

**LABOUR MANAGEMENT PROCEDURES FOR THE RESILIENT SCHOOLS PROJECT**

**(P172753)**

**FINAL**

**MARCH 9, 2023**

DATE	REVISION	NOTES
<b>20 Dec 2024</b>	1	Included comments on Labour Influx and housing facilities and adjustments made to provisions for infectious diseases (replacing Covid 19).

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## GLOSSARY

### ACRONYMS AND ABBREVIATIONS

CEA	Country Environmental Analysis
CERC	Contingency Emergency Response
C-ESMP	Contractor - Environmental and Social Management Plan
CLB	Charles Leopold Bell
CoC	Code of Conduct
ECC	Educational Care Center
EMP	Education Master Plan
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
FRLP	Fostering Resilient Learning Project
GoSM	Government of Sint Maarten
GRM	Grievance Redress Mechanism
ILO	International Labour Organisation
LMP	Labour Management Plan
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
STML	Sint Maarten Library
SML	Sister Marie Laurence
WB	World Bank

# 1 Introduction

**The Fostering Resilient Learning Project (FRLP)** is one of several projects being implemented by the NRPB under a Trust Fund managed by the World Bank. The project is aligned with the GoSM's 2019 Education Master Plan (EMP), which is meant to respond to the emergency needs in the education sector arising after the passage of Hurricanes Irma and Maria in 2017. The EMP aims to provide students and education staff with a safe learning environment that also addresses the needs of special care students as well as students from lower income families, their families, teachers and education staff who were affected by the hurricane.

The EMP, developed in 2018, has three (3) components:

- (1) School reconstruction (including repairs and full reconstruction of five schools), the Heritage Center (including the Sint Maarten Library) and sport facilities.
- (2) Support to a care and special aid program, including the strengthening of care teams in schools and the implementation of a national and children youth program.
- (3) Strengthening of the higher education system and programs.

## **Objectives of the Fostering Resilient Learning Project**

The objectives of the FRLP are to:

- (i) restore access to a safe education, learning and cultural environment and
- (ii) improve the resilience of Sint Maarten's education system.

The FRLP contemplates five components, which are described briefly below, more information can be found in the Project Appraisal Document (PAD).

## **Project Components**

### **Component 1**

**Rebuilding Inclusive schools**, with a preliminary estimated budget of US\$13.48 million., will finance the re-construction, equipment and the supply for the Sister Marie Laurence (SML) Primary School and the Charles Leopold Bell Public School (CLB) both destroyed by Hurricanes Irma and Maria in 2017.

**Sister Marie Laurence (SML) Primary School** is a catholic school located in the Middle Region District near Philipsburg. After the hurricanes hit in 2017, causing major destruction to the island of Sint Maarten, MECYS deemed the school buildings unsafe and not suited for intended purpose and the construction of a brand-new school was required. Since then, students and an afterschool program run by the school have been relocated to two other Catholic schools in other districts.

**Charles Leopold Bell (CLB) Primary School** is located in Cole Bay. CLB was built in 1920 and while it is not on Sint Maarten's official registry of historic monuments, one of the buildings on the premises is considered a historical landmark by the community. The CLB is a public primary school which, before the hurricane, had 165 students with 16 teachers and a care team. After the Hurricane, students and their teachers were relocated to the Leonard Conner School, the closest public school. The Educational Care Center (ECC), established within CLB to welcome 75 public school students showing behavioral problems or disorders that cannot be handled by the public-school system, is on hold until the CLB school is rebuilt. The school suffered structural damage to the building, ceiling, doors, fencing, gates, windows, rolling system etc.). The roof structure was destroyed over 6 classrooms; the parapet walls were destroyed and the ring beams in some areas are damaged. Other damage includes destruction of ceiling tiles, doors, windows, louvres and shutters, the basketball courts, fences and gates.

## **Component 2**

**Restoring a community learning and cultural environment**, will finance the reconstruction of the Sint Maarten Library (STML), the preliminary estimated budget is US\$10.96 million.

**The Sint Maarten Library** had a media lab that was used as a learning facility to a large share of the population that did not have access to computers and the internet. The facility was used to conduct afterschool classes and reading programs for various schools within the community. The STML provided reading materials for the population and it was visited by around 40,000 people annually before Hurricane Irma.

