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# LABOUR MANAGEMENT PROCEDURES (LMP)

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Improving Mental Health Services in Sint Maarten Project

MARCH 2ND 2023

NRPB

## Improving Mental Health Services in Sint Maarten Project

### LABOUR MANAGEMENT PROCEDURES

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## Acronyms and Abbreviations

CEA	Country Environmental Analysis
C-ESMP	Contractor-Environmental and Social Management Plan
ESF	Environmental and Social Framework
ESHS	Environmental, Social, Health and Safety
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standard
GRM	Grievance Redress Mechanism
ILO	International Labour Organisation
LMP	Labour Management Procedures
MHF	Mental Health Foundation
NRPB	National Recovery Program Bureau
OHS	Occupational Health and Safety
PPE	Personal Protective Equipment
SEA/SH	Sexual Exploitation and Abuse/Sexual Harassment
VSA	Ministry of Public Health, Social Development and Labour
WYCCF	White and Yellow Cross Care Foundation

## 1 Project Description

The Improving Health Services Project is fully funded by the Sint Maarten Recovery and Reconstruction Trust Fund, which is financed by the Government of the Netherlands, and administered through a tripartite partnership of the Sint Maarten and the Netherlands governments, and the World Bank.

The project will consist of three components:

### **Component 1: supporting the strengthening of the national mental health system.**

This component would finance technical assistance to:

- (i) provide training related to mental health governance to the Ministry of VSA;
- (ii) explore supporting changes to legislation and financing mechanisms (within the boundaries of the national legislative context and guided by government requests for support) to address gaps in mental health service delivery, including substance abuse treatment gaps;
- (iii) develop and operationalize institutional arrangements for the national mental health promotion and prevention program; and
- (iv) strengthening treatment protocols, referral protocols, and mental health expertise within the mental health care chain, as needed.

### **Component 2:**

This component would finance civil works and related activities to build a multifunctional facility for individuals with mental health illness, including a day-care treatment facility, crisis intervention rooms, office space, out/inpatient treatment facilities on a land recently acquired by MHF.

Improving service capacity would include expanding the physical infrastructure of MHF to accommodate and expand capacity of existing services. In order to develop the design, a capacity needs assessment is conducted by the Ministry of Public Health. The new facility will be located on a flat land in the St. John's neighborhood in the Cul-de-Sac district.

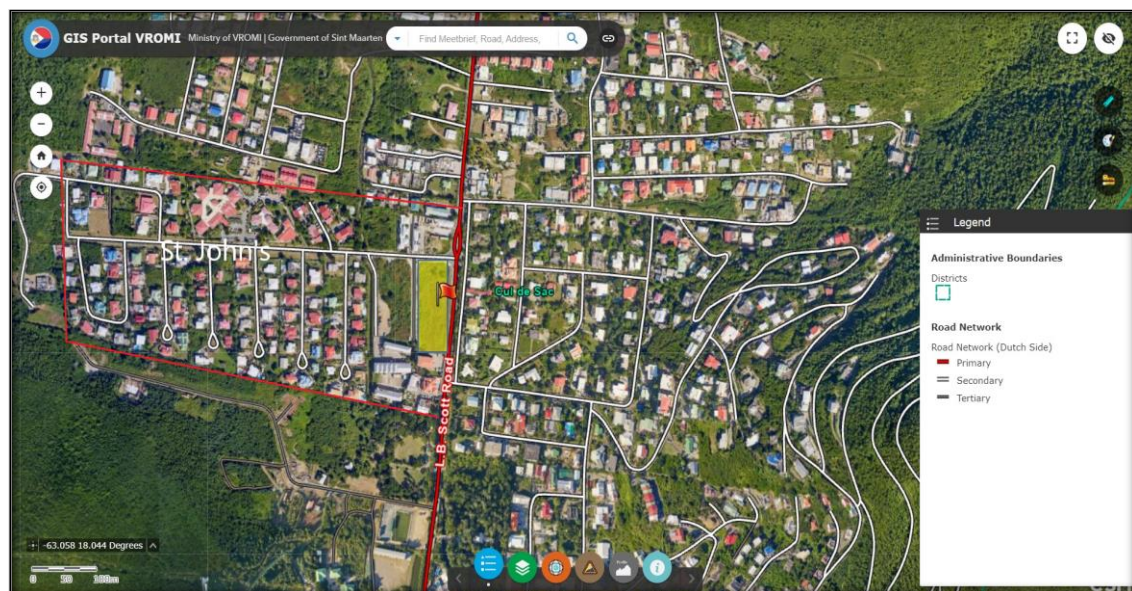
### **Component 3:**

Project management, monitoring and evaluation. This component will support all activities related to project management and coordination.

## 2 Location and Description of Project Area

The location of the new mental health facility will be in the neighbourhood of St. John's which is a mixed residential/social/commercial neighbourhood within the Cul de Sac district. The actual plot is located inside a mixed-use area, 7 minutes or 2.5km away from Philipsburg, along LB Scott Road. The Cul de Sac district is mainly a residential area, known as the school centre of Sint Maarten. The MAC Browlia F. Maillard Campus is adjacent to the development land, while the White and Yellow Cross Care Foundation (WYCCF) is found approximately 300m west of the plot boundaries.

The new building will be built on flat, undeveloped, uninhabited land with a total size area of approximately 6000m<sup>2</sup> with access to water, electricity, and sewer lines. The draft zoning demarcation for the site shows that the intended planned use is "Central", with 12m maximum height and 50% maximum coverage permitted. The plot is located in a flood prone area. There are rainwater drain gutters at the eastern and southern boundaries of the property. There are a total of 5 midsized trees growing on the property. There are two monuments located in proximity with the development plot, the Emilio Wilson Estate and Mary's Fancy Plantation.



