

SINT MAARTEN

**SOCIAL AND AFFORDABLE HOUSING PROJECT
LABOUR MANAGEMENT PROCEDURES**

20 OCTOBER 2023

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1 Introduction

Country and Sector Context

Sint Maarten is a high-income constituent country of the Kingdom of the Netherlands in the Caribbean, along with Aruba and Curacao. It occupies the southern half of an island shared with the French overseas collectivity of Saint Martin and is the most densely populated country in the Caribbean, with a population of over 40,000 in an area of 34 square kilometers. Sint Maarten's Gross Domestic Product (GDP) per capita of US\$29,189 in 2020 was among the highest in the region prior to the 2020 COVID-19 pandemic. Sint Maarten is particularly vulnerable to climate change and natural disasters, which periodically cause extreme disruption of the country's economic activities and living conditions and have a catastrophic impact on the country's tourism-driven economy.

On September 6, 2017, Hurricane Irma, a Category 5 hurricane, caused significant destruction in Sint Maarten. Damages were compounded by smaller-scale Hurricane Maria two weeks later. Although loss of life was limited, Sint Maarten incurred damages and losses estimated at 129 percent of GDP, or US\$2.7 billion. Ninety percent of all infrastructure was affected and much still requires repairs. Though little is known about the distribution of hurricane impacts and their effect on vulnerable groups in Sint Maarten, international experience shows that disasters disproportionately affect persons with limited financial resources and persons in vulnerable living situations, who include Sint Maarten's female-headed households (38.7 percent of households) and children. Furthermore, these disasters are expected to increase in frequency and intensity because of climate change, posing additional threats to recovery efforts.

Following the devastation caused by Hurricanes Irma and Maria, the Government of Sint Maarten (GoSM) prepared a consolidated National Recovery and Resilience Plan (NRRP) that prioritizes immediate, short, medium and long-term needs for the recovery, reconstruction and resilience of Sint Maarten. This Plan includes estimates of the financial requirements, costs and investments that are necessary to build Sint Maarten back better.

Since January 2018, the World Bank has been assisting the Government of Sint Maarten in the establishment and implementation of a recovery and reconstruction program to implement the NRRP. A significant component of this program is financed through a Trust Fund financed by the Netherlands, managed by the World Bank, and implemented by the Government of Sint Maarten.

In parallel to the establishment of the Trust Fund and the execution of the NRRP, the Government of Sint Maarten developed an institutional structure for the implementation of Trust Fund financed projects. This structure is materialized in the National Recovery Program Bureau (NRPB) which serves as the Project Implementation Unit (PIU) for Trust Fund projects for which the Government of Sint Maarten enters into a Grant Agreement. As such, the NRPB represents the Government of Sint Maarten in the implementation of some Trust Fund financed projects.

Allocation of US\$20 million for this proposed Sint Maarten Housing Project was reconfirmed by the Trust Fund Steering Committee on March 30, 2023, with a request for co-financing of the construction of the project.

The need for additional and more affordable housing has been a long-standing issue in Sint Maarten, especially for those in low-and middle-income groups. As of 2019, there are approximately 19,400¹ housing units in Sint Maarten. The market is ‘bifurcated,’ as it is structured around two distinct demand-supply chains. One caters to the wealthy—and mostly foreign—investors buying luxury real estate. The other caters to the low and middle-income local households. However, only the needs of the former are being met, while many low and middle-income local households are living in informal housing or inadequate rental housing². Informal housing consists of poor quality to modest self-built single-family units, constructed incrementally in either private or publicly owned land and without necessarily adhering to planning and building regulations. Due to the way they are constructed and/or their geographic location, these tend to be more susceptible to natural hazards.

1.1. Project Objectives

The proposed Project Development Objective (PDO) is to increase access to affordable housing in Sint Maarten and strengthen the institutional capacity of the housing sector. This project focuses on increasing the supply of resilient affordable housing managed by Sint Maarten Housing Development Foundation (SMHDF), while improving SMHDF’s financial, technical, and operational capacity to become Sint Maarten’s engine for social housing.

