

S I N T   M A A R T E N

## DIGITAL GOVERNMENT TRANSFORMATION PROJECT - P172611

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### Labor Management Plan

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## ACRONYMS AND ABBREVIATIONS

CEA	Country Environmental Analysis
CERC	Contingency Emergency Response
C-ESMP	Contractor - Environmental and Social Management Plan
CoC	Code of Conduct
DLT	Digital Leadership Team
ESF	Environmental and Social Framework
ESHS	Environmental Social Health and Safety
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESS	Environmental and Social Standards
GoSM	Government of Sint Maarten
GRM	Grievance Redress Mechanism
ILO	International Labour Organisation
LMP	Labour Management Procedures
MECYS	Ministry of Education, Culture, Youth and Sports
MIS	Management Information System
MMIS	Ministry Management Information System
NRPB	National Recovery Program Bureau
NRRP	National Recovery and Resilience Plan
OHS	Occupational Health and Safety
PIU	Project Implementation Unit
WB	World Bank

# 1. Introduction

The Labor Management Procedures (LMP) were developed as a requirement of the World Bank in support of the Digital Government Transformation Project. The procedures seek to ensure that measures are in place to manage risks associated with employment under the project and help to determine the resources necessary for planning and management. It sets out the approach to meeting national requirements as well as the objectives of the World Bank's Environmental and Social Framework, specifically the objectives of Environmental and Social Standards 2 (ESS2): Labor and Working Conditions. The LMP sets out NRPB's responsibilities to promote sound worker-management relationships and enhance the development benefits of the project by treating workers in the project fairly and providing safe and healthy working conditions.

Based on the Project's screening conducted in developing the ESMF, the risks as it relates to labor and working conditions and occupational health and safety are considered to be minor. These risks are understood and are expected to have a limited impact on the project if managed by the procedures set out in this Plan. The government is committed on a continuous basis throughout the life of the project, to evaluate risks and impacts and to have in place adequate measures and procedures to manage adverse impacts.

The LMP is a live document and can be updated to meet the demands of the project.

## 1.1 Project Objectives

The DGTP's project development objective is:

To enhance the access, efficiency and resilience of selected administrative public services for citizens and businesses.

The Project has the following three components:

- (1) Strengthening the legal, regulatory and institutional environment;
- (2) Building digital platforms to enable service delivery; and
- (3) User-centered public services.

### 3.2 Project Components

**Component 1: Strengthening the legal, regulatory and institutional environment.** This component will strengthen the legal, regulatory and institutional environment and human capacity within the Government to manage digital transformation and will lay the groundwork for the platforms and digital services to be delivered under components 2 and 3. The component focuses on the following areas:

- 1.1: Institutional, legal and regulatory reforms
- 1.2: Change management and project management

**Component 2: Building digital platforms to enable service delivery.** This component will establish the technical foundations for citizen-oriented services to be delivered under Component 3 and increase resilience by reducing the vulnerability of selected services to cyberattacks and natural and disasters. The component focuses on the following areas:

- 2.1: Cross-cutting digital service platforms
- 2.2: System resilience and Records Management
- 2.3: Just-in-time digital services

**Component 3: User-centered public services.** This component will enhance public service delivery in Sint Maarten by transforming and scaling-up the existing Public Service Centers (PSCs) in Philipsburg and Simpson Bay to include additional public services offered through multiple channels. The component focuses on the following areas:

- 3.1. Modernization of one-stop-shops (also referred to as the Public Service Centers)
- 3.2. User-centric e-services

**Component 4: Contingent Emergency Response Component.** This sub-component can be triggered following a natural disaster or emergency.

## 2. 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 DGTP. It covers all categories of project workers and sets out the following:

- Overview of labour use

- Labour Risk Analysis and Mitigation
- Terms and Conditions of Employment
- Legal and regulatory requirements
- Occupational Health and Safety
- Working Conditions
- Contract Management
- The Labour Grievance Redress Mechanism

### **3 World Bank's Environmental and Social Framework (ESF)**

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.

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

The 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). It also outlines the scope of application for the relationship between the borrower and these different categories of project workers.