## **Component 3**

**Strengthening the resilience of education system: - Strengthening the Education Management Information System.**

The **Management Information System (MIS)**, the soft component (preliminary estimated budget of US\$3 million), is justified based on the National Recovery and Resilience Plan (NRRP) and the 2017 MECYS Resilience Plan.

The Project will support the improvement of the Education Management Information System (EMIS), in parallel with the Disaster Risk Management system. This component would support the collection, organization and consolidation of data to help the efficient planning and allocation of resources before and in the aftermath of a natural disaster or epidemic.

## **Component 4**

This component will support **project management and coordination**, including monitoring and evaluation, procurement, financial management, safeguards and citizen engagement, and other technical assistance. As a result, the Project will finance, inter alia, technical assistance, goods, audits, workshops, training and operating costs.

## Component 5

### Contingency Emergency Response – CERC (USD\$0)

Given that Sint Maarten is vulnerable to natural disasters, including those exacerbated by climate change, an unfunded Contingency Emergency Response Component (CERC) is included, to allow for rapid response in the event of an eligible emergency. The CERC will be activated upon GoSM request, based on triggers and under conditions defined in the Project Operation Manual. In the event of an emergency, uncommitted funds may be reallocated from other components based on a Government Emergency Action Plan. The amount to be reallocated to the CERC is decided at the time of the emergency in agreement with the World Bank.

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

In relation to this LMP, the pertinent applicable standard from the 10 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 paying workers on the project fairly and providing safe and healthy working conditions.

This standard makes provisions for the categorisation 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 without bias or victimization.

### 3 Scope of the Labour Management Procedures

This 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 FRLP. It covers all categories of project workers and sets out the following:

- Overview of labour use
- Policies and Procedures
- Terms and Conditions of Employment
- Age of Employment
- Legal and regulatory requirements
- Occupational Health and Safety
- Working Conditions
- Contract Management
- Labour Risk Analysis and Mitigation
- The 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 hired full-time, part-time, or temporary. Two types of project workers are expected to be hired under this project, see Table 1 below.

*Table 1: Categories of Workers Expected on the Project*

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	Project Management Team at the NRPB who are not civil-servants.	Execution of various project activities	8
		Consultants hired by the NRPB or MECYS to	Provide assistance to the project, based on the consultants area of expertise,	6



	day-to-day instruction and control.	perform tasks related to the project.	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 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.	25-100
Community Workers	People employed or engaged in providing community labour.	NA	No Community Workers	NA
Primary Supply Workers	People employed or engaged by the Borrower's primary supplier.  Suppliers of Goods and materials over which a primary supplier exercises control over the work, working conditions and treatment of the person.  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.	Contractor	Supply of labour, materials and goods for the project	Contractor to determine primary suppliers

\* At the time of preparation of the LMP, the exact scope of the project works was not yet determined, hence identifying the exact number of workers was not possible. Estimates are therefore provided, to give a sense of scale. Site-specific Labour Management Plans will be prepared in the Contractor's ESMP for the project and these will have more exact numbers.

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 Theft, Gender Based Violence, Sexual Exploitation and Abuse and Sexual Harassment.

Contractors hired to complete specific construction activities will be required to have in place appropriate occupational health and safety (OHS) management systems, emergency prevention and preparedness and response arrangements, in accordance with Government of Sint Maarten's Policy and legislation, the ESMF, the NRPB's Code of Conduct included in this document as Annex 1 and the COVID-19 Guidelines<sup>1</sup>, Section 9, which will be included in the bidding documents and committed to in their signed contracts.

#### 4.1 Consultant Contracts to be awarded under the FRLP:

- (i) Design: The consulting firms will be responsible for the preparation of designs for the construction of the Charles Leopold Bell Primary School and the Sint Maarten Library. Designs include drawings, design details, specifications, bills of quantities and design calculations. This firm will also be responsible for developing all tender documents of the civil works and submission for approval to the Ministry of VROMI. Tender documents should include furnishings, equipment for all the rooms and areas of the building spaces, as it relates to the scope of works. The design firm will also be tasked to make adjustments to the designs of CLB school and SML based on feedback from the school community.
- (ii) Supervision: The supervision consultant firms will provide supervision services for the demolition of existing buildings and construction works of the two schools and the library according to the designs, technical specifications, permits, ESMF and C-ESMP.
- (iii) Civil Works: The contractor/s is responsible for the execution of the work activities that are required for the completion of the two schools and the library according to the provisions of the Contract. This includes planning, management, monitoring, construction, ESHS compliance according to the ESMF and C-ESMP, and the relevant legal issues, among other tasks relevant to the effective completion of the project.
- (iv) Furnishings: A separate contractor will be hired to provide the necessary furnishings and equipment for the Sister Marie Laurance School, the Charles Leopold Bell School and the Sint Maarten Library based on the availability of funding and the specific needs of each institution.
- (v) MMIS Consultants: Two separate consultants will be hired for the MMIS component of the project:

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<sup>1</sup> Provisions for the management of Covid 19 throughout this document will be adjusted to reflect the management of emerging or existing pandemics.

