



SOMALIA URBAN RESILIENCE PROJECT PHASE II

(SURP II)

P170922

LABOR MANAGEMENT PROCEDURES

(LMP)

FINAL DRAFT

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ABBREVIATIONS AND ACRONYMS

BRA	Benadir Regional Administration
EHSB	WBG Environmental, Health and Safety Guidelines
ESF	WB Environmental and Social Framework
ESHS	Environmental, Social, Health and Safety
ESIA	Environment and Social Impact Assessment
ESMP	Environment and Social Management Plan
ESS2	Environmental and Social Standard 2: Labor and Working Condition
FGS	Federal Government of Somalia
FMS	Federal Member States
GBV	Gender-Based Violence
GRM	Grievance Redress Mechanism
IDP	Internally Displaced Persons
ILO	International Labour Organization
LMP	Labor Management Procedures
MOLSA	Ministry of Labor and Social Affairs of Somalia
OHS	Occupational Health and Safety
O&M	Operations and Maintenance
PCU	Project Coordination Unit
PIU	Project Implementation Unit
PPE	Personal Protective Equipment
SUIPP	Somalia Urban Investment Planning Project
SURP	Somalia Urban Resilience Project
SURP II	Somalia Urban Resilience Project Phase II
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNOPS	United Nations Office for Project Services
WB	World Bank
WBG	World Bank Group

INTRODUCTION

1. **Labor Management Procedures.** Under the World Bank Environmental and Social Standard 2 (ESS2: *Labor and Working Conditions*), the Borrower is required to develop labor management procedures (LMP). The purpose of the LMP is to identify the main labor requirements and risks associated with the project and help the Borrower to determine the resources necessary to address project labor issues. The LMP will enable different project-related parties, for example, staff of the project implementing unit, contractors and sub-contractors and project workers, to have a clear understanding of what is required on a specific labor issue. The LMP is a living document, which is initiated early in project preparation, and is reviewed and updated throughout development and implementation of the project.

2. **Project Description.** Scaling up the ongoing Somalia Urban Resilience Project (SURP), SURP II will aim to strengthen urban resilience by: (i) providing capacity building support to municipalities and strengthening government systems at the sub-national level by channeling funds on-budget; (ii) financing prioritized urban infrastructure investments in cities; (iii) generating short-term income generation opportunities for vulnerable groups, such as women, the urban poor, IDPs and returnees; and (iv) strengthening institutions for urban development at the municipal level. SURP II has a tentative project budget of US\$110 million and will target the four cities of Mogadishu, Garowe, Kismayo and Baidoa. These cities were selected based on their political, economic, and security relevance as well as their vulnerability (concentration of IDPs and urban population growth) relevance. The expected approval date of SURP II by the World Bank is October 2019 with the expected closing date of October 2024.

I. OVERVIEW OF LABOR USE ON THE PROJECT

3. While the list of exact infrastructure investments to be supported by SURP II and their locations in each municipality have not yet been finalized, priority investments are likely to be the rehabilitation/upgrading of existing primary and secondary urban roads and bridges; drainage; pedestrian walkways; and streetlighting. While the exact labor use in SURP II will be determined during the project implementation stage (including the number, characteristics and timing of labor requirements), below is the overview and a summary table (Table 1) of anticipated project workers in SURP II, drawing upon the experience in SURP I¹:

¹ SURP I has a project budget of US\$9 million, targeting Mogadishu and Garowe. Works in Mogadishu will involve construction of 19 community roads (in total about 7.5km) in 7 districts for the period of 14 months.

4. **Direct Workers.** SURP II will engage the following types of consultants in Project Implementation Unit (PIU), Project Coordination Unit (PCU) and Engineering and Supervision Consultants as “direct workers”:

- 1) **Project Implementation Unit (PIU):** The PIUs in each municipality (Mogadishu, Garowe, Kismayo and Baidoa) are responsible for the management and supervision of overall implementation of SURP II, including construction work by the contractor(s). The Municipalities will require support from the consultants in specific technical areas, as they are unlikely to have sufficient expertise to manage SURP II. Each PIU will engage with approximately five (5) national consultants with expertise in project management and coordination, financial management, procurement, engineering, environmental/social safeguards, monitoring and evaluation, among others. The timing of labor requirements is from the project preparation to the completion of the project.
- 2) **Project Coordination Unit (PCU):** SURP II will also set up a PCU in the Ministry of Public Works (or any other Ministry as agreed with the Federal Government of Somalia), which will be responsible for providing oversight and monitoring of the project. The PCU will engage with approximately five (5) national consultants for overall project coordination, financial management, procurement, monitoring and evaluation, environmental/social safeguard and any other relevant expertise. The PCU will be set up during the early stage of project implementation and remain in place until the completion of the project.
- 3) **Engineering and Supervision Consultant:** An engineering and supervising consultant (firm or international organization²) will be engaged by the PIU to provide day-to-day construction oversight for the civil works. The engineering and supervision consultant team will consist of five (5) to ten (10) international and national experts, including project manager, road design engineer, project support officer, geospatial technical officer, quantity and cost estimator, community liaison officer and environmental, health and safety officer. The procurement process for the consultant team will start during project preparation, but the consultant will be on board in the early stage of project implementation. The engineering and supervision consultant will support the PIUs until the completion of the civil works.

² The United Nations Office for Project Services (UNOPS) has been engaged as the engineering and supervision consultant for SURP I.

5. **Contracted workers.** It is not yet clear if the municipalities are likely to award a single contract for the full construction package within each city or a number of contracts, as this will largely be determined by the allocation of funds for each city and final scope of the civil works. The labor requirements will depend on the scale of the individual civil work under each construction package. The timing of labor requirements will fluctuate, dependent on the construction stages, including ground clearing, borrow clearing, drainage preparation, road bed preparation and road maintenance. More details will be determined by individual contractors during contract award stage. The experience of SURP I for community road construction in Mogadishu indicates that the contractor will engage approximately 50 to 60 workers for each road section (each road section is about 500 m to one km). The time requirement for the construction of one road section in Mogadishu under SURP I is approximately one month. The following is the different categories of anticipated contracted workers:

- 1) **Skilled permanent staff of the primary contractor (construction company):** The permanent technical staff of the primary contractor will be engaged in the project, including project managers, project engineers, environmental engineers, construction foreman, medical officer, admin and finance officer. While such staff are most likely national staff, they may include migrant workers from outside Somalia. The permanent staff may also include female officers (such as engineer, medical officer and store keeper).
- 2) **Skilled workers engaged by sub-contractors.** Depending on the available expertise within the primary contractor and other factors, the contractor may engage sub-contractors for some technical work, which may include heavy machine operators for hauling, road roller/soil compaction, sand/quarry loading, and grader/excavation. The contractor may engage such subcontractors locally, nationally or even from the neighboring countries. The basic machine operators such as water bowser drivers, truck drivers, concrete mixer operators are likely to be local.
- 3) **Unskilled community members engaged by the contractor:** The project is designed to maximize the employment generation through engaging community members as unskilled workers. To ensure equal opportunities in employment, the contractor will be contractually required to coordinate with the PIU to prioritize the host communities and vulnerable groups in the engagement of such workers, including female workers, IDPs and persons with disabilities. Local community action groups are expected to support the selection of unskilled workers. The work assigned for unskilled female workers will include community engagement, traffic management, sand spreading, hand compacting and daily

site cleaning and rubbish removal. The use of brokers or intermediaries to source unskilled workers is not expected³.

