitate disease transmission from workers to local communities or among workers at labor accommodation facilities. Without adequate mitigation measures, communicable diseases such as COVID-19, HIV/AIDS, etc can spread among workers and host communities.
- iv. *Sexual exploitation and abuse and sexual harassment (SEA/SH)*: SEA/SH risk of the project is assessed to be moderate. Works under components 2 are labor-intensive and are likely to induce inflow of workers to project areas, leading to change in community dynamics and abet risks of potential risks of illicit crimes and multiple forms of GBV, such as sexual abuse and exploitation, forced/early marriages, child labor, coerced human trafficking and other communicable and sexually transmitted diseases, particularly impacting girls, and women. A standalone SEA/SH action plan will be prepared before appraisal and implemented along with this LMP to address SEA/SH risks. The Action plan focuses on capacity building, creating awareness about SEA/SH; identifying service providers; developing CoCs for project personnel and workers; strengthening institutional mechanisms that aid in accessing grievance redressal etc. The plan will be applicable to the staff and workers from DoR, MoICS, contractors, subcontractors, and supervision

consultants implementing agency, including the client working on the project, and cover Project's footprint and adjoining communities

- v. *Child and Forced Labor*: The risk of child labor will be mitigated through Certification of laborer's age. This will be done by using the legally recognized documents, such as the National Identification Card and Birth Certificate. Further, awareness sessions will be conducted among the communities to sensitize them on the prohibition and negative impacts of child and forced Labor. Site offices will continue to raise awareness against child labor and forced labor.

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

4. Brief overview of labor legislation: Terms and conditions

The Constitution of Nepal, 2015 guarantees fundamental rights for workers such as the Right against exploitation (article 29); the Right to a clean and healthy environment (article 30); Rights to fair labor practice including appropriate remuneration, facilities, and contributory social security (article 34); the rights of the child (article 39), including prohibiting the engagement of children in factories, mines or any hazardous work; and the Right to social security of different categories of marginalized communities and individuals (article 43). In the case of access to project-related jobs and procurement opportunities, Article 18(3) of the constitution enjoins the State not to discriminate against citizens on the grounds of caste and tribe. In principle, these provisions are generally consistent with the objectives and requirement of ESS2 and will guide the terms and conditions of workers under BBIN 1 project.

Table 4.1: Main gaps between GoN laws (terms and conditions) and WB ESF Standards

WB ESF Standard	Gaps – WB’s requirements vis-à-vis Nepali laws
ESS2: Labor and Working Conditions	(i) The Labor Act does not specifically require that development projects be assessed and reviewed in terms of labor and working conditions including OHS requirements before approval. (ii) The Labor Act does not require development projects to prepare Labor Management Plans/Procedure or OHS Plan.
ESS2: Ensuring non-discrimination and equal opportunities to project workers	Clause 6 of the Labor Act 2017 bars discrimination against workers on the ground of religion, color, sex, caste, tribe, origin, language, ideological conviction, or other similar ground. However, discrimination is still widespread in a construction project, particularly based on gender as male is still preferred and given higher wages.
ESS2: Types of labor contracts	Under Clause 103 of the Labor Act 2017, the employment contract between the employer and employee is mandatory. However, there is a widespread practice of employing workers without an employment contract in the construction project.
ESS2: Working hours	Clause 28 of the Labor Act 2017 bars working more than eight hours a day and forty-eight hours a week. This clause has been implemented in established industries and businesses, but the enforcement of this clause is weak for construction workers.
ESS2: Benefits and deductions	The employment contract agreed between the employer and employee as per clause 103 of the Labor Act 2017 should mention remuneration, benefits to be received by the labor. Similarly, Clause 38 also bars any deductions from agreed remuneration to except allowed by the laws. Deductions of 10% of the basic remuneration as a contribution for provident fund and 8.33% for gratuity fund are the major deductions practiced in established businesses and industries. However, in the