## 3 Scope of the Labour Management Procedures

The LMP describes the requirements and expectations in terms of compliance, reporting, roles & responsibilities, monitoring and supervision with respect to labour and working conditions for the project. It covers all categories of project workers and, inter alia, sets out the following:

- Overview of labour use
- Policies and Procedures
- Terms and Conditions of Employment
- Age of Employment

- Legal and regulatory requirements
- Occupational Health and Safety
- Working Conditions

## 4 The World Bank's Environmental and Social Framework

The World Bank Environmental and Social Framework sets out the World Bank's commitment to sustainable development, through a Bank Policy and a set of Environmental and Social Standards that are designed to support Borrowers' projects, with the aim of ending extreme poverty and promoting shared prosperity. The ten (10) Environmental and Social Standards set out the requirements for the identification and assessment of environmental and social risks and impacts associated with projects supported by the Bank through Investment Project Financing.

### 4.1 Environmental and Social Standard 2 (ESS2): Labour and Working Conditions

In relation to this LMP, the most pertinent applicable standard from the list of ten standards is Environmental and Social Standard 2 (ESS 2) - Labour and working conditions. ESS2 recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. Borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions.

This standard makes provisions for the categorization of labourers on the project and the guidelines for their employment. It includes definitions for each category of workers (Direct workers, contracted workers, primary supply workers and community workers). and includes a note on civil servants working in connection with the project. It also outlines the scope of application for the relationship between the borrower and these different categories of project workers.

Direct and contracted workers will be engaged in this project.

A **direct worker** is a worker with whom the Borrower has a directly contracted employment relationship and specific control over the work, working conditions, and treatment of the project worker. The worker is employed or engaged by the Borrower, paid directly by the Borrower, and subject to the Borrower's day-to-day instruction and control. Examples of direct workers may include persons employed or engaged by the Borrower's project implementation unit to carry out design and supervision, monitoring and evaluation, or community engagement in relation to the project.

A **contracted worker** is a worker employed or engaged by a third party to perform work or provide services related to the core functions of the project, where the third-party exercises control over the work, working conditions, and treatment of the project worker.

Some of the requirements to manage these relationships described in ESS2 are:

- Terms and conditions of employment
- Non-discrimination and equal opportunity
- Workers' organisations

- Child labour and minimum age
- Forced labour
- Grievance redress mechanism
- Occupational Health and Safety

## 4.2 Objectives of ESS2

The objectives of the ESS 2 are to:

- To promote safety and health at work.
- To promote the fair treatment, non-discrimination and equal opportunity of project workers.
- To protect project workers, including vulnerable workers such as women, persons with disabilities, children (of working age, in accordance with this ESS) and migrant workers, contracted workers, community workers and primary supply workers, as appropriate
- To prevent the use of all forms of forced labour and child labour.
- To support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law.
- To provide project workers with accessible means to raise workplace concerns.

## 5 Legal and Regulatory Framework and Requirements

There are national agencies and policies and international good practice codes which govern labour and working conditions on the project. This section describes the national agencies, policies and codes which apply.

### 5.1 Overview of National Labour Legislation: Terms and Conditions of Employment

#### **The Labor Legislation**

The Labour Legislation of St Maarten is extensive and covers a broad range of issues to regulate the labor relationship between employees and employers. It describes provisions concerning the work-times, periods of rest, overtime, nightshift, standby shift, holidays, safety, the prohibition of child labor, the prohibition of night work and dangerous work for youths. The core of the legislation consists of the Civil Code which regulates the relationship between employers and employees. Deviation from the Civil Code is limited only to specific cases. All parties have access to either the Court, or mediation via the Labor Department in case of disputes. Next, government has legislative tools to oversee specifics geared towards maintaining decent work, safety and equity. Legislation details can be seen at the GoSM website via this link:

<http://www.sintmaartengov.org/government/VSA/labour/Pages/Labour-Legislation.aspx>.

## **The Safety Ordinance**

The **National Ordinance concerning safeguarding labour in enterprises also known as Safety Ordinance** (AB 2013, GT no. 438) aims at enhancing the safety and health of labourers through the prevention of accidents and fire on the work floor and the promotion of a healthy working environment (e.g. temperature, light, sound, furniture, ambient air, provision of drinking water).

**Safety Decrees I-III** (AB 2013 GT no. 348; no. 280; no. 350):

- Safety Decree I: Regulations on working environment (e.g. lighting, hygiene, temperature, ambient air quality, first aid; restrooms, changing rooms, canteens, night accommodations, PPE, safe operation of machinery, accident prevention);
- Safety Decree II: Detailed regulations on scaffolds, suspended working floors, gangways, ladders, working on roofs, cranes, lifting gear, winches, pulleys, suspensions, safety around construction and demolition sites.
- Safety decree III: Detailed regulations on construction, installation, operation and maintenance of reservoirs for liquids and gases.

There is also a National HIV and AIDS Workplace Policy (2012); The objective of this Policy is to provide a set of guidelines to be adhered to by all employers and employees of Sint Maarten, both public and private, in order to address the HIV and AIDS epidemic in and through the workplace.

## 5.2 Terms and Conditions of Employment

Terms and conditions of direct workers are determined by their individual contracts and NRPB Policy. Consultants will apply the terms and conditions stipulated in their contract of engagement.

The Contractors' Labour Management Procedures will set out terms and conditions for the contracted and subcontracted workers. These terms and conditions will be in line, at a minimum, with this Labour Management Procedures, Sint Maarten labor legislation and General Conditions of the World Bank Standard Procurement Documents.