6. **Primary supply workers.** The construction work under SURP II will require primary supplies essential for the functions of the priority infrastructure, such as construction materials including aggregates, bitumen and precast concrete interlocking blocks. Where the contractor will source such materials directly from primary suppliers on an ongoing basis, the workers engaged by such primary suppliers are deemed “primary supply workers”, as defined in ESS2. The number and type of primary suppliers will be determined at project implementation stage. The timing of labor use of primary supply workers will cover the construction stage of the project (see Section XI for more details on primary supply workers).

7. **Community workers.** The project will have no community workers as defined under ESS2. The community members to be engaged by the contractor will be categorized and managed as “contracted workers”.

8. **Other stakeholders working in connection with the project.** Stakeholders working in connection with SURP II other than the above project workers will include the following.

- 1) **Government civil servants:** Some federal, state and municipal government civil servants will be working in connection of SURP II, which will include Federal Ministries of Finance, Public Works and Planning; State Ministries; Benadir Regional Administration (BRA) and Municipalities of Mogadishu, Garowe, Baidoa and Kismayo; and district police that provide security services to project sites. They will remain subject to the terms and conditions of their existing public sector employment, which are governed by Somalia’s Provisional Constitution (2012) and Civil Service Law (Law Number 11). There will be no legal transfer of their employment or engagement to the project. The Constitution and the Civil Service Code prohibit child labor and forced labor. The government civil servants involved in SURP II are not expected to be exposed to OHS risks under the project as they will not engage in project-related civil works.
- 2) **Third-party monitor:** The Bank will engage a third-party monitor to supplement its project supervision of SURP II where the access of Bank staff and consultants is limited due to security constraints. Such party is subject to the contract with the Bank, and ESS2 is not applicable⁴.

³ Under the Somali Labour Code (Article 124), it is unlawful for any person to act as an employment agent.

⁴ The contractual arrangement for third-party monitoring is under consideration and subject to change.

Table 1: Overview of Indicative Labor Use in SURP II

Type of project workers	Characteristics of project workers	Timing of labor requirements	Indicative number of workers
Direct workers <ul style="list-style-type: none"> • PIU consultants • PCU consultants • Engineering and supervising consultants 	<ul style="list-style-type: none"> • PIU: National consultants from each municipality • PCU: National consultants • Engineering consultants: international and national experts 	<ul style="list-style-type: none"> • PIUs: from project preparation until project completion • PCU: from early stage of project implementation until project completion • Engineering consultants: from early stage of project implementation until project completion 	<ul style="list-style-type: none"> • PIU: approx. 5 consultants in each municipality • PCU: approx. 5 consultants • Engineering and supervising consultant: 5-10
Contracted workers <ul style="list-style-type: none"> • Skilled workers engaged by the primary contractor • Skilled workers engaged by subcontractors • Unskilled workers 	<ul style="list-style-type: none"> • Skilled workers of the primary contractor: mostly national technical permanent staff • Skilled workers engaged by the subcontractor: national or international operators of heavy machines • Unskilled workers: local host community members, female workers, IDPs and persons with disabilities. 	<ul style="list-style-type: none"> • The timing of labor requirement will fluctuate, dependent on the construction stages, which will be determined by individual contractors at the contract award stage. • The labor requirement for one community road section is approximately one month (in the case of SURP I in Mogadishu). 	<p>(Below is the case of the first road construction under SURP I in Mogadishu)</p> <ul style="list-style-type: none"> • Skilled workers of the primary contractor: 13 • Skilled workers of the subcontractor: 9 • Unskilled workers: 29
Primary supply workers <ul style="list-style-type: none"> • Workers engaged by primary suppliers at quarry sites (construction materials) 	<ul style="list-style-type: none"> • They are most likely local workers. 	<ul style="list-style-type: none"> • The construction stage of the project. 	<ul style="list-style-type: none"> • The primary supply workers will be identified during the project implementation stage.
Community workers	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Not applicable

II. ASSESSMENT OF KEY POTENTIAL LABOR RISKS

9. **Project activities.** The project activities under SURP II will include construction of urban roads and minor bridges along with corresponding road drainage system, sidewalks, street lighting and road furniture. They will also involve the demolition or removal of existing box culverts and other structures in the right of way. Most of the construction activities will take place within the urban areas which may involve densely populated business premises. Indicative project activities to be carried out under SURP II are the following:

- Removal of unsuitable material from the road surface and disposal to designated areas;
- Excavation and stock piling of construction material at borrow areas, gravel and sand harvesting and crushing of aggregates at quarry sites;
- Transportation of construction material including excavated soil, gravel, sand, rocks and water to the construction sites;
- Preparation of road surface by backfilling with selected imported material, machine compaction and levelling;
- Formation of road profile consisting of sub-base and base course placed in properly compacted layers;
- Provision of the road surface layer consisting of aggregate with bituminous binder or other surface treatments such as laying precast concrete interlocking blocks;
- Road shoulder construction, road drainage system, sidewalks and pedestrian crossings, installation of street lighting and road furniture etc.;
- Demolition of existing obsolete culverts and other structures;
- Technical support such as setting up of the road profile and drainage structures, material testing for quality control, engineering supervision etc.; and
- Support services such as servicing and maintenance of construction equipment, road surfacing material preparation, electrical services, welding support, transport services etc.

10. **Key labor risks.** Drawing upon the experience and lessons learned from SURP I⁵ and the stakeholder feedback⁶, the following are key labor risks anticipated during the implementation of SURP II:

⁵ The lessons learned under SURP I on labor issues include the need for: ongoing capacity building of the contractor on ESHS issues (access control, child labor, traffic safety etc); inclusion of GBV provisions into the code of conduct; better management of community grievances; and addressing security risks.

⁶ Public consultations were conducted on the present LMP and other instruments in Mogadishu and Garowe. Labor issues discussed included child labor; transparency in recruitment process and award of contracts; employment of

1) **Occupational health and safety (OHS) risks:**

- a) Road or bridge construction sites pose risks to the workers with the sheer volume of constantly moving heavy vehicles and dump trucks maneuvering around on an uneven terrain.
- b) The construction activities involving heavy machineries will be quite noisy. Loud, repetitive, and excessive noise causes long term hearing problems, such as deafness. Noise can also be a dangerous distraction and may distract the worker from the task at hand, which can cause accidents.
- c) Heavy materials and equipment are expected to be constantly lifted and moved around by workers at site, which poses health and safety risks.
- d) Collapsing of material borrow excavation with workers inside is also a risk with the type of prevailing materials in the area. Working at height for the bridge construction will also pose the risk of falling.
- e) With the hot and dry climate being experienced in Somalia, heat-related injuries such as heat stroke and heat exhaustion also pose a risk to the construction workers.

2) **Child labor:**

Somalia is within top 10 countries of the world with highest child labor risks. According to UNHCR⁷, close to 40 per cent of all children under the age of 15 work in Somalia, where they engage in the worst form of child labor. Hence, the risk of engaging under-aged children in the project activities will require particular attention. Contractors and suppliers may tend to use children for economic reasons and convenience. The forced labor risks are less likely as the project areas in project municipalities have no shortage of labor supply.

3) **Labor influx:**

With the limited scale of work under SURP II and the availability of labor supply in the project municipalities, a large scale of labor influx is not expected. However, the construction activities may bring some workers from other cities who may have diverse backgrounds, different cultures and dissimilar behaviors to the local communities. They may not integrate well with the local cultures and values, and could risk the local social values and harmony. All these could lead into conflict between locals and migrant workers. Labor influx could also increase the risk of Gender Based Violence (GBV).

4) **Labor disputes over terms and conditions of employment**

women and vulnerable groups; GBV risks in recruitment and work place; and OHS measures. For more details, see the SEF for SURP II.