	absence of employment contracts for construction workers in the construction project, the deductions and benefits are not clearly spelled out and enforced.
ESS2: Leave entitlement	Chapter 9 of the Labor Act 2017 mandates weekly leave, public leave, substitute leave, home leave, sick leave, maternity leave, mourning leave, and the provision for accumulating leaves. However, all these leave entitlements, are being implemented only in the established businesses and industries. However, in the absence of a formal employment contract between the employee and employer in the construction projects, the implementation of the leave entitlements for the project workers is weak.
ESS2: Develop and implement grievance measures for all project workers	Clause 113 of the Labor Act 2017 allows individual labor to file a complaint against the employer in case of non-compliance of contract and the Clause 116 also allows the laborers to go to the labor office if the complaint is unsolved. However, the practice of establishing GRS in projects for construction workers is rare.

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

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

- Fundamental provision on Occupational Health and Safety (OHS) including role and responsibility of suppliers and manufacturer.
- Provisions for special types of industries and facilities provided.
- Provision for good culture of work, and discipline at work and performance for labor
- Provision for labor audit for each workplace.
- Provision against harassment, and sexual abuses.
- Provision for collective bargaining.
- Provision not to be employed without employment agreement
- Provision for termination of employment.

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

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

- **Work hours:** Working hours of 8 hours a day and 48 hours a week as per section 28 of Labor Act, 2017. Overtime prescribed for 24 hours per week as per section 30 of this Act. The employer will be required to pay the worker one and a half times more of the basic wage for regular work if he employs overtime as per Section 30. In respect of female workers, the Act requires employers to make arrangement for transportation of female employees in a way that the working period begins after sunrise and ends before the sunset.
- **Wages:** The term "Wages" means all economic benefits including salary, bonuses, and remuneration for overtime work, holiday or leave, termination of employment or other additional remuneration payable under the terms of employment. Every employer is responsible for the payment of wages to workers employed by the employer. In the case where the wages of a worker employed by a contractor are not paid by the contractor, the wages must be paid by the employer of the establishment. The maximum wage period is

one month. The wages of every worker must be paid before the expiry of the 7th working day after the last day of the wage period in respect of which the wages are payable.

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

The Government of Nepal, Ministry of Labor, Employment and Social Security has recently prescribed the minimum remuneration/wage of the worker/employees under Section 106 of the Labor Act, 2017 (2074) (“**Labor Act**”) by publishing a notice in Nepal Gazette (Volume 68, August 16, 2018 (2075-04-31) Number 20) on Aug. 16, 2018 (2075-04-31) (“**Gazette Notice**“).

The Ministry has prescribed separate minimum remuneration/wage for the workers/employees working (a) other than tea estate (“**Minimum Wage Other than Tea Estate** “) and (b) in the tea estate (“**Minimum Wage Tea Estate** “). In addition to the Minimum Wage/Remuneration specified above benefits including Provident Fund and Gratuity provided under the Labor Act and Contribution Based Social Security Act 2017 (2074) and other prevailing laws should be provided. Where the employment of a worker is terminated by retirement or by the employer, whether by way of retrenchment, discharge, removal, dismissal or otherwise, the wages payable to him must be paid before the expiry of the 30th working day from the day on which his employment is so terminated. Wages have to be paid in legal tender, through cheque and in some cases (given the requirement of the laborers) through an electronic transfer in favor of the bank account of the worker or through any other digital medium. Wages must be paid on a working day. No deduction can be made from the wages of a worker except those authorized by the Labor.

- **Trade union:** As per the Labor Act, in an entity with 10 or more employees, there should be a collective bargaining committee. The Act also defines as to how the committee should be formed such as by authorized trade union or by all the trade unions in absence of authorized trade union or by the signature of 60 percent workers in absence of any trade union. The member of the committee should be at least 3 but not exceeding 11. The committee is authorized to submit collective demands, negotiate, and settle the demand, among other things.
- **Regular leaves and benefits:** According to Labor Act 2017, every worker must enjoy paid sick leave, casual leave, and festive holiday, mourning leave. The laborers would get festival allowances as per the rules. The Act has also made it compulsory maternity leave from 2 weeks before the delivery up to at least 6 weeks after the delivery.
- According to the provision in the Labor Act, a worker can save home leave and sick leave for 90 days and 45 days respectively. Similarly, this Act has made provision for the labor

involved in non-stop and continuous work to get one day substitute leave if s/he work on weekly leave or public holiday.