St. Maarten is not qualified as a 'borrower', however, as the recipient of the St. Maarten Resilience and Recovery Trust Fund, St. Maarten's Government implements DGTP with the application of the Environmental and Social Framework.

The objectives of ESS 2 are to:

- Promote safety and health at work;
- Promote the fair treatment, non-discrimination and equal opportunity of project workers;
- 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;
- Prevent the use of all forms of forced labor and child labor;

- Support the principles of freedom of association and collective bargaining of project workers in a manner consistent with national law; and
- Provide project workers with accessible means to raise workplace concerns.

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. Legal and Regulatory Framework and Requirements

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 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

All parties have access to either the Court, or mediation via the Labor Department in case of DLT. 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>.

## 4.1 Terms and Conditions of Employment

Both international and local staff terms and conditions are fully in line with national legislation on Sint Maarten. The terms and conditions of employment as set out in direct workers and consultants' contracts will apply

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 and General Conditions of the World Bank Standard Procurement Documents.

The national staff, who are civil servants, have a standard labor contract, which is mainly governed by the National Ordinance on Civil Service<sup>1</sup> and relevant provisions in the Civil Code.

The ordinance arranges general matters such as rights and obligations, performance management (to a limited extend), work time, sick leave holidays etc. If not otherwise agreed, employees have a 40 hour work week with 8 hour work days. Every employee is entitled to a lunch break of about 45 minutes, which is considered personal time. All staff accumulate 2 vacation days per month which can be taken with consent of the project manager. Both the employer and the employee are bound to the conditions of the contract. Not adhering to the conditions can have implications from both ends, such as disciplinary measures, which are described in the national ordinance.

International staff have also a 40-hour work week. Overtime of both international and local staff is compensated in time in accordance with the line manager. Overtime will be compensated for on a time-for-time basis; if requested, staff will need to fill in a form with respected overtime which needs to be approved by the line manager and overtime can be compensated for other workhours within 2 weeks of the application being approved.

## 4.2 Most relevant related regulations

1. **Veiligheidslandverordening (Safety Ordinance - AB 2013 GT no. 438) and Veiligheidsbesluiten I-III (Safety Decrees I-III - AB 2013 GT no. 348; no. 280; no. 350 )**

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<sup>1</sup> [Landsverordening materieel ambtenarenrecht \(overheid.nl\)](http://www.landsverordening.nl)

- Aim at enhancing the safety and health of laborers 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).

- The employer is obliged to properly implement and maintain adherence to all regulations and directives from these ordinances.
- Inspectors may issue a work stop order, until violations are properly resolved.
- Employers must report accidents on the work floor immediately to the labor inspectorate in case of death, in case of hospital admittance, in case permanent complete or partial invalidity of an employee may result and in case of an accident where coincidentally no personal injury was the result.
- In case of an industrial company with more than 100 employees, a dedicated person responsible for safeguarding the health and safety of the employees must be appointed.
- 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.

## **2. Arbeid Vreemdelingen (Labor by Foreigners - AB 2013 GT no. 357)**

- Applies to all foreigners seeking to be employed on SXM (non – Dutch nationalities), unless admitted into SXM by operation of the law (“van rechtswege toelating” article 3 LTU).
- Prohibited to work without a work permit (article 2).

## **3. Arbeidsregeling (Labor Regulations - AB 2013 GT no. 356)**

- Overtime compensation
  - Basis 50 % of hourly wage
  - Additionally 25 % if work is performed during rest time (175 % hourly wage)
  - Additionally 50 % if work is performed during rest day (200 % hourly wage)
  - Additionally 100 % if work is performed during a national holiday (250 % hourly wage)
- Overtime compensation schedule worker
  - Basis 50 % of hourly wage
  - Additionally 25 % if work is performed during rest time (175 % hourly wage)
  - Additionally 25 % if work is performed immediately after nightshift (175 % hourly wage)
  - Additionally 50 % if work is performed during a scheduled rest day (200 % hourly wage)

- Additionally 100 % if work is performed during a national holiday (250 % hourly wage)
- By means of a CLA lower increments can be agreed upon.
- When called to perform overtime work on a rest day or schedule free day, it must last at least 3 hrs.
- When the working time including overtime exceeds 10 hrs., the employer is obliged to provide a hot meal or an allowance in order to purchase a hot meal. By means of a CLA it can be agreed upon to deviate from these two regulations.
- It is prohibited to have children perform labor with the exception of school and camps.
- It is prohibited to have youth perform labor between 19.00 – 7.00.