- (i) Consultant responsible for developing the policy and the framework for implementation of the MIS.
  - (ii) Consultant responsible for developing the software
- (vi) ESS8 Consultant: ESS8, Cultural Heritage, sets out measures designed to protect cultural heritage throughout the project life cycle. It includes specific provisions/requirements for archaeological sites and material, built heritage, natural features with cultural significance, and movable cultural heritage.

The key duties and responsibilities of the Consultant are to ensure compliance with ESS8 and based on the ESCP prepared for the FRLP. The Consultant will be expected to:

- (i) Conduct a cultural heritage assessment for the Charles Leopold Bell Public School, and depending on the outcome of the assessment, develop a Cultural Heritage Management Plan for the school
  - (ii) Include Chance Find Procedures to insert in the ESMF and a chance find clause in the works contracts. (Extracted from Draft Terms of Reference for ESS8 Consultant)
- (vii) Needs Assessment Consultant: The role of the consultant is to support government, specifically the Ministry of Education, Culture, Youth and Sport (MECYS) in verifying and upgrading the delivery of special needs education within an inclusive education policy framework, which will improve the Ministry's capacity to support vulnerable students in particular and ensure access to education for all by carrying out the following tasks:
- Identify and assess SML and CLB infrastructure and current learning programs and recommend update to access quality services to meet the needs of students with identified special needs
  - Identify and recommend update requirements and needs based on today's insights in terms of innovation, Governance and Sustainability of both CLB and SML programs
  - Based on the assessment of available documentation made available by MECYS as well as the key stakeholders' consultation, the Consultant will prepare a Policy Framework (Extracted from Terms of Reference for Needs Assessment Consultant).
- (viii) Cultural Heritage Consultant: The objective of the service is to support MECYS and NRPB in adequately preparing the rebuilding of Sint Maarten Library by
- (i) developing an institutional framework for collaboration and
  - (ii) advising on functionality of the new building.

The Consultant will do this by carrying out the following tasks:

- review the current STML's services and governance mechanisms as well as those that were in place before Hurricane Irma.

-review the pre-hurricane and ongoing collaboration between the Library, SIMARC and the Museum and the vision for future services for STML through several stakeholders' sessions. (Extracted from Terms of Reference for Heritage Center Consultant).

## 5 Legal and Regulatory Framework and Requirements

There are national agencies and policies and international good practice codes which govern labour and working conditions on the FRLP.

### 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 seen 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 Legislation of St Maarten, Labour Management Procedures and General Conditions of the World Bank Standard Procurement Documents.

#### **The Labour Regulations**

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

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

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

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

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

The Arbeidsregeling 2000 also has regulations with regards to:

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

- 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 & 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.

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

## 5.5 Government Agencies

**Ministry of Public Health, Social Development and Labour.** The Ministry has a four-pronged mission, one of which is to promote the general wellbeing and quality of life of the population of Sint Maarten by means of services such as 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.

## 5.6 International Labour Organisation (ILO)

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

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

- Freedom of association
- Housing recommendations
- 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

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)<sup>2</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 HIV and AIDS epidemic in and through the workplace.

## 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 St Maarten**<sup>3</sup> covers a broad range of issues to provide a better working relationship between employees, who are empowered with knowledge of their rights and Employers, who know what is and is not permitted of them.