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

- **Maternity/Paternity leave:** Female worker will get paid maternity leave. An expectant mother would be entitled to 98 days maternity leave. Fully paid up to 60 days after submission of the necessary documents. The new act also provides for 15 days fully paid paternity leave. If the authorized medical doctor recommends that the woman labor who needs additional rest for the health of her or her baby, the employer may approve an additional one month's unpaid leave in addition to the maternity leave or leave may adjust for other leave.
- **Safe work environment- Health/ Safety/ Welfare:** Where 20 or more employees are engaged, employer shall constitute a Safety and Health Committee as per sec 74 of the New Labor Act. There were no such provisions in the previous act. Where 10 or more employees are engaged in the entity, employer shall also constitute the Collective Bargaining Committee as per sec 116 of the New Labor Act. This act also ensures employee safety, health and resolving any kind of disputes and unfairness also.
- **Social Security:** The Labor Act requires the retirement fund such as (a) gratuity, and (b) provident fund to be deposited in the Social Security Fund. There has been separate law on social security. The parliament has enacted the Social Security Act, 2017 (2074) which has also been also obtained the accord of assent of the President on August 16, 2017.
- **Provision to formulate safety and health policy:** Under the Labor Act or the rules enacted under this Act, employers are required to formulate and implement policies regarding the safety and health of workers and other persons in the workplace.
- **Notice periods:** The employee can terminate the employment voluntarily by submitting a resignation letter. The employer must approve the resignation within 15 days and provide a notice to the employee. Even if the employer does not approve the resignation the resignation becomes effective on the next day of the expiry of the 15-day time. However, if the employee continues to work in the entity even on the effectiveness of resignation in such situation the resignation is deemed cancelled.

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

Termination is considered a “discharge” in the case that an employee is fired for reasons of mental or physical incapacity, illness or other reasons not related to misconduct by the employee. An employer must pay compensation when a termination is unrelated to discharge or dismissal and must give justification when they do terminate on grounds of discharge or dismissal.

Section 132 of the new labor Act prohibits the sexual harassment and violence in the workplace. If anyone found to be involved in the sexual misconduct the service may be terminated based on seriousness of offence.

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

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

5. Brief overview of labor legislation: Occupational health and safety

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

- Provision to demonstrate OHS policy at workplace.

- Responsibility of employers towards employee such as information, facility, personal protective equipment, and training on OHS.
- Provision regarding the protection of non-labors such as visitors and others.
- Appointment of responsible person at the workplace for OHS implementation.
- Obligation of manufacturer, importer, and suppliers for assurance of OHS for their goods and services. This will apply to matters of primary supplies under this project
- Responsibility of labors for work and use of safety gears.
- Formation of safety and health committee at worksite.
- Provision for immediate shutdown of work and machineries in case of severe OHS concern.
- Special provision for OHS for eye protection, protection against harmful chemicals, operation of pressurized machine/vessel, machine guarding, handling/lifting of load, fire protection, provision against fatigue.
- Information to respective LO against accident, fatality and disease happened due to work.
- Provision for treatment and prevention of communicable diseases.
- Provision for easy and harmless work for special condition of workers such as pregnant.
- Specifies requirements for workplace in terms of health and safety such as (a) proper cleanliness, (b) passage of fresh air, proper light and temperature, (c) solid waste management, (d) noise control measures, (e) 15 cubic meter space to Employees to the extent possible as per the nature of work, (f) healthy drinking water, (g) bathroom or modern toilet, (Separate toilets for men and women and especially women friendly toilets i.e., provision for proper management of menstrual pads.) (h) tobacco free zone, (g) mandatory medical check-up for the entities undertaking health hazardous activities, (i) provide appropriate time for the lunch to the Employees, (j) childcare center for children under three years.
- Provision of onsite first aid and primary health care.
- Provision of accident investigation, inventory of work-related diseases and compensation