### **The Labour Regulations**

The Labour Regulation 2000 provides rules regarding among other things: working hours, pause, periods of rest, labour in full continuous service, overtime, child-labour, night work, dangerous labour and labour of domestic personnel.

The Labour regulation (Arbeidsregeling) 2000 contains rules with regards to:

- Working hours, period of rest and timetable
- The maximum working hours per day
- The maximum duration of labour per week (calculated over four weeks)
- Overtime
- Nightshift
- Standby



- Shift (consignment service)
- Labour on rest days, Sundays, and holidays

The Arbeidsregeling 2000 contains to these matters what is allowed and what is not allowed, how long the labour should be, under which conditions one may work overtime etc.

The Arbeidsregeling 2000 also has regulations with regards to:

- Labour by children
- Dangerous and nightshift by youths (is the same as the Arbeidsregeling 1952)
- Labour by domestic personnel (“live in domestic staff”)

- **Payment of Wages and Allowable Deductions**

In applying the Labour Regulations, the term wages refers to all income derived from work performed in the same business with the exception of payments made for e.g. overtime worked. The contractor must provide workers with evidence of all payments made, including Social Security benefits, pension contributions or other entitlements regardless of the worker being engaged on a fixed term contract, full-time, part-time or temporarily.

- **Overtime**

There is overtime in the following situations:

- If the employee works during his period of rest
- If the employee works longer than the maximum period of labour per day or per week.

### 5.3 [Vacation, Sick Leave and Other Permitted Leave](#)

#### **Vacation**

The minimum number of vacation days an employee is entitled to is regulated for all employees. Every employee is entitled to an amount of vacation days per year equal to at least three times the contracted number of working days per week, with a minimum of fifteen days per year for employees who work six days per week.

During an employee’s vacation, the employee remains entitled to receive his salary. Vacation allowance, however, is not mandatory. Furthermore, during (official) national holidays the employee also remains entitled to receive his salary.

#### **Sick Leave**

In the event an employee is unable to perform his/her labour due to sickness (that is not intentionally caused by the employee), the employer is obligated to continue payment of (100% of) the employee’s salary during a relative short period of time (unless otherwise stipulated in the labour agreement).

#### **Pregnancy and maternity leave**

An employee is entitled to payment of 100% of her salary when she is on pregnancy and maternity leave. The pregnancy leave can be two to six weeks before the estimated due date and the maternity leave can be eight to twelve weeks as of the date the employee gave birth.

The total amount of time on leave (pregnancy leave and maternity leave combined) must in all events be at least fourteen weeks.

#### **Other leave**

For other situations (such as weddings, funerals, delivery of children (fathers) and personal leave) there is no legal stipulation granting the employee a specific amount of time for permitted leave. However, (unless agreed otherwise) an employee remains entitled to its wages for a fair short period of time, in the event the employee was not able to work during such time due to:

- (i) the fulfilment of an obligation imposed by law or by the government which could not be fulfilled in the employee's free time or
- (ii) to special circumstances not caused by the employee's fault.

#### 5.4 Age of Employment

The project will only engage individuals at minimum age of eighteen (18) and this will be enforced at recruitment. This will be supervised through the Supervision firm. Contractors/consultants will be required to verify the age of all workers. This will require workers to provide official documentation, which could include a birth certificate, national identification card, passport, or medical or school record.

Contractors will maintain a list of hired project workers. If a child under the minimum age is discovered working on the project, measures will be taken to immediately terminate the employment or engagement of the child in a responsible manner, considering the best interest of the child.

#### 5.5 Government Agencies

**Ministry of Public Health, Social Development and Labour.** The Ministry has a four-pronged mission, one of which is to promote the general wellbeing and quality of life of the population of Sint Maarten by means of services such as health protection, health promotion, labour mediation, labour & dismissal licenses, emergency medical services, social security, community development and social work & counselling and supervision. It aims to do this through a series of policy objectives.

**Department of Labour Affairs.** A government executing agency with the responsibility of all matters pertaining to labour such as registration, dismissals, complaints, vacancies and employment permits to name a few.

The Department of Labor Affairs offers a wide range of services to cater to both business groups as well as persons seeking employment or employed persons seeking professional and/or personal development.

## 5.6 International Labour Organisation

The ILO is a specialised agency of the United Nations that sets international standards related to work. It has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) and setting out basic principles and rights at work.

Agreements with the ILO and member countries (of which the Kingdom of the Netherlands is included), which are relevant to this project are:

- Freedom of association
- Effective recognition of the right to collective bargaining
- Elimination of forced or compulsory labour
- Elimination of discrimination in respect of employment and occupation
- Occupational Health and Safety
- Child Labour

## 6 Policy Gaps between the World Bank and National Labour Legislation

The World Bank's draft Country Environmental Analysis (CEA) of Sint Maarten (2020) categorized the study of gaps in policy for Protection of Workers as follows:

1. Promote safety and health at work,
2. Promote the fair treatment, non-discrimination and equal opportunity of workers,
3. Protect workers, including vulnerable workers such as women, persons with disabilities, children of working age, migrant workers, contracted workers, and community workers.

According to the CEA, the Labour Legislation of Sint Maarten<sup>1</sup> covers a broad range of issues to provide a better working relationship between employees, who are empowered with knowledge of their rights and Employers, who know what is and is not permitted of them.

The current labour legislation thus covers the issues of minimum wages, employee dismissal, prohibition of child labor, occupational injury, holidays and special leaves etc. However, a gap exists in that there is no specific section on vulnerable workers such as women, persons with disabilities, children of working age, migrant workers, contracted workers, and community workers.

There is also an opportunity for improvement of requirements concerning collective bargaining and freedom of association as well as workplace grievance mechanisms.