The project also aims to enable the broader housing market in Sint Maarten, by supporting VROMI and other stakeholders to address critical barriers across the housing value chain, in particular by providing support to develop a national housing policy.

1.2. Project Components

This project will include three (3) components.

Component 1: Institutional strengthening. It would strengthen the institutional capacity of Sint Maarten Housing Development Foundation (SMHDF) and provide technical assistance to the Government of Sint Maarten (GoSM) to tackle bottlenecks in the broader housing market. It would be comprised of two subcomponents:

- (i) Transformation of the SMHDF strengthening its financial sustainability and technical capacity to fulfil its mandate and manage its entire portfolio of social rental housing in a sustainable manner; and
- (ii) Institutional Strengthening for Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure (VROMI).

Component 2: Social housing development and neighbourhood upgrading. This component would finance construction of new social rental housing to be managed by SMHDF. Based on preliminary cost estimates, the project could deliver approximately 90 units, increasing SMHDF's portfolio by 10 to 12 percent.

¹ Estimate from the 2020 World Bank Rapid Housing Assessment. The number was calculated using data from NV GEBE (the national utility company) which reported that in 2019 there were 17,423 residential units with water hook-up, representing 90 percent of consumers. That yields an estimated total of 19,359 residential units.

² 61% of all housing units in Sint Maarten are rental units. Rental units are mostly 1-2 bedrooms (83%), 44% are 1 BR units, and 74% of all rental units are smaller than 150m². Owner-occupied residences, on the other hand, tend to be larger: the majority (71%) of owner-occupied housing are 2-3 BR units; 64% of these units are larger than 150m², and 23% larger than 300 m².

Component 3: Project implementation support. This component would provide the implementation support to ensure that the governance of the project is well managed.

The location of the **Social and Affordable Housing Project** is in the neighbourhood of Hope Estate which is a mainly residential neighbourhood within the Upper Prince's Quarter district. The plot is at a walking distance away from the capital Philipsburg.

1.3. Project Location

The location of the new housing project is in the neighbourhood of Hope Estate which is ,mainly, a residential neighbourhood within the Upper Prince's Quarter district. The plot is at a walking distance from the capital, Philipsburg.