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

Health and Safety Offences:

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

An entity found guilty of discriminating against workers may be fined up to NRs 100,000 with an order to maintain equality among workers going forward. Similarly engaging a worker without appointment letter or employment agreement can attract a fine up to NPR. 500,000 at a rate of NPR. 10,000 per worker; the order to conclude an employment agreement and provide an appointment letter shall also be given. Additionally, engaging a bonded labor can attract an imprisonment up to 2 years or fine up to NPR. 500,000 or both. The Labor Court may require the offending entity to provide such bonded labor with remuneration, allowance, and other facilities, as well as to indemnify the bonded labor with an amount double such remuneration, allowance, and other facilities.

If the entity does not make health and safety arrangements knowingly and as a result the worker dies or suffers physical or mental injury: Imprisonment up to 2 years, except otherwise provided. Such person suffering the injury should be compensated.

Table 5.1: Consistency between Nepal Labor Act with key elements of the ESS2

Key Elements of ESS2	Provisions in the Labour Act
Equal Opportunity and Non-discrimination	The Clause 6 of the Labor Act 2017 contains important provisions prohibiting discrimination based on sex and disability, including equal wages for equal work.
Timely payment	Clause 35 of the Labor Act 2017 says that wages must be paid within three days from the date of completion of the work in the case of a labour working for a period of less than one month. However, in the case of a labour employed in a casual work, payment should be made immediately after the completion of the work.
Working hours and overtime	Clause 17 of the Labor Act 2017 provisions that the working hours should be 48 hours per week extendable up to 72 hours with 24 hrs overtime
Worker rights.	Chapter 9 (Clauses 40 - 51) of the Labor Act 2017 provisions various types of leaves for workers while clause 103 of the Labor Act 2017 talks about the benefits to be awarded to the workers. Similarly, as per the Clause 144 of the Labor Act 2017, the employer must provide a notice and reasons for termination.
Prevents use of all forms of forced labor and child labor	Clause 4 of the Labor Act 2017 bars employing any forced labor and Clause 5 of the Act prohibits employ a child of 14 years old or below.

	The Child Labor (Prohibition and Regulation) Act, 2000 bars to engage a child in risky activities as listed in the annex of the act
OSHS	Clause 78 of the Labor Act, 2017 provides for comprehensive OHS (See Annex 1 for details) and empowers DIFE to conduct inspections of establishments and to impose penalties for violations or non-compliance.
Children at Working Age	No children at work
Women	Clause 45 of the Labor Act, 2017 provisions 60 days of paid maternity leave for expectant mothers is mandatory
People with disabilities (PWD)	Person with Disabilities Rights and Protection Act 2013 provides for rights to discrimination-free employment opportunities
Migrant Workers	No special provisions for migrant workers
Community Workers	The labor law does not recognize community workers as defined in the ESS2 and hence does not provide any special considerations for such contracting arrangements. The law requires that all labour supply contracting agency will have to be formally registered, and workers should first be the responsibility of the contracting agency.
Supplier/Supply Workers	The law does not assign any responsibility to the project on the supplier's labourers and their working conditions. Workers of suppliers will have to be the responsibility of the suppliers.
Freedom of association and collective bargaining	Clause 116 of the Labor Act 2017 says that where 10 or more employees are engaged in the entity, employer shall also constitute the Collective Bargaining Committee as per sec 116 of the New Labour Act but the government does not permit any collective demand in following area providing essential service, or (b) established in Special Economic Zone, (c) state of Emergency declared as per the Constitution.
Access to a grievance redress mechanism	<p>Clause 113 of the Labor Act 2017 allows individual laborers to file a complaint against employer in case of non-compliance of contract. Employees can also seek direct civil law redress from the Labour Courts for complaints regarding terms and conditions employment and wages.</p> <p>While health and safety, maternity welfare and child labour offences are subject to criminal prosecution.</p>

6. Responsible staff

The BBIN 1 project will be implemented at three levels of government: National, Provincial and Local government. Key project staff will be responsible for engagement and management of labor-related issues

at the national and local levels. In addition, contractors responsible for contracted workers will be responsible for OHS issues related to their contracts.