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

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

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



Table 2: Specific Responsibilities

Entity	Units	Responsibilities
NRPB	Project Management Team	Monitoring and supervision of contractors through a regular monitoring system to ensure compliance
	Safeguards Team: Environmental and Social Safeguards Specialists (one of each)	Monitoring and supervision of contractors through a regular monitoring system to ensure compliance
Contractor	ESHS Specialists	<p>Implement mitigation measures and procedures outlined in this LMP and include them in the on-site specific LMP as part of their C-ESMP</p> <p>Keep OHS records</p> <p>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>Submission of monthly ESHS reports to the NRPB</p> <p>Adhere to all labour management procedures.</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	Overall responsibility for ensuring contractor compliance with required licenses for operation.
Supervision Firm/s	Safeguards Specialist	Ensure that Contractor takes necessary measures for Environmental, Social, Health and Safety (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 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, age, 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 reconstruction of the three buildings under Components 1 and 2 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 covering treatment for infectious diseases, sick pay for workers who either contract the disease or are required to self-isolate/quarantine due to close contact with infected workers 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.
- iv. Contractual provisions and procedures for managing and monitoring the performance of contractors, in light of any changes to government policies prompted by infectious diseases and
- v. Regular reporting on Occupational Health and Safety and Environmental Social Health and Safety 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:

- vi. Labour Management Plan (LMP), including labour influx plan if construction labour is planned to be imported for the project.
- 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 partners (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 on a monthly basis, indicating the corresponding payment period.

## 9 NRPB Provisions for Infectious Diseases for Procurement and Contracting <sup>4</sup>

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<sup>4</sup> As previously stated, provisions for the management of Covid 19 will be adjusted to apply to any existing or emerging infectious disease.

The Contractor is required to implement and enforce all the safety and health legislation and directives for infectious diseases of the government of Sint Maarten.

Also, the Contractor is recommended to stay current and implement, as applicable, the international safety and health practices for existing infectious diseases, of the World Health Organization (and of OSHA). The final provisions will be included in the ESMF and C-ESMP for the specific subprojects.

Special provisions for Protocols for infectious diseases on a construction site:

- 1 A Site Supervisor or senior staff should be identified as a focal point to deal with issues related to infectious diseases. This person will be responsible for coordinating preparation of the site and making sure that the measures taken are communicated to the workers, those entering the site and the resident community. One person will be designated to be a back-up person, in case the focal point becomes ill. That person will be aware of the arrangements that are in place.
  
- 2 Workers will be encouraged to use the Labour GRM to report concerns relating to the disease, preparations being made by the project to address issues related to an infectious disease, how procedures are being implemented, and concerns about the health of their co-workers and other staff.

The Contractor will be expected to, inter alia:

- Prepare a detailed profile of the project work force, key work activities, schedule for carrying out such activities, different durations of contract and rotations, those from the local community, those from outside, underlying conditions, or otherwise at risk.
- Conduct regular health checks, particularly for symptoms of the infectious disease
- Control entry/exit to work site by employees to restrict movement by securing the boundaries of the site, establishing entry/exit points
- Confirm that employees are fit for work
- Train security staff who will be monitoring entry to the site, also document employees who are on site.
- Manage the movement of workers on the site, as determined by national regulations. Train workers and staff on site on the signs and symptoms of the disease, how it is spread, how to protect themselves and what to do if they or other people have symptoms. (Tool- box Training)
- Placing posters and signs around the site, with images and text in local language.
- The number of workers at any one location will be limited as much as possible.
- If necessary work will be done in shifts to minimize number of persons on site.

## 10 Risk Analysis and Mitigation

The Environmental and Social Screening conducted for the project analysed the possible labour issues which would need consideration during project implementation (Table 3).

Table 3: Labour Risks Screening (Extracted from the draft ESMF for the project)

<b>Labor Issues</b>		
<b>Screening Question</b>	<b>Yes/No</b>	<b>Is this likely to have a significant effect and why?</b>
Are there potential hazards to the workers?	Yes	<u>No</u> Good practice in Health and Safety, together with the C-ESMP and supervision, shall minimize potential hazards on construction workers. Asbestos and mold exposure assessment shall be completed before the commencement of works.
Are the proper PPEs provided to the workers?	Yes	<u>No</u> Supervision, training, toolbox meetings, signs and supervision and inspections on site will aim to ensure that construction company and workers comply with requirements.
Are provisions for the management of infectious diseases in place?	Yes	<u>No</u> Provisions for the management of infectious diseases shall be part of contract requirements and the C-ESMP. Supervision and training shall ensure that construction company and workers comply with requirements. Any potential labor influx shall be also monitored and screened during arrival.
Are there going to be workers housing facilities?	Not likely	Specialists may be required and might be recruited from overseas in small numbers and will look after their own housing. Where import of labor may be required, the Contractor will comply with the national labor laws and also include Labor Management Strategies as part of the C-ESMP.  However, non-resident workers could potentially have housing arrangements which may be (considered) less than favourable.  For example, contractor may attempt to house personnel at the project sites, (including overnight or temporary stays) or house