## 7 Equal Opportunity and Non-Discrimination

Employment of project workers will be based on the principles of non-discrimination and equal opportunity. There will be no discrimination with respect to any aspects of the employment

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<sup>1</sup> On the VSA website: <http://www.sintmaartengov.org/government/VSA/Pages/Ministry-Policies-and-Reports.aspx>

relationship, including recruitment, compensation, working conditions and terms of employment, access to training, promotion or termination of employment.

The following measures will be followed by contractors, supervised by the supervision firm, and monitored by the Social Specialist, to ensure fair treatment of all employees:

- Recruitment procedures will be transparent, public and non-discriminatory and open, with respect to ethnicity, religion, sexuality, disability or gender.
- Clear job descriptions will be provided in advance of recruitment and will explain the skills required for each post.
- All workers will have written contracts describing terms and conditions of work and will have the contents explained to them. Workers will sign the employment contract.
- Employees will be informed of expected release date of upcoming termination in accordance with national labour regulations.
- Depending on the origin of the employer and employee, employment terms and conditions will be communicated in a language that is understandable to both parties.
- In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulty understanding the documentation.

## 8 Overview of Labour Use on the Project

The “Improving Mental Health Services in Sint Maarten” Project is expected to engage the following types of workers:

- (i) **Direct Workers.** People employed by the NRPB as Staff who are tasked with working on the project. NRPB has and will hire consultants to support the preparation and implementation of projects, who will be distinct from NRPB staff. Both staff and consultants directly hired by the NRPB will be considered direct workers under this LMP.
- Contracted Workers.** People employed or engaged by contractors to perform work related to the core functions of the project, regardless of location. This includes the Supervisor, Contractors and sub-contractors hired for and during project execution.

Table 1: Types of Workers To Be Engaged On the Project

Type/Category of Worker	Entity	Type of Work	Number*
Direct Workers	Project Management Team at the NRPB who are not civil servants.	Execution of various project activities	10
	Technical Consultants		25 <sup>2i</sup> TBD

<sup>2</sup> Distributed over project’s duration

	Staff and Consultants hired by the NRPB, who perform tasks related to the project.	Provide technical assistance under the project, based on their various areas of expertise, implementation support and advisory services	
<b>Contracted Workers</b>	Contractors  Sub-Contractors  Consultants hired by the contractor firm or the supervision firm.	Provide technical assistance, manual labour and other required services under the project, based on their various areas of expertise, implementation support and advisory services during project preparation and execution.	20 - 50

Provisions for the management of the contracted workers will be reflected in the bidding documents for the works and services and required in the Contractor's ESMP for the specific works subprojects. This includes standards for personal conduct including sanctions pertaining to Sexual Exploitation and Abuse and Sexual Harassment (SEA/SH).

Contractors hired to complete specific construction activities will be required to have in place appropriate occupational health and safety (OHS) management systems, emergency prevention and preparedness and response arrangements, in accordance with the ESMP. The NRPB's Code of Conduct and regulations to manage existing or new pandemics will be included in the bidding documents and committed to in their signed contracts.

## 9 Contracts to be Awarded Under the Project

Table 2: Contracts to be awarded under the project

<b>Component</b>	<b>Activity</b>	<b>Type of Contract</b>
<b>1</b>  <b>Supporting the strengthening of the national mental health system.</b>	Provide training related to mental health governance to the Ministry of VSA;	Consultant
	Explore supporting changes to legislation and financing mechanisms (within the boundaries of the national legislative context and guided by government requests for support) to address gaps in mental health service delivery, including substance abuse treatment gaps.	Consultant
	Strengthening treatment protocols, referral protocols, and mental health expertise within the mental health care chain, as needed.	Consultant
	Development and implementation of prevention and mental health promotion activities, such as promotion of healthy lifestyles and a stigma reduction campaign.	Consultant

<p style="text-align: center;"><b>2</b></p> <p><b>Improving service capacity to deliver quality mental health care</b></p>	<p>Finance civil works and related activities to build a multifunctional facility for individuals with mental health illness, including a day-care treatment facility, crisis intervention rooms, office space, out/inpatient treatment facilities on a land recently acquired by MHF.</p> <p>Supervise civil works</p>	<p>Contractor</p> <p>Supervision firm</p>
<p style="text-align: center;"><b>3</b></p> <p><b>Project management, monitoring, and evaluation.</b></p>	<p>Support all activities related to project management and coordination.</p>	<p>General Administration</p>

## 10 Risk Analysis and Mitigation Measures

The Environmental and Social Screening conducted for the project from August to October 2022, by the Environmental and Social Specialists of the NRPB, analyzed the possible labour matters which would need consideration during project implementation (Table 3).

Table 3: Labour Risks Screening

Labor Issues		
Screening Question	Yes/No	Is this likely to have a significant effect and why?
<b>Are there potential hazards to the workers?</b>	Yes	<u>No</u> Good practice in Health and Safety, together with the C-ESMP and supervision, shall minimize potential hazards on construction workers.
<b>Are the proper PPEs provided to the workers?</b>	Yes	<u>No</u> Supervision, training, toolbox meetings, signs and supervision and inspections on site will aim to ensure that construction company and workers comply with requirements.
<b>Are provisions in place for Covid 19 or other existing pandemics?</b>	Yes	No Provisions for Covid 19 and other existing pandemics shall be part of contract requirements and the C-ESMP, to the extent required by government regulations. Supervision and training shall ensure that construction company and workers comply with requirements. Any potential labor influx shall be also monitored and screened during arrival.
<b>Are there going to be workers housing facilities?</b>	No	No
<b>Are there procedures incorporated that can be used in emergency situations?</b>	Yes	<u>No</u>

		The contractor's ESMP will address procedures to be used in emergency situations as a result of natural or man-made disasters. Hurricane, Fire and Earthquake preparation will be required.
<b>Are procedures in place for the management of SEA/SH complaints from workers or members of the community?</b>	Yes	<u>No</u> <u>The NRPB GRM clearly outlines the provisions for handling complaints related to SEA/SH. The Contractor is also required to address this in the C-ESMP.</u>

This table below presents these matters divided into broad risk categories, the associated labour risks, impacts and the specific related mitigation measures which will be implemented.