Table 6.1: Key responsible staff and responsibility

Level of government/responsible staff	Roles and Responsibilities
DoR/PCU/DCID, MoICS and MoFE	
Project Director/Engineer Environmental and Social Specialists Occupational health and safety Specialist	<ul style="list-style-type: none"> • Overall responsibility to oversee all aspects of the implementation of the LMP • To ensure contractors' compliance on issues related to ESHS • Incorporate labor-related requirements into procurement of works and suppliers • Engagement and management of contractors • Conduct health and safety induction to contractors and workers
Project site office	
Environment and Social Specialists, Project Management Units and Project Implementing Units/Project site office	<ul style="list-style-type: none"> • Conduct site visits on OHS • Support training of workers on CoC, Workers GRM, SEA/SH, COVID-19, etc. • Tracking and reporting on workers' GRM
Design and Supervision Consultants	
Environmental Specialist, Social Specialist and Health and Safety Specialist	<ul style="list-style-type: none"> • Supervise and monitor implementation of the ESMPs and other E&S plans, • Monitor and report on contractor OHS plans • Prepare, adopt, and implement occupational, health and safety (OHS) measures specified in the LMP and OHS Management Plan for all contract
Contractors	
Occupational Health and Safety Specialist and Gender Specialist	<ul style="list-style-type: none"> • Plan and implement contract-specific labor management plans • Coordinate toolbox meetings focused on health and safety, SEA/SH, COVID-19, HIV/AIDs, etc • Report on OHS performance to PCU on monthly basis • Tracking and responding to workers' grievances

7. Policies and procedures

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

7.1 General principles

Non-discrimination in employment:

Decisions relating to the employment and conditions of project workers will not be made based on personal characteristics unrelated to typical requirements of the job. The employment of project workers will be based on the principle of equal opportunity and fair treatment, with no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, or disciplinary practices. The contractual arrangements with each project worker must be clearly defined in accordance with national law.

Contractor responsibility for Environmental and social plans:

Environmental and social impacts of subprojects resulting from activities directly under the control of contractors will be mitigated directly by the contractors. The PCU will incorporate standardized environmental and social clauses in the tender documentation and contract documents, to create awareness about project impacts among potential bidders, demonstrate project expectations about contractor performance, and to impose liability for compliance with the environmental and social performance requirements of GoN and the World Bank. Bidding contractors must include declared commitments and concrete measures to address environmental and social impacts related to their scope of work for the duration of the contract. The PCU will enforce compliance by contractors with these clauses.

As a core contractual requirement, contractors are required to prepare regular documentation and report on key environmental and social management, including the LMP to the PCU, or its appointed agents such as supervising consultants. A full set of contractual requirements related to environmental and social risk and impact management will be provided in the subproject' Environmental and Social Impact Assessment. All environmental and social requirements will be included in the bidding documents and contracts in addition to any additional measures, which are contained, in the project's environmental and social instruments.

No forced and bonded labor:

The BBIN 1 project (PCU), the DoR, Contractors, suppliers, or sub-contractors shall not engage forced and bonded labor under any circumstance. Forced labor includes bonded labor (working to defray indebtedness), under excessive limitations of freedom of movement, retention of their identity, travel or other government-issued documents or personal belonging, imposition of recruitment or employment fees payable at the commencement of employment, loss or delay of

wages that impede the workers' right to end employment within their legal rights, substantial or inappropriate fines, physical punishment, use of security or other personnel to force or extract work from project workers, or other restrictions that compel a project worker to work in a non-voluntary basis can be referenced or annexed to the LMP, together with any other supporting documentation.

Labor and Working Conditions:

Contractors will keep records in accordance with specifications set out in this LMP. The PCU may at any time require records from contractors to ensure that labor conditions are met. The Project Management Unit will review records against actuals at a minimum monthly and can require immediate remedial actions if warranted. A summary of issues and remedial actions will be included in quarterly reports to the World Bank.