⁷ <https://www.businessinsider.com/countries-worst-child-labor-risks-2012-1?IR=T>

Labor disputes in a new construction environment are common in Somalia. Likely causes for labor disputes include demand for limited employment opportunities; labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in work environment. In turn, there is also a risk that employers such as contractors/subcontractors may retaliate against workers for demanding legitimate working conditions, or raising concerns regarding unsafe or unhealthy work situations, or any grievances raised, and such situations could lead to labor unrest.

5) **Discrimination and exclusion of vulnerable/disadvantaged groups**

While unemployment and underemployment are widespread in Somalia, if unmitigated, vulnerable/disadvantaged groups of people may be subject to increased risk of exclusion from employment opportunities under SURP II. Such groups will include women, IDPs and persons with disabilities. Sexual harassment and other forms of abusive behavior by workers will also have the potential to compromise the safety and wellbeing of the vulnerable groups of workers and the local communities, while adversely affecting project performance. This will also include potential sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers supported under the project.

6) **Security risks**

With Al-Shabaab still in control of parts of the country and their attacks frequently targeting government and other strategic infrastructure and persons in urban areas including project municipalities of SURP II, the security risk for the project workers is significant.

III. BRIEF OVERVIEW OF LABOR LEGISLATION

11. **ILO fundamental conventions ratified by Somalia.** Somalia has been a member of the International Labour Organization (ILO) since 1960. The country has ratified 6 out of 8 fundamental conventions of ILO, including the following:

- *Forced Labor Convention* (No.29) (ratified in 1960)
- *Freedom of Association and Protection of the Right of Organize Convention* (No. 87) (ratified in 2014)
- *Right to Organize and Collective Bargaining Convention* (No.98) (ratified in 2014)
- *Abolition of Forced Labor Conventions* (No. 105) (ratified in 2014)
- *Discrimination (Employment and Occupation) Convention* (No. 111) (ratified in 1961)
- *Worst Forms of Child Labor Convention* (No. 182) (ratified in 2014)

12. **Overview of Somalia’s national labor code.** The Provisional Constitution of the Federal Republic of Somalia (adopted in August 2012) provides the legislative framework for labor issues. Labor Code⁸ of Somalia (Law Number 65, adopted in 1972) is the specific labor law governing all aspects of labor and working conditions, which covers the contract of employment, terms and condition, remuneration, and occupational health and safety, trade unions and labor authorities. The provisions of the Labour Code apply to all employers and employees in all project municipalities⁹. The Labour Code is applicable to all project workers of SURP II. The Labour Code is broadly consistent with the ESS2, while there is a significant gap in the enforcement aspect of the legislation (see Section III on the institutional framework). The public service or public institutions are governed by the Civil Service Law (Law Number 11).

13. **Terms and Conditions.** Below is the list of relevant provisions of the Labour Code with regard to terms and conditions of work.

1) Content of individual contract of employment (Article 46)

- Subject to the provision of this Code or regulations made hereunder, a written individual contract of employment shall be specify the following: (a) name and father’s name of workers; (b) address, occupation, age and sex of workers; (c) employer’s name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract.

2) Notice for termination of contract (Article 50)

- Either of the contracting parties may terminate a contract of employment by giving written notice as under:
 - (a) Not less than ten days in the case of manual workers;
 - (b) Not less than 30 days in the case of non-manual workers:Provided that no notice need be given in case the duration of contract does not exceed one month.

3) Minimum wages (Article 72)

⁸ The Labor Code is in the review process with support from ILO. The revised draft Labor Code was agreed and adopted in February 2019 by representatives from various ministries of the Federal Government of Somalia, all Federal Member States, employers, workers, and academia. The Federal Ministry of Labour could not predict the likely timeframe for the Parliamentary approval, and advised that the existing Labour Code (1972) shall continue to be applicable until revised code becomes the law. Consultation with Labour Ministries of South West State (Baidoa) and Jubbaland (Kismayo) also have confirmed that they follow the national Labour Code in administration of labour matters in their States.

⁹ Puntland (for which Garowe is the capital city) follows provisions of the Labour Code of Somalia which was revised by Puntland in 2012. Since, Puntland established its institutions and legal frameworks prior to the Federal Government of Somalia (FGS) and other federal member states. The Labor Laws of Puntland are broadly the same as the Labour Code in terms of the provisions, but there may be some discrepancies for some articles.

- Taking into consideration the economic and social conditions of the country (and in consistence with the provisions of article 71), the minimum wages for any category of workers may be determined by decree of the President of the Republic, on the proposal of the Minister, having heard the Central Labour Commission, and with the approval of the Council of Secretaries.
- 4) Hours of work (Article 85, 86)
- The normal hours of work of a worker shall not exceed eight a day or 48 a week.
 - Hours worked in excess of the normal hours of work shall not exceed 12 a week and shall entitle a worker to a proportionate increase in remuneration, which shall in no case be less than 25 per cent of the normal remuneration.
- 5) Weekly rest (Article 96)
- Every worker shall be entitled to one day's rest each week, which should normally fall on Friday. It shall consist of at least 24 consecutive hours each week.
 - Workers shall also be entitled to a rest day on public holidays recognized as such by the State.
- 6) Annual leave (Article 97)
- Workers shall be entitled to 15 days' leave with pay for every year of continuous service.
 - An entitlement to leave with pay shall normally be acquired after a full year of continuous service.
- 7) Fringe benefits (Article 73)
- Any employer shall provide (a) accommodation when a worker is required to be away from his normal residence; (b) free food to workers, or subsistence allowance in place thereof; (c) free transport to and from the place of work, when a worker is required to work in a town or locality away from his normal residence.
- 8) Deductions from remuneration (Article 82)
- No deductions other than those prescribed by the Code or regulations made hereunder or any other law or collective labour agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing.
- 9) Death benefit (Article 53)
- In case of death of a worker during his contract of employment, the employer shall pay to his heirs an amount not less than 15 days' remuneration as death benefit for funeral services.
- 10) Expecting and nursing mothers (Article 91)

- A woman worker shall be entitled, on presentation of a medical certificate indicating the expected date of her confinement, to 14 weeks' maternity leave with half pay, of which at least six weeks shall be taken after her confinement, provided that she has been employed by the employer for at least six months without any interruption on her part except for properly certified illness.

11) Nursing breaks (Article 92)

- A woman worker who is nursing her own child shall be entitled, for a maximum of a year after the date of birth of the child, to two daily breaks of one hour each. The breaks shall be counted as working hours and remunerated accordingly.

14. **Occupational Health and Safety (OHS).** The Labour Code¹⁰ covers protection against risks to the workers, notification procedures in occupational accidents, medical requirements at site and conveyance of injured workers to the hospitals, among others. Below is the list of relevant provisions of the Labour Code with regard to OHS.

1) Protection against possible risks (Article 101)

- All factories, workshops and other workplaces shall be built, installed, equipped and managed in such a way that the workers are properly protected against possible risks. For this purpose, the employer shall:
 - a) Maintain a perfect state of safety and hygiene to avoid risks of accident or damage to health
 - b) Take suitable measures to prevent contamination of work-places from toxic gases, vapours, dust, fumes, mists and other emanations;
 - c) Provide sufficient and suitable toilet and washing facilities, separate for men and women workers;
 - d) Provide an adequate supply of drinking water easily accessible to all workers;
 - e) Maintain fire-fighting appliances and staff trained in their use;
 - f) Provide the necessary safety appliance adapted machinery and plant;
 - g) Maintain machinery, electrical and mechanical plant, instruments and tools in good condition to ensure safety;
 - h) provide suitable installations for the removal of refuse and drainage of residual waters;

¹⁰ The Revised Draft Somalia Labour Code has more emphasis on occupational health and safety requirements. It makes the Director of Occupational Safety and Health (OSH) responsible for the registration of hazards and risks, regulation and supervision of all workplaces and monitoring or enforcing compliance with Labour Code and any other labour law to the extent that they regulate safety, health and welfare in the workplaces. Part VI of the Revised Draft Labour Code covers the administration of occupational accidents, injury and disease provisions at work place, employer's general duties towards to OSH, insurance requirements, employees' general duties, medical support, compensations, offenses and penalties etc.