Table 44: Labour Risk Analysis

Risk Category	Labour Risk	Impacts	Mitigation
<b>Occupational Health and Safety</b>	Exposure to dust, solid wastes and materials	Serious injury, accident, fatality, legal action against the project	Ensure provision of adequate PPEs, first aid tools and work tools for workers
	Accidents from movement of equipment and materials	Serious injury or death	Periodical OHS/HSE training for all category of workers
	Road safety from transportation of materials and goods from one location to another	Accidents due to collisions	Regular (weekly) toolbox training for labourers)
	Poor working conditions – overstretched working hours, undefined cut-out times, no PPE	Worker fatigue and stress, increased accidents during work, over-laboured workers, increased grievances, high turnover, poor reputation for the project	Use of skilled and responsible drivers for the transportation of materials and goods
	Lack of provision of adequate sanitary facilities	Spread of diseases and contamination.	Provide workers with adequate periods of rest, sick leave etc as required by national law Installation of mobile washrooms where there is none.
	Inadequate work tools	Low productivity, injury	Contractors will be required to provide and maintain adequate work tools  Mitigation details for the above are to be included in Contractor's Mobilization Strategy and C-ESMP.
<b>Communicable diseases, such as Covid 19 and other pandemics</b>	Transmission of a virus among workers	Serious illness or death, low productivity on the work site	Site specific Covid 19 Protocols in line with Government Protocols
<b>Non-Compliance with Labour Regulations for Foreign Workers</b>	Not expected to be a major risk however should be considered due to possibility of contractor illegally hiring	Work stoppage Exploitation of non-documented workers (Lower pay than documented workers)	Provisions need to be made to ensure all hired staff have the legal authority to work specifically on the Dutch side of the island, evidenced by the proper documentation, from

	<p>undocumented non-domestic workers.</p> <p>Use of sub-contractors who may engage in illegal hiring</p> <p>Engagement of foreign consultants who may not have the required legal immigration documents.</p>	<p>No benefits accrued if employer does not submit to government on workers' behalf.</p> <p>Legal action against the contractor by the authorities</p> <p>Denial of entry into the island for work purposes</p>	<p>the main contractor, sub-contractors and the consultants.</p>
<b>Labour Complaints</b>	<p>Poor management of project workers' concerns and grievances</p>	<p>Workers may have allegations of unfair treatment, poor working conditions, conflicts, poor pay, overstretched working hours amongst other things which impacts the functioning of the workforce, safety, and staff morale.</p>	<p>A Labour GRM is included in this LMP 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.</p> <p>The contractor will include a labour related GRM in the C-ESMP,</p> <p>The grievance procedure will be explained to all employees, in a language understandable to them, during orientation to the project and toolbox meetings/training sessions.</p> <p>The effectiveness of the system will be reviewed periodically or when there is any significant change in the project by the PMT, NRPB, contractors etc.</p>
<b>SEA/SH</b>	<p>Incidents of SEA/SH against workers or members of the community.</p>	<p>Workers on the project and members of the community may be exposed to sexual exploitation and abuse or sexual harassment, perpetrated by workers of the project.</p>	<p>The GRM provides information and procedures for dealing with SEA/SH matters. The Contractor must also include similar provisions in the C-ESMP.</p> <p>The Contractor is also expected to include SEA/SH as a focus in Toolbox meetings and training, aimed at increasing awareness and reducing the possibility of occurrence of SEA/SH.</p>



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## 11 Implementing Responsibilities for the LMP

The Implementing Agency, the NRPB, has the overall responsibility to oversee all aspects of the implementation of this LMP including contractor's compliance and a grievance redress mechanism dedicated to project workers. The NRPB will incorporate LMP requirements into the procurement and contracting for works/services. This role will primarily be part of the responsibilities of the Safeguards and Project Management Teams. They will be required to liaise with their management and the procurement staff in the NRPB on the fulfilment of such duties and directly interact with the Supervision Contractor.

Contractors will be responsible for the implementation of their own LMP daily and the provision of the required human, financial and training resources for effective compliance.

Table 5: Specific Responsibilities

Entity	Units	Responsibilities
<b>NRPB</b>	Project Management Team	Monitoring and supervision of Supervisor
	Safeguards Team: Environmental and Social Safeguards Specialists (one of each)	Monitoring and supervision of Supervisor Overall implementation of the LMP
<b>Contractor</b>	Environmental, Social, Health and Safety (ESHS) Specialists	Implement mitigation measures and procedures outlined in this LMP Keep OHS records Manage workers' welfare Promote workers health and safety Provide a fair system of grievance redressal Provide workers with safety materials as well as training on safety procedures Submission of monthly ESHS reports to the NRPB
<b>Ministry of Public Health, Social Development and Labour</b>	Inspectorate Ministry of Public Health, Social Development and Labour	Overall responsibility for enforcing labour laws
<b>Ministry of Justice</b>	Immigration and Border Protection Service	Overall responsibility for ensuring compliance with immigration policies, including residence permits
<b>Ministry of Tourism, Economic Affairs, Telecommunications and Transportation</b>	Inspectorate Ministry of Tourism, Economic Affairs, Telecommunications and Transportation	Overall responsibility for ensuring contractor compliance with required licenses for operation.
<b>Supervision Firm/s</b>	Safeguards/ESHS Specialist	Supervisor monitors and takes necessary measures to ensure that Contractor takes necessary measures for ESHS aspects, complies with C-ESMP and reports to NRPB.