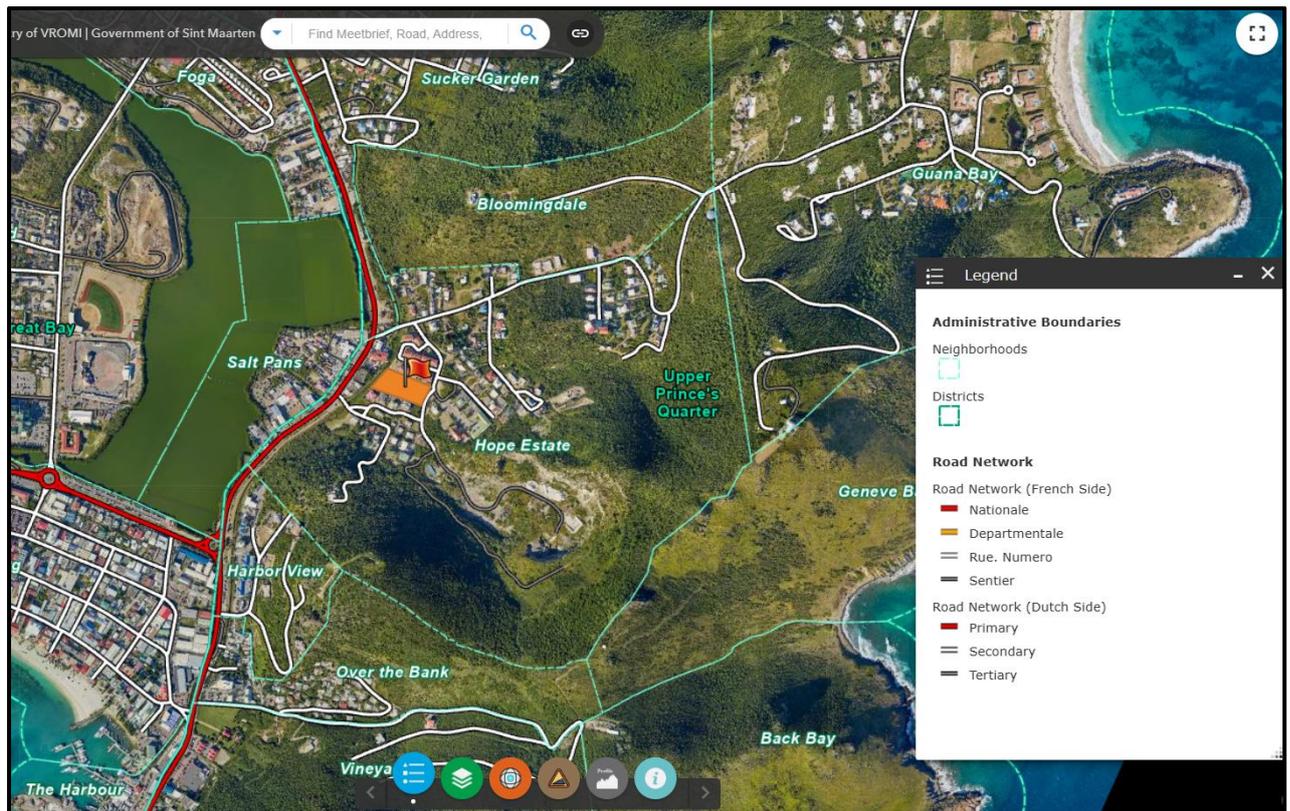


Figure 1: Aerial view of development plot, within the Hope Estate neighborhood of Upper Prince's Quarter district

The project site is located next to public facilities, with supermarkets, gas station and other amenities. It is adjacent to the Marie Genevieve de Weever Primary School. The plot is also adjacent to another social housing complex belonging to SMHDF and several private houses. The new complex will be built on flat, undeveloped, uninhabited land with a total size area of 5393m² with access to water, electricity and sewer. The plot is covered by secondary vegetation and has a drainage system.

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

In relation to this LMP, the pertinent applicable standard from the ten standards of the Environmental and Social Framework is 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). It also outlines the scope of application for the relationship between the borrower and these different categories of project workers.

2.1 Objectives of ESS2: Labour and Working Conditions

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.

3 Scope of the Labour Management Procedures

The Labour Management Procedures (LMP) describes the requirements and expectations of the NRPB and contractors in terms of compliance, reporting, roles & responsibilities, monitoring and supervision with respect to labour and working conditions for the Social and Affordable Housing 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 (OHS)
- Working Conditions
- Contract Management
- Labour Risk Analysis and Mitigation
- Labour Grievance Redress Mechanism

4 Overview of Labour Use on the Project

The LMP applies to project workers who will be hired under the project –, whether full-time, part-time, or temporary. Three (3) types of project workers are expected to be hired under this project, see Table 1 below. Table 2 outlines the contracted workers to be engaged per project component.

Table 1: Categories of Workers To be Hired

Category of Worker	Description	Entity	Type of Work	Number Estimate
Direct Workers	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.	Project Management Team at the NRPB who are not civil servants.	Execution of various project activities	10
		Consultants hired by the NRPB, to perform tasks related to the project.	Provide assistance to the project, based on their various areas of expertise, implementation support and advisory services.	7
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 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.	55

Table 2: Consultants/Contracted Workers Per Project Component

Component	Activity	Number of Consultants
1 Institutional Strengthening	Supply IT hardware, software, training and maintenance for both VROMI and SMHDF	7
	Develop a Website/tenant portal	
	Develop a national housing policy	
	Develop an integrated system for allocation and management of housing subsidies	
	Support to a system for income verification	
	Develop a system of accountability and oversight mechanisms	
2 Social housing development and neighbourhood upgrading	Design of social housing complex	1
	Construction of social housing complex	1
	Supervision of construction of works and monitoring	1
	application of E&S instruments	
3 Project Management	Support all activities related to project management and coordination.	7

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

Contractors, subcontractors and supervising firms, 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 Government of Sint Maarten's Policy and legislation, the ESSs, the ESMPs, and the NRPB's Code of Conduct (Annex 1) which will be included in the bidding documents and committed to in their signed contracts.