- i) take the necessary precautions in his establishment to protect the life, health and morality of the workers;
 - j) ensure that his staff receive the necessary instructions for the prevention of industrial accident, occupational diseases and other risks inherent in their occupations;
 - k) post up in conspicuous parts of the workplaces notices explaining clearly the obligations of the workers to observe safety rules, and visual signs indicating dangerous places;
 - l) supply the workers with the apparatus and instruments to guard against the risks inherent in the work;
 - m) take steps to provide the necessary first aid in urgent cases to workers involved in accidents or falling sick during work.
- 2) Notification of industrial accidents and occupational diseases (Article 102)
- The employer shall immediately notify the competent labour inspectorate of all accidents resulting in injury of death and occupational diseases.
- 3) Medical facilities (Article 103)
- Every undertaking normally employing more than ten workers at the single centre shall maintain a first-aid chest.
- 4) Conveyance of injured and sick workers (Article 104)
- It shall be the duty of the employer to arrange at his own expense for the conveyance to the nearest hospital of any injured or sick worker who can be so conveyed and who cannot be treated on the spot with the means available.

15. **Non-discrimination and equal opportunities.** Somalia's Provisional Constitution provides that *“all workers, particularly women, have a special right of protection from sexual abuse, segregation and discrimination in the work place. Every labour law and practice shall comply with gender equality in the work place”* (Article 24-5). The following is the relevant provisions in the Labor Code:

- 1) Expecting and nursing mothers (Article 91)
- No woman worker shall be discharged during a period of pregnancy, as duly confirmed by a medical certificate, until the end of the period of leave mentioned in the next succeeding paragraph or until the child is 1 year old, provided that this rule shall not apply to the following cases:
 - (a) The cessation of the activity of the undertaking in which the woman worker is employed;
 - (b) The completion of the work for which the woman worker was engaged or the termination of the employment relationship on the expiry of the stipulated term.

16. **Child labor and forced labor.** Below is the list of provisions of Labour Code with regard to child labor and forced labor.

Child Labor

1) Prohibited work (Article 90)

- The term “children” means persons of either sex who have not attained the age of 15 years and the term “young persons” means those who have attained the age of 15 years but have not attained the aged of 18 years.
- Where the age is uncertain, medical opinion shall be obtained.

2) Unlawful to employ children (Article 93)

- It shall be unlawful to employ children under the age of 15 years, provided that this restriction as to age shall not apply to:
 - (a) Pupils attending public and state-supervised trade schools or non-profit-making training workshops;
 - (b) Members of the employer’s family and his relatives if they are living with him and are supported by him and are employed on work under his orders in an undertaking in which no other persons are employed.

3) Minimum age for certain types of work (Article 94)

- The minimum age for employment on a vessel as a trimmer or stoker or on underground work in quarries or mines shall be 18 years, provided that the minimum age for any other employment on a vessel (including a fishing vessel) shall be 15 years;
- Young persons under the age of 16 years shall not be employed in work done on flying scaffolds or portable ladders in connection with the construction, demolition, maintenance or repair of buildings.

4) Medical examination (Article 95)

- Children and young persons shall not be employed unless the employer has arranged for their medical examination to ascertain whether they are fit to undertake all or any of the duties on which they are to be employed. Thereafter the employer shall arrange for a medical examination once a year for children and young persons until they reach the age of 18 years.
- Officials of the health services shall carry out such medical examination and issue the appropriate certificates.
- Where a person is found to be medically unfit to continue his job, his contract of employment shall be automatically dissolved.

Forced Labor

- 1) Freedom of labour (Article 6)
 - Forced or compulsory labour is forbidden in any form.

17. **Worker's organizations.** Below is the list of provisions of Labour Code with regard to worker's organizations.

- 1) Organization and purpose (Trade Unions) (Article 9 and 10)
 - The organization of labour unions shall be free.
 - Persons engaged in the same occupation, trade or industry, or related occupations, trades or industries may establish a trade union.
 - Every person is free to join a trade union within the framework of his occupation.
 - A trade union shall be established by a notorial act. It shall have a minimum of 50 members.
- 2) Freedom of association (Article 15)
 - It shall not be lawful to engage in any act of discrimination or any act restricting the right of freedom of association and more particularly to
 - (a) Make the employment of a worker subject to the condition that he shall not join a labour union or shall relinquish trade union membership;
 - (b) Cause the dismissal of or prejudice a worker in any other way by reason of trade union membership or because of participation in trade union activities.
 - It shall also be unlawful for any employer to engage in any act of interference, including financial interference, in the establishment or functioning of a labour union.
- 3) Rights of trade union (Article 25)
 - A trade union shall have the rights to enter into individual contracts or collective agreements respecting conditions of work, to vindicate and enforce the rights prescribed therein and to take any legal actions arising out of such contracts or based on the law.

IV. BRIEF OVERVIEW OF LABOR INSTITUTIONAL FRAMEWORK

18. The Federal Ministry of Labor and Social Affairs (MOLSA) is responsible for labor policy and regulatory frameworks. Currently, there are 160-170 staff¹¹ at federal level, but there is no clear job assignment and distribution of roles and responsibilities. The State Labor Ministry in each State is in charge

¹¹ See the Aide Memoire of Implementation Support/Preparation Mission for SUIPP and SURP II May 21-31st, 2019.

of implementation of the labor code, including the labor inspection. While 5 States have labor ministries, only Puntland has three labor inspectors under the minister. Others have no functioning labor inspection. While the new government established under the new Provisional Constitution is still nascent, there is significant gap¹² in the implementation of the Labour Code. Below is the list of relevant provisions of the Labour Code on the institutional arrangements of labor authorities.

- 1) Central labor authority (Article 106)
 - The Ministry shall be the Central Labour Authority for the purposes of the Code.
 - The Central Labour Authority, through the Labour Department, shall ensure compliance with the provisions of this Code.
 - The Head of the Labour Department shall have the rank of Central Labour Inspector.
- 2) District labor inspectorates (Article 107)
 - A district labor inspectorate shall have jurisdiction in the district and shall have its office in the district headquarters concerned. It shall be headed by an official having the rank of district labour inspector who shall be appointed by the Secretary.
- 3) Duties of district labour inspectors (Article 108)
 - The district labour inspector shall ensure strict compliance with the provisions of this Code or regulations made hereunder; and conciliate in labour disputes falling within his competence.
- 4) Power of inspectors (Article 110)
 - The Central Labour Inspector and district labour inspector shall have the power to
 - a) enter freely without previous notice at any hour of the day or night any workplace liable to inspection; to carry out any examination, test or inquiry to satisfy themselves that the provisions of this Code and regulations made hereunder are observed;
 - b) interrogate the employer or the worker on any matters concerning the application of this Code or regulations made hereunder;
 - c) require the production of any books, registers or other documents concerning the workers and their terms and conditions of service in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts therefrom.
- 5) Individual labor disputes (Article 134)

¹² The ILO is supporting the government in developing capacity of the MOLSA, Labor Ministries of Federal Member States and labor partners (Employers and Workers) for effective implementation of Labour Code.