7.2 Occupational, health and safety

The BBIN 1 project is committed to:

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

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

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

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

- Provide occupational health and safety training to all employees involved in works.
- Provide protective masks, helmet, overall and safety shoes, and safety goggles, as appropriate.
- Provide workers in high noise areas with earplugs or earmuffs.
- Ensure availability of well-stocked first aid box.

- Provide employees with access to toilets and potable drinking water.
- Provide safety and occupational safety measures to workers with Personal Protection Equipment (PPE) when installing pumps to prevent accidents during replacement and installation and follow safety measures in installing submersible pump and cleaning the raiser pipes.
- Properly dispose of solid waste at designated permitted sites landfill allocated by the local authorities and cleaning funds; and attach the receipt of waste from the relevant landfill authority.
- Carry out all procedures to prevent leakage of generator oil into the site.

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

Contractors must engage or designate, at least, one safety representative. Smaller contracts may permit the safety representative to carry out other assignments as well. The safety representative ensures the day-to-day compliance with specified safety measures and records of any incidents. Minor incidents are reported to the BBIN 1 project (PCU) monthly, serious incidents are reported immediately. Minor incidents are reflected in the quarterly reports to the World Bank, major issues are flagged to the World Bank immediately.

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

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

- Adhere to all COVID-19 control protocols issued by the Government of Nepal and provincial authorities, the WHO and the World bank
- Where necessary, prepare and implement site-specific measures (as part of the project OHS plan) to mitigate the risks of COVID-19 transmission among workers
- Promote measures for preventing the spread of COVID-19 among host communities.

As part of E&S screening, contractors will assess the risks of COVID-19 transmission before undertaking project activities: site access, construction of labour camps, consultations with project stakeholders, and based on the assessment, ensure that ensure that basic COVID-19 protocols are

observed such as maintaining social distancing and practicing safe hygiene. The OH&S Specialist will perform additional roles as the focal point for COVID-19 and coordinate site specific measures with local health authorities and community leaders. The World Bank's [Interim note: Covid-19 considerations in construction/civil works projects](#) may be referenced for further guidance on the assessment and management of COVID-19 risks at construction sites.

7.3 Labor influx and sexual exploitation and abuse/sexual harassment

Contractors are required maintain peaceful and cooperative labor relations with local communities through a Code of Conduct (CoC). The CoC commits all persons engaged by the contractor, including sub-contractors and suppliers, to acceptable standards of behavior. The CoC must include sanctions for non-compliance, including non-compliance with specific policies related to sexual exploitation and abuse and sexual harassment (e.g., termination). The CoC should be written in language understandable by workers and signed by each worker to indicate that they have: received a copy of the CoC as part of their contract; had the CoC explained to them as part of the induction process; acknowledged that adherence to this CoC is a mandatory condition of employment; and understood that violations of the CoC can result in serious consequences, up to and including dismissal, or referral to legal authorities.

A copy of the CoC shall be displayed in a location easily accessible to the community and project-affected people. It shall be provided in Nepali.

Contractors must address the risk of SEA/SH through:

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

A grievance redress mechanism for recording and addressing SEA/SH related complaints is defined as part of the project GRM outlined in the project SEP, further presented in section 10 below, and will be used to respond to such cases as necessary.

8. Age of employment

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

9. Terms and conditions

As stated in section 4 of this LMP the terms and conditions of employment in this project will be governed by the Labor Act and the requirements of World Bank ESS2. The Act makes it mandatory for employers to give its employees a written contract of employment, signed by both parties. Accordingly, contractors in this project will be required to provide all their employees with written contracts. Contractors will also be required to comply with the current regulation of wages which is issued and periodically reviewed by the Government. The regulation often specifies the minimum wages, hours of work, overtime pay, leave entitlements, travelling and subsistence allowances and the issue of protective clothing.

The Labor Act notes that before a contractor is awarded a public contract, that contractor is required to certify in writing that the wages, hour and conditions of work or persons to be employed by him on the contract are not less favorable than those contained in the most current wages regulation issued. Where a contractor fails to comply with this requirement, the contract with the contractor may be terminated.