#### **4. Arbeidsbesluit Jeugdigen (Decree on Labor by Youth - AB 2013 GT no. 532)**

- Based on article 21 of the National Ordinance on Labor Regulations.
  - Children: up to 15 yrs. of age Youth: 15 up to 18 yrs. of age. Note: DGTP only hires persons from 18 years old of age.
  - It is prohibited to have youth work in an environment/ execute work where there is a direct/indirect threat to his/her health and/or safety and/or indirectly to others by having the youth executing the job (articles 2-27), unless in connection with a professional education training program under supervision.

#### **5. Landsverordening op het ter beschikking stellen van arbeidskrachten (Ordinance on the provision of laborers - AB 2013 GT no. 841) (employment agencies)**

- The provision of laborers for a fee to work in another company /institution.
- It is prohibited to provide laborers for a fee without a permit from the Minister VSA.
- A permit request procedure must be followed. The permit to be issued can be limited and conditioned.
- The provision of laborers for a fee to another company is only possible under certain circumstances and limited to a maximum of 12 months (article 6).
- A permit can be revoked by the Minister VSA.

#### **6. Other related legislation;**

- LV Minimumlonen (Ordinance Minimum wages - AB 2013 GT no. 351).
- LV Vakantieregeling (Ordinance on Mandatory Vacation - AB 2013 GT no. 345)
- LV Materieel Ambtenarenrecht (Ordinance on Civil Service – AB 2017 GT no. 32)

## 4.3 Age of Employment

The project will only engage individuals at the minimum age of eighteen (18) and this will be enforced at recruitment. This will be supervised through the Supervision Contractor. Works 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.

Relevant local legislation is available at the following website: ***Labour Legislation (sintmaartengov.org)***.

## 4.4 Working hours and Wages

Terms and conditions in terms of working hours and wages to be followed for the employment of workers in accordance with labor legislation of the GoSM are described in this section. The legislation classifies workers into two categories, non-schedule workers and schedule workers: Non-scheduled workers are employees with a regular five days, 40-hours-working week. Schedule workers are employees whose working hours fall partly or completely outside the normal office (business) hours. Direct Workers are employed directly by the NRPB to work specifically in relation to the project.

### NON-SCHEDULED WORKERS

#### *Working hours*

- Maximum 10 hours per day and an average of 40 hours per week, calculated over a period of four weeks;
- Working hours including overtime amounts to a maximum of 50 hours per week calculated over a period of four weeks with the understanding that the total working hours per day including overtime should not exceed 10 hours and the working hours per week should not exceed 45 hours calculated over a 13 week period;
- A deviation is possible by means of a Collective Labor Agreement (CLA).

#### *Breaks*

- Employees working based on the “regular” working schedule are entitled to a break of maximum one (1) hour.
- The breaks are not part of the working hours and are therefore not paid at the hourly salary.

### *Periods of Rest*

- In the period between 16:30 hrs at night and 7:30 hrs in the morning;
- Sundays; and
- Official Holidays.

## **SCHEDULED WORKERS**

### *Working Hours*

The working hours per shift and per week amount to the maximum number of hours as reflected in the following diagram:

*Table 1: Working Hours Per Shift*

Type of shift	Maximum per shift	Maximum per week
<b>Day shift:</b>		
without overtime	10 hours	45 hours
including overtime	11 hours	55 hours
<b>Night shift:</b>		
without overtime	9 hours	45 hours
including overtime	10 hours	50 hours
<b>Stand-by:</b>	16 of the 24 hours	112 hours

### *Breaks*

- The Employee, if he/she has to perform work for more than 6 hours per shift, is entitled to a break. The work of the Employee is alternated with:
  - a break of at least half an hour, if he/she has performed work for more than 5 hours;
  - breaks totaling at least 45 minutes combined, if he/she has performed work for more than 8 hours, but not more than 10 hours;
  - breaks of at least 1 hour combined, in the event he/she has performed work for more than 10 hours. The amount of time based on whether you work 5 or 10 hours.
- One of the breaks is at least one consecutive half hour and can be taken either 2 hours after the shift has begun or 2 hours before the shift is due to end.