- An individual labour dispute shall be submitted by any of the parties to the competent district labour inspector for conciliation, who shall attempt to settle the dispute within 14 days of its submission.
- 6) Collective labor disputes (Article 135, 136, 137)
- A collective labour dispute arising at the district, firm or factory level shall be submitted to the competent district labour inspector for conciliation, who shall attempt to settle the dispute within 14 days of its submission.

V. RESPONSIBLE STAFF

19. **The Project Implementation Units (PIUs).** PIUs located in municipalities will be responsible for overall project management and coordination in SUPR II, including the compliance with safeguards requirements including on labor and working condition. The PIU will engage with consultant(s) (or maintain the current consultants of SURP I) with expertise in environmental, social, occupational health and safety issues. The PIUs will be responsible for the following tasks relevant to labor and working conditions:

- 1) Undertake the overall implementation of this LMP.
- 2) Engage and manage contractors/subcontractors in accordance with this LMP and the applicable Procurement Documents.
- 3) Ensure that contractors prepare their labor management procedures (Contractor's LMP) that comply with this LMP and Contractor's ESMP (including OHS provisions) for approval before the contractor is allowed to mobilize to the field.
- 4) Monitor¹³ that contractors/subcontractors are meeting obligations towards contracted workers as included in the Contractor's LMP and ESMP and the applicable Procurement Documents.
- 5) Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary supply workers.
- 6) Monitor training of relevant project workers.
- 7) Ensure that the grievance mechanism for project workers is established and implemented and that workers are informed of it.

¹³ The PIU shall establish resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The PIU will ensure that the contract with the engineering and supervision consultants (and the third-party monitor, where applicable) explicitly set out their monitoring responsibility for the contractor's performance on labor and working conditions on a daily basis. The monitoring may include, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by the contractor. For more details, see Section X "Contractor Management".

- 8) Monitoring the implementation of the Worker Code of Conduct and any other measures to address risks of sexual exploitation and abuse (SEA)/sexual harassment (SH).
- 9) Report to the World Bank on labor and occupational health and safety performance.

20. **The Engineering and Supervision Consultant.** The PIUs will be supported by engineering and supervision consultants who will be responsible for monitoring the contractors of the civil works as well as monitoring adherence to the safeguard instruments. They will oversee the performance on labor and working conditions on a daily basis on behalf of the PIU, which will be explicitly set out in their contract. The Engineering and Supervision Consultant will employ qualified expert(s) for such oversight and report on performance to the PIU.

21. **The Contractor** will be responsible for the following:

- 1) Employ or appoint qualified environmental, social, occupational health and safety expert(s) to manage ESHS issues.
- 2) Prepare and implement their labor management procedure (Contractor's LMP) and Contractor's ESMP (including OHS provisions)¹⁴ which will apply to the contracted workers who work on the projects. These procedures and plans will be submitted to the PIU for review and approval before the contractor is allowed to mobilize to the field.
- 3) Supervise their subcontractors' adherence to the LMP and ESMP.
- 4) Maintain records of recruitment and employment of contracted workers (including subcontractors) with age verification to avoid child labor.
- 5) Provide induction and regular training to contracted workers on environmental, social and occupational health and safety issues.
- 6) Require the primary supplier to identify and address risks of child labor, forced labor and serious safety issues for primary supply workers.
- 7) Develop and implement the grievance mechanism for contracted workers, including ensuring that grievances received from their contracted workers resolved promptly, and reporting the status of grievances and resolutions.
- 8) Ensure that all contractor and subcontractor workers understand and sign the Code of Conduct prior to the commencement of works, take all other measures to address risks of sexual exploitation and abuse (SEA)/sexual harassment (SH) as specified in the contractor's LMP/ESMP and supervise compliance with such measures.

¹⁴ The Contractor's LMP and the Contractor's ESMP may be prepared as separate documents or integrated into a single document.

9) Report to PIU on labor and occupational health and safety performance.

22. **The Project Coordination Unit (PCU).** The PCU at the federal Ministry of Public Works (or any other relevant line ministry) will be responsible for providing oversight of the project, liaising with the Ministry of Finance and supporting project monitoring. While the PCU will have no direct responsibility for supervising routine labor issues in individual projects, it will support the PIUs in addressing key labor issues that may require intervention across the municipalities. The PCU will engage an environmental and social safeguard consultant who will also support labor aspects of SURP II. Below is the table summarizing the project staff/party responsible for various key issues (Table 2).

Table 2: Summary of the project staff/party responsible for various key issues

Key issues	Direct workers	Contracted workers	Primary supply workers
Hiring and managing individual project workers	<ul style="list-style-type: none"> Municipality to engage/manage PIU consultants Ministry of Public Works to engage/manage PCU consultants PIU to engage/manage Engineering and Supervision consultants 	Contractor/Subcontractor (site manager and/or ESHS officer)	n/a (outside the scope of ESS2)
OHS	n/a (direct workers will follow OHS measures when visiting construction sites)		<ul style="list-style-type: none"> Contractor to require the primary supplier to identify/address child labor/forced labor and serious safety risks. PIU/Engineering and Supervision consultants to review
Child labor and forced labor	n/a (the contract for direct workers does not allow child labor and forced labor)		
Training	PIU/Engineering and Supervision consultants		n/a (outside the scope of ESS2)
Code of conduct	n/a (the contract for direct workers will address relevant risks.)		

Grievance mechanism	PIU/Engineering and Supervision consultants	<ul style="list-style-type: none"> • First-tier GRM: Contractor • Second-tier GRM: PIU/Engineering and Supervision consultants 	
Monitoring and reporting	PIU/Engineering and Supervision consultants to monitor and report to World Bank	<ul style="list-style-type: none"> • Contractor to monitor and report to PIU • PIU/Engineering and Supervision consultant to monitor and report to World Bank 	<ul style="list-style-type: none"> • Contractor to monitor and report to PIU • PIU/Engineering and Supervision consultant to monitor and report to World Bank.

VI. POLICIES AND PROCEDURES

23. SURP II will apply the following policies and procedures to address the key labor risks identified under the section II. The summary of indicative procedures to implement the polices is presented in the following table (Table 3).

- 1) **Occupational health and safety (OHS).** Pursuant to the relevant provisions of the national Labour Code (Articles 101-104¹⁵), ESS2 (including WBG General Environmental, Health and Safety Guidelines (EHSGs¹⁶)), the SURP II ESMP and WB standard procurement documents¹⁷, the contractor shall manage all construction sites in such a way that the workers and the community are properly protected against possible OHS risks. Key elements of OHS measures should include (a) identification of potential hazards to workers; (b) provision of preventive and protective measures; (c) training of workers and maintenance of training records; (d) documentation and reporting of occupational accidents and incidents; (e) emergency preparedness; and (f) remedies for occupational injuries and fatalities.

¹⁵ The Labour Code covers protection against OHS risks to workers under Article 101 “*Protection against possible risks*”; Article 102 “*Notification of industrial accidents and occupational diseases*”; Article 103 “*Medical facilities*”; and Article 104 “*Conveyance of injured and sick workers*”. For more details, see Section III of this LMP.

¹⁶ The WBG General EHSGs are technical reference documents with general statements of Good International Industry Practice, which provide guidance to users on general EHS issues. The applicability of the ESHGs should be tailored to the hazards and risks established for each project.

¹⁷ The WB Standard Procurement Document for Work is likely to be used for SURP II construction works, which will include relevant ESHS provisions, such as the appointment of ESHS officer, development of Contractor-ESMP, compliance with ESHS measures and reporting, and the use of Code of Conduct.