In ensuring full compliance with the law in this regard, contractors will be required to furnish the BBIN 1 project (PCU) with copies of the Written Particulars of Employment or copies of the contract of all its workforce. Contractors will not be allowed to deploy any employee to work in the project if such copy of employment of that employee has not been copied to the PCU. As a monitoring mechanism, the contractor shall not be entitled to any payment unless he has filed, together with his claim for payment, a certificate: - a) stating whether any wages due to employees are in arrears; b) stating that all employment conditions of the contract are being complied with. For this project, it will be a material term of the contract to allow the DoR to withhold payment from contractor should the contractor not fulfill their payment obligation to their workers.

9.1 Worker's Organization

Nepal has ratified the numerous ILO Conventions related to protecting workers and is committed to implementing the key elements of these conventions including the right of workers to collective bargaining. The Labor Act gives effect to collective bargaining and allows for the collective negotiation of terms and conditions of employment. As per this law, workers under this project will have the right to join and form an organization for purpose of labor representation, and to negotiate favorable terms and conditions for their members.

10. Grievance mechanism

Worker Grievances: Complaints from direct workers hired by DoR to work on the project, i.e., consultants and support staff will be addressed using ‘standard dispute resolution mechanisms’ as specified in their contracts. Contractors for works will be required to present a worker grievance redress mechanism which responds to the minimum requirements in this LMP. The Social Specialist at the Project Management Unit’s and designated Officers at the PIU level will review records of workers’ GRM monthly. Where worker concerns are not resolved at contractor level, the PCU will serve as a recourse to solve such complaints. The PCU will report on the status of complaints in quarterly reports to the World Bank.

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

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

10.1 Disciplinary procedure

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

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

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

- a. Conduct an investigation to determine whether there are grounds for a hearing to be held;
- b. If a hearing is to be held, the employer/contractor is to notify the employee about the allegations using a form and language that the employee can understand;
- c. The employee will be given reasonable time to prepare for the hearing and to be represented by a fellow employee or a union representative;
- d. The employee must be given an opportunity to respond to the allegations, question the witnesses of the employer and to lead witnesses;
- e. If an employee fails to attend the hearing, the employer may proceed with the hearing in the absence of the employee;

- f. The hearing must be held and concluded within a reasonable time and is to be chaired by an impartial representative.

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

10.2 Individual grievance procedure

In addition to using formal government administrative channels to resolve worker complaints and grievances. Contractors under this project are required to have a Formal Grievance Procedure. the procedure should:

- a. Specify how workers can lodge their grievance;
- b. Allow for reasonable time frame to address complaints expeditiously;
- c. Allow complainants the right to refer their grievance to a more senior level within the organization, if it is not resolved at the lowest level;
- d. If a grievance is not resolved the employee has the right to lodge a dispute with the BBIN 1 project (PCU).

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

10.3 Collective disputes resulting from the negotiations of Collective agreements

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

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

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

complaint will be recorded along with the age of the complainant and relation to the project will be recorded but the issue will be referred to relevant institutions.

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

11. Contractor management

The PCU requires that contractors monitor, keep records and report on terms and conditions related to labor management. Contractors must provide workers with evidence of all payments made, including social security benefits, pension contributions or other entitlements regardless of the worker being engaged on a fixed term contract, full-time, part-time, or temporarily. The application of this requirement will be proportionate to the activities and to the size of the contract, in a manner acceptable to the BBIN 1 project and the World Bank:

- a. **Labor conditions:** records of workers engaged under the Project, including contracts, registry of induction of workers including CoC, hours worked, remuneration and deductions (including overtime), collective bargaining agreements;
- b. **Safety:** recordable incidents and corresponding Root Cause Analysis (lost time incidents, medical treatment cases), first aid cases, high potential near misses, and remedial and preventive activities required (for example, revised job safety analysis, new or different equipment, skills training, and so forth).
- c. **Workers:** number of workers, indication of origin (expatriate, local, nonlocal nationals), gender, age with evidence that no child labor is involved, and skill level (unskilled, skilled, supervisory, professional, management).
- d. **Training/ induction:** dates, number of trainees, and topics.
- e. **Details of any security risks:** details of risks the contractor may be exposed to while performing its work—the threats may come from third parties external to the project.
- f. **Worker grievances:** details including occurrence date, grievance, and date submitted; actions taken and dates; resolution (if any) and date; and follow-up yet to be taken grievances listed should include those received since the preceding report and those that were unresolved at the time of that report.