### *Periods of Rest*

- The daily rest period of the Employee shall be at least 11½ hours during a 24-hour period. In a period of 7 x 24 hours this daily rest period may be reduced once to a minimum of 8 hours.
- The consecutive rest period of the Employee per period of 7 x 24 hours amounts to a minimum of 36 hours or a minimum of 60 hours in a period of 9 x 24 hours. This rest period may be reduced once every five weeks to a minimum of 32 hours, respectively 54 hours.
- The Employee after having worked the night shift (which ends after 02.00, is entitled to a rest period of at least 14 hours. In a period of 7 x 24 hours this rest period may be reduced once to least 8 hours.
- The Employee after a series of 5 night shifts is entitled to a consecutive rest period of at least 48 hours.
- The Employee, within a period of 52 consecutive weeks, is entitled to at least 13 weekends off. A weekend off runs at least from Friday 18.00 hours to Monday 06.00 hours, or from Saturday 18.00 hours to Tuesday 06.00 hours, provided that at the most 6 of these 13 weekends off, start on Friday at 24.00 hours and on Saturday at 24.00 hours respectively.
- The different minimum rest periods are reflected in the following diagram:

*Table 2: Rest Periods*

Rest type	24 hours	5 nights shifts	7 x 24 hours	9 x 24 hours	52 weeks
Standard	11 ½	48	36	60	13 free of which 6 on a Saturday or a Sunday
Deviation	8	-	32	54	-
from	one day in a standard week of 7 x 24 hours		once every 5 weeks	once every 5 weeks	

### **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.

### **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.

## 4.5 Overtime and overtime compensation

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 labor per day or per week.

### RULES RELATING TO OVERTIME

- If the employer calls upon the employee to work overtime during a day on which the employee is free according to his work schedule, then a minimum of three hours of overtime should be paid;
- The Employee who falls in salary classification 8 or lower, and on the orders of the direct line manager does overtime work, is entitled to overtime pay;
- The pay for overtime work amounts per overtime hour worked to the normal hourly salary increased by the overtime allowance, as stated in the next paragraph 4;
- In calculating the overtime pay, by hourly salary is meant, the 1/173rd part of the relevant monthly salary of the Employee;
- The Employee will be awarded for overtime according to the 'Arbeidsregeling 2000'
- In the event at least two hours of overtime work must be performed, immediately following the normal shift, or in the event an Employee is called during a current shift to perform duties during at least two hours, the Employer shall provide the Employee in question with a voucher of the amount of ANG25.00 to be used for obtaining a hot meal and is valid for 30 days after it has been issued. The Employee shall also be given a period of 30 minutes to consume this meal during working hours.

### OVERTIME COMPENSATION

Situation for compensation of wages are:

- Exceeding the maximum working hours - 150%;
- Overtime on a schedule day off - 200%;
- Overtime on a day of rest - 200%;
- Overtime on a holiday - 250%;
- Overtime in combination with night-time work (for schedule workers only) - 150%.

Further, employee and employer may agree in writing that instead of paying overtime in money it is compensated completely or partially in days off (time-back) according to the above mentioned overtime percentages.

All national staff have a health insurance via SZV. International staff have a health insurance with a contract of 6 months and longer. International staff under contract for less than 6 months are informed at the start that they should take care of health insurance.

Emergency medical procedures are covered by the travel insurance that is standard for all international staff regardless of contract length.

## **5. Policy Gaps between 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 St Maarten 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 mechanism.

The mitigation measures provided through this LMP, aim to bridge the above described identified gaps.

## **6. 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 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.

## 7. Overview of Labour use in the project

The Project will hire Direct Workers and Contracted Workers as defined in the ESS2 (LMP). Direct workers are “People employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project. The project will also employ “Contracted Workers”. These are people employed or engaged through third parties to perform work related to core functions of the project.”

Any internationally/locally deployed staff to the Ministry of General Affairs’ Digital Leadership Team (DLT), who are not civil servants, are Direct Workers. These workers consist mainly of technical staff with qualifications in ICT, change management, project management and public sector expertise.