4.1 Contracts to be Awarded Under the Project

This section outlines the different contracts which will be awarded per component of the project. Section 4.2 provides further specifics of each consultancy.

Table 3: Contracts to be Awarded Under the Project

Component	Activity	Type of Contract
1 Institutional Strengthening	Supply IT hardware, software, training and maintenance for both VROMI and SMHDF	Vendor
	Develop SMHDF website/tenant portal	Consultants
	Develop a national housing policy	
	Develop an integrated system for allocation and management of housing subsidies	
	Support to a system for income verification	
Develop a system of accountability and oversight mechanisms		
2 Social housing development and neighbourhood upgrading	Design social housing units and develop documentation required for tendering works contract. Construct social housing units Conduct technical supervision of works, including implementation of E&S instruments by works contractor	Consultants
3 Project management, monitoring, and evaluation	Support all activities related to project management and coordination.	Consultants Staff

5 Legal and Regulatory Framework and Requirements

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

The Labor Legislation

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 found at the GoSM website via this link:

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

5.2 Terms and Conditions of Employment

Terms and conditions of direct workers are determined by their individual contracts. 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 (Arbeidsregeling) 2000 contains rules with regards to:

- Working hours, period of rest and timetable
- Labour in full continuous service
- The maximum working hours per day
- Dangerous labour
- Labour of domestic personnel
- Child labour
- The maximum duration of labour per week (calculated over four weeks)
- Overtime
- Nightshift

- Standby
 - Night work
 - Shift (consignment service)
 - Labour on rest days, Sundays, and holidays
- 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 due to
- (ii) special circumstances not caused by the employee's fault.

5.4 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.

5.5 Occupational Health and Safety

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)³. 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.

³ <http://www.sintmaartengov.org/government/VSA/Pages/Ministry-Policies-and-Reports.aspx>

5.6 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 of 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.

Inspectorate Public Health, Social Services and Labour. The mission of the Inspectorate VSA is to establish a professional and independent agency, which is able to execute all its supervisory tasks as efficiently and effectively as possible, based on applicable modern legislation which follows international norms and standards, to contribute to improvement in the health, food, labor and social sector for and the protection of the Sint Maarten community.

5.7 International Labour Organisation

The ILO is a specialized agency of the United Nations that sets international labour standards and develops programmes to promote decent work for all men and women. It has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain 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 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 Maarten⁴ 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.

7 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. The NRPB will incorporate LMP requirements into the procurement and contracting packages for works/services. This role will primarily be part of the responsibilities of the Environmental & Social (E&S) 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.

⁴ <http://www.sintmaartengov.org/government/VSA/labour/Pages/Labour-Legislation.aspx>

Table 4: Specific Implementing Responsibilities for the LMP

Entity	Units	Responsibilities
NRPB	Project Management Team	Monitoring and supervision of design and supervising firms and works contractor through a regular monitoring system to ensure compliance.
	Environmental and Social Team: Environmental and Social Specialists (one of each)	
Contractor	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 appropriate PPEs as well as training on safety procedures Submission of monthly ESHS reports to the NRPB
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	Overall responsibility for ensuring contractor compliance with required licenses for operation.
Supervision Firm/s	ESHS Specialist	Supervisor monitors and takes necessary measures to Ensure that Contractor takes necessary measures for ESHS aspects, to include management of labour.

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 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 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 works under Component 1 will be achieved through the C-ESMP of contractors. 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 bid documents, so bidders will be able to price accordingly for the performance required. The NRPB will submit the final C-ESMPs to the WB for review prior to the commencement of the works.

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

- i. Provision of medical insurance, sick pay and compensation in the event of death.
- ii. Preparation of a Draft Contractor's Environmental and Social Management Plan (C-ESMP) and finalization of C-ESMP prior to the commencement of works.
- iii. Specific procedures relating to the workplace and the conduct of the work
- iv. Regular reporting on OHS and ESHS measures and matters during project execution.