## 12 Contract Management

Each contractor engaged by the Project will be expected to adopt the protective measures outlined in this document. The contracts drawn by the NRPB will include provisions, measures and procedures to be put in place by the contractors to manage and monitor relevant OHS and labour issues.

The management of both labour and the OHS risks which will arise from the construction of the new building under Component 2 will be achieved through the C-ESMP of contractor. The C-ESMP will also include how the contractor will manage the labour and OHS risks of work performed by any sub-contractors. The OHS requirements under this project have been specified in the ESMP and will be incorporated as conditions in all bidding documents, so bidders will be able to price accordingly for the performance required.

Contractors will include as part of the **bidding/tendering process**:

- i. Provision of medical insurance covering treatment for existing pandemics, following government's regulations, sick pay for workers who either contract the virus or are required to self-isolate/quarantine due to close contact with infected workers and compensation in the event of death.
- li Specific procedures relating to the workplace and the conduct of the work (e.g. creating at least 6 feet between workers by staging/staggering work, limiting the number of workers present at a work station at any given time);
- iv. Contractual provisions and procedures for managing and monitoring the performance of contractors, in light of any changes to government policies prompted by existing medical conditions
- v. Regular reporting on Occupational Health and Safety measures and matters during project execution.

Contractors must immediately report any cases to the NRPB so that close monitoring is conducted and the necessary actions taken, in compliance with national protocols for management of the particular disease.

**In addition to the above listed items, prior to mobilizing**, the contractors hired to complete the works will be required to have in place as part of the C-ESMP or as a separate document:

- vi. Labour Management Procedures (LMP).
- vii. Labour GRM for workers, as part of the LMP.

Contractors will be required to establish a Labour GRM for its workforce. This will include identifying focal points and communication channels (for example, WhatsApp, SMS and email) within the company to address workers' concerns on an ongoing basis and ensure that such channels are adequately resourced. The Code of Conduct of the NRPB prescribes that external partner (NRPB's Sub-Contractors) must allow access to a grievance redress mechanism without fear of reprisals. As such, the Contractors' GRM and Code of Conduct will be required to adhere to the same principle.

The contractor must provide workers with evidence of all payments made, including Social Security benefits, pension contributions or other entitlements regardless of the worker being engaged on a

fixed term contract, full-time, part-time, or temporarily. These should be submitted to the Supervisor monthly, indicating the corresponding payment period.

### 13 Code of Conduct

The NRPB has adopted a Code of Conduct (Annex 1) to ensure Environmental, Social, Health and Safety (ESHS) measures are adopted by the Bureau and its contractors. The firms contracted to do works under Components 1, 2 and 3 shall commit to an NRPB approved Code of Conduct which shall include the responsibilities and accountability of the workers in dealing with the community and following the instruction from the supervisor. It will be included in the bidding documents submitted by contractors and in the final C-ESMP submitted to the NRPB prior to the beginning of works.

The Code of Conduct must be signed by each worker. As such, the Contractor should provide a copy of the Code of Conduct to each worker, in a language they can understand. An example template of the Contractor's Code of Conduct is appended to this document as Annex 2. This will be provided to contractors who may need guidance in the development of their Code of Conduct. The minimum content of the CoC is copied from the World Bank's Standard Procurement Document for Works.

### 14 Labour Complaints and the Grievance Redress Mechanism

A grievance mechanism for labour issues to be raised by project workers, is provided by the NRPB and any companies and contractors hired by the NRPB to perform tasks under projects. Direct workers refer to staff and individual consultants contracted by the NRPB, and contracted workers to workers of a contracted company and sub-contractors. The NRPB GRM integrates a labour GRM, in order to handle complaints from project workers. This chapter describes the process for handling labour issues by the NRPB and describes the requirements of contractors in regard to labour issues.

#### **GRM for Direct Workers.**

NRPB's workers can submit a complaint directly to the Human Resource department. For NRPB workers who qualify as civil servants, the relevant provisions of the National Ordinance for Civil Service apply.<sup>3</sup> The process for handling complaints from NRPB workers, will be described in the HR Cycle. Complaints from direct workers regarding performance evaluation are described in the HR cycle, which is available to direct workers.

Complaints regarding other topics, such as harassment, safety concerns, ethics etc., are proposed to be submitted to the HR department, by visiting the HR-officers in person or sending an e-mail to [hr@nrpbasm.org](mailto:hr@nrpbasm.org)<sup>4</sup>.

Complaints made known to members of the management team, are referred to the HR department. The HR department is responsible for addressing the complaint from the respective NRPB worker.

#### **GRM for Contracted Workers.**

Contracted workers can submit their complaint at the main Contractor. NRPB's labour GRM is available for contracted workers when they are not comfortable submitting a complaint at the Contractor.

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<sup>3</sup> Original text in Dutch: Landsverordening Materieel Ambtenarenrecht, 16-08-2017, AB2017, 32. Weblink: <https://lokaleregelgeving.overheid.nl/CVDR156334/4>

<sup>4</sup> Subject to MT approval

### **1. At their respective employer**

NRPB's contracted companies are required to operate a Grievance Redress Mechanism. Contracted workers can submit their complaint at their employer. Contracted workers are made aware of the possibility to submit a complaint through the induction training and signing of the Code of Conduct. Contractors will have information signs at the respective site and/or a complaint box on site. Complaints, including anonymous complaints, can be received through multiple channels, such as an e-mail address, a designated phone number and a drop box on the project site. If the worker's employer is a Sub-Contractor without a GRM, the main Contractor will operate the GRM for their Sub-Contractors.