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

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

12. Primary supply workers

The risks associated with the primary supply chain associated with the Project will be assessed periodically as information about these supplies become known. All primary suppliers are formal businesses who are required to procure and/or produce raw materials subject to high standards. Suppliers will be vetted using GoN due diligence procedures with regards to compliance with tax obligations, certification, licensing, and workmen's compensation, safety protocols, and declared commitments against the use of child and forced labor.

Primary suppliers will be required to identify their permanent staff and declare any current or prior arbitrations as well as criminal convictions. Registered suppliers are subject to regular review. The review will be carried out twice annually. The BBIN 1 project (PCU) will also ensure, that any primary supplier to the project do not use child labor, report fatalities or serious injury and informs government authorities in accordance with national reporting requirements. Suppliers will be required to use Government issued IDs as evidence of age prior to contracting workers.

**Annex 1: Contents of labor registry
(WRITTEN PARTICULARS OF EMPLOYMENT)**

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

Notes:

- (a) An employee is free to join a trade union or staff association, which is recognized by the undertaking. The address of the Trade Union or Staff Association is:.....
- (b) The grievance procedure and disciplinary procedure in this undertaking requires to be followed when a grievance arises or disciplinary action that needs to be taken.....
- (c) When any heading is inapplicable enter NIL.

.....
Employer's signature	Witness
Employee's signature	Witness
.....
Date	Date

Annex 2: Suggested due diligence for E&S mitigation measures in contracts

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

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

Annex 3: Code of conduct

Preamble

The BBIN 1 project (PCU) Code of Conduct defines labor standards that aim to achieve decent and humane working conditions. The Code's standards are based on national law and accepted good labor practices.

Companies affiliated with the BBIN 1 project (PCU) are expected to comply with all relevant and applicable laws and regulations of the country in which workers are employed and to implement the Workplace Code in their applicable facilities. When differences or conflicts in standards arise, affiliated companies are expected to apply the highest standard.

The BBIN 1 project (PCU) monitors compliance with the Workplace Code by carefully examining adherence to the Compliance Benchmarks and the Principles of Monitoring. The Compliance Benchmarks identify specific requirements for meeting each Code standard, while the Principles of Monitoring guide the assessment of compliance. The BBIN 1 project (PCU) expects affiliated companies to make improvements when Code standards are not met and to develop sustainable mechanisms to ensure ongoing compliance.

The BBIN 1 project (PCU) provides a model of collaboration, accountability, and transparency and serves as a catalyst for positive change in workplace conditions. As an organization that promotes continuous improvement, the BBIN 1 project (PCU) strives to be a global leader in establishing best practices for respectful and ethical treatment of workers, and in promoting sustainable conditions through which workers earn fair wages in safe and healthy workplaces.

Employment Relationship

Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labour and social security laws and regulations.

Non-discrimination

No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination, or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, regionalism, political opinion, social group or ethnic origin.

Harassment or Abuse

Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological, or verbal harassment or abuse.

Forced Labor

There shall be no use of forced labor, including bonded labor or other forms of forced labor.

Child Labor

No person shall be employed under the age of 18

Freedom of Association and Collective Bargaining

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

Health, Safety and Environment

Employers shall provide a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt responsible measures to mitigate the negative impacts that the workplace has on the environment.

Hours of Work

Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country. The regular workweek shall not exceed 48 hours. Employers shall allow workers at least 24 consecutive hours of rest in every seven-day period. All overtime work shall be consensual. Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 72 hours.

Compensation

Every worker has a right to compensation for a regular workweek that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract. Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the BBIN 1 project (PCU) to take appropriate actions that seek to progressively realize a level of compensation that does.