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:

- v. Labour Management Procedures (LMP), including labour influx plan if construction labour is planned to be imported for the project.
- vi. 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 partners (NRPB's Sub-Contractors) must allow access to a GRM 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 on a monthly basis, indicating the corresponding payment period.

Measures required of Contractors for Dealing with Sub-Contractors

- ✓ Contractors will inform subcontractors of and provide them with the C-ESMP and require them to comply with the requirements.
- ✓ Contractors are required to provide PPEs to subcontractors and their staff and are ultimately responsible for the safety of all personnel.
- ✓ Contractors shall provide induction training, toolbox training and inform subcontractors' staff about how to execute works in a safe manner and according to the C-ESMP and different JHAs.

9 Risk Analysis and Mitigation Measures

Component 2 of the project entails civil works for the construction of the social housing units and the basic supporting infrastructure.

Environmental and Social risks of those activities will be assessed in the ESMP prepared for the project. In the following tables some common potential Occupational Health & Safety (OSHS) risks related to civil works are presented, along with risks related to labour conditions and SEA/SH, complemented with the generic mitigation measures to avoid/minimize/offset the risks. This section will be updated once the abovementioned document is finalized.

Table 5: Labour Risks Screening Questionnaire

Labor Issues		
Screening Question	Yes/No	Is this likely to have a significant effect and why?
Are there potential hazards to the workers?	Yes	<u>No</u>
Is there potential for hazardous work conditions that may expose workers to unsafe work practices or exposure to hazardous substances or conditions?		Good practice in Health and Safety, together with the C-ESMP and supervision, shall minimize potential hazards on construction worker.
Will the proper PPEs be provided to the workers?	Yes	<u>No</u>
		Supervision, training, toolbox meetings, signs and supervision and inspections on site will aim to ensure that the construction company and workers comply with requirements.
Are there going to be workers housing facilities?	No	No
Are there procedures incorporated that can be used in emergency situations?	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.
Are procedures in place for the management of SEA/SH complaints from workers or members of the community?	Yes	<u>No</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. Link to NRPB Complaints Procedure: https://nrpbxm.org/complaints-procedure/ Link to NRPB GRM: https://nrpbxm.org/wp-content/uploads/2020/08/ESP-GRM.pdf

Table 6: Labour Risk Analysis

Risk Category	Labour Risk	Impacts	Mitigation
Occupational Health and Safety	Exposure to dust, solid wastes, chemicals, and materials	Serious injury, accident, fatality, illness, legal action against the project	Contractor will be required to prepare a Job/Hazard Analysis for the different works under the project as part of the C-ESMP. ⁵ Ensure provision of adequate PPEs, first aid tools and work tools for workers Periodical OHS/HSE training for all category of workers Regular (weekly) toolbox training for labourers Use of skilled and responsible drivers for the transportation of materials and goods Provide workers with adequate periods of rest, sick leave etc as required by national law Installation of mobile washrooms where there is none. 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.
	Accidents from movement of equipment and materials	Serious injury or death	
	Road safety from transportation of materials and goods from one location to another	Accidents due to collisions	
	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	
	Heat exhaustion	Spread of diseases and contamination.	
	Lack of provision of adequate sanitary facilities		
	Inadequate work tools	Low productivity, injury	
Communicable diseases	Transmission of a virus among workers	Serious illness or death, low productivity on the work site	Protocols in line with Government Protocols
Non-Compliance with Labour Regulations for Foreign Workers	Not expected to be a major risk however should be considered due to the possibility of contractor illegally hiring undocumented non-domestic workers.	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 authorization to work specifically on the Dutch side of the island, evidenced by the proper documentation, from

⁵The identification/application of prevention and control measures to occupational hazards shall be based on the site-specific Job/Hazard Analysis.

	<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>
Labour Complaints	<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, 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 Project Management Team (PMT), National Recovery Program Bureau (NRPB), contractors, etc.</p>
SEA/SH	<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>

			List of GBV service providers: Police Department, Department of Social Services, The Women's Desk, Safe Haven Women's Shelter.
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A Construction Hazard Assessment (CHA) is essential to identify hazards and risks and appropriate controls prior to mobilization to site. All hazards identified must be prioritized. The completion of a Job Hazard Analysis (JHA) is required to verify that hazards and risks associated with a specific task are identified and appropriate controls are implemented prior to execution of the task. All hazards identified must be prioritized.