According to ESS2, government civil servants working on the project will remain governed by the conditions stipulated in their public sector employment agreement. ESS2 will not apply to such government civil servants, except for the provisions on ‘protecting the workforce’ and ‘occupational health and safety’.

The following workers will be considered direct workers:

- a) A management firm will be hired to support day-to-day implementation, particularly on the procurement aspects of the project. This firm will be considered a direct worker and as such the LMP will apply to the firm.
- b) NRPB is the implementing agency for the project. NRPB staff are Direct Workers. The relevant LMP provisions will also apply to NRPB.
- c) Additional ICT and management consulting firms/individuals will be hired to support project activities and the LMP will apply to them as Contract Workers.

The main type of workers anticipated to work under this project are Direct Workers and Contracted Workers, who would be engaged based on the classification of workers to perform the core functions of the project.

These workers will be a blend of national, regional and international workers. It is envisaged that approximately 50-100 persons will be engaged to work on the project. The workers must be over the age of 18.

Figure 1: Simplified Overview of Labour Use in the DGTP

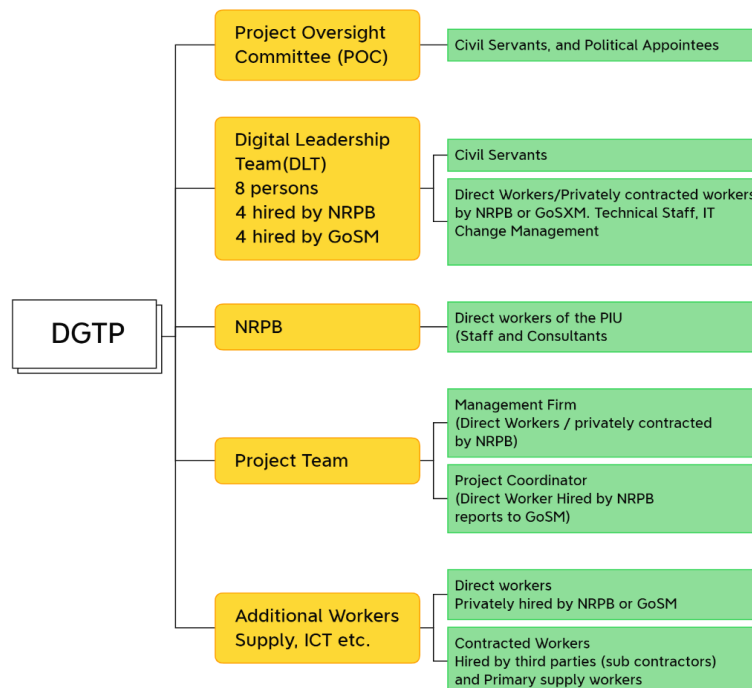


Table 3: Categories of Workers Expected On The Project

Category of Worker	Description	Entity	Type of Work
Direct Workers	A worker with whom the implementing agency 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 , paid directly by , and subject to the implementing agency's day-to-day instruction and control.	Project Management Team at the NRPB who are not civil-servants.	Execution of various project activities
		Consultants hired by the NRPB to perform tasks related to the project.	Provide assistance to the project, based on the consultants area of expertise, implementation support and advisory services.
Contracted Workers	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.	Contractors Sub-Contractors Consultants hired by the contractor firm or the management 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.
Community Workers	People employed or engaged in providing community labour.	NGO's, Non-profit Organizations.	Support in certain stakeholder engagement activities.
Primary Supply Workers	People employed or engaged by the primary supplier.  Suppliers of Goods and materials over which a primary supplier exercises control over the work, working conditions and treatment of the person.	Contractor	Supply of labour, materials, goods and services for the project

	As part of this definition, there is a requirement that the goods or materials be provided directly to the project for its core functions on an ongoing basis. This means that second, third, and further levels of the supply chain (sometimes referred to as Tier 2 and Tier 3 suppliers) are not covered by ESS2.		
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## 8. Risk Analysis and Mitigation Measures

Section 1 above provides a brief description of the project and the activities that will be undertaken under the project components. Based on these activities, the labor risks involved with the project are viewed as minimal. Most of the labor risks will be related to possible extended hours of work mainly for the data inputting staff. There is also the possibility of the staff not working in properly ventilated buildings or buildings not equipped with proper cooling facilities. The probability of the incidence of child labor or forced labor is negligible. The project requires technical staff with skills that require experience and education. The issues of migrant and seasonal workers and labor influx do not apply.