		<p>labourers in cramped and overcrowded residential spaces. This is strictly prohibited.</p> <p>Workers of the contractors shall not be allowed to utilize any of the project sites as a residential facility, for any duration (including overnight stays).</p> <p>Where there is an influx of labour housing in an area away from the construction site, the Contractor to submit a C-ESMP for approval from all relevant authorities.</p> <p>ILO Article R115 is applicable in this instance.</p>
<p>Are there procedures incorporated that can be used in emergency situations?</p>	<p>Yes</p>	<p><u>No</u></p> <p>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.</p>

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

Table 4: Labour Risk Analysis

Risk Category	Labour Risk	Impacts	Mitigation
Occupational Health and Safety	<p>Exposure to dust, solid wastes and materials</p> <p>Accidents from movement of equipment and materials</p> <p>Road safety from transportation of materials and goods from one location to another</p> <p>Poor working conditions – overstretched working hours, undefined cut-out times, no PPE</p> <p>Lack of provision of adequate sanitary facilities</p> <p>Inadequate work tools</p>	<p>Serious injury, accident, fatality, legal action against the project</p> <p>Serious injury or death</p> <p>Accidents due to collisions</p> <p>Worker fatigue and stress, increased accidents during work, over-laboured workers, increased grievances, high turnover, poor reputation for the project</p> <p>Spread of diseases and contamination. Low productivity, injury</p>	<p>Ensure provision of adequate PPEs, first aid tools and work tools for workers</p> <p>Periodic OHS/HSE training for all category of workers</p> <p>Regular (weekly) toolbox training for labourers)</p> <p>Use of skilled and responsible drivers for the transportation of materials and goods</p> <p>Provide workers with adequate periods of rest, sick leave etc as required by national law Installation of mobile washrooms where there is none.</p> <p>Contractors will be required to provide and maintain adequate work tools</p> <p>Mitigation details for the above are to be included in Contractor’s Mobilization Strategy and C-ESMP.</p>
Infectious Diseases	Transmission of the virus among workers	Serious illness or death, low productivity on the work site	<p>Site specific Protocols for infectious diseases, in line with Government Protocols</p> <p>Toolbox training on Infectious diseases</p>

			<p>Signage with regulations for infectious diseases placed at strategic locations on site</p> <p>Management Plan for infectious diseases to be included in the C-ESMP</p>
<p>Non-Compliance with Labour Regulations for Foreign Workers</p>	<p>Not expected to be a major risk however should be considered due to possibility of contractor illegally hiring undocumented non-domestic workers.</p> <p>Use of sub-contractors who may engage in illegal hiring</p>	<p>Work stoppage</p> <p>Exploitation of non-documented workers (Lower pay than documented workers)</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>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.</p>
<p>Labour Complaints</p>	<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 PMT, NRPB, contractors etc.</p>



## 11 Code of Conduct

The NRPB has adopted a Code of Conduct (Annex 1) to ensure Environmental, Social, Health and Safety 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 Environmental Social Health and Safety matters as well as Sexual Exploitation and Abuse and Sexual Harassment (SEA/SH), 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.

## 13 Labour Complaints and the Grievance Redress Mechanism

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

### GRM for Direct Workers

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

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

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.

### **3. 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.

### **4. E-mail**

Labour [complaints@nrpbxm.org](mailto:complaints@nrpbxm.org) with "Complaint [insert Project name] " in the title of the e-mail. For example, "Complaint Fostering Resilient Learning 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.

### 13.1 Categories of Labour Complaints

Table 5: 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	<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.

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 GRM.

**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.

### Contractor's GRM

- Confirming receipt within 5 days, determine admissability, investigation, resolution within 15 days
- Referral to NRPB
  - If complaint not resolved within 15 days -> NRPB's GRM
  - If SH/SEA/GBV complaint -> NRPB's GRM

### NRPB's GRM

- Receipt directly from contracted worker
- Receipt from Contractor
- Confirming receipt and determine admissability within 5 days
- Investigation, providing recommendations to Contractor when needed, resolution as soon as possible; within 6 weeks, extension possible only for complex cases.

## Annex 1: NRPB Code of Conduct



**NRPB**  
NATIONAL RECOVERY  
PROGRAM BUREAU

### **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.

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 Fostering Resilient Learning 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: \_\_\_\_\_