The JHA must be communicated to all workers involved with the task prior to initiating the task. Subcontractors will be responsible for developing their own JHAs or safe work procedure for any work in their scope that is hazardous and/or complex. The JHA shall be submitted for NRPB's approval before works commencement as part of their C-ESMP.

10 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 regarding ESHS matters with all its staff.

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. It will be included in the Bidding Documents submitted by contractors and in the final C-ESMP submitted to the NRPB prior to works beginning.

The Code of Conduct must be signed by each worker. 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.

11 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 (Human Resource) department. For NRPB workers who qualify as civil servants, the relevant provisions of the National Ordinance for Civil Service apply.⁶ 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@nrpbxsm.org.

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.

1. At their respective employer

⁶ Original text in Dutch: Landsverordening Materieel Ambtenarenrecht, 16-08-2017, AB2017, 32. Weblink: <https://lokaleregelgeving.overheid.nl/CVDR156334/4>

NRPB's contracted companies are required to operate a GRM. Contracted workers can submit their complaint to 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 Wastewater Management Project ".

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.

11.1 Categories of Labour Complaints

Table 7: Categories of Labour 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 of the NRPB institutional 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 NRPB institutional GRM - Chapter 7.

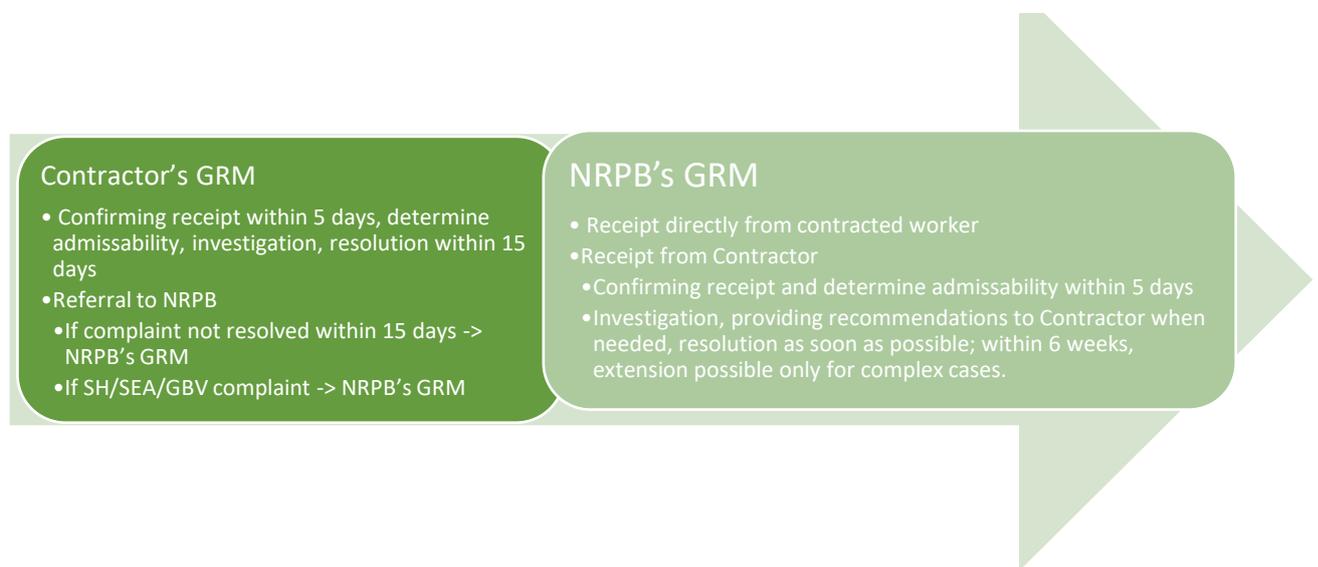
11.2 NRPB process for handling labour related complaints

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 end of the list of commitments.

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: Template/Model for a Code of Conduct for Construction Workers

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 Wastewater Management Project

Contractor: _____

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: _____