- 2) **Child labor.** The minimum age of project workers eligible for any type of work under SURP II (including construction work) is set at 18. The engagement of project workers between the age of 15 and 18 years (in particular, vulnerable individuals such as orphans) is allowed only for non-hazardous work that would not interfere with the child’s education (subject to prior risk assessment and regular monitoring on health and safety conditions, hours of work and any other aspects) in accordance with ESS2. To prevent engagement of under-aged labor, all contracts shall have contractual provisions to comply with the minimum age requirements including penalties for non-compliance. The contractor is required to maintain labor registry of all contracted workers with age verification. More details including the procedures for age verification are provided in Section VII.

- 3) **Labor influx.** To minimize the labor influx, SURP II will contractually require the contractor to preferentially recruit unskilled labor from the local communities and nearby areas¹⁸. All contracted workers will be required to sign the code of conduct (see Annex on the Guideline on Code of Conduct) prior to the commencement of work, which includes a provision to address the risk of Gender Based Violence (GBV). Relevant trainings will be provided to workers, such as induction and daily toolbox talks outlining expected conduct and local community values.

- 4) **Labor disputes over terms and conditions of employment.** To avoid labor disputes, fair terms and conditions will be applied for project workers in SURP II (more details are provided in Section VIII). SURP II will also have grievance mechanisms for project workers (direct workers and contracted workers) in place to promptly address their workplace grievances (more details are provided in Section IX). Further, SURP II will respect the workers’ right of labor unions and freedom of association, as set out in the national Labour Code.

- 5) **Discrimination and exclusion of vulnerable/disadvantaged groups.** The employment of project workers under SURP II will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. To address the risk of exclusion of vulnerable groups (such as women, IDPs and persons with disabilities) from employment opportunities, SURP II will require the contractor to employ such groups as part of their unskilled workforce. The contractor will be also required to

¹⁸ Some municipalities, including Baidoa, have guidelines for the recruitment of local labor for employment generation projects. SURP II will review these guidelines to assist labor selections for the project in a transparent and fair manner while mitigating the risk of labor disputes over project employment opportunities.

comply with the national Labour Code on gender equality in the work place, which will include provision of maternity leave and nursing breaks and sufficient and suitable toilet and washing facilities, separate from men and women workers. The contractor will be also required to enable safety in the workplace to address potential sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers supported under the project.

- 6) **Security risks.** Considering significant security risks in some parts of the project municipalities of SURP II, the project will take appropriate and proportionate security measures to minimize the potential risk to the workers. Key security measures will include security protection by public security personnel (such as by district police) to prevent terrorist attacks; restrictions on work hours where security risks are higher (such as night time); and measures to maintain low profile of the site and workers (such as the minimum use of sign boards). While security measures to be arranged by public security personnel to address external security risks (such as terrorism and armed insurgency) will be determined by relevant security authorities in each municipality, SURP II will address internal security risks associated with the deployment of such security personnel on the community and project workers in line with the *WB Good Practice Note “Assessing and Managing the Risks and Impacts of the Use of Security Personnel”* (such as the training of security officers on the principles of proportionality in the use of force.).

24. **Monitoring and reporting.** The contractor shall report to PIU and the engineering and supervision consultants on the status of implementation of the above policies and procedures on a monthly basis. The PIU and the engineering and supervision consultants will closely monitor the contractor/subcontractor on labor and occupational health and safety performance and report to the World Bank on a quarterly basis (see Section X for more details).

25. **Fatality and serious incidents.** In the event of an occupational fatality or serious injury, the PIU shall report to the Bank as soon as becoming aware of such incidents, and inform the government authorities (where available) in accordance with national reporting requirements (Labour Code Article 102). Corrective actions shall be implemented in response to project-related incidents or accidents. The PIU or, where relevant the contractor, will be required to conduct a root cause analysis for designing and implementing further corrective actions.

Table 3: Overview of SURP II policies and indicative procedures to address key labor risks

Key labor risks	Policies to address risks	Procedures to back up the policy
1. OHS risks	<ul style="list-style-type: none"> • Abide by OHS requirements as set out in Labour Code (Articles 101-104), ESS2 (including WBG EHSGs), the SURP II ESMP and WB standard procurement documents. 	<ul style="list-style-type: none"> • Select legitimate and reliable contractor through screening OHS records. • Address adequately OHS risks with non-compliance remedies in procurement documents. • Require the contractor to engage qualified ESHS staffing • Enhance workplace OHS awareness and training. • Conduct routine monitoring and reporting.
2. Child labor	<ul style="list-style-type: none"> • Set the minimum age of project workers eligible for any type for work (including construction work) at 18 years. • Allow the engagement of project workers between the age of 15 and 18 years (in particular, vulnerable individuals such as orphans) only for non-hazardous work that would not interfere with the child’s education in accordance with ESS2. 	<ul style="list-style-type: none"> • Include minimum age in procurement documents. • Raise awareness on child protection with contractors and in the communities. • Maintain labor registry of all contracted workers with age verification. • Develop remedial procedures to deal with child labor incidents.
3. Labor influx	<ul style="list-style-type: none"> • Minimize the labor influx through tapping the local workforce. • Minimize labor-related risks on the community through the code of conduct, including GBV. 	<ul style="list-style-type: none"> • Require the contractor to preferentially engage unskilled local workforce from the local communities. • Make all contracted workers sign code of conduct, including prevention of GBV. • Conduct induction and toolbox talks outlining expected conduct and local community values. • Introduce disciplinary measures for violations and misbehaviors.

<p>4. Labor disputes</p>	<ul style="list-style-type: none"> • Respect the national Labour Code and promptly address workplace grievances to minimize the risk of labor disputes. 	<ul style="list-style-type: none"> • Provide workers with contracts with fair terms and conditions. • Have grievance mechanisms in place to promptly address workplace concerns. • Respect the national Labour Code on workers’ right of labor unions and freedom of association.
<p>5. Discrimination and exclusion of vulnerable or disadvantaged groups</p>	<ul style="list-style-type: none"> • Promote no discrimination and equal opportunity with respect to any aspects of the employment relationship. 	<ul style="list-style-type: none"> • Require the contractor to employ vulnerable groups as part of unskilled workforce. • Provide maternity leave and nursing breaks where relevant. • Arrange sufficient and suitable toilet and washing facilities, separate for men and women workers. • Require the contractor to address potential sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers.
<p>6. Security risks</p>	<ul style="list-style-type: none"> • Take appropriate and proportionate security measures to minimize the potential risk to the workers. 	<ul style="list-style-type: none"> • Arrange security protection to be determined by security authorities to address external security risks (such as terrorism and armed insurgency). • Restrict work hours to minimize security threat. • Maintain low profile of the site and workers. • Address internal security risks associated with the deployment of security personnel on the community and project workers in line with the WB Good Practice Note “Assessing and Managing the Risks and Impacts of the Use of Security Personnel” (such as the training of security officers on the principles of proportionality in the use of force.).

VII. AGE OF EMPLOYMENT

26. **Age limitation for hazardous work.** As presented above, the national Labour Code (Article 93) provides that it shall unlawful to employ children under the age of 15 years. The Code (Article 94) sets certain age limit on hazardous work, providing that the minimum age for employment on underground work in quarries or mines shall be 18 years. Similarly, ESS2 (para 19) sets out further conditions on the minimum age, stating that a child over the minimum age and under the age of 18 will not be employed or engaged in

connection with the Bank-financed project in a manner that is likely to hazardous¹⁹ or interfere with the child's education or be harmful to the child's health or physical, mental and any other relevant development. Considering these national and WB requirements, the minimum age for **hazardous** work under SURP II (including construction) is set at 18 (for example, work at quarries to obtain construction materials; work with dangerous machinery, equipment or tools; work involving handling or transport of heavy loads; or work at height).