### Code of Conduct

The NRPB has adopted a Code of Conduct to ensure Environmental, Social, Health and Safety measures are adopted by the Bureau and its contractors. The Code of Conduct details expectations of worker's behavior under the project, including with regard to sexual harassment and abuse and has been included as an Annex 1. As such, a Contractor shall commit to an NRPB approved Code of Conduct regarding Environmental Social Health and Safety matters with all its staff before mobilizing them into the construction. Workers should be trained on, and sign on to, the Code of Conduct. The Code of Conduct will include the responsibilities and accountability of the workers in dealing with the community and following the instruction from the supervisor.

### SEA/SH

In any workplace, there is the potential for harassment including sexual harassment (SH), intimidation and exploitation of workers. Potential vulnerable persons are women and young persons working on project activities, such as the screening activities aimed to be done by students (over 18 years old). The Government of St. Maarten is a work environment that is mainly focused in one building, in which there is a relative free movement of workers between the different departments in the building. The Government of St. Maarten does not have a Code of Conduct. A system of 'trusted persons' is in place, but not functioning in practice. Project workers will be required to sign NRPB's Code of Conduct. Contractors are required to submit a Code of Conduct to the NRPB for approval.

The Code of Conduct emphasizes -a zero-harassment policy for all of its workers and sub-contractors. This position will be broadcasted to all workers through various mediums and several formats, including sensitization to the issue and related sanctions. The NRPB will follow up on claims of harassment in the workplace and if needed refer any survivor of SEA/SH to qualified specialists to be identified by the project.

### **Occupational safety**

There are minimal possibilities for accidents and emergencies related to the software development sector. However, the project will ensure that all applicable occupational health and safety provisions by the government of Sint Maarten and International Labor Organizations conventions are observed.

### **Gender Discrimination**

The project will address any gender discrimination in the workplace through monitoring and enforcing the Code of Conduct. The project will address any gender discrimination in the workplace, including possible gender pay gap by requesting that contractors offer equal pay for equal work and seek gender balance in its recruitment by tailoring job advertisements that will appeal to people of all gender identities.

### **Communicable diseases**

The GoSxm has a National HIV and AIDS Workplace Policy (2012)<sup>[1]</sup>; 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 spread of HIV and AIDS in and through the workplace.

Table 4: Overview of Potential Labour Risks and Mitigation Measures

Risk Category	Risk	Impacts	Mitigation
Sexual harassment (SH)	In a work place where people work closely together, specifically in person work, the risk of SH exists. With regards to DGTP, the data entry related tasks is an area where female and young workers are expected to predominate	Low morale Intimidation exploitation of workers Absenteeism Low productivity Employee turnover	The Code of Conduct emphasizes a zero-harassment policy for all of its workers and sub-contractors. This position will be communicated to all workers through various mediums and several formats, including sensitization to the issue and related sanctions.  The NRPB has a GRM in place and will follow up on claims of harassment in the workplace and if needed refer any survivor of GBV or SH to qualified specialists to be identified by the project.
Discrimination	Workers grievances relating to their treatment and working conditions  Poor management of worker relationships	Mental health concerns Absenteeism Low productivity Low staff morale	The Labour GRM will apply  Awareness building for the Labour GRM  Monitoring and Evaluation of the GRM
Lack of Occupational Health and Safety	Accidents from the movement equipment (There are minimal possibilities for accidents and emergencies related to the software development sector)  Poor working conditions – extended work hours, short break times	Injury      Worker fatigue Mental health concerns, stress,	OHS/HSE training for all category of workers. Contractors will be required to have in place appropriate OHS management systems.      Provide workers with adequate periods of rest, sick leave etc as required by

		increased accidents during work, increased grievances, high turnover, poor reputation for the project	national law. Educate workers about their rights
Non-Compliance with Labour Regulations for Foreign Workers	Not expected to be a major risk considering the type of activities.  Use of sub-contractors who may engage in illegal hiring	Work stoppage Exploitation of non-documented workers (Lower pay than documented workers)  No benefits accrued if employer does not submit to government on workers' behalf.  Legal action against the contractor by the authorities	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 the main contractor and sub-contractors.
Labour complaints	Workers grievances relating to their treatment and working conditions  Poor management of worker relationships	Mental health concerns Absenteeism Low productivity Low staff morale	The Labour GRM will apply  Awareness building for the Labour GRM  Monitoring and Evaluation of the GRM

## 9. Implementing responsibilities for the LMP

The NRPB will be the implementing agency for the project. NRPB will be responsible for reporting and monitoring and evaluation, financial management, contracts management, safeguards oversight, and procurement processing. The NRPB will work in close coordination with the Ministry of General Affairs (MGA).

The Implementing Agency, the NRPB, has the overall responsibility to oversee all aspects of the implementation of this LMP including contractor's compliance. 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.

The Ministry of General Affairs will create a Digital Leadership Team (DLT), that will be the primary technical counterpart for the project. The DLT will be led by a project manager and the Unit will report to the Secretary-General (SG) of the MGA and work closely and collaboratively with the NRPB to implement the project. While the NRPB will handle all fiduciary tasks including signing and managing all contracts, the DLT will be responsible for the technical and project management aspects of the project. The DLT will convene inter-ministry committees for specific cross-cutting activities that will be identified once the DLT is in place. The NRPB will work with the DLT for reporting to the World Bank. Under component 1, the institutional design and arrangements for managing digital government transformation will be in place in year three or four of the project to steer the digital government activities beyond the project.

NRPB will contract a management firm to support the DLT and NRPB in the overall implementation of the project. The management firm will help build ICT technical and digital skills and perform day-to-day technical implementation, contract supervision and project management activities in collaboration with the DLT and NRPB. The management firm will also perform tasks related to the technical aspects of ICT procurement (development of terms of references, specifications, bidding documents) and provide quality control of deliverables, collect information and prepare monitoring and evaluation (M&E) reports, and support ICT implementation.

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 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 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 language 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.



Table 5: Specific Institutional Responsibilities

Institution	Units	Responsibilities
NRPB	Project Management Team	Monitoring and supervision of contractor through a regular monitoring system to ensure compliance
	NRPB Communication team	Developing strategies for public engagement Generating content for public consumption in collaboration with the necessary NRPB officers.
	Safeguards Team	Monitoring and supervision of contractor's labour compliance through a regular monitoring system to ensure compliance
		Receive and address complaints in collaboration with the DLT Monitor and ensure overall proper complaint management within project
	Complaints Officer	
Ministry of General Affairs	Digital Leadership Team	Project Supervision. Change management responsibilities in Government, Smooth implementation and adoption of digital solutions
Management Firm	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

		<p>Provide workers with safety materials as well as training on safety procedures</p> <p>Submission of monthly ESHS reports to the NRPB</p>
Contractor	ESHS Specialists	<p>In the absence of their own LMP, contractors will agree to adhere/Implement mitigation measures and procedures outlined in this LMP</p> <p>Keep OHS records Ensure workers are trained on, and subscribe to, an NRPB approved Code of Conduct Manage workers' welfare Promote workers health and safety</p> <p>Provide a fair system of grievance redressal</p> <p>Provide workers with safety materials as well as training on safety procedures</p> <p>Provide workers with safety materials as well as training on safety procedures</p> <p>Submission of monthly and, when requested, incidental ESHS reports to the NRPB</p>
Ministry of Public Health, Social Development and Labour	Department of Labour Affairs	Overall responsibility for enforcing labour laws
Ministry of Justice	Immigration and Border Protection Service	Overall responsibility for ensuring compliance with immigration policies, including residence permits
Ministry of Tourism, Economic Affairs, Telecommunications and Transportation	Department of Economic Licenses	Over responsibility for ensuring contractor compliance with required licenses for operation.

## 10. 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.

## **11 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.

## **12. 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.

### **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>2</sup> The process for handling complaints from NRPB workers, will be described in the HR Cycle.