### **2. At NRPB, via the following channels**

- By visiting the office during office hours

National Recovery Program Bureau  
#57 Walter A. Nisbeth Road  
Philipsburg  
Sint Maarten

The complaint form will be provided for completion, for further processing of the complaint.

- Telephone

+1(721) 542-8886/7

The complaint form will be provided for completion, in order to further process the complaint, or completed for the complainant during the phone call.

- E-mail

labourcomplaints@nrpbxm.org with "Complaint [insert Project name]" in the title of the e-mail. For example, "complaint Emergency Recovery Project I".

### **Contractor process for handling labour related complaints**

NRPB's (Sub-)Contractors are obliged to comply with national (labor) legislation and applicable World Bank standards. Furthermore, the NRPB requires its staff and consultants and (Sub-) Contractors to adhere to the NRPB ESHS Code of Conduct. The Code of Conduct prescribes that external partners (NRPB's (Sub-)Contractors) must allow access to a labour grievance redress mechanism without fear of reprisals.

Contractors are thus required to submit a labour Grievance Redress Mechanism for NRPB's approval, as part of the C-ESMP and/or LMP, for operation during implementation of the works. The Contractor's GRM will describe in detail the following processes:

1. Uptake (channels available for submitting complaints)
2. Investigation and
3. Resolution and/or
4. Referral of complaints to the NRPB's GRM

The personnel arrangements in support of the operation of the Contractor’s GRM, must be described in the C-ESMP. The Contractor is required to communicate and train their workers on operating and using the GRM. The scope of the Contractor’s GRM includes all project-worker complaints related to labor issues. The contractor will keep the NRPB informed about the grievances received from project workers and any worker complaint that remain unresolved after fifteen (15) days, will be referred to the NRPB.

Any complaints regarding SEA/SH are immediately reported and referred to the NRPB for further handling. The Contractor’s grievance handling is monitored by the NRPB through incidental and regular reporting and possibly site visits and audits.

Contracted worker grievances generally contain complaints about specific categories. The table below serves as an illustration of the different categories. The listed categories are not exhaustive and are intended to provide an overview and awareness of potential labour issues. Note that all complaints from workers will be received by the GRM and processed accordingly.

6Table 6: Categories of labor complaints

Category of Labour Issues	Details
Employment practices that are not compliant with either labor laws or applicable OP’s or ESS 2	Conditions of labor which constitute forced labor or other unscrupulous labor practices
	Such as wages that are not proportionate with the tasks performed or within industry standards, withholding of the agreed upon financial compensation, unlawful termination of a labor contract, excess workload without provision of adequate rests and leisure, lack of hygiene facilities or inadequate facilities, discrimination against women and people with special abilities.
The conduct of hazardous work in violation of the respective health, safety, social and environmental requirements	Such as working at heights or in confined spaces without the required measures in place, irresponsible use of heavy machinery, or irresponsible management of hazardous materials
Lack of adherence to Occupational Health and Safety (OHS) practice and procedures	Lack of commitment to workplace health and safety by management/contractor
Sexual Harassment/Sexual Exploitation and Abuse (SH/SEA)	See definitions in section 7.2.

If a complaint falls within the scope of the mandate of the Inspectorate of Labor of the Ministry of Public Health, Social Development and Labor, and if the principle of confidentiality allows it, the complaint will be shared with the Inspectorate for further handling. In this case, the NRPB will follow up on the resolution of the complaint and closure thereof, as described in Chapter 7.

**NRPB process for handling labour related complaints**

NRPB’s GRM receives complaints from contracted workers if they are not comfortable submitting a complaint at the Contractor.

In case the contracted worker submits the complaint directly to the NRPB, the contracted worker complaint will be received and processed by the NRPB, following the general guidelines and process described in this document.

The NRPB will mediate between the worker and his/her employer and aim for a mutually agreed upon resolution of the complaint with the employer, to the extent possible. Additionally, the respective employer may be instructed by the NRPB to undertake specific steps to resolve the complaint.