27. **Minimum age for project workers.** The national Labour Code as well as ESS2 allow persons under 18 and over 15 to be engaged if the work is **non-hazardous** and does not interfere with the child's education and not harmful to the child's development (for example, administrative work, site cleaning or rubbish removal). Considering this, the minimum age of project workers for such (non-hazardous) work under SURP II is set at 15. This is also consistent with the objectives of SURP II to provide inclusive income opportunities for vulnerable groups including the youth. However, the engagement of project workers between the age of 15 and 18 years (in particular, vulnerable individuals such as orphans) will be only allowed subject to prior risk assessment and regular monitoring on health and safety conditions, hours of work and any other aspects as required under the national Code and ESS2.

28. **The process of age verification.** In order to prevent engagement of under-aged labor, all contracts with work contractors shall have contractual provisions to comply with the minimum age requirements including penalties for non-compliance, and it will be well communicated to all potential stakeholders including the local community where the unskilled workforce will be sourced. The contractor is required to maintain labor registry of all contracted workers with age information. Verification of the age shall be undertaken prior to the engagement of labor and be documented. Below is indicative age verification means that could be used in Somalia context where official ID system is broadly unavailable:

- 1) Check the birthday on official documents such as birth certificate, national ID or other credible records, where available;
- 2) Obtain written confirmation from the medical practitioner;

¹⁹ Examples of hazardous work activities prohibited for persons between the minimum age and 18 under ESS2 include work: (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

- 3) Obtain written and signed declaration from the worker and his/her parents or guardian; or
- 4) Inquire with the local community leader, community action group or with other credible community sources.

29. **Responsible remedial measures.** In case a project worker who does not satisfy the age limit is identified working on the project (i.e., over 18 years old for hazardous work; and over 15 years for non-hazardous work), the employer (contractor, subcontractor or primary supplier) shall be required to terminate the engagement of such a project worker in a responsible manner. Indicative approach may include:

- 1) Offer a project employment to a member of the family who satisfies the age limit in exchange of keeping the under-aged worker away from work.
- 2) If a family member who satisfies the age limit is not available, require the employer (using the contractual penalty provisions) to continue the wage payment to the underage worker without engaging in work for an agreed period.
- 3) If the worker is over 15 years old and under 18, consider transferring the worker to an alternative position that is not hazardous and does not interfere his/her education (subject to prior risk assessment and regular monitoring, as described in para 27 above.).

VIII. TERMS AND CONDITIONS

30. **Direct workers.** The terms and conditions for direct workers in PIU, PCU and the engineering and supervision consultants will be governed by the Standard World Bank Consultancy contracts or the Standard Forms of Agreement between WB borrowers and UN agencies (the UNOPS Technical Assistance Template) which set higher standards than the national Labour Code.

31. **Contracted workers.** Labour Code of Somalia presented in Section III (Overview of Labor Legislation) above is the guiding legislation on employment terms and conditions for contracted workers. The Federal Ministry of Labor in Mogadishu, State Ministries of Labour at both Jubbaland State (for Kismayo) and South West State (for Baidoa) where the project municipalities are located, have confirmed that they generally follow provisions of Labour Code for all matters related to labour engagements and management. Puntland (for which Garowe is the capital city) follows provisions of the Labour Code of Somalia which was revised by Puntland in 2012. The Labor Laws of Puntland are broadly the same as the

national Labour Code in terms of the provisions. Below are key components²⁰ of the terms and conditions that should be applied to contracted workers under SURP II²¹.

32. **Provision of written individual contract of employment.** A written individual contract of employment shall be provided to workers that specify the following: (a) name of workers; (b) address, occupation, age and sex of workers; (c) employer's name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract. Depending on the origin of the employer and the 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.

33. **Notice for termination of contract.** Either of the contracting parties may terminate a contract of employment by giving written notice as under: (a) not less than ten days in the case of manual workers; or (b) not less than 30 days in the case of non-manual workers. No notice needs to be given in case the duration of contract does not exceed one month.

34. **Minimum Wages.** While the mechanism to set the official minimum wage by the presidential decree (Labour Code, Article 72) is not currently functioning, the market rate is available for each job type in different locality. The fair market rate will be identified and applied for SURP II project workers.

35. **Hours of Work.** The normal hour of work of a project worker shall not exceed 8 hours a day or 48 a week. Hours worked in excess of the normal hours of work shall not exceed 12 hours a week and shall entitle a worker to a proportionate increase in remuneration.

36. **Rest per week.** Every worker shall be entitled to one day's rest each week, which should normally fall on Friday. It shall consist of at least 24 consecutive hours each week. Workers shall also be entitled to a rest day on public holidays recognized as such by the State.

²⁰ While there are other provisions applicable to labor engagement in Labour Code (for example, "fringe benefit" under Article 73), the applicability of such provisions will be reviewed during the contracting stage, when the approach to work implementation is better understood.

²¹ It should be noted that some provisions (such as annual leave) will not be applicable to short-term unskilled contracted workers.

37. **Annual leave.** Workers shall be entitled to 15 days' leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.

38. **Maternity leave.** A female worker shall be entitled, on presentation of a medical certificate indicating the expected date of her confinement, to 14 weeks' maternity leave with half pay, of which at least six weeks shall be taken after her confinement, provided that she has been employed by the employer for at least six months without any interruption on her part except for properly certified illness.

39. **Nursing breaks.** A female worker who is nursing her own child shall be entitled, for a maximum of a year after the date of birth of the child, to two daily breaks of one hour each. The breaks shall be counted as working hours and remunerated accordingly.

40. **Deductions from remuneration.** No deductions other than those prescribed by the Code or regulations made hereunder or any other law or collective labour agreement shall be made from a worker's remuneration, except for repayment of advances received from the employer and evidenced in writing. The contractor shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.

41. **Death benefit.** In case of death of a worker during his contract of employment, the employer shall pay to his heirs an amount not less than 15 days' remuneration as death benefit for funeral services.

42. **Medical treatment of injured and sick workers.** It shall be the duty of the employer to arrange at his own expense for the conveyance to the nearest hospital of any injured or sick worker who can be so conveyed and who cannot be treated on the spot with the means available.

43. **Collective Agreements.** A collective agreement is an agreement relating to terms and conditions of work concluded between the representatives of one or more trade unions, on the one hand, and the representatives of one or more employers, on the other hand. Where collective agreements exist between the employer and project workers, such agreements will be applied, where relevant.

IX. GRIEVANCE MECHANISM

44. **General principles.** While SURP II will have in place a grievance mechanism to address concerns of project-affected parties, the nature of workplace concerns of workers is usually different. For example, typical work place grievances include demand for employment opportunities; labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in work environment. Therefore, a separate grievance mechanism will be established for project workers (direct workers and contracted workers), as required in ESS2. Handling of grievances should be objective, prompt and responsive to the needs and concerns of the aggrieved workers. Different ways in which workers can submit their grievances should be allowed, such as submissions in person, by phone, text message, mail and email. The grievance raised should be recorded and acknowledged within one day. While the timeframe for redress will depend on the nature of the grievance, health and safety concerns in work environment or any other urgent issues should be addressed immediately. Where the grievance cannot be addressed within a reasonable timeframe, the aggrieved worker should be informed in writing, so that the worker can consider proceeding to the national appeal process (see below for more details). The mechanism will also allow for anonymous complaints to be raised and addressed. Individuals who submit their comments or grievances may request that their name be kept confidential.