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<sup>2</sup> Original text in Dutch: Landsverordening Materieel Ambtenarenrecht, 16-08-2017, AB2017, 32. Weblink: <https://lokaleregelgeving.overheid.nl/CVDR156334/4>

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@nrpbsxm.org](mailto:hr@nrpbsxm.org)<sup>3</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.

### **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.

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

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<sup>3</sup> Subject to MT approval

### **Contractor's 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. Any worker complaints 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.

Table 6: Categories of Labour Complaints

Category of Labour Issues	Details
Employment practices that are not compliant with either labor laws, applicable OP's or ESS2	<p>Conditions of labor which constitute forced labor or other unscrupulous labor practices</p> <p>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.</p>
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 of the NRPB GRM

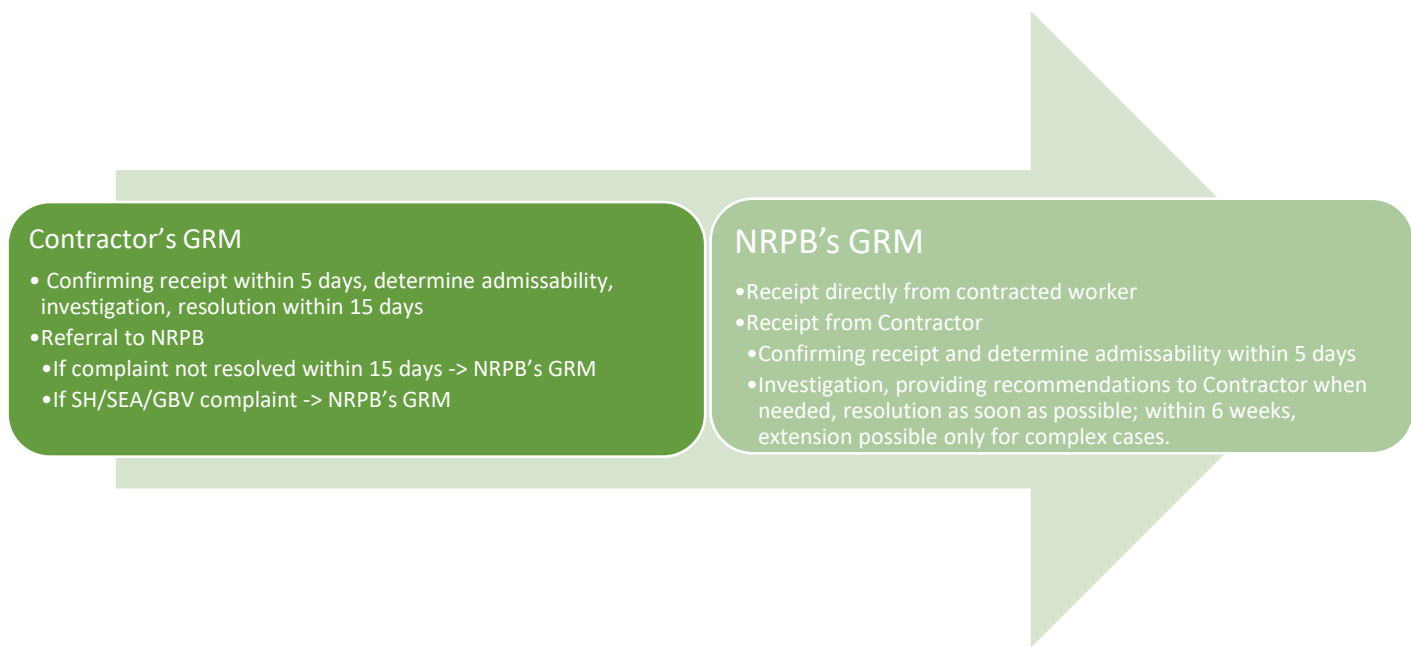
If a complaint falls within the scope of the mandate of the Inspectorate of Labor of the Ministry of Public Health, Social Development and Labor, and if the principle of confidentiality allows it, the complaint will be shared with the Inspectorate for further handling. In this case, the NRPB will follow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

## 12.1 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, consisting of a stylized 'A' shape.