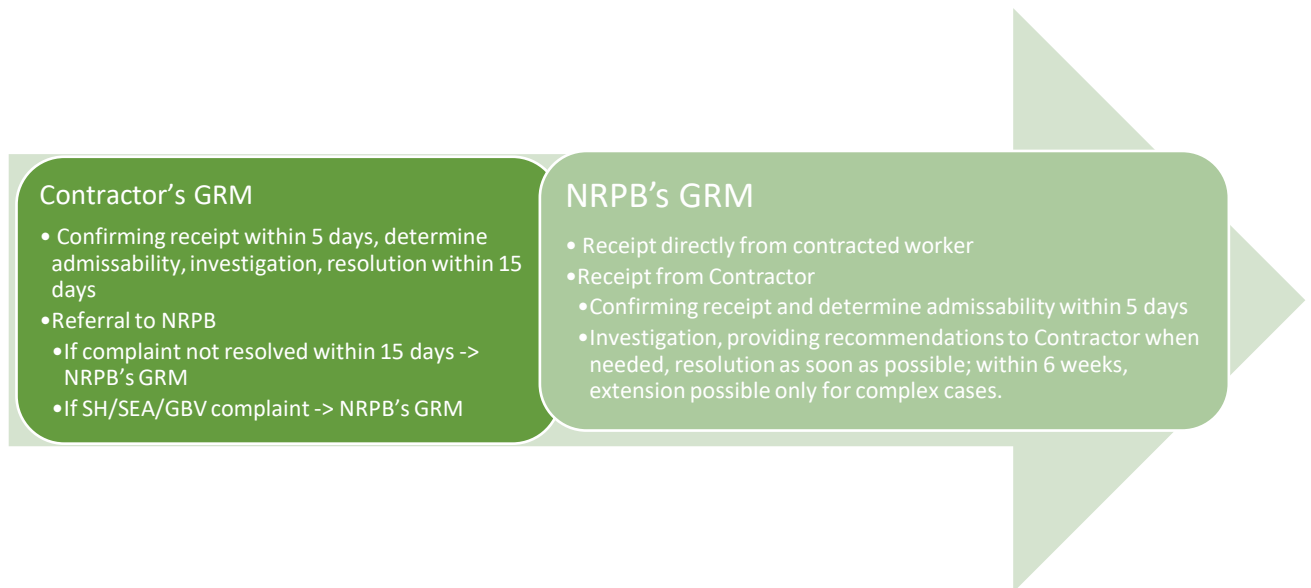


Figure 2: Simplified overview of project-worker complaint handling

## Annex 1: NRPB Code of Conduct



### NRPB Code of Conduct Environmental Social Health and Safety Management

The NRPB acknowledges that the overall wellbeing of Sint Maarten's population, the sound management of the man-made environment, the responsible use of our natural resources and the protection of our cultural heritage are key factors in the development of a more resilient and sustainable Sint Maarten. Social and environmental safeguards are, as such, a cornerstone of all our activities including, but not limited to, office management and the preparation, coordination, execution and evaluation of the recovery projects financed by the Sint Maarten Recovery, Reconstruction and Resilience Trust Fund.

The NRPB therefore strives to:

- Provide for, manage and maintain a safe working environment;
- Establish, implement and review internal and external environmental policies;
- Maintain sound environmental practices as an integral component of our daily activities;
- Minimize negative social and environmental impacts of all aspects of our operations;
- Minimize the generation of solid waste, prevent pollution and conserve natural and cultural resources;
- Conduct all our activities in compliance with applicable best practices, policies, local and international legal requirements;
- Apply applicable health and safety requirements as an essential component of all our programs and projects;
- Continuously improve our Occupational Health and Safety performance;
- Maintain respectful and productive interactions with members of the general public and other stakeholders;
- Respect, promote and protect applicable human rights;
- Promote gender equality and empowerment of women;
- Be intolerant of discrimination against any worker, consultant, individual or community (for example on the basis of family status, ethnicity, race, gender, sexuality, religion, language, marital status, birth, age, disability, or political conviction);
- Be intolerant of Gender Based Violence (GBV), inhumane treatment, sexual activity with children\*, sexual harassment, use of illegal drugs and other illegal activities;
- Ensure that employees and contractors are qualified for the tasks they will be performing;
- Avoid conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, direct family, or personal connection);
- Actively engage with external consultants, contractors and other business relations to foster support for and adherence to the NRPB Environmental Social Health and Safety (ESHS) Policies and procedures, best practices, local and international legal requirements;
- Integrate ESHS requirements into procurement documents for works and supervision thereof;
- Encourage individuals to report violations of this Code as a duty;
- Ensure protection against retaliation for all who report violations of this Code, if that report is made in good faith.

A handwritten signature in blue ink, appearing to be a stylized 'A' or similar character, located at the bottom right of the page.



The NRPB requires external- consultants, contractors and other business relations to:

- Protect the health, safety and welfare of all their staff, subcontractors and communities possibly affected by works and projects;
- Carry-out works in such a manner that minimizes negative impacts on communities, the environment, natural and cultural heritage;
- Commit to an NRPB approved Code of Conduct regarding Environmental, Social, Health and Safety (ESHS) matters;
- Appoint a person responsible for monitoring and reporting on matters related to ESHS;
- Submit to NRPB audits and reviews regarding ESHS and adherence to the approved Code of Conduct;
- Inform staff and consultants of, and allow access to, a Grievance Redress Mechanism without fear of reprisals.

*(\* for the purpose of the policy statement, the term "child" / "children" refers to any person(s) under the age of 18 years.)*

  
Claret Connor  
Director  
National Recovery Program Bureau

## **Annex 2: Contractors' Code of Conduct Template**

This Code of Conduct contains obligations on all Contractor's staff including its sub-contractors' staff. All staff hired by the Contractor should sign this Code of Conduct.

Code of Conduct for the implementation of the Improving Mental Health Services in Sint Maarten Project

Contract: \_\_\_\_\_

Comply with applicable laws, rules, and regulations of the Government of Sint Maarten.

Comply with applicable health and safety requirements (including wearing prescribed personal protective equipment, preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment);

Not use illegal substances any anytime on or off the job.

Not Discriminate against any other worker (for example based on family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction).

Have respectful interactions with community members (for example to convey an attitude of respect and non-discrimination) with communities.

Not engage in any act of sexual harassment (whether through use of language or behavior, towards men or women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate).

Not engage in any act of violence or exploitation (including prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior)

Ensure the protection of children (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas) .

Uphold sanitation requirements (for example, that all workers use specified sanitary facilities provided by their employer and not open areas).

Avoid conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection).

Respect reasonable work instructions (including regarding environmental and social norms);

Protect and properly use property (for example, to prohibit theft, carelessness or waste)

Report violations of this Code as a duty.

Be Protected against retaliation for workers who report violations of the Code, if that report is made in good faith.

Be informed and allowed to access a Grievance Redress Mechanism without fear of reprisal.

On signing I confirm that:

- I have received a copy of this Code.
- The Code has been explained to me.
- I acknowledge that adherence to this Code of Conduct is a condition of employment;  
and
- I understood that violations of the Code can result in serious consequences, up to  
and including dismissal, or referral to legal authorities.

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

EMPLOYER REPRESENTATIVE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_