45. **Direct workers.** Considering the limited number of direct workers under SURP II, the project will have a compact but effective grievance system for direct workers. Each unit engaging direct workers (PIU, PCU and the engineering and supervision consultants) will hold periodic team meetings to discuss any workplace concerns. The grievance raised by workers will be recorded with the actions taken by each unit. The summary of grievance cases will be reported to the World Bank as part of the regular report. Where the aggrieved direct worker wishes to escalate their issue or raise their concerns anonymously and/or to a person other than their immediate supervisor/hiring unit, the worker may raise the issue with responsible municipal authorities, where relevant. Where the engineering and supervision consultant has an existing grievance system (such as those in the UN system), their direct workers should use such mechanism.

46. **Contracted workers.** The site manager and the ESHS officer (or any other appropriate officers) of the contractor will hold a daily team meeting with all present contracted workers at site at the end of the daily work to discuss any workplace grievances. The grievance raised will be recorded with the actions taken by the contractor. The summary of grievance cases will be reported to the PIU and the engineering and supervision consultant as part of contractor's periodic report. Where appropriate and available, the contracted workers should be allowed to utilize an existing grievance mechanism within the contractor. Where the aggrieved workers wish to escalate their issue or raise their concerns anonymously and/or to a person other than their immediate

supervisor, the workers may raise their issue with the PIU and/or the engineering supervision consultant. The contracted workers will be informed of the grievance mechanism at the induction session prior to the commencement of work. The contact information of the PIU and/or the engineering supervision consultants will be shared with contracted workers.

47. **National appeal process.** As per the national Labour Code (Article 134), any individual labour dispute can be submitted by any of the parties to the competent district labour inspector for conciliation, where such labour inspector is available. The inspector is mandated to attempt to settle the dispute within 14 days of its submission.

48. **Grievances related to Gender Based Violence (GBV).** To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, the grievance mechanism shall have a different and sensitive approach to GBV related cases. Where such a case is reported, it should immediately be referred to the appropriate service providers, such as medical and psychological support, emergency accommodation, and any other necessary services. Data on GBV cases should not be collected through the grievance mechanism unless operators have been trained on the empathetic, non-judgmental and confidential collection of these complaints. Only the nature of the complaint (what the complainant says in her/his own words) and additional demographic data, such as age and gender, can be collected as usual.

X. CONTRACTOR MANAGEMENT

49. **Selection of Contractors.** SURP II will use the World Bank Standard Procurement Documents for Works for solicitations and contracts. These include labor and occupational, health and safety requirements. The PIU on behalf of the municipality shall make reasonable efforts to ascertain that the contractor who will engage contracted workers is legitimate and reliable entities and able to comply with the relevant requirements under the LMP. Such requirements shall be included in the bidding documents. As part of the process to select the contractors who will engage contracted workers, the PIU may review the following information:

- Business licenses, registrations, permits, and approvals
- Public records, for example, corporate registers and public documents relating to violations of applicable labor law; accident and fatality records and notifications to authorities; labor-related litigations

- Documents relating to the contractor’s labor management system and OHS system (e.g., HR manuals, safety program); ESHS personnel and their qualification
- Previous contracts with contractors and suppliers (showing inclusion of provisions and terms reflecting requirements on labor and working conditions).

50. **Contractual Provisions and Non-Compliance Remedies.** The PIU shall incorporate the agreed labor management requirements as specified in the bidding documents into contractual agreements with the contractor, together with appropriate non-compliance remedies (such as the provision on withholding 10 % of payment to the contractor in case of non-compliance with relevant environmental, social, health and safety requirements; removal of personnel from the works; or forfeiting the ESHS performance security.). In the case of subcontracting, the PIU will require the contractor to include equivalent requirements and non-compliance remedies in their contractual agreements with subcontractors.

51. **Performance Monitoring.** The PIU shall establish resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The PIU will ensure that the contract with the engineering and supervision consultants (and the third-party monitor, where applicable) explicitly set out their monitoring responsibility for the contractor’s performance on labor and working conditions on a daily basis. The monitoring may include, inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by the contractor. Contractors’ labor management records and reports that should be reviewed would typically include the following:

- Representative samples of employment contracts and signed code of conduct;
- Grievances received from the community and workers and their resolution;
- Reports relating to fatalities and incidents and implementation of corrective actions;
- Records relating to incidents of non-compliance with national Labour Code and the provisions of the LMP; and
- Records of training provided for contracted workers to explain occupational health and safety risks and preventive measures.

XI. PRIMARY SUPPLY WORKERS

52. **Potential risks in primary supply workers.** The construction work under SURP II will require primary supplies including construction materials essential for the functions of the priority infrastructure, such as aggregates, bitumen and precast concrete interlocking blocks. Some contractors may be able to

produce such construction materials by their workforce. However, where the contractor will source (a) essential materials (b) directly from primary suppliers (c) on an ongoing basis, the workers engaged by such primary suppliers (that meet all three criteria (a) to (c)) are deemed “primary supply workers”, as defined in ESS2. As discussed in Section II (Key Labor Risks), Somalia is within top 10 countries of the world with highest child labor risks. The OHS risks are also deemed to be generally significant in the construction sector including quarry sites where there is no functioning labour inspection mechanism. To address these potential risks, the following measures will be taken:

53. **Selection of primary suppliers.** When sourcing construction materials from primary suppliers, the contractor will require such suppliers to identify the risk of child labor/force labor and serious safety risks in producing the construction materials. The PIU and the engineering and supervision consultants will review and approve the purchase of primary supplies from the suppliers following such risk identification/assessment and any other relevant due diligence (such as the review of license for quarries). Where appropriate, the contractor will be required to include specific requirements on child labor/forced labor and work safety issues in all purchase orders and contracts with primary suppliers.

54. **Remedial process.** If child labor/forced labor and/or serious safety incidents are identified in relation to primary supply workers under SURP II subprojects, the PIU and the engineering and supervision consultants will require the primary supplier to take appropriate steps to remedy them. Such mitigation measures will be monitored periodically to ascertain their effectiveness. Where the mitigation measures are found to be ineffective, the PIU and the engineering and supervision consultants will, within reasonable period, shift the project’s primary suppliers to suppliers that can demonstrate that they are meeting the relevant requirements.

ANNEX

Guideline on Code of Conduct

1. A satisfactory code of conduct will contain obligations on all project workers (including sub-contractors) that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the municipality, the location and the project sector or to specific project requirements.
2. The Code of Conduct should be written in plain language and signed by each worker to indicate that they have:
 - received a copy of the code;
 - had the code explained to them;
 - acknowledged that adherence to this Code of Conduct is a condition of employment; and
 - understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.
3. The Contractor should conduct continuous awareness raising and training activities to ensure that workers abide by the Code of Conduct (such as through toolbox talks). The Contractor should also ensure that local communities are aware of the Code of Conduct and enable them to report any concerns or non-compliance.
4. The issues to be addressed include:
 - 1) Compliance with applicable **laws, rules, and regulations** of the jurisdiction
 - 2) Compliance with applicable **health and safety requirements** (including wearing prescribed personal protective equipment (PPE), preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
 - 3) The use of **illegal substances**
 - 4) **Non-Discrimination** (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction)
 - 5) **Interactions with community members** (for example to convey an attitude of respect and non-discrimination)
 - 6) **Sexual harassment** (for example to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
 - 7) **Violence or exploitation** (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior)
 - 8) **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)
 - 9) **Sanitation** requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
 - 10) Avoidance of **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)
 - 11) **Respecting reasonable work instructions** (including regarding environmental and social norms)

- 12) **Protection and proper use of property** (for example, to prohibit theft, carelessness or waste)
- 13) Duty to **report violations of this Code**
- 14) **No retaliation against workers** who report violations of the Code, if that report is made